# SESSION LAWS

# STATE OF ARIZONA

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**Fifty-second Legislature**

**FIRST REGULAR SESSION**

**Chapters 201 to End**

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# VETERANS—EDUCATIONAL ASSISTANCE—IN-STATE TUITION CLASSIFICATION

## CHAPTER 201

## H. B. 2091

AN ACT AMENDING SECTIONS 15-1802 AND 15-1802.01, ARIZONA REVISED STATUTES; RELATING TO POSTSECONDARY EDUCATION.

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

**Section 1.** Section 15-1802, Arizona Revised Statutes, is amended to read:

**15-1802. In-state student status**

A. Except as otherwise provided in this article, no person having a domicile elsewhere than in this state is eligible for classification as an in-state student for tuition purposes.

B. A person is not entitled to classification as an in-state student until the person is domiciled in this state for one year, except that a person whose domicile is in this state is entitled to classification as an in-state student if the person meets one of the following requirements:

1. The person's parent's domicile is in this state and the parent is entitled to claim the person as an exemption for state and federal tax purposes.

2. The person is an employee of an employer that transferred the person to this state for employment purposes or the person is the spouse of such an employee.

3. The person is an employee of a school district in this state and is under contract to teach on a full-time basis or is employed as a full-time noncertified classroom aide at a school within that school district. For the purposes of this paragraph, the person is eligible for classification as an in-state student only for courses necessary to complete the requirements for certification by the state board of education to teach in a school district in this state. No member of the person's family is eligible for classification as an in-state student if the person is eligible for classification as an in-state student pursuant to this paragraph, unless the family member is otherwise eligible for classification as an in-state student pursuant to this section.

4. The person's spouse has established domicile in this state for at least one year and has demonstrated intent and financial independence and is entitled to claim the student as an exemption for state and federal tax purposes or the person's spouse was temporarily out of state for educational purposes, but maintained a domicile in this state. If the person is a noncitizen, the person must be in an eligible visa status pursuant to federal law to classify as an in-state student for tuition purposes.

C. The domicile of an unemancipated person is that of the person's parent.

D. Any unemancipated person who remains in this state when the person's parent, who had been domiciled in this state, removes from this state is entitled to

classification as an in-state student until attainment of the degree for which currently enrolled, as long as the person maintains continuous attendance.

E. A person who is a member of the armed forces of the United States and who is stationed in this state pursuant to military orders or who is the spouse or a dependent child as defined in section 43-1001 of a person who is a member of the armed forces of the United States and who is stationed in this state pursuant to military orders is entitled to classification as an in-state student. A spouse or a dependent child does not lose in-state student classification under this subsection if the spouse or dependent child qualifies for in-state tuition classification at the time the spouse or dependent child is accepted for admission to a community college under the jurisdiction of a community college district governing board or a university under the jurisdiction of the Arizona board of regents. The student, while in continuous attendance toward the degree for which currently enrolled, does not lose in-state student classification.

F. A person who is a member of the armed forces of the United States or the spouse or a dependent as defined in section 43-1001 of a member of the armed forces of the United States is entitled to classification as an in-state student if the member of the armed forces has claimed this state as the person's state of legal residence for at least twelve consecutive months before the member of the armed forces, spouse or dependent enrolls in a university under the jurisdiction of the Arizona board of regents or a community college under the jurisdiction of a community college district governing board. For the purposes of this subsection, the requirement that a person be domiciled in this state for one year before enrollment to qualify for in-state student classification does not apply.

G. ~~Beginning in the fall semester of 2011,~~ A person ~~who is honorably discharged~~ HOLDING AN HONORABLE DISCHARGE from the ~~armed forces~~ UNIFORMED SERVICES of the United States ~~on~~ FROM either active duty or reserve or national guard status, or who has retired from active duty or reserve or national guard status, shall be granted immediate classification as an in-state student ~~on honorable discharge from the armed forces~~ and, while ~~in continuous attendance toward the degree for which currently~~ CONTINUOUSLY enrolled, does not lose in-state student classification if the person has ~~met the following requirements:~~

~~1. Registered to vote in this state.~~

~~2.~~ demonstrated objective evidence of intent to be a resident of Arizona ~~which~~ THAT, for the purposes of this section, includes at least one of the following:

1. REGISTRATION TO VOTE IN THIS STATE.

~~(a)~~ 2. An Arizona driver license.

~~(b)~~ 3. Arizona motor vehicle registration.

~~(c)~~ 4. Employment history in Arizona.

~~(d)~~ 5. Transfer of major banking services to Arizona.

~~(e)~~ 6. Change of permanent address on all pertinent records.

~~(f)~~ 7. Other materials of whatever kind or source relevant to domicile or residency status.

H. A PERSON WHO, WHILE USING EDUCATIONAL ASSISTANCE UNDER 38 UNITED STATES CODE CHAPTER 30 OR CHAPTER 33,

ENROLLS IN A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS OR A COMMUNITY COLLEGE UNDER THE JURISDICTION OF A COMMUNITY COLLEGE DISTRICT GOVERNING BOARD WITHIN THREE YEARS AFTER THE VETERAN'S DISCHARGE FROM ACTIVE DUTY SERVICE OF NINETY OR MORE DAYS OR WITHIN THREE YEARS AFTER THE SERVICE MEMBER'S DEATH IN THE LINE OF DUTY FOLLOWING A PERIOD OF ACTIVE DUTY SERVICE OF NINETY OR MORE DAYS OR WHO REMAINS CONTINUOUSLY ENROLLED BEYOND THE THREE-YEAR PERIOD FOLLOWING THE DISCHARGE OF THE VETERAN OR THE SERVICE MEMBER'S DEATH SHALL BE GRANTED IMMEDIATE CLASSIFICATION AS AN IN-STATE STUDENT AND DOES NOT LOSE IN-STATE STUDENT CLASSIFICATION IF THE PERSON HAS DEMONSTRATED OBJECTIVE EVIDENCE OF INTENT TO BE A RESIDENT OF THIS STATE THAT, FOR THE PURPOSES OF THIS SECTION, INCLUDES AT LEAST ONE OF THE FOLLOWING:

1. REGISTRATION TO VOTE IN THIS STATE.
2. AN ARIZONA DRIVER LICENSE.
3. ARIZONA MOTOR VEHICLE REGISTRATION.
4. EMPLOYMENT HISTORY IN ARIZONA.
5. TRANSFER OF MAJOR BANKING SERVICES IN ARIZONA.
6. CHANGE OF PERMANENT ADDRESS ON ALL PERTINENT RECORDS.
7. OTHER MATERIALS OF WHATEVER KIND OR SOURCE RELEVANT TO DOMICILE OR RESIDENCY STATUS.

~~H.~~ I. A person who is a member of an Indian tribe recognized by the United States department of the interior whose reservation land lies in this state and extends into another state and who is a resident of the reservation is entitled to classification as an in-state student.

**Sec. 2.** Section 15-1802.01, Arizona Revised Statutes, is amended to read:

**15-1802.01. County residency status; community college districts**

A. Each community college district shall adopt policies regarding domicile requirements that include, at a minimum, the following:

1. Each student shall have the question of domicile determined before the time of registration and payment of fees. It is the responsibility of the student to register under the correct domicile determination.

2. Enforcement of domicile requirements shall be the responsibility of the chief executive officer of each community college district.

3. The chief executive officer of each community college district shall designate a representative at each college or campus who is responsible for documents and who is qualified to administer oaths as defined in section 41-311 in connection with statements and testimony relative to student domicile status for tuition purposes.

4. In addition to the requirements prescribed in section 15-1802, ~~subsection G~~ SUBSECTIONS G AND H, any of the following may be used in determining a student's domicile:

(a) An income tax return.
(b) The place of graduation from high school.
(c) The source of financial support.
(d) Dependency as indicated on a federal income tax return.
(e) Ownership of real property.
(f) A notarized statement of a landlord or employer.
(g) Bank accounts.

B. Each community college district shall adopt policies regarding classification procedures for a student for nonresident or resident tuition purposes that include, at a minimum, the following:

1. In determining a student's classification, the college may consider all evidence, written or oral, presented by the student and any other information received from any source that is relevant to determining classification. The college may request written sworn statements or sworn testimony of the student.

2. The decision as to classification shall be made by the representative designated pursuant to subsection A, paragraph 3 of this section. In making the decision the representative may consult with other college officials. Decisions by the representative shall be made as soon as possible after all relevant information is acquired.

3. If the representative classifies the student as a nonresident for tuition purposes, the decision shall be communicated to the student by mail to the most recent address furnished to the college. If the student is classified as a nonresident for tuition purposes, the student must make satisfactory provision for payment of nonresident tuition and other charges.

C. Each community college district shall adopt a review and appeals process for students contesting a domicile decision by the college.

**Sec. 3. Emergency**

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

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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# VOLUNTARY VETERANS' PREFERENCE EMPLOYMENT POLICY

## CHAPTER 202

## H. B. 2094

**AN ACT AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 16; RELATING TO THE VOLUNTARY VETERANS' PREFERENCE EMPLOYMENT POLICY.**

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

**Section 1.** Title 23, chapter 2, Arizona Revised Statutes, is amended by adding article 16, to read:

ARTICLE 16. VOLUNTARY VETERANS'
PREFERENCE EMPLOYMENT POLICY

**23-495. Definitions**

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "DD-214" MEANS A UNITED STATES DEPARTMENT OF DEFENSE REPORT OF SEPARATION FORM OR ITS PREDECESSOR OR SUCCESSOR FORMS.

2. "PRIVATE EMPLOYER" MEANS A SOLE PROPRIETOR, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER ENTITY WITH ONE OR MORE EMPLOYEES. PRIVATE EMPLOYER DOES NOT INCLUDE THIS STATE, A POLITICAL SUBDIVISION OF THIS STATE OR A PUBLIC INSTITUTION OF HIGHER EDUCATION.

3. "VETERAN" MEANS A PERSON WHO SERVED ON ACTIVE DUTY IN THE UNITED STATES ARMED FORCES AND WHO WAS DISCHARGED OR RELEASED UNDER HONORABLE CONDITIONS.

4. "VETERANS' PREFERENCE EMPLOYMENT POLICY" MEANS A PRIVATE EMPLOYER'S VOLUNTARY PREFERENCE FOR HIRING, PROMOTING OR RETAINING A VETERAN OVER ANOTHER QUALIFIED APPLICANT OR EMPLOYEE.

**23-495.01. Voluntary veterans' performance employment policy; private employers; eligibility**

A. A PRIVATE EMPLOYER MAY ADOPT A VOLUNTARY VETERANS' PREFERENCE EMPLOYMENT POLICY.

B. THE VETERANS' PREFERENCE EMPLOYMENT POLICY SHALL BE IN WRITING AND APPLIED UNIFORMLY TO EMPLOYMENT DECISIONS REGARDING HIRING, PROMOTION OR RETENTION DURING A REDUCTION IN FORCE.

C. A PRIVATE EMPLOYER WITH A VETERANS' PREFERENCE EMPLOYMENT POLICY MAY REQUIRE THAT A VETERAN SUBMIT A DD-214 TO BE ELIGIBLE FOR THE PREFERENCE.

**Sec. 2. Legislative findings**

The legislature finds that title 23, chapter 2, article 16, Arizona Revised Statutes, does not violate any local or state equal employment opportunity laws, including title 41, chapter 9, article 4, Arizona Revised Statutes.

**Sec. 3. Short title**

Title 23, chapter 2, article 16, Arizona Revised Statutes, may be cited as the "Voluntary Veterans' Preference Employment Policy Act".

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## PERFORMANCE BOND WAIVER FOR COUNTY JOB-ORDER-CONTRACTING

### CHAPTER 203

### H. B. 2095

**AN ACT PROVIDING FOR WAIVER OF PERFORMANCE BOND REQUIREMENTS BY COUNTY FOR CERTAIN FACILITIES PROJECT.**

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

**Section 1. Counties with a population of more than eight hundred thousand persons; facilities projects; job-order-contracting construction services performance bond waiver; delayed repeal**

A. Notwithstanding any other law, a county with a population of more than eight hundred thousand persons may waive the performance bond required by section 34-610, subsection A, paragraph 1, subdivision (a), Arizona Revised Statutes, for a facilities project if the amount of the construction under the job-order-contracting construction services contract is not more than five hundred thousand dollars, including change orders.

B. This section is repealed from and after December 31, 2020.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## SERVICES FOR CHILDREN WITH CHRONIC ILLNESSES OR PHYSICAL DISABILITIES

### CHAPTER 204

### H. B. 2102

**AN ACT AMENDING SECTION 36-260, ARIZONA REVISED STATUTES; REPEALING SECTION 36-261, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 36-261; REPEALING SECTION 36-261.01, ARIZONA REVISED STATUTES; AMENDING SECTION 36-262, ARIZONA REVISED STATUTES; REPEALING SECTIONS 36-263 AND 36-264, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-797.43, 36-797.44 AND 36-2907.08, ARIZONA REVISED STATUTES; AMENDING TITLE 36,**

**CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2912; AMENDING SECTION 43-1088, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.**

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

**Section 1. Heading change**

The article heading of title 36, chapter 2, article 3, Arizona Revised Statutes, is changed from "CHILDREN'S REHABILITATIVE SERVICES" to "CHILDREN WITH CHRONIC ILLNESSES OR PHYSICAL DISABILITIES".

**Sec. 2.** Section 36-260, Arizona Revised Statutes, is amended to read:

**36-260. Definitions**

In this article, unless the context otherwise requires:

~~1. "Administration" means the Arizona health care cost containment system administration.~~

~~2.~~ 1. "~~Chronically ill or children with physical disabilities~~ CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY" means children who are under twenty-one years of age and whose primary diagnosis is a severe physical condition that may require ongoing, medical or surgical intervention.

~~3. "Director" means the director of the Arizona health care cost containment system administration.~~

2. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.

**Sec. 3. Repeal**

Section 36-261, Arizona Revised Statutes, is repealed.

**Sec. 4.** Title 36, chapter 2, article 3, Arizona Revised Statutes, is amended by adding a new section 36-261, to read:

**36-261. Children who have a chronic illness or physical disability; program**

SUBJECT TO THE AVAILABILITY OF MONIES, THE DEPARTMENT SHALL ESTABLISH AND ADMINISTER A PROGRAM FOR CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY OR WHO ARE SUFFERING FROM A CONDITION THAT LEADS TO A CHRONIC ILLNESS OR PHYSICAL DISABILITY. THE PROGRAM SHALL PROVIDE FOR:

1. THE DEVELOPMENT, EXTENSION AND IMPROVEMENT OF SERVICES FOR LOCATING THESE CHILDREN.

2. THE EVALUATION OF NEEDS.

3. THE GATHERING OF STATISTICAL INFORMATION.

4. A STATEWIDE INFORMATION AND REFERRAL SERVICE FOR CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY TO LINK THOSE CHILDREN AND THEIR FAMILIES WITH LOCAL SERVICE PROVIDERS.

**Sec. 5. Repeal**

Section 36-261.01, Arizona Revised Statutes, is repealed.

**Sec. 6.** Section 36-262, Arizona Revised Statutes, is amended to read:

**36-262. Central statewide information and referral service for children who have a chronic illness or physical disability**

A. The purposes of the information and referral service for ~~chronically ill or children with physical disabilities~~ CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY as prescribed pursuant to this article are to:

1. Establish a roster of agencies providing medical, educational, financial, social and transportation services to ~~chronically ill or children with physical disabilities~~ CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY.

2. Develop or use an existing statewide~~, computerized~~ information and referral service that provides information on services for ~~chronically ill or children with physical disabilities~~ CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY.

B. This section does not require any person or public or private agency or other entity to participate in the information and referral service.

**Sec. 7. Repeal**

Sections 36-263 and 36-264, Arizona Revised Statutes, are repealed.

**Sec. 8.** Section 36-797.43, Arizona Revised Statutes, is amended to read:

**36-797.43. Care and treatment of children with sickle cell anemia; reimbursement**

A. ~~The Arizona health care cost containment system administration~~ SUBJECT TO THE AVAILABILITY OF MONIES, THE DEPARTMENT OF HEALTH SERVICES, through the children's rehabilitative services, may develop and operate, either directly or by contracting with public or private providers, programs for the diagnosis, care and treatment of children suffering from sickle cell anemia.

~~B. The programs developed and operated pursuant to this section are part of the children's rehabilitative services provided by the administration pursuant to section 36-261.~~

~~C.~~ B. The parent or other responsible person, agency or third-party payor shall reimburse the ~~administration~~ DEPARTMENT for part or all of the costs of services rendered to a child pursuant to this section according to a scale of rates and charges established by the ~~administration~~ DEPARTMENT and based on the cost of services provided and the ability of the parent or responsible person to pay for these services.

**Sec. 9.** Section 36-797.44, Arizona Revised Statutes, is amended to read:

**36-797.44. Care and treatment of adults with sickle cell anemia; reimbursement**

A. ~~The Arizona health care cost containment system administration~~ SUBJECT TO THE AVAILABILITY OF MONIES, THE DEPARTMENT OF HEALTH SERVICES, through the children's rehabilitative services, may develop and operate, either directly or by contracting with public or private providers,

programs for the diagnosis, care and treatment of adults suffering from sickle cell anemia.

B. The adult or other responsible person, agency or third-party payor shall reimburse the ~~administration~~ DEPARTMENT for part or all of the costs of services rendered to an adult pursuant to this section according to a scale of rates and charges established by the ~~administration~~ DEPARTMENT and based on the cost of services provided and the ability of the adult or other responsible person to pay for these services.

**Sec. 10.** Section 36-2907.08, Arizona Revised Statutes, is amended to read:

**36-2907.08. Basic children's medical services program; definition**

A. Beginning on October 1, 1996, the basic children's medical services program is established to provide grants to hospitals that exclusively serve the medical needs of children or that operate programs designed primarily for children. The director of the department of health services, pursuant to an intergovernmental agreement with the director of the Arizona health care cost containment system and subject to the availability of monies, shall implement and operate this program only to the extent that funding is available and has been specifically dedicated for the program.

B. To receive a grant under this section, a hospital shall submit an application as prescribed by the director of the department of health services in a request for proposal that indicates to the director's satisfaction that the applicant agrees to:

1. Use grant program monies to enhance the applicant's provision of additional medical services to children and to improve the applicant's ability to deliver inpatient, outpatient and specialized clinical services to indigent, uninsured or underinsured children who are not eligible to receive services under this article.

2. Establish and enforce a sliding fee scale for children who are provided services with grant monies.

3. Account for monies collected pursuant to paragraph 2 of this subsection separately from all other income it receives and to report this income on a quarterly basis to the administration.

4. Use the grant to supplement monies already available to the applicant.

5. Match the grant as prescribed by the director by rule with private monies the applicant has pledged from private sources. The director shall waive this requirement if the applicant is seeking the grant to qualify for a private or public grant for the delivery of inpatient, outpatient or specialized clinical care of indigent, uninsured or underinsured children who are not eligible to receive services under this article.

6. Provide a mechanism to ensure that grant program monies are not used for children who are eligible for services under this article.

7. Not use grant monies to fund the provision of emergency room services.

C. By contract, the director of the department of health services shall require a grantee to:

1. Annually account for all expenditures it makes with grant program monies during the previous year.

2. Agree to cooperate with any audits or reviews conducted by this state.

3. Agree to the requirements of this section and other conditions the director determines to be necessary for the effective use of grant program monies.

D. The director of the department of health services may limit either or both the grant amount per contract or the number of contracts awarded. In awarding contracts to qualified applicants the director shall consider:

1. The amount of monies available for the grant program.

2. The need for grant monies in the area served by the applicant as stated by the applicant in the response to the request for proposals and as researched by the administration.

3. The number of children estimated to be served by the applicant with grant program monies.

4. The services that will be provided or made available with grant program monies.

5. The percentages of grant monies that the applicant indicates will be reserved for administrative expenditures, direct service expenditures and medical care personnel costs.

6. The financial and programmatic ability of the applicant to meet the contract's requirements.

E. If the department of health services determines that a hospital has used grant monies in violation of this section, it shall prohibit that hospital from receiving additional grant program monies until the hospital reimburses the department. The department shall impose an interest penalty as prescribed by the director of the department of health services by rule. The director shall deposit, pursuant to sections 35-146 and 35-147, penalties collected under this section in the medically needy account of the tobacco tax and health care fund.

F. The director of the department of health services may expend monies from the medically needy account of the tobacco tax and health care fund ~~transferred pursuant to section 36-2921, subsection A, paragraph 6~~ for the purpose of funding evaluations of the grant program established by this section. The director shall ensure that any evaluation is structured to meet at least the base requirements prescribed in section 36-2907.07.

G. The director of the department of health services may expend monies from the medically needy account of the tobacco tax and health care fund ~~transferred pursuant to section 36-2921, subsection A, paragraph 6~~ for administrative costs associated with the establishment or the operation of the grant program. The amount withdrawn annually for grant program administrative costs shall not exceed two ~~per cent~~ PERCENT of the sum of any transfers of monies ~~made pursuant to section 36-2921~~ and any appropriation of monies for the specified purpose of supporting the nonentitlement basic children's medical services program established in this section.

H. The department of health services shall directly administer the grant program and all contracts established pursuant to this section. The director of the department of health services shall publish rules pursuant to title 41, chapter 6 for the grant program before the issuance of the initial grant program request for proposals. The director of the department of health services and the contractor shall sign a

contract before the transmission of any tobacco tax and health care fund monies to the contractor.

I. In administering the basic children's medical services program and awarding contracts established pursuant to this section, the director of the department of health services shall seek to efficiently and effectively coordinate the delivery of services provided through the program with services provided through other programs, including those established pursuant to ~~chapter 2, article 3 of this title and~~ sections 36-2907.05, ~~and~~ 36-2907.06 AND 36-2912. The director shall seek to ensure that this coordination results in providing for either or both the coverage of additional children or the provision of additional medically necessary services to children instead of supplanting existing service opportunities or duplicating existing programs with no attendant increase in coverage.

J. For the purposes of this section, "grant program" refers to the basic children's medical services program.

**Sec. 11.** Title 36, chapter 29, article 1, Arizona Revised Statutes, is amended by adding section 36-2912, to read:

**36-2912. Children's rehabilitative services program; definition**

A. THE ADMINISTRATION SHALL:

1. ESTABLISH A CHILDREN'S REHABILITATIVE SERVICES PROGRAM FOR CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY AND SHALL DEVELOP, IMPLEMENT, MONITOR, SUPERVISE, CONTROL AND ESTABLISH POLICIES FOR THAT PROGRAM.

2. DEVELOP AND IMPLEMENT POLICIES TO DETERMINE MEDICAL ELIGIBILITY FOR THE CHILDREN'S REHABILITATIVE SERVICES PROGRAM.

3. DEVELOP AND IMPLEMENT ALL RULES AND POLICIES FOR THE OPERATION OF THE CHILDREN'S REHABILITATIVE SERVICES PROGRAM.

4. ESTABLISH AND ADMINISTER A PROGRAM OF SERVICE FOR CHILDREN AND FOR INDIVIDUALS DETERMINED TO BE ELIGIBLE BEFORE THEY REACH TWENTY-ONE YEARS OF AGE WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY OR WHO ARE SUFFERING FROM A CONDITION THAT LEADS TO A CHRONIC ILLNESS OR A PHYSICAL DISABILITY AND ARE IN ACTIVE TREATMENT. THE PROGRAM SHALL PROVIDE FOR:

(a) MEDICAL, SURGICAL, CORRECTIVE AND OTHER SERVICES AND CARE.

(b) THE RECEIPT AND EXPENDITURE OF MONIES MADE AVAILABLE TO THE ADMINISTRATION FOR SERVICES TO CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY BY THE FEDERAL GOVERNMENT, THIS STATE OR ITS POLITICAL SUBDIVISIONS OR FROM OTHER SOURCES, EXCLUDING MONIES RECEIVED FROM PARENTS OR GUARDIANS FOR THE CARE OF CHILDREN.

(c) MAKING NECESSARY EXPENDITURES PURSUANT TO THE REQUIREMENTS OF THIS SECTION.

(d) ESTABLISHING AND MAINTAINING SAFEGUARDS RELATING TO THE CONFIDENTIALITY OF MEDICAL RECORDS.

(e) THE ACCEPTANCE AND USE OF FEDERAL MONIES FOR CHILDREN'S REHABILITATIVE SERVICES AT THE DISCRETION OF THE ADMINISTRATION AND SUBJECT TO ANY LIMITATIONS IMPOSED BY ANNUAL STATE APPROPRIATIONS.

(f) ANY OTHER ACTIVITIES THE ADMINISTRATION DETERMINES ARE NECESSARY FOR THE EFFECTIVE OPERATION OF THE PROGRAM.

B. PURSUANT TO THE REQUIREMENTS OF SECTION 36-2903, THE DIRECTOR SHALL PREPARE AND ISSUE A PUBLIC REQUEST FOR PROPOSALS, INCLUDING A PROPOSED CONTRACT FORMAT, AT LEAST ONCE EVERY FIVE YEARS TO CONTRACT FOR THE CARE AND TREATMENT OF CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY.

C. THE TOTAL AMOUNT OF STATE MONIES THAT THE ADMINISTRATION MAY SPEND IN ANY FISCAL YEAR FOR CHILDREN'S REHABILITATIVE SERVICES MAY NOT EXCEED THE AMOUNT APPROPRIATED OR AUTHORIZED BY SECTION 35-173 FOR THAT PURPOSE. THIS SUBSECTION DOES NOT IMPOSE A DUTY ON AN OFFICER, AGENT OR EMPLOYEE OF THIS STATE TO DISCHARGE A RESPONSIBILITY OR TO CREATE ANY RIGHT IN A PERSON OR GROUP IF THE DISCHARGE OR RIGHT WOULD REQUIRE AN EXPENDITURE OF STATE MONIES IN EXCESS OF THE EXPENDITURE AUTHORIZED BY LEGISLATIVE APPROPRIATION FOR THAT SPECIFIC PURPOSE.

D. PURSUANT TO THE REQUIREMENTS OF SECTION 36-2923, THE ADMINISTRATION SHALL COORDINATE BENEFITS PROVIDED PURSUANT TO THIS SECTION SO THAT ANY COSTS PAYABLE BY THE ADMINISTRATION ARE COSTS AVOIDED OR RECOVERED FROM ANY AVAILABLE PROVIDER OF FIRST-PARTY HEALTH INSURANCE BENEFITS. THE ADMINISTRATION SHALL ACT AS PAYOR OF LAST RESORT UNLESS SPECIFICALLY REQUIRED BY FEDERAL LAW.

E. FOR THE PURPOSES OF THIS SECTION, "CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY" MEANS CHILDREN WHO ARE MEDICALLY ELIGIBLE FOR THE CHILDREN'S REHABILITATIVE SERVICES PROGRAM AND WHO REQUIRE COVERED MEDICAL, SURGICAL OR THERAPEUTIC SERVICES FOR A COVERED CONDITION THAT IS MEDICALLY DISABLING OR POTENTIALLY DISABLING, AS PRESCRIBED BY THE ADMINISTRATION.

**Sec. 12.** Section 43-1088, Arizona Revised Statutes, is amended to read:

**43-1088. Credit for contribution to qualifying charitable organizations; definitions**

A. Except as provided in subsection B of this section, a credit is allowed against the taxes imposed by this title for voluntary cash contributions by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G during the taxable year to a qualifying charitable organization not to exceed:

1. Two hundred dollars in any taxable year for a single individual or a head of household.

2. Four hundred dollars in any taxable year for a married couple filing a joint return.

B. If the voluntary cash contribution by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G is to a qualifying foster care charitable organization, the credit shall not exceed:

1. Four hundred dollars in any taxable year for a single individual or a head of household.

2. Eight hundred dollars in any taxable year for a married couple filing a joint return.

C. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

D. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry forward the amount of the claim not used to offset the taxes under this title for not more than five consecutive taxable years' income tax liability.

E. The credit allowed by this section is in lieu of a deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

F. Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the contribution to the department of revenue on forms provided by the department.

G. A qualifying charitable organization shall provide the department of revenue with a written certification that it meets all criteria to be considered a qualifying charitable organization. The organization shall also notify the department of any changes that may affect the qualifications under this section.

H. The charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification must include the following:

1. Verification of the organization's status under section 501(c)(3) of the internal revenue code or verification that the organization is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901.

2. Financial data indicating the organization's budget for the organization's prior operating year and the amount of that budget spent on services to residents of this state who either:

(a) Receive temporary assistance for needy families benefits.

(b) Are low income residents of this state.

~~(c) Are chronically ill or children with physical disabilities.~~

(c) ARE CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY.

3. A statement that the organization plans to continue spending at least fifty ~~per cent~~ PERCENT of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low-income residents of

this state or who are ~~chronically ill or children with physical disabilities~~ CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY.

4. A statement that the organization does not provide, pay for or provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions.

I. The department shall review each written certification and determine whether the organization meets all the criteria to be considered a qualifying charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of the qualifying charitable organizations.

J. For the purposes of this section:

1. "~~Chronically ill or children with physical disabilities~~ CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY" has the same meaning prescribed in section 36-260.

2. "Low-income residents" means persons whose household income is less than one hundred fifty ~~per cent~~ PERCENT of the federal poverty level.

3. "Qualifying charitable organization" means a charitable organization that is exempt from federal income taxation under section 501(c)(3) of the internal revenue code or is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901. The organization must spend at least fifty ~~per cent~~ PERCENT of its budget on services to residents of this state who receive temporary assistance for needy families benefits or low-income residents of this state and their households or to ~~chronically ill or children with physical disabilities~~ CHILDREN WHO HAVE A CHRONIC ILLNESS OR PHYSICAL DISABILITY who are residents of this state. Taxpayers choosing to make donations through an umbrella charitable organization that collects donations on behalf of member charities shall designate that the donation be directed to a member charitable organization that would qualify under this section on a stand-alone basis. Qualifying charitable organization does not include any entity that provides, pays for or provides coverage of abortions or that financially supports any other entity that provides, pays for or provides coverage of abortions.

4. "Qualifying foster care charitable organization" means a qualifying charitable organization that each operating year provides services to at least two hundred foster children in this state and spends at least fifty ~~per cent~~ PERCENT of its budget on services to foster children in this state. For the purposes of this paragraph, "foster children" has the same meaning prescribed in section 8-501.

5. "Services" means cash assistance, medical care, child care, food, clothing, shelter, job placement and job training services or any other assistance that is reasonably necessary to meet immediate basic needs and that is provided and used in this state.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

# MILITARY AFFAIRS COMMISSION

## CHAPTER 205

## H. B. 2103

**AN ACT AMENDING SECTIONS 26-261 AND 26-262, ARIZONA REVISED STATUTES; RELATING TO THE MILITARY AFFAIRS COMMISSION.**

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

**Section 1.** Section 26-261, Arizona Revised Statutes, is amended to read:

**26-261. Military affairs commission; confidential discussions and information; definition**

A. The military affairs commission is established. ~~Through December 31, 2010, the commission membership consists of the following members:~~

~~1. Three members who are appointed by the president of the senate, who serve at the pleasure of the president of the senate and who include the following:~~

~~(a) One member who is knowledgeable in military affairs and who represents the long-term interests of a military installation.~~

~~(b) One member who represents private property interests in the territory in the vicinity as defined in section 28-8461.~~

~~(c) One member who represents the interests of a city, town or county.~~

~~2. Three members who are appointed by the speaker of the house of representatives, who serve at the pleasure of the speaker of the house of representatives and who include the following:~~

~~(a) One member who is knowledgeable in military affairs and who represents the long-term interests of a military installation.~~

~~(b) One member who represents private property interests in the territory in the vicinity as defined in section 28-8461.~~

~~(c) One member who represents the interests of a city, town or county.~~

~~3. Nine members who are appointed by the governor, who serve at the pleasure of the governor and who include the following:~~

~~(a) Three members who are knowledgeable in military affairs and who represent the long-term interests of a military installation.~~

~~(b) Three members who represent private property interests in the territory in the vicinity as defined in section 28-8461.~~

~~(c) Three members who represent the interests of a city, town or county.~~

~~B. From and after December 31, 2010,~~ The commission membership consists of:

1. ~~Thirteen~~ SIXTEEN members who are appointed by the governor and who include the following:

(a) ~~Ten~~ TWELVE members who reside in a community in which a military installation is located. Of this group, ~~five~~ SIX members shall have expertise in military affairs and ~~five~~ SIX members shall be local elected officials.

(b) ~~Three~~ FOUR members who represent private property interests in the territory in the vicinity as defined in section 28-8461 OR IN A COMMUNITY IN WHICH A MILITARY INSTALLATION IS LOCATED.

2. One member who represents private property interests in the territory in the vicinity as defined in section 28-8461 OR IN A COMMUNITY IN WHICH A MILITARY INSTALLATION IS LOCATED and who is appointed by the president of the senate.

3. One member who represents private property interests in the territory in the vicinity as defined in section 28-8461 OR IN A COMMUNITY IN WHICH A MILITARY INSTALLATION IS LOCATED and who is appointed by the speaker of the house of representatives.

4. Four nonvoting advisory members who are not counted for the purpose of determining a quorum consisting of:

(a) The adjutant general or a designee of the adjutant general.

(b) A representative ~~from~~ OF a military installation commander who is appointed by the governor.

(c) A representative from a federal agency involved in land use issues who is appointed by the governor.

(d) The state land commissioner or a designee of the commissioner.

~~C.~~ B. The military affairs commission shall have geographic diversity in its membership. The governor shall designate two of the governor's appointees as cochairpersons of the commission. Members or designees of the commission shall not send alternates to represent them at commission meetings. The voting members shall serve six-year terms.

~~D.~~ C. The department of emergency and military affairs shall staff the commission.

~~E.~~ D. The commission shall:

1. Meet at least annually.

2. Meet on a regular basis with the governor, the president of the senate and the speaker of the house of representatives, either individually or collectively, to provide recommendations on military issues and report on the progress of the military affairs commission.

3. Annually meet with the appropriate legislative committees that have jurisdiction over military installations.

4. Advise the governor and the legislature on matters affecting the operational viability of Arizona military facilities, including military installations, military training routes, military restricted airspace, military ranges or areas under the jurisdiction of an active unit of the uniformed armed services of the United States or any reserve or national guard component of the uniformed armed services of the United States.

5. Develop criteria, including accountability requirements, for awarding monies from the military installation fund established by section 26-262.

6. Review applications for monies to be awarded from the military installation fund.

7. Annually recommend to the department of emergency and military affairs a priority listing of monies with available resources.

8. Recommend to the department of emergency and military affairs how the monies in the military installation fund should be awarded.

9. Proactively assist with coordination among the United States military operating in Arizona, the congressional delegation, the governor, the state legislature and state and local leaders.

10. Recommend executive, legislative and federal actions necessary to sustain military operations and enhance the state's preparedness to respond to potential new missions and prevent military facilities from closure or downsizing.

11. Study issues relating to veterans, active duty, national guard and reserve members of the United States armed forces and other military quality of life issues.

E. DISCUSSIONS THAT ARE RELATED TO THE FEDERAL GOVERNMENT'S PROCESS TO DETERMINE THE CLOSURE, REALIGNMENT, RELOCATION, EXPANSION OR FORCED STRUCTURE REDUCTION OF MILITARY INSTALLATIONS AND TO PROPRIETARY ALTERNATIVES TO THIS STATE'S MILITARY BASE CLOSURE OR REALIGNMENT STRATEGIES ARE NOT SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3.1.

F. INFORMATION THAT IS DEVELOPED OR OBTAINED BY THE COMMISSION THAT PERTAINS TO PROPRIETARY STRATEGIES OF THE COMMISSION OR THAT IS RELATED TO THE RELOCATION OF MILITARY UNITS IS CONFIDENTIAL AND IS NOT SUBJECT TO TITLE 39, CHAPTER 1, INCLUDING DOCUMENTS RELATED TO THE FEDERAL GOVERNMENT'S PROCESS TO DETERMINE THE CLOSURE, REALIGNMENT, RELOCATION, EXPANSION OR FORCED STRUCTURE REDUCTION OF MILITARY INSTALLATIONS UNTIL THE FEDERAL GOVERNMENT HAS ISSUED A FINAL, UNAPPEALABLE DECISION IN THAT PROCESS OR, IN THE EVENT OF LITIGATION, A COURT OF COMPETENT JURISDICTION HAS ENTERED A FINAL, UNAPPEALABLE ORDER REGARDING THE CLOSURE, REALIGNMENT, RELOCATION, EXPANSION OR FORCED STRUCTURE REDUCTION OF THE MILITARY INSTALLATIONS. IF THE COMMISSION ENTERS INTO A CONFIDENTIALITY AGREEMENT WITH A THIRD PARTY, THE COMMISSION MAY DISCLOSE INFORMATION THAT IS DEEMED CONFIDENTIAL PURSUANT TO THIS SUBSECTION TO THAT THIRD PARTY.

~~F.~~ G. For the purposes of this section, "military installation" means a military airport or ancillary military facility as defined in section 28-8461 or any real property that services, supports or is used by the military.

**Sec. 2.** Section 26-262, Arizona Revised Statutes, is amended to read:

**26-262. Military installation fund; report; definition**

A. The military installation fund is established consisting of revenues made available to the fund from any lawful source. The adjutant general shall administer

the fund. On notice from the adjutant general, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund. The fund is exempt from the provisions of section 35-190 relating to lapsing of appropriations.

B. Monies in the fund are continuously appropriated for the purposes of this section.

C. The department of emergency and military affairs, in conjunction with the military affairs commission established by section 26-261, shall adopt by rule procedures for receiving and evaluating applications and awarding the monies as provided by subsection G of this section. If applications for monies exceed the amount available in the fund, the department may request applicants to reduce the amount of the applications or deny or award reduced amounts.

D. The department shall receive each application for fund monies and shall forward each application to the military affairs commission. The military affairs commission shall review each application and recommend to the department both of the following:

1. Each applicant that should be awarded monies from the fund.

2. The dollar amount that each applicant listed pursuant to paragraph 1 of this subsection should be awarded from the fund.

E. The department shall consider the military affairs commission's recommendations and shall decide how the monies in the fund shall be awarded among the applicants. The department, after reviewing the recommendations by the military affairs commission, shall make the monies in the fund available for the purpose of military installation preservation and enhancement projects. Except as provided in subsection F of this section, after the department makes an award decision the department shall award the monies.

F. If the department does not comply with the military affairs commission's recommendation for the awards, within five days after the department's decision the department shall report in writing to the military affairs commission, the president of the senate, the speaker of the house of representatives and the governor. The report shall include the award decision of the department and the recommendation of the military affairs commission. The department shall not distribute monies from the fund to the applicants for at least sixty days after the report is received.

G. The department shall:

1. Award eighty ~~per cent~~ PERCENT of the monies in the fund for the following purposes, except that up to twenty ~~per cent~~ PERCENT of this amount may be awarded to cities, towns and counties for the purpose of acquiring private land for the purposes prescribed in paragraph 2 of this subsection:

(a) Acquisition of private property for the purpose of preserving a military installation.

(b) Acquisition of real estate and rights to real estate and otherwise preserving real estate from development or mitigating impacts on development in high noise or accident potential zones as defined in section 28-8461 and in areas as required to support a military installation.

(c) Acquisition of real estate, property rights and related infrastructure that is vital to the preservation or enhancement of a military installation.

(d) Structural renovations or construction of building modifications or improvements that mitigate or attenuate impacts in high noise or accident potential zones.

(e) Removal of structures or improvements that are necessary for acquisition of private property for the purpose of preserving a military installation.

(f) Management of acquired property that is necessary to preserve and enhance military missions and military installations.

2. Except as provided by subsection L of this section, award twenty ~~per cent~~ PERCENT of the monies in the fund to cities, towns and counties for:

(a) Military installation preservation and enhancement projects or analytical reports or studies that are requested by federal or state agencies or military facilities in this state.

(b) Investment in or construction of capital improvements or infrastructure for the purpose of preserving a military installation.

(c) Structural renovations or construction of building modifications or improvements that mitigate or attenuate impacts in high noise or accident potential zones.

(d) Removal of structures or improvements that are necessary for acquisition of private property for the purpose of preserving a military installation.

(e) Management of acquired property that is necessary to preserve and enhance military missions and military installations.

H. The legislature shall review the distribution formula prescribed in subsection G of this section at least once every four years.

I. Monies in the fund may be awarded for debt service on bonds issued by a political subdivision for the purpose of acquisition of private property for the purpose of preserving a military airport or ancillary military facility as defined in section 28-8461 if the land acquisition occurs after December 31, 2004.

J. The department shall annually report the awards made pursuant to this section. The report shall be in writing and shall be sent to the president of the senate, the speaker of the house of representatives and the governor. The department shall send a copy of this report to the secretary of state.

K. The department of emergency and military affairs may transfer any real estate, property rights and related infrastructure that are acquired pursuant to this section to any other governmental agency for the purposes of preserving or enhancing military installations in this state.

L. If monies remain after the award of monies pursuant to subsection G, paragraph 2 of this section, the department may use ~~these~~ THE remaining monies for EITHER OF THE FOLLOWING:

1. The purposes prescribed in subsection G, paragraph 1 of this section.

2. PROJECTS OR STUDIES NECESSARY TO PRESERVE OR ENHANCE MILITARY MISSIONS AND MILITARY INSTALLMENTS IN THIS STATE.

M. Any agency of this state may accept title to and manage real estate, property rights and related infrastructure that are acquired pursuant to this section.

N. For the purposes of this section, "military installation" has the same meaning prescribed in section 26-261.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## BOARD OF TECHNICAL REGISTRATION

### CHAPTER 206

### H. B. 2127

**AN ACT AMENDING SECTIONS 32-106, 32-107 AND 32-123, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF TECHNICAL REGISTRATION.**

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

**Section 1.** Section 32-106, Arizona Revised Statutes, is amended to read:

**32-106. Powers and duties**

A. The board shall:

1. Adopt rules for the conduct of its meetings and performance of duties imposed ~~upon~~ ON it by law.

2. Adopt an official seal for attestation of certificates of registration and other official papers and documents.

3. Consider and ~~pass upon~~ ACT ON OR DELEGATE THE AUTHORITY TO ACT ON applications for registration or certification.

4. Conduct examinations for in-training and professional registration except for an alarm business or an alarm agent.

5. Hear and ~~pass upon~~ ACT ON complaints or charges or direct an administrative law judge to hear and ~~pass~~ ACT on complaints and charges.

6. Compel attendance of witnesses, administer oaths and take testimony concerning all matters coming within its jurisdiction. In exercising these powers, the board may issue subpoenas for the attendance of witnesses and the production of books, records, documents and other evidence it deems relevant to an investigation or hearing.

7. Keep a record of its proceedings.

8. Keep a register ~~which shall show~~ THAT SHOWS the date of each application for registration or certification, the name of the applicant, the practice or branch of practice in which the applicant has applied for registration, if applicable, and the disposition of the application.

9. Do other things necessary to carry out the purposes of this chapter.

B. The board shall specify the proficiency designation in the branch of engineering in which the applicant has designated proficiency on the certificate of registration and renewal card issued to each registered engineer and shall authorize the engineer to use the title of registered professional engineer. The board shall decide what branches of engineering it shall recognize.

C. The board may hold membership in and be represented at national councils or organizations of proficiencies registered under this chapter and may pay the appropriate membership fees. The board may conduct standard examinations on behalf of national councils and may establish fees for those examinations.

D. The board may employ and pay on a fee basis persons, including full-time employees of a state institution, bureau or department, to prepare and grade examinations given to applicants for registration and may fix the fee to be paid for these services. These employees are authorized to prepare, grade and monitor examinations and perform other services the board authorizes, and to receive payment for these services from the technical registration fund. The board may contract with an organization to administer the registration examination, including selecting the test site, scheduling the examination, billing and collecting the fee directly from the applicant and grading the examination if a national council of which the board is a member or a professional association approved by the board does not provide these services. If a national council of which the board is a member or a professional association approved by the board does provide these services, the board shall enter into an agreement with the national council or professional association to administer the registration examination.

E. The board may rent necessary office space and pay the cost of this office space from the technical registration fund.

F. The board may adopt rules establishing rules of professional conduct for registrants.

G. The board may require evidence it deems necessary to establish the continuing competency of registrants as a condition of renewal of licenses.

H. Subject to title 41, chapter 4, article 4, the board may employ persons as it deems necessary.

I. The board shall issue a certificate and renewal card to each drug laboratory site remediation firm, remediation supervisor and on-site worker.

J. The board shall issue or may authorize the executive director to issue a certificate or renewal certificate to each alarm business and a certification or renewal certification card to each alarm agent if the qualifications prescribed by this chapter are met.

**Sec. 2.** Section 32-107, Arizona Revised Statutes, is amended to read:

**32-107. Executive director; duties; compensation**

A. The board may employ an executive director to conduct investigations and carry out the purposes of this chapter.

B. The executive director shall be the custodian of the records of the board, receive applications for registration AND CERTIFICATION and, ~~lay them before~~ IF AUTHORITY IS DELEGATED BY the board, ISSUE REGISTRATIONS AND CERTIFICATIONS AS AUTHORIZED BY THE BOARD, file complaints with the

proper officials against violators of any provision of this chapter, assist in the prosecution of such cases and perform other duties the board prescribes.

C. The executive director is eligible to receive compensation as determined pursuant to section 38-611.

**Sec. 3.** Section 32-123, Arizona Revised Statutes, is amended to read:

**32-123. Application for registration and certification; denial; hearing**

A. A person desiring to practice any board-regulated profession or occupation shall ~~make application~~ APPLY for registration or certification on a form prescribed by the board, subscribed under penalty of perjury and accompanied by the appropriate application fee prescribed by the board. If the evidence submitted satisfies the board that the applicant is fully qualified to practice the profession or occupation for which registration or certification is asked, ~~it~~ THE BOARD OR THE EXECUTIVE DIRECTOR AS AUTHORIZED BY THE BOARD shall grant the applicant a certificate of registration or certification, signed by the chairman and secretary and attested by the official seal. If the applicant seeks registration as a professional engineer, the certificate of registration shall list the proficiency designation in the branch of engineering in which the applicant has demonstrated proficiency.

B. A registered professional engineer who desires to practice land surveying shall apply for professional registration as a land surveyor and satisfy the requirements set forth in section 32-122.01, subsection B.

C. If in the judgment of the board the applicant has not furnished satisfactory evidence of qualifications for registration or certification, it may require additional data or may require the applicant to submit to an additional oral or written examination specified by the board in its rules.

D. AN APPLICANT WHOSE APPLICATION IS DENIED MAY REQUEST A FORMAL HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. If the application is ~~denied~~ GRANTED AFTER A FORMAL HEARING, the application fee shall be returned~~, less the cost of considering the application, as determined by the board~~.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## CERTIFIED PUBLIC ACCOUNTANTS

### CHAPTER 207

### H. B. 2218

**AN ACT AMENDING SECTIONS 32-701, 32-721, 32-723, 32-725, 32-730.01, 32-730.02, 32-730.03, 32-730.04 AND 32-731, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-732, 32-734 AND 32-735,**

**ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-741, 32-741.01, 32-741.03, 32-741.04, 32-742 AND 32-744, ARIZONA REVISED STATUTES; RELATING TO CERTIFIED PUBLIC ACCOUNTANTS.**

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

**Section 1.** Section 32-701, Arizona Revised Statutes, is amended to read:

**32-701. Definitions**

In this chapter, unless the context otherwise requires:

1. "Accounting services" means services that are commonly and historically performed by accountants, including recording or summarizing financial transactions, bookkeeping, analyzing or verifying financial information, auditing, reviewing or compiling financial statements, reporting financial results, financial planning, providing attestation or tax or consulting services.

2. "Accredited institution" means any public or private regionally or nationally accredited college or university that is accredited by an organization recognized by the council for higher education accreditation or its successor agency.

3. "Attest services" means the following services that are rendered by the holder of a certificate issued by the board:

(a) Audits or other engagements to be performed in accordance with the statements on auditing standards adopted by the American institute of certified public accountants.

(b) Reviews of financial statements to be performed in accordance with the statements on standards for accounting and review services adopted by the American institute of certified public accountants.

(c) Any examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements adopted by the American institute of certified public accountants.

(d) Any engagement to be performed in accordance with the standards of the public company accounting oversight board or its successor.

(e) Any examination, review or agreed on procedure engagement to be performed in accordance with the statements on standards for attestation engagements adopted by the American institute of certified public accountants, other than an examination described in subdivision (c) of this paragraph.

4. "Attestation" or "attest function" means the issuance by a registrant of a written communication that expresses a conclusion about the reliability of a written assertion that is the responsibility of another party.

5. "Board" means the Arizona state board of accountancy established by section 32-702.

6. "Certified public accountant" means an individual who has been issued a certificate of authority by the board to practice as a certified public accountant or who meets the limited reciprocity privilege requirements pursuant to section 32-725.

7. "Client" means a person or entity, other than one's employer, for whom accounting services are provided.

8. "Consulting services" includes management advisory services, litigation support services, valuation services and other services that require the use of technical skills, education, observation, experience and knowledge to develop an analytical approach to process and to present findings, conclusions or recommendations.

9. "Conviction" means a judgment of conviction by any state or federal court of competent jurisdiction in a criminal cause, regardless of whether an appeal is pending or could be taken, and includes any judgment or order based on a plea of no contest.

10. "Disciplinary action" means any other regulatory sanctions imposed by the board in combination with, or as an alternative to, revocation or suspension of a certificate or registration, including the imposition of:

(a) An administrative penalty in an amount not to exceed two thousand dollars for each violation of this chapter or rules adopted pursuant to this chapter.

(b) Restrictions on the scope of the registrant's accounting practice, including, without limitation, restriction of audit or attest function practice, restriction of tax practice or restriction of consulting services.

(c) Pre-issuance and post-issuance peer review.

(d) Professional education requirements.

(e) A decree of censure.

(f) Probation requirements best adapted to protect the public welfare.

(g) Reimbursement of the board's costs of investigations and proceedings initiated under this chapter, INCLUDING ATTORNEY FEES.

(h) A requirement for restitution payments to accounting services clients or to other persons suffering economic loss resulting from violations of this chapter or rules adopted pursuant to this chapter.

11. "Employer" means a person or entity that hires an individual to perform a service and that directs and controls the manner in which the service is performed.

12. "Federal securities laws" means the securities act of 1933, the securities exchange act of 1934, the public utility holding company act of 1935 and the investment company act of 1940, as amended.

13. "Financial statements":

(a) Means statements and footnotes related to statements that purport to show a financial position or changes in a financial position in conformity with generally accepted accounting principles or other comprehensive basis of accounting.

(b) Includes balance sheets, statements of income, statements of retained earnings, statements of cash flows, statements of changes in an owner's equity and other commonly used or recognized summaries of financial information.

(c) Does not include tax returns or information contained in tax returns.

14. "Firm" means a business organization that is engaged in the practice of public accounting and that is established under the laws of any state or foreign country, including a sole practitioner, partnership, professional corporation, professional limited liability company, limited liability company, limited liability

partnership or any other entity recognized by the board that has met the applicable requirements contained in ~~sections~~ SECTION 32-731 ~~and 32-732~~.

15. "Good cause" means factors that temporarily prevent a registrant from satisfying a particular requirement in a specific instance as determined by the board and may include:

(a) A disability.
(b) An illness.
(c) A physical or mental condition.
(d) Military service.
(e) Financial hardship.
(f) A natural disaster.
(g) Any condition or circumstance that the board deems relevant.

16. "Jurisdiction" means, for the purposes of examination, certification or limited reciprocity privilege, the fifty states of the United States, the District of Columbia, the United States Virgin Islands, Guam, ~~or~~ the Commonwealth of the northern Mariana Islands OR THE COMMONWEALTH OF PUERTO RICO.

17. "Letter of concern" means an advisory letter to notify a registrant that, while the evidence does not warrant disciplinary action, the board believes that the registrant should modify or eliminate certain practices and that continuation of the activities that led to the evidence being submitted to the board may result in board action against the registrant. A letter of concern is not a disciplinary action.

18. "Limited reciprocity privilege" means the permission to practice as a certified public accountant in this state pursuant to section 32-725 for an individual whose principal place of business is outside of this state.

19. "Management advisory services" means advisory services consisting of the development of findings, conclusions or recommendations for the recipient's consideration and decision making.

20. "Practice of accounting" means providing accounting services for a client or an employer.

21. "Practice of public accounting" means providing accounting services for a client but does not include providing accounting services, other than attest services or compilation services, for a nonprofit entity or a family member without an expectation of and without receiving compensation.

22. "Principal place of business" means the office designated by the individual or firm as the principal location for the practice of accounting.

23. "Public accountant" means an individual who has been issued a certificate of authority by the board to practice as a public accountant.

24. "Registrant" means any certified public accountant, public accountant or firm that is registered with the board.

25. "Related courses" means:

(a) Business administration.
(b) Statistics.
(c) Computer science, information systems or data processing.
(d) Economics.
(e) Finance.

(f) Management.
(g) Business law.
(h) College algebra or more advanced mathematics.
(i) Advanced written communication.
(j) Advanced oral communication.
(k) Ethics.
(l) Marketing.
(m) Other courses closely related to the subject of accounting and satisfactory to the board.

**Sec. 2.** Section 32-721, Arizona Revised Statutes, is amended to read:

**32-721. Certified public accountants; qualifications**

A. The board shall issue a certificate of certified public accountant to any individual who complies with all of the following:

1. Meets the requirements of section 41-1080.
2. Is at least eighteen years of age.
3. Is of good moral character.
4. Has not engaged in any conduct that would constitute grounds for revocation or suspension of a certificate or other disciplinary action pursuant to section 32-741.
5. Meets the requirements of subsection B, C or D of this section.

B. If the applicant passes the uniform certified public accountant examination and has never been certified, registered or licensed as a certified public accountant in this state or another jurisdiction, the applicant must comply with both of the following:

1. Have had at least two thousand hours of paid or unpaid experience, either before or after passing all sections of the ~~examination for~~ UNIFORM certified public accountant EXAMINATION, that has exposed the applicant to and provided the applicant with experience in the practice of accounting. The applicant's experience must be sufficient to demonstrate the applicant's ability for critical inquiry and analysis of financial accounting information, including balance sheets, income statements, cash flow statements and tax returns and the applicant's ability to communicate, either orally or in writing, on the results of an inquiry or analysis of that information to an employer, client or third party.

2. Present satisfactory evidence that the person has successfully obtained a baccalaureate degree or higher degree from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution and that the applicant has completed at least one hundred fifty semester hours of education of which:

(a) At least thirty-six semester hours are nonduplicative accounting courses of which at least thirty semester hours are ~~upper division~~ UPPER-LEVEL courses.

(b) At least thirty semester hours are related courses.

C. If the applicant passes the uniform certified public accountant examination OR THE INTERNATIONAL QUALIFICATION EXAMINATION and has a certificate, registration or license to practice as a certified public accountant in another jurisdiction and the applicant has never had a certificate issued

by the board expire or be relinquished or revoked, at least one of the following shall apply:

1. The certificate, registration or license is issued by a jurisdiction whose requirements are determined by the board to be substantially equivalent to the requirements prescribed in subsection B of this section.

2. The applicant has a baccalaureate degree or its equivalent or a higher degree from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution and either of the following applies:

(a) The applicant has been employed as a certified public accountant in the practice of accounting for at least three years and has completed at least one hundred fifty semester hours of education that includes both of the following:

(i) At least twenty-four semester hours of nonduplicative accounting courses, of which twelve semester hours are ~~upper division~~ UPPER-LEVEL courses.

(ii) At least eighteen semester hours in related courses.

(b) The applicant has been employed as a certified public accountant in the practice of accounting for at least five of the ten preceding years and has completed both of the following:

(i) At least twenty-four semester hours of nonduplicative accounting courses, of which twelve semester hours are ~~upper division~~ UPPER-LEVEL courses.

(ii) At least eighteen semester hours in related courses.

3. The applicant has been employed as a certified public accountant in the practice of accounting for at least ten of the fifteen preceding years.

D. If an applicant passes the international uniform certified public accountant qualification examination of the American institute of certified public accountants, all of the following apply:

1. The applicant's country has a mutual recognition agreement with the national association of state boards of accountancy that has been adopted by the board.

2. The board recognizes that the applicant's qualifications are substantially equivalent to the qualifications of certified public accountants in the United States in the areas of education, examination and experience.

**Sec. 3.** Section 32-723, Arizona Revised Statutes, is amended to read:

**32-723. Uniform certified public accountant examination; qualifications**

A. A person shall not be permitted to take the uniform certified public accountant examination unless the person presents satisfactory evidence that the person has successfully obtained a baccalaureate degree or a higher degree from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution. The evidence must show both of the following:

1. At least twenty-four semester hours of nonduplicative accounting courses of which twelve semester hours are ~~upper division~~ UPPER-LEVEL courses.

2. At least eighteen semester hours in related courses.

B. The board may contract with a public or private entity for the administration of the examination. The examination may be conducted under a uniform examination system.

C. Within a reasonable time after the examination the board or its contracted agent shall notify each candidate of the candidate's grade. Any candidate may request a grade review or an appeal by submitting a uniform certified public accountant examination score review or appeal form to the BOARD OR THE board's contracted agent.

**Sec. 4.** Section 32-725, Arizona Revised Statutes, is amended to read:

**32-725. Limited reciprocity privilege; qualifications**

A. The limited reciprocity privilege may be exercised by an individual who is not a resident of this state and who meets the requirements of this section.

B. To qualify to exercise the limited reciprocity privilege, an individual must:

1. Have a principal place of business that is not in this state.

2. Not be the subject of suspension or revocation of a certificate as provided by section 32-741 or relinquishment of a certificate as provided by section 32-741.04.

3. Hold a valid registration, certificate or license as a certified public accountant issued by another ~~state~~ JURISDICTION and either of the following must apply:

(a) The other ~~state~~ JURISDICTION requires as a condition of licensure that an individual has all of the following:

(i) At least one hundred fifty semester hours of college education, including a baccalaureate degree or a higher degree that is conferred by an accredited institution or a college or university that maintains standards that are comparable to those of an accredited institution.

(ii) A passing grade on the uniform certified public accountant examination.

(iii) At least one year of experience in the practice of accounting that has been verified.

(b) The individual meets the qualifications prescribed in section 32-721, subsection C.

C. An individual qualifying for limited reciprocity privilege under this section is considered to have qualifications that are substantially equivalent to the requirements prescribed pursuant to this chapter and has all of the privileges of registrants, certificate holders or licensees in this state without obtaining a registration, certificate or license under this chapter.

D. An individual qualifying for limited reciprocity privilege under this section may use the title "CPA" or "certified public accountant" and may offer or practice accounting in person or by mail, telephone or electronic means. No notice, fee or other submission is required. The individual is subject to the requirements prescribed in subsection E of this section.

E. Each individual who holds a registration, certificate or license issued by another ~~state~~ JURISDICTION and who exercises the limited reciprocity privilege and each partnership, corporation or other entity engaging in the practice of

accounting as provided by this section, as a condition of exercising the privilege provided by this section:

1. Shall:

(a) Comply with article 3 of this chapter and rules adopted pursuant to article 3 of this chapter. In any investigation or other proceedings conducted pursuant to article 3 of this chapter, an individual claiming permission to practice as a certified public accountant in this state under the limited reciprocity privilege has the burden of demonstrating that the applicable requirements of subsection B of this section have been satisfied.

(b) Cease the offering or practicing of accounting in person or by mail, telephone or electronic means in this state if the individual no longer satisfies the requirements of subsection B of this section or the partnership, corporation or other entity no longer satisfies the requirements of subsection G of this section.

2. Is subject to:

(a) The personal and subject matter jurisdiction of the board and the power of the board to investigate complaints and take disciplinary action.

(b) Service by either of the following:

(i) The appointment of the state board that issued the registration, certificate or license to the individual as agent, on whom process may be served in any action or proceeding against the person by the board.

(ii) Directly on the person.

F. Any individual who holds a valid registration, certificate or license as a certified public accountant issued by another ~~state~~ JURISDICTION or a foreign country, whose principal place of business is not in this state and who does not otherwise qualify under this section for limited reciprocity privilege may enter this state and provide services if the services are limited to the following:

1. Expert witness services.

2. Teaching or lecturing.

3. Other services as determined by the board.

G. A partnership, corporation or other entity formed under the laws of another ~~state or United States territory~~ JURISDICTION relating to the practice of accounting in that ~~state or United States territory~~ JURISDICTION may use the title "certified public accountant" or "CPA" in this state and may engage in the practice of accounting in this state, including the provision of attest services, without having to register as a firm if all of the following apply:

1. The partnership, corporation or other entity is owned by or employs an individual who is a limited reciprocity privilege holder pursuant to this section.

2. The partnership, corporation or other entity is in good standing in its principal place of business under the laws of that jurisdiction relating to the practice of accounting.

3. The principal place of business of the limited reciprocity privilege holder is a recognized place of business for the practice of accounting by the partnership, corporation or other entity.

4. The partnership, corporation or other entity does not have an office in this state and does not represent that it has an office in this state.

5. The partnership, corporation or other entity holds an active permit or registration as a certified public accountant firm in another ~~state or United States territory~~ JURISDICTION.

6. The practice of accounting is performed by or under the direct supervision of an individual who is qualified for the limited reciprocity privilege under this section.

**Sec. 5.** Section 32-730.01, Arizona Revised Statutes, is amended to read:

**32-730.01. Inactive status; reactivation; exception**

A. A registrant who is not actively engaged in the practice of accounting in this state for a fee or other compensation may request that the registrant's certificate be placed on inactive status by meeting the requirements for inactive status and completing the forms prescribed by the board. A registrant whose certificate is under a disciplinary order by the board, EXCEPT FOR SUSPENSION FOR NONREGISTRATION PURSUANT TO SECTION 32-741.01, or against whom disciplinary proceedings have been initiated may not place or maintain a certificate on inactive status.

B. A registrant whose certificate is on inactive status:

1. Shall continue to register once every two years with the board and pay fifty ~~per cent~~ PERCENT of the registration fee and one hundred ~~per cent~~ PERCENT of any applicable late fee pursuant to section 32-729.

2. Shall not engage in the practice of accounting in this state for a fee or other compensation while the registrant's certificate remains on inactive status.

3. In this state shall not assume or use the title or designation of "certified public accountant" or "public accountant" or the abbreviation "C.P.A.", "CPA", "P.A." or "PA" while the registrant's certificate remains on inactive status unless accompanied by the word "inactive".

C. A registrant may request that the registrant's certificate be reactivated if the certificate has been inactive for six years or less and if the registrant meets all of the following requirements:

1. Files an application for renewal on the form prescribed by the board and pays the registration fee pursuant to section 32-729.

2. Submits proof that the registrant has satisfied continuing professional education requirements as prescribed by the board.

3. Affirms that the registrant has not engaged in any conduct that would constitute grounds for revocation or suspension of a certificate pursuant to section 32-741.

D. A registrant may reactivate an inactive certificate pursuant to subsection C of this section only once.

E. A certificate expires if it has been inactive for more than six years.

F. Subsections D and E of this section do not apply if inactive status is approved by the board for good cause based on a registrant's disability.

**Sec. 6.** Section 32-730.02, Arizona Revised Statutes, is amended to read:

**32-730.02. Canceled status; reinstatement**

A. A registrant may cancel a certificate or registration by submitting a written request on a form prescribed by the board. A registrant whose certificate or

registration is under a disciplinary order by the board, EXCEPT FOR SUSPENSION FOR NONREGISTRATION PURSUANT TO SECTION 32-741.01, or against whom disciplinary proceedings have been initiated may not cancel the certificate or registration.

B. An individual whose certificate has been canceled shall not assume or use the title or designation of "certified public accountant" or "public accountant" or the abbreviation "C.P.A.", "CPA", "P.A." or "PA" while the certificate remains on canceled status unless the individual qualifies for limited reciprocity privilege pursuant to section 32-725.

C. An individual whose certificate has been canceled and who does not qualify for certification by reciprocity pursuant to section 32-721, subsection C may apply for reinstatement and the board may reinstate the certificate if the individual meets all of the following requirements:

1. Files an application for reinstatement on the form prescribed by the board and pays the reinstatement application fee pursuant to section 32-729.

2. Submits proof that the individual has satisfied continuing professional education requirements as prescribed by the board.

3. Affirms that the individual has not engaged in any conduct that would constitute grounds for revocation or suspension of a certificate pursuant to section 32-741.

4. On board approval of reinstatement, pays the registration fee pursuant to section 32-729.

D. A FIRM WHOSE REGISTRATION HAS BEEN CANCELED MAY APPLY FOR REINSTATEMENT AND THE BOARD MAY REINSTATE THE FIRM'S REGISTRATION WITH A NEW EFFECTIVE DATE OF THE FIRM'S FORMATION IF THE FIRM MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

1. FILES AN APPLICATION ON A FORM PRESCRIBED BY THE BOARD AND PAYS THE REGISTRATION FEE PURSUANT TO SECTION 32-729.

2. MEETS THE REQUIREMENTS OF SECTION 32-731.

**Sec. 7.** Section 32-730.03, Arizona Revised Statutes, is amended to read:

**32-730.03. Expired status; reinstatement**

A. A registrant's certificate OR REGISTRATION is expired if the registrant fails to reinstate the certificate OR REGISTRATION within twelve months after it has been suspended pursuant to section 32-741.01 or 32-741.02 or fails to reinstate a certificate that has been on inactive status pursuant to section 32-730.01 for more than six years.

B. An individual whose certificate has expired shall not assume or use the title or designation of "certified public accountant" or "public accountant" or the abbreviation "C.P.A.", "CPA", "P.A." or "PA" while the certificate remains on expired status unless the individual qualifies for limited reciprocity privilege pursuant to section 32-725.

C. An individual whose certificate has expired may apply for reinstatement and the board may reinstate the certificate if the individual meets all of the following requirements:

1. Files an application for reinstatement on a form prescribed by the board and pays the reinstatement application fee pursuant to section 32-729.

2. Submits proof that the individual has satisfied continuing professional education requirements as prescribed by the board.

3. Affirms that the individual has not engaged in any conduct that would constitute grounds for revocation or suspension of a certificate pursuant to section 32-741.

4. On board approval of reinstatement, pays the registration fee pursuant to section 32-729.

D. A FIRM WHOSE REGISTRATION HAS EXPIRED MAY APPLY FOR REINSTATEMENT AND THE BOARD MAY REINSTATE THE FIRM'S REGISTRATION WITH A NEW EFFECTIVE DATE OF THE FIRM'S FORMATION IF THE FIRM MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

1. FILES AN APPLICATION ON A FORM PRESCRIBED BY THE BOARD AND PAYS THE REGISTRATION FEE PURSUANT TO SECTION 32-729.

2. MEETS THE REQUIREMENTS OF SECTION 32-731.

**Sec. 8.** Section 32-730.04, Arizona Revised Statutes, is amended to read:

**32-730.04. Retired status; reactivation**

A. A registrant who is at least fifty-five years of age, who has been a certified public accountant or public accountant in one or more jurisdictions for at least twenty years and who is not actively engaged in the practice of accounting for a fee or other compensation may request that the registrant's certificate be placed on retired status by submitting a request on a form approved by the board. A registrant whose certificate is under a disciplinary order by the board EXCEPT FOR SUSPENSION FOR NONREGISTRATION PURSUANT TO SECTION 32-741.01 or against whom disciplinary proceedings have been initiated may not place or maintain a certificate on retired status.

B. A registrant whose certificate is on retired status:

1. Shall continue to register once every two years with the board and pay a registration fee and all of an applicable late fee as prescribed by section 32-729.

2. Shall not engage in the practice of accounting for a fee or other compensation while the registrant's certificate remains on retired status.

3. Shall not assume or use the title or designation of "certified public accountant" or "public accountant" or the abbreviation "C.P.A.", "CPA", "P.A." or "PA" unless accompanied by the word "retired" or the abbreviation "RET" while the registrant's certificate remains on retired status.

C. A registrant may request that the registrant's certificate be reactivated if the registrant meets all of the following requirements:

1. Files an application for renewal on the form prescribed by the board and pays the registration fee pursuant to section 32-729.

2. Submits proof that the registrant has satisfied continuing professional education requirements as prescribed by the board.

3. Affirms that the registrant has not engaged in any conduct that would constitute grounds for revocation or suspension of a certificate pursuant to section 32-741.

**Sec. 9.** Section 32-731, Arizona Revised Statutes, is amended to read:

**32-731. Certified public accountant partnership; qualifications; definitions**

A. Except as provided in section 32-725, subsection G, once every two years a partnership engaged in this state in the practice of accounting by certified public accountants OR PUBLIC ACCOUNTANTS shall pay the registration fee pursuant to section 32-729 and register with the board as a partnership of certified public accountants and shall meet the following requirements:

1. At least one partner shall be a resident and a full-time practicing certified public accountant in good standing in this state.

2. At least fifty-one ~~per cent~~ PERCENT of the ownership of the partnership, in terms of direct and indirect financial interests and voting rights, must belong to holders in good standing of certificates or licenses to practice accounting as certified public accountants OR PUBLIC ACCOUNTANTS in any ~~state or foreign country~~ JURISDICTION. Only certified public accountants OR PUBLIC ACCOUNTANTS whose qualifications are considered to be substantially equivalent, as provided by section 32-721, subsections C and D, may be considered as meeting the requirement prescribed by this paragraph.

B. A partnership registered with the board pursuant to this section may include owners who are not certified pursuant to this chapter if all of the following apply:

1. The partnership designates an individual who is certified pursuant to this chapter and who is responsible for the proper registration of the firm.

2. All noncertified partners actively participate in the management of the partnership or a directly affiliated entity that has been approved by the board. For the purposes of this paragraph:

(a) A partner actively participates if all of the following occur:

(i) The partner performs at least five hundred hours of ~~professional~~ ACCOUNTING services for the public accounting partnership during the calendar year.

(ii) The ~~professional~~ ACCOUNTING services performed constitute the partner's principal occupation.

(iii) The partner's interest in the public accounting partnership reverts to the partnership if the partner stops performing services for the partnership.

(b) "Directly affiliated entity" means a firm in which each owner of an equity interest in the entity actively participates in the business of providing services to the firm's clients.

3. Any partner who is ultimately responsible for supervising attest services in this state or the partner who signs any reports related to attest services on behalf of the partnership in this state shall be certified pursuant to this chapter OR

QUALIFIED TO EXERCISE THE LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725, SUBSECTION G and shall meet the experience requirements for carrying out these functions adopted by the board in its rules.

4. The partnership complies with other requirements imposed by the board in its rules.

C. Application for registration pursuant to this section shall be made on affidavit of a partner of the partnership who is a certified public accountant OR PUBLIC ACCOUNTANT in good standing in this state. The board in each case shall determine whether the applicant is eligible for registration. A partnership that is registered pursuant to this section may use the words "certified public accountants" or the abbreviation "C.P.A.'s" or "CPA's" OR THE WORDS "PUBLIC ACCOUNTANTS" OR THE ABBREVIATION "P.A.'S" OR "PA'S" in connection with its partnership name as provided for by the board in its rules. Partnerships registered pursuant to this chapter may provide attest services. ~~Notification shall be given to the board within one month of the termination of any partnership, or of the admission to or withdrawal of an Arizona partner from any partnership registered pursuant to this section.~~

D. A partnership that applies for an initial registration or a renewal pursuant to this section shall list in its application all ~~states~~ JURISDICTIONS in which the partnership has applied for or holds a registration, license or permit as a certified public accountant partnership and shall list any past denials, revocations or suspensions of registrations, licenses or permits by any other ~~state~~ JURISDICTION.

E. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, an applicant for registration or a partnership registered pursuant to this section shall notify the board in writing within one month OF ANY OF THE FOLLOWING:

1. THE TERMINATION OF ANY PARTNERSHIP.

2. THE ADMISSION OF A PARTNER TO A PARTNERSHIP THAT IS REGISTERED PURSUANT TO THIS SECTION IF THE PARTNER IS A CERTIFIED PUBLIC ACCOUNTANT OR A PUBLIC ACCOUNTANT.

3. THE WITHDRAWAL OF A PARTNER FROM A PARTNERSHIP THAT IS REGISTERED PURSUANT TO THIS SECTION IF THE PARTNER IS A CERTIFIED PUBLIC ACCOUNTANT OR A PUBLIC ACCOUNTANT.

4. A CHANGE OF A PARTNER'S RESIDENCE FROM THIS STATE TO ANOTHER JURISDICTION OR FROM ANOTHER JURISDICTION TO THIS STATE IF THE PARTNER IS IN A PARTNERSHIP THAT IS REGISTERED PURSUANT TO THIS SECTION AND THE PARTNER WAS A CERTIFIED PUBLIC ACCOUNTANT OR A PUBLIC ACCOUNTANT.

5. THE DEATH OF A PERSON WHO IS A PARTNER IN A PARTNERSHIP THAT IS REGISTERED PURSUANT TO THIS SECTION AND WHO WAS A CERTIFIED PUBLIC ACCOUNTANT OR A PUBLIC ACCOUNTANT.

6. ANY CHANGE BY ANY JURISDICTION IN THE CERTIFICATE OR LICENSE STATUS OF A CERTIFIED PUBLIC ACCOUNTANT OR A PUBLIC ACCOUNTANT OWNER OF THE PARTNERSHIP THAT PREVENTS THE CERTIFICATE OR LICENSE FROM BEING IN GOOD STANDING OR THAT

PREVENTS THE RIGHT OF THE CERTIFIED PUBLIC ACCOUNTANT OR A PUBLIC ACCOUNTANT TO PRACTICE ACCOUNTING AS A CERTIFIED PUBLIC ACCOUNTANT OR A PUBLIC ACCOUNTANT IN THAT JURISDICTION.

7. ~~of any change of partners whose principal place of business is in this state,~~ Any change in the number or location of offices of the partnership in this state~~,~~ AND any change in the identity of the individuals in charge of the partnership's offices in this state ~~and any issuance, denial, revocation or suspension of a registration, license or permit by any other state~~.

~~F. A partnership that fails to comply with this section due to changes in the ownership of the firm or personnel after receiving or renewing the registration must take corrective action to comply with this section as quickly as possible. The board may grant a reasonable period of time for the firm to take these corrective actions. A failure to comply with these requirements is grounds for suspension or revocation of the partnership registration.~~

F. IF A PARTNERSHIP FAILS TO COMPLY WITH SUBSECTION E OF THIS SECTION, THE BOARD MAY GRANT A REASONABLE PERIOD OF TIME FOR THE PARTNERSHIP TO TAKE CORRECTIVE ACTION.

G. PROFESSIONAL CORPORATIONS COMPOSED OF CERTIFIED PUBLIC ACCOUNTANTS OR PUBLIC ACCOUNTANTS SHALL MEET THE REQUIREMENTS OF TITLE 10, CHAPTER 20 AND ANY ADDITIONAL NONCONFLICTING REQUIREMENTS CONTAINED IN THIS SECTION.

H. LIMITED LIABILITY COMPANIES, PROFESSIONAL LIMITED LIABILITY COMPANIES AND LIMITED LIABILITY PARTNERSHIPS COMPOSED OF CERTIFIED PUBLIC ACCOUNTANTS OR PUBLIC ACCOUNTANTS SHALL MEET THE REQUIREMENTS OF TITLE 29, CHAPTERS 4 OR 5 AND ANY ADDITIONAL NONCONFLICTING REQUIREMENTS CONTAINED IN THIS SECTION.

I. FOR THE PURPOSES OF THIS SECTION:

1. "PARTNER" INCLUDES ANY SHAREHOLDER OF A PROFESSIONAL CORPORATION AND ANY MEMBER OF A LIMITED LIABILITY COMPANY OR PROFESSIONAL LIMITED LIABILITY COMPANY.

2. "PARTNERSHIP" INCLUDES A PROFESSIONAL CORPORATION, A LIMITED LIABILITY COMPANY AND A PROFESSIONAL LIMITED LIABILITY COMPANY.

**Sec. 10. Repeal**

Sections 32-732, 32-734 and 32-735, Arizona Revised Statutes, are repealed.

**Sec. 11.** Section 32-741, Arizona Revised Statutes, is amended to read:

**32-741. Revocation or suspension of certificate; disciplinary action; letter of concern**

A. After notice and an opportunity for a hearing, the board may revoke or suspend any certificate granted under this chapter and may take disciplinary action concerning the holder of any certificate for any of the following causes:

1. Conviction of a felony under the laws of any ~~state~~ JURISDICTION or of the United States if civil rights have not been restored pursuant to title 13, chapter 9 or other applicable recognized judicial or gubernatorial order.

2. Conviction of any crime that has a reasonable relationship to the practice of accounting by a certified public accountant or by a public accountant, including crimes involving accounting or tax violations, dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury or breach of fiduciary duty, regardless of whether civil rights have been restored.

3. Fraud or deceit in obtaining a certificate as a certified public accountant or in obtaining a certificate as a public accountant under this chapter.

4. Dishonesty, fraud or gross or continuing negligence in the practice of accounting.

5. Discipline to the holder of any certificate or other authority to practice or refusal to renew the certificate or other authority to practice as a certified public accountant by any other ~~state~~ JURISDICTION or foreign country for any cause other than failure to pay license or registration fees.

6. Violation of any of the provisions of this chapter, of title 44, chapter 12, article 13 or of any fraud provisions of the federal securities laws.

7. Final judgment in a civil action if the court makes findings of accounting violations, dishonesty, fraud, misrepresentation or breach of fiduciary duty.

8. Final judgment or order in a civil action or administrative proceeding if the court or agency makes findings of violations of any fraud provisions of the laws of ~~this state~~ ANY JURISDICTION or federal securities laws.

9. Violation of any decision, order or rule issued or adopted by the board.

10. Suspension or revocation for cause of the right to practice before the federal securities exchange commission or any other governmental body or agency or the public company accounting oversight board or its successor.

11. Offering or accepting commissions or contingency fees for services rendered for clients for whom the attest function is also offered or rendered in the performance of the practice of accounting unless:

(a) The fee is fixed by a court or another public authority.

(b) In a tax matter, the fee is determined based on the results of a judicial proceeding or the finding of a governmental agency.

12. Failing to disclose to a client that the registrant has received or expects to receive a commission from a third party for any engagement, services or product sales involving services other than the attest function.

13. Making any false or misleading statement or verification in support of an application for a certificate, registration or permit filed by another person.

14. Making a false or misleading statement:

(a) To the board or its designated agent.

(b) On a form required by the board.

(c) In written correspondence to the board.

15. Failing to respond in writing or furnish information in a timely manner to the board or its designated agent, if the information is legally requested by the board and is in the registrant's possession or control.

B. Pursuant to title 41, chapter 6, article 10, the board may summarily suspend the certificate of any certified public accountant or public accountant pending proceedings for revocation or other disciplinary action on the receipt of either of the following:

1. A notice of conviction of any crime that has a reasonable relationship to the practice of accounting, including crimes involving accounting or tax violations, dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury or breach of fiduciary duty or of any felony.

2. A final judgment or order in a civil action or administrative proceeding in which the court or agency made findings of violations of any fraud provisions of the laws of ~~this state~~ ANY JURISDICTION or federal securities laws.

C. The board may take disciplinary action against a holder of a certificate issued pursuant to this chapter who is practicing accounting even if the person is not representing to the public that the person is a certified public accountant or a public accountant and even if the person is practicing accounting in a firm that is not registered by the board.

D. The board may issue a letter of concern if, in the opinion of the board, there is insufficient evidence to support disciplinary action against the registrant, but the board believes, as a result of information ascertained during an investigation, that continuation of the activities that led to the investigation may result in future board action against the registrant. A registrant may file a response with the board within thirty days after receipt of a letter of concern. Letters of concern issued by the board and records kept by the board in connection with investigations leading to letters of concern are confidential and are not public records.

**Sec. 12.** Section 32-741.01, Arizona Revised Statutes, is amended to read:

**32-741.01. Suspension for nonregistration; expiration of certificate or registration**

A. The certificate OR REGISTRATION of any registrant who fails to timely register and pay the biennial registration fee as required by section 32-729 is automatically suspended without prior notice or a hearing.

B. A registrant whose certificate OR REGISTRATION is suspended shall not assume or use the title or designation of "certified public accountant" or "public accountant" or the abbreviation "C.P.A.", "CPA", "P.A." or "PA" while the registrant's certificate remains on suspended status.

C. A suspension under this section ~~is not a disciplinary order and~~ is vacated when the board has determined that the registrant has paid all past due fees and has satisfied all other requirements for renewal.

D. If the registrant fails to renew the registrant's CERTIFICATE OR registration within twelve months after the date of suspension, the certificate OR REGISTRATION expires.

**Sec. 13.** Section 32-741.03, Arizona Revised Statutes, is amended to read:

**32-741.03. Revoked certificate; qualifications for new certificate**

A. If the board revokes the certificate of an individual registrant, the individual shall return the certificate to the board. If the individual is unable to return the certificate, the individual must sign and submit to the board an affidavit on

a form prescribed by the board stating that the individual is unable to return the certificate to the board.

B. An individual whose certificate has been revoked shall not assume or use the title or designation of "certified public accountant" or "public accountant" or the abbreviation "C.P.A.", "CPA", "P.A." or "PA".

C. Except as otherwise provided in this subsection, the board shall not issue a certificate to an individual whose certificate has been revoked until five years after the effective date of revocation. If the revocation is based only on section 32-741, subsection A, paragraph 1 or 2 and the criminal conviction is ultimately reversed on appeal, the board shall enter an order vacating the revocation.

D. An individual whose certificate has been revoked may apply for and the board may issue a new certificate if the individual does all of the following:

1. Files an application for reinstatement on a form prescribed by the board and pays the reinstatement application fee pursuant to section 32-729.

2. Demonstrates through substantial evidence presented to the board that the individual is completely rehabilitated with respect to the conduct that was the basis of the revocation of the certificate. Demonstration of rehabilitation shall include evidence of the following:

(a) The individual has not engaged in any conduct during the revocation period that, if the individual had been registered during the period, would have constituted a basis for revocation or suspension pursuant to section 32-741.

(b) With respect to any criminal conviction that constitutes any part of the basis for the previous revocation, civil rights have been fully restored pursuant to statute or an applicable recognized judicial or gubernatorial order.

(c) THE INDIVIDUAL HAS MADE restitution ~~has been made~~ as ordered by the board or by a court of competent jurisdiction as a result of the individual's violation of this chapter or rules adopted pursuant to this chapter.

(d) THE INDIVIDUAL HAS ADDRESSED OR REMEDIED ANY COMPLAINTS, INVESTIGATIONS OR BOARD-ORDERED REQUIREMENTS THAT ARE PENDING OR OUTSTANDING AT THE TIME OF REVOCATION.

~~(d)~~ (e) Other evidence of rehabilitation that the board deems appropriate.

3. Submits proof that the individual has satisfied continuing professional education requirements as prescribed by the board.

4. If not waived by the board, presents satisfactory evidence from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution that the individual has completed at least one hundred fifty semester hours of education as follows:

(a) At least thirty-six semester hours are accounting courses of which at least thirty semester hours are upper-level courses.

(b) At least thirty semester hours are related courses.

5. If prescribed by the board, presents evidence that the individual has retaken and passed the uniform certified public accountant examination.

6. On board approval of reinstatement, pays the registration fee pursuant to section 32-729.

**Sec. 14.** Section 32-741.04, Arizona Revised Statutes, is amended to read:

**32-741.04. Relinquishment of certificate with disciplinary proceedings pending; qualifications for new certificate**

A. A certified public accountant or public accountant may relinquish the individual's certificate pending or in lieu of an investigation or disciplinary proceedings or while under a disciplinary order. The board shall consider a relinquishment tendered by a certified public accountant or public accountant pursuant to this section and shall determine whether to accept the relinquishment. The board shall issue an order documenting its decision.

B. An individual whose certificate has been relinquished shall not assume or use the title or designation of "certified public accountant" or "public accountant" or the abbreviation "C.P.A.", "CPA", "P.A." or "PA".

C. An individual who relinquishes a certificate pursuant to this section may apply for reinstatement and the board may issue a new certificate if the individual does all of the following:

1. Files an application for reinstatement on the form prescribed by the board and pays the reinstatement application fee pursuant to section 32-729.

2. Demonstrates through substantial evidence presented to the board that the individual is completely rehabilitated with respect to the conduct that was pending at the time of relinquishment. Demonstration of rehabilitation shall include evidence of the following:

(a) The individual has not engaged in any conduct during the relinquishment period that, if the individual had been registered during the period, would have constituted a basis for revocation or suspension pursuant to section 32-741.

(b) With respect to any criminal conviction that constitutes any part of the basis for the relinquishment, civil rights have been fully restored pursuant to statute or an applicable recognized judicial or gubernatorial order.

(c) The individual has addressed or ~~redeemed~~ REMEDIED any complaints, investigations or ~~any board order~~ BOARD-ORDERED requirements that are pending or outstanding at the time of relinquishment.

(d) THE INDIVIDUAL HAS MADE RESTITUTION AS ORDERED BY THE BOARD OR BY A COURT OF COMPETENT JURISDICTION AS A RESULT OF THE INDIVIDUAL'S VIOLATION OF THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

~~(d)~~ (e) Other evidence of rehabilitation that the board deems appropriate.

3. Submits proof that the individual has satisfied continuing education requirements as prescribed by the board.

4. If not waived by the board, presents satisfactory evidence from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution that the individual has completed at least one hundred fifty semester hours of education as follows:

(a) At least thirty-six semester hours are accounting courses of which at least thirty semester hours are upper-level courses.

(b) At least thirty semester hours are related courses.

5. If prescribed by the board, presents evidence that the individual has retaken and passed the uniform certified public accountant examination.

6. On board approval of reinstatement, pays the registration fee pursuant to section 32-729.

D. If the board accepts the relinquishment of a certificate of a certified public accountant or public accountant, the person shall return the certificate to the board and shall attach to the certificate a document that is signed and dated and that is in substantially the following form:

> I, (insert name of registrant), acknowledge that disciplinary proceedings have been initiated against me pursuant to title 32, chapter 6, article 3, Arizona Revised Statutes, and I relinquish my right to practice accounting as a (insert either "certified public accountant" or "public accountant") in the state of Arizona. I understand that if I choose to apply for a new certificate, I must meet all requirements for certification pursuant to section 32-741.04, Arizona Revised Statutes. I further understand that, in deciding whether to issue a new certificate to me, the board will consider all disciplinary actions currently pending against me and any other matters it determines to be appropriate.

**Sec. 15.** Section 32-742, Arizona Revised Statutes, is amended to read:

**32-742. Revocation or suspension of firm's registration; failure to renew or reinstate; reinstatement; relinquishment**

A. After notice and an opportunity for a hearing, the board shall revoke a firm's registration to practice public accounting if at any time it does not have all the qualifications prescribed by this chapter.

B. After notice and an opportunity for a hearing, the board may revoke or suspend a firm's registration to practice public accounting ~~and~~ OR may ~~additionally~~ take disciplinary action concerning the registrant for any of the causes enumerated in section 32-741, subsection A or for any of the following additional causes:

1. The revocation or suspension of any certificate issued by the board of any partner, shareholder, member, manager, officer, director, agent or employee of the firm.

2. The cancellation, revocation, suspension or refusal to renew the authority of the firm or any Arizona partner, shareholder, member, manager, officer, director, agent or employee to practice public accounting in any ~~other state~~ JURISDICTION for any cause other than failure to pay a registration fee in the ~~other state~~ JURISDICTION.

3. THE FAILURE TO COMPLY WITH SECTION 32-731, SUBSECTION E.

~~C. The board shall suspend, without notice or hearing, the registration to practice public accounting of any firm that fails to register as required by section 32-730 and pay the registration fee as required by section 32-729. Terms of a suspension issued under this subsection shall include a provision that the suspension shall be vacated when the registrant has paid all past due fees and penalties. If the~~

~~firm fails to reinstate its registration within twelve months after the date of suspension, the registration expires.~~

~~D. A firm whose registration has expired for failure to renew may apply for reinstatement. The board may reinstate the registration if the firm meets all of the following requirements:~~

~~1. Files an application on a form prescribed by the board.~~

~~2. Has not engaged in any conduct that would constitute grounds for revocation or suspension of a registration pursuant to section 32-741.~~

~~3. On board approval of reinstatement, pays the registration fee pursuant to section 32-729.~~

C. A FIRM MAY RELINQUISH ITS REGISTRATION PENDING OR IN LIEU OF AN INVESTIGATION OR A DISCIPLINARY PROCEEDING OR WHILE UNDER A DISCIPLINARY ORDER. THE BOARD SHALL CONSIDER A RELINQUISHMENT TENDERED BY THE FIRM PURSUANT TO THIS SECTION AND MAY DETERMINE WHETHER TO ACCEPT THE RELINQUISHMENT. THE BOARD SHALL ISSUE AN ORDER DOCUMENTING ITS DECISION.

D. A FIRM WHOSE REGISTRATION HAS BEEN RELINQUISHED SHALL NOT ASSUME OR USE THE TITLE OR DESIGNATION "CERTIFIED PUBLIC ACCOUNTANT" OR "PUBLIC ACCOUNTANT" OR THE ABBREVIATION "C.P.A.", "CPA", "P.A." OR "PA".

E. A FIRM WHOSE REGISTRATION HAS BEEN RELINQUISHED PURSUANT TO THIS SECTION MAY APPLY FOR REINSTATEMENT, AND THE BOARD MAY ISSUE A NEW REGISTRATION IF THE FIRM DOES ALL OF THE FOLLOWING:

1. FILES AN APPLICATION FOR REINSTATEMENT ON THE FORM PRESCRIBED BY THE BOARD AND PAYS THE REGISTRATION FEE PURSUANT TO SECTION 32-729, PARAGRAPH 4.

2. DEMONSTRATES THROUGH SUBSTANTIAL EVIDENCE PRESENTED TO THE BOARD THAT THE FIRM IS COMPLETELY REHABILITATED WITH RESPECT TO THE CONDUCT THAT WAS PENDING AT THE TIME OF RELINQUISHMENT. DEMONSTRATION OF REHABILITATION INCLUDES EVIDENCE OF THE FOLLOWING:

(a) THE FIRM OR ANY PARTNER OF THE FIRM HAS NOT ENGAGED IN ANY CONDUCT DURING THE RELINQUISHMENT PERIOD THAT, IF THE FIRM OR PARTNER OF THE FIRM HAD BEEN REGISTERED DURING THAT PERIOD, WOULD HAVE CONSTITUTED A BASIS FOR REVOCATION OR SUSPENSION PURSUANT TO SECTION 32-741.

(b) THE FIRM HAS ADDRESSED OR REMEDIED ANY COMPLAINTS, INVESTIGATIONS OR BOARD-ORDERED REQUIREMENTS THAT ARE PENDING OR OUTSTANDING AT THE TIME OF RELINQUISHMENT.

(c) OTHER EVIDENCE OF REHABILITATION THAT THE BOARD DEEMS APPROPRIATE.

3. MEETS ALL OF THE REQUIREMENTS FOR REGISTRATION PURSUANT TO THIS CHAPTER.

F. IF THE BOARD ACCEPTS THE RELINQUISHMENT OF A REGISTRATION OF A FIRM, BEFORE THE RELINQUISHMENT MAY TAKE EFFECT, THE FIRM SHALL SUBMIT A DOCUMENT THAT IS SIGNED AND DATED AND THAT IS IN SUBSTANTIALLY THE FOLLOWING FORM:

I, (INSERT NAME OF REGISTRANT ACTING ON BEHALF OF THE FIRM), ACKNOWLEDGE THAT DISCIPLINARY PROCEEDINGS HAVE BEEN INITIATED AGAINST (INSERT NAME OF FIRM) PURSUANT TO TITLE 32, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, AND THE FIRM RELINQUISHES ITS RIGHT TO PRACTICE ACCOUNTING AS A CERTIFIED PUBLIC ACCOUNTING FIRM IN THE STATE OF ARIZONA. I UNDERSTAND THAT IF THE FIRM APPLIES FOR A NEW REGISTRATION, IT MUST MEET ALL REQUIREMENTS FOR REGISTRATION PURSUANT TO SECTION 32-742, ARIZONA REVISED STATUTES. I FURTHER UNDERSTAND THAT, IN DECIDING WHETHER TO ISSUE A NEW REGISTRATION TO THE FIRM, THE BOARD WILL CONSIDER ALL DISCIPLINARY ACTIONS CURRENTLY PENDING AGAINST THE FIRM AND ANY OTHER MATTERS IT DETERMINES TO BE APPROPRIATE.

DATED THIS ____ DAY OF _____, 20___.

BY: (INSERT NAME OF FIRM, NAME OF INDIVIDUAL SIGNING ON BEHALF OF FIRM, AND THAT INDIVIDUAL'S POSITION IN FIRM)

**Sec. 16.** Section 32-744, Arizona Revised Statutes, is amended to read:

**32-744. Ownership and custody of working papers and records**

A. All statements, records, schedules, working papers and memoranda prepared by a registrant or a partner, shareholder, officer, director, member, manager or employee of a registrant incidental to or in the course of rendering professional services to a client while a registrant are and shall remain the property of the registrant, except:

1. In the case of an express agreement between the registrant and the client to the contrary.

2. The reports submitted by the registrant to the client.

3. Records that are part of the client's records.

B. Without the consent of the client or the client's personal representative or assignee, no statement, record, schedule, working paper or memorandum may be sold, transferred or bequeathed to anyone other than surviving partners, stockholders or members or new partners, new stockholders, new members of the firm or any combined or merged firm or successor in interest to the firm.

C. On request with reasonable notice, a registrant shall timely furnish to a client or former client:

1. A copy of the registrant's working papers, to the extent that the working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client.

2. Any accounting or other records belonging to, or obtained from or on behalf of, the client that the registrant removed from the client's premises or received for the client's account. The registrant may make and retain copies of these documents if they form the basis for work done by the registrant.

D. A registrant or firm shall maintain all records pertaining to any legal action initiated against the registrant or firm for a period of three years after the resolution of the action. On request, the registrant or firm shall timely furnish all records pertaining to the legal action to the board. For the purposes of this subsection, "legal action" means any civil or criminal lawsuit or state, UNITED STATES TERRITORY or federal administrative proceeding where the allegations against the registrant or firm are violations of accounting or auditing standards or that result from negligence, gross negligence or reckless conduct, dishonesty, fraud, misrepresentation, breach of fiduciary duty or the suspension or revocation of the right to practice before the federal securities and exchange commission, the internal revenue service or any other state, UNITED STATES TERRITORY or federal agency.

E. Except as provided in subsection D OF THIS SECTION, this section does not require a registrant to keep any work paper beyond the period prescribed by any other applicable statute.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## DEPARTMENT OF EMERGENCY MANAGEMENT OMNIBUS

### CHAPTER 208

### H. B. 2274

**AN ACT PROVIDING FOR TRANSFERRING AND RENUMBERING; REPEALING TITLE 26, CHAPTER 1, ARTICLE 1.1, ARIZONA REVISED STATUTES; AMENDING SECTIONS 26-152 AND 26-153, ARIZONA REVISED STATUTES; REPEALING SECTION 26-183, ARIZONA REVISED STATUTES; AMENDING SECTIONS 26-231, 26-303 AND 26-305.01, ARIZONA REVISED STATUTES; REPEALING SECTION 26-305.02, ARIZONA REVISED STATUTES; AMENDING SECTION 26-306, ARIZONA REVISED STATUTES; REPEALING HEADING OF TITLE 26, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES; AMENDING SECTIONS 26-1067, 26-1135, 32-2216, 35-192 AND 41-1711, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3018.08, ARIZONA REVISED STATUTES; AMENDING SECTION 41-3022.20, ARIZONA REVISED STATUTES; REPEALING SECTION 43-619, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-104, 49-108 AND**

**49-110, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; AMENDING SECTIONS 49-927 AND 49-972, ARIZONA REVISED STATUTES; RELATING TO EMERGENCY MANAGEMENT.**

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

**Section 1. Transfer and renumber**

Section 26-113, Arizona Revised Statutes, is transferred and renumbered for placement in title 26, chapter 1, article 1, Arizona Revised Statutes, as section 26-104.

**Sec. 2. Repeal**

Title 26, chapter 1, article 1.1, Arizona Revised Statutes, is repealed.

**Sec. 3.** Section 26-152, Arizona Revised Statutes, is amended to read:

**26-152. National guard fund; camp Navajo fund**

A. The national guard fund is established consisting of monies appropriated to the national guard. THE ADJUTANT GENERAL SHALL ADMINISTER THE FUND. ON NOTICE FROM THE ADJUTANT GENERAL, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE NATIONAL GUARD AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

B. The fund may be drawn ~~upon~~ ON by the adjutant general, OR THE ADJUTANT GENERAL'S DESIGNEE, for any purpose commensurate with the purpose and mission of the national guard.

C. The amount of the national guard fund appropriated for capital outlay or improvements shall be exempt from the provisions of section 35-190 relating to lapsing appropriations.

D. ~~All proceeds from the rental or use of armories received by the general staff pursuant to the authority of section 26-115, subsection E~~ THE ADJUTANT GENERAL IS AUTHORIZED TO UTILIZE ANY NATIONAL GUARD FACILITY FOR COMMERCIAL PURPOSES. ALL PROCEEDS FROM COMMERCIAL ACTIVITIES shall be deposited, pursuant to sections 35-146 and 35-147, in a separate account in the national guard fund, and the monies are continuously appropriated to the department for the OPERATION, maintenance ~~of armories~~, SUPPORT AND CAPITAL IMPROVEMENTS OF ANY NATIONAL GUARD FACILITY. Monies in the account are exempt from the provisions of section 35-190 relating to lapsing of appropriations. ~~, except that any monies remaining in the account for one hundred eighty days after the end of the fiscal year in which they were received revert to the state general fund.~~

E. A camp Navajo fund is established for the operation, maintenance, capital improvements and personal services necessary for the national guard to operate a

regional training site and storage facility at Bellemont. The fund consists of monies received from storage of commodities and services provided as approved by the adjutant general. The adjutant general shall administer the fund. On notice from the adjutant general, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund. Monies in the fund are continuously appropriated to the national guard and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

F. AFTER ALL BUDGETED OPERATIONAL, MAINTENANCE, SUPPORT AND CAPITAL IMPROVEMENT REQUIREMENTS ARE MET AT CAMP NAVAJO, THE ADJUTANT GENERAL MAY USE THE REMAINING MONIES IN THE CAMP NAVAJO FUND TO PROVIDE FOR THE OPERATION, MAINTENANCE, SUPPORT AND CAPITAL IMPROVEMENTS OF ANY NATIONAL GUARD FACILITY. FOR THE PURPOSES OF THIS SUBSECTION, "FACILITY" MEANS ALL PROPERTY UNDER THE CONTROL AND ADMINISTRATION OF THE ADJUTANT GENERAL.

**Sec. 4.** Section 26-153, Arizona Revised Statutes, is amended to read:

**26-153. Morale, welfare and recreational fund; sources of monies; exemptions**

A. ~~A~~ THE morale, welfare and recreational fund is established as a state fund for morale, welfare and recreational activities and support personnel for the national guard. Support personnel shall be employees of the fund and not of this state. The adjutant general shall administer the fund ~~pursuant to regulations of the general staff,~~ subject to approval of the governor. Monies shall be deposited, pursuant to sections 35-146 and 35-147, in the fund from the following sources:

1. Monies transferred by the director of the department of transportation pursuant to section 28-2415.

2. Monies deposited pursuant to section 26-102, subsection B, paragraph 8 or monies generated from recycling activities consistent with federal recycling policies.

3. Any other nonappropriated monies received by the national guard from state and federal revenue producing military activities relating to morale, welfare and recreation.

B. Monies in the fund are from nonappropriated sources, are not subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations. The adjutant general may establish bank accounts for monies withdrawn from the fund to administer the operations of the morale, welfare and recreational programs.

C. On notice from the adjutant general, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

D. Expenditures of monies in the fund are subject to ~~general staff regulations~~ RULES ADOPTED BY THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS and are exempt from the procurement code requirements of title 41, chapter 23.

**Sec. 5. Repeal**

Section 26-183, Arizona Revised Statutes, is repealed.

**Sec. 6.** Section 26-231, Arizona Revised Statutes, is amended to read:

**26-231. Acquisition of property by national guard; surplus property of municipalities; acquisition by eminent domain; purchase; rent or lease; armory property fund**

A. A county, city or town may sell, lease or otherwise grant to the state for national guard purposes surplus real or personal property owned by it. The determination of the governing body of the county, city or town that the property is surplus is final, and the property may be sold to the state for a consideration agreed ~~upon~~ ON between the governing body and the ~~general staff~~ ADJUTANT GENERAL OR THE ADJUTANT GENERAL'S DESIGNEE, or for a nominal consideration. The sale shall be conducted without formalities, advertisement for bids or consideration of bids by other persons.

B. The governor may exercise the power of eminent domain to obtain from individuals, corporations or municipalities lands appropriate for national guard purposes.

C. The national guard may purchase real property, buildings and appurtenances from any person, corporation or municipal corporation with ~~funds~~ MONIES appropriated for that purpose.

D. The national guard may lease or rent real property, buildings and appurtenances with ~~funds~~ MONIES appropriated for that purpose.

E. The national guard may sell surplus armory real property and deposit the proceeds in a state armory property fund established for that purpose. Monies in the fund are continuously appropriated to the national guard for the construction and capital improvement of national guard armories, subject to the approval of the joint committee on capital review. On notice from the adjutant general, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

**Sec. 7.** Section 26-303, Arizona Revised Statutes, is amended to read:

**26-303. Emergency powers of governor; termination; authorization for adjutant general; limitation**

A. During a state of war emergency, the governor may:

1. Suspend the provisions of any statute prescribing the procedure for conduct of state business, or the orders or rules of any state agency, if the governor determines and declares that strict compliance with the provisions of any such statute, order or rule would in any way prevent, hinder or delay mitigation of the effects of the emergency.

2. Commandeer and utilize any property, except for firearms or ammunition or firearms or ammunition components or personnel deemed necessary in carrying out the responsibilities vested in the office of the governor by this chapter as chief executive of the state and thereafter the state shall pay reasonable compensation therefor as follows:

(a) If property is taken for temporary use, the governor, within ten days after the taking, shall determine the amount of compensation to be paid therefor. If the property is returned in a damaged condition, the governor, within ten days after its return, shall determine the amount of compensation to be paid for such damage.

(b) If the governor deems it necessary for the state to take title to property under this section, the governor shall then cause the owner of the property to be notified thereof in writing by registered mail, postage prepaid, and then cause a copy of the notice to be filed with the secretary of state.

(c) If the owner refuses to accept the amount of compensation fixed by the governor for the property referred to in subdivisions (a) and (b), the amount of compensation shall be determined by appropriate proceedings in the superior court in the county where the property was originally taken.

B. During a state of war emergency, the governor shall have complete authority over all agencies of the state government and shall exercise all police power vested in this state by the constitution and laws of this state in order to effectuate the purposes of this chapter.

C. The powers granted the governor by this chapter with respect to a state of war emergency shall terminate if the legislature is not in session and the governor, within twenty-four hours after the beginning of such state of war emergency, has not issued a call for an immediate special session of the legislature for the purpose of legislating on subjects relating to such state of war emergency.

D. The governor may proclaim a state of emergency which shall take effect immediately in an area affected or likely to be affected if the governor finds that circumstances described in section 26-301, paragraph 15 exist.

E. During a state of emergency:

1. The governor shall have complete authority over all agencies of the state government and the right to exercise, within the area designated, all police power vested in the state by the constitution and laws of this state in order to effectuate the purposes of this chapter.

2. The governor may direct all agencies of the state government to utilize and employ state personnel, equipment and facilities for the performance of any and all activities designed to prevent or alleviate actual and threatened damage due to the emergency. The governor may direct such agencies to provide supplemental services and equipment to political subdivisions to restore any services in order to provide for the health and safety of the citizens of the affected area.

F. The powers granted the governor by this chapter with respect to a state of emergency shall terminate when the state of emergency has been terminated by proclamation of the governor or by concurrent resolution of the legislature declaring it at an end.

G. No provision of this chapter may limit, modify or abridge the powers vested in the governor under the constitution or statutes of this state.

H. If authorized by the governor, the adjutant general has the powers prescribed in this subsection. If, in the judgment of the adjutant general, circumstances described in section 26-301, paragraph 15 exist, the adjutant general may:

1. Exercise those powers pursuant to statute and gubernatorial authorization following the proclamation of a state of emergency under subsection D of this section.

2. Incur obligations of ~~twenty~~ ONE HUNDRED thousand dollars or less for each emergency or contingency payable pursuant to section 35-192 as though a state of emergency had been proclaimed under subsection D of this section.

I. The powers exercised by the adjutant general pursuant to subsection H of this section expire seventy-two hours after the adjutant general makes a determination under subsection H of this section.

J. Pursuant to the second amendment of the United States Constitution and article II, section 26, Constitution of Arizona, and notwithstanding any other law, the emergency powers of the governor, the adjutant general or any other official or person shall not be construed to allow the imposition of additional restrictions on the lawful possession, transfer, sale, transportation, carrying, storage, display or use of firearms or ammunition or firearms or ammunition components.

K. Nothing in this section shall be construed to prohibit the governor, the adjutant general or other officials responding to an emergency from ordering the reasonable movement of stores of ammunition out of the way of dangerous conditions.

**Sec. 8.** Section 26-305.01, Arizona Revised Statutes, is amended to read:

**26-305.01. Nuclear emergency plan; duties of division and director**

A. The division is designated the lead agency and has the overall and primary responsibility for development of a state plan for off-site response to an emergency caused by an accident at a commercial nuclear generating station.

B. The director shall develop the plan by appointing a coordinator and response group and working in consultation with designated representatives from the following:

1. Radiation regulatory agency.
2. Arizona department of agriculture.
3. Department of health services.
4. Department of public safety.
5. Department of transportation.

~~6. Division of military affairs within the department of emergency and military affairs.~~

~~7.~~ 6. Arizona commerce authority.

~~8.~~ 7. Arizona corporation commission.

~~9.~~ 8. Department of environmental quality.

~~10.~~ 9. Any other agencies or offices deemed necessary by the division of emergency management.

**Sec. 9. Repeal**

Section 26-305.02, Arizona Revised Statutes, is repealed.

**Sec. 10.** Section 26-306, Arizona Revised Statutes, is amended to read:

**26-306. Powers and duties of the director of emergency management**

A. The director ~~shall~~, subject to the approval of the adjutant general, SHALL:

1. Be the administrative head of the division.

2. Be the state director for emergency management.

3. Make rules necessary for the operation of the division.

4. Develop and test plans for meeting any condition constituting a state of emergency or state of war emergency, except those emergency plans specifically assigned by the governor to other state agencies. Such plans shall provide for the effective mobilization and management of personnel and equipment of the state.

5. During a state of war emergency, coordinate the emergency activities of all state agencies except the national guard.

6. During a state of emergency or a local emergency, coordinate the emergency activities of all state agencies and the national guard.

7. Coordinate the use of state personnel, equipment, services and facilities, including communication services, if requested by political subdivisions in support of emergency management activities.

8. Coordinate the use of personnel, equipment, services and facilities, including communication services, of one or more political subdivisions in support of any other political subdivision in meeting emergency needs, including search or rescue operations, on the request of the using political subdivision.

9. Develop, test and maintain a plan pursuant to section 26-305.01 for response by agencies of this state and its political subdivisions to an accident at a commercial nuclear generating station.

10. Every two years, submit a recommendation to the legislature in connection with the assessment prescribed by section 26-306.01 with supporting documentation and information.

11. Collaborate with the state forester in presentations to legislative committees on issues associated with forest management, wildfire prevention and suppression and wildfire emergency response and management as provided by section 37-622, subsection B.

12. Develop, implement and maintain a state hazardous materials emergency response and recovery plan as part of the hazardous materials emergency management program pursuant to section ~~26-305.02~~ 49-123.

13. Coordinate the development, implementation and maintenance of standardized curricula for hazardous materials training and education.

B. The director ~~may~~, subject to the approval of the adjutant general, MAY:

1. Propose, develop, negotiate and consummate contractual arrangements with the federal government, state agencies and political subdivisions for technical, administrative and financial support from the federal, state and local government in connection with the emergency management activities of the state.

2. Represent the state at conferences in the development and promotion of the emergency management capability of the state.

3. Establish a disaster prevention council to plan for disaster prevention. The council shall consist of the members of the state emergency council and other members as determined by the director. The disaster prevention council shall coordinate the disaster prevention expertise of representatives of federal, state and local business and industry and promote partnerships to substantially reduce property loss from natural and technological disasters.

**Sec. 11. Heading repeal**

The article heading of title 26, chapter 2, article 3, Arizona Revised Statutes, is repealed.

**Sec. 12. Transfer and renumber**

Title 26, chapter 2, article 3, Arizona Revised Statutes, is transferred and renumbered for placement in title 49, chapter 1, Arizona Revised Statutes, as article 2. The following sections are transferred and renumbered for placement in title 49, chapter 1, article 2:

| Former Sections | New Sections |
|---|---|
| 26-341 | 49-121 |
| 26-342 | 49-122 |
| 26-343 | 49-123 |
| 26-344 | 49-124 |
| 26-345 | 49-125 |
| 26-346 | 49-126 |
| 26-347 | 49-127 |
| 26-348 | 49-128 |
| 26-349 | 49-129 |
| 26-350 | 49-130 |
| 26-351 | 49-131 |
| 26-352 | 49-132 |
| 26-353 | 49-133 |

**Sec. 13.** Section 26-1067, Arizona Revised Statutes, is amended to read:

**26-1067. Court of military appeals; members; terms; compensation; duties; review; procedures**

A. The Arizona court of military appeals is established and is located for administrative purposes only in the department of emergency and military affairs. The court shall consist of five judges appointed by the governor on the recommendation of the adjutant general with the advice of the state judge advocate for a term of six years. Initial appointments shall be staggered. The term of office for all successor judges is six years, but any judge appointed to fill a vacancy occurring before the expiration of the term for which ~~his~~ THE JUDGE'S predecessor was appointed shall be appointed only for the unexpired term of ~~his~~ THE predecessor. Not more than three judges of the court may be appointed from the same political party. Judges may succeed themselves in office. A person is eligible for appointment to this court who, in addition to the requirements of article VI, section 22, Constitution of Arizona, has at least five years' experience as a judge advocate in the national guard or armed forces of the United States.

B. The governor shall designate one of the judges to act as chief judge. The chief judge has precedence and shall preside at any session ~~which he~~ THE JUDGE attends. The other judges have precedence and shall preside according to the seniority of their appointments. Judges whose commissions bear the same date have precedence according to seniority in age.

C. The court shall sit in panels of no less than three judges to be selected by the presiding judge.

D. Judges of the Arizona court of military appeals may be removed by the governor, on notice and hearing, for neglect of duty or malfeasance in office or for mental or physical disability but for no other cause.

E. The judges of the Arizona court of military appeals, while actually sitting in review of a matter placed under their jurisdiction by this chapter, and while traveling to and from such session, are eligible to receive compensation equal to that compensation prescribed for the judges of the Arizona court of appeals, as provided by law, together with the actual cost of meals, lodging and travel expense or the amount set by law if private transportation is utilized. Payment shall be made from monies appropriated to the national guard.

F. The Arizona court of military appeals has exclusive appellate and special action jurisdiction, in appeals filed by this state pursuant to section 26-1062, or on petition of an accused, to hear and review the record in all general and special court-martial cases and all summary court-martial cases in which a sentence of confinement has been adjudged.

G. The accused has thirty calendar days from the time of receipt of actual notice of the final action on ~~his~~ THE case by the convening authority under section 26-1060 to petition the Arizona court of military appeals for review. The court shall act on a petition within sixty calendar days after receipt. If the court fails or refuses to grant a petition for review, the final action of the convening authority is deemed approved. Notwithstanding any other provision of this chapter, if the court grants a hearing of an appeal, the court may grant a stay or defer service of the sentence of confinement or any other punishment until the court's final decision on the case.

H. The Arizona court of military appeals may act only with respect to the findings and sentence as finally approved and ordered executed by the convening authority.

I. If the Arizona court of military appeals sets aside the findings and sentence, it may ORDER A REHEARING, except if the setting aside is based on lack of sufficient evidence in the record to support the findings~~, order a rehearing~~. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed. After the Arizona court of military appeals has acted on the case, the record shall be returned to the state judge advocate who shall notify the convening authority of the court's decision. If further action is required, the state judge advocate shall instruct the convening authority to take action in accordance with that decision. If the court has ordered a rehearing, but the convening authority finds a rehearing impracticable, the state judge advocate may dismiss the charges.

J. Decisions of the Arizona court of military appeals are subject to review by the Arizona supreme court by a petition for review in accordance with the Arizona rules of criminal procedure and the rules of the supreme court of Arizona.

K. With monies appropriated to the national guard, the adjutant general may employ persons necessary to assist the Arizona court of military appeals in its duties.

L. The ADJUTANT general ~~staff~~ with the approval of the governor shall adopt rules necessary for the administration of the court. The accused has a right to appointed military counsel for ~~his~~ AN appeal.

**Sec. 14.** Section 26-1135, Arizona Revised Statutes, is amended to read:

**26-1135. Courts of inquiry**

A. Courts of inquiry may be convened to investigate any matter by any person authorized to convene a general court-martial or by any other person designated by the adjutant general for that purpose, whether or not the persons involved have requested such an inquiry.

B. A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

C. Any person who is subject to this chapter and whose conduct is subject to inquiry shall be designated as a party. Any person who is subject to this chapter ~~or employed by the division of military affairs~~ and who has a direct interest in the subject of inquiry may be designated as a party on request to the court. Any person designated as a party shall be given due notice and may be present, may be represented by counsel, may cross-examine witnesses and may introduce evidence.

D. Members of a court of inquiry may be challenged by a party but only for cause stated to the court.

E. The members, counsel, reporter and interpreters of courts of inquiry shall take an oath to faithfully perform their duties.

F. Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

G. Courts of inquiry shall make findings of fact but shall not express opinions or make recommendations unless required to do so by the convening authority.

H. Each court of inquiry shall keep a record of its findings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

**Sec. 15.** Section 32-2216, Arizona Revised Statutes, is amended to read:

**32-2216. Issuance of temporary permits; emergency temporary permits; definition**

A. The board may issue temporary permits to veterinary license applicants and to veterinarians licensed in other states who enter this state to provide voluntary services during a state of emergency as declared by the governor or the board of supervisors of the county in which the board of supervisors has declared a ~~state of~~ LOCAL emergency pursuant to section 26-311. Applicants for all temporary

permits must be graduates of an American veterinary medical association accredited veterinary college or holders of a certificate from the educational commission for foreign veterinary graduates or from a program for the assessment of veterinary education at the time of application.

B. The temporary permit issued under this section entitles a veterinary license applicant to engage in the active practice of veterinary medicine in this state as an employee of a licensed veterinarian, the state or any county or municipality in this state. Such applicant shall be eligible for the next examination, if the applicant has not violated any provision of this chapter. Such applicant working under the direct and personal instruction, control or supervision of a licensed veterinarian and whose compensation is paid by such veterinarian may perform those acts of animal health care assigned by the veterinarian having responsibility for the care of the animal. The temporary permit described in this subsection expires twenty days after the examination. If the applicant fails for good and sufficient reason to take the examination, the board, by majority consent, may extend the permit until the next succeeding examination. Except as otherwise provided in this section, the holder of a temporary permit must be examined and satisfactorily pass the license examination next following the issuance of the permit and duly receive a license in order to continue active professional practice. The temporary permit may be extended only one time. For the purposes of this subsection, "direct and personal instruction, control or supervision" means that a veterinarian licensed by the board is physically present and personally supervising a temporary permittee when the permittee is practicing acts of veterinary medicine except if the permittee is at a temporary site for the purpose of delivering services to large animals or if the permittee is administering emergency services not during regular office hours. In these cases, phone contact constitutes direct and personal instruction, control or supervision.

C. If an employer, for any reason, terminates the employment of the applicant, the employing veterinarian shall notify the board and the temporary permit described in subsection B of this section is immediately void.

D. An emergency temporary permit that is issued to an individual who is a veterinarian licensed in good standing in another state entitles the individual to provide voluntary veterinary care during a state of emergency OR LOCAL EMERGENCY for the sole purpose of assisting in care related to that emergency. The emergency temporary permit expires ninety days after the date of issuance or at the end of the state of emergency OR LOCAL EMERGENCY, whichever occurs first. An applicant for an emergency temporary permit shall submit a complete application, including information regarding veterinary licensure in any other state and verification that the statutes and rules pertaining to the board have been reviewed. The board shall verify whether the veterinarian is licensed in the state or states indicated and confirm the applicant's good standing. The applicant is not required to pass the state veterinary examination. A veterinarian who is issued an emergency temporary permit under this section shall practice in accordance with all laws and rules related to the practice of veterinary medicine in this state. The board may investigate any alleged violation by a holder of an emergency temporary permit and take disciplinary action as prescribed in this chapter. A veterinarian granted an

emergency temporary permit under this section is a licensed, certified or authorized emergency responder pursuant to section ~~26-353~~ 49-133 and an emergency worker as defined in section 26-301.

E. For the purposes of this section, "emergency temporary permit" means a temporary permit that is issued to a veterinarian licensed in another state who enters this state to provide voluntary services during a state of emergency as declared by the governor or ~~the~~ A LOCAL EMERGENCY DECLARED BY A county board of supervisors pursuant to section 26-311.

**Sec. 16.** Section 35-192, Arizona Revised Statutes, is amended to read:

**35-192. Authorization for declaration of disaster; authorization for liabilities and expenses; priorities and limitations; review and report of expenditures**

A. The governor may declare an emergency arising from ~~such~~ major disasters as provided in this section and incur liabilities therefor, regardless of whether or not the legislature is in session.

B. When the governor, or the director of the division of emergency management in the department of emergency and military affairs pursuant to section 26-303, subsection H, determines that a contingency or disaster so justifies, and declares an emergency, specific liabilities and expenses provided for in this section are authorized to be incurred against and to be paid as claims against the state from unrestricted monies from the general fund to mitigate and meet contingencies and emergencies arising from:

1. Invasions, hostile attacks, riots or insurrections.
2. Epidemics of disease or plagues of insects.
3. Floods or floodwaters.
4. Acts of God or any major disaster.
5. Wildland fires, but only after all necessary authorizations under section 37-623.02 are exhausted.

C. When authorized by the governor, specific liabilities and expenses provided for in this section may be incurred against and may be paid as claims against the state from unrestricted monies from the general fund to meet contingencies and emergencies arising from incidents relating to hazardous materials as defined in section 26-301 and search or rescue operations conducted pursuant to section 11-251.02, section 11-441, subsection C or section 26-306 subject to the limitations provided in section 35-192.01. Within ninety days after monies are awarded under this section, the department of emergency and military affairs shall post in a prominent location on the department's official website the amount of monies awarded under this section, who received the monies and how the monies were spent.

D. Liabilities and expenses authorized under subsection B of this section may be incurred for any of the emergencies or contingencies prescribed in subsection B of this section in the following order of priority:

1. Reimbursement for expenses incurred to combat a menace to the health, lives or property of any considerable number of persons of the state, or to property of the state or its political subdivisions.

2. Reimbursement for expenses incurred to repair damage to any property of the state.

3. Reimbursement for expenses incurred to repair damage to any property of the political subdivisions of the state.

4. Reimbursement for expenses incurred in search or rescue operations.

5. Reimbursement for expenses incurred in emergency or disaster recovery activities or in matching federal disaster recovery programs.

6. Reimbursement for expenses for property loss mitigation measures or to match federal property loss mitigation programs.

E. The auditor of the department of emergency and military affairs shall review liabilities incurred and expenditures made under this section and report to the state emergency council at ninety-day intervals during the emergency and conduct a final review of each emergency within ninety days after the termination of the emergency. The state emergency council shall make a written report not later than ~~August~~ SEPTEMBER 1 of each year to the legislature of the actions of the state emergency council during the preceding fiscal year, including an itemized statement of expenditures for each emergency during the year. The department of emergency and military affairs shall post the report in a prominent location on the department's official website.

F. All liabilities incurred under this section shall be subject to the following limitations:

1. No liability shall be incurred against the monies authorized without the approval of the governor, or the adjutant general pursuant to section 26-303, subsection H, for each contingency or emergency.

2. Incurring of liabilities in excess of two hundred thousand dollars in any single disaster or emergency shall not be made without consent of a majority of the members of the state emergency council.

3. The aggregate amount of all liabilities incurred under this section shall not exceed four million dollars for any fiscal year beginning July 1 through June 30. Monies authorized for disasters and emergencies in prior fiscal years may be used in subsequent fiscal years only for the disaster or emergency for which they were authorized. Monies authorized for disasters and emergencies in prior fiscal years, and expended in subsequent fiscal years for the disaster or emergency for which they were authorized, apply toward the four million dollar liability limit for the fiscal year in which they were authorized.

4. Notwithstanding the limitations in paragraph 3 of this subsection, monies that were previously obligated but not used for a declared emergency or disaster may be reallocated to an outstanding obligation for another declared emergency or disaster and shall remain available for expenditure for the outstanding obligation. The reallocation of monies pursuant to this paragraph does not apply toward the four million dollar liability limit of the fiscal year to which the monies were reallocated or in which the monies are spent.

5. An obligation of monies under this section may be made only when one or more of the following conditions exist:

(a) No appropriation or other authorization is available to meet the contingency or emergency.

(b) An appropriation is insufficient to meet the contingency or emergency.

(c) Federal monies available for such contingency or emergency require the use of state or other public monies.

G. The director of the division of emergency management in the department of emergency and military affairs shall develop rules for administering the monies authorized for liabilities under this section, subject to approval by the governor.

**Sec. 17.** Section 41-1711, Arizona Revised Statutes, is amended to read:

**41-1711. Department of public safety; purpose; location; qualifications of director; responsibilities**

A. There shall be a department of public safety which is responsible for creating and coordinating services for use by local law enforcement agencies in protecting the public safety. The principal office and headquarters of the department shall be in Phoenix.

B. The department shall formulate plans with a view to establishing modern services for prevention of crime, apprehension of violators, training of law enforcement personnel, and the promotion of public safety. The department shall in no way preempt the authority and jurisdiction of established agencies of political subdivisions of the state.

C. The director shall be selected on the basis of training and experience with a minimum of five years' experience in the administration of law enforcement.

D. The director shall be appointed by the governor pursuant to section 38-211 to serve concurrently with the appointing governor and shall be subject to removal for cause, including but not limited to malfeasance, misfeasance and nonfeasance in office. The director shall receive annual compensation as determined pursuant to section 38-611.

E. The director shall be directly responsible to the governor for the conduct and the administration of the department. If the director is unable to act, the deputy director shall direct the activities of the department during the period in which the director is unable to act. If the director and deputy director are unable to act, the governor shall direct the activities of the department during the period in which the director and deputy director are unable to act.

F. The director shall prescribe procedures for use of department personnel, facilities, equipment, supplies and other resources in assisting search or rescue operations.

G. The director shall be responsible for the establishment, operation and maintenance of the statewide emergency medical services communication system prescribed by section 41-1835.

H. The director may purchase, lease, equip, staff and operate air ambulances, including ambulance helicopters, pursuant to section 41-1834.

I. To limit the expenditures of monies derived from the state highway fund established pursuant to article IX, section 14, Constitution of Arizona, to traffic safety and traffic law enforcement purposes, the department of public safety shall:

1. Maintain a strict account of all costs incurred by each function of the department. Such costs shall be determined and allocated between traffic safety or traffic law enforcement functions and all other departmental functions and shall include such costs as wages or salaries, materials or supplies and equipment or facility use.

2. Immediately following the determination of all such costs certify to the office of strategic planning and budgeting the full amount of all such costs relating to the various functions within the department.

J. The office of strategic planning and budgeting shall annually submit a separate report to the legislature compiled from the department's functional costs certification indicating the complete breakdown between those costs which are related to traffic safety or traffic law enforcement functions and the various other functions within the department. The director of the department of administration shall include within the director's annual report to the legislature a recommendation for a separate appropriation to reimburse the state highway fund from the state general fund for any expenditures from the state highway fund during the prior fiscal year in excess of the total of all costs related to traffic safety or traffic law enforcement functions of the department.

K. The director shall establish a special hazardous materials emergency response organizational unit within the department to function as the initial response element of the hazardous materials emergency management program pursuant to section ~~26-305.02~~ 49-123.

L. The department is designated as this state's recipient of federal victims of crime act grants.

**Sec. 18. Repeal**

Section 41-3018.08, Arizona Revised Statutes, is repealed.

**Sec. 19.** Section 41-3022.20, Arizona Revised Statutes, is amended to read:

**41-3022.20. Department of environmental quality; termination July 1, 2022**

A. The department of environmental quality terminates on July 1, 2022.

B. Title 49, chapter 1, ~~article~~ ARTICLES 1 ~~is~~ AND 2 ARE repealed on January 1, 2023.

**Sec. 20. Repeal**

Section 43-619, Arizona Revised Statutes, is repealed.

**Sec. 21.** Section 49-104, Arizona Revised Statutes, is amended to read:

**49-104. Powers and duties of the department and director**

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.

2. 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, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.

3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.

4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.

5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.

6. Promote and coordinate the management of air resources to assure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.

7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.

8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.

9. Assure the preservation and enhancement of natural beauty and man-made scenic qualities.

10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.

11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. Beginning in 2014, the department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.

12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.

13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.

14. Assist the department of health services in recruiting and training state, local and district health department personnel.

15. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

16. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

17. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that

addresses the same subject matter. This provision shall not be construed to adversely affect standards adopted by an Indian tribe under federal law.

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.

2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.

3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.

5. Contract with other agencies, including laboratories, in furthering any department program.

6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.

7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.

8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.

9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.

10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.

11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:

(a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.

(b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.

12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at such places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection H, paragraph 10.

13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.

(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.

(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules shall:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.

(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. After ~~the effective date of this amendment to this section~~

JULY 20, 2011, the department shall establish by rule a fee as a condition of licensure, including a maximum fee. As part of the rule making process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. After September 30, 2013, the department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and ~~title 26, chapter 2, article 3~~ ARTICLE 2 OF THIS CHAPTER.

16. Approve remediation levels pursuant to article 4 of this chapter.

17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:

(a) The direct and indirect costs of the department's relevant duties, including ~~employees~~ EMPLOYEE salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.

(b) The availability of other funds for the duties performed.

(c) The impact of the fees on the parties subject to the fees.

(d) The fees charged for similar duties performed by the department, other agencies and the private sector.

C. The department may:

1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, except that state agencies are exempt from paying the fees. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

2. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.

D. The director may:

1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

**Sec. 22.** Section 49-108, Arizona Revised Statutes, is amended to read:

**49-108. Hazardous materials emergency response operations**

The director of environmental quality shall establish a hazardous materials emergency response and recovery organizational unit in the department to function as the scientific support, health, safety and environmental element of the hazardous materials emergency management program pursuant to section ~~26-305.02~~ 49-123. On request from the department of health services and at the direction of the director of environmental quality, the unit shall perform appropriate soil and water sampling for toxic and other harmful effects on the public health and the environment in areas that have been affected by a chemical or other toxic fire.

**Sec. 23.** Section 49-110, Arizona Revised Statutes, is amended to read:

**49-110. Compliance order; hearing; judicial review; enforcement**

A. If the director has reasonable cause to believe that a person is in violation of section 49-109, ARTICLE 2 OF THIS CHAPTER OR A RULE ADOPTED PURSUANT TO ARTICLE 2 OF THIS CHAPTER, the director may issue an order requiring compliance immediately or within a specified time period.

B. A compliance order shall state with reasonable specificity the nature of the violation, a time for compliance, if applicable, and the right to a hearing.

C. A compliance order shall be transmitted to the alleged violator by certified mail, return receipt requested, or by hand delivery.

D. A compliance order becomes final and enforceable in the superior court unless within thirty days after the receipt of the order the alleged violator requests a hearing before an administrative law judge. If a hearing is requested, the order does not become final until the administrative law judge has issued a final decision on the appeal. Except as provided in section 41-1092.08, subsection H, any final agency order issued pursuant to this section is subject to judicial review pursuant to title 12, chapter 7, article 6.

E. If a violator fails to comply with a compliance order issued pursuant to subsection A of this section, the director may issue an order assessing a civil penalty of not more than one thousand dollars for each day of continued noncompliance with the order, not to exceed twenty-five thousand dollars.

**Sec. 24.** Title 49, chapter 1, Arizona Revised Statutes, is amended by adding article 2, to read:

ARTICLE 2. COMMUNITY RIGHT-TO-KNOW ACT
AND HAZARDOUS MATERIALS EMERGENCY RESPONSE

**Sec. 25.** Section 49-123, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**49-123. Hazardous materials emergency management program; Arizona emergency response commission; emergency planning and community right-to-know**

~~A. The Arizona emergency response commission is established consisting of the director of the division, who shall serve as chairperson, and the directors, or their respective designees, of the department of environmental quality, the department of health services, the department of public safety and the department of transportation.~~

~~B. An advisory committee to the commission is established consisting of:~~

~~1. The state fire marshal.~~

~~2. The chief administrative officer, or the officer's designee, of the following agencies:~~

~~(a) Arizona department of agriculture.~~

~~(b) Corporation commission.~~

~~(c) Industrial commission of Arizona.~~

~~(d) Radiation regulatory agency.~~

~~(e) State mine inspector.~~

~~3. Two representatives nominated by the Arizona fire chiefs association incorporated or its successor agency. One nominee shall represent a fire department serving a population of two hundred fifty thousand or more persons. One nominee shall represent a fire department or fire district serving a population of less than two hundred fifty thousand persons. The term of appointment is for two years.~~

~~C. The governor shall appoint four private sector representatives to the advisory committee to the commission after reviewing the recommendations provided by the commission. The governor shall appoint, or reappoint, two of the members each year from the private sector, to serve terms of two years. These members, to the extent practicable, shall have technical expertise in the emergency response field.~~

~~D. The members of the commission shall serve without compensation but are eligible for reimbursement for travel and other expenses as provided by law. The division and the department of environmental quality shall provide such professional, technical or administrative staff support as necessary to implement and perform the commission duties.~~

~~E. The commission shall meet as often as necessary and may organize itself into such support committees as necessary to implement this article and title III in this state. The full commission shall meet at least annually. The commission may adopt internal operating rules.~~

A. THE DEPARTMENT IS DESIGNATED THE LEAD AGENCY FOR DEVELOPING AND IMPLEMENTING A STATE HAZARDOUS MATERIALS EMERGENCY MANAGEMENT PROGRAM.

B. THE DIRECTOR SHALL APPOINT A COORDINATOR TO WORK IN CONSULTATION WITH THE ARIZONA EMERGENCY RESPONSE COMMISSION IN THE DEVELOPMENT AND IMPLEMENTATION OF THE HAZARDOUS MATERIALS EMERGENCY MANAGEMENT PROGRAM.

C. THE ARIZONA EMERGENCY RESPONSE COMMISSION IS ESTABLISHED CONSISTING OF REPRESENTATIVES FROM THE FOLLOWING AGENCIES AND DEPARTMENTS:

1. THE DIVISION OF EMERGENCY MANAGEMENT.
2. THE DEPARTMENT OF HEALTH SERVICES.
3. THE DEPARTMENT OF PUBLIC SAFETY.
4. THE DEPARTMENT OF TRANSPORTATION.
5. THE ARIZONA DEPARTMENT OF AGRICULTURE.
6. THE CORPORATION COMMISSION.
7. THE INDUSTRIAL COMMISSION OF ARIZONA.
8. THE OFFICE OF STATE FIRE MARSHAL.
9. THE OFFICE OF STATE MINE INSPECTOR.
10. THE RADIATION REGULATORY AGENCY.
11. TWO REPRESENTATIVES NOMINATED BY THE ARIZONA FIRE CHIEFS ASSOCIATION OR ITS SUCCESSOR ORGANIZATION, ONE OF WHOM REPRESENTS A FIRE DEPARTMENT OR A FIRE DISTRICT SERVING A POPULATION OF LESS THAN TWO HUNDRED FIFTY THOUSAND PERSONS.
12. OTHER AGENCIES OR OFFICES DEEMED NECESSARY BY THE DIRECTOR.

D. THIS ARTICLE DOES NOT CHANGE OR ALTER THE EXISTING REGULATORY AUTHORITY OR PROVISIONS OF LAW RELATING TO THE AGENCIES AND DEPARTMENTS LISTED IN SUBSECTION C OF THIS SECTION.

E. THE DEPARTMENT IS DESIGNATED AS THE LEAD AGENCY FOR IMPLEMENTING TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986 (P.L. 99-499). THE DIRECTOR SHALL ADMINISTER ANY MONIES RECEIVED UNDER SUBSECTION G OF THIS SECTION.

F. The ~~commission~~ DEPARTMENT shall administer this article and the rules adopted under this article. The ~~commission~~ DEPARTMENT shall administer title III in this state and may conduct whatever activities are necessary to implement this article and title III in this state. The ~~commission~~ DEPARTMENT is granted all the authority and responsibilities of a state emergency response commission for purposes of title III.

G. The ~~commission~~ DEPARTMENT may procure by contract the temporary or intermittent services of experts or consultants if such services are to be performed on a part-time or fee-for-services basis and do not involve the performance of administrative duties. The ~~commission~~ DEPARTMENT may also enter into agreements with the federal government, Indian tribes, other states and political subdivisions of this state for the purposes of this article. The ~~commission~~ DEPARTMENT may also accept on behalf of this state any reimbursement, grant or gift that may become available for purposes of this ~~chapter~~ ARTICLE. The ~~commission~~ DEPARTMENT shall deposit, pursuant to sections 35-146 and 35-147, any such monies in the emergency response fund.

H. The ~~commission~~ DEPARTMENT shall establish a program of financial grants to local governments funded through the ~~division~~ DEPARTMENT by appropriations to the emergency response fund. The grants shall be dedicated to and used for local compliance with this article. The ~~commission~~ DEPARTMENT shall include procedures for applying for the grants and qualifying criteria for awarding the grants.

I. The ~~commission~~ DEPARTMENT shall adopt and may modify, suspend or repeal rules pursuant to title 41, chapter 6. The rules may not be more stringent than title III and the federal regulations adopted under title III, except as specifically authorized in this article. These rules shall implement this ~~chapter~~ ARTICLE and title III in this state. The authority to adopt rules includes establishing:

1. Procedures for handling public information requests.

2. Procedures and implementing programs for chemical emergency planning and preparedness.

3. Community right-to-know program reporting requirements.

4. ~~Through December 31, 2018,~~ Fees to implement the community right-to-know program. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the emergency response fund established by section ~~26-352~~ 49-132. The governor's regulatory review council must approve rules adopted pursuant to this paragraph.

5. Release reporting requirements.

J. ~~Commissioners and advisory committee members~~ THE DEPARTMENT shall ensure that mandatory hazardous materials training programs for on-scene command personnel that are developed, delivered or managed by their respective agencies, departments or divisions address notification procedures, coordination of services and comprehensive management for protection of the public health during and after a chemical or other toxic fire event. The training shall include notification and coordination with ~~the emergency response unit of the department of environmental quality,~~ the department of public safety, the department of transportation, the radiation regulatory agency, the commission, local emergency planning committees, the department of health services, the division of emergency management, the national response center and the Arizona poison control system. Training shall also include orientation on the state emergency response and recovery plan concerning hazardous materials. ~~Commissioners and advisory committee members~~ THE DEPARTMENT shall encourage private companies that deliver similar training in ~~Arizona~~ THIS STATE to include the same curriculum in their programs.

**Sec. 26.** Section 49-127, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**49-127. Facilities subject to emergency planning; facility emergency response plans**

A. A facility is subject to emergency planning requirements if a substance identified under section ~~26-346~~ 49-126 is present at the facility in an amount at or in excess of the threshold planning quantity for that substance.

B. For purposes of emergency planning, the ~~commission~~ DEPARTMENT may designate additional facilities ~~which~~ THAT are subject to this section. The designation shall be accomplished after providing at least thirty days' prior public notice in a newspaper of general circulation in the county where the facility is located, after allowing public comment to the ~~commission~~ DEPARTMENT for thirty days and after notification to the facility of the proposed designation.

C. The owner or operator of a facility subject to this section shall provide to the ~~committee~~ DEPARTMENT the identity of a facility representative who will provide a facility emergency response plan and who will participate in the emergency planning process as the facility emergency coordinator.

D. Each facility THAT IS subject to this section shall prepare a facility emergency response plan and submit copies of that plan to the ~~commission~~ DEPARTMENT, the local emergency planning committee for the district in which the facility is located and the fire department with jurisdiction over the facility. A facility that is required to prepare a contingency plan under ~~title 49,~~ chapter 5, article 2 OF THIS TITLE or the resource conservation and recovery act of 1976 (P.L. 94-580; 90 Stat. 2795) may submit that contingency plan in lieu of the emergency response plan required by this section if the information in paragraphs 1 through 7 of this subsection is included in the plan. In preparing the plan required by this section, the facility emergency coordinator shall consult with the local emergency planning committee and other emergency and health professionals to assure maximum coordination with those whose cooperation or services may be required in the event of a reportable release. The facility emergency response plan shall include specific actions to be taken in the event of an imminent or accidental reportable release to safeguard the public health, safety and welfare and the environment to the maximum extent practicable. The facility emergency response plan shall include:

1. Names, addresses and emergency telephone numbers of a facility emergency coordinator and alternate.

2. A description of emergency warning systems and a list of emergency units, emergency personnel and health professionals in close proximity to the facility.

3. A description of employee emergency response training and emergency preparedness programs.

4. A description of appropriate emergency equipment necessary to respond to a release.

5. A description of emergency response procedures, including notification procedures and evacuation plans in the event of a release.

6. Identification of transport routes and transportation methods used to transport extremely hazardous substances to and from the facility, if known.

7. Provisions for at least an annual review of the plan and provisions to demonstrate the capability to execute the plan on the request of the ~~commission~~ DEPARTMENT.

**Sec. 27.** Section 49-128, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**49-128. Emergency notification of reportable releases**

A. If a reportable release of an extremely hazardous substance listed under section ~~26-346~~ 49-126 occurs from a facility at which a hazardous chemical is produced, used or stored, the owner or operator of the facility, except as excluded under 40 Code of Federal Regulations sections 355.31 and 355.32, in addition to any other notification required by law or rule, shall immediately orally notify the community emergency coordinator for the local emergency planning committee for any area likely to be affected by the reportable release, ~~and the commission, by notifying the emergency response unit of~~ the department ~~of environmental quality~~ and appropriate emergency responders designated by rule of the ~~commission~~ DEPARTMENT, in the manner prescribed by rule of the ~~commission~~ DEPARTMENT. Unless impracticable under the circumstances, this oral notification shall occur immediately after the facility emergency coordinator or ~~his~~ THE COORDINATOR'S designee has knowledge of the reportable release. The notice of the reportable release shall include the following to the extent known at the time of the notice and as long as no delay in responding to the emergency results:

1. The specific location of the release.

2. The chemical name or identity of substances released and a description of the container or vessel from which the release occurred.

3. An estimate of the quantity of substances ~~which~~ THAT were released into the environment.

4. The time and duration of the release.

5. The medium or media into which the release occurred.

6. Any known or anticipated acute or chronic health risks associated with the release and, if within the informant's knowledge, advice regarding medical attention necessary for exposed individuals.

7. Proper precautions to take as a result of the release, including evacuation and other proposed response actions.

8. The name and telephone number of the person or persons to be contacted for further information.

B. Within thirty days after the reportable release, the owner or operator of a facility where a release occurred requiring notification pursuant to this section shall submit to the local emergency planning committee and to the ~~commission~~ DEPARTMENT a written follow-up emergency notice stating and updating the information originally provided pursuant to subsection A of this section and including the following additional information:

1. Actions taken to respond to and contain the release.

2. Any known or anticipated acute or chronic health risks associated with the release.

3. If appropriate, advice regarding medical attention necessary for exposed individuals.

4. Measures ~~which~~ THAT have been or will be taken at the facility to avoid a reoccurrence of similar releases.

C. After additional information becomes known, the owner or operator shall update the notice in writing within seven calendar days.

**Sec. 28.** Section 49-129, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**49-129. Material safety data sheets**

A. A person who owns or operates a facility ~~which~~ THAT is required to prepare or have available a material safety data sheet for a hazardous chemical under the occupational safety and health act of 1970 (P.L. 91-593; 84 Stat. 1590), and federal regulations adopted under that act, or under title 23, chapter 2, article 10, and rules adopted under that article, shall submit to the local emergency planning committee for the district in which the facility is located, the ~~commission~~ DEPARTMENT, and the fire department with jurisdiction over the facility material safety data sheets or lists of hazardous chemicals and any extremely hazardous substances stored, handled or processed at the facility pursuant to minimum threshold levels prescribed in ~~title~~ 40 Code of Federal Regulations part 370 as well as comply with section 311 of title III and regulations adopted under that act.

B. If a list of hazardous chemicals or extremely hazardous substances is submitted under this section, it shall include:

1. Information prescribed by section 311 of title III.

2. The chemical abstract service registry number applicable to each such chemical and substance, if available.

3. An indication of whether the owner elects to withhold information about the hazardous chemical or extremely hazardous substance from disclosure as a trade secret.

C. On request of a local emergency planning committee, the ~~commission~~ DEPARTMENT or the local fire department with jurisdiction over the facility, an owner or operator of a facility who has submitted a list pursuant to this section shall also submit the material safety data sheet for any chemical on the list to the requesting agency. On request by any person, the local emergency planning committee may make available a material safety data sheet to the person or transmit the request to the ~~commission~~ DEPARTMENT, which shall make the material safety data sheet available, subject to the trade secret provisions and regulations adopted under title III. If the committee or ~~commission~~ DEPARTMENT does not have the requested material safety data sheet, the committee or ~~commission~~ DEPARTMENT shall request the sheet from the facility owner or operator. The facility owner or operator shall make the sheet available within thirty days after receiving the request to the committee or ~~commission~~ DEPARTMENT and the committee or ~~commission~~ DEPARTMENT shall make the sheet available to the requesting person subject to the trade secret provisions and regulations adopted under title III.

D. Within three months after discovery by an owner or operator of a facility of significant new information concerning an aspect of a hazardous chemical for which a list or material safety data sheet was submitted, or within three months after a facility obtains a new hazardous chemical subject to the reporting requirements of this section, the owner or operator shall update and submit a revised list or material

safety data sheet to the local emergency planning committee, the ~~commission~~ DEPARTMENT and the fire department with jurisdiction over the facility.

**Sec. 29.** Section 49-130, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**49-130. Emergency and hazardous chemical inventory forms**

A. A person who owns or operates a facility ~~which~~ THAT is required to prepare or have available a material safety data sheet for a hazardous chemical under the occupational safety and health act of 1970 (P.L. 91-593; 84 Stat. 1590) and federal regulations adopted under that act or ~~which~~ THAT has to provide a material safety data sheet or listing under this article shall either file electronically as prescribed by subsection D OF THIS SECTION or submit to the local emergency planning committee for the district in which the facility is located, the ~~commission~~ DEPARTMENT and the fire department with jurisdiction over the facility an emergency and hazardous chemical inventory form pursuant to section 312 of title III as well as comply with section 312 of title III and regulations adopted under that act, except that the tier II emergency and hazardous chemical inventory form shall be the required form to comply with section 312 of title III effective with inventory forms due on or after March 1, 1991.

B. The tier II inventory form shall contain the following information:

1. The chemical name or the common name of the chemical as provided on the material safety data sheet and the CAS number.

2. An estimate, in ranges, of the maximum amount of the hazardous chemical present at the facility at any time during the preceding year.

3. An estimate, in ranges, of the average daily amount of the hazardous chemical present at the facility during the preceding year.

4. A brief description of the manner of storage of the hazardous chemical.

5. The location of the hazardous chemical at the facility.

6. An indication of whether the owner elects to withhold location information or other information about a specific hazardous chemical from disclosure to the public as a trade secret.

7. The fire department or district with jurisdiction for the facility, including a notation of whether the facility is located on Indian lands.

C. An owner or operator of a facility subject to this section shall submit the information required by this section on the inventory form provided by the ~~commission~~ DEPARTMENT. The tier II inventory form provided by the ~~commission~~ DEPARTMENT shall be available in electronic and paper formats and shall be based on and contain at least the information required by the federal forms as prescribed by 40 Code of Federal Regulations section 370.41. The ~~commission~~ DEPARTMENT shall identify on its tier II inventory form each item that is required to be reported by 40 Code of Federal Regulations section 370.41. The ~~commission~~ DEPARTMENT shall provide notice on the form that the provision of the information items not required by 40 Code of Federal Regulations section 370.41 is optional.

D. Facilities that are subject to reporting under this article may file reports electronically at an internet ~~web site~~ WEBSITE that is designated by the ~~Arizona~~

~~emergency response commission~~ DEPARTMENT. A facility that files electronically pursuant to this subsection is deemed to have complied with the reporting requirements of the ~~commission~~ DEPARTMENT and with the requirements of title III. Local emergency planning committees, fire departments and FIRE districts also may accept electronic reporting if they have agreed to do so in a written agreement with the ~~commission~~ DEPARTMENT that provides for the electronic filing and sharing of reports. The ~~commission~~ DEPARTMENT shall publish on the ~~commission's web site~~ DEPARTMENT'S WEBSITE a listing of local emergency planning committees, fire departments and fire districts that have agreed to accept electronic reporting to assist facilities in determining submission requirements.

E. On certifying an electronic submittal pursuant to subsection D OF THIS SECTION, the facility is deemed to have complied with the original signature requirements of section 312 of title III. The ~~commission~~ DEPARTMENT and the facility shall each maintain tracking information for the submittal for purposes of confirmation.

F. Information that is collected pursuant to this section shall be made available to the public pursuant to 40 Code of Federal Regulations part 370, subpart C, except for confidential information.

G. For purposes of this section, tier II forms are the forms established under 40 Code of Federal Regulations part 370.

**Sec. 30.** Section 49-131, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**49-131. Toxic chemical release forms; definitions**

A. In order to implement section 313 of title III, the owner or operator of a facility subject to the requirements of this section and section 313 of title III and regulations adopted under that act shall complete a toxic chemical release form as supplied by the administrator, pursuant to section 313(g) of title III, or as supplied by the ~~commission~~ DEPARTMENT, for each toxic chemical listed in the Code of Federal Regulations by the administrator pursuant to section 313(c) of title III that was manufactured, processed or otherwise used in quantities exceeding the toxic chemical threshold quantity established by subsection E of this section during the preceding calendar year at that facility. The form shall be submitted to the administrator and to the ~~commission~~ DEPARTMENT on or before July 1 of each year and shall contain data reflecting releases in excess of the quantity of that toxic chemical established under subsection E of this section during the preceding calendar year.

B. The requirements of this section apply to owners and operators of facilities that have ten or more full-time employees and that are in standard industrial classification codes 20 through 39 in effect on July 1, 1987 as prepared by the statistical policy division of the United States office of management and budget, office of the president and that manufactured, processed or otherwise used a toxic chemical listed in ~~title~~ 40 Code of Federal Regulations part 372 pursuant to section 313(c) and (d) of title III in excess of the quantity of that toxic chemical established under subsection E of this section during the calendar year for which the release form is required under this section.

C. The ~~director of environmental quality as the representative of the governor pursuant to this section~~ DEPARTMENT may request the administrator to apply the requirements of this section to the owners and operators of any particular facility that manufactures, processes or otherwise uses a toxic chemical listed pursuant to section 313(c) of title III if the administrator determines that such action is warranted on the basis of toxicity of the toxic chemical, the proximity to other facilities that release the toxic chemical or to population centers, the history of releases of the chemical at the facility or such other factors as the administrator deems appropriate.

D. The toxic chemicals subject to the requirements of this section are those chemicals listed in ~~title~~ 40 Code of Federal Regulations by the administrator pursuant to section 313(c) of title III, including any revised version of the list as may be made pursuant to section 313(d) or (e) of title III. The ~~director of environmental quality as the representative of the governor~~ DEPARTMENT, pursuant to section 313(e)(2) of title III, may petition the administrator to add a chemical to or delete a chemical from the list identified in this section.

E. The threshold amounts for purposes of reporting toxic chemicals under this section are:

1. With respect to a toxic chemical used at a facility, ten thousand pounds of the toxic chemical for the applicable calendar year.

2. With respect to a toxic chemical manufactured or processed at a facility:

(a) For the toxic chemical release form required to be submitted under this section on or before July 1, 1988, seventy-five thousand pounds of the toxic chemical per year.

(b) For the toxic chemical release form required to be submitted under this section on or before July 1, 1989, fifty thousand pounds of the toxic chemical per year.

(c) For the toxic chemical release form required to be submitted under this section on or before July 1, 1990 and for each year thereafter, twenty-five thousand pounds of the toxic chemical per year.

F. The threshold amounts for purposes of reporting toxic chemicals under this section shall be adjusted pursuant to revisions by the administrator.

G. Owners and operators of facilities subject to the requirements of this section shall provide the information required under this section on a uniform toxic chemical release form published by the administrator or on a uniform toxic chemical release form published by the ~~director of environmental quality~~ DEPARTMENT. The form shall:

1. Provide for the name and location of and principal business activities at the facility.

2. Include an appropriate certification, signed by a senior official with management responsibility for the person or persons completing the form, regarding the accuracy or completeness of the report.

3. Provide for the following information for each listed toxic chemical known to be present at the facility:

(a) Whether the toxic chemical at the facility is manufactured, processed or otherwise used, and the general category or categories of use of the chemical.

(b) An estimate of the maximum amount in ranges of the toxic chemical present at the facility at any time during the preceding calendar year.

(c) For each wastestream, the waste treatment or disposal methods employed and an estimate of the treatment efficiency typically achieved by such methods for that wastestream.

(d) The annual quantity of the toxic chemical entering each environmental medium.

H. The release forms required under this section are intended to provide information to the federal, state and local governments and to the public, including citizens of communities surrounding facilities covered by this section. The release form shall be available consistent with the trade secret provisions of title III to inform persons about releases of toxic chemicals to the environment, to assist governmental agencies, researchers and other persons in conducting research and data gathering, to aid in developing appropriate rules and regulations, guidelines and standards and for similar purposes.

I. For purposes of this section:

1. "Administrator" means the administrator of the United States environmental protection agency.

2. "Manufacture" means to produce, prepare, import or compound a toxic chemical.

3. "Process" means the preparation of a toxic chemical after its manufacture for distribution in commerce either:

(a) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing the chemical.

(b) As part of an article containing the toxic chemical.

**Sec. 31.** Section 49-132, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**49-132. Emergency response fund**

The emergency response fund is established consisting of monies appropriated by the legislature for purposes of ~~section 26-305.02 and~~ this article and federal, private and other monies available for that purpose. The ~~chairman of the commission~~ DEPARTMENT shall manage the fund and expend monies in the fund in performing the functions required or authorized by this article. All interest earned from investing monies in the fund shall be credited to the fund. Monies in the fund are subject to legislative appropriation and are exempt from section 35-190 relating to lapsing of appropriations.

**Sec. 32.** Section 49-927, Arizona Revised Statutes, is amended to read:

**49-927. Hazardous waste management fund**

A. A hazardous waste management fund is established to be administered by the department. The fund consists of monies appropriated by the legislature, monies collected pursuant to section 49-931 and monies collected as fees for issuing permits under section 49-922, subsection B, paragraph 5. Monies in the fund are subject to legislative appropriation and are exempt from section 35-190 relating to lapsing of

appropriations. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

B. Monies in the hazardous waste management fund shall be used for the following purposes:

1. Informing, educating and training the general public, treatment, storage and disposal facility operators, hazardous waste handlers and others.

2. Supporting statewide hazardous waste planning and program development activities.

3. Processing, issuing and maintaining permits for treatment, storage or disposal facilities.

4. Compliance monitoring, investigation and enforcement activities pertaining to generating, transporting, treating, storing and disposing of hazardous waste under this article.

5. Funding the pollution prevention technical assistance program established in section 49-965 and providing matching funds under section 6605 of the pollution prevention act of 1990 (P.L. 101-508).

6. Administration of the pollution prevention program pursuant to article 4 of this chapter.

7. Reimbursement of appropriations received for fiscal year 1991-1992 to the state general fund as provided by law.

C. Ten ~~per cent~~ PERCENT of the monies in the fund shall be transmitted to the emergency response fund established ~~pursuant to~~ BY section ~~26-352~~ 49-132 to be used for staffing local emergency planning committees and equipping local fire departments, fire districts and public safety agencies for the development of hazardous materials emergency response teams.

**Sec. 33.** Section 49-972, Arizona Revised Statutes, is amended to read:

**49-972. Pollution prevention plan for state agencies; definition**

A. A state agency that produces hazardous waste or uses toxic substances in excess of the threshold quantity and time limits prescribed in section 49-963 shall file a pollution prevention plan with the director. The pollution prevention plan shall have a goal of twenty ~~per cent~~ PERCENT reduction in hazardous waste within two years, fifty ~~per cent~~ PERCENT reduction in hazardous waste within five years and a seventy ~~per cent~~ PERCENT reduction in hazardous waste in ten years.

B. The pollution prevention plan shall address a reduction in the use of toxic substances and the generation of hazardous wastes. The plan shall be completed on a form published by the director and shall be filed with the director on or before January 1, 1993 and every five years thereafter.

C. A state agency required to file a pollution prevention plan may include in the report a certification that there is no reasonably available and technically feasible alternative to the current level of generation of hazardous waste at its facilities. If approved by the director, the certification shall serve as demonstration of compliance with the goals stated in subsection A of this section.

D. The state agency required to prepare a pollution prevention plan shall maintain a copy of the plan and annual summaries at the agency and at the facility, where they shall be available for inspection by the department and by the public.

E. The pollution prevention plan summary shall include a summary of all data and information in the plan, including the following:

1. A statement of the scope and objectives of the pollution prevention plan considering toxicity, volume, disposal costs and liability costs, and a numerical statement of the reductions in facility use of each hazardous waste at the facility over the next five or more years.

2. An analysis identifying pollution prevention opportunities to reduce or eliminate toxic substance releases and hazardous waste generation.

3. The name and location of all facilities associated with the state agency that are included in the plan and the name, address and telephone number of the operator and the senior official with management responsibility at the facility.

4. Identification and explanation of technology, procedures and options considered available and technically feasible for reducing the use of each hazardous waste and toxic substance at the facility, an explanation of options not implemented and a time schedule for implementing chosen options.

5. A written certification that the agency has prepared a pollution prevention plan and that a copy of the plan is available at the agency or facility for the department's inspection and for inspection by the public on request to the department.

6. Specific performance goals for the prevention of pollution, including an explanation of the rationale for each performance goal. The plan shall include a goal for the facility and may include goals for individual processes, operations, toxic substance usage and hazardous waste generation.

7. A written certification by the senior official with management responsibility that he has read the plan and that to the best of his knowledge it is true, accurate and complete.

8. A written policy setting forth management support for the pollution prevention plan and a commitment to implement the plan to achieve the plan goals.

9. An analysis of pollution prevention activities that are already in place and that are consistent with the requirements of this article.

10. Employee awareness and training programs to involve employees in pollution prevention planning and implementation to the maximum extent feasible.

11. Provisions to incorporate the plan into management practices and procedures to ensure the plan's institutionalization.

F. To the extent practicable, the information required for the preparation of a pollution prevention plan shall be based on information developed and forms completed by the state agency for the purposes of compliance with sections ~~26-347~~ 49-127 and ~~26-351~~ 49-131, the federal pollution prevention act, section 304(l) of the federal water pollution control act, pretreatment sludge permits pursuant to 40 Code of Federal Regulations part 503, or other required state and federal reports.

G. The department shall make all pollution plans and pollution prevention plan summaries available to the public.

H. If the department determines that a plan is not in compliance with the requirements of this section, the department may allow the person submitting the plan ninety days from the date of the notice of deficiency to correct the deficiency.

I. Each state agency required to prepare and maintain a pollution prevention plan shall file an annual progress report. The annual progress report shall both:

1. Analyze the progress made, if any, in pollution prevention including toxics use reduction, source reduction and hazardous waste minimization relative to each performance goal established and relative to the plan contents.

2. Set forth amendments to the pollution prevention plan and explain the need for the amendments.

J. If the threshold quantity prescribed in section 49-963 is exceeded due to an accidental or remediation related release or occurrence, the requirement to file a plan pursuant to this section does not apply.

K. For purposes of this section, "state agency" includes all facilities controlled by an agency.

**Sec. 34. Transfer and succession**

A. As provided by this act, the department of environmental quality succeeds to the authority, powers, duties and responsibilities of the Arizona emergency response commission.

B. This act does not alter the effect of any actions that were taken or impair the valid obligations of the Arizona emergency response commission in existence before the effective date of this act.

C. Administrative rules and orders that were adopted by the Arizona emergency response commission continue in effect until superseded by administrative action by the department of environmental quality.

**Sec. 35. Transfer of monies**

All unexpended and unencumbered monies remaining in the national guard relief fund established by section 26-183, Arizona Revised Statutes, as repealed by this act, are transferred to the department of veterans' services on the effective date of this act. Using the rules or policies for grants adopted pursuant to section 41-608, Arizona Revised Statutes, the department of veterans' services shall distribute the monies transferred pursuant to this section to a nonprofit organization that provides financial assistance to Arizona national guard members and their families.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## SEXUAL OFFENSES—POSITION OF TRUST

### CHAPTER 209

### H. B. 2299

**AN ACT AMENDING SECTIONS 13-501, 13-1401, 13-1404 AND 13-1405, ARIZONA REVISED STATUTES; RELATING TO SEXUAL OFFENSES.**

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

**Section 1.** Section 13-501, Arizona Revised Statutes, is amended to read:

**13-501. Persons under eighteen years of age; felony charging; definitions**

A. The county attorney shall bring a criminal prosecution against a juvenile in the same manner as an adult if the juvenile is fifteen, sixteen or seventeen years of age at the time the alleged offense is committed and the juvenile is accused of any of the following offenses:

1. First degree murder in violation of section 13-1105.
2. Second degree murder in violation of section 13-1104.
3. Forcible sexual assault in violation of section 13-1406.
4. Armed robbery in violation of section 13-1904.
5. Any other violent felony offense.
6. Any felony offense committed by a chronic felony offender.
7. Any offense that is properly joined to an offense listed in this subsection.

B. Except as provided in subsection A of this section, the county attorney may bring a criminal prosecution against a juvenile in the same manner as an adult if the juvenile is at least fourteen years of age at the time the alleged offense is committed and the juvenile is accused of any of the following offenses:

1. A class 1 felony.
2. A class 2 felony.
3. A class 3 felony in violation of any offense in chapters 10 through 17 or chapter 19 or 23 of this title.
4. A class 3, 4, 5 or 6 felony involving a dangerous offense.
5. Any felony offense committed by a chronic felony offender.
6. Any offense that is properly joined to an offense listed in this subsection.

C. A criminal prosecution shall be brought against a juvenile in the same manner as an adult if the juvenile has been accused of a criminal offense and has a historical prior felony conviction.

D. At the time the county attorney files a complaint or indictment the county attorney shall file a notice stating that the juvenile is a chronic felony offender. Subject to subsection E of this section, the notice shall establish and confer jurisdiction over the juvenile as a chronic felony offender.

E. On motion of the juvenile the court shall hold a hearing after arraignment and before trial to determine if a juvenile is a chronic felony offender. At the hearing the state shall prove by a preponderance of the evidence that the juvenile is a chronic felony offender. If the court does not find that the juvenile is a chronic felony offender, the court shall transfer the juvenile to the juvenile court pursuant to section 8-302. If the court finds that the juvenile is a chronic felony offender or if the juvenile does not file a motion to determine if the juvenile is a chronic felony offender, the criminal prosecution shall continue.

F. Except as provided in section 13-921, a person who is charged pursuant to this section shall be sentenced in the criminal court in the same manner as an adult for any offense for which the person is convicted.

G. Unless otherwise provided by law, nothing in this section shall be construed as to confer jurisdiction in the juvenile court over any person who is eighteen years of age or older.

H. For the purposes of this section:

1. "Accused" means a juvenile against whom a complaint, information or indictment is filed.

2. "Chronic felony offender" means a juvenile who has had two prior and separate adjudications and dispositions for conduct that would constitute a historical prior felony conviction if the juvenile had been tried as an adult.

3. "Forcible sexual assault" means sexual assault pursuant to section 13-1406 that is committed without consent as defined in section 13-1401, paragraph ~~5~~ 7, subdivision (a).

4. "Other violent felony offense" means:

(a) Aggravated assault pursuant to section 13-1204, subsection A, paragraph 1.

(b) Aggravated assault pursuant to section 13-1204, subsection A, paragraph 2 involving the use of a deadly weapon.

(c) Drive by shooting pursuant to section 13-1209.

(d) Discharging a firearm at a structure pursuant to section 13-1211.

**Sec. 2.** Section 13-1401, Arizona Revised Statutes, is amended to read:

**13-1401. Definitions; factors**

A. In this chapter, unless the context otherwise requires:

1. "Oral sexual contact" means oral contact with the penis, vulva or anus.

2. "POSITION OF TRUST" MEANS A PERSON WHO IS OR WAS ANY OF THE FOLLOWING:

(a) THE MINOR'S PARENT, STEPPARENT, ADOPTIVE PARENT, LEGAL GUARDIAN OR FOSTER PARENT.

(b) THE MINOR'S TEACHER.

(c) THE MINOR'S COACH OR INSTRUCTOR, WHETHER THE COACH OR INSTRUCTOR IS AN EMPLOYEE OR VOLUNTEER.

(d) THE MINOR'S CLERGYMAN OR PRIEST.

(e) ENGAGED IN A SEXUAL OR ROMANTIC RELATIONSHIP WITH THE MINOR'S PARENT, ADOPTIVE PARENT, LEGAL GUARDIAN, FOSTER PARENT OR STEPPARENT.

~~2.~~ 3. "Sexual contact" means any direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such contact.

~~3.~~ 4. "Sexual intercourse" means penetration into the penis, vulva or anus by any part of the body or by any object or masturbatory contact with the penis or vulva.

~~4.~~ 5. "Spouse" means a person who is legally married and cohabiting.

6. "TEACHER" MEANS A CERTIFICATED TEACHER AS DEFINED IN SECTION 15-501 OR ANY OTHER PERSON WHO PROVIDES INSTRUCTION TO PUPILS IN ANY SCHOOL DISTRICT, CHARTER SCHOOL OR ACCOMMODATION SCHOOL, THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND OR A PRIVATE SCHOOL IN THIS STATE.

~~5.~~ 7. "Without consent" includes any of the following:

(a) The victim is coerced by the immediate use or threatened use of force against a person or property.

(b) The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant. For THE purposes of this subdivision, "mental defect" means the victim is unable to comprehend the distinctively sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another.

(c) The victim is intentionally deceived as to the nature of the act.

(d) The victim is intentionally deceived to erroneously believe that the person is the victim's spouse.

B. THE FOLLOWING FACTORS MAY BE CONSIDERED IN DETERMINING WHETHER A RELATIONSHIP IS CURRENTLY OR WAS PREVIOUSLY A SEXUAL OR ROMANTIC RELATIONSHIP PURSUANT TO SUBSECTION A, PARAGRAPH 2, SUBDIVISION (e) OF THIS SECTION:

1. THE TYPE OF RELATIONSHIP.

2. THE LENGTH OF THE RELATIONSHIP.

3. THE FREQUENCY OF THE INTERACTION BETWEEN THE TWO PERSONS.

4. IF THE RELATIONSHIP HAS TERMINATED, THE LENGTH OF TIME SINCE THE TERMINATION.

**Sec. 3.** Section 13-1404, Arizona Revised Statutes, is amended to read:

**13-1404. Sexual abuse; classification**

A. A person commits sexual abuse by intentionally or knowingly engaging in sexual contact with any person who is fifteen or more years of age without consent of that person or with any person who is under fifteen years of age if the sexual contact involves only the female breast.

B. IT IS NOT A DEFENSE TO A PROSECUTION FOR A VIOLATION OF THIS SECTION THAT THE OTHER PERSON CONSENTED IF THE OTHER PERSON WAS FIFTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE AND THE DEFENDANT WAS IN A POSITION OF TRUST.

~~B.~~ C. Sexual abuse is a class 5 felony unless the victim is under fifteen years of age in which case sexual abuse is a class 3 felony punishable pursuant to section 13-705.

**Sec. 4.** Section 13-1405, Arizona Revised Statutes, is amended to read:

**13-1405. Sexual conduct with a minor; classification**

A. A person commits sexual conduct with a minor by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person who is under eighteen years of age.

B. Sexual conduct with a minor who is under fifteen years of age is a class 2 felony and is punishable pursuant to section 13-705. Sexual conduct with a minor who is at least fifteen years of age is a class 6 felony. Sexual conduct with a minor who is at least fifteen years of age is a class 2 felony if the person is or was ~~the minor's parent, stepparent, adoptive parent, legal guardian or foster parent or the~~

~~minor's teacher or clergyman or priest~~ IN A POSITION OF TRUST and the convicted person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed has been served or commuted.

~~C. For the purposes of this section, "teacher" means a certificated teacher as defined in section 15-501 or any other person who provides instruction to pupils in any school district, charter school or accommodation school, the Arizona state schools for the deaf and the blind or a private school in this state.~~

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## WORKERS' COMPENSATION COVERAGE FOR THE MEDICAL USE OF MARIJUANA

### CHAPTER 210

### H. B. 2346

### AN ACT AMENDING SECTION 36-2814, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA MEDICAL MARIJUANA ACT.

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

**Section 1.** Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 36-2814, Arizona Revised Statutes, is amended to read:

**36-2814. Acts not required; acts not prohibited**

A. Nothing in this chapter requires:

1. A government medical assistance program, ~~or~~ A private health insurer OR A WORKERS' COMPENSATION CARRIER OR SELF-INSURED EMPLOYER PROVIDING WORKERS' COMPENSATION BENEFITS to reimburse a person for costs associated with the medical use of marijuana.

2. Any person or establishment in lawful possession of property to allow a guest, client, customer or other visitor to use marijuana on or in that property.

3. An employer to allow the ingestion of marijuana in any workplace or any employee to work while under the influence of marijuana, except that a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.

B. Nothing in this chapter prohibits an employer from disciplining an employee for ingesting marijuana in the workplace or working while under the influence of marijuana.

**Sec. 2. Requirements for enactment; three-fourths vote**

Pursuant to article IV, part 1, section 1, Constitution of Arizona, section 36-2814, Arizona Revised Statutes, as amended by this act, is effective only on the affirmative vote of at least three-fourths of the members of each house of the legislature.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## UNEMPLOYMENT INSURANCE—BASE-PERIOD NOTICES

### CHAPTER 211

### H. B. 2347

**AN ACT AMENDING SECTION 23-772, ARIZONA REVISED STATUTES; RELATING TO UNEMPLOYMENT INSURANCE.**

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

**Section 1.** Section 23-772, Arizona Revised Statutes, is amended to read:

**23-772. Claims for benefits; initial claim filing notice to employer; contents of notice; continued claim notice to employer; posting printed statements dealing with claims**

A. Claims for benefits shall be made in accordance with such regulations as the department prescribes. The department shall require an individual claiming benefits to provide information and documents on which the claim is based at the time of filing the claim.

B. WHEN AN INITIAL CLAIM FOR BENEFITS IS FILED, THE DEPARTMENT SHALL PROMPTLY NOTIFY THE CLAIMANT'S MOST RECENT EMPLOYING UNIT OR EMPLOYER OF THE CLAIM FILING. THE NOTICE SHALL:

1. CONTAIN THE CLAIMANT'S STATED REASON FOR THE CLAIMANT'S SEPARATION FROM EMPLOYMENT.

2. STATE THAT THE EMPLOYER MAY PROTEST PAYMENT TO THE CLAIMANT BASED ON ANY AVAILABLE STATUTORY GROUNDS BY RETURNING THE PROTEST NOT LATER THAN TEN BUSINESS DAYS AFTER THE DATE OF THE NOTICE.

~~B.~~ C. UNLESS PREVIOUSLY NOTIFIED, all base-period employers ~~of a claimant for benefits shall be promptly notified when a~~ WILL BE SENT A NOTICE AT THE TIME THE claimant files a payable continued claim for benefits during a period of unemployment.

~~C.~~ D. Each employer shall post and maintain printed statements dealing with claims for benefits in places readily accessible to individuals in the employer's service, and shall make available to each individual at the time the individual becomes unemployed a printed statement dealing with claims for benefits. Printed statements shall be supplied by the department to each employer without cost.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## WRONGFUL DEATH ACTION—DISQUALIFIED PARTY

### CHAPTER 212

### H. B. 2374

**AN ACT AMENDING SECTION 12-612, ARIZONA REVISED STATUTES; RELATING TO WRONGFUL DEATH ACTIONS.**

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

**Section 1.** Section 12-612, Arizona Revised Statutes, is amended to read:

**12-612. Parties plaintiff; recovery; distribution; disqualification**

A. An action for wrongful death shall be brought by and in the name of the surviving husband or wife, child, parent or guardian, or personal representative of the deceased person for and on behalf of the surviving husband or wife, children or parents, or if none of these survive, on behalf of the decedent's estate.

B. Either parent may maintain the action for the death of a child, and the guardian may maintain the action for the death of the guardian's ward.

C. The amount recovered in an action for wrongful death shall be distributed to the parties provided for in subsection A OF THIS SECTION in proportion to their damages, and if recovery is on behalf of the decedent's estate the amount shall be an asset of the estate.

D. IF ANY PARTY LISTED IN SUBSECTION A OF THIS SECTION IS FOUND GUILTY OF OR GUILTY EXCEPT INSANE FOR, OR PLED GUILTY OR NO CONTEST TO, A VIOLATION OF SECTION 13-3623 INVOLVING THE DEATH OF THE CHILD DECEDENT OR A VIOLATION OF SECTION 13-1103, 13-1104 OR 13-1105 INVOLVING THE DEATH OF THE DECEDENT, THE PARTY IS DEEMED TO HAVE PREDECEASED THE DECEDENT AND IS DISQUALIFIED FROM RECOVERING WRONGFUL DEATH BENEFITS. THIS SUBSECTION APPLIES TO A PERSON WHO IS FOUND GUILTY OF OR GUILTY EXCEPT INSANE FOR, OR PLED GUILTY OR NO CONTEST TO, AN OFFENSE COMMITTED IN ANOTHER JURISDICTION THAT HAS THE SAME ELEMENTS OF AN OFFENSE LISTED IN THIS SUBSECTION AND THAT IF COMMITTED IN THIS STATE WOULD BE A VIOLATION OF ANY OF THE OFFENSES LISTED IN THIS SUBSECTION.

~~D.~~ E. For the purposes of subsection A OF THIS SECTION, "personal representative" includes any person to whom letters testamentary or of administration are granted by competent authority under the laws of this or any other state. The personal representative may maintain the action for wrongful death without the issuance of further letters or any other requirement or authorization of law.

Approved by the Governor April 6, 2015.
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## LEMSC—DETERMINATIONS—APPEALS

### CHAPTER 213

### H. B. 2377

**AN ACT AMENDING SECTIONS 41-1830.12, 41-1830.13 AND 41-1830.16, ARIZONA REVISED STATUTES; RELATING TO THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL.**

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

**Section 1.** Section 41-1830.12, Arizona Revised Statutes, is amended to read:

**41-1830.12. Law enforcement merit system council; duties; authority; rules; business manager; definitions**

A. The law enforcement merit system council shall:

1. Select a chairman and vice-chairman.

2. Hold meetings that are necessary to perform its duties on the call of the chairman.

3. Adopt rules pursuant to recognized merit principles of public employment it deems necessary for establishing the following for department of public safety and Arizona peace officer standards and training board personnel:

(a) A classification and compensation plan for all covered positions and for establishing standards and qualifications for all classified positions from a list of necessary employees that is prepared by the director of the employing agency.

(b) A plan for fair and impartial selection, appointment, probation, promotion, retention and separation or removal from service by resignation, retirement, reduction in force or dismissal of all classified employees.

(c) A performance appraisal system for evaluating the work performance of employees of the agencies.

(d) Procedures for the conduct of hearings of employee grievances that are brought before the council relating to classification, compensation and the employee appraisal system.

(e) Procedures for the conduct of hearings on appeals from an order of the director of the employing agency in connection with suspension, demotion, reduction in pay, loss of accrued leave time or dismissal of a classified employee.

(f) For hours of employment, annual and sick leave and special leaves of absence, with or without pay or with reduced pay.

4. Pursuant to recognized merit principles, hear and review appeals from any order of the director of the employing agency in connection with suspension, demotion, reduction in pay, loss of accrued leave time or dismissal of a classified employee. The council's determination is subject to review by the director and appeal as provided in section 41-1830.13.

B. The council may meet with the state personnel board to discuss matters of mutual concern.

C. The rules under subsection A, paragraph 3, subdivision (f) of this section shall provide for the transfer of accumulated annual leave from one employee to another employee in the same agency and for the transfer of accumulated annual leave from one employee to another employee of another agency, department, board or commission if the employees are members of the same family. The transfers may occur if the employee to whom the leave is transferred has a seriously incapacitating and extended illness or injury or a member of the employee's immediate family has a seriously incapacitating and extended illness or injury and the employee has exhausted all available leave balances. Transferred annual leave shall be increased or reduced proportionally by the difference in the salaries of the employees as determined by council rule. For the purposes of this subsection, "family" means spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law or father-in-law.

D. In hearing and reviewing an appeal from any order of the director of the employing agency, the council:

1. Shall determine whether the employing agency has proven by a preponderance of the evidence ~~the material facts on which the discipline was based. On such a finding, the council shall affirm the decision of the director of the employing agency, unless the disciplinary decision was arbitrary and capricious~~ THAT THE EMPLOYING AGENCY HAD JUST CAUSE TO DISCIPLINE THE EMPLOYEE.

2. May recommend modification of a disciplinary action if the director of the employing agency has not proven by a preponderance of the evidence ~~the material facts on which the discipline was based or if a disciplinary decision is found to be arbitrary and capricious~~ THAT THE EMPLOYING AGENCY HAD JUST CAUSE TO DISCIPLINE THE EMPLOYEE.

3. Shall reverse the decision of the director of the employing agency if the council finds that JUST cause did not exist for any discipline to be imposed and, in the case of dismissal or demotion, return the employee to the same position the employee held before the dismissal or demotion with or without back pay.

E. On a finding that the director of the employing agency has not proven JUST CAUSE TO DISCIPLINE THE EMPLOYEE by a preponderance of the evidence, ~~the material facts on which the discipline was based, the council shall identify the material facts that the council found were not supported by a preponderance of the evidence and~~ THE COUNCIL may recommend a proposed disciplinary action in light of the facts proven. ~~On a finding that the disciplinary decision was arbitrary and capricious, the council shall include the council's reasons for the council's finding and may recommend a proposed disciplinary action in light of the facts proven.~~

F. Within forty-five days after the conclusion of the hearing, the council shall enter its decision or recommendation and at the same time shall send a copy of the decision or recommendation by certified mail to the employing agency and to the employee at the employee's address as given at the hearing or to a representative designated by the employee to receive a copy of the decision or recommendation.

G. The council shall select and the director of the department of public safety shall appoint a business manager who is a certified peace officer and an employee of the department of public safety but who is not a member of the council. The business manager shall perform and discharge all of the powers and duties that are vested in the council, except that adoption of rules, creation and adjustment of classifications and grades, compensation and hearing appeals for dismissal, demotion, reduction in pay, suspensions or other punitive action remain the duty of the council. Any power or duty that the council may lawfully delegate to the business manager is conclusively presumed to have been delegated to the business manager unless it is shown that the council by an affirmative vote recorded in its minutes has specifically reserved the power or duty to itself. At the request of the council, the business manager may make inquiries regarding or investigate infractions of council rules within the department of public safety. The business manager shall report the result of the inquiry or investigation to the council for appropriate action. The business manager may delegate the business manager's powers and duties to the business manager's subordinates unless by council rule or express provision of law the business manager is specifically required to act personally.

H. For the purposes of this section and section 41-1830.13: ~~,~~

1. "Director of the employing agency" means the director of the department of public safety with respect to employees of the department and the executive director of the Arizona peace officer standards and training board with respect to employees of the board.

2. "JUST CAUSE" HAS THE SAME MEANING PRESCRIBED IN TITLE 38, CHAPTER 8, ARTICLE 1.

**Sec. 2.** Section 41-1830.13, Arizona Revised Statutes, is amended to read:

**41-1830.13. Review of council decision by agency director; appeal; reinstatement**

A. Within fourteen days of receipt of the finding or recommendation by the council pursuant to section 41-1830.12, the director of the employing agency shall accept, modify or reverse the council's decision or accept, modify or reject the

council's recommendation. The director shall accept the council's recommendation unless the recommendation is arbitrary or without reasonable justification. If the director does not accept the council's recommendation, the director shall state the reason or reasons for rejecting the recommendation. The decision of the director of the employing agency is final and binding. The director of the employing agency shall send a copy of the agency's final determination to the employee pursuant to section 41-1830.12.

B. Except as provided in section 41-1092.08, subsection H, a classified employee who is suspended, is demoted, has pay reduced, loses accrued leave time or is dismissed pursuant to this article, after a fair hearing and review before the law enforcement merit system council and review of the suspension, demotion, reduction in pay, loss of accrued leave time or dismissal by the director of the employing agency, may appeal the determination of the council and the final determination of the director of the employing agency pursuant to title 12, chapter 7, article 6 ~~on one or more of the following grounds that the order was:~~

~~1. Founded on or contained error of law that shall specifically include error of construction or application of any pertinent rules.~~

~~2. Unsupported by any evidence as disclosed by the entire record.~~

~~3. Materially affected by unlawful procedure.~~

~~4. Based on a violation of any constitutional provision.~~

~~5. Arbitrary or capricious~~.

C. In addition to the trial court's powers as prescribed in section 12-911, if the court overrules the determination of the council or the director of the employing agency, the employee shall be reinstated in the employee's position and the employee shall receive full compensation for any salary withheld pending the determination by the council, the director of the employing agency and court.

**Sec. 3.** Section 41-1830.16, Arizona Revised Statutes, is amended to read:

**41-1830.16. Law enforcement merit system council duties; authority; appeals of covered full authority peace officers employed by agencies in the state personnel system; definitions**

A. The law enforcement merit system council shall adopt rules the council deems necessary for the administration of hearings and the review of appeals as prescribed in this section.

B. A covered employee in the state personnel system who is a full authority peace officer as certified by the Arizona peace officer standards and training board, is appointed to a position that requires such a certification in the covered service and who has completed the employee's original probationary period of service as provided by the personnel rules may appeal to the law enforcement merit system council the covered employee's dismissal from covered service, suspension for more than forty working hours or involuntary demotion resulting from disciplinary action. The covered employee shall file the appeal no later than ten working days after the effective date of the action. The covered employee shall be furnished with specified charges in writing when the action is taken. The appeal shall be in writing and must state specific facts relating directly to the charges on which the appeal is based.

Notwithstanding section 41-1092.05, subsection D, the law enforcement merit system council shall hear the appeal within thirty days after the council's receipt. The law enforcement merit system council shall provide the employing agency with a copy of the appeal not less than twenty days in advance of the hearing.

C. In hearing and reviewing an appeal, the council:

1. Shall determine whether the employing agency has proven by a preponderance of the evidence ~~the material facts on which the discipline was based. On such a finding the council shall affirm the decision of the state agency head unless the disciplinary decision was arbitrary and capricious~~ THAT THE EMPLOYING AGENCY HAD JUST CAUSE TO DISCIPLINE THE EMPLOYEE.

2. May recommend modification of a disciplinary action if the state agency head has not proven by a preponderance of the evidence ~~the material facts on which the discipline was based or if a disciplinary decision is found to be arbitrary and capricious~~ THAT THE EMPLOYING AGENCY HAD JUST CAUSE TO DISCIPLINE THE EMPLOYEE.

3. Shall reverse the decision of the state agency head if the council finds that JUST cause did not exist for any discipline to be imposed and, in the case of dismissal or demotion, return the employee to the same position the employee held before the dismissal or demotion with or without back pay.

D. On a finding that the state agency head has not proven JUST CAUSE TO DISCIPLINE THE EMPLOYEE by a preponderance of the evidence, ~~the material facts on which the discipline was based, the council shall identify the material facts that the council found were not supported by a preponderance of the evidence and~~ THE COUNCIL may recommend a proposed disciplinary action in light of the facts proven. ~~On a finding that the disciplinary decision was arbitrary and capricious, the council shall include the council's reasons for the council's finding and may recommend a proposed disciplinary action in light of the facts proven.~~

E. Within forty-five days after the conclusion of the hearing, the council shall enter its decision or recommendation and shall at the same time send a copy of the decision or recommendation by certified mail to the employing agency and to the employee at the employee's address as given at the hearing or to a representative designated by the employee to receive a copy of the decision or recommendation. The state agency head or the agency head's designee shall accept, modify or reverse the council's decision or accept, modify or reject the council's recommendation within fourteen days of receipt of the findings or recommendation from the law enforcement merit system council. The state agency head or the agency head's designee shall accept the council's recommendation unless the recommendation is arbitrary or without reasonable justification. If the state agency head or the agency head's designee does not accept the council's recommendation, the state agency head or the agency head's designee shall state the reasons for rejecting the recommendation. The decision of the agency head or agency head's designee is final and binding. The agency head shall send a copy of the agency's final determination to the covered employee pursuant to this section.

F. Any party may appeal the decision of the law enforcement merit system council or the final decision of the agency pursuant to title 12, chapter 7, article 6 to

the superior court in the covered employee's county of residence. ~~on one or more of the following grounds that the order was:~~

~~1. Founded on or contained error of law that shall specifically include error of construction or application of any pertinent rules.~~

~~2. Unsupported by any evidence as disclosed by the entire record.~~

~~3. Materially affected by unlawful procedure.~~

~~4. Based on a violation of any constitutional provision.~~

~~5. Arbitrary or capricious.~~

G. An appeal shall be available to the court of appeals from the order of the superior court pursuant to title 12, chapter 7, article 6 as in other civil cases.

H. For the purposes of this section:

1. "Covered employee" has the same meaning prescribed in section 41-741.

2. "Covered service" has the same meaning prescribed in section 41-741.

3. "Employing agency" means the agency in the state personnel system where the covered employee is or, in the case of dismissal, was employed.

4. "Full authority peace officer" means a peace officer whose authority to enforce the laws of this state is not limited by the rules adopted by the Arizona peace officer standards and training board.

5. "JUST CAUSE" HAS THE SAME MEANING PRESCRIBED IN TITLE 38, CHAPTER 8, ARTICLE 1.

~~5.~~ 6. "Original probationary period" has the same meaning prescribed in section 41-741.

~~6.~~ 7. "Personnel rules" means the rules adopted by the department of administration, human resources division.

~~7.~~ 8. "State agency head" means the chief executive officer of the employing agency.

~~8.~~ 9. "State personnel system" has the same meaning prescribed in section 41-741.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## UNLAWFUL SEXUAL CONDUCT—PEACE OFFICERS

### CHAPTER 214

### H. B. 2378

**AN ACT AMENDING TITLE 13, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1412; RELATING TO SEXUAL OFFENSES.**

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

**Section 1.** Title 13, chapter 14, Arizona Revised Statutes, is amended by adding section 13-1412, to read:

**13-1412. Unlawful sexual conduct; peace officers; classification; definitions**

A. A PEACE OFFICER COMMITS UNLAWFUL SEXUAL CONDUCT BY KNOWINGLY ENGAGING IN SEXUAL CONTACT, ORAL SEXUAL CONTACT OR SEXUAL INTERCOURSE WITH ANY PERSON WHO IS IN THE OFFICER'S CUSTODY OR A PERSON WHO THE OFFICER KNOWS OR HAS REASON TO KNOW IS THE SUBJECT OF AN INVESTIGATION.

B. UNLAWFUL SEXUAL CONDUCT WITH A VICTIM WHO IS UNDER FIFTEEN YEARS OF AGE IS A CLASS 2 FELONY. UNLAWFUL SEXUAL CONDUCT WITH A VICTIM WHO IS AT LEAST FIFTEEN YEARS OF AGE BUT LESS THAN EIGHTEEN YEARS OF AGE IS A CLASS 3 FELONY. ALL OTHER UNLAWFUL SEXUAL CONDUCT IS A CLASS 5 FELONY.

C. THIS SECTION DOES NOT APPLY TO EITHER OF THE FOLLOWING:

1. ANY DIRECT OR INDIRECT TOUCHING OR MANIPULATING OF THE GENITALS, ANUS OR FEMALE BREAST THAT OCCURS DURING A LAWFUL SEARCH.

2. AN OFFICER WHO IS MARRIED TO OR WHO IS IN A ROMANTIC OR SEXUAL RELATIONSHIP WITH THE PERSON AT THE TIME OF THE ARREST OR INVESTIGATION. THE FOLLOWING FACTORS MAY BE CONSIDERED IN DETERMINING WHETHER THE RELATIONSHIP BETWEEN THE VICTIM AND THE DEFENDANT IS CURRENTLY A ROMANTIC OR SEXUAL RELATIONSHIP:

(a) THE TYPE OF RELATIONSHIP.

(b) THE LENGTH OF THE RELATIONSHIP.

(c) THE FREQUENCY OF THE INTERACTION BETWEEN THE VICTIM AND THE DEFENDANT.

(d) IF THE RELATIONSHIP HAS TERMINATED, THE LENGTH OF TIME SINCE THE TERMINATION.

D. FOR THE PURPOSES OF THIS SECTION:

1. "CUSTODY" INCLUDES THE IMPOSITION OF ACTUAL OR CONSTRUCTIVE RESTRAINT PURSUANT TO AN ON-SITE ARREST, A COURT ORDER OR ANY CONTACT IN WHICH A REASONABLE PERSON WOULD NOT FEEL FREE TO LEAVE. CUSTODY DOES NOT INCLUDE DETENTION IN A CORRECTIONAL FACILITY, A JUVENILE DETENTION FACILITY OR A STATE HOSPITAL.

2. "PEACE OFFICER" HAS THE SAME MEANING PRESCRIBED IN SECTION 1-215 BUT DOES NOT INCLUDE ADULT OR JUVENILE CORRECTIONS OR DETENTION OFFICERS.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

# GAME AND FISH—HUNTER HARASSMENT

## CHAPTER 215

## H. B. 2399

## AN ACT AMENDING SECTION 17-340, ARIZONA REVISED STATUTES; RELATING TO THE TAKING AND HANDLING OF WILDLIFE.

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

**Section 1.** Section 17-340, Arizona Revised Statutes, is amended to read:

**17-340. Revocation, suspension and denial of privilege of taking wildlife; notice; violation; classification**

A. On conviction or after adjudication as a delinquent juvenile as defined in section 8-201 and in addition to other penalties prescribed by this title, the commission, after a public hearing, may revoke or suspend a license issued to any person under this title and deny the person the right to secure another license to take or possess wildlife for a period of not to exceed five years for:

1. Unlawful taking, unlawful selling, unlawful offering for sale, unlawful bartering or unlawful possession of wildlife.

2. Careless use of firearms ~~which~~ THAT has resulted in the injury or death of any person.

3. Destroying, injuring or molesting livestock, or damaging or destroying growing crops, personal property, notices or signboards, or other improvements while hunting, trapping or fishing.

4. Littering public hunting or fishing areas while taking wildlife.

5. Knowingly allowing another person to use the person's big game tag, except as provided by section 17-332, subsection D.

6. A violation of section 17-303, 17-304, 17-316 or 17-341 or section 17-362, subsection A.

7. A violation of section 17-309, subsection A, paragraph 5 involving a waste of edible portions other than meat damaged due to the method of taking as follows:

(a) Upland game birds, migratory game birds and wild turkey: breast.

(b) Deer, elk, pronghorn (antelope), bighorn sheep, bison (buffalo) and peccary (javelina): hind quarters, front quarters and loins.

(c) Game fish: fillets of the fish.

8. A violation of section 17-309, subsection A, paragraph 1 involving any unlawful use of aircraft to take, assist in taking, harass, chase, drive, locate or assist in locating wildlife.

B. On conviction or after adjudication as a delinquent juvenile and in addition to any other penalties prescribed by this title:

1. For a first conviction or a first adjudication as a delinquent juvenile, for unlawfully taking or wounding wildlife at any time or place, the commission, after a public hearing, may revoke, suspend or deny a person's privilege to take wildlife for a period of up to five years.

2. For a second conviction or a second adjudication as a delinquent juvenile, for unlawfully taking or wounding wildlife at any time or place, the commission, after a public hearing, may revoke, suspend or deny a person's privilege to take wildlife for a period of up to ten years.

3. For a third conviction or a third adjudication as a delinquent juvenile, for unlawfully taking or wounding wildlife at any time or place, the commission, after a public hearing, may revoke, suspend or deny a person's privilege to take wildlife permanently.

C. A person who is assessed civil damages under section 17-314 shall not apply for or obtain a license during the pendency of an action for damages, while measures are pursued to collect damages or prior to the full payment of damages.

D. On receiving a report from the licensing authority of a state ~~which~~ THAT is a party to the wildlife violator compact, adopted under chapter 5 of this title, that a resident of this state has failed to comply with the terms of a wildlife citation, the commission, after a public hearing, may suspend any license issued under this title to take wildlife until the licensing authority furnishes satisfactory evidence of compliance with the terms of the wildlife citation.

E. In carrying out this section the director shall notify the licensee, within one hundred eighty days after conviction, to appear and show cause why the license should not be revoked, suspended or denied. The notice may be served personally or by certified mail sent to the address appearing on the license.

F. The commission shall furnish to license dealers the names and addresses of persons whose licenses have been revoked or suspended, and the periods for which they have been denied the right to secure licenses.

G. The commission may use the services of the office of administrative hearings to conduct hearings and to make recommendations to the commission pursuant to this section.

H. Except for a person who takes or possesses wildlife while under permanent revocation, a person who takes wildlife in this state, or attempts to obtain a license to take wildlife, at a time when the person's privilege to do so is suspended, revoked or denied under this section is guilty of a class 1 misdemeanor.

Approved by the Governor April 6, 2015.
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# LIMITED SERVICE PHARMACIES—DISPENSING SCHEDULE II SUBSTANCES

## CHAPTER 216

## H. B. 2421

**AN ACT AMENDING SECTION 36-2525, ARIZONA REVISED STATUTES; RELATING TO LIMITED SERVICE PHARMACIES.**

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

**Section 1.** Section 36-2525, Arizona Revised Statutes, is amended to read:

**36-2525. Prescription orders; labels**

A. In addition to THE requirements ~~in~~ OF section 32-1968~~,~~ pertaining to prescription orders for prescription-only drugs, the prescription order for a controlled substance shall bear the name, address and federal registration number of the prescriber. A prescription order for a schedule II controlled substance drug other than a hospital drug order for a hospital inpatient shall contain only one drug order per prescription blank. If authorized verbally by the prescriber, the pharmacist may make changes to correct errors or omissions made by the prescriber on the following parts of a written schedule II controlled substance prescription order:

1. The date issued.
2. The strength, dosage form or quantity of drug.
3. The directions for its use.

B. The pharmacist must document on the original prescription order the changes that were made pursuant to the verbal authorization and record the time and date the authorization was granted.

C. A person WHO IS registered to dispense controlled substances under this chapter must keep and maintain prescription orders for controlled substances as follows:

1. Prescription orders for controlled substances listed in schedules I and II must be maintained in a separate prescription file for controlled substances listed in schedules I and II only.

2. Prescription orders for controlled substances listed in schedules III, IV and V must be maintained either in a separate prescription file for controlled substances listed in schedules III, IV and V only or in a form that allows them to be readily retrievable from the other prescription records of the registrant. For the purposes of this paragraph, "readily retrievable" means that, when the prescription is initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" in a font that is not less than one inch high and that the prescription is filed in the usual consecutively numbered prescription file for noncontrolled substance prescriptions. The requirement to stamp the hard copy prescription with a red "C" is waived if a registrant employs an electronic data processing system or other electronic ~~record keeping~~ RECORDKEEPING system for prescriptions that

permits identification by prescription number and retrieval of original documents by THE prescriber's name, patient's name, drug dispensed and date filled.

D. Except in emergency situations in conformity with subsection E of this section, under the conditions specified in subsections F and G of this section or when dispensed directly by a medical practitioner to an ultimate user, a controlled substance in schedule II shall not be dispensed without either the written prescription order in ink or indelible pencil or typewritten and manually signed by the medical practitioner or an electronic prescription order as prescribed by federal law or regulation. A prescription order for a schedule II substance shall not be dispensed more than ninety days after the date on which the prescription order was issued. A LIMITED SERVICE PHARMACY AS DEFINED IN SECTION 32-1901 MAY SELL AND DISPENSE A SCHEDULE II SUBSTANCE PRESCRIBED BY A MEDICAL PRACTITIONER WHO IS LOCATED IN ANOTHER STATE IF THE PRESCRIPTION WAS ISSUED TO THE PATIENT ACCORDING TO AND IN COMPLIANCE WITH THE APPLICABLE LAWS OF THE STATE OF THE PRESCRIBING MEDICAL PRACTITIONER AND FEDERAL LAW. A prescription order for a schedule II substance shall not be refilled.

E. In emergency situations, emergency quantities of schedule II substances may be dispensed on an oral prescription order of a medical practitioner. Such an emergency prescription order shall be immediately reduced to writing by the pharmacist and shall contain all the information required for schedule II drugs except for the manual signing of the order by the medical practitioner. Within seven days after authorizing an emergency oral prescription order, the prescribing medical practitioner shall cause a written prescription order manually signed for the emergency quantity prescribed to be delivered to the dispensing pharmacist or an electronic prescription order to be transmitted to the pharmacist. In addition to conforming to other requirements for prescription orders for schedule II substances, it shall indicate electronically or have written on its face "authorization for emergency dispensing" and the date of the oral order. If the prescribing medical practitioner fails to deliver such an emergency prescription order within seven days in conformance with board rules, the pharmacist shall notify the board. Failure of the pharmacist to notify the board shall void the authority conferred by this subsection to dispense without a written, manually-signed prescription order of a medical practitioner.

F. The following may be transmitted to a pharmacy by ~~facsimile~~ FAX by a patient's medical practitioner or the medical practitioner's agent:

1. A prescription order written for a schedule II controlled substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion.

2. A prescription order written for any schedule II controlled substance for a resident of a long-term care facility.

3. A prescription order written for a schedule II controlled substance for a patient enrolled in a hospice care program THAT IS certified or paid for by medicare under title XVIII or a hospice program that is licensed by this state. The medical

practitioner or the medical practitioner's agent must note on the prescription that the patient is a hospice patient.

G. A ~~facsimile~~ FAX transmitted pursuant to subsection F of this section is the original written prescription order for purposes of this section and must be maintained as required by subsection C of this section.

H. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance included in schedule III or IV that requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner or an electronic prescription order as prescribed by federal law or regulation. The prescription order shall not be filled or refilled more than six months after the date on which the prescription order was issued. A prescription order authorized to be refilled shall not be refilled more than five times. Additional quantities may only be authorized by the prescribing medical practitioner through issuance of a new prescription order that shall be treated by the pharmacist as a new and separate prescription order.

I. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance that is included in schedule V and that requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner. The prescription order may be refilled as authorized by the prescribing medical practitioner but shall not be filled or refilled more than one year after the date of issuance.

J. A controlled substance that is listed in schedule III, IV or V and that does not require a prescription order as determined under state or federal laws may be dispensed at retail by a pharmacist, a pharmacy intern or a graduate intern under the pharmacist's supervision without a prescription order to a purchaser who is at least eighteen years of age if all of the following are true:

1. It is for a legitimate medical purpose.

2. Not more than two hundred forty cubic centimeters (eight ounces) of any such controlled substance containing opium, nor more than one hundred twenty cubic centimeters (four ounces) of any other such controlled substance, nor more than forty-eight dosage units of any such controlled substance containing opium, nor more than twenty-four dosage units of any other controlled substance may be dispensed at retail to the same purchaser in any given forty-eight-hour period.

3. No more than one hundred dosage units of any single active ingredient ephedrine preparation may be sold, offered for sale, bartered~~,~~ or given away to any one person in any one thirty-day period.

4. The pharmacist, pharmacy intern or graduate intern requires every purchaser of a controlled substance under this subsection not known to that person to furnish suitable identification, including proof of age where appropriate.

5. A bound record book for dispensing controlled substances under this subsection is maintained by the pharmacist and contains the name and address of the purchaser, the name and quantity of the controlled substance purchased, the date of each purchase and the name or initials of the pharmacist, pharmacy intern or graduate intern who dispensed the substance to the purchaser. Such book shall be

maintained in conformity with the ~~record keeping~~ RECORDKEEPING requirements of section 36-2523.

K. In the absence of a law requiring a prescription for a schedule V controlled substance, the board, by rules, may require, or remove the requirement of, a prescription order for a schedule V controlled substance.

L. The label on a container of a controlled substance directly dispensed by a medical practitioner or pharmacist, not for the immediate administration to the ultimate user, such as a bed patient in a hospital, shall bear the name and address of the dispensing medical practitioner or pharmacist, the serial number, THE date of dispensing, THE name of THE prescriber, THE name of THE patient or, if an animal, the name of the owner of the animal and the species of the animal, THE directions for use and cautionary statements, if any, contained in the prescription order or required by law. If the controlled substance is included in schedule II, III or IV, the label shall bear a transfer warning to the effect: "Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed".

M. Controlled substances in schedules II, III, IV and V may be dispensed as electronically transmitted prescriptions if the prescribing medical practitioner is all of the following:

1. Properly registered by the United States drug enforcement administration.

2. Licensed in good standing in the United States jurisdiction in which the medical practitioner practices.

3. Authorized to issue such prescriptions in the jurisdiction in which the medical practitioner is licensed.

N. The board, by rule, may provide additional requirements for prescribing and dispensing controlled substances.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## PUBLIC SCHOOL TAX CREDITS—STO ADMINISTRATIVE REQUIREMENTS

### CHAPTER 217

### H. B. 2483

**AN ACT AMENDING SECTIONS 43-1089.01, 43-1503, 43-1506 AND 43-1603, ARIZONA REVISED STATUTES; RELATING TO SCHOOL TAX CREDITS.**

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

**Section 1.** Section 43-1089.01, Arizona Revised Statutes, is amended to read:

**43-1089.01. Tax credit; public school fees and contributions; definitions**

A. A credit is allowed against the taxes imposed by this title for the amount of any fees or cash contributions by a taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G during the taxable year to a public school located in this state for the support of extracurricular activities or character education programs of the public school, but not exceeding:

1. Two hundred dollars for a single individual or a head of household.

2. Three hundred dollars in taxable year 2005 for a married couple filing a joint return.

3. Four hundred dollars in taxable year 2006 and any subsequent taxable year for a married couple filing a joint return.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

C. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

D. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

E. The site council of the public school that receives contributions that are not designated for a specific purpose shall determine how the contributions are used at the school site. If a charter school does not have a site council, the principal, director or chief administrator of the charter school shall determine how the contributions that are not designated for a specific purpose are used at the school site. If at the end of a fiscal year a public school has unspent contributions that were previously designated for a specific purpose or program and that purpose or program has been discontinued or has not been used for two consecutive fiscal years, these contributions shall be considered undesignated in the following fiscal year for the purposes of this subsection.

F. A public school that receives fees or a cash contribution pursuant to subsection A of this section shall report to the department, in a form prescribed by the department, by February 28 of each year the following information:

1. The total number of fee and cash contribution payments received during the previous calendar year.

2. The total dollar amount of fees and contributions received during the previous calendar year.

3. The total dollar amount of fees and contributions spent by the school during the previous calendar year, categorized by specific extracurricular activity or character education program.

G. FOR THE PURPOSES OF THIS SECTION, A CONTRIBUTION FOR WHICH A CREDIT IS CLAIMED AND THAT IS MADE ON OR BEFORE THE

FIFTEENTH DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR MAY BE APPLIED TO EITHER THE CURRENT OR PRECEDING TAXABLE YEAR AND IS CONSIDERED TO HAVE BEEN MADE ON THE LAST DAY OF THAT TAXABLE YEAR.

~~G.~~ H. For the purposes of this section:

1. "Character education programs" means a program described in section 15-719.

2. "Extracurricular activities" means school-sponsored activities that require enrolled students to pay a fee in order to participate, including fees for:

(a) Band uniforms.

(b) Equipment or uniforms for varsity athletic activities.

(c) Scientific laboratory materials.

(d) In-state or out-of-state trips that are solely for competitive events. Extracurricular activities do not include any senior trips or events that are recreational, amusement or tourist activities.

3. "Public school" means a school that is part of a school district, a joint technical education district or a charter school.

**Sec. 2.** Section 43-1503, Arizona Revised Statutes, is amended to read:

**43-1503. Operational requirements for school tuition organizations**

A. A certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under sections 43-1183 and 43-1184 and insurance premium tax credits under sections 20-224.06 and 20-224.07 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' or custodians' choice.

B. To be eligible for certification and retain certification, the school tuition organization:

1. Must allocate at least ninety ~~per cent~~ PERCENT of its annual revenue from contributions made for the purposes of sections 20-224.06, 20-224.07, 43-1183 and 43-1184 for educational scholarships or tuition grants.

2. Shall not limit the availability of educational scholarships or tuition grants to only students of one school.

3. Must allow the department of revenue to verify that the educational scholarships and tuition grants that are issued are awarded to students who attend a qualified school.

4. Must not knowingly collude with any other school tuition organization to circumvent the limits of section 43-1504, subsection C.

5. SHALL INCLUDE ON THE ORGANIZATION'S WEBSITE, IF ONE EXISTS, THE PERCENTAGE AND TOTAL DOLLAR AMOUNT OF EDUCATIONAL SCHOLARSHIPS AND TUITION GRANTS AWARDED DURING THE PREVIOUS FISCAL YEAR TO:

(a) STUDENTS WHOSE FAMILY INCOME MEETS THE ECONOMIC ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH 1785) FOR FREE OR REDUCED-PRICE LUNCHES.

(b) STUDENTS WHOSE FAMILY INCOME EXCEEDS THE THRESHOLD PRESCRIBED BY SUBDIVISION (a) OF THIS PARAGRAPH BUT DOES NOT EXCEED ONE HUNDRED EIGHTY-FIVE PERCENT OF THE ECONOMIC ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH 1785) FOR FREE OR REDUCED-PRICE LUNCHES.

**Sec. 3.** Section 43-1506, Arizona Revised Statutes, is amended to read:

**43-1506. Annual report**

On or before September 30 of each year, each school tuition organization shall report electronically to the department, in a form prescribed by the department, the following information, separately compiled and identified for the purposes of sections 20-224.06, 20-224.07, 43-1183 and 43-1184:

1. The name, address and contact person of the school tuition organization.

2. The total number of contributions received during the previous fiscal year.

3. The total dollar amount of contributions received during the previous fiscal year.

4. The total number of children awarded educational scholarships or tuition grants during the previous fiscal year.

5. The total dollar amount of:

(a) Educational scholarships and tuition grants distributed during the previous fiscal year.

(b) Money being held for identified students' scholarships and tuition grants in future years.

6. The cost of audits pursuant to section 43-1507 paid during the fiscal year.

7. THE PERCENTAGE AND TOTAL DOLLAR AMOUNT OF EDUCATIONAL SCHOLARSHIPS AND TUITION GRANTS AWARDED DURING THE PREVIOUS FISCAL YEAR TO:

(a) STUDENTS WHOSE FAMILY INCOME MEETS THE ECONOMIC ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH 1785) FOR FREE OR REDUCED-PRICE LUNCHES.

(b) STUDENTS WHOSE FAMILY INCOME EXCEEDS THE THRESHOLD PRESCRIBED BY SUBDIVISION (a) OF THIS PARAGRAPH BUT DOES NOT EXCEED ONE HUNDRED EIGHTY-FIVE PERCENT OF THE ECONOMIC ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH 1785) FOR FREE OR REDUCED-PRICE LUNCHES.

~~7.~~ 8. For each school to which educational scholarships or tuition grants were awarded:

(a) The name and address of the school.

(b) The number of educational scholarships and tuition grants awarded during the previous fiscal year.

(c) The total dollar amount of educational scholarships and tuition grants awarded during the previous fiscal year.

~~8.~~ 9. The names, job titles and annual salaries of the three employees who receive the highest annual salaries from the school tuition organization.

**Sec. 4.** Section 43-1603, Arizona Revised Statutes, is amended to read:

**43-1603. Operational requirements for school tuition organizations; notice; qualified schools**

A. A certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under sections 43-1089 and 43-1089.03 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' choice.

B. To be eligible for certification and retain certification, the school tuition organization:

1. Must allocate at least ninety ~~per cent~~ PERCENT of its annual revenue from contributions made for the purposes of sections 43-1089 and 43-1089.03 for educational scholarships or tuition grants.

2. Shall not limit the availability of educational scholarships or tuition grants to only students of one school.

3. May allow donors to recommend student beneficiaries, but shall not award, designate or reserve scholarships solely on the basis of donor recommendations.

4. Shall not allow donors to designate student beneficiaries as a condition of any contribution to the organization, or facilitate, encourage or knowingly permit the exchange of beneficiary student designations in violation of section 43-1089, subsection F.

5. SHALL INCLUDE ON THE ORGANIZATION'S WEBSITE, IF ONE EXISTS, THE PERCENTAGE AND TOTAL DOLLAR AMOUNT OF EDUCATIONAL SCHOLARSHIPS AND TUITION GRANTS AWARDED DURING THE PREVIOUS FISCAL YEAR TO:

(a) STUDENTS WHOSE FAMILY INCOME MEETS THE ECONOMIC ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH 1785) FOR FREE OR REDUCED-PRICE LUNCHES.

(b) STUDENTS WHOSE FAMILY INCOME EXCEEDS THE THRESHOLD PRESCRIBED BY SUBDIVISION (a) OF THIS PARAGRAPH BUT DOES NOT EXCEED ONE HUNDRED EIGHTY-FIVE PERCENT OF THE ECONOMIC ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH 1785) FOR FREE OR REDUCED-PRICE LUNCHES.

C. A school tuition organization shall include the following notice in any printed materials soliciting donations, in applications for scholarships and on its website, IF ONE EXISTS:

Notice

A school tuition organization cannot award, restrict or reserve scholarships solely on the basis of a donor's recommendation.

A taxpayer may not claim a tax credit if the taxpayer agrees to swap donations with another taxpayer to benefit either taxpayer's own dependent.

D. In evaluating applications and awarding, designating or reserving scholarships, a school tuition organization:

1. Shall not award, designate or reserve a scholarship solely on the recommendation of any person contributing money to the organization, but may consider the recommendation among other factors.

2. Shall consider the financial need of applicants.

E. A taxpayer's contribution to a school tuition organization that exceeds the amount of the credit allowed by section 43-1089 but does not exceed the amount of the credit allowed by section 43-1089.03 is considered a contribution pursuant to section 43-1089.03. A school tuition organization must use at least ninety ~~per cent~~ PERCENT of contributions made pursuant to section 43-1089.03 for educational scholarships or tuition grants for students to whom any of the following applies:

1. Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 or attended a preschool program that offers services to students with disabilities at a governmental school for at least ninety days of the prior fiscal year and transferred from a governmental school to a qualified school.

2. Enrolls in a qualified school in a kindergarten program or a preschool program that offers services to students with disabilities.

3. Is the dependent of a member of the armed forces of the United States who is stationed in this state pursuant to military orders.

4. Received an educational scholarship or tuition grant under paragraph 1, 2 or 3 of this subsection or under chapter 15 of this title if the student continues to attend a qualified school in a subsequent year.

F. In awarding educational scholarships or tuition grants from contributions made pursuant to section 43-1089.03, a school tuition organization shall give priority to students and siblings of students on a waiting list for scholarships if the school tuition organization maintains a waiting list.

G. If an individual educational scholarship or tuition grant exceeds the school's tuition, the amount in excess shall be returned to the school tuition organization that made the award or grant. The school tuition organization may allocate the returned monies as a multiyear award for that student and report the award pursuant to section 43-1604, paragraph 5, subdivision (b) or may allocate the returned monies for educational scholarships or tuition grants for other students.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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# APPOINTMENT OF STATE OFFICERS—TERMS

## CHAPTER 218

## H. B. 2526

## AN ACT AMENDING SECTIONS 38-291, 38-295 AND 41-1051, ARIZONA REVISED STATUTES; RELATING TO STATE OFFICERS.

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

**Section 1.** Section 38-291, Arizona Revised Statutes, is amended to read:

**38-291. Vacancy defined**

An office shall be deemed vacant from and after the occurrence of any of the following events before the expiration of a term of office:

1. Death of the person holding the office.
2. Insanity of the person holding the office, when judicially determined.
3. Resignation of the person holding the office and the lawful acceptance of the resignation.
4. Removal from office of the person holding the office, INCLUDING THE REMOVAL OF A BOARD OR COMMISSION MEMBER BY THE APPOINTING POWER BEFORE THE EXPIRATION OF THE PERSON'S TERM OF OFFICE.
5. If the office is elective, the person holding the office ceasing to be a resident of the state, or, if the office is local, or from a legislative or congressional district, the person holding the office ceasing to be a resident of the district, county, city, town or precinct for which ~~he~~ THE PERSON was elected, or within which the duties of ~~his~~ THE PERSON'S office are required to be discharged.
6. Absence from the state by the person holding the office, without permission of the legislature, beyond the period of three consecutive months.
7. The person holding the office ceasing to discharge the duties of office for the period of three consecutive months.
8. Conviction of the person holding the office of a felony or an offense involving a violation of ~~his~~ THE PERSON'S official duties.
9. Failure of the person elected or appointed to ~~such~~ THE office to file ~~his~~ THE PERSON'S official oath within the time prescribed by law.
10. A decision of a competent tribunal declaring void the election or appointment of the person elected or appointed to the office.
11. Failure of a person to be elected or appointed to the office.
12. A violation of section 38-296 by the person holding the office.

**Sec. 2.** Section 38-295, Arizona Revised Statutes, is amended to read:

**38-295. Term of office; discharge of official duties after expiration of term; appointment to fill unexpired term**

A. UNLESS OTHERWISE SPECIFIED BY LAW, every officer ~~whose term is not fixed by law shall hold~~ HOLDS office at the pleasure of the appointing power.

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

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

**Sec. 3.** Section 41-1051, Arizona Revised Statutes, is amended to read:

**41-1051. Governor's regulatory review council; membership; terms; compensation; powers**

A. ~~A~~ THE governor's regulatory review council is established ~~that consists~~ CONSISTING of six members who are appointed by the governor pursuant to section 38-211 AND WHO ARE SUBJECT TO SECTIONS 38-291 AND 38-295~~,~~ and the director of the department of administration or the assistant director of the department of administration who is responsible for administering the council. The director or assistant director is an ex officio member and chairperson of the council. The council shall elect a vice-chairperson to serve as chairperson in the chairperson's absence. The governor shall appoint at least one member who represents the public interest, at least one member who represents the business community, AT LEAST ONE MEMBER WHO IS A SMALL BUSINESS OWNER, one member from a list of three persons who are not legislators submitted by the president of the senate and one member from a list of three persons who are not legislators submitted by the speaker of the house of representatives. At least one member of the council shall be an attorney licensed to practice law in this state. The governor shall appoint the members of the council for staggered terms of three years. A vacancy occurring during the term of office of any member shall be filled by appointment by the governor for the unexpired portion of the term in the same manner as provided in this section.

B. The council shall meet at least once a month at a time and place set by the chairperson and at other times and places as the chairperson deems necessary.

C. Members of the council are eligible to receive compensation in an amount of two hundred dollars for each day on which the council meets and reimbursement of expenses pursuant to title 38, chapter 4, article 2.

D. The chairperson, subject to chapter 4, article 4 and, as applicable, articles 5 and 6 of this title, shall employ, determine the conditions of employment of and specify the duties of administrative, secretarial and clerical employees as the chairperson deems necessary.

E. The council may make rules pursuant to this chapter to carry out the purposes of this chapter.

F. The council shall make a list of agency rules approved or returned pursuant to sections 41-1027 and 41-1052 and section 41-1056, subsection C for the previous twelve-month period available to the public on request and on the council's website.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

# VACATING CONVICTION—SEX TRAFFICKING VICTIM

## CHAPTER 219

## H. B. 2553

**AN ACT AMENDING TITLE 13, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-907.01; RELATING TO VACATING CONVICTIONS.**

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

**Section 1.** Title 13, chapter 9, Arizona Revised Statutes, is amended by adding section 13-907.01, to read:

**13-907.01. Vacating the conviction of a sex trafficking victim; requirements**

A. A PERSON WHO WAS CONVICTED OF A VIOLATION OF SECTION 13-3214 COMMITTED PRIOR TO JULY 24, 2014 MAY APPLY TO THE COURT THAT PRONOUNCED SENTENCE TO VACATE THE PERSON'S CONVICTION. THE COURT SHALL GRANT THE APPLICATION AND VACATE THE CONVICTION IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE PERSON'S PARTICIPATION IN THE OFFENSE WAS A DIRECT RESULT OF BEING A VICTIM OF SEX TRAFFICKING PURSUANT TO SECTION 13-1307.

B. IF THE PROSECUTOR DOES NOT OPPOSE THE APPLICATION, THE COURT MAY GRANT THE APPLICATION AND VACATE THE CONVICTION WITHOUT A HEARING.

C. IF THE PROSECUTOR OPPOSES THE APPLICATION, THE COURT SHALL HOLD A HEARING ON THE APPLICATION.

D. ON VACATING THE CONVICTION, THE COURT SHALL:

1. RELEASE THE APPLICANT FROM ALL PENALTIES AND DISABILITIES RESULTING FROM THE CONVICTION.

2. ENTER AN ORDER THAT A NOTATION BE MADE IN THE COURT FILE AND IN LAW ENFORCEMENT AND PROSECUTION RECORDS THAT THE CONVICTION HAS BEEN VACATED AND THE PERSON WAS THE VICTIM OF A CRIME.

3. TRANSMIT THE ORDER VACATING THE CONVICTION TO THE ARRESTING AGENCY, THE PROSECUTOR AND THE DEPARTMENT OF PUBLIC SAFETY.

E. A CONVICTION VACATED PURSUANT TO THIS SECTION DOES NOT QUALIFY AS A HISTORICAL PRIOR AND CANNOT BE ALLEGED FOR ANY PURPOSE PURSUANT TO SECTION 13-703.

F. EXCEPT ON AN APPLICATION FOR EMPLOYMENT THAT REQUIRES A FINGERPRINT CLEARANCE CARD PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1, A PERSON WHOSE CONVICTION IS VACATED

UNDER THIS SECTION MAY IN ALL INSTANCES STATE THAT THE PERSON HAS NEVER BEEN ARRESTED FOR, CHARGED WITH OR CONVICTED OF THE CRIME THAT IS THE SUBJECT OF THE CONVICTION, INCLUDING IN RESPONSE TO QUESTIONS ON EMPLOYMENT, HOUSING, FINANCIAL AID OR LOAN APPLICATIONS.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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# INSURANCE PREMIUM TAX RATE REDUCTION

## CHAPTER 220

## H. B. 2568

**AN ACT AMENDING SECTIONS 20-224, 20-224.02 AND 20-416, ARIZONA REVISED STATUTES; RELATING TO INSURANCE PREMIUM TAX.**

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

**Section 1.** Section 20-224, Arizona Revised Statutes, is amended to read:

**20-224. Premium tax**

A. On or before March 1 of each year each authorized domestic insurer, each other insurer and each formerly authorized insurer referred to in section 20-206, subsection B shall file with the director a report in a form 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 this state, 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 and 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. The report shall separately indicate the total direct fire insurance premium income received from property located in the incorporated cities and towns certified by the state fire marshal pursuant to section 9-951, subsection B, as procuring the services of a private fire company.

B. Coincident with the filing of such tax report each insurer shall pay to the director for deposit, pursuant to sections 35-146 and 35-147, a tax ~~of 2.0 per cent of~~ ON such net premiums~~, except that the tax on fire insurance premiums on property located in an incorporated city or town certified by the state fire marshal pursuant to section 9-951, subsection B, as procuring the services of a private fire company is .66 per cent, the tax on all other fire insurance premiums is 2.2 per cent and the tax on health care service and disability insurance premiums is as prescribed under sections 20-837, 20-1010 and 20-1060~~ AT THE FOLLOWING RATES:

1. FOR FIRE INSURANCE:

(a) ON PROPERTY LOCATED IN A CITY OR TOWN CERTIFIED BY THE STATE FIRE MARSHAL PURSUANT TO SECTION 9-951, SUBSECTION B, AS PROCURING THE SERVICES OF A PRIVATE FIRE COMPANY, .66 PERCENT.

(b) ON ALL OTHER PROPERTY, 2.2 PERCENT.

2. FOR DISABILITY INSURANCE, 2.0 PERCENT.

3. FOR HEALTH CARE SERVICE PLANS, THE RATES PRESCRIBED UNDER SECTIONS 20-837, 20-1010 AND 20-1060.

4. FOR OTHER INSURANCE:

(a) FOR PREMIUMS RECEIVED IN CALENDAR YEAR 2016, 1.99 PERCENT.

(b) FOR PREMIUMS RECEIVED IN CALENDAR YEAR 2017, 1.98 PERCENT.

(c) FOR PREMIUMS RECEIVED IN CALENDAR YEAR 2018, 1.95 PERCENT.

(d) FOR PREMIUMS RECEIVED IN CALENDAR YEAR 2019, 1.92 PERCENT.

(e) FOR PREMIUMS RECEIVED IN CALENDAR YEAR 2020, 1.89 PERCENT.

(f) FOR PREMIUMS RECEIVED IN CALENDAR YEAR 2021, 1.86 PERCENT.

(g) FOR PREMIUMS RECEIVED IN CALENDAR YEAR 2022, 1.83 PERCENT.

(h) FOR PREMIUMS RECEIVED IN CALENDAR YEAR 2023, 1.80 PERCENT.

(i) FOR PREMIUMS RECEIVED IN CALENDAR YEAR 2024, 1.77 PERCENT.

(j) FOR PREMIUMS RECEIVED IN CALENDAR YEAR 2025, 1.74 PERCENT.

(k) FOR PREMIUMS RECEIVED IN CALENDAR YEAR 2026, 1.70 PERCENT AND FOR EACH SUBSEQUENT CALENDAR YEAR, 1.70 PERCENT.

C. Any payments of tax pursuant to subsection ~~E~~ F of this section shall be deducted from the tax payable pursuant to ~~this~~ subsection B OF THIS SECTION. Each insurer shall reflect the cost savings attributable to the lower tax in fire insurance premiums charged on property located in an incorporated city or town

certified by the state fire marshal pursuant to section 9-951, subsection B, as procuring the services of a private fire company. No insurer shall be liable to the state or to any other person, or shall be subject to regulatory action, relating to the calculation or submittal of fire insurance premium taxes based in good faith ~~upon~~ ON the state fire marshal's certification.

~~C.~~ D. Eighty-five ~~per cent~~ PERCENT of the tax paid under this section 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 9-951, 9-952 and 9-972, except that all of the tax so allocated to a fund of a municipality or fire district that has no volunteer ~~fire fighters~~ FIREFIGHTERS or pension obligations to volunteer ~~fire fighters~~ FIREFIGHTERS shall be appropriated to the account of the municipality or fire district in the public safety personnel retirement system and all of the tax so allocated to a fund of a municipality or fire district that has both full-time paid ~~fire fighters~~ FIREFIGHTERS and volunteer ~~fire fighters~~ FIREFIGHTERS or pension obligations to full-time paid ~~fire fighters~~ FIREFIGHTERS or volunteer ~~fire fighters~~ FIREFIGHTERS shall be appropriated to the account of the municipality or fire district in the public safety personnel retirement system where it shall be reallocated by actuarial procedures proportionately to the municipality or fire district for the account of the full-time paid ~~fire fighters~~ FIREFIGHTERS and to the municipality or fire district for the account of the volunteer ~~fire fighters~~ FIREFIGHTERS. A municipality or fire district shall provide to the public safety personnel retirement system all information that the system deems necessary to perform the reallocation prescribed by this section. A full accounting of such reallocation shall be forwarded to the municipality or fire district and their local boards.

~~D.~~ E. This section shall not apply to title insurance, and such insurers shall be taxed as provided in section 20-1566.

~~E.~~ F. Any insurer that paid or is required to pay a tax of two thousand dollars or more on net premiums received during the preceding calendar year, pursuant to subsection B of this section and sections 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07, shall file on or before the fifteenth day of each month from March through August a report for that month, on a form prescribed by the director, accompanied by a payment in an amount equal to fifteen ~~per cent~~ PERCENT of the amount paid or required to be paid during the preceding calendar year pursuant to subsection B of this section and sections 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The payments are due and payable on or before the fifteenth day of each month and shall be made to the director for deposit, pursuant to sections 35-146 and 35-147.

~~F.~~ G. Except for the tax paid on fire insurance premiums pursuant to subsections B and ~~C~~ D of this section, an insurer may claim a premium tax credit if the insurer qualifies for a credit pursuant to section 20-224.03, 20-224.04, 20-224.06 or 20-224.07.

~~G.~~ H. On receipt of a properly documented claim, a refund shall be provided to an insurer from available funds for the excess amount of any fire insurance premium improperly paid by the insurer. The insurer shall reflect the refund in the

fire insurance premiums charged on the property that was charged the excessive amount.

I. FOR THE PURPOSES OF:

1. SUBSECTION B OF THIS SECTION, FIRE INSURANCE IS ONE HUNDRED PERCENT OF FIRE LINES, FORTY PERCENT OF COMMERCIAL MULTIPLE PERIL LINES, THIRTY-FIVE PERCENT OF HOMEOWNERS' MULTIPLE PERIL LINES, TWENTY-FIVE PERCENT OF MULTIPLE PERIL LINES AND TWENTY PERCENT OF ALLIED LINES.

2. SECTION 20-416, FIRE INSURANCE IS EIGHTY-FIVE PERCENT OF FIRE AND ALLIED LINES.

**Sec. 2.** Section 20-224.02, Arizona Revised Statutes, is amended to read:

**20-224.02. Credit for overpayment of tax**

If an overpayment of the taxes imposed by sections 20-224, 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07 results from payments made pursuant to the method prescribed in section 20-224, subsection ~~E~~ F, the director shall within three months after the due date refund the overpayment without interest.

**Sec. 3.** Section 20-416, Arizona Revised Statutes, is amended to read:

**20-416. Tax on surplus lines**

A. On or before the due date prescribed in section 20-415, each surplus lines 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, examination fees and stamping fees collected pursuant to section 20-167, on surplus lines insurance covering Arizona single-state risks subject to tax transacted by the broker during the preceding reporting period, as shown by the statement of surplus lines business filed with the director.

B. On or before the due date prescribed in section 20-415, each surplus lines broker shall remit to the clearinghouse responsible for administering the compact or multistate agreement entered into by the director pursuant to section 20-416.01 a tax on the premiums, exclusive of the sums collected to cover federal and state taxes, examination fees and stamping fees collected pursuant to section 20-167, on surplus lines insurance covering multistate risks subject to tax for insureds whose home state is Arizona transacted by the broker during the preceding reporting period, as shown by the statement of surplus lines business filed with the clearinghouse.

C. The tax required by subsections A and B of this section is at the rate of three ~~per cent~~ PERCENT of the gross premiums, including policy fees other than stamping fees prescribed in section 20-167, and shall not be applied to premiums returned on account of cancellation or reduction of premium and shall not be applied to gross premiums and returned premiums on business exempted from surplus lines provisions under section 20-420. The surplus lines broker shall collect the tax from the insured in addition to the full amount of the gross premium charged by the insurer for the insurance. The surplus lines broker shall return the tax on any portion of the premium unearned at the termination of the insurance policy to the policyholder. The surplus lines broker is prohibited from absorbing the tax and from rebating, for any reason, any part of the tax or commission.

D. Notwithstanding section 20-415 and subsection A of this section, if a surplus lines broker fails to timely renew the license held by the broker to transact surplus lines insurance and the broker's license is revoked by order of the director or the director accepts the consent to voluntary termination of the license, the broker shall file a statement of surplus lines business from the end of the last reporting period covered by the statement filed by the broker through the date the license was last valid and shall remit all outstanding surplus lines taxes to the director. The broker shall file the statement of surplus lines business and shall remit any outstanding surplus lines taxes within thirty days after the nonrenewal, revocation or voluntary termination of the license.

E. Except as provided in subsection F of this section, for the purpose of determining the surplus lines tax, the total premium charged for surplus lines 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 the 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 the insurance applies, bears to the total premium so computed in all the states or countries.

F. The surplus lines tax on insurance on motor transit operations conducted between this and other states is payable on the total premium charged on all surplus lines insurance less the portion of the premium determined as provided in subsection E of this section charged for operations in other states taxing the premium of an insured maintaining its headquarters office in this state or the premium for operations outside of this state of an insured maintaining its headquarters office outside of this state and a branch office in this state.

G. Such tax shall be apportioned in the manner provided by section 20-224, subsection ~~C~~ D.

H. All surplus lines taxes collected on Arizona single-state risks pursuant to this section and section 20-416.01 are monies that belong to this state and constitute a debt to this state. All surplus lines tax on coverage procured for an insured whose home state is Arizona that would otherwise be payable to another state as the other state's portion of a multistate risk shall constitute monies of this state and a debt to this state if the other state has not entered into a compact or multistate agreement to which Arizona is a party to effectuate the nonadmitted and reinsurance reform act of 2010 (15 United States Code section 8201).

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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# PROPERTY TAX OVERSIGHT COMMISSION—TAX LEVY REVIEW—NOTICE

## CHAPTER 221

## H. B. 2615

**AN ACT AMENDING SECTIONS 35-501, 35-502, 35-504, 41-4604 AND 42-17003, ARIZONA REVISED STATUTES; RELATING TO PUBLIC FINANCE.**

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

**Section 1.** Section 35-501, Arizona Revised Statutes, is amended to read:

**35-501. State treasurer records of bond issues; debt level analysis and report**

A. By June 30 of each year, the ~~department of revenue~~ STATE TREASURER shall ascertain and record in its office all issues of bonds, certificates of participation or other securities issued for a term in excess of one year by the state or a county, city, town, school district, irrigation district, other political subdivision or municipal property corporation within the state. The record shall show the date of issuance, amount, denomination, rates of interest, maturity, dates of the bonds, certificates of participation or securities and other information the ~~department~~ STATE TREASURER requires.

B. The reports relating to the issuance of bonds and securities required under subsection A shall be filed with the ~~department of revenue~~ STATE TREASURER within sixty days of the issuance and shall contain the following information:

1. The par amount of the bonds or securities.
2. The interest rate, by maturity of the bonds or securities.
3. The repayment schedule, showing both principal and interest for the issue.
4. The sources of repayment.
5. The original issue price and any premium or discount, by maturity, for the issue.
6. A detailed listing of all issuance costs, regardless of source of payment, including underwriter's compensation, bond counsel fees, financial advisor fees, verification agent fees, placement agent fees, investment securities brokerage fees, registrar fees, trustee fees, credit enhancement fees, rating agency fees, printing costs, registration fees, transfer and recording fees and any other costs directly or indirectly earned or paid as a result of the issuance of the bonds or securities, as determined by the ~~department~~ STATE TREASURER.
7. The total amount of parity bonds or securities outstanding, including the issue, at the time of issuance.
8. The total amount of any bonds or securities, senior or subordinate to the issue outstanding at the time of issuance.
9. The amount of any constitutional or statutory limitation on the issuance of bonds or securities of the type issued.

10. The remaining amount of bonds or securities that may be issued within the limitation determined in paragraph 9.

11. The amount of any constitutional or statutory voter authorization applicable to the issuance of bonds or securities of the type issued.

12. The remaining amount of bonds or securities that may be issued within the authorization determined in paragraph 9.

13. Any other similar or related information the ~~department~~ STATE TREASURER may determine.

C. By December 15 of each year, the ~~department of revenue~~ STATE TREASURER shall provide to the governor, the president of the senate and the speaker of the house of representatives a report of the information collected pursuant to subsection A. This report shall include an analysis of the outstanding indebtedness of each jurisdiction and the relationship of the outstanding indebtedness to the appropriate debt limitations in article IX, sections 5, 8 and 8.1, Constitution of Arizona.

D. If as a result of the analysis conducted pursuant to subsection C the ~~department of revenue~~ STATE TREASURER determines that the outstanding indebtedness of a jurisdiction is in excess of the debt limitation prescribed by the Constitution or statutes of Arizona, the ~~department of revenue~~ STATE TREASURER shall notify the governing body or board of the jurisdiction, the governor, the president of the senate, the speaker of the house of representatives and, in the case of a school district, the superintendent of public instruction.

E. The ~~director of the department of revenue~~ STATE TREASURER shall notify the person or governing body responsible for complying with this section of a failure to comply in whole or in part with the requirements of this section. Any person or governing body so notified shall comply within thirty days. Any county, city, town, school district, irrigation district or other political subdivision of the state that fails to comply fully with the provisions of this article shall not issue any additional bonds or other securities.

**Sec. 2.** Section 35-502, Arizona Revised Statutes, is amended to read:

**35-502. Reports to state treasurer; omission or refusal to comply; classification**

A. ~~The state treasurer and~~ The governing body of the county, city, town, district or other political subdivision shall make such reports to the ~~department of revenue~~ STATE TREASURER as the ~~department~~ TREASURER requires relating to the issuance of the bonds and securities provided by section 35-501, and shall notify the ~~department~~ TREASURER of the retirement of any such bonds, and of all payments of interest thereon, immediately upon retirement of the bond or payment of interest.

B. Any person or member of any governing body knowingly omitting or refusing to comply with the orders of the ~~department~~ STATE TREASURER issued pursuant to this article is guilty of a class 2 misdemeanor.

**Sec. 3.** Section 35-504, Arizona Revised Statutes, is amended to read:

**35-504. Debt oversight commission; membership; compensation; duties; commission termination**

A. In order to provide more accurate and meaningful information to the public regarding bond issues, the debt oversight commission is established in the ~~department of revenue~~ OFFICE OF THE STATE TREASURER.

B. The commission consists of the ~~director of the department of revenue~~ STATE TREASURER, who serves as chairman, and four private citizens knowledgeable in the area of finance or bond financing, one appointed by the governor and three appointed jointly by the president of the senate and the speaker of the house of representatives. The terms of appointive members are three years.

C. An appointment to fill a vacancy on the commission resulting from other than expiration of term is for the unexpired portion of the term.

D. The ~~department of revenue~~ OFFICE OF THE STATE TREASURER shall provide secretarial and staff support services to the commission.

E. The private citizen members of the commission are eligible to receive fifty dollars per day for time spent in the performance of their duties. These monies shall be paid from monies appropriated to the ~~department of revenue~~ STATE TREASURER.

F. The commission shall meet at least annually and, in addition, at the call of the chairman. The commission shall meet at such times and places as convenient or necessary to conduct its affairs and shall render its findings, reports and recommendations in writing to the governor~~, to the director of the department of revenue~~ and to the legislature.

G. The commission shall:

1. Review the information provided to the ~~department~~ STATE TREASURER as prescribed in section 35-501.

2. Ascertain the bonded indebtedness of all taxing jurisdictions and the relationship to the appropriate debt limitation.

H. The commission established by this section ends on July 1, 2026 pursuant to section 41-3103.

**Sec. 4.** Section 41-4604, Arizona Revised Statutes, is amended to read:

**41-4604. Debt reporting by state and local government**

A. State government and all local governments shall report to the ~~department of revenue~~ STATE TREASURER all incurred debt, including date of issue, purpose, original amount, current balance, interest paid to date and principal and interest paid in the latest full fiscal year according to a schedule determined by the ~~department of revenue~~ TREASURER.

B. The ~~department of revenue~~ STATE TREASURER shall maintain an online accessible and searchable database and, subject to approval by the joint legislative budget committee, may require additional information not listed in this section.

**Sec. 5.** Section 42-17003, Arizona Revised Statutes, is amended to read:

**42-17003. Duties; notification**

A. The commission shall:

1. Establish procedures for deriving the information required by sections 15-905.01, 15-1461.01 and 42-17107, ~~and~~ article 2 of this chapter AND PARAGRAPH 3 OF THIS SUBSECTION.

2. Review the primary property tax levy of each political subdivision to determine violations of sections 15-905.01, 15-1461.01 and 42-17107 and article 2 of this chapter.

3. REVIEW THE SECONDARY PROPERTY TAX LEVY OF EACH COUNTY, CITY, TOWN AND COMMUNITY COLLEGE DISTRICT TO IDENTIFY VIOLATIONS OF CONSTITUTIONAL AND STATUTORY REQUIREMENTS.

~~3.~~ 4. Review the secondary property tax levy of each fire district to determine violations of section 48-807.

~~4.~~ 5. Review for accuracy the tax levy and rate as prescribed by section 15-992.

~~5.~~ 6. Review the reports made by the department concerning valuation accuracy.

~~6.~~ 7. Hold hearings to determine the adequacy of compliance with articles 2 and 3 of this chapter.

~~7.~~ 8. Upon the request of a county, city, town or community college district, hold hearings as prescribed in section 42-17004 regarding the calculation of the maximum allowable primary property tax levy limits prescribed in section 42-17051, subsection A.

B. If the commission determines that a political subdivision has violated section 15-905.01, 15-1461.01 or 42-17107 or article 2 of this chapter, that a fire district has violated section 48-807 or that a school district incorrectly calculated the tax levy and rate as prescribed by section 15-992, ~~then~~ on or before September 15 the commission shall notify the political subdivision or district, and the county board of supervisors, in writing, of:

1. The nature of the violation.

2. The necessary adjustment to:

(a) The primary property tax levy and tax rate to comply with section 15-905.01, 15-1461.01 or 42-17107 or article 2 of this chapter.

(b) The secondary property tax levy and tax rate to comply with section 48-807.

(c) For school districts, the tax levy and rate to comply with section 15-992.

C. IF THE COMMISSION DETERMINES THAT A COUNTY, CITY, TOWN OR COMMUNITY COLLEGE DISTRICT HAS LEVIED A SECONDARY PROPERTY TAX IN VIOLATION OF CONSTITUTIONAL OR STATUTORY LAW, ON OR BEFORE DECEMBER 31 THE COMMISSION SHALL NOTIFY IN WRITING THE AFFECTED POLITICAL SUBDIVISION, THE COUNTY BOARD OF SUPERVISORS, THE COUNTY ATTORNEY AND THE ATTORNEY GENERAL OF THE VIOLATION.

**Sec. 6. Effective date**

Section 42-17003, Arizona Revised Statutes, as amended by this act, is effective from and after December 31, 2015.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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# LABORATORY TESTING WITHOUT A HEALTH CARE PROVIDER'S ORDER

## CHAPTER 222

## H. B. 2645

**AN ACT AMENDING SECTION 36-466, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4.1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-468; RELATING TO CLINICAL LABORATORIES.**

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

**Section 1.** Section 36-466, Arizona Revised Statutes, is amended to read:

**36-466. Advisory committee on clinical laboratories; membership; duties**

A. The advisory committee on clinical laboratories is established consisting of the following members:

1. Four physicians who are licensed pursuant to title 32, chapter 13 or 17 and who are actively engaged in the practice of medicine. The director shall appoint these members.

2. Two physicians who are licensed pursuant to title 32, chapter 13 or 17 and who are employed by a clinical laboratory as pathologists. The director shall appoint these members.

3. The director or the director's designee.

B. The committee shall:

1. Annually select a chairperson and vice-chairperson from among its members.

~~2. Advise the department in developing a list of direct access tests. The department shall make the list of direct access tests available to the public.~~

~~3.~~ 2. Advise the department on the use and renewal of standing orders.

~~4.~~ 3. Conduct regular meetings at the call of the chairperson or a majority of the committee members.

~~C. The department's designation of a test as a direct access test does not require that the test be covered by a health insurance plan or product pursuant to title 20 or by any program administered by the Arizona health care cost containment system administration pursuant to chapter 29 of this title.~~

~~D.~~ C. The department shall adopt rules based on the recommendations of the advisory committee.

~~E.~~ D. Committee members are not eligible to receive compensation or reimbursement of expenses.

~~F.~~ E. The department shall provide necessary staff services to the committee.

~~G.~~ F. The appointed committee members serve three-year terms.

~~H. For the purposes of this section, "direct access tests" means tests that may be obtained without a physician referral including tests that have been granted waived status under the federal clinical laboratory improvement amendments of 1988 (P.L. 100-518). Direct access tests do not include tests that are required to be reported to this state for public health and safety reasons.~~

**Sec. 2.** Title 36, chapter 4.1, article 2, Arizona Revised Statutes, is amended by adding section 36-468, to read:

**36-468. Laboratory testing without health care provider's order; results; report; duty of care; liability; definition**

A. A PERSON MAY OBTAIN ANY LABORATORY TEST FROM A LICENSED CLINICAL LABORATORY ON A DIRECT ACCESS BASIS WITHOUT A HEALTH CARE PROVIDER'S REQUEST OR WRITTEN AUTHORIZATION IF THE LABORATORY OFFERS THAT LABORATORY TEST TO THE PUBLIC ON A DIRECT ACCESS BASIS WITHOUT A HEALTH CARE PROVIDER'S REQUEST OR WRITTEN AUTHORIZATION.

B. IF A LABORATORY TEST OF A PERSON IS CONDUCTED BY OR UNDER THE SUPERVISION OF A PERSON OTHER THAN A HEALTH CARE PROVIDER AND NOT AT THE REQUEST OR WITH THE WRITTEN AUTHORIZATION OF A HEALTH CARE PROVIDER, ANY REPORT OF THE TEST RESULTS SHALL BE PROVIDED BY THE PERSON CONDUCTING THE TEST TO THE PERSON WHO WAS THE SUBJECT OF THE TEST. THE REPORT SHALL STATE IN BOLD TYPE THAT IT IS THE RESPONSIBILITY OF THE PERSON WHO WAS TESTED TO ARRANGE WITH THE PERSON'S HEALTH CARE PROVIDER FOR CONSULTATION AND INTERPRETATION OF THE TEST RESULTS.

C. A HEALTH CARE PROVIDER'S DUTY OF CARE TO A PATIENT DOES NOT INCLUDE ANY RESPONSIBILITY TO REVIEW OR ACT ON THE LABORATORY TEST RESULTS OF A PATIENT IF THE HEALTH CARE PROVIDER DID NOT REQUEST OR AUTHORIZE THE LABORATORY TEST. A HEALTH CARE PROVIDER IS NOT SUBJECT TO LIABILITY OR DISCIPLINARY ACTIONS FOR THE FAILURE TO REVIEW OR ACT ON THE RESULTS OF A LABORATORY TEST OF ANY PATIENT IF THE HEALTH

CARE PROVIDER DID NOT REQUEST OR AUTHORIZE THE LABORATORY TEST.

D. A CLINICAL LABORATORY MAY NOT SUBMIT A CLAIM FOR REIMBURSEMENT FROM A THIRD-PARTY PAYOR FOR ANY LABORATORY TEST CONDUCTED WITHOUT A HEALTH CARE PROVIDER'S REQUEST OR WRITTEN AUTHORIZATION.

E. THIS SECTION DOES NOT REQUIRE THAT A LABORATORY TEST BE COVERED BY A HEALTH INSURANCE PLAN OR PRODUCT PURSUANT TO TITLE 20 OR BY ANY PROGRAM ADMINISTERED BY THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION PURSUANT TO CHAPTER 29 OF THIS TITLE.

F. FOR THE PURPOSES OF THIS SECTION, "HEALTH CARE PROVIDER" MEANS A PERSON WHO IS LICENSED PURSUANT TO TITLE 32 AND WHO IS AUTHORIZED TO ORDER LABORATORY TESTING.

**Sec. 3. Rulemaking; exemption**

The department of health services shall amend or adopt rules to address the changes in direct access laboratory testing as enacted by this act. For this purpose, the department is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## DOMESTIC WATER IMPROVEMENT DISTRICTS—BOARD REORGANIZATION

### CHAPTER 223

### H. B. 2660

### AN ACT AMENDING SECTION 48-1012, ARIZONA REVISED STATUTES; RELATING TO DOMESTIC WATER IMPROVEMENT DISTRICTS.

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

**Section 1.** Section 48-1012, Arizona Revised Statutes, is amended to read:

**48-1012. Elected board of directors; initial members; qualifications; terms; filling vacancy; chairperson; reorganization; qualifications of electors**

A. At the option of the board of supervisors after presentation of a petition requesting the establishment of a domestic water improvement district or a domestic wastewater improvement district, or ~~upon~~ ON the submission of a separate petition following the establishment of an improvement district as prescribed by section 48-903, and subsequent to the approval of the county board of supervisors, the

district shall be governed by an elected board of directors. The elected board shall consist of the number of members, not less than three, specified in the petition for establishment of the district. The first directors of such board shall be selected by the board of supervisors at the time the district is established. Members of the board of directors shall be qualified electors of the district and, after the members first appointed by the board of supervisors, shall be elected by the qualified electors of the district.

B. Immediately after the selection and qualification of the first directors of the board, the directors shall meet and divide themselves by lot into two classes as nearly equal in number as possible. Directors of the first class shall serve for a term of four years, and directors of the second class shall serve for a term of two years. Every director shall continue to discharge the duties of office until a successor is appointed and qualifies. Thereafter, at each regular election, one director for each expired term shall be elected and shall hold office for a term of four years, and until a successor is elected and qualifies. The dates of elections and of expiration of terms shall be specified in the petition for establishment of the district.

C. If a vacancy in the district board occurs due to death or disability or any other cause other than resignation, the board of directors of the district shall appoint a qualified elector of the district to fill the office for the remaining portion of that term. If there is a vacancy in the district board due to resignation, the district board shall accept the resignation and appoint a qualified elector to fill the remaining portion of that term of office. If the district board lacks a quorum for any reason for more than thirty days, the county board of supervisors may revoke the authority of the appointed or elected board of directors pursuant to section 48-1016.

D. The board of directors shall annually elect a chairperson from among its members.

E. If only one person files or no person files a nominating petition for election to fill a position on the board of directors of the district, the county board of supervisors, by resolution, may cancel the election for that office and appoint the person who filed the nominating petition to fill that position. If no person files a nominating petition for an election to fill a district board office, the county board of supervisors, by resolution, may cancel the election for those offices and those offices are deemed vacant and shall be filled as otherwise provided by law. A person who is appointed pursuant to this section is fully vested with the powers and duties of the office as if elected to that office.

F. THE BOARD OF SUPERVISORS SHALL MAKE AN ORDER CALLING AN ELECTION TO DECIDE WHETHER TO REORGANIZE A DOMESTIC WATER IMPROVEMENT DISTRICT THAT HAS A BOARD CONSISTING OF THREE MEMBERS AS A DOMESTIC WATER IMPROVEMENT DISTRICT THAT HAS A BOARD CONSISTING OF FIVE MEMBERS WHEN A PETITION CONTAINING THE SIGNATURES OF TWENTY-FIVE PERCENT OF THE QUALIFIED ELECTORS RESIDING WITHIN THE DISTRICT AND REQUESTING THAT THE DISTRICT BE REORGANIZED IS FILED WITH THE BOARD EXCEPT THE BOARD OF SUPERVISORS MAY NOT CALL FOR A REORGANIZATION ELECTION TO

EXPAND THE NUMBER OF DIRECTORS ON THE DISTRICT BOARD MORE FREQUENTLY THAN ONCE EVERY TWO YEARS. THE ELECTION MAY BE HELD ON ANY CONSOLIDATED ELECTION DATE AS PRESCRIBED IN SECTION 16-204. THE DOMESTIC WATER IMPROVEMENT DISTRICT SHALL REIMBURSE THE COUNTY FOR THE EXPENSES OF THE DISTRICT ELECTION. THE BOARD OF SUPERVISORS SHALL GIVE NOTICE OF THE ELECTION BY POSTING COPIES OF THE ORDER OF ELECTION IN THREE PUBLIC PLACES WITHIN THE DISTRICT NOT LESS THAN TWENTY DAYS BEFORE THE DATE OF THE ELECTION AND IF A NEWSPAPER IS PUBLISHED WITHIN THE COUNTY HAVING A GENERAL CIRCULATION WITHIN THE DISTRICT, THE ORDER SHALL BE PUBLISHED IN THE NEWSPAPER NOT LESS THAN ONCE A WEEK DURING EACH OF THE THREE CALENDAR WEEKS PRECEDING THE CALENDAR WEEK OF THE ELECTION. THE BALLOT FOR THE ELECTION SHALL STATE "SHALL THE CURRENT THREE-MEMBER DOMESTIC WATER IMPROVEMENT DISTRICT BOARD BE REORGANIZED TO A FIVE-MEMBER BOARD - YES OR NO". THE BALLOT SHALL ALSO ALLOW EACH ELECTOR TO INDICATE THE ELECTOR'S CHOICE FOR TWO ADDITIONAL BOARD MEMBERS IN THE EVENT OF REORGANIZATION. WITHIN TWENTY DAYS AFTER THE ELECTION, THE BOARD OF SUPERVISORS SHALL MEET AND CANVASS THE RETURNS, AND IF IT IS DETERMINED THAT A MAJORITY OF THE VOTES CAST AT THE ELECTION WERE IN FAVOR OF REORGANIZING THE DOMESTIC WATER IMPROVEMENT DISTRICT AS A DISTRICT WITH A FIVE-MEMBER BOARD, THE BOARD SHALL ENTER THAT FACT ON ITS MINUTES, DECLARE THE DISTRICT DULY REORGANIZED AND ANNOUNCE THE NAMES OF THOSE ELECTED TO THE DISTRICT BOARD.

~~F.~~ G. For the purposes of either a domestic water improvement district or a domestic wastewater improvement district that is organized pursuant to this article and that serves at the time of organization a population of ten thousand persons or less ~~according to the most recent United States decennial census~~, in addition to any other qualified elector of the district, any natural person who is a qualified elector of this state and who is a real property owner within the district is eligible to vote in a district election without regard to that person's residency and shall be deemed a qualified elector of the district for purposes of service on the board of directors.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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# MULTI-COUNTY WATER CONSERVATION DISTRICTS— WATER STORAGE TAX

## CHAPTER 224

## H. B. 2661

**AN ACT AMENDING SECTION 48-3715.02, ARIZONA REVISED STATUTES; AMENDING LAWS 1994, CHAPTER 278, SECTION 14, AS AMENDED BY LAWS 1996, CHAPTER 308, SECTION 23; RELATING TO MULTI-COUNTY WATER CONSERVATION DISTRICTS.**

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

**Section 1.** Section 48-3715.02, Arizona Revised Statutes, is amended to read:

**48-3715.02. Tax levy for water storage**

A. Until January 1, 1997, the following applies:

1. On or before August 19, 1991, August 17, 1992, August 16, 1993, August 15, 1994 and August 21, 1995 the district board shall fix the amount to be raised by direct taxation in the respective tax year for the purpose of carrying out section 48-3713, subsection B, paragraphs 7 and 8 and shall levy a tax, based on the assessed valuation certified under section 48-3715, sufficient to raise that amount, except that this tax shall not:

(a) Exceed four cents per one hundred dollars of assessed valuation in the district.

(b) Be levied in any county in the district in which the annual water allocation by the United States secretary of the interior of central Arizona project water for municipal and industrial uses is less than fifty thousand acre-feet.

2. The district board shall certify the tax rate to the board of supervisors of each county in the district in which the district board levies this tax, and the boards of supervisors at the time of levying general county taxes shall levy and cause to be collected taxes on the taxable property in the county at the tax rate fixed by the district board. The tax when collected shall be deposited, pursuant to sections 35-146 and 35-147, in the state water storage fund established by section 45-897.01. All taxes levied pursuant to this section in counties having a population greater than five hundred thousand but less than one million five hundred thousand persons ~~according to the most recent United States decennial census~~ shall be deposited in account A of the fund established by section 45-897.01. All taxes levied pursuant to this section in counties having a population greater than one million five hundred thousand persons ~~according to the most recent United States decennial census~~ shall be deposited in account B of the fund.

B. Beginning in 1996, in addition to the tax authorized in sections 48-3713 and 48-3715, on or before the second Monday in August of each year, the district board shall fix the amount to be raised by direct taxation in the respective tax year for the purpose of carrying out section 48-3715.03 and shall levy a tax based on the assessed valuation certified under section 48-3715 sufficient to raise that amount, except that THROUGH DECEMBER 31, 2024, this tax shall not exceed four cents per one hundred dollars of assessed valuation in the district. BEGINNING FROM AND AFTER DECEMBER 31, 2024, THE TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED THREE CENTS PER ONE HUNDRED DOLLARS OF ASSESSED VALUATION IN THE DISTRICT.

C. The district board shall certify the tax rate fixed pursuant to subsection B of this section to the board of supervisors of each county in the district, and the boards of supervisors at the time of levying general county taxes shall levy and cause to be collected taxes on the taxable property in the county at the tax rate fixed by the district board. The tax when collected shall be deposited, pursuant to sections 35-146 and 35-147, and credited as prescribed by section 48-3715.03.

**Sec. 2.** Laws 1994, chapter 278, section 14, as amended by Laws 1996, chapter 308, section 23, is amended to read:

**Sec. 14. Delayed repeal**

Section 48-3715.02, Arizona Revised Statutes, ~~as amended by this act,~~ is repealed from and after January 1, ~~2017~~ 2030.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## EMPOWERMENT SCHOLARSHIP ACCOUNTS—INDIAN RESERVATION RESIDENTS

### CHAPTER 225

### S. B. 1332

### AN ACT AMENDING SECTION 15-2401, ARIZONA REVISED STATUTES; RELATING TO ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS.

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

**Section 1.** Section 15-2401, Arizona Revised Statutes, is amended to read:

**15-2401. Definitions**

In this chapter, unless the context otherwise requires:

1. "Curriculum" means a complete course of study for a particular content area or grade level, including any supplemental materials required by the curriculum.

2. "Department" means the department of education.

3. "Eligible postsecondary institution" means a community college as defined in section 15-1401, a university under the jurisdiction of the Arizona board of regents or an accredited private postsecondary institution.

4. "Parent" means a resident of this state who is the parent or legal guardian of a qualified student.

5. "Qualified school" means a nongovernmental primary or secondary school or a preschool for pupils with disabilities that is located in this state and that does not discriminate on the basis of race, color or national origin.

6. "Qualified student" means a resident of this state who:

(a) Is any of the following:

(i) Identified as having a disability under section 504 of the rehabilitation act of 1973 (29 United States Code section 794).

(ii) Identified by a school district or by an independent third party pursuant to section 15-2403, subsection I~~,~~ as a child with a disability as defined in section 15-761.

(iii) A child with a disability who is eligible to receive services from a school district under section 15-763.

(iv) Attending a school or school district that has been assigned a letter grade of D or F pursuant to section 15-241 or who is currently eligible to attend kindergarten and who resides within the attendance boundary of a school that has been assigned a letter grade of D or F pursuant to section 15-241.

(v) A previous recipient of a scholarship issued pursuant to section 15-891 or this section.

(vi) A child of a parent who is a member of the armed forces of the United States and who is on active duty or was killed in the line of duty. A child who meets the requirements of this item is not subject to subdivision (b) of this paragraph.

(vii) A child with a guardian who is a member of the armed forces of the United States and who is on active duty or was killed in the line of duty. A child who meets the requirements of this item is not subject to subdivision (b) of this paragraph.

(viii) A child who is a ward of the juvenile court and who is residing with a prospective permanent placement pursuant to section 8-862 and the case plan is adoption or permanent guardianship.

(ix) A child who was a ward of the juvenile court and who achieved permanency through adoption or permanent guardianship.

(x) A child who is the sibling of a current or previous empowerment scholarship account recipient.

(xi) A CHILD WHO RESIDES WITHIN THE BOUNDARIES OF AN INDIAN RESERVATION IN THIS STATE.

(b) And, except as provided in subdivision (a), items (vi) and (vii) of this paragraph, who meets any of the following requirements:

(i) Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least the first one hundred days of the prior fiscal year and who transferred from a governmental primary or secondary school under a contract to participate in an empowerment scholarship account.

(ii) Previously participated in the empowerment scholarship account program.

(iii) Received a scholarship under section 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least ninety days of the prior fiscal year or one full semester prior to attending a qualified school.

(iv) Was eligible for an Arizona scholarship for pupils with disabilities and received monies from a school tuition organization pursuant to section 43-1505 or received an Arizona scholarship for pupils with disabilities but did not receive monies from a school tuition organization pursuant to section 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least ninety days of the prior fiscal year or one full semester prior to attending a qualified school.

(v) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state.

(vi) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a program for preschool children with disabilities in this state.

7. "Treasurer" means the office of the state treasurer.

**Sec. 2. Empowerment scholarship account special education study committee; membership; powers and duties; report; definition; delayed repeal**

A. The empowerment scholarship account special education study committee is established consisting of the following members:

1. Two members of the house of representatives who are appointed by the speaker of the house of representatives and who are members of different political parties.

2. Two members of the senate who are appointed by the president of the senate and who are members of different political parties.

3. Two members who currently work as special education teachers, one of whom is from a county with a population of at least one million two hundred thousand persons and who is appointed by the speaker of the house of representatives and one of whom is from a county with a population of less than one million two hundred thousand persons and who is appointed by the president of the senate.

4. Two public school psychologists, one of whom is from a county with a population of at least one million two hundred thousand persons and who is appointed by the president of the senate and one of whom is from a county with a population of less than one million two hundred thousand persons and who is appointed by the speaker of the house of representatives.

5. Two parents of current empowerment scholarship account recipients.

6. The superintendent of public instruction or the superintendent's designee.

B. The president of the senate and the speaker of the house of representatives shall each designate one of the legislative members to serve as a cochairperson of the committee. The cochairpersons shall be members of different political parties.

C. The empowerment scholarship account special education study committee shall:

1. Identify, examine and evaluate the needs of qualified students who receive an empowerment scholarship account.

2. Review the funding levels, process, duration and execution of and the authority by which qualified students receive special education services through the empowerment scholarship account program pursuant to section 15-2402, Arizona Revised Statutes.

3. Research and evaluate the differences between receiving special education services through a public or charter school and the empowerment scholarship account program.

4. Provide analyses and recommendations to improve delivery of special education services to qualified students.

5. Examine whether a child with special needs who receives an empowerment scholarship account monies should be allowed to continue to receive monies allocated pursuant to title 15, chapter 19, Arizona Revised Statutes, until the child reaches twenty-two years of age if the child's individualized education program team determines that the child is likely to graduate from high school by the time the child reaches twenty-two years of age.

D. The empowerment scholarship account special education study committee may:

1. Request information, data and reports from any county or state agency or political subdivision of this state. If possible, information shall be provided electronically.

2. Hold hearings and take testimony from stakeholders who may assist the committee in fulfilling its responsibilities.

E. On the request of the empowerment scholarship account special education study committee, an agency of this state shall provide to the committee its services, equipment, documents, personnel and facilities to the extent possible without cost to the committee.

F. The legislature and the department of education shall provide staff and support services to the study committee.

G. All meetings of the study committee shall be open to the public.

H. Members of the study committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

I. On or before December 31, 2015, the study committee shall submit a report regarding its findings and recommendations to the governor, the speaker of the house of representatives, the president of the senate and the superintendent of public instruction and shall provide a copy of the report to the secretary of state.

J. For the purposes of this section, "qualified student" means a student who received a scholarship pursuant to section 15-2401, paragraph 6, subdivision (a), item (i), (ii) or (iii), Arizona Revised Statutes.

K. This section is repealed from and after September 30, 2016.

Approved by the Governor April 6, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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# ALTERNATIVE TEACHER DEVELOPMENT PROGRAM

## CHAPTER 226

## H. B. 2185

## AN ACT AMENDING SECTION 15-552, ARIZONA REVISED STATUTES; RELATING TO EMPLOYMENT OF TEACHERS.

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

**Section 1.** Section 15-552, Arizona Revised Statutes, is amended to read:

**15-552. Alternative teacher development program; report; program termination**

A. The state board of education shall establish an alternative teacher development program for the purpose of accelerating the process of identifying, training and placing highly qualified individuals into low income schools through the use of teaching intern certification and the identification of a qualified service provider.

B. The department of education shall develop application procedures, selection criteria and minimum performance standards for service providers that wish to participate in the program.

C. The state board of education shall award a matching grant to a service provider that meets all of the requirements of this section. The amount of the matching grant shall be equal to the matching monies raised by the service provider, not to exceed the total of monies appropriated to the alternative teacher development program. The service provider that receives the matching grant shall demonstrate that its alternative teacher development program serves public schools in this state and meets all of the following requirements:

1. Is a nonprofit 501(c)(3) organization that has been providing alternative teacher recruitment and placement in this state for a period of not less than ten years.

2. Serves only public schools that provide instruction to student populations in which a majority of the students are from low income households.

3. Requires that individuals seeking to participate in the alternative teacher development program offered by the service provider have attained a baccalaureate degree from an accredited institution.

4. Maintains a competitive application and selection process for individuals seeking to participate in the alternative teacher development program offered by the service provider.

5. Requires all individuals who participate in the alternative teacher development program to commit to serve as a teacher in a low income public school in this state for not less than two years.

6. Provides ongoing support, evaluations and professional development to teachers placed in a classroom through the alternative teacher development program.

D. The service provider selected to participate in the alternative teacher development program shall annually report at least the following information to the department of education:

1. The number of teachers placed in low income schools by the service provider.

2. The number of students served by teachers placed in low income schools by the service provider.

3. Demographic data concerning the aggregate composition of students in classrooms served by teachers placed by the service provider.

4. A listing of the school districts and schools in which teachers were placed by the service provider.

5. A total of all matching monies raised by the service provider.

E. The department of education shall submit an annual report by December 15 of each year concerning the alternative teacher development program to the governor, the president of the senate and the speaker of the house of representatives that includes an evaluation of the effectiveness of the program. The department of education shall provide a copy of the report to the secretary of state ~~and the director of the Arizona state library, archives and public records~~. The report shall include a comparison of the annual academic achievement gain of students served by teachers participating in the alternative teacher development program and students served by beginning teachers in the same school.

F. The program established by this section ends on July 1, ~~2016~~ 2020~~, pursuant to section 41-3102~~.

Approved by the Governor April 7, 2015.
Filed in the Office of the Secretary of State April 7, 2015.

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## INTERNAL REVENUE CODE CONFORMITY

### CHAPTER 227

### S. B. 1188

### AN ACT AMENDING SECTIONS 42-1001 AND 43-105, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

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

**Section 1.** Section 42-1001, Arizona Revised Statutes, is amended to read:

**42-1001. Definitions**

In this title, unless the context otherwise requires:

1. "Board" or "state board" means either the state board of tax appeals or the state board of equalization, as applicable.

2. "Court" means the tax court or superior court, whichever is applicable.

3. "Department" means the department of revenue.

4. "Director" means the director of the department.

5. "Internal revenue code" means the United States internal revenue code of 1986, as amended and in effect as of January 1, ~~2014~~ 2015, including those provisions that became effective during ~~2013~~ 2014 with the specific adoption of their retroactive effective dates but excluding all changes to the code enacted after January 1, ~~2014~~ 2015.

**Sec. 2.** Section 43-105, Arizona Revised Statutes, is amended to read:

**43-105. Internal revenue code; definition; application**

A. FOR THE PURPOSES OF COMPUTING INCOME TAX PURSUANT TO THIS TITLE, FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2014, "INTERNAL REVENUE CODE" MEANS THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED, IN EFFECT ON JANUARY 1, 2015, INCLUDING THOSE PROVISIONS THAT BECAME EFFECTIVE DURING 2014 WITH THE SPECIFIC ADOPTION OF ALL FEDERAL RETROACTIVE EFFECTIVE DATES, BUT EXCLUDING ANY CHANGE TO THE CODE ENACTED AFTER JANUARY 1, 2015.

~~A.~~ B. For the purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2013 THROUGH DECEMBER 31, 2014, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2014, including those provisions that became effective during 2013 with the specific adoption of all federal retroactive effective dates, ~~but excluding any change to the code enacted after January 1, 2014~~ AND INCLUDING THOSE PROVISIONS OF THE PHILIPPINES CHARITABLE GIVING ASSISTANCE ACT (P.L. 113-92), THE GABRIELLA MILLER KIDS FIRST RESEARCH ACT (P.L. 113-94), THE COOPERATIVE AND SMALL EMPLOYER CHARITY PENSION FLEXIBILITY ACT (P.L. 113-97), THE HIGHWAY AND TRANSPORTATION FUNDING ACT OF 2014 (P.L. 113-159), THE TRIBAL GENERAL WELFARE EXCLUSION ACT OF 2014 (P.L. 113-168), THE CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS ACT, 2015 (P.L. 113-235), THE 2014 AIRLINE BANKRUPTCY PAYMENTS ROLLOVER ACT (P.L. 113-243) AND THE TAX INCREASE PREVENTION ACT OF 2014 (P.L. 113-295) THAT ARE RETROACTIVELY EFFECTIVE DURING TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2013 THROUGH DECEMBER 31, 2014.

~~B.~~ C. For the purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2012 through December 31,

2013, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 3, 2013, including those provisions that became effective during 2012 with the specific adoption of all federal retroactive effective dates, ~~but excluding any change to the code enacted after January 3, 2013~~ AND INCLUDING THOSE PROVISIONS OF THE PHILIPPINES CHARITABLE GIVING ASSISTANCE ACT (P.L. 113-92), THE HIGHWAY AND TRANSPORTATION FUNDING ACT OF 2014 (P.L. 113-159), THE TRIBAL GENERAL WELFARE EXCLUSION ACT OF 2014 (P.L. 113-168), THE 2014 AIRLINE BANKRUPTCY PAYMENTS ROLLOVER ACT (P.L. 113-243) AND THE TAX TECHNICAL CORRECTIONS ACT OF 2014 (P.L. 113-295, DIVISION A, TITLE II) THAT ARE RETROACTIVELY EFFECTIVE DURING TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2012 THROUGH DECEMBER 31, 2013.

~~C.~~ D. For the purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2011 through December 31, 2012, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2012, including those provisions that became effective during 2011 with the specific adoption of all federal retroactive effective dates, and including those provisions of the FAA modernization and reform act of 2012 (P.L. 112-95), the moving ahead for progress in the 21st century act (P.L. 112-141), ~~and~~ the American taxpayer relief act of 2012 (P.L. 112-240), THE 2014 AIRLINE BANKRUPTCY PAYMENTS ROLLOVER ACT (P.L. 113-243), THE TRIBAL GENERAL WELFARE EXCLUSION ACT OF 2014 (P.L. 113-168) AND THE TAX TECHNICAL CORRECTIONS ACT OF 2014 (P.L. 113-295, DIVISION A, TITLE II) that are retroactively effective during taxable years beginning from and after December 31, 2011 through December 31, 2012.

~~D.~~ E. For the purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2010 through December 31, 2011, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2011, including those provisions that became effective during 2010 with the specific adoption of all federal retroactive effective dates, and including those provisions of Public Law 112-40, the moving ahead for progress in the 21st century act (P.L. 112-141), ~~and~~ the American taxpayer relief act of 2012 (P.L. 112-240), THE TRIBAL GENERAL WELFARE EXCLUSION ACT OF 2014 (P.L. 113-168) AND THE TAX TECHNICAL CORRECTIONS ACT OF 2014 (P.L. 113-295, DIVISION A, TITLE II) that are retroactively effective during taxable years beginning from and after December 31, 2010 through December 31, 2011.

~~E.~~ F. For the purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2009 through December 31, 2010, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2010, including those provisions that became effective during 2009 with the specific adoption of all federal retroactive effective dates, and including those provisions of the temporary extension act of 2010 (P.L. 111-144), the hiring incentives to restore employment act (P.L. 111-147),

the patient protection and affordable care act (P.L. 111-148), the health care and education reconciliation act of 2010 (P.L. 111-152), the preservation of access to care for medicare beneficiaries and pension relief act of 2010 (P.L. 111-192), the Dodd-Frank Wall Street reform and consumer protection act (P.L. 111-203), the small business jobs act of 2010 (P.L. 111-240), the claims resolution act of 2010 (P.L. 111-291), the tax relief, unemployment insurance reauthorization, and job creation act of 2010 (P.L. 111-312), ~~and~~ the regulated investment company modernization act of 2010 (P.L. 111-325) AND THE TAX TECHNICAL CORRECTIONS ACT OF 2014 (P.L. 113-295, DIVISION A, TITLE II) that are retroactively effective during taxable years beginning from and after December 31, 2009 through December 31, 2010.

~~F.~~ G. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2008 through December 31, 2009, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2009, including those provisions that became effective during 2008 with the specific adoption of all federal retroactive effective dates, and including those provisions of the American recovery and reinvestment act of 2009 (P.L. 111-5) except section 1211, the consumer assistance to recycle and save act of 2009 (P.L. 111-32), the worker, homeownership, and business assistance act of 2009 (P.L. 111-92) except section 13, the hiring incentives to restore employment act (P.L. 111-147), the patient protection and affordable care act (P.L. 111-148), the preservation of access to care for medicare beneficiaries and pension relief act of 2010 (P.L. 111-192), the small business jobs act of 2010 (P.L. 111-240), ~~and~~ the tax relief, unemployment insurance reauthorization, and job creation act of 2010 (P.L. 111-312)~~.~~ AND THE TAX TECHNICAL CORRECTIONS ACT OF 2014 (P.L. 113-295, DIVISION A, TITLE II) that are retroactively effective during taxable years beginning from and after December 31, 2008 through December 31, 2009.

~~G.~~ H. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2007 through December 31, 2008, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2008, including those provisions that became effective during 2007 with the specific adoption of all federal retroactive effective dates and including those provisions of the economic stimulus act of 2008 (P.L. 110-185), the heroes earnings assistance and relief tax act of 2008 (P.L. 110-245), the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246), the housing assistance tax act of 2008 (P.L. 110-289), the emergency economic stabilization act of 2008 (P.L. 110-343), the worker, retiree, and employer recovery act of 2008 (P.L. 110-458), the American recovery and reinvestment act of 2009 (P.L. 111-5) except section 1211, ~~and~~ the worker, homeownership, and business assistance act of 2009 (P.L. 111-92) except section 13 AND THE TAX TECHNICAL CORRECTIONS ACT OF 2014 (P.L. 113-295, DIVISION A, TITLE II) that are retroactively effective during taxable years beginning from and after December 31, 2007 through December 31, 2008.

~~H.~~ I. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2006 through December 31, 2007, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2007, including those provisions that became effective during 2006 with the specific adoption of all federal retroactive effective dates and including those provisions of the small business and work opportunity tax act of 2007 (P.L. 110-28), the energy independence and security act of 2007 (P.L. 110-140), Public Law 110-141, the mortgage forgiveness debt relief act of 2007 (P.L. 110-142), the tax technical corrections act of 2007 (P.L. 110-172), the economic stimulus act of 2008 (P.L. 110-185), the heroes earnings assistance and relief tax act of 2008 (P.L. 110-245), the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246), the housing assistance tax act of 2008 (P.L. 110-289), the emergency economic stabilization act of 2008 (P.L. 110-343), ~~and~~ the worker, retiree, and employer recovery act of 2008 (P.L. 110-458) AND THE TAX TECHNICAL CORRECTIONS ACT OF 2014 (P.L. 113-295, DIVISION A, TITLE II) that are retroactively effective during taxable years beginning from and after December 31, 2006 through December 31, 2007.

~~I.~~ J. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2005 through December 31, 2006, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2006, including those provisions that became effective during 2005 with the specific adoption of all federal retroactive effective dates and including those provisions of the tax increase prevention and reconciliation act of 2005 (P.L. 109-222), the pension protection act of 2006 (P.L. 109-280), the tax relief and health care act of 2006 (P.L. 109-432), the small business and work opportunity tax act of 2007 (P.L. 110-28), the mortgage forgiveness debt relief act of 2007 (P.L. 110-142), the tax technical corrections act of 2007 (P.L. 110-172), the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246), ~~and~~ the housing assistance tax act of 2008 (P.L. 110-289) AND THE TAX TECHNICAL CORRECTIONS ACT OF 2014 (P.L. 113-295, DIVISION A, TITLE II) that are retroactively effective during taxable years beginning from and after December 31, 2005 through December 31, 2006.

~~J.~~ K. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2004 through December 31, 2005, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2005, including those provisions that became effective during 2004 with the specific adoption of all federal retroactive effective dates and including those provisions of the Katrina emergency tax relief act of 2005 (P.L. 109-73), the energy tax incentives act of 2005 (title XIII of the energy policy act of 2005 (P.L. 109-58)), the gulf opportunity zone act of 2005 (P.L. 109-135), the tax technical corrections act of 2007 (P.L. 110-172), the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246) and the housing assistance tax act of 2008 (P.L. 110-289) that are retroactively effective during taxable years beginning from and after December 31, 2004 through December 31, 2005.

~~K. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2003 through December 31, 2004, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2004, including those provisions that became effective during 2003 with the specific adoption of all federal retroactive effective dates and including those provisions of the working families tax relief act of 2004 (P.L. 108-311), the American jobs creation act of 2004 (P.L. 108-357), the Katrina emergency tax relief act of 2005 (P.L. 109-73), the energy tax incentives act of 2005 (title XIII of the energy policy act of 2005 (P.L. 109-58)), the gulf opportunity zone act of 2005 (P.L. 109-135), the tax technical corrections act of 2007 (P.L. 110-172) and the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246) that are retroactively effective during taxable years beginning from and after December 31, 2003 through December 31, 2004.~~

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## FIREARM RIGHTS—RESTORATION

### CHAPTER 228

### S. B. 1189

### AN ACT AMENDING SECTION 13-907, ARIZONA REVISED STATUTES; RELATING TO FIREARMS.

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

**Section 1.** Section 13-907, Arizona Revised Statutes, is amended to read:

**13-907. Setting aside judgment of convicted person on discharge; application; release from disabilities; firearm possession; exceptions**

A. Except as provided in subsection ~~D~~ E of this section, every person convicted of a criminal offense, on fulfillment of the conditions of probation or sentence and discharge by the court, may apply to the judge, justice of the peace or magistrate who pronounced sentence or imposed probation or such judge, justice of the peace or magistrate's successor in office to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of discharge.

B. The convicted person or, if authorized in writing, the convicted person's attorney or probation officer may apply to set aside the judgment.

C. If the judge, justice of the peace or magistrate grants the application, the judge, justice of the peace or magistrate shall set aside the judgment of guilt, dismiss the accusations or information and order that the person be released from all penalties and disabilities resulting from the conviction except those imposed by:

1. The department of transportation pursuant to section 28-3304, 28-3306, 28-3307, 28-3308 or 28-3319, except that the conviction may be used as a conviction if the conviction would be admissible had it not been set aside and may be pleaded and proved in any subsequent prosecution of such person by the state or any of its subdivisions for any offense or used by the department of transportation in enforcing section 28-3304, 28-3306, 28-3307, 28-3308 or 28-3319 as if the judgment of guilt had not been set aside.

2. The game and fish commission pursuant to section 17-314 or 17-340.

D. NOTWITHSTANDING SECTION 13-905 OR 13-906, IF A JUDGMENT OF GUILT IS SET ASIDE PURSUANT TO THIS SECTION, THE PERSON'S RIGHT TO POSSESS A GUN OR FIREARM IS RESTORED. THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO WAS CONVICTED OF A SERIOUS OFFENSE AS DEFINED IN SECTION 13-706.

~~D.~~ E. This section does not apply to a person who was convicted of a criminal offense:

1. Involving a dangerous offense.

2. For which the person is required or ordered by the court to register pursuant to section 13-3821.

3. For which there has been a finding of sexual motivation pursuant to section 13-118.

4. In which the victim is a minor under fifteen years of age.

5. In violation of section 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or title 28, chapter 3, except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## ARIZONA HISTORICAL SOCIETY BOARD MEMBERSHIP

### CHAPTER 229

### S. B. 1201

### AN ACT AMENDING SECTION 41-821, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA HISTORICAL SOCIETY.

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

**Section 1.** Section 41-821, Arizona Revised Statutes, is amended to read:

**41-821. Arizona historical society; powers; officers; duties of board of directors**

A. An Arizona historical society is established.

B. Subject to limitations imposed by law, the society may purchase, receive, hold, lease and sell property, real and personal, for the benefit of this state and use of the society. The society may solicit private monetary donations for program activities.

C. The society shall have a president, a treasurer~~, a board of directors~~ and other officers who ~~shall be~~ ARE elected by the members of the society at times and by methods the bylaws of the society prescribe. EACH MEMBER OF THE BOARD OF DIRECTORS SHALL HAVE KNOWLEDGE, COMPETENCE, EXPERIENCE AND INTEREST IN THE FIELDS RELATED TO THE PRESERVATION AND PROMOTION OF ARIZONA HISTORY AND BE A MEMBER OF THE SOCIETY OR BECOME A MEMBER OF THE SOCIETY BEFORE SENATE CONFIRMATION. THE GOVERNOR SHALL APPOINT THE MEMBERS PURSUANT TO SECTION 38-211 FOR A TERM OF FOUR YEARS. The board of directors may designate from among its members an executive committee with authority to act in place of the board of directors and in accordance with directions the board of directors may give when the board of directors is not in session.

D. THE BOARD OF DIRECTORS IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION C OF THIS SECTION:

1. ONE MEMBER FROM EACH COUNTY.

2. ONE MEMBER WHO IS RECOMMENDED BY EACH OF THE DESIGNATED HISTORICAL ORGANIZATIONS AS PRESCRIBED BY SUBSECTION I OF THIS SECTION.

3. FIVE MEMBERS OF THE PUBLIC.

~~D.~~ E. The president shall preside at meetings of the society and of the board of directors. EACH MEMBER OF THE BOARD OF DIRECTORS IS ENTITLED TO ONLY ONE VOTE. THE BOARD OF DIRECTORS MAY CONDUCT MEETINGS TELEPHONICALLY.

~~E.~~ F. The treasurer shall have custody of the monies of the society, other than legislative appropriations. The treasurer shall hold the monies of the society deposited in trust for the society's use and for the benefit of this state and shall disburse them only as prescribed by law and the bylaws of the society.

~~F.~~ G. The board of directors shall hold in trust for this state and administer for the benefit of this state and use of the society all property acquired by the society.

~~G.~~ H. All expenditures of legislative appropriations to the society shall be made on claims duly itemized, verified and approved by the executive director. The executive director shall present and file claims for payment with the director of the department of administration. The director of the department of administration shall draw the warrant on the state treasurer. The society may expend nonappropriated private funds related to program activities.

~~H.~~ I. The board of directors shall annually designate one or more historical organizations within each county of this state that are incorporated as nonprofit organizations and that are deemed to have a functioning program of historical value based on criteria established by the board of directors. The board of directors may

organize chapters made up of groups of its members who have a common interest in a geographical area of this state or a common interest in a field of history, may provide for the governance of these chapters and may grant to any chapter the power to exercise authority of the society as the board of directors may determine.

~~I.~~ J. The board of directors, subject to legislative appropriation, may contract with certified historical organizations for services to be performed for the benefit of this state. The contracts shall be prepared by the Arizona historical society. The board of directors shall annually review the contracts to ensure fulfillment of their provisions.

~~J.~~ K. Subject to chapter 4, article 4 of this title, the board of directors may employ an executive director and may employ or authorize the employment of other employees it considers appropriate to carry out the functions of the society. The executive director and all other employees shall have duties and exercise authority as may be prescribed by the board of directors or by the executive director acting under the direction of the board of directors.

~~K.~~ L. The board may operate a program for the establishment and maintenance of historical markers at various locations in this state.

~~L.~~ M. In cooperation with the advisory council established by section 41-827.01, the board shall operate and maintain the centennial museum that houses the mining and mineral museum and may engage in other activities related to the museum as determined by the board or the executive director. Monies received pursuant to this subsection shall be credited to an account to be used for the maintenance and operations of the centennial museum that houses the mining and mineral museum.

**Sec. 2. Retention of board members**

Notwithstanding section 41-821, Arizona Revised Statutes, all persons who are serving as members of the Arizona historical society board of directors on the effective date of this act may continue to serve until the expiration of their current terms. The governor shall make all subsequent appointments as prescribed by statute.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## 2015 TAX CORRECTIONS

### CHAPTER 230

### S. B. 1216

**AN ACT AMENDING SECTIONS 1-218 AND 28-2154.01, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5008.01, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2015, CHAPTER 4, SECTION 6; AMENDING SECTION 42-5009, ARIZONA REVISED**

**STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 7; AMENDING SECTIONS 42-5014, 42-5039 AND 42-5040, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 10; AMENDING SECTIONS 42-5071 AND 42-5072, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5075, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 11; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 12; AMENDING SECTIONS 42-12057, 42-13304, 42-14159 AND 43-1098, ARIZONA REVISED STATUTES; RELATING TO TAXATION.**

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

**Section 1.** Section 1-218, Arizona Revised Statutes, is amended to read:

**1-218. Filing by mail; date of filing**

A. Any report, claim, tax return, statement, payment, deposit or other material dealing in any way or manner with taxation, other than petitions or notices of appeal, that is required or authorized to be filed with or made to this state or any agency or political subdivision of this state and that is deposited, properly addressed and postage prepaid, in an official depository of the United States mail shall be deemed filed and received by the addressee on the date shown by the postmark or other official mark of the United States mail stamped thereon, or, if the sender disputes the dates contained on such mark or no such mark appears or is legible, on the mailing date as established by competent evidence introduced by the sender.

B. Any filing that is described in subsection A of this section and that is not received by the addressee shall be deemed filed and received on the date of mailing if the sender establishes the date of mailing as provided in subsection A of this section and files with the addressee a duplicate filing within ten days after written notification of nonreceipt of such filing is given to the sender by the addressee.

C. If any filing described in subsection A of this section is sent by United States certified or registered mail or certificate of mailing, the date of such registration, certification or certificate, as established by a record authenticated by proper officials of the United States mail, shall be deemed the date of filing.

D. If the due date of any filing described in subsection A of this section falls upon a Saturday, Sunday or legal holiday, the filing shall be considered timely if performed on the next business day.

E. Any filing described in subsection A of this section that does not contain a postmark or other official mark of the United States mail stamped thereon shall be considered timely if ~~performed by the taxpayer~~ RECEIVED within five business days after the due date of the filing.

F. For the purposes of tax administration, references in this section to:

1. "United States mail" are considered to include any designated delivery service provided by a trade or business if the service has been designated by the United States secretary of the treasury pursuant to section 7502(f) of the United States internal revenue code of 1986.

2. "Postmark" are considered to include any date recorded or marked by any designated delivery service and described in section 7502(f)(2)(C) of the internal revenue code.

3. "Registered" and "certified" are considered to include any equivalent service maintained by a designated delivery service.

**Sec. 2.** Section 28-2154.01, Arizona Revised Statutes, is amended to read:

**28-2154.01. Special ninety day nonresident registration permits; procedures**

A. A dealer or an authorized third party that issues a special ninety day nonresident registration permit pursuant to section 28-2154 shall send an electronic record of the permit to the department through an authorized third party or through the department's authorized third-party electronic service provider.

B. The department, an authorized third party or a dealer shall not:

1. Issue, assign or deliver a special ninety day nonresident registration permit to any person unless the person does all of the following:

(a) Obtains the special ninety day nonresident registration permit pursuant to section 28-2154.

(b) Completes an affidavit in a form prescribed by the director pursuant to section 28-2154 or completes a form prescribed by section 42-5009, subsection H.

(c) Presents to the department, authorized third party or motor vehicle dealer a current valid driver license issued by another state indicating an address outside of this state.

(d) Provides any other information reasonably and uniformly required by the department of transportation pursuant to section 28-2154 or the department of revenue pursuant to section 42-5009, subsection H.

2. Issue and affix, as prescribed in subsection C of this section, a special ninety day nonresident registration permit unless the permit is recorded in the electronic records of the department.

C. A person who issues a special ninety day nonresident registration permit shall affix or insert, clearly and indelibly, on the face of each permit the dates of issuance and expiration and the make and vehicle identification number of the vehicle. The special ninety day nonresident registration permit shall not bear the name or address of the person who purchased the vehicle in a position that is legible from outside of the vehicle.

D. A dealer or authorized third party who issues a special ninety day nonresident registration permit shall maintain a record, in a form prescribed by the director, of all special ninety day nonresident registration permits issued by the dealer or authorized third party and a record of other information pertaining to the issuance of special ninety day nonresident registration permits that the department of transportation or the department of revenue requires.

E. The dealer or authorized third party shall keep each record for at least three years after the date of entry of the record.

F. A dealer or authorized third party shall allow the director of the department of transportation or the director of the department of revenue full and free access to the records during regular business hours.

G. The electronic record is written notice of the removal of the vehicle from this state for use in the purchaser's state of residence and relieves the dealer or authorized third party of liability in accordance with the requirements of section 42-5009.

H. If a purchaser registers the vehicle in this state within three hundred sixty-five days after the issuance of the special ninety day nonresident registration permit, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer or authorized third party would have been required to pay under title 42, chapter 5 and under articles IV and VI of the model city tax code as defined in section 42-6051. At the time of issuing the special ninety day nonresident registration permit, a motor vehicle dealer or authorized third party shall inform the purchaser in writing of the purchaser's liability described in this section. Subsequent registration or use of the vehicle in this state does not create a cause of action against a dealer or authorized third party that complies with section 28-2154, subsection A, this section and section 42-5009, subsection H.

I. The department of transportation and the department of revenue shall jointly develop and prescribe forms for the motor vehicle dealer, the authorized third party and the purchaser to complete for the proper administration and enforcement of this section.

J. Compliance with this section and section 28-2154 allows delivery of the vehicle to a nonresident purchaser in this state and retains the applicable deductions pursuant to section 42-5061, subsection A, paragraph 28, subdivision (a) and subsection ~~U~~ T.

**Sec. 3.** Section 42-5008.01, Arizona Revised Statutes, as added by Laws 2015, chapter 4, section 6, is amended to read:

**42-5008.01. Liability for amounts equal to retail transaction privilege tax due**

A. A person that is either a prime contractor subject to tax under section 42-5075 or a subcontractor working under the control of such a prime contractor, that purchases tangible personal property, the purchase price of which was excluded from the tax base under the retail classification under section 42-5061, subsection A, paragraph 27 or was excluded from the use tax under section 42-5159, subsection A, paragraph 13, subdivision (g) at the time of purchase, and that incorporates or fabricates the tangible personal property into a project described in section 42-5075, subsection O is liable for an amount equal to any tax that a seller would have been required to pay under section 42-5061 and this article as follows:

1. The amount of liability shall be calculated and reported based on the location of the project and the taxes imposed under this chapter and chapter 6 of this title.

2. All deductions, exemptions and exclusions for the cost of tangible personal property provided in section 42-5075 apply to the tangible personal property incorporated or fabricated into the project.

3. This subsection does not apply to tangible personal property that is incorporated or fabricated into any project under a contract that would otherwise be excluded from the tax base under section 42-5075, without regard to section 42-5075, subsection O.

4. The amount of liability shall be reported within the reporting period that includes the month in which the person incorporates or fabricates the tangible personal property into the project.

5. The person is not liable for the amount if the contractor who hired the person executes and provides to the person a certificate stating that the contractor providing the certificate is liable for any amount due under this subsection. The department shall prescribe the form of the certificate. If the person has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. The contractor providing the certificate is liable for the amount that otherwise would be due from the person under this subsection.

B. A person that purchased tangible personal property, the purchase price of which was excluded from the tax base under section 42-5061, subsection A, paragraph 27 or was excluded from the use tax under section 42-5159, subsection A, paragraph 13, subdivision (g) at the time of purchase, ~~whose~~ THAT SUBSEQUENTLY CANCELS ITS transaction privilege tax license ~~has been canceled~~ and that ~~subsequently~~ uses, consumes, sells or discards the tangible personal property is liable for an amount of tax determined under this subsection. For the purposes of this subsection:

1. If the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O, or otherwise used or consumed by the person, the amount of liability shall be calculated and reported based on the person's purchase price of the tangible personal property, the location of the project, use or consumption and the taxes imposed under this chapter and chapter 6 of this title.

2. If the tangible personal property is sold in a manner that is not subject to tax under this chapter or is discarded, the amount shall be calculated and reported based on the payment received by the person, the location of the person's principal place of business in this state and the taxes imposed under this chapter and chapter 6 of this title.

3. The person is not liable under this subsection for any amount if the person discards the tangible personal property and does not receive payment of any kind.

4. The amount of liability shall be reported on or before the business day preceding the last business day of the month following the month in which the person uses the tangible personal property in a manner described in paragraph 1 or 2 of this subsection. No amount is due under this subsection at any time that the person stores the tangible personal property without using it in a manner described in paragraph 1 or 2 of this subsection.

5. All deductions, exemptions and exclusions for the cost of tangible personal property provided in section 42-5075 apply to the tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O.

6. This subsection does not apply to tangible personal property that is incorporated or fabricated into any project under a contract that would otherwise be excluded from the tax base under section 42-5075, without regard to section 42-5075, subsection O.

7. The person is not liable for the amount if the contractor who hired the person executes and provides to the person a certificate stating that the contractor providing the certificate is liable for any amount due under this subsection for tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O. The department shall prescribe the form of the certificate. If the person has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. The contractor providing the certificate is liable for the amount that otherwise would be due from the person under this subsection.

C. A person that fails to report or pay any amount due under subsection A or B of this section is liable for interest in a manner consistent with section 42-1123 and penalties in a manner consistent with section 42-1125.

D. If a person has paid an amount described in this section on tangible personal property that the person reasonably believed to be described section 42-5075, subsection O and a final determination is made that section 42-5075, subsection O does not apply, the person is entitled to an offset for the amount paid under this section against the amount of tax liability assessed under this chapter and chapter 6 of this title.

**Sec. 4.** Section 42-5009, Arizona Revised Statutes, as amended by Laws 2015, chapter 4, section 7, is amended to read:

**42-5009. Certificates establishing deductions; liability for making false certificate**

A. A person who conducts any business classified under article 2 of this chapter may establish entitlement to the allowable deductions from the tax base of that business by both:

1. Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the tax base.

2. Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the appropriate deduction and the tax license number of the purchaser to the extent the deduction depends on the purchaser conducting business classified under article 2 of this chapter and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the seller has reason to believe that the information contained in the certificate is not accurate or complete.

B. A person who does not comply with subsection A of this section may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

C. The department may prescribe a form for the certificate described in subsection A of this section. Under such rules as it may prescribe, the department may also describe transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided for in subsection A of this section but must instead obtain such additional information as required by the rules in order to be entitled to the deduction.

D. If a seller is entitled to a deduction by complying with subsection A of this section, the department may require the purchaser that caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection A of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

E. If a seller is entitled to a deduction by complying with subsection B of this section, the department may require the purchaser to establish the accuracy and completeness of the information provided to the seller that entitled the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection B of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

F. The department may prescribe a form for a certificate used to establish entitlement to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3. Under rules the department may prescribe, the department may also require additional information for the seller to be entitled to the deduction. If a seller is entitled to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

G. If a seller claims a deduction under section 42-5061, subsection A, paragraph 25 and establishes entitlement to the deduction with an exemption letter that the purchaser received from the department and the exemption letter was based on a contingent event, the department may require the purchaser that received the exemption letter to establish the satisfaction of the contingent event within a reasonable time. If the purchaser cannot establish the satisfaction of the event, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not been furnished the exemption letter. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029. For the purposes of this subsection, "reasonable time" means a time limitation that the department determines and that does not exceed the time limitations pursuant to section 42-1104.

H. The department shall prescribe forms for certificates used to establish the satisfaction of the criteria necessary to qualify the sale of a motor vehicle for the deductions described in section 42-5061, subsection A, paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and subsection ~~V~~ U. Except as provided in subsection J of this section, to establish entitlement to these deductions, a motor vehicle dealer shall retain:

1. A valid certificate as prescribed by this subsection completed by the purchaser and obtained prior to the issuance of the nonresident registration permit authorized by section 28-2154.

2. A copy of the nonresident registration permit authorized by section 28-2154.

3. A legible copy of a current valid driver license issued to the purchaser by another state or foreign country that indicates an address outside of this state. For the sale of a motor vehicle to a nonresident entity, the entity's representative must have a current valid driver license issued by the same jurisdiction as that in which the entity is located.

4. For the purposes of the deduction provided by section 42-5061, subsection A, paragraph 14, a certificate documenting the delivery of the motor vehicle to an out-of-state location.

I. Notwithstanding subsection A, paragraph 2 of this section, if a motor vehicle dealer has established entitlement to a deduction by complying with subsection H of this section, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that entitled the motor vehicle dealer to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer would have been required to pay under this article and under articles IV and V of the model city tax code as defined in section 42-6051. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and any tax imposed under article VI of the model city tax code as defined in section 42-6051. The amount shall be treated as

tax revenues collected from the motor vehicle dealer in order to designate the distribution base for purposes of section 42-5029.

J. To establish entitlement to the deduction described in section 42-5061, subsection A, paragraph 44, a public consignment auction dealer as defined in section 28-4301 shall submit the valid certificate prescribed by subsection H of this section to the department and retain a copy for its records.

K. Notwithstanding any other law, compliance with subsection H of this section by a motor vehicle dealer entitles the motor vehicle dealer to the exemption provided in section 42-6004, subsection A, paragraph 4.

L. The department shall prescribe a form for a certificate to be used by a person that is not subject to tax under section 42-5075 when the person is engaged by a contractor that is subject to tax under section 42-5075 for a project that is taxable under section 42-5075. The certificate permits the person purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement to provide documentation to a retailer that the sale of tangible personal property qualifies for the deduction under section 42-5061, subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain the certificate from the department and shall provide a copy to any such person working on the project. The prime contractor shall obtain a new certificate for each project to which this subsection applies. For the purposes of this subsection, the following apply:

1. The person that is not subject to tax under section 42-5075 may use the certificate issued pursuant to this subsection only with respect to tangible personal property that will be incorporated into a project for which the gross receipts are subject to tax under section 42-5075.

2. The department shall issue the certificate to the prime contractor on receiving sufficient documentation to establish that the prime contractor meets the requirements of this subsection.

3. If any person uses the certificate provided under this subsection to purchase tangible personal property to be used in a project that is not subject to tax under section 42-5075, the person is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection A of this section. Payment of the amount under this section exempts the person from liability for any tax imposed under article 4 of this chapter. The amount shall be sourced under section 42-5040, subsection A, paragraph 2.

M. Notwithstanding any other law, compliance with subsection L of this section by a person that is not subject to tax under section 42-5075 entitles the person to the exemption allowed by section 465, subsection (k) of the model city tax code when purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement.

**Sec. 5.** Section 42-5014, Arizona Revised Statutes, is amended to read:

**42-5014. Return and payment of tax; estimated tax; extensions; abatements**

A. Except as provided in subsection B, C or D of this section, the taxes levied under this article:

1. Are due and payable monthly in the form required by section 42-5018 for the amount of the tax, to the department, on or before the twentieth day of the month next succeeding the month in which the tax accrues.

2. Are delinquent as follows:

(a) For taxpayers that are required or elect to file and pay electronically in any month, if not received by the department on or before the last business day of the month.

(b) For all other taxpayers, if not received by the department on or before the business day preceding the last business day of the month.

B. The department, for any taxpayer whose estimated annual liability for taxes imposed or administered by this article~~,~~ or chapter 6 of this title is between two thousand dollars and eight thousand dollars, shall authorize such taxpayer to pay such taxes on a quarterly basis. The department, for any taxpayer whose estimated annual liability for taxes imposed by this article is less than two thousand dollars, shall authorize such taxpayer to pay such taxes on an annual basis. FOR THE PURPOSES OF THIS SUBSECTION, THE TAXES DUE UNDER THIS ARTICLE:

1. FOR TAXPAYERS THAT ARE AUTHORIZED TO PAY ON A QUARTERLY BASIS, ARE DUE AND PAYABLE MONTHLY IN THE FORM REQUIRED BY SECTION 42-5018 FOR THE AMOUNT OF THE TAX, TO THE DEPARTMENT, ON OR BEFORE THE TWENTIETH DAY OF THE MONTH NEXT SUCCEEDING THE QUARTER IN WHICH THE TAX ACCRUES.

2. FOR TAXPAYERS THAT ARE AUTHORIZED TO PAY ON AN ANNUAL BASIS, ARE DUE AND PAYABLE MONTHLY IN THE FORM REQUIRED BY SECTION 42-5018 FOR THE AMOUNT OF THE TAX, TO THE DEPARTMENT, ON OR BEFORE THE TWENTIETH DAY OF JANUARY NEXT SUCCEEDING THE YEAR IN WHICH THE TAX ACCRUES.

3. ARE DELINQUENT AS FOLLOWS:

(a) FOR TAXPAYERS THAT ARE REQUIRED OR ELECT TO FILE AND PAY ELECTRONICALLY IN ANY QUARTER, IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE THE LAST BUSINESS DAY OF THE MONTH.

(b) FOR ALL OTHER TAXPAYERS THAT ARE REQUIRED TO FILE AND PAY QUARTERLY, IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF THE MONTH.

(c) FOR TAXPAYERS THAT ARE REQUIRED OR ELECT TO FILE AND PAY ELECTRONICALLY ON AN ANNUAL BASIS, IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE THE LAST BUSINESS DAY OF JANUARY.

(d) FOR ALL OTHER TAXPAYERS THAT ARE REQUIRED TO FILE AND PAY ANNUALLY, IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF JANUARY.

C. The department may require a taxpayer whose business is of a transient character to file the return and remit the taxes imposed by this article on a daily, a weekly or a transaction by transaction basis, and those returns and payments are due and payable on the date fixed by the department without a grace period otherwise allowed by this section. For the purposes of this subsection, "business of a transient character" means sales activity by a taxpayer not regularly engaged in selling within the state conducted from vehicles, portable stands, rented spaces, structures or booths, or concessions at fairs, carnivals, circuses, festivals or similar activities for not more than thirty consecutive days.

D. If the business entity under which a taxpayer reports and pays income tax under title 43 has an annual total tax liability under this article, article 6 of this chapter and chapter 6, article 3 of this title of one million dollars or more, based on the actual tax liability in the preceding calendar year, regardless of the number of offices at which the taxes imposed by this article, article 6 of this chapter or chapter 6, article 3 of this title are collected, or if the taxpayer can reasonably anticipate such liability in the current year, the taxpayer shall report on a form prescribed by the department and pay an estimated tax payment each June. Any other taxpayer may voluntarily elect to pay the estimated tax payment pursuant to this subsection. The payment shall be made on or before June 20 and is delinquent ~~if not postmarked on or before that date or~~ if not received by the department on or before the business day preceding the last business day of June for those taxpayers electing to file by mail, or delinquent if not received by the department on the business day preceding the last business day of June for those taxpayers electing to file in person. The estimated tax paid shall be credited against the taxpayer's tax liability under this article, article 6 of this chapter and chapter 6, article 3 of this title for the month of June for the current calendar year. The estimated tax payment shall equal either:

1. One-half of the actual tax liability under this article plus one-half of any tax liability under article 6 of this chapter and chapter 6, article 3 of this title for May of the current calendar year.

2. The actual tax liability under this article plus any tax liability under article 6 of this chapter and chapter 6, article 3 of this title for the first fifteen days of June of the current calendar year.

E. The taxpayer shall prepare a return showing the amount of the tax for which the taxpayer is liable for the preceding month, and shall mail or deliver the return to the department in the same manner and time as prescribed for the payment of taxes in subsection A of this section. If the taxpayer fails to file the return in the manner and time as prescribed for the payment of taxes in subsection A of this section, the amount of the tax required to be shown on the return is subject to the penalty imposed pursuant to section 42-1125, subsection A, without any reduction for taxes paid on or before the due date of the return. The return shall be verified by

the oath of the taxpayer or an authorized agent or as prescribed by the department pursuant to section 42-1105, subsection B.

F. Any person who is taxable under this article and who makes cash and credit sales shall report such cash and credit sales separately and on making application may obtain from the department an extension of time for payment of taxes due on the credit sales. The extension shall be granted by the department under such rules as the department prescribes. When the 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 at the time of filing such report.

G. The returns required under this article shall be made on forms prescribed by the department and shall capture data with sufficient specificity to meet the needs of all taxing jurisdictions.

H. Any person who is engaged in or conducting business in two or more locations or under two or more business names shall file the return required under this article by electronic means.

I. The department, for good cause, may extend the time for making any return required by this article and may grant such reasonable additional time within which to make the return as it deems proper, but the time for filing the return shall not be extended beyond the first day of the third month next succeeding the regular due date of the return.

J. The department, with the approval of the attorney general, may abate small tax balances if the administration costs exceed the amount of tax due.

K. For the purposes of subsection D of this section, "taxpayer" means the business entity under which the business reports and pays state income taxes regardless of the number of offices at which the taxes imposed by this article, article 6 of this chapter or chapter 6, article 3 of this title are collected.

**Sec. 6.** Section 42-5039, Arizona Revised Statutes, is amended to read:

**42-5039. Qualified destination management companies; definitions**

A. A qualified destination management company is not subject to transaction privilege tax under this chapter on the gross proceeds of sales or gross income derived from a qualified contract for destination management services. The gross proceeds of sales or gross income derived by a qualified destination management company from transactions that are not part of a qualified contract for destination management services are subject to tax IF OTHERWISE TAXABLE under this chapter.

B. A qualified destination management company is a final consumer and user of any tangible personal property, activity or service subject to transaction privilege tax under article 2 of this chapter that the qualified destination management company arranges pursuant to a qualified contract for destination management services.

C. For the purposes of this section:

1. "Destination management services" means the business of coordinating, designing and implementing the delivery by a third party of four or more of the following:

(a) Transportation.
(b) Entertainment.
(c) Food or beverage.
(d) Recreational or amusement activity.
(e) Tours.
(f) Event venue.
(g) Theme decor.

2. "Qualified contract" means a contract for the provision of destination management services by a qualified destination management company where both of the following apply:

(a) The qualified destination management company receives payment from or on behalf of the qualified destination management company's client for the cost of the destination management services arranged by the qualified destination management company.

(b) The qualified destination management company pays the vendor supplying the destination management services arranged by the qualified destination management company including any applicable transaction privilege tax or collection of use tax charged by the vendor to the qualified destination management company.

3. "Qualified destination management company" means a person that receives on an annual basis at least eighty per cent of its gross proceeds of sales or gross income derived from destination management services.

**Sec. 7.** Section 42-5040, Arizona Revised Statutes, is amended to read:

**42-5040. Sourcing of certain transactions involving tangible personal property; definitions**

A. Except as provided in section 42-5075, retail sales of tangible personal property shall be sourced as follows:

1. To the seller's business location if the seller receives the order at a business location in this state.

2. EXCEPT AS PROVIDED IN SECTION 42-5008.01, to the purchaser's location in this state if the seller receives the order at a business location outside this state.

B. For the purposes of this section, an order is received when all of the information necessary to accept the order has been received by or on behalf of the seller, regardless of where the order is accepted or approved. The place of business or residence of the purchaser does not determine where the order is received.

C. The gross receipts from leasing or renting tangible personal property shall be sourced as follows:

1. To the lessor's business location if the lessor has a business location in this state.

2. To the lessee's address if the lessor does not have a business location in this state. The gross receipts are taxable when the property is shipped, delivered or otherwise brought into this state for use in this state.

D. For the purposes of this section:

1. "Lessee's address" means the residential address of an individual lessee and the primary business address of any other lessee.

2. "Lessor's business location" means the business address that appears on the lessor's transaction privilege tax license.

**Sec. 8.** Section 42-5061, Arizona Revised Statutes, as amended by Laws 2015, chapter 4, section 10, is amended to read:

**42-5061. Retail classification; definitions**

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses that involve sales or transfers of tangible personal property only as inconsequential elements.

2. Services rendered in addition to selling tangible personal property at retail.

3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

6. Business activity that is properly included in any other business classification that is taxable under this article.

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional who is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

12. Hearing aids as defined in section 36-1901.

13. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

14. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

16. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

17. Textbooks by any bookstore that are required by any state university or community college.

18. Food and drink to a person that is engaged in a business that is classified under the restaurant classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

19. Articles of food, drink or condiment and accessory tangible personal property to a school district or charter school if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district or on the premises of the charter school during school hours.

20. Lottery tickets or shares pursuant to title 5, chapter 5.1, article 1.

21. The sale of cash equivalents and the sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax and the gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this article is subject to the tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

(i) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

(ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection ~~Q~~ P of this section.

(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

22. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel that are subject to the tax imposed under section 28-8344 and sales of jet fuel that are subject to the tax imposed under article 8 of this chapter.

23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the Constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:

(a) A qualifying hospital as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.

(d) A qualifying community health center as defined in section 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(g) A qualifying health sciences educational institution as defined in section 42-5001.

(h) Any person representing or working on behalf of another person described in subdivisions (a) through (g) of this paragraph if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to:

(a) A person that is subject to tax under this article by reason of being engaged in business classified under section 42-5075 or to a subcontractor working

under the control of a person engaged in business classified under section 42-5075, if the property so sold is any of the following:

(i) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection O.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person

who has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

36. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

37. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

38. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

39. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

40. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

41. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

42. Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

43. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, that are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

46. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

47. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

48. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

49. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

50. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

51. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

52. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

~~53. Through August 31, 2014, sales of Arizona centennial medallions by the historical advisory commission.~~

~~54.~~ 53. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

~~55.~~ 54. Sales of motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

~~56.~~ 55. Sales of repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

~~57.~~ 56. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

~~58.~~ 57. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the computer data center or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in a computer data center that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

~~59.~~ 58. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

~~60.~~ 59. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural,

viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery and equipment that have never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that

environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined

in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in the performance of a contract.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

~~F. In computing the tax base, gross proceeds of sales or gross income from the sale of use fuel, as defined in section 28-5601, does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4091.~~

~~G.~~ F. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

~~H.~~ G. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

~~I.~~ H. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Restaurant classification.

~~J.~~ I. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.

2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

~~K.~~ J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection ~~J.~~ I of this section.

~~L.~~ K. The department shall require every person claiming a deduction provided by subsection ~~J.~~ I or ~~K.~~ J of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

~~M.~~ L. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

~~N.~~ M. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

~~O.~~ N. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

~~P.~~ O. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

~~Q.~~ P. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

~~R.~~ Q. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

~~S.~~ R. For the purposes of this section, the transfer of title or possession of coal from an owner or operator of a power plant to a person in the business of refining coal is not a sale of coal if both of the following apply:

1. The transfer of title or possession of the coal is for the purpose of refining the coal.

2. The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this paragraph, "coal refining process" means the application of a coal additive system that aids in the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

~~T.~~ S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the

purchaser is liable in an amount equal to any tax, penalty and interest which the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

~~U.~~ T. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

~~V.~~ U. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

~~W.~~ V. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

~~X.~~ W. For the purposes of subsection ~~J~~ I of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be included in the retail classification, and that are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

**Sec. 9.** Section 42-5071, Arizona Revised Statutes, is amended to read:

**42-5071. Personal property rental classification**

A. The personal property rental classification is comprised of the business of leasing or renting tangible personal property for a consideration. The tax does not apply to:

1. Leasing or renting films, tapes or slides used by theaters or movies, which are engaged in business under the amusement classification, or used by television stations or radio stations.

2. Activities engaged in by the Arizona exposition and state fair board or county fair commissions in connection with events sponsored by such entities.

3. Leasing or renting tangible personal property by a parent corporation to a subsidiary corporation or by a subsidiary corporation to another subsidiary of the same parent corporation if taxes were paid under this chapter on the gross proceeds or gross income accruing from the initial sale of the tangible personal property. For the purposes of this paragraph, "subsidiary" means a corporation of which at least eighty ~~per cent~~ PERCENT of the voting shares are owned by the parent corporation.

4. Operating coin-operated washing, drying and dry cleaning machines or coin-operated car washing machines at establishments for the use of such machines.

5. Leasing or renting tangible personal property for incorporation into or comprising any part of a qualified environmental technology facility as described in section 41-1514.02. This paragraph shall apply for ten full consecutive calendar or fiscal years following the initial lease or rental by each qualified environmental technology manufacturer, producer or processor.

6. Leasing or renting aircraft, flight simulators or similar training equipment to students or staff by nonprofit, accredited educational institutions that offer associate or baccalaureate degrees in aviation or aerospace related fields.

7. Leasing or renting photographs, transparencies or other creative works used by this state on internet websites, in magazines or in other publications that encourage tourism.

8. Leasing or renting certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

B. The tax base for the personal property rental classification is the gross proceeds of sales or gross income derived from the business, but the gross proceeds of sales or gross income derived from the following shall be deducted from the tax base:

1. Reimbursements by the lessee to the lessor of a motor vehicle for payments by the lessor of the applicable fees and taxes imposed by sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15, article 2 and article IX, section 11, Constitution of Arizona, to the extent such amounts are separately identified as such fees and taxes and are billed to the lessee.

2. Leases or rentals of tangible personal property that, if it had been purchased instead of leased or rented by the lessee, would have been exempt under:

(a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 49 or ~~54~~ 53.

(b) Section 42-5061, subsection B, except that a lease or rental of new machinery or equipment is not exempt pursuant to:

(i) Section 42-5061, subsection B, paragraph 13 if the lease is for less than two years.

(ii) Section 42-5061, subsection B, paragraph 21.

(c) Section 42-5061, subsection ~~J~~ I, paragraph 1.

(d) Section 42-5061, subsection ~~N~~ M.

3. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739 and sales of aviation fuel that are subject to the tax imposed under section 28-8344.

4. Leasing or renting a motor vehicle subject to and ~~upon~~ ON which the fee has been paid under title 28, chapter 16, article 4.

5. Amounts received by a motor vehicle dealer for the first month of a lease payment if the lease and the lease payment for the first month of the lease are transferred to a third-party leasing company.

C. Sales of tangible personal property to be leased or rented to a person engaged in a business classified under the personal property rental classification are deemed to be resale sales.

D. In computing the tax base, the gross proceeds of sales or gross income from the lease or rental of a motor vehicle does not include any amount attributable to the car rental surcharge under section 5-839, 28-5810 or 48-4234.

E. Until December 31, 1988, leasing or renting animals for recreational purposes is exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from leasing or renting animals for recreational purposes is subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the monies paid as taxes will be returned to the customer.

**Sec. 10.** Section 42-5072, Arizona Revised Statutes, is amended to read:

**42-5072. Mining classification; definition**

A. The mining classification is comprised of the business of mining, quarrying or producing for sale, profit or commercial use any nonmetalliferous mineral product that has been mined, quarried or otherwise extracted within the boundaries of this state described in article I, section 1, Constitution of Arizona.

B. The tax base for the mining classification is the gross proceeds of sales or gross income derived from the business. The gross proceeds of sales or gross income derived from sales described under section 42-5061, subsection A, paragraph 27 and subsection ~~J~~ I, paragraph 2 shall be deducted from the tax base.

C. The tax base includes the value of the entire product mined, quarried or produced for sale, profit or commercial use in this state, regardless of the place of sale of the product or of the fact that deliveries may be made to points without this state. If, however, the sale price of the product includes freight, the sale price shall be reduced by the actual freight paid by any person from the place of production to the place of delivery.

D. In the case of a person engaged in business classified under the mining classification all or part of whose income is derived from service or manufacturing charges instead of from sales of the products manufactured or handled, the tax base includes the gross income of the person derived from the service or manufacturing charge.

E. If a person engaging in business classified under the mining classification ships or transports all or part of a product out of this state without making sale of the product or ships his product outside of this state in an unfinished condition, the value of the product or article in the condition or form in which it existed when transported out of this state and before it enters interstate commerce is included in the tax base, and the department shall prescribe equitable and uniform rules for ascertaining that value. In determining the tax base, if the product or any part of the product has been processed in this state and the proceeds of such processing have been included in the tax base of the processor under this chapter, the person may deduct from the value of the product when transported out of this state the cost of such processing.

F. A person who conducts a business classified under the mining classification may be deemed also to be engaged in business classified under the retail classification to the extent the person's activities comprise business under the retail classification if the tax is paid at the rate imposed on the retail classification by section 42-5010. If the transaction is not subject to taxation under the retail classification, the transaction shall be included in the tax base under this section, except for the transfer of title or possession of coal back and forth between an owner or operator of a power plant and a person who is responsible for refining coal if both of the following apply:

1. The transfer of title or possession of the coal is for the purpose of refining the coal.

2. The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this paragraph, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

G. For the purposes of this section, "nonmetalliferous mineral product" means oil, natural gas, limestone, sand, gravel or any other nonmetalliferous mineral product, compound or combination of nonmetalliferous mineral products.

**Sec. 11.** Section 42-5075, Arizona Revised Statutes, as amended by Laws 2015, chapter 4, section 11, is amended to read:

**42-5075. Prime contracting classification; exemptions; definitions**

A. The prime contracting classification is comprised of the business of prime contracting and the business of manufactured building dealer. Sales for resale to another manufactured building dealer are not subject to tax. Sales for resale do not include sales to a lessor of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter.

B. The tax base for the prime contracting classification is sixty-five percent of the gross proceeds of sales or gross income derived from the business. The following amounts shall be deducted from the gross proceeds of sales or gross income before computing the tax base:

1. The sales price of land, which shall not exceed the fair market value.

2. Sales and installation of groundwater measuring devices required under section 45-604 and groundwater monitoring wells required by law, including monitoring wells installed for acquiring information for a permit required by law.

3. The sales price of furniture, furnishings, fixtures, appliances and attachments that are not incorporated as component parts of or attached to a manufactured building or the setup site. The sale of such items may be subject to the taxes imposed by article 1 of this chapter separately and distinctly from the sale of the manufactured building.

4. The gross proceeds of sales or gross income received from a contract entered into for the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace

products within an active military reuse zone after the zone is initially established or renewed under section 41-1531. To be eligible to qualify for this deduction, before beginning work under the contract, the prime contractor must have applied for a letter of qualification from the department of revenue.

5. The gross proceeds of sales or gross income derived from a contract to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02, and from subsequent construction and installation contracts that begin within ten years after the start of initial construction. To qualify for this deduction, before beginning work under the contract, the prime contractor must obtain a letter of qualification from the department of revenue. This paragraph shall apply for ten full consecutive calendar or fiscal years after the start of initial construction.

6. The gross proceeds of sales or gross income from a contract to provide for one or more of the following actions, or a contract for site preparation, constructing, furnishing or installing machinery, equipment or other tangible personal property, including structures necessary to protect exempt incorporated materials or installed machinery or equipment, and tangible personal property incorporated into the project, to perform one or more of the following actions in response to a release or suspected release of a hazardous substance, pollutant or contaminant from a facility to the environment, unless the release was authorized by a permit issued by a governmental authority:

(a) Actions to monitor, assess and evaluate such a release or a suspected release.

(b) Excavation, removal and transportation of contaminated soil and its treatment or disposal.

(c) Treatment of contaminated soil by vapor extraction, chemical or physical stabilization, soil washing or biological treatment to reduce the concentration, toxicity or mobility of a contaminant.

(d) Pumping and treatment or in situ treatment of contaminated groundwater or surface water to reduce the concentration or toxicity of a contaminant.

(e) The installation of structures, such as cutoff walls or caps, to contain contaminants present in groundwater or soil and prevent them from reaching a location where they could threaten human health or welfare or the environment.

This paragraph does not include asbestos removal or the construction or use of ancillary structures such as maintenance sheds, offices or storage facilities for unattached equipment, pollution control equipment, facilities or other control items required or to be used by a person to prevent or control contamination before it reaches the environment.

7. The gross proceeds of sales or gross income that is derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or that is exempt from use tax under section 42-5159, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or exempt from use tax under section 42-5159, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other similar nonpermanent connections to either real property or real property improvements.

8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

(a) Section 42-5061, subsection A, paragraph 25, 29, ~~or 58~~ 57 OR 59.

(b) Section 42-5061, subsection B.

(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (j), (k), ~~(l),~~ (m) or (n) or paragraph 54 OR 56.

(d) Section 42-5159, subsection B.

9. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the modification of any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 16.

12. For taxable periods beginning from and after June 30, 2001, the gross proceeds of sales or gross income derived from a contract entered into for the construction of a residential apartment housing facility that qualifies for a federal housing subsidy for low income persons over sixty-two years of age and that is owned by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

13. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

14. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a launch site, as defined in 14 Code of Federal Regulations section 401.5.

15. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

16. The gross proceeds of sales or gross income derived from contracts to perform postconstruction treatment of real property for termite and general pest control, including wood destroying organisms.

17. The gross proceeds of sales or gross income received from contracts entered into before July 1, 2006 for constructing a state university research infrastructure project if the project has been reviewed by the joint committee on capital review before the university enters into the construction contract for the project. For the purposes of this paragraph, "research infrastructure" has the same meaning prescribed in section 15-1670.

18. The gross proceeds of sales or gross income received from a contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business under section 41-1516 for harvesting or

processing qualifying forest products removed from qualifying projects as defined in section 41-1516 if actual construction begins before January 1, 2024. To qualify for this deduction, the prime contractor must obtain a letter of qualification from the Arizona commerce authority before beginning work under the contract.

19. Any amount of the gross proceeds of sales or gross income attributable to development fees that are incurred in relation to a contract for construction, development or improvement of real property and that are paid by a prime contractor or subcontractor. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the prime contractor or subcontractor, and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

20. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a mixed waste processing facility that is located on a municipal solid waste landfill and that is constructed for the purpose of recycling solid waste or producing renewable energy from landfill waste. For the purposes of this paragraph:

(a) "Mixed waste processing facility" means a solid waste facility that is owned, operated or used for the treatment, processing or disposal of solid waste, recyclable solid waste, conditionally exempt small quantity generator waste or household hazardous waste. For the purposes of this subdivision, "conditionally exempt small quantity generator waste", "household hazardous waste" and "solid waste facility" have the same meanings prescribed in section 49-701, except that solid waste facility does include a site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material.

(b) "Municipal solid waste landfill" has the same meaning prescribed in section 49-701.

(c) "Recycling" means collecting, separating, cleansing, treating and reconstituting recyclable solid waste that would otherwise become solid waste, but does not include incineration or other similar processes.

(d) "Renewable energy" has the same meaning prescribed in section 41-1511.

C. Entitlement to the deduction pursuant to subsection B, paragraph 7 of this section is subject to the following provisions:

1. A prime contractor may establish entitlement to the deduction by both:

(a) Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the base.

(b) Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the deductibility of the property under section 42-5061, subsection B, and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the prime contractor has reason to believe that the information contained in the certificate is not accurate or complete.

2. A person who does not comply with paragraph 1 of this subsection may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

3. The department may prescribe a form for the certificate described in paragraph 1, subdivision (b) of this subsection. The department may also adopt rules that describe the transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided in paragraph 1, subdivision (b) of this subsection but must instead obtain such additional information as required in order to be entitled to the deduction.

4. If a prime contractor is entitled to a deduction by complying with paragraph 1 of this subsection, the department may require the purchaser who caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the prime contractor to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the prime contractor would have been required to pay under article 1 of this chapter if the prime contractor had not complied with paragraph 1 of this subsection. Payment of the amount under this paragraph exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as a transaction privilege tax to the purchaser and as tax revenues collected from the prime contractor in order to designate the distribution base for purposes of section 42-5029.

D. Subcontractors or others who perform modification activities are not subject to tax if they can demonstrate that the job was within the control of a prime contractor or contractors or a dealership of manufactured buildings and that the prime contractor or dealership is liable for the tax on the gross income, gross proceeds of sales or gross receipts attributable to the job and from which the subcontractors or others were paid.

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person providing the certificate is a prime contractor and is liable for the tax under article 1 of this chapter. The department shall prescribe the form of the certificate. If the contractor has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. If the person who provides the certificate is not liable for the tax as a

prime contractor, that person is nevertheless deemed to be the prime contractor in lieu of the contractor and is subject to the tax under this section on the gross receipts or gross proceeds received by the contractor.

F. Every person engaging or continuing in this state in the business of prime contracting or dealership of manufactured buildings shall present to the purchaser of such prime contracting or manufactured building a written receipt of the gross income or gross proceeds of sales from such activity and shall separately state the taxes to be paid pursuant to this section.

G. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the prime contracting classification from any prime contractor engaged in the preparation or construction of a multipurpose facility, and related infrastructure, that is owned, operated or leased by the tourism and sports authority pursuant to title 5, chapter 8.

H. For the purposes of section 42-5032.02, from and after September 30, 2013, the department shall separately account for revenues reported and collected under the prime contracting classification from any prime contractor engaged in the construction of any buildings and associated improvements that are for the benefit of a manufacturing facility. For the purposes of this subsection, "associated improvements" and "manufacturing facility" have the same meanings prescribed in section 42-5032.02.

I. The gross proceeds of sales or gross income derived from a contract for lawn maintenance services are not subject to tax under this section if the contract does not include landscaping activities. Lawn maintenance service is a service pursuant to section 42-5061, subsection A, paragraph 1, and includes lawn mowing and edging, weeding, repairing sprinkler heads or drip irrigation heads, seasonal replacement of flowers, refreshing gravel, lawn de-thatching, seeding winter lawns, leaf and debris collection and removal, tree or shrub pruning or clipping, garden and gravel raking and applying pesticides, as defined in section 3-361, and fertilizer materials, as defined in section 3-262.

J. Except as provided in subsection O of this section, the gross proceeds of sales or gross income derived from landscaping activities are subject to tax under this section. Landscaping includes installing lawns, grading or leveling ground, installing gravel or boulders, planting trees and other plants, felling trees, removing or mulching tree stumps, removing other imbedded plants, building irrigation berms, installing railroad ties and installing underground sprinkler or watering systems.

K. The portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

L. Operating a landfill or a solid waste disposal facility is not subject to taxation under this section, including filling, compacting and creating vehicle access to and from cell sites within the landfill. Constructing roads to a landfill or solid waste disposal facility and constructing cells within a landfill or solid waste disposal facility may be deemed prime contracting under this section.

M. The following apply in determining the taxable situs of sales of manufactured buildings:

1. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site or to perform the setup in this state, the taxable situs is the setup site.

2. For sales in this state where the manufactured building dealer does not contract to deliver the building to a setup site or does not perform the setup, the taxable situs is the location of the dealership where the building is delivered to the buyer.

3. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site that is outside this state, the situs is outside this state and the transaction is excluded from tax.

N. The gross proceeds of sales or gross income attributable to a written contract for design phase services or professional services, executed before modification begins and with terms, conditions and pricing of all of these services separately stated in the contract from those for construction phase services, is not subject to tax under this section, regardless of whether the services are provided sequential to or concurrent with prime contracting activities that are subject to tax under this section. This subsection does not include the gross proceeds of sales or gross income attributable to construction phase services. For the purposes of this subsection:

1. "Construction phase services" means services for the execution and completion of any modification, including the following:

(a) Administration or supervision of any modification performed on the project, including team management and coordination, scheduling, cost controls, submittal process management, field management, safety program, close-out process and warranty period services.

(b) Administration or supervision of any modification performed pursuant to a punch list. For the purposes of this subdivision, "punch list" means minor items of modification work performed after substantial completion and before final completion of the project.

(c) Administration or supervision of any modification performed pursuant to change orders. For the purposes of this subdivision, "change order" means a written instrument issued after execution of a contract for modification work, providing for all of the following:

(i) The scope of a change in the modification work, contract for modification work or other contract documents.

(ii) The amount of an adjustment, if any, to the guaranteed maximum price as set in the contract for modification work. For the purposes of this item, "guaranteed maximum price" means the amount guaranteed to be the maximum amount due to a prime contractor for the performance of all modification work for the project.

(iii) The extent of an adjustment, if any, to the contract time of performance set forth in the contract.

(d) Administration or supervision of any modification performed pursuant to change directives. For the purposes of this subdivision, "change directive" means a written order directing a change in modification work before agreement on an adjustment of the guaranteed maximum price or contract time.

(e) Inspection to determine the dates of substantial completion or final completion.

(f) Preparation of any manuals, warranties, as-built drawings, spares or other items the prime contractor must furnish pursuant to the contract for modification work. For the purposes of this subdivision, "as-built drawing" means a drawing that indicates field changes made to adapt to field conditions, field changes resulting from change orders or buried and concealed installation of piping, conduit and utility services.

(g) Preparation of status reports after modification work has begun detailing the progress of work performed, including preparation of any of the following:

(i) Master schedule updates.

(ii) Modification work cash flow projection updates.

(iii) Site reports made on a periodic basis.

(iv) Identification of discrepancies, conflicts or ambiguities in modification work documents that require resolution.

(v) Identification of any health and safety issues that have arisen in connection with the modification work.

(h) Preparation of daily logs of modification work, including documentation of personnel, weather conditions and on-site occurrences.

(i) Preparation of any submittals or shop drawings used by the prime contractor to illustrate details of the modification work performed.

(j) Administration or supervision of any other activities for which a prime contractor receives a certificate for payment or certificate for final payment based on the progress of modification work performed on the project.

2. "Design phase services" means services for developing and completing a design for a project that are not construction phase services, including the following:

(a) Evaluating surveys, reports, test results or any other information on-site conditions for the project, including physical characteristics, legal limitations and utility locations for the site.

(b) Evaluating any criteria or programming objectives for the project to ascertain requirements for the project, such as physical requirements affecting cost or projected utilization of the project.

(c) Preparing drawings and specifications for architectural program documents, schematic design documents, design development documents, modification work documents or documents that identify the scope of or materials for the project.

(d) Preparing an initial schedule for the project, excluding the preparation of updates to the master schedule after modification work has begun.

(e) Preparing preliminary estimates of costs of modification work before completion of the final design of the project, including an estimate or schedule of values for any of the following:

(i) Labor, materials, machinery and equipment, tools, water, heat, utilities, transportation and other facilities and services used in the execution and completion of modification work, regardless of whether they are temporary or permanent or whether they are incorporated in the modifications.

(ii) The cost of labor and materials to be furnished by the owner of the real property.

(iii) The cost of any equipment of the owner of the real property to be assigned by the owner to the prime contractor.

(iv) The cost of any labor for installation of equipment separately provided by the owner of the real property that has been designed, specified, selected or specifically provided for in any design document for the project.

(v) Any fee paid by the owner of the real property to the prime contractor pursuant to the contract for modification work.

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

(viii) Any contingency fees for the prime contractor that may be used before final completion of the project.

(f) Reviewing and evaluating cost estimates and project documents to prepare recommendations on site use, site improvements, selection of materials, building systems and equipment, modification feasibility, availability of materials and labor, local modification activity as related to schedules and time requirements for modification work.

(g) Preparing the plan and procedures for selection of subcontractors, including any prequalification of subcontractor candidates.

3. "Professional services" means architect services, assayer services, engineer services, geologist services, land surveying services or landscape architect services that are within the scope of those services as provided in title 32, chapter 1 and for which gross proceeds of sales or gross income has not otherwise been deducted under subsection K of this section.

O. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property is not subject to tax under this section if the contract does not include modification activities, except as specified in this subsection. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax under this section. For the purposes of this subsection:

1. Tangible personal property that is incorporated or fabricated into a project described in this subsection may be subject to the amount prescribed in section 42-5008.01.

2. Each contract is independent of any other contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this chapter, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to

follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

P. Notwithstanding subsection O of this section, a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is taxable under this section, even if the contract also includes vertical improvements. Agencies that are subject to procurement processes under those provisions shall include in the request for proposals a notice to bidders when those projects are subject to this section. This subsection does not apply to contracts with:

1. Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts, regional attraction districts or revitalization districts.

2. Any special taxing district not specified in paragraph 1 of this subsection if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

Q. Notwithstanding subsection R, paragraph 10 of this section, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who receives a consideration for the modifications is considered a prime contractor solely for purposes of taxing the gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

1. If any part of the contract for sale of the property specifies amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title, the amounts are included in the original owner's gross proceeds of sale or gross income under this section. Proceeds from the sale of the property that are received after transfer of title and that are unrelated to the modifications made subsequent to the transfer of title are not considered gross proceeds of sale or gross income from the modifications.

2. If the original owner enters into an agreement separate from the contract for sale of the real property providing for amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title to the property, the amounts are included in the original owner's gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title.

3. If the original owner is responsible to the new owner for modifications made to the property in the period subsequent to the transfer of title and derives any gross proceeds of sale or gross income from the project subsequent to the transfer of title other than a delayed disbursement from escrow unrelated to the modifications, it is presumed that the amounts are received for the modifications made subsequent to

the transfer of title unless the contrary is established by the owner through its books, records and papers kept in the regular course of business.

4. The tax base of the original owner is computed in the same manner as a prime contractor under this section.

R. For the purposes of this section:

1. "Alteration" means an activity or action that causes a direct physical change to existing property. For the purposes of this paragraph:

(a) For existing property that is properly classified as class two property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2, subdivision (c) and that is used for residential purposes, class three property under section 42-12003 or class four property under 42-12004, this paragraph does not apply if the contract amount is more than twenty-five percent of the most recent full cash value established under chapter 13, article 2 of this title as of the date of any bid for the work or the date of the contract, whichever value is higher.

(b) For all existing property other than existing property described in subdivision (a) of this paragraph, this paragraph does not apply if any of the following is true:

(i) The contract amount is more than seven hundred fifty thousand dollars.

(ii) The scope of work directly relates to more than forty percent of the existing square footage of the existing property.

(iii) The scope of work involves expanding the square footage of more than ten percent of the existing property.

(c) Project elements may not be artificially separated from a contract to cause a project to qualify as an alteration. The department has the burden of proof that project elements have been artificially separated from a contract.

(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.

(e) A change order that directly relates to the scope of work of the original contract shall be treated as part of the original contract, and the contract amount shall include any amount attributable to a change order that directly relates to the scope of work of the original contract.

(f) Alteration does not include maintenance, repair or replacement.

2. "Contracting" means engaging in business as a contractor.

3. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty

contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such contractor is acting in fulfillment of a contract.

4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-2142.

5. "Manufactured building dealer" means a dealer who either:

(a) Is licensed pursuant to title 41, chapter 16 and who sells manufactured buildings to the final consumer.

(b) Supervises, performs or coordinates the excavation and completion of site improvements or the setup or moving of a manufactured building including the contracting, if any, with any subcontractor or specialty contractor for the completion of the contract.

6. "Modification" means construction, grading and leveling ground, wreckage or demolition. Modification does not include:

(a) Any project described in subsection O of this section.

(b) Any wreckage or demolition of existing property, or any other activity that is a necessary component of a project described in subsection O of this section.

(c) Any mobilization or demobilization related to a project described in subsection O of this section, such as the erection or removal of temporary facilities to be used by those persons working on the project.

7. "Modify" means to make a modification or cause a modification to be made.

8. "Owner" means the person that holds title to the real property or improvements to real property that is the subject of the work, as well as an agent of the title holder and any person with the authority to perform or authorize work on the real property or improvements, including a tenant and a property manager. For the purposes of subsection O of this section, a person who is hired by a general contractor that is hired by an owner, or a subcontractor of a general contractor that is hired by an owner, is considered to be hired by the owner.

9. "Prime contracting" means engaging in business as a prime contractor.

10. "Prime contractor" means a contractor who supervises, performs or coordinates the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract. Except as provided in subsections E and Q of this section, a person who owns real property, who engages one or more contractors to modify that real property and who does not itself modify that real property is not a prime contractor within the meaning of this paragraph regardless of the existence of a contract for sale or the subsequent sale of that real property.

11. "Replacement" means the removal of one component or system of existing property or tangible personal property installed in existing property, including machinery or equipment, and the installation of a new component or system or new tangible personal property, including machinery or equipment, that provides the same or upgraded design or functionality, regardless of the contract amount.

12. "Sale of a used manufactured building" does not include a lease of a used manufactured building.

**Sec. 12.** Section 42-5159, Arizona Revised Statutes, as amended by Laws 2015, chapter 4, section 12, is amended to read:

**42-5159. Exemptions**

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

1. Tangible personal property sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

2. Tangible personal property the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing or to the extent that the rate or imposition of tax is unconstitutional under the laws of the United States.

4. Tangible personal property that directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under title 28, chapter 16, article 1, use fuel that is sold to or used by a person holding a valid single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in this state is subject to the tax imposed under section 28-8344, and jet fuel, the sales, distribution or use of which in this state is subject to the tax imposed under article 8 of this chapter.

6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged in producing livestock, poultry, or livestock or poultry products, or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

8. Livestock, poultry, supplies, feed, salts, vitamins and other additives for use or consumption in the businesses of farming, ranching and feeding livestock or poultry, not including fertilizers, herbicides and insecticides. For the purposes of this paragraph, "poultry" includes ratites.

9. Seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

10. Tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

11. Advertising supplements that are intended for sale with newspapers published in this state and that have already been subjected to an excise tax under the laws of another state in the United States that equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under this chapter by reason of being engaged in business classified under section 42-5075, or a subcontractor working under the control of a person that is engaged in business classified under section 42-5075, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the person into a structure, project, development or improvement in fulfillment of a contract.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection O.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(h) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate described in section 42-5009, subsection L, if the property purchased is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

(i) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(j) A qualifying community health center as defined in section 42-5001.

(k) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(l) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(m) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(n) A qualifying health sciences educational institution as defined in section 42-5001.

(o) A person representing or working on behalf of any person described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) or (n) of this paragraph, if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

22. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

23. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

24. Food and drink provided without monetary charge by a taxpayer that is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property that are acquired for use by or provided to a school district or charter school if they are to be either served or prepared and served to persons for consumption on the premises of a public school in the school district or on the premises of the charter school during school hours.

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5.1, article 1.

28. Textbooks, sold by a bookstore, that are required by any state university or community college.

29. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) Public educational institutions.

(c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any exemption for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

38. Tangible personal property that is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, that is used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in

a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of:

(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

(b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

51. Motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

52. Repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

53. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power entity to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

54. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the computer data center or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in a computer data center that is certified by the Arizona commerce authority under

section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

55. Coal acquired from an owner or operator of a power plant by a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

56. Tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a

person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment that has never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of

semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting

or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the Arizona commerce authority at the time of purchase.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or tangible personal property used by a contractor in the performance of a contract.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

E. The tax levied by this article does not apply to the purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment

become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. The tax levied by this article does not apply to the purchase price of electricity or natural gas by a business that is principally engaged in manufacturing or smelting operations and that uses at least fifty-one percent of the electricity or natural gas in the manufacturing or smelting operations. This subsection does not apply to gas transportation services. For the purposes of this subsection:

1. "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

2. "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include processing, fabricating, job printing, mining, generating electricity or operating a restaurant.

3. "Principally engaged" means at least fifty-one percent of the business is a manufacturing or smelting operation.

4. "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

H. For the purposes of subsection B of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

I. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

**Sec. 13.** Section 42-12057, Arizona Revised Statutes, is amended to read:

**42-12057. Criteria for renewable energy property**

A. To qualify for the classification as class six pursuant to section 42-12006, paragraph ~~9~~ 8, the owner of a manufacturing facility or headquarters facility must be certified pursuant to section 41-1511, subsection C and must provide documentation to the county assessor each year that the facility is primarily dedicated to renewable energy manufacturing or regional, national or global renewable energy business headquarters operations.

B. For the purposes of this section, renewable energy operations are limited to manufacturers of, and headquarters for, systems and components that are used or useful in manufacturing renewable energy equipment for the generation, storage,

testing and research and development, transmission or distribution of electricity from renewable resources, including specialized crates necessary to package the renewable energy equipment manufactured at the facility.

**Sec. 14.** Section 42-13304, Arizona Revised Statutes, is amended to read:

**42-13304. Exemptions from limitation**

The limitations prescribed by this article do not apply to:

1. Personal property, other than mobile homes. The full cash value of personal property, other than mobile homes, shall be used for all purposes in lieu of limited property value.

2. Property included in property class one under section 42-12001, paragraphs 1 through 7, ~~and~~ 11 AND 14. The full cash value of that property shall be used for all purposes in lieu of limited property value.

**Sec. 15.** Section 42-14159, Arizona Revised Statutes, is amended to read:

**42-14159. Computing valuation of distribution cooperatives; standard market value factor; definitions**

A. The department shall determine the valuation of the electric distribution and transmission property of a distribution cooperative as defined in section 42-14154 that is operating in this state as follows:

1. Compute the value of the property pursuant to section 42-14154, subsection B.

2. Multiply the value computed under paragraph 1 of this subsection by the standard market value factor determined under subsection E of this section.

B. The value of construction work in progress is fifty per cent of the amount spent and entered on the taxpayer's accounting records as of December 31 of the preceding calendar year as construction work in progress.

C. The value of materials and supplies is the total cost of this property as of December 31 of the preceding calendar year.

D. The value of environmental protection facilities that are required by law is fifty per cent of the depreciated cost of the facilities.

E. The standard market value factor shall be determined as follows:

1. Using the most recent publicly available data obtained from annual reports produced by the federal energy regulatory commission OR THE PUBLICLY AVAILABLE DATA FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON FORM 10-K for each investor-owned electric utility operating in this state, calculate the following standard factors for each investor-owned electric utility:

(a) Megawatt hours sold to ultimate customers per ultimate customer.

(b) Megawatt hours sold to ultimate customers per net dollar invested in distribution plant.

(c) Megawatt hours sold to ultimate customers per dollar of operating and maintenance expense.

(d) Megawatt hours sold to ultimate customers per dollar of distribution operating and maintenance expense.

(e) The number of ultimate customers per net dollar invested in distribution plant.

(f) The number of ultimate customers per mile of distribution line.

2. Determine the average of each of the six standard factors under paragraph 1 of this subsection for the investor-owned electric utilities operating in this state as follows:

(a) For each factor, add the values obtained for that factor for all investor-owned electric utilities operating in this state.

(b) Divide the sum obtained under subdivision (a) of this paragraph for each factor by the number of investor-owned electric utilities operating in this state that were included in the calculation under subdivision (a) of this paragraph for that factor.

3. Using information obtained from the most recent report filed with the department under section 42-14152, calculate each of the standard factors under paragraph 1 of this subsection for the distribution cooperative.

4. Divide each of the six standard factors for the distribution cooperative calculated under paragraph 3 of this subsection by the corresponding average standard factors calculated under paragraph 2 of this subsection.

5. Add the six ratios calculated pursuant to paragraph 4 of this subsection, and divide that sum by six. The quotient is the standard market value factor.

F. For the purposes of this section:

1. "Distribution line" means a line that is capable of transporting voltage of 69,000 volts or less and that is employed between the primary source of power supply and delivery to a customer.

2. "Distribution plant" means all property that is situated in this state and that is used or useful for the distribution of electric power except land rights, materials and supplies, and licensed vehicles.

3. "Investor-owned electric utility" means a business organization that provides electric power production and distribution, is regarded as a utility and is managed as a private enterprise rather than a function of a government or as a utility cooperative.

**Sec. 16.** Section 43-1098, Arizona Revised Statutes, is amended to read:

**43-1098. Apportionment of exemptions**

A. Any resident taxpayer, other than an active member of the armed forces of the United States or any other auxiliary branch, who commences or terminates his residency in this state during any one taxable year shall prorate the following on the basis of the proportion which such taxpayer's total Arizona gross income bears to the federal adjusted gross income:

1. The personal exemption provided in section 43-1043.

2. The exemptions provided in section 43-1023 for the blind, for persons age sixty-five or older and for dependents.

B. The percentage of exemption allowed shall be computed by dividing the taxpayer's Arizona ~~adjusted~~ gross income by the federal adjusted gross income.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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# BORDER FENCE—APPROPRIATION

## CHAPTER 231

## S. B. 1271

**AN ACT AMENDING SECTION 41-113, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; RELATING TO BORDER SECURITY.**

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

**Section 1.** Section 41-113, Arizona Revised Statutes, is amended to read:

**41-113. Interstate compact to build border fence; requirements; joint border security advisory committee; trust fund; committee termination**

A. The governor may enter into a compact with other states to provide for the construction and maintenance of a physical or virtual fence ~~within one mile of~~ AS CLOSE AS PRACTICABLE TO the Arizona-Mexico border line that is located on private, state or federal property if permitted. The governor may enter into such a compact as part of any broader compact relating to the same or A similar issue. A compact entered into pursuant to this section shall contain at least the following:

1. A provision making it available for joinder by all states.

2. A provision for withdrawal from the compact on written notice to the parties no sooner than one year after the date of the notice.

3. A provision for the establishment of an organization:

(a) To administer and manage the construction and maintenance of the physical or virtual border fence.

(b) To administer any monies obtained for the construction and maintenance of the physical or virtual border fence.

4. A provision that provides for a state to develop the state's own funding mechanism to construct and maintain the physical or virtual border fence through private or public donations from whatever source and that is administered by the organization established pursuant to paragraph 3 of this subsection.

5. A requirement that a state use correctional inmates as well as private contractors to construct and maintain the physical or virtual border fence.

6. The option to construct and maintain the physical or virtual fence on state or federal land.

7. Other provisions necessary to implement the compact.

B. If this state does not enter into the compact authorized by subsection A of this section, this state may still construct and maintain a physical or virtual fence ~~within one mile of~~ AS CLOSE AS PRACTICABLE TO the Arizona-Mexico border line that is located on private, state or federal property if permitted. Subsection A, paragraph 4 OF THIS SECTION, regarding developing the state's own funding

mechanism, and SUBSECTION A, paragraph 6 of this section apply to the physical or virtual border fence.

C. The joint border security advisory committee is established consisting of the following members:

1. The president of the senate or the president's designee as a nonvoting member.

2. The speaker of the house of representatives or the speaker's designee as a nonvoting member.

3. Two members of the house of representatives who are appointed by the speaker of the house of representatives as nonvoting members.

4. Two members of the senate who are appointed by the president of the senate as nonvoting members.

5. Six members who are appointed by the governor.

6. A county sheriff from a county that has a population of more than three million persons.

7. A county sheriff from a county that has a population of more than three hundred thousand persons but less than six hundred thousand persons.

8. A county sheriff from a county that is located along the Arizona-Mexico border and that has a population of more than one hundred thousand persons but less than one hundred fifty thousand persons.

9. A county sheriff from a county that is located along the Arizona-Mexico border and that has a population of at least one hundred fifty thousand persons but less than six hundred thousand persons.

D. Committee members are not eligible to receive compensation or reimbursement of expenses for committee activities.

E. The president and the speaker of the house of representatives shall each appoint a cochairperson of the committee.

F. The committee shall meet on the call of the two cochairpersons, but no more frequently than monthly.

G. The committee may:

1. Take testimony and other evidence regarding the international border with Mexico.

2. Analyze border crossing statistics.

3. Analyze related crime statistics.

4. Make recommendations designed to increase border security.

5. Administer and manage the construction and maintenance of the physical or virtual border fence, using technology to the maximum extent practicable.

6. Make other recommendations deemed essential by the committee.

H. The committee may use the services of legislative staff as required.

I. Each month, the committee shall submit a written report of its findings and recommendations to the speaker of the house of representatives, the president of the senate and the governor. The committee shall provide a copy of the report to the secretary of state.

J. Notwithstanding any law to the contrary, the committee may vote to go into executive session to take testimony or evidence it considers sensitive or

confidential in nature, which if released could compromise the security or safety of law enforcement or military personnel or a law enforcement or national guard law enforcement support operation.

K. The border security trust fund is established consisting of monies collected pursuant to this section. The state treasurer shall administer the trust fund as trustee for the purposes of the compact entered into pursuant to subsection A of this section or for the purposes of subsection B of this section. The compact entered into pursuant to subsection A of this section or the physical or virtual border fence pursuant to subsection B of this section is the beneficiary of the trust fund. All monies in the trust fund shall be used exclusively to carry out the purposes of this section. The state treasurer shall accept, separately account for and hold in trust any monies deposited in the state treasury, which are considered to be trust monies as defined in section 35-310 and which shall not be commingled with any other monies in the state treasury except for investment purposes. The state treasurer shall invest and divest any trust fund monies deposited in the state treasury as provided by sections 35-313 and 35-314.03, and monies earned from investment shall be credited to the trust fund. Monies in the trust fund are subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

L. The committee established by subsection C of this section ends on July 1, 2020 pursuant to section 41-3103.

**Sec. 2. Appropriations; border fence; exemption**

A. All monies received by the border security trust fund established by section 41-113, Arizona Revised Statutes, in fiscal years 2014-2015 and 2015-2016 are appropriated to the joint border security advisory committee for the purposes of administering and managing the construction and maintenance of the border fence.

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

**Sec. 3. Emergency**

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

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## SUBPOENA COMPLIANCE COSTS

### CHAPTER 232

### S. B. 1316

### AN ACT AMENDING SECTION 12-351, ARIZONA REVISED STATUTES; RELATING TO SUBPOENA COMPLIANCE COSTS.

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

**Section 1.** Section 12-351, Arizona Revised Statutes, is amended to read:

**12-351. Costs of compliance with subpoena for production of documentary evidence; payment by requesting party; definitions**

A. All reasonable costs incurred in a civil action by a witness who is not a party to the action with respect to the production of documents pursuant to a subpoena for the production of documentary evidence shall be charged against the party requesting the subpoena if the witness submits an itemized statement to the requesting party stating the reproduction and clerical costs incurred by the witness.

B. If a subpoena is served to compel the production of documents and is subsequently withdrawn, quashed, modified or limited other than by the witness, the witness is entitled to reimbursement pursuant to subsection A OF THIS SECTION for all reasonable costs incurred in compliance with the subpoena to the time that the requesting party has notified the witness that the subpoena has been withdrawn, quashed, modified or limited.

C. The requesting party is not required to pay the reasonable costs before the documents are available for delivery pursuant to the subpoena. The witness may demand payment of the reasonable costs simultaneously with actual delivery of the subpoenaed documents.

D. The requesting party may petition the court in which the action is pending to recover from the witness all or a part of the costs paid to the witness or to reduce all or a part of the costs charged by the witness pursuant to this section if these costs were excessive.

E. If the personal attendance of the witness is not required, the witness may only receive payment pursuant to this section.

F. ~~In~~ FOR THE PURPOSES OF this section ~~unless the context otherwise requires~~:

1. "Reasonable costs" means ~~ten~~ TWENTY-FIVE cents for each page of standard reproduction of documents and the actual costs for reproduction of documents ~~which~~ THAT require special processing plus the reasonable clerical costs incurred in locating and making the documents available billed at the rate of ~~ten~~ TWENTY-FIVE dollars per hour per person.

2. "Requesting party" means a party requesting issuance of a subpoena for production of documentary evidence.

3. "Witness" means a person who is directed to produce documents by a subpoena for the production of documentary evidence.

Approved by the Governor April 9, 2015.
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# PROPERTY TAX—CLASS NINE—CONVENTION ACTIVITIES

## CHAPTER 233

## H. B. 2108

## AN ACT AMENDING SECTION 42-12009, ARIZONA REVISED STATUTES; RELATING TO CLASS NINE PROPERTY.

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

**Section 1.** Section 42-12009, Arizona Revised Statutes, is amended to read:

**42-12009. Class nine property**

A. For purposes of taxation, class nine is established consisting of:

1. Improvements that are located on federal, state, county or municipal property and owned by the lessee of the property if:

(a) The improvements are required to become the property of the federal, state, county or municipal owner of the property on termination of the leasehold interest in the property.

(b) Both the improvements and the property are used exclusively for CONVENTION ACTIVITIES OR athletic, recreational, entertainment, artistic or cultural facilities.

2. Improvements that are located on federal, state, county or municipal property and owned by the lessee of the property if:

(a) The improvements are required to become the property of the federal, state, county or municipal owner of the property on termination of the leasehold interest in the property.

(b) Both the improvements and the property are:

(i) Used for or in connection with aviation, including hangars, tie-downs, aircraft maintenance, sales of aviation-related items, charter and rental activities, parking facilities and restaurants, stores and other services located in a terminal.

(ii) Located on a state, county, city or town airport or a public airport operating pursuant to sections 28-8423, 28-8424 and 28-8425.

3. Property that is defined as "contractor-acquired property" or "government-furnished property" in the federal acquisition regulations (48 Code of Federal Regulations section 45.101) and that is leased to or acquired by the government and used to perform a government contract.

4. Property of a corporation that is organized by or at the direction of this state or a county, city or town to develop, construct, improve, repair, replace or own any property, improvement, building or other facility to be used for public purposes that the state, county, city or town pledges to lease or lease-purchase with state, county or municipal special or general revenues and that is not otherwise exempt under chapter 11, article 3 of this title.

5. Real property and improvements, including land, buildings, furniture and equipment, regardless of ownership, that are leased for the entire valuation year to,

and used exclusively by, a nonprofit organization that is recognized under section 501(c)(3) of the internal revenue code and that operates on the premises as a charter school pursuant to section 15-183. If only part of a parcel of real property or improvements to real property is leased for operation of a charter school as provided by this paragraph, only the portion so leased qualifies for classification under this section. A property owner who leases property to a charter school shall file an affidavit with the county assessor stating that the charter school shall be the sole beneficiary of the change in property tax classification pursuant to this section and that the lease rate that is charged to the charter school is consistent with the lease rates that are charged to other tenants of the property or a fair market rate.

~~6. Improvements that are located on federal, state, county or municipal property and owned by the lessee of the property if:~~

~~(a) The improvements become the property of the federal, state, county or municipal owner of the property on termination of the leasehold interest in the property.~~

~~(b) Both the improvements and the property are used primarily for convention activities.~~

B. Improvements that are located in an area defined as a research park pursuant to section 35-701 may not be classified under this section.

C. All property classified as class nine is subject to valuation at full cash value.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## TAX ADJUDICATIONS—ATTORNEY FEES

### CHAPTER 234

### H. B. 2131

### AN ACT AMENDING SECTIONS 12-348, 41-1007 AND 42-2064, ARIZONA REVISED STATUTES; RELATING TO TAX ADJUDICATIONS.

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

**Section 1.** Section 12-348, Arizona Revised Statutes, is amended to read:

**12-348. Award of fees and other expenses against the state or a city, town or county; reduction or denial of award; application; basis for amount of award; source of award; definitions**

A. In addition to any costs that are awarded as prescribed by statute, a court shall award fees and other expenses to any party other than this state or a city, town or county that prevails by an adjudication on the merits in any of the following:

1. A civil action brought by ~~the~~ THIS state or a city, town or county against the party.

2. A court proceeding to review a state agency decision pursuant to chapter 7, article 6 of this title or any other statute authorizing judicial review of agency, city, town or county decisions.

3. A proceeding pursuant to section 41-1034.

4. A special action proceeding brought by the party to challenge an action by this state or a city, town or county against the party.

5. An appeal by this state to a court of law from a decision of the personnel board under title 41, chapter 4, article 6.

6. A civil action brought by the party to challenge the seizure and sale of personal property by this state or a city, town or county.

B. In addition to any costs that are awarded as prescribed by statute, EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, a court may award fees and other expenses to any party, other than this state or a city, town or county, that prevails by an adjudication on the merits in an action brought by the party against this state or a city, town or county challenging:

1. The assessment, ~~or~~ collection OR REFUND of taxes or in an action brought by this state or a city, town or county against the party to enforce the assessment or collection of taxes OR THE DENIAL OF A REFUND.

2. The adequacy or regularity of notice of delinquent taxes.

3. The regularity of sales of property for delinquent taxes.

C. The court in its discretion may deny the award provided for in this section or may reduce the award if it finds that any of the following applies:

1. During the course of the proceeding the prevailing party unduly and unreasonably protracted the final resolution of the matter.

2. The reason that the party other than this state or a city, town or county has prevailed is an intervening change in the applicable law.

3. The prevailing party refused an offer of civil settlement that was at least as favorable to the party as the relief ultimately granted.

D. A party may apply pursuant to the applicable procedural rules for an award of attorney fees and other expenses authorized under this section and shall include as part of the application evidence of the party's eligibility for the award and the amount sought, including an itemized statement from the attorneys and experts stating the actual time expended in representing the party and the rate at which the fees were computed.

E. The court shall base any award of fees as provided in this section on prevailing market rates for the kind and quality of the services furnished, except that:

1. An expert is not eligible for compensation at a rate in excess of the highest rate of compensation for experts paid by this state or a city, town or county EXCEPT FOR AWARDS MADE PURSUANT TO SUBSECTION B OF THIS SECTION.

2. Except for awards made pursuant to subsection B of this section, the award of attorney fees may not exceed the amount that the prevailing party has paid or has agreed to pay the attorney or a maximum amount of seventy-five dollars per hour unless the court determines that an increase in the cost of living or a special

factor, such as the limited availability of qualified attorneys for the proceeding involved, justifies a higher fee.

3. For awards made pursuant to subsection B of this section, the award of attorney fees may not exceed the amount that the prevailing party has paid or agreed to pay the attorney or a maximum amount of ~~one~~ THREE hundred ~~seventy-five~~ FIFTY dollars per hour.

4. Except for awards made pursuant to subsection B of this section, an award of fees against a city, town or county as provided in this section shall not exceed ten thousand dollars.

5. For awards made pursuant to subsection B of this section, an award of fees against this state or a city, town or county shall not exceed ~~thirty~~ SEVENTY-FIVE thousand dollars for fees incurred at each level of judicial appeal.

6. FOR EACH CALENDAR YEAR BEGINNING FROM AND AFTER DECEMBER 31, 2015, THE INCOME DOLLAR AMOUNTS FOR MAXIMUM AWARDS MADE PURSUANT TO SUBSECTIONS B AND E OF THIS SECTION SHALL BE ADJUSTED BY THE ATTORNEY GENERAL ACCORDING TO THE AVERAGE ANNUAL CHANGE IN THE METROPOLITAN PHOENIX CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS. THE REVISED DOLLAR AMOUNTS SHALL BE RAISED TO THE NEAREST WHOLE DOLLAR. THE INCOME DOLLAR AMOUNTS MAY NOT BE REVISED BELOW THE AMOUNTS PRESCRIBED IN THE PRIOR CALENDAR YEAR.

F. The particular state agency over which a party prevails shall pay the fees and expenses awarded as provided in this section from any monies appropriated to the agency for that purpose. If no agency is involved or if an agency fails or refuses to pay fees and other expenses within thirty days after demand by a person who has received an award pursuant to this section, and if no further review or appeals of the award are pending, the person may file a claim for the fees and other expenses with the department of administration, which shall pay the claim within thirty days, in the same manner as an uninsured property loss under title 41, chapter 3.1, article 1. If, at the time the agency failed or refused to pay the award, it had appropriated monies either designated or assignable for the purpose of paying awards, the legislature shall reduce the agency's operating appropriation for the following year by the amount of the award and shall appropriate the amount of the reduction to the department of administration as reimbursement for the loss.

G. A city, town or county shall pay fees and expenses awarded as provided in this section within thirty days after demand by a party who has received an award if no further review or appeal of the award is pending.

H. This section does not:

1. Apply to an action arising from a proceeding before this state or a city, town or county in which the role of this state or a city, town or county was to determine the eligibility or entitlement of an individual to a monetary benefit or its equivalent, to adjudicate a dispute or issue between private parties or to establish or fix a rate.

2. Apply to proceedings brought by this state pursuant to title 13 or 28.

3. Entitle a party to obtain fees and other expenses incurred in making an application for an award pursuant to this section for fees and other expenses.

4. Apply to proceedings involving eminent domain, foreclosure, collection of judgment debts or proceedings in which ~~the~~ THIS state or a city, town or county is a nominal party.

5. Personally obligate any officer or employee of this state or a city, town or county for the payment of an award entered under this section.

6. Apply, except as provided in subsection A, paragraph 5 of this section, to proceedings involving the personnel board under title 41, chapter 4, article 6.

7. Apply to proceedings brought by a city, town or county pursuant to title 13 or 28.

8. Apply to proceedings brought by a city, town or county on collection of taxes or pursuant to traffic ordinances or to criminal proceedings brought by a city, town or county on ordinances which contain a criminal penalty or fine for violations of those ordinances.

I. For the purposes of this section:

1. "Fees and other expenses" means the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test or project which the court finds to be directly related to and necessary for the presentation of the party's case and reasonable and necessary attorney fees, and in the case of an action to review an agency decision pursuant to subsection A, paragraph 2 of this section, all fees and other expenses that are incurred in the contested case proceedings in which the decision was rendered.

2. "Party" means an individual, partnership, corporation, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, association or public or private organization.

3. "State" means this state and any agency, officer, department, board or commission of this state.

4. "TAXES" INCLUDES ALL TAXES AND RELATED LEVIES AND ASSESSMENTS ADDRESSED IN SECTION 12-163.

**Sec. 2.** Section 41-1007, Arizona Revised Statutes, is amended to read:

**41-1007. Award of costs and fees against a department in administrative hearings; exceptions; definitions**

A. Except as provided in section 32-3632 and section 42-2064, subsection ~~G~~ F, a hearing officer or administrative law judge shall award fees and other costs to any prevailing party in a contested case or an appealable agency action brought pursuant to any state administrative hearing authority. For purposes of this subsection, a person is considered to be a prevailing party only if both:

1. The agency's position was not substantially justified.

2. The person prevails as to the most significant issue or set of issues unless the reason that the person prevailed is due to an intervening change in the law.

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

C. A party that seeks an award of fees or other costs shall apply to the hearing officer or administrative law judge, within thirty days after the final decision or order, providing:

1. Evidence of the party's eligibility for the award.

2. The amount sought.

3. An itemized statement from the attorneys and experts stating:

(a) The actual time spent representing the party.

(b) The rate at which the fees were computed.

D. The award of reasonable attorney fees pursuant to subsection A of this section need not equal or relate to the attorney fees actually paid or contracted, but an award may not exceed the amount paid or agreed to be paid.

E. A decision of a hearing officer or administrative law judge under this section is subject to judicial review. If fees and other costs were denied by the hearing officer or administrative law judge because the party was not the prevailing party but the party prevails on appeal, the court may award fees and other costs for the proceedings before the hearing officer or administrative law judge if the court finds that fees and other costs should have been awarded under subsection A of this section.

F. The department shall pay the fees and costs awarded pursuant to this section from any monies appropriated to the department and available for that purpose, or from other operating costs of the department. If the department fails or refuses to pay the award within thirty days after the demand, and if no further review or appeals of the award are pending, the person may file a claim for the award with the department of administration which shall pay the claim within thirty days in the same manner as an uninsured property loss under chapter 3.1, article 1 of this title, except that the department shall be responsible for the total amount awarded and shall pay it from operating monies. If the department had appropriated monies available for paying the award at the time it failed or refused to pay, the legislature shall reduce the department's operating appropriation for the following fiscal year by the amount of the award and appropriate that amount to the department of administration as reimbursement for the loss.

G. This section does not apply to:

1. Any grievance and appeal procedure pursuant to title 36, chapter 29.

2. Any appeal procedure pursuant to chapter 4, article 6 of this title.

3. Any administrative appeal filed by an inmate in an Arizona state prison.

H. For the purposes of this section:

1. "Department" includes a state agency, department, board or commission, and the universities.

2. "Party" includes an individual, partnership, corporation, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, association and public or private organization.

**Sec. 3.** Section 42-2064, Arizona Revised Statutes, is amended to read:

**42-2064. Reimbursement of fees and other costs; definitions**

A. A taxpayer who is a prevailing party may be reimbursed for reasonable fees and other costs related to an administrative proceeding that is brought by or

against the department in connection with an assessment, determination, collection or refund of any tax listed in section 42-1101. For THE purposes of this subsection, a taxpayer is considered to be a prevailing party only if both of the following are true:

1. The department's position was not substantially justified.

2. The taxpayer prevails as to the most significant issue or set of issues.

B. Reimbursement under this section may be denied if any of the following circumstances apply:

1. During the course of the proceeding the taxpayer unduly and unreasonably protracted the final resolution of the matter.

2. The reason that the taxpayer prevailed is due to an intervening change in the applicable law.

C. The taxpayer shall present an itemization of the reasonable fees and other costs to the taxpayer problem resolution officer within thirty days after the conclusion of the administrative proceedings. The taxpayer problem resolution officer shall determine the validity of the fees and other costs within thirty days after receiving the itemization. The taxpayer problem resolution officer's decision is considered the department's final decision or order and is subject to appeal to the state board under section 42-1253.

D. The department of revenue shall pay the fees and other costs awarded as provided in this section from any monies appropriated for such purpose. If the department of revenue does not pay the fees and other costs within thirty days after demand by a person who has received an award pursuant to this section, and if no further review or appeals of the award are pending, the person may file a claim for the fees and other costs with the department of administration, which shall pay the claim within thirty days, in the same manner as an uninsured property loss under title 41, chapter 3.1, article 1. If, at the time the department of revenue failed to pay the award, it had appropriated monies either designated or assignable for the purpose of paying such awards, the legislature shall reduce the department of revenue's operating appropriation for the following year by the amount of the award and appropriate the amount of the reduction to the department of administration, risk management division, as reimbursement for the loss.

E. Reimbursement to a taxpayer under this section shall not exceed ~~twenty~~ SEVENTY-FIVE thousand dollars or actual monies spent, whichever is less. The reimbursable attorney or other representative fees shall not exceed ~~one~~ THREE hundred FIFTY dollars per hour or actual monies spent, whichever is less, unless the state board of tax appeals determines that an increase in the cost of living or a special factor such as the limited availability of qualified attorneys for the proceeding involved justifies a higher fee.

F. FOR EACH CALENDAR YEAR BEGINNING FROM AND AFTER DECEMBER 31, 2015, THE INCOME DOLLAR AMOUNTS FOR MAXIMUM AWARDS MADE PURSUANT TO SUBSECTION E OF THIS SECTION SHALL BE ADJUSTED BY THE ATTORNEY GENERAL ACCORDING TO THE AVERAGE ANNUAL CHANGE IN THE METROPOLITAN PHOENIX CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES BUREAU

OF LABOR STATISTICS. THE REVISED DOLLAR AMOUNTS SHALL BE RAISED TO THE NEAREST WHOLE DOLLAR. THE INCOME DOLLAR AMOUNTS MAY NOT BE REVISED BELOW THE AMOUNTS PRESCRIBED IN THE PRIOR CALENDAR YEAR.

~~F.~~ G. The department shall adopt administrative rules to implement this section.

~~G.~~ H. Notwithstanding any provision of title 12, chapter 3, article 5, a taxpayer who is a prevailing party may only be reimbursed pursuant to this section.

~~H.~~ I. For THE purposes of this section:

1. "Administrative proceeding" means any review proceeding or appeal pursuant to section 42-1251 that is conducted under the authority of section 42-1003 and an appeal to the state board of tax appeals pursuant to section 42-1253.

2. "Reasonable fees and other costs" means fees and other costs that are based on prevailing market rates for the kind and quality of the furnished services, but not exceeding the amounts actually spent for expert witnesses, the cost of any study, analysis, report, test or project that is found to be necessary to prepare the party's case and necessary fees for attorneys or other representatives.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## TRANSPORTATION NETWORK SERVICES REGULATION

### CHAPTER 235

### H. B. 2135

**AN ACT AMENDING SECTIONS 20-1631, 28-101, 28-142, 28-2164, 28-4009 AND 28-4033, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 9, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 28-4038 AND 28-4039; AMENDING SECTIONS 41-2052 AND 41-2097, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 15, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8; AMENDING SECTION 42-5062, ARIZONA REVISED STATUTES; RELATING TO TRANSPORTATION NETWORK SERVICES.**

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

**Section 1.** Section 20-1631, Arizona Revised Statutes, is amended to read:

**20-1631. Definition of motor vehicle; cancellation of or failure to renew coverage; limitations; limitation of liability; exceptions; insurance producers; definitions**

A. In this article, unless the context otherwise requires, "motor vehicle" means a licensed land, motor-driven vehicle but does not mean:

1. A private passenger or station wagon type vehicle used as a public or livery conveyance or rented to others.

2. Any other four-wheel motor vehicle of a load capacity of fifteen hundred pounds or less that is used in the business of transporting passengers for hire, used in business primarily to transport property or equipment, used as a public or livery conveyance or rented to others.

3. Any motor vehicle with a load capacity of more than fifteen hundred pounds.

4. FROM AND AFTER FEBRUARY 29, 2016, A VEHICLE THAT OTHERWISE QUALIFIES AS A MOTOR VEHICLE UNDER THIS SUBSECTION BUT ONLY WHILE THE DRIVER OF THE VEHICLE IS LOGGED IN TO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER OR IS PROVIDING TRANSPORTATION NETWORK SERVICES, UNLESS EXPRESSLY COVERED BY THE PRIVATE PASSENGER POLICY.

B. A motor vehicle used as a public or livery conveyance or rented to others does not include a motor vehicle used in the course of volunteer work for a tax-exempt organization as described in section 43-1201, subsection A, paragraph 4.

C. An insurer shall not cancel or refuse to renew a motor vehicle insurance policy solely because of the location of residence, age, race, color, religion, sex, national origin or ancestry of anyone who is an insured.

D. An insurer shall not issue a motor vehicle insurance policy in this state unless the cancellation and renewal conditions of the policy or the endorsement on the policy includes the limitations required by this section. After a policy issued in this state has been in effect for sixty days, or if the policy is a renewal, effective immediately, the company shall not exercise its right to cancel or fail to renew the insurance afforded under the policy unless:

1. The named insured fails to discharge when due any of the obligations of the named insured in connection with the payment of premium for this policy or any installment of the premium.

2. The insurance was obtained through fraudulent misrepresentation.

3. The named insured, any person who resides in the same household as the named insured and customarily operates a motor vehicle insured under the policy or any other person who regularly and frequently operates a motor vehicle insured under the policy:

(a) Has had the person's driver license suspended or revoked during the policy period.

(b) Develops a permanent disability, either physically or mentally, and such individual does not produce a certificate from a physician or a registered nurse practitioner testifying to such person's ability to operate a motor vehicle.

(c) Is or has been convicted during the thirty-six months immediately preceding the effective date of the policy or during the policy period of:

(i) Criminal negligence resulting in death, homicide or assault and arising out of the operation of a motor vehicle.

(ii) Operating a motor vehicle while in an intoxicated condition or while under the influence of drugs.

(iii) Leaving the scene of an accident.

(iv) Making false statements in an application for a driver license.

(v) Reckless driving.

4. The insurer is placed in rehabilitation or receivership by the insurance supervisory official in its state of domicile or by a court of competent jurisdiction or the director has suspended the insurer's certificate of authority based on its financially hazardous condition.

5. The named insured, any person who resides in the same household as the named insured and customarily operates a motor vehicle insured under the policy or any other person who regularly and frequently operates a motor vehicle insured under the policy uses a motor vehicle rated or insured under the policy as a private passenger motor vehicle regularly and frequently for commercial purposes.

6. FROM AND AFTER FEBRUARY 29, 2016, THE NAMED INSURED, ANY PERSON WHO RESIDES IN THE SAME HOUSEHOLD AS THE NAMED INSURED AND WHO CUSTOMARILY OPERATES A MOTOR VEHICLE INSURED UNDER THE POLICY OR ANY OTHER PERSON WHO REGULARLY AND FREQUENTLY OPERATES A MOTOR VEHICLE INSURED UNDER THE POLICY USES A MOTOR VEHICLE RATED OR INSURED UNDER THE POLICY TO PROVIDE TRANSPORTATION NETWORK SERVICES UNLESS, WHILE THE DRIVER IS LOGGED IN TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER OR IS PROVIDING TRANSPORTATION NETWORK SERVICES, THE NAMED INSURED EITHER:

(a) HAS PROCURED AN ENDORSEMENT TO THE PRIVATE PASSENGER POLICY THAT EXPRESSLY PROVIDES SUCH COVERAGE.

(b) IS COVERED BY A MOTOR VEHICLE LIABILITY INSURANCE POLICY ISSUED BY ANOTHER INSURER EXPRESSLY PROVIDING SUCH COVERAGE.

~~6.~~ 7. The director determines that the continuation of the policy would place the insurer in violation of the laws of this state or would jeopardize the solvency of the insurer.

~~7.~~ 8. If the insured and the insured's family members are eligible for insurance based solely on the insured's employment with the insurer, employment of the insured with that insurer is terminated and the insurer exercises its right to nonrenew the policy within twelve months following the insured's termination of employment.

E. In addition to the authorization to fail to renew insurance provided by subsection D of this section, an insurer may exercise its right to fail to renew a motor vehicle insurance policy pursuant to this subsection. An insurer shall provide notice of the nonrenewal to the named insured as prescribed by section 20-1632 at least forty-five days before the nonrenewal. A named insured who disputes the nonrenewal of the named insured's policy may file an objection with the director pursuant to section 20-1633. An insurer shall not fail to renew more than one-half of

one ~~per cent~~ PERCENT of its policies annually pursuant to this subsection. An insurer may fail to renew a motor vehicle insurance policy if the named insured, any person who resides in the same household as the named insured and who customarily operates a motor vehicle insured under the policy or any other person who regularly and frequently operates a motor vehicle insured under the policy has had at any time during the thirty-six months immediately before the notice of nonrenewal three or more at-fault accidents under any motor vehicle insurance policy issued by this insurer in which the property damage paid by the insurer for each accident that occurred prior to January 1, 2000 is more than one thousand eight hundred dollars. For accidents occurring on or after January 1, 2000, the department of insurance shall annually adjust and publish, to the nearest ten dollars, the threshold amount of property damages in this subsection by the percentage change in the all items component of the consumer price index for all urban consumers of the United States department of labor, bureau of labor statistics. The insurer shall not exercise its right to fail to renew the insurance under this subsection unless the same individual has had all the accidents that make the policy subject to nonrenewal under this subsection. The insurer shall not exercise its right to fail to renew a motor vehicle insurance policy pursuant to this subsection due to the accident record of the named insured if the named insured has been insured for standard automobile bodily injury coverage for at least ten consecutive years with the same insurer prior to the most recent accident that makes the policy subject to nonrenewal under this subsection. For the purposes of this subsection, "at-fault" means the insured is at least fifty ~~per cent~~ PERCENT responsible for the accident.

F. The company shall not cancel or fail to renew the insurance when a person other than the named insured has violated subsection D, paragraph 3 of this section, or fail to renew the insurance pursuant to subsection E of this section due to the driving record of an individual other than the named insured, if the named insured in writing agrees to exclude as insured the person by name when operating a motor vehicle and further agrees to exclude coverage to the named insured for any negligence that may be imputed by law to the named insured arising out of the maintenance, operation or use of a motor vehicle by the excluded person. The written agreement that excludes coverage under a policy for a named individual is effective for each renewal of the policy by the insurer and remains in effect until the insurer agrees in writing to provide coverage for the named individual who was previously excluded from coverage.

G. This article does not apply to any policy that has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless the policy is a renewal policy, or to policies:

1. Insuring any motor vehicle other than a private passenger motor vehicle as defined in section 20-117.

2. Insuring the motor vehicle hazard of garages, motor vehicle sales agencies, repair shops, service stations or public parking places.

3. Providing insurance only on an excess basis.

H. If a consumer purchases motor vehicle insurance coverage from an insurance producer licensed in this state, the insurance producer that owns the policy

expiration shall remain the insurance producer of record for that insured. In the event the insurer terminates the insurance producer's contract, the insurance producer shall continue to provide customary services to the insured. The insurer shall provide the insurance producer with a minimum degree of authority necessary to provide customary services to the insured and shall provide the same level of compensation for these services that were in effect prior to the termination of the insurance producer contract.

I. Subsection H of this section shall not apply if one or more of the following conditions exist:

1. The insurance producer of record has had its license suspended or revoked by the department.

2. The insurance producer of record is indebted to the insurer.

3. The insured has supplied the insurer with a written request that its insurance producer of record be changed to another insurance producer of the insurer.

4. The insurance producer of record has authorized transfer of this account to another licensed insurance producer of the insurer.

5. The director has determined after a public hearing that continuation of this relationship is not in the best interest of the public.

6. The insurance producer of record is under an exclusive contract or contract requiring the insurance producer to submit all eligible business to an insurer or group of insurers under a common management.

J. Subsection H of this section shall not apply to any transaction in which the expiration of the policies is owned by the insurer.

K. Notwithstanding any law to the contrary, the issuance at renewal of revised policy provisions to modify an existing policy by adding coverages or policy provisions, modifying coverages or policy provisions, or eliminating coverages or policy provisions is not a nonrenewal or cancellation of the policy if the modification of a basic coverage does not eliminate the essential benefit of that basic coverage. If the modification of the basic coverage eliminates the essential benefit of the basic coverage, the director shall order the insurer to remove the modification from the policy. This subsection does not allow the insurer, without the written consent of the insured, to eliminate the basic coverages of the policy or to reduce the monetary limits of any of the basic coverages of the policy that were selected and agreed on. This subsection does not limit a policyholder from continuing to renew uninsured or underinsured motorist coverage pursuant to section 20-259.01. For the purposes of this subsection, "basic coverage" means any of the following:

1. Bodily injury coverage.
2. Property damage coverage.
3. Uninsured motorist coverage.
4. Underinsured motorist coverage.
5. Medical payments coverage.
6. Comprehensive coverage.
7. Collision coverage.

L. For the purposes of this section, "fail to renew" or "nonrenewal" does not include the issuance and delivery of a new policy within the same insurer or an insurer under the same ownership or management as the original insurer as provided in this subsection. An insurer may transfer up to one ~~per cent~~ PERCENT of its policies to an affiliated insurer within one calendar year if under a policy to be transferred one or more of the insureds that are insured under the policy have individually within the past thirty-six months had two or more at-fault accidents under any motor vehicle insurance policy issued by this insurer in which the property damage paid by the insurer for each accident exceeded one thousand five hundred dollars or individually have had three or more moving violations. Moving violations for which an insured completes an approved traffic school program shall not be considered as a moving violation under this section. A company shall not transfer a policy if a named insured agrees in writing to exclude as an insured a person or persons who each individually meet the criteria for transfer pursuant to this subsection and further agrees to exclude coverage for any negligence that may be imputed by law to the named insured arising out of the maintenance, operation or use of a motor vehicle by such excluded person or persons. An insurer shall transfer only those individuals responsible for the at-fault accidents or moving violations, and the excluded or transferred insured's driving record shall not be used in determining rates, surcharges or premiums for the nonexcluded or nontransferred insured. The one ~~per cent~~ PERCENT limit set forth in this subsection shall not apply to transfers of policies from the original insurer to another insurer under the same ownership or management as the original insurer if the rates charged by the other insurer are the same as or lower than the rates charged by the original insurer. No insurer shall transfer policyholders because of their location of residence, age, race, color, religion, sex, national origin or ancestry. Transfers by an insurer pursuant to this subsection shall not be construed to permit a new unrestricted sixty day period for cancellation or nonrenewal.

M. Except as provided in this subsection, an insurer shall not refuse to renew a policy until after August 31, 1998, based on an insured's failure to maintain membership in a bona fide association, until both the insurer and bona fide association have complied with this subsection and shall not refuse to renew any coverage continuously in effect before September 1, 1998, subject to all the following:

1. In addition to any other reason provided in this section, an insurer may refuse to renew an insurance policy issued pursuant to this article if all of the following conditions apply:

(a) The insurer clearly discloses to the applicant and the insured in the application for insurance and insurance policy that both the payment of dues and current membership in the bona fide association are prerequisites to obtaining or renewing the insurance.

(b) Any money paid to the bona fide association as a membership fee:

(i) Is not used by the insurer directly or indirectly to defray any costs or expenses in connection with the sale or purchase of the insurance.

(ii) Is set independently of any factor used by the insurer to make any judgment or determination about the eligibility of any individual, including the member, an employee of a member or a dependent of a member, to purchase or renew the insurance.

(c) The bona fide association has filed a certification with the director verifying the eligibility of the insurer to refuse to renew an insurance policy based on membership in the bona fide association.

2. To qualify as a bona fide association pursuant to this subsection, the association shall meet all of the requirements of this paragraph. The association shall file a statement with the director at least thirty days before the commencement of the offer or sale of insurance as provided by this subsection verifying that the association meets the requirements of this paragraph. The association shall update the filing required by this paragraph at least thirty days before the effective date of any material change in the information contained in the statement, and shall file a separate notice with the director if the insurance described in the statement is no longer available through the association. The statement shall include the following information:

(a) That the association has been in active existence for at least five consecutive years immediately before the filing of the statement.

(b) That the association has been formed and maintained in good faith for purposes other than obtaining or providing insurance and does not condition membership in the association on the purchase of insurance.

(c) That the association has articles of incorporation and bylaws or other similar governing documents.

(d) That the association does not condition membership in the association or set membership fees on the eligibility of any individual, including the member, an employee of the member or a dependent of the member, to purchase or renew the insurance, or on any factor that the insurer could not lawfully consider when setting rates.

(e) That the association has a relationship with a specific insurer or insurers and identifies the insurer or insurers.

3. Membership fees collected by the bona fide association are not premiums of the insurer that issued the coverage unless the bona fide association:

(a) Uses any portion of the membership fees directly or indirectly to defray any costs or expenses in connection with the sale or purchase of the insurance.

(b) Sets or adjusts membership fees for any member of the bona fide association based on any factor used by the insurer that issues the insurance to make any judgment or determination about the eligibility of any individual, including the member, an employee of the member or a dependent of the member, to purchase or renew the insurance.

4. If the membership fees constitute premiums pursuant to paragraph 3 of this subsection, an insurer shall not refuse to renew a policy as otherwise permitted by this subsection.

N. AN INSURER MAY ISSUE AN ENDORSEMENT TO A PRIVATE PASSENGER POLICY THAT EXPRESSLY PROVIDES COVERAGE FOR THE

PROVISION OF TRANSPORTATION NETWORK SERVICES, BUT THAT ENDORSEMENT MAY NOT BE TREATED AS BASIC COVERAGE AS DEFINED IN SUBSECTION K OF THIS SECTION AND ANY TERMINATION OF THE ENDORSEMENT MAY NOT BE TREATED AS A MODIFICATION OF BASIC COVERAGE. AN INSURER MAY TERMINATE THE ENDORSEMENT ALLOWED BY THIS SUBSECTION BY GIVING ADVANCE NOTICE OF THE TERMINATION. ANY NOTICE BY THE INSURER TO THE POLICYHOLDER TO TERMINATE THE ENDORSEMENT ALLOWED BY THIS SUBSECTION SHALL BE MAILED TO THE NAMED INSURED BY UNITED STATES MAIL AT LEAST FORTY-FIVE DAYS BEFORE THE EFFECTIVE DATE OF THE TERMINATION. THE NOTICE SHALL INCLUDE AN EXPLANATION TO THE NAMED INSURED THAT THE FURTHER PROVISION OF TRANSPORTATION NETWORK SERVICES FOLLOWING THE EFFECTIVE DATE OF THE TERMINATION MAY SUBJECT THE INSURED TO CANCELLATION OR NONRENEWAL OF THE INSURED'S PRIVATE PASSENGER MOTOR VEHICLE POLICY.

O. THIS SECTION AND SECTION 28-4009 DO NOT CREATE AN OBLIGATION OF AN INSURER TO OFFER, PROVIDE OR ISSUE A POLICY OR AN ENDORSEMENT THAT INCLUDES COVERAGE FOR ANY LIABILITY INCURRED WHILE A TRANSPORTATION NETWORK COMPANY DRIVER IS LOGGED IN TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER OR IS PROVIDING TRANSPORTATION NETWORK SERVICES.

P. FOR THE PURPOSES OF THIS SECTION, "TRANSPORTATION NETWORK COMPANY", "TRANSPORTATION NETWORK COMPANY DRIVER" AND "TRANSPORTATION NETWORK SERVICES" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 41-2138.

**Sec. 2.** Section 28-101, Arizona Revised Statutes, is amended to read:

**28-101. Definitions**

In this title, unless the context otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.

2. "Alcohol concentration" if expressed as a percentage means either:

(a) The number of grams of alcohol per one hundred milliliters of blood.

(b) The number of grams of alcohol per two hundred ten liters of breath.

3. "All-terrain vehicle" means either of the following:

(a) A motor vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is fifty or fewer inches in width.

(iii) Has an unladen weight of one thousand two hundred pounds or less.

(iv) Travels on three or more nonhighway tires.

(v) Is operated on a public highway.

(b) A recreational off-highway vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is sixty-five or fewer inches in width.

(iii) Has an unladen weight of one thousand eight hundred pounds or less.

(iv) Travels on four or more nonhighway tires.

4. "Authorized emergency vehicle" means any of the following:

(a) A fire department vehicle.

(b) A police vehicle.

(c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.

(d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.

5. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.

6. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:

(a) Two tandem wheels, either of which is more than sixteen inches in diameter.

(b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

7. "Board" means the transportation board.

8. "Bus" means a motor vehicle designed for carrying sixteen or more passengers, including the driver.

9. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any six hundred feet along the highway, including hotels, banks or office buildings, railroad stations and public buildings that occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

10. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.

11. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.

12. "Conviction" means:

(a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.

(b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.

(c) A plea of guilty or no contest accepted by the court.

(d) The payment of a fine or court costs.

13. "County highway" means a public road THAT IS constructed and maintained by a county.

14. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business.

15. "Department" means the department of transportation acting directly or through its duly authorized officers and agents.

16. "DIGITAL NETWORK OR SOFTWARE APPLICATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-2138.

~~16.~~ 17. "Director" means the director of the department of transportation.

~~17.~~ 18. "Drive" means to operate or be in actual physical control of a motor vehicle.

~~18.~~ 19. "Driver" means a person who drives or is in actual physical control of a vehicle.

~~19.~~ 20. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.

~~20.~~ 21. "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device with an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

~~21.~~ 22. "Farm" means any lands primarily used for agriculture production.

~~22.~~ 23. "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

~~23.~~ 24. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

~~24.~~ 25. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than one thousand eight hundred pounds, that is designed to be and is operated at not more than twenty-five miles per hour and that is designed to carry not more than four persons including the driver.

~~25.~~ 26. "Hazardous material" means a material, and its mixtures or solutions, that the United States department of transportation determines under 49 Code of Federal Regulations is, or any quantity of a material listed as a select agent or toxin under 42 Code of Federal Regulations part 73 that is, capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

~~26.~~ 27. "Implement of husbandry" means a vehicle designed primarily for agricultural purposes and used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

~~27.~~ 28. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

~~28.~~ 29. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in section 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

~~29.~~ 30. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

~~30.~~ 31. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

~~31.~~ 32. "Moped" means a bicycle that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one ~~per cent~~ PERCENT grade.

~~32.~~ 33. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower.

~~33.~~ 34. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a motorized wheelchair, an electric personal assistive mobility device or a motorized skateboard. For the purposes of this subdivision:

(i) "Motorized skateboard" means a self-propelled device that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

~~34.~~ 35. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

~~35.~~ 36. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but ~~excluding~~ EXCLUDES a tractor and a moped.

~~36.~~ 37. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~37.~~ 38. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

~~38.~~ 39. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

~~39.~~ 40. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

~~40.~~ 41. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.

(c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

~~41.~~ 42. "Pedestrian" means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle. For the purposes of

this paragraph, "motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

~~42.~~ 43. "Power sweeper" means an implement, with or without motive power, that is only incidentally operated or moved on a street or highway and that is designed for the removal of debris, dirt, gravel, litter or sand whether by broom, vacuum or regenerative air system from asphaltic concrete or cement concrete surfaces, including parking lots, highways, streets and warehouses, and a vehicle on which the implement is permanently mounted.

~~43.~~ 44. "Public transit" means the transportation of passengers on scheduled routes by means of a conveyance on an individual passenger fare-paying basis excluding transportation by a ~~sight-seeing~~ SIGHTSEEING bus, school bus or taxi or a vehicle not operated on a scheduled route basis.

~~44.~~ 45. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

~~45.~~ 46. "Residence district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

~~46.~~ 47. "Right-of-way" when used within the context of the regulation of the movement of traffic on a highway means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

~~47.~~ 48. "School bus" means a motor vehicle that is designed for carrying more than ten passengers and that is either:

(a) Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis.

(b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.

~~48.~~ 49. "Semitrailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~49.~~ 50. "State" means a state of the United States and the District of Columbia.

~~50.~~ 51. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.

~~51.~~ 52. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

~~52.~~ 53. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

~~53.~~ 54. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that is registered as a taxi in this state or any other state, that provides passenger services and that:

(a) Does not primarily operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

~~54.~~ 55. "Traffic survival school" means a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

~~55.~~ 56. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

57. "TRANSPORTATION NETWORK COMPANY" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-2138.

58. "TRANSPORTATION NETWORK SERVICE" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-2138.

59. "TRANSPORTATION NETWORK COMPANY VEHICLE" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-2138.

~~56.~~ 60. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

~~57.~~ 61. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

~~58.~~ 62. "Vehicle" means a device in, on or by which a person or property is or may be transported or drawn on a public highway, excluding devices moved by human power or used exclusively on stationary rails or tracks.

~~59.~~ 63. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.

**Sec. 3.** Section 28-142, Arizona Revised Statutes, is amended to read:

**28-142. Livery vehicle, taxi, transportation network company vehicle, transportation network company and limousine regulation; state preemption**

The regulation and use of livery vehicles, taxis, TRANSPORTATION NETWORK COMPANY VEHICLES, TRANSPORTATION NETWORK COMPANIES and limousines are of statewide concern. Livery vehicles, taxis, TRANSPORTATION NETWORK COMPANY VEHICLES and limousines and their use AND TRANSPORTATION NETWORK COMPANIES that are regulated pursuant to this title are not subject to further regulation by a county, city, town or other political subdivision of this state, except that a public airport operator that operates a public airport pursuant to section 28-8421, 28-8423 or 28-8424 or a public body operating a public airport may establish the number of livery vehicles, taxis, TRANSPORTATION NETWORK COMPANY VEHICLES, TRANSPORTATION NETWORK COMPANIES or limousines that may conduct business at a public airport or may set additional or more restrictive requirements for the conduct of that business at a public airport.

**Sec. 4.** Section 28-2164, Arizona Revised Statutes, is amended to read:

**28-2164. Reregistration on becoming liable for weight fee; exceptions**

A. On using or offering to use a registered vehicle for transportation of passengers for compensation or on altering or reconstructing it for the transportation of property, whether or not the weight fee has been paid, the owner shall immediately:

1. Surrender to the department the certificate of title and registration card to and the license plate assigned to the vehicle.

2. Apply for a corrected certificate of title.

3. Obtain a new registration, and an additional fee, other than the weight fee, is not required.

B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO TRANSPORTATION NETWORK COMPANIES, TRANSPORTATION NETWORK COMPANY DRIVERS OR TRANSPORTATION NETWORK COMPANY VEHICLES.

**Sec. 5.** Section 28-4009, Arizona Revised Statutes, is amended to read:

**28-4009. Motor vehicle liability policy requirements**

A. An owner's motor vehicle liability policy shall comply with the following:

1. The policy shall designate by explicit description or by appropriate reference all motor vehicles for which coverage is granted. If coverage is provided for a fleet of seven or more motor vehicles, the maximum payable for any one

accident is the limit of liability stated in the policy. There is no accumulation of coverage for each separate vehicle covered.

2. The policy shall insure the person named in the policy as the insured and any other person, as insured, using the motor vehicle or motor vehicles with the express or implied permission of the named insured against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of the motor vehicle or motor vehicles within the United States or the Dominion of Canada, subject to limits exclusive of interest and costs, for each motor vehicle as follows:

(a) Fifteen thousand dollars because of bodily injury to or death of one person in any one accident.

(b) Subject to the limit for one person, thirty thousand dollars because of bodily injury to or death of two or more persons in any one accident.

(c) Ten thousand dollars because of injury to or destruction of property of others in any one accident.

3. By agreement in writing between a named insured and the insurer the policy may exclude as insured a person or persons designated by name when operating a motor vehicle. The written agreement between the named insured and insurer is effective for each renewal of the policy by the insurer and remains in effect until the insurer agrees in writing to provide coverage for the person or persons who were previously excluded from coverage.

B. An operator's motor vehicle liability policy shall insure the person named as insured in the policy against loss from the liability imposed on the person by law for damages arising out of the use by the person of a motor vehicle not owned by the person, within the same territorial limits and subject to the same limits of liability provided in subsection A of this section for an owner's motor vehicle liability policy.

C. A motor vehicle liability policy:

1. Shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged for the policy, the complete vehicle identification number of all vehicles covered by the policy, the policy period and the limits of liability.

2. Shall contain an agreement or be endorsed that insurance is provided under the policy in accordance with the coverage defined in this chapter for bodily injury and death or property damage, or both.

3. Is subject to all of the provisions of this chapter.

4. Is not required to insure liability either:

(a) Under any workers' compensation law.

(b) On account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured or while engaged in the operation, maintenance or repair of the motor vehicle.

(c) For damage to property owned by, rented to, in charge of or transported by the insured.

(d) For damage to property or bodily injury caused intentionally by or at the direction of the insured.

(e) FROM AND AFTER FEBRUARY 29, 2016, FOR A PRIVATE PASSENGER MOTOR VEHICLE USED WHILE A TRANSPORTATION NETWORK COMPANY DRIVER IS LOGGED IN TO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER OR IS PROVIDING TRANSPORTATION NETWORK SERVICES UNLESS EXPRESSLY AUTHORIZED BY THE TERMS OF THE MOTOR VEHICLE LIABILITY INSURANCE POLICY OR AN ENDORSEMENT OR AMENDMENT TO THE POLICY.

5. Is subject to the following provisions that are not required to be in the policy:

(a) The liability of the insurance carrier with respect to the insurance required by this chapter becomes absolute when injury or damage covered by the motor vehicle liability policy occurs. The policy may not be cancelled or annulled as to that liability by an agreement between the insurance carrier and the insured after the occurrence of the injury or damage, and a statement made by the insured or someone on the insured's behalf or a violation of the policy shall not defeat or void the policy.

(b) The satisfaction by the insured of a judgment for the injury or damage is not a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage.

(c) The insurance carrier may settle any claim covered by the policy, and if the settlement is made in good faith, the amount of the claim is deductible from the limits of liability specified in subsection A, paragraph 2 of this section.

(d) The policy, the written application for the policy, if any, and any rider or endorsement that does not conflict with this chapter constitute the entire contract between the parties.

6. May provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for this chapter.

7. May provide for the prorating of the insurance under the policy with other valid and collectible insurance.

D. A policy that grants the coverage required for a motor vehicle liability policy may also grant lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and the excess or additional coverage is not subject to this chapter. With respect to a policy that grants the excess or additional coverage, the term "motor vehicle liability policy" applies only to that part of the coverage that is required by this section.

E. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers that together meet the requirements.

F. A binder issued pending the issuance of a motor vehicle liability policy fulfills the requirements for the policy.

**Sec. 6. Heading change**

The article heading of title 28, chapter 9, article 2, Arizona Revised Statutes, is changed from "MOTOR CARRIER FINANCIAL RESPONSIBILITY" to "TRANSPORTATION FINANCIAL RESPONSIBILITY".

**Sec. 7.** Section 28-4033, Arizona Revised Statutes, is amended to read:

**28-4033. Financial responsibility requirements**

A. A person THAT IS subject to the requirements of this article shall maintain motor vehicle combined single limit liability insurance as follows:

1. For the transportation of nonhazardous property:

(a) For a vehicle with a gross vehicle weight of more than twenty-six thousand pounds, minimum coverage in the amount of seven hundred fifty thousand dollars.

(b) For a vehicle with a gross vehicle weight of twenty thousand one pounds to twenty-six thousand pounds, minimum coverage in the amount of three hundred thousand dollars.

2. For the transportation of passengers:

(a) In a vehicle with a seating capacity of sixteen passengers or more, minimum coverage in the amount of five million dollars and uninsured motorist coverage in the amount of at least three hundred thousand dollars.

(b) In a vehicle with a seating capacity of less than sixteen passengers including the driver, but more than eight passengers including the driver, minimum coverage in the amount of seven hundred fifty thousand dollars and uninsured motorist coverage in the amount of at least three hundred thousand dollars.

(c) In a vehicle with a seating capacity of not more than eight passengers including the driver, a policy containing ONE OF THE FOLLOWING:

(i) Minimum coverage in the amount of ~~three~~ TWO hundred FIFTY thousand dollars and uninsured motorist coverage in the amount of at least ~~three~~ TWO hundred FIFTY thousand dollars issued by an insurer that holds a valid certificate of authority or that is permitted to transact surplus lines insurance in this state.

(ii) MINIMUM COVERAGE AS PRESCRIBED BY SECTION 28-4038 OR 28-4039, AS APPLICABLE.

3. For the transportation of hazardous materials, hazardous substances or hazardous wastes:

(a) Minimum coverage in the amount of five million dollars for the transportation of:

(i) Hazardous substances, as defined in 49 Code of Federal Regulations part 171, transported in a cargo tank, portable tank or hopper-type vehicle with capacities in excess of three thousand five hundred water gallons.

(ii) Any quantity of class A or B explosives.

(iii) Any quantity of poison gas (poison A).

(iv) Liquefied compressed gas or compressed gas transported in a cargo tank, portable tank or hopper-type vehicle with capacities in excess of three thousand five hundred water gallons.

(v) The quantity of radioactive materials that requires specialized handling and transportation controls as indicated in 49 Code of Federal Regulations part 173.

(b) Minimum coverage in the amount of one million dollars for the transportation of the following:

(i) Any quantity of oil listed in 49 Code of Federal Regulations part 172.

(ii) Any quantity of hazardous wastes, hazardous materials or hazardous substances as defined and listed in 49 Code of Federal Regulations part 171 and in 49 Code of Federal Regulations part 172 but not included in subdivision (a) of this paragraph.

B. If a motor vehicle is leased or rented, the lessor shall ensure that the lessee is covered under the lessor's liability insurance as provided by this section or the lessor shall require that the lessee meet the financial responsibility requirements of this section. In the case of taxis, livery vehicles or limousines, a person who is listed on the department's records as the owner shall comply with the financial responsibility requirements of this article and article 4 of this chapter.

C. If a lessee uses the motor vehicle for a purpose that is required under this section to have a higher amount of financial responsibility than was required of the lessor or renter, the lessee shall maintain the higher financial responsibility requirements of this section.

D. The uninsured motorist coverage required by this section is not required until June 1, 1987 and may be provided by a self-insurance program authorized under section 28-4007. A person who is under contract with this state or a political subdivision of this state, who operates a motor vehicle owned by this state or a political subdivision of this state and who is included in the self-insurance program of this state or a political subdivision of this state is exempt from the uninsured motorist requirements of this section.

**Sec. 8.** Title 28, chapter 9, article 2, Arizona Revised Statutes, is amended by adding sections 28-4038 and 28-4039, to read:

**28-4038. Transportation network services; financial responsibility requirements; survey**

A. FOR A TRANSPORTATION NETWORK COMPANY THAT REQUIRES A TRANSPORTATION NETWORK COMPANY DRIVER TO ACCEPT RIDES THAT ARE BOOKED AND PAID FOR EXCLUSIVELY THROUGH THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION AND DURING THE TIME IN WHICH THE TRANSPORTATION NETWORK COMPANY DRIVER IS LOGGED IN TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER, BUT IS NOT IN THE ACT OF PROVIDING TRANSPORTATION NETWORK SERVICES, THE FOLLOWING INSURANCE COVERAGE SHALL BE MAINTAINED:

1. BEFORE MARCH 1, 2016, THE TRANSPORTATION NETWORK COMPANY DRIVER SHALL MAINTAIN A MOTOR VEHICLE LIABILITY INSURANCE POLICY THAT MEETS AT LEAST THE REQUIREMENTS OF SECTION 28-4009. A TRANSPORTATION NETWORK COMPANY SHALL PROVIDE MOTOR VEHICLE LIABILITY INSURANCE COVERAGE IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS BECAUSE OF BODILY INJURY TO OR DEATH OF ONE PERSON IN ANY ONE ACCIDENT, SUBJECT TO THE LIMIT FOR ONE PERSON, FIFTY THOUSAND DOLLARS BECAUSE OF BODILY INJURY TO OR DEATH OF TWO OR MORE PERSONS IN ANY ONE ACCIDENT AND TWENTY THOUSAND DOLLARS

BECAUSE OF INJURY TO OR DESTRUCTION OF PROPERTY OF OTHERS IN ANY ONE ACCIDENT COVERAGE IN THE EVENT A TRANSPORTATION NETWORK COMPANY DRIVER'S POLICY EXCLUDES COVERAGE ACCORDING TO THE POLICY'S TERMS.

2. FROM AND AFTER FEBRUARY 29, 2016, THE TRANSPORTATION NETWORK COMPANY DRIVER OR THE TRANSPORTATION NETWORK COMPANY, OR BOTH, SHALL PROVIDE PRIMARY MOTOR VEHICLE LIABILITY INSURANCE COVERAGE IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS BECAUSE OF BODILY INJURY TO OR DEATH OF ONE PERSON IN ANY ONE ACCIDENT, SUBJECT TO THE LIMIT FOR ONE PERSON, FIFTY THOUSAND DOLLARS BECAUSE OF BODILY INJURY TO OR DEATH OF TWO OR MORE PERSONS IN ANY ONE ACCIDENT AND TWENTY THOUSAND DOLLARS BECAUSE OF INJURY TO OR DESTRUCTION OF PROPERTY OF OTHERS IN ANY ONE ACCIDENT. COVERAGE SHALL BE MAINTAINED THROUGH ANY OF THE FOLLOWING:

(a) A PRIVATE PASSENGER MOTOR VEHICLE POLICY MAINTAINED BY THE TRANSPORTATION NETWORK COMPANY DRIVER THAT EXPRESSLY PROVIDES LIABILITY COVERAGE WHILE THE DRIVER IS LOGGED IN TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER.

(b) A MOTOR VEHICLE LIABILITY POLICY MAINTAINED BY THE TRANSPORTATION NETWORK COMPANY.

(c) A COMMERCIAL MOTOR VEHICLE LIABILITY POLICY.

B. FOR A TRANSPORTATION NETWORK COMPANY THAT REQUIRES A TRANSPORTATION NETWORK COMPANY DRIVER TO ACCEPT RIDES THAT ARE BOOKED AND PAID FOR EXCLUSIVELY THROUGH THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION AND DURING THE TIME IN WHICH THE TRANSPORTATION NETWORK COMPANY DRIVER IS PROVIDING TRANSPORTATION NETWORK SERVICES, THE TRANSPORTATION NETWORK COMPANY DRIVER OR THE TRANSPORTATION NETWORK COMPANY, OR BOTH, SHALL MAINTAIN THE FOLLOWING INSURANCE COVERAGES:

1. PRIMARY COMMERCIAL MOTOR VEHICLE LIABILITY INSURANCE THAT COVERS THE TRANSPORTATION NETWORK COMPANY DRIVER'S PROVISION OF TRANSPORTATION NETWORK SERVICES IN A MINIMUM AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS PER INCIDENT.

2. COMMERCIAL UNINSURED MOTORIST COVERAGE IN A MINIMUM AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS PER INCIDENT.

C. FOR A TRANSPORTATION NETWORK COMPANY THAT DOES NOT REQUIRE A TRANSPORTATION NETWORK COMPANY DRIVER TO ACCEPT RIDES BOOKED AND PAID FOR EXCLUSIVELY THROUGH A

TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION AND DURING THE TIME IN WHICH THE TRANSPORTATION NETWORK COMPANY DRIVER IS LOGGED IN TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER, EITHER THE TRANSPORTATION NETWORK COMPANY DRIVER OR THE TRANSPORTATION NETWORK COMPANY SHALL MAINTAIN THE FOLLOWING INSURANCE COVERAGES:

1. DURING THE TIME IN WHICH THE DRIVER IS AVAILABLE TO PROVIDE PASSENGER TRANSPORTATION, BUT HAS NOT ACCEPTED A RIDE REQUEST AND IS NOT IN THE ACT OF PROVIDING PASSENGER TRANSPORTATION, PRIMARY COMMERCIAL MOTOR VEHICLE LIABILITY INSURANCE COVERAGE IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS BECAUSE OF BODILY INJURY TO OR DEATH OF ANY ONE PERSON IN ANY ONE ACCIDENT, SUBJECT TO THE LIMIT FOR ONE PERSON, FIFTY THOUSAND DOLLARS BECAUSE OF BODILY INJURY TO OR DEATH OF TWO OR MORE PERSONS IN ANY ONE ACCIDENT AND TWENTY THOUSAND DOLLARS BECAUSE OF INJURY TO OR DESTRUCTION OF PROPERTY OF OTHERS IN ANY ONE ACCIDENT.

2. AFTER THE DRIVER HAS ACCEPTED A RIDE REQUEST THROUGH ANY COMMUNICATION, INCLUDING A STREET HAIL, AND DURING THE TIME IN WHICH THE DRIVER IS PROVIDING PASSENGER TRANSPORTATION:

(a) PRIMARY COMMERCIAL MOTOR VEHICLE LIABILITY INSURANCE IN A MINIMUM AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS PER INCIDENT.

(b) COMMERCIAL UNINSURED MOTORIST COVERAGE IN A MINIMUM AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS PER INCIDENT.

D. FROM AND AFTER FEBRUARY 29, 2016, UNLESS AN INSURANCE POLICY EXPRESSLY PROVIDES COVERAGE OR CONTAINS AN AMENDMENT OR ENDORSEMENT THAT EXPRESSLY PROVIDES COVERAGE, THE TRANSPORTATION NETWORK COMPANY DRIVER'S INSURANCE POLICY AND THE MOTOR VEHICLE OWNER'S PERSONAL MOTOR VEHICLE INSURANCE POLICY SHALL NOT BE REQUIRED TO PROVIDE COVERAGE FOR THE TRANSPORTATION NETWORK COMPANY VEHICLE, THE TRANSPORTATION NETWORK COMPANY DRIVER, THE MOTOR VEHICLE OWNER OR ANY THIRD PARTY WHILE A TRANSPORTATION NETWORK COMPANY DRIVER IS LOGGED IN TO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER OR IS PROVIDING TRANSPORTATION NETWORK SERVICES.

E. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, AN INSURER MAY OFFER, FOR THE PERIOD DURING WHICH A TRANSPORTATION NETWORK COMPANY DRIVER IS LOGGED IN TO A

TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER OR IS PROVIDING TRANSPORTATION NETWORK SERVICES, ONE OF THE FOLLOWING:

1. A MOTOR VEHICLE LIABILITY INSURANCE POLICY EXPRESSLY PROVIDING SUCH COVERAGE.

2. AN AMENDMENT OR ENDORSEMENT TO AN EXISTING MOTOR VEHICLE LIABILITY INSURANCE POLICY SPECIFICALLY PROVIDING SUCH COVERAGE.

F. AN INSURANCE POLICY REQUIRED BY THIS SECTION IS DEEMED TO SATISFY THE FINANCIAL RESPONSIBILITY REQUIREMENTS FOR A MOTOR VEHICLE INSURANCE POLICY UNDER THIS TITLE.

G. A TRANSPORTATION NETWORK COMPANY DRIVER SHALL CARRY PROOF OF INSURANCE IN THE TRANSPORTATION NETWORK COMPANY VEHICLE AT ALL TIMES WHILE LOGGED IN TO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER OR IS PROVIDING TRANSPORTATION NETWORK SERVICES. IF AN ACCIDENT OCCURS INVOLVING A TRANSPORTATION NETWORK COMPANY VEHICLE, THE TRANSPORTATION NETWORK COMPANY DRIVER SHALL PROVIDE PROOF OF INSURANCE TO THE PARTIES INVOLVED IN THE ACCIDENT AT THE TIME OF THE ACCIDENT. THE TRANSPORTATION NETWORK COMPANY DRIVER SHALL ALSO NOTIFY THE TRANSPORTATION NETWORK COMPANY OF THE ACCIDENT.

H. IN A CLAIMS COVERAGE INVESTIGATION, TRANSPORTATION NETWORK COMPANIES AND ANY INSURER PROVIDING COVERAGE AS PRESCRIBED IN THIS SECTION SHALL FULLY COOPERATE IN THE EXCHANGE OF INFORMATION, INCLUDING THE PRECISE TIMES THAT A TRANSPORTATION NETWORK COMPANY DRIVER LOGGED ON AND OFF OF THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION IN THE TWENTY-FOUR-HOUR PERIOD IMMEDIATELY PRECEDING THE ACCIDENT, AND SHALL DISCLOSE TO EACH OTHER A CLEAR DESCRIPTION OF THE COVERAGE, EXCLUSIONS AND LIMITS PROVIDED UNDER ANY INSURANCE POLICY EACH PARTY ISSUED OR MAINTAINED.

I. FROM AND AFTER FEBRUARY 29, 2016, THIS SECTION AND SECTION 28-4009 DO NOT CREATE AN OBLIGATION FOR AN INSURER THAT ISSUES COVERAGE TO WHICH SECTION 20-1631 APPLIES TO OFFER, PROVIDE OR ISSUE A MOTOR VEHICLE LIABILITY INSURANCE POLICY OR AN ENDORSEMENT OR AMENDMENT THAT INCLUDES COVERAGE FOR ANY LIABILITY ARISING WHILE A TRANSPORTATION NETWORK COMPANY DRIVER IS LOGGED IN TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER OR IS PROVIDING TRANSPORTATION NETWORK SERVICES.

J. AN INSURANCE POLICY REQUIRED BY THIS SECTION MAY BE PLACED WITH AN INSURER AUTHORIZED TO TRANSACT INSURANCE IN THIS STATE PURSUANT TO TITLE 20, CHAPTER 2, ARTICLE 1 OR A SURPLUS LINES INSURER PURSUANT TO TITLE 20, CHAPTER 2, ARTICLE 5.

K. THE DEPARTMENT OF INSURANCE, AS PART OF ITS ANNUAL SURVEY OF INSURANCE COMPANIES, MAY REQUEST INFORMATION FROM ANY PROPERTY AND CASUALTY INSURER AUTHORIZED TO WRITE PRIVATE PASSENGER MOTOR VEHICLE COVERAGE IN THIS STATE, INCLUDING INFORMATION REGARDING:

1. WHETHER THE INSURER OFFERS FOR PURCHASE A POLICY OR AN ENDORSEMENT OR AMENDMENT THAT COVERS TRANSPORTATION NETWORK COMPANY DRIVERS WHILE THE DRIVER IS LOGGED IN TO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION TO BE A DRIVER OR IS PROVIDING TRANSPORTATION NETWORK SERVICES.

2. THE NUMBER OF THOSE POLICIES, ENDORSEMENTS OR AMENDMENTS THAT HAVE BEEN PURCHASED DURING THE REPORTING PERIOD.

3. THE NUMBER OF THOSE POLICIES, ENDORSEMENTS OR AMENDMENTS THAT HAVE BEEN CANCELED DURING THE REPORTING PERIOD.

**28-4039. Taxi, livery vehicle or limousine; financial responsibility**

A. MOTOR VEHICLE LIABILITY INSURANCE FOR A TAXI, LIVERY VEHICLE OR LIMOUSINE MAY BE MAINTAINED AS FOLLOWS:

1. DURING THE TIME IN WHICH THE TAXI, LIVERY VEHICLE OR LIMOUSINE DRIVER IS AVAILABLE TO PROVIDE PASSENGER TRANSPORTATION, BUT HAS NOT ACCEPTED A RIDE REQUEST AND IS NOT IN THE ACT OF PROVIDING PASSENGER TRANSPORTATION, PRIMARY COMMERCIAL MOTOR VEHICLE LIABILITY INSURANCE COVERAGE IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS BECAUSE OF BODILY INJURY TO OR DEATH OF ANY ONE PERSON IN ANY ONE ACCIDENT, SUBJECT TO THE LIMIT FOR ONE PERSON, FIFTY THOUSAND DOLLARS BECAUSE OF BODILY INJURY TO OR DEATH OF TWO OR MORE PERSONS IN ANY ONE ACCIDENT AND TWENTY THOUSAND DOLLARS BECAUSE OF INJURY TO OR DESTRUCTION OF PROPERTY OF OTHERS IN ANY ONE ACCIDENT. THIS POLICY MAY BE MAINTAINED BY EITHER THE DRIVER OR THE COMPANY.

2. AFTER THE TAXI, LIVERY VEHICLE OR LIMOUSINE DRIVER HAS ACCEPTED A RIDE REQUEST THROUGH ANY COMMUNICATION AND DURING THE TIME IN WHICH THE TAXI, LIVERY VEHICLE OR LIMOUSINE DRIVER IS PROVIDING PASSENGER TRANSPORTATION, THE TAXI, LIVERY VEHICLE OR LIMOUSINE DRIVER OR THE TAXI, LIVERY VEHICLE OR LIMOUSINE COMPANY SHALL MAINTAIN THE FOLLOWING INSURANCE COVERAGE:

(a) PRIMARY COMMERCIAL MOTOR VEHICLE LIABILITY INSURANCE IN A MINIMUM AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS PER INCIDENT.

(b) COMMERCIAL UNINSURED MOTORIST COVERAGE IN A MINIMUM AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS PER INCIDENT.

B. A TAXI, LIVERY VEHICLE OR LIMOUSINE DRIVER SHALL CARRY PROOF OF INSURANCE IN THE VEHICLE AT ALL TIMES WHILE PROVIDING TRANSPORTATION SERVICES. IF AN ACCIDENT OCCURS INVOLVING A TAXI, LIVERY VEHICLE OR LIMOUSINE, THE TAXI, LIVERY VEHICLE OR LIMOUSINE DRIVER SHALL PROVIDE PROOF OF INSURANCE TO THE PARTIES INVOLVED IN THE ACCIDENT AT THE TIME OF THE ACCIDENT. THE TAXI, LIVERY VEHICLE OR LIMOUSINE DRIVER SHALL ALSO NOTIFY THE TAXI, LIVERY VEHICLE OR LIMOUSINE COMPANY OF THE ACCIDENT.

C. IN A CLAIMS COVERAGE INVESTIGATION, A TAXI, LIVERY VEHICLE OR LIMOUSINE COMPANY AND ANY INSURER PROVIDING COVERAGE AS PRESCRIBED IN THIS SECTION SHALL FULLY COOPERATE IN THE EXCHANGE OF INFORMATION AND SHALL DISCLOSE TO EACH OTHER A CLEAR DESCRIPTION OF THE COVERAGE, EXCLUSIONS AND LIMITS PROVIDED UNDER ANY INSURANCE POLICY THAT EACH PARTY ISSUED OR MAINTAINED.

**Sec. 9.** Section 41-2052, Arizona Revised Statutes, is amended to read:

**41-2052. Livery vehicle, taxi, transportation network company vehicle, transportation network company and limousine regulation; state preemption; definitions**

A. The regulation and use of livery vehicles, taxis, TRANSPORTATION NETWORK COMPANY VEHICLES, TRANSPORTATION NETWORK COMPANIES and limousines are of statewide concern. Livery vehicles, taxis, ~~and~~ limousines AND TRANSPORTATION NETWORK COMPANY VEHICLES and their use AND TRANSPORTATION NETWORK COMPANIES that are regulated pursuant to this title are not subject to further regulation by a county, city, town or other political subdivision of this state, except that a public airport operator that operates a public airport pursuant to section 28-8421, 28-8423 or 28-8424 or a public body operating a public airport may establish the number of livery vehicles, taxis, TRANSPORTATION NETWORK COMPANY VEHICLES, TRANSPORTATION NETWORK COMPANIES or limousines that may conduct business at ~~a~~ THE public airport or may set additional or more restrictive requirements for the conduct of that business at ~~a~~ THE public airport.

B. FOR THE PURPOSES OF THIS SECTION, "TRANSPORTATION NETWORK COMPANY" AND "TRANSPORTATION NETWORK COMPANY VEHICLE" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 41-2138.

**Sec. 10.** Section 41-2097, Arizona Revised Statutes, is amended to read:

**41-2097. Livery vehicles, taxis and limousines; criminal background checks; vehicle safety records; zero-tolerance policy; drug and alcohol use by driver**

A. An owner of a livery vehicle, taxi or limousine licensed through the department shall have available for inspection at all times by the department written evidence of a criminal background check ~~and drug testing records~~ CONDUCTED ~~of~~ FOR any driver operating a livery vehicle, taxi or limousine for the owner, whether as an employee or lessee. The criminal background check ~~and preemployment drug testing~~ shall be completed before the driver is engaged as an employee or lessee~~, and random drug testing shall be completed annually for the driver, whether as an employee or lessee. Drug testing records shall include preemployment drug testing results and random annual drug testing results for the driver, whether as an employee or lessee~~.

B. An owner of a livery vehicle, taxi or limousine licensed through the department shall ~~have available for inspection at all times by the department all vehicle maintenance records of all the owner's livery vehicles, taxis or limousines. At a minimum, the vehicle maintenance records shall include information of a routine brake and tire inspection that is performed by a qualified or professional motor vehicle mechanic. Such maintenance records shall be updated at least annually.~~ REQUIRE THAT ALL OF THE OWNER'S TAXIS, LIVERY VEHICLES OR LIMOUSINES USED TO PROVIDE PASSENGER TRANSPORTATION MEET STATE VEHICLE SAFETY AND EMISSIONS STANDARDS FOR PRIVATE VEHICLES AND SHALL REQUIRE THE TAXIS, LIVERY VEHICLES OR LIMOUSINES TO HAVE, AT A MINIMUM, AN ANNUAL BRAKE AND TIRE INSPECTION THAT IS PERFORMED BY A QUALIFIED PARTY. THE OWNER SHALL MAINTAIN VEHICLE SAFETY AND EMISSIONS INSPECTION RECORDS FOR AT LEAST TWO YEARS AND MAKE THE RECORDS AVAILABLE TO THE DEPARTMENT ON REQUEST.

C. AN OWNER OF A TAXI, LIVERY VEHICLE OR LIMOUSINE SHALL IMPLEMENT A ZERO-TOLERANCE POLICY ON THE USE OF DRUGS AND ALCOHOL WHILE A TAXI, LIVERY VEHICLE OR LIMOUSINE DRIVER IS PROVIDING PASSENGER TRANSPORTATION OR IS AVAILABLE TO PROVIDE PASSENGER TRANSPORTATION. THE OWNER OF A TAXI, LIVERY VEHICLE OR LIMOUSINE SHALL PROVIDE NOTICE OF THIS POLICY ON ITS WEBSITE OR IN THE TAXI, LIVERY VEHICLE OR LIMOUSINE, INCLUDING PROCEDURES TO FILE A COMPLAINT ABOUT A DRIVER WITH WHOM A PASSENGER WAS MATCHED AND WHO THE PASSENGER REASONABLY SUSPECTS WAS UNDER THE INFLUENCE OF DRUGS OR ALCOHOL DURING THE COURSE OF THE PASSENGER TRANSPORTATION.

D. ON RECEIPT OF A PASSENGER COMPLAINT ALLEGING A VIOLATION OF THE ZERO-TOLERANCE POLICY, THE OWNER OF THE

TAXI, LIVERY VEHICLE OR LIMOUSINE SHALL DO BOTH OF THE FOLLOWING:

1. IMMEDIATELY SUSPEND THE TAXI, LIVERY VEHICLE OR LIMOUSINE DRIVER'S ACCESS TO THE OWNER'S TAXI, LIVERY VEHICLE OR LIMOUSINE.

2. CONDUCT AN INVESTIGATION INTO THE FILED COMPLAINT. THE SUSPENSION SHALL LAST THE DURATION OF THE INVESTIGATION.

E. IF THE TAXI, LIVERY VEHICLE OR LIMOUSINE OWNER'S INVESTIGATION CONFIRMS THAT THE DRIVER HAS VIOLATED THE POLICY REQUIRED BY SUBSECTION C OF THIS SECTION, THE OWNER SHALL PERMANENTLY PROHIBIT THE DRIVER'S ACCESS TO THE OWNER'S TAXI, LIVERY VEHICLE OR LIMOUSINE. THE OWNER OF A TAXI, LIVERY VEHICLE OR LIMOUSINE SHALL MAINTAIN ENFORCEMENT RECORDS FOR AT LEAST TWO YEARS AFTER THE DATE A PASSENGER COMPLAINT IS RECEIVED BY THE OWNER AND MAKE THE RECORDS AVAILABLE TO THE DEPARTMENT ON REQUEST.

**Sec. 11.** Title 41, chapter 15, Arizona Revised Statutes, is amended by adding article 8, to read:

ARTICLE 8. TRANSPORTATION NETWORK COMPANIES

**41-2138. Definitions**

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "DIGITAL NETWORK OR SOFTWARE APPLICATION" MEANS ANY ONLINE-ENABLED APPLICATION, SOFTWARE, WEBSITE OR SYSTEM THAT IS OFFERED OR USED BY A TRANSPORTATION NETWORK COMPANY AND THAT ENABLES A POTENTIAL PASSENGER TO ARRANGE A RIDE WITH A TRANSPORTATION NETWORK COMPANY DRIVER.

2. "LIMOUSINE" MEANS A MOTOR VEHICLE PROVIDING PREARRANGED GROUND TRANSPORTATION SERVICE FOR AN INDIVIDUAL PASSENGER, OR A GROUP OF PASSENGERS, THAT IS ARRANGED IN ADVANCE OR IS OPERATED ON A REGULAR ROUTE OR BETWEEN SPECIFIED POINTS AND INCLUDES GROUND TRANSPORTATION UNDER A CONTRACT OR AGREEMENT FOR SERVICES THAT INCLUDES A FIXED RATE OR TIME AND IS PROVIDED IN A MOTOR VEHICLE WITH A SEATING CAPACITY NOT EXCEEDING FIFTEEN PASSENGERS, INCLUDING THE DRIVER.

3. "LIVERY VEHICLE" MEANS A MOTOR VEHICLE THAT:

(a) HAS A SEATING CAPACITY NOT EXCEEDING FIFTEEN PASSENGERS, INCLUDING THE DRIVER.

(b) PROVIDES PASSENGER SERVICES FOR A FARE DETERMINED BY A FLAT RATE OR FLAT HOURLY RATE BETWEEN GEOGRAPHIC ZONES OR WITHIN A GEOGRAPHIC AREA.

(c) IS AVAILABLE FOR HIRE ON AN EXCLUSIVE OR SHARED-RIDE BASIS.

(d) MAY DO ANY OF THE FOLLOWING:

(i) OPERATE ON A REGULAR ROUTE OR BETWEEN SPECIFIED PLACES.

(ii) OFFER PREARRANGED GROUND TRANSPORTATION SERVICE AS DEFINED IN SECTION 28-141.

(iii) OFFER ON DEMAND GROUND TRANSPORTATION SERVICE PURSUANT TO A CONTRACT WITH A PUBLIC AIRPORT, LICENSED BUSINESS ENTITY OR ORGANIZATION.

4. "PERSON" MEANS BOTH THE PLURAL AND THE SINGULAR, AS THE CASE DEMANDS, AND INCLUDES INDIVIDUALS, PARTNERSHIPS, CORPORATIONS, COMPANIES, SOCIETIES AND ASSOCIATIONS.

5. "TAXI" MEANS A MOTOR VEHICLE THAT HAS A SEATING CAPACITY NOT EXCEEDING FIFTEEN PASSENGERS, INCLUDING THE DRIVER, THAT IS REGISTERED AS A TAXI IN THIS STATE OR ANY OTHER STATE, THAT PROVIDES PASSENGER SERVICES AND THAT:

(a) DOES NOT PRIMARILY OPERATE ON A REGULAR ROUTE OR BETWEEN SPECIFIED PLACES.

(b) OFFERS LOCAL TRANSPORTATION FOR A FARE DETERMINED ON THE BASIS OF THE DISTANCE TRAVELED OR PREARRANGED GROUND TRANSPORTATION SERVICE AS DEFINED IN SECTION 28-141 FOR A PREDETERMINED FARE.

6. "TRADE DRESS" MEANS A REMOVABLE AND DISTINCT LOGO, INSIGNIA OR EMBLEM ATTACHED TO OR VISIBLE FROM THE EXTERIOR OF A TRANSPORTATION NETWORK COMPANY VEHICLE DURING THE PERFORMANCE OF TRANSPORTATION NETWORK SERVICES.

7. "TRANSPORTATION NETWORK COMPANY" MEANS AN ENTITY THAT HAS BEEN ISSUED A PERMIT PURSUANT TO THIS ARTICLE, THAT OPERATES IN THIS STATE, THAT USES A DIGITAL NETWORK OR SOFTWARE APPLICATION TO CONNECT PASSENGERS TO TRANSPORTATION NETWORK SERVICES PROVIDED BY TRANSPORTATION NETWORK COMPANY DRIVERS AND THAT MAY BUT IS NOT DEEMED TO OWN, OPERATE OR CONTROL A PERSONAL MOTOR VEHICLE OF A TRANSPORTATION NETWORK COMPANY DRIVER. TRANSPORTATION NETWORK COMPANY DOES NOT INCLUDE THE FOLLOWING:

(a) THIS STATE OR A COUNTY, CITY, TOWN OR POLITICAL SUBDIVISION OF THIS STATE AND ANY RELATED ENTITY, A NONPROFIT AGENCY OR ANY OTHER PUBLIC BODY THAT COORDINATES, OPERATES, PROMOTES OR SPONSORS PUBLIC TRANSPORTATION, CARPOOL OR VANPOOL SERVICES.

(b) A PROGRAM THAT IS IN PLACE TO MEET FEDERAL AIR QUALITY STANDARDS PURSUANT TO SECTION 49-404.

(c) ANY INDIVIDUAL, COMPANY OR ACTIVITY THAT MEETS THE REQUIREMENTS OF A RENTAL CAR AGENT OR RENTAL COMPANY AS DEFINED IN SECTION 20-331 IF ALL OF THE FOLLOWING APPLY:

(i) TRANSPORTATION IS PROVIDED TO ANOTHER PERSON OR IS ARRANGED BY THE RENTAL COMPANY BUT PROVIDED BY ANOTHER PERSON.

(ii) THE ROUTE IS PREDETERMINED.

(iii) ANY MONEY EXCHANGED BETWEEN THE PROVIDER OF THE TRANSPORTATION AND THE RECIPIENT DOES NOT EXCEED THE COST OF PROVIDING THE TRANSPORTATION.

8. "TRANSPORTATION NETWORK COMPANY DRIVER" MEANS AN INDIVIDUAL WHO RECEIVES CONNECTIONS TO POTENTIAL PASSENGERS AND RELATED SERVICES FROM A TRANSPORTATION NETWORK COMPANY IN EXCHANGE FOR PAYMENT OF A FEE TO THE TRANSPORTATION NETWORK COMPANY AND WHO OPERATES A MOTOR VEHICLE THAT IS BOTH OF THE FOLLOWING:

(a) OWNED, LEASED OR OTHERWISE AUTHORIZED FOR USE BY THE INDIVIDUAL.

(b) USED TO PROVIDE TRANSPORTATION NETWORK SERVICES.

9. "TRANSPORTATION NETWORK COMPANY VEHICLE" MEANS A MOTOR VEHICLE THAT MEETS ALL OF THE FOLLOWING:

(a) HAS A SEATING CAPACITY NOT EXCEEDING EIGHT PASSENGERS, INCLUDING THE DRIVER.

(b) IS AUTHORIZED BY A TRANSPORTATION NETWORK COMPANY.

(c) IS USED BY A TRANSPORTATION NETWORK COMPANY DRIVER TO PROVIDE TRANSPORTATION NETWORK SERVICES.

10. "TRANSPORTATION NETWORK SERVICES" MEANS THE TRANSPORTATION OF A PASSENGER BETWEEN POINTS CHOSEN BY THE PASSENGER AND ARRANGED WITH A TRANSPORTATION NETWORK COMPANY DRIVER THROUGH THE USE OF A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION BEGINNING WHEN A TRANSPORTATION NETWORK COMPANY DRIVER ACCEPTS A REQUEST FOR TRANSPORTATION NETWORK SERVICES RECEIVED THROUGH THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION, CONTINUING WHILE THE TRANSPORTATION NETWORK COMPANY DRIVER PROVIDES TRANSPORTATION NETWORK SERVICES IN A TRANSPORTATION NETWORK COMPANY VEHICLE AND ENDING WHEN THE PASSENGER EXITS THE TRANSPORTATION NETWORK COMPANY VEHICLE OR WHEN THE TRIP IS CANCELED.

**41-2139. Transportation network companies; permit; fee; agent; trade dress**

A. A PERSON MAY NOT ACT AS A TRANSPORTATION NETWORK COMPANY DRIVER IN THIS STATE UNLESS THE TRANSPORTATION NETWORK COMPANY HAS BEEN ISSUED A PERMIT BY THE DEPARTMENT. THE PERSON MAY APPLY TO THE DEPARTMENT ON FORMS PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT SHALL

CHARGE AND COLLECT AN APPLICATION FEE AS DETERMINED BY THE DIRECTOR.

B. THE DEPARTMENT SHALL ISSUE A PERMIT TO AN APPLICANT THAT MEETS THE REQUIREMENTS OF THIS ARTICLE.

C. A TRANSPORTATION NETWORK COMPANY SHALL MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THIS STATE.

D. A TRANSPORTATION NETWORK COMPANY VEHICLE SHALL DISPLAY TRADE DRESS WHILE BEING USED TO PROVIDE TRANSPORTATION NETWORK SERVICES. THE TRADE DRESS SHALL IDENTIFY THE TRANSPORTATION NETWORK COMPANY VEHICLE WITH A PARTICULAR TRANSPORTATION NETWORK COMPANY. THE TRANSPORTATION NETWORK COMPANY SHALL FILE AN ILLUSTRATION OF THE TRADE DRESS WITH THE DEPARTMENT.

E. A TRANSPORTATION NETWORK COMPANY SHALL BE REGULATED PURSUANT TO THIS ARTICLE AND NOT AS A TAXI, LIVERY VEHICLE OR LIMOUSINE SERVICE.

**41-2139.01. Transportation network services; fares; driver identification; electronic receipt**

A. ON BEHALF OF A TRANSPORTATION NETWORK COMPANY DRIVER, A TRANSPORTATION NETWORK COMPANY MAY CHARGE A FARE FOR TRANSPORTATION NETWORK SERVICES PROVIDED TO PASSENGERS. IF A FARE IS CHARGED THROUGH A DIGITAL NETWORK OR SOFTWARE APPLICATION, THE TRANSPORTATION NETWORK COMPANY SHALL DISCLOSE TO PASSENGERS THE FARE CALCULATION METHOD ON ITS WEBSITE OR WITHIN THE DIGITAL NETWORK OR SOFTWARE APPLICATION.

B. THE TRANSPORTATION NETWORK COMPANY SHALL PROVIDE PASSENGERS WITH THE APPLICABLE RATES BEING CHARGED THROUGH A DIGITAL NETWORK OR SOFTWARE APPLICATION AND THE OPTION TO RECEIVE AN ESTIMATED FARE BEFORE THE PASSENGER ENTERS THE TRANSPORTATION NETWORK COMPANY VEHICLE.

C. BEFORE THE PASSENGER ENTERS THE TRANSPORTATION NETWORK COMPANY VEHICLE THROUGH THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION, THE DIGITAL NETWORK OR SOFTWARE APPLICATION SHALL DISPLAY A PICTURE OF THE TRANSPORTATION NETWORK COMPANY DRIVER AND THE LICENSE PLATE NUMBER OF THE MOTOR VEHICLE USED FOR PROVIDING THE TRANSPORTATION NETWORK SERVICE.

D. WITHIN A REASONABLE PERIOD OF TIME FOLLOWING THE COMPLETION OF A TRIP ARRANGED THROUGH A DIGITAL NETWORK OR SOFTWARE APPLICATION, THE TRANSPORTATION NETWORK COMPANY SHALL TRANSMIT TO THE PASSENGER AN ELECTRONIC RECEIPT THAT LISTS ALL OF THE FOLLOWING:

1. THE ORIGIN AND DESTINATION OF THE TRIP.
2. THE TOTAL TIME AND DISTANCE OF THE TRIP.
3. AN ITEMIZATION OF THE TOTAL FARE PAID, IF ANY.

**41-2139.02. Zero-tolerance policy; drug and alcohol use by driver**

A. A TRANSPORTATION NETWORK COMPANY SHALL IMPLEMENT A ZERO-TOLERANCE POLICY ON THE USE OF DRUGS AND ALCOHOL WHILE A TRANSPORTATION NETWORK COMPANY DRIVER IS PROVIDING TRANSPORTATION NETWORK SERVICES OR IS LOGGED IN TO THE DIGITAL NETWORK OR SOFTWARE APPLICATION BUT IS NOT PROVIDING TRANSPORTATION NETWORK SERVICES. THE TRANSPORTATION NETWORK COMPANY SHALL PROVIDE NOTICE OF THIS POLICY ON ITS WEBSITE, INCLUDING PROCEDURES TO FILE A COMPLAINT ABOUT A TRANSPORTATION NETWORK COMPANY DRIVER WITH WHOM A PASSENGER WAS MATCHED AND WHO THE PASSENGER REASONABLY SUSPECTS WAS UNDER THE INFLUENCE OF DRUGS OR ALCOHOL DURING THE COURSE OF THE TRIP.

B. ON RECEIPT OF A PASSENGER COMPLAINT ALLEGING A VIOLATION OF THE ZERO-TOLERANCE POLICY, THE TRANSPORTATION NETWORK COMPANY SHALL DO BOTH OF THE FOLLOWING:

1. IMMEDIATELY SUSPEND THE TRANSPORTATION NETWORK COMPANY DRIVER'S ACCESS TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION.

2. CONDUCT AN INVESTIGATION INTO THE FILED COMPLAINT. THE SUSPENSION SHALL LAST THE DURATION OF THE INVESTIGATION.

C. IF THE TRANSPORTATION NETWORK COMPANY'S INVESTIGATION CONFIRMS THAT THE TRANSPORTATION NETWORK COMPANY DRIVER HAS VIOLATED THIS SECTION, THE TRANSPORTATION NETWORK COMPANY SHALL PERMANENTLY DEACTIVATE THE DRIVER'S ACCESS TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION. THE TRANSPORTATION NETWORK COMPANY SHALL MAINTAIN ENFORCEMENT RECORDS FOR AT LEAST TWO YEARS AFTER THE DATE A PASSENGER COMPLAINT IS RECEIVED BY THE TRANSPORTATION NETWORK COMPANY AND MAKE THE RECORDS AVAILABLE TO THE DEPARTMENT ON REQUEST.

**41-2139.03. Transportation network company driver; requirements**

A. BEFORE A PERSON MAY ACCEPT TRIP REQUESTS THROUGH A DIGITAL NETWORK OR SOFTWARE APPLICATION, THE TRANSPORTATION NETWORK COMPANY SHALL DO ALL OF THE FOLLOWING:

1. REQUIRE THE PERSON TO SUBMIT AN APPLICATION TO THE TRANSPORTATION NETWORK COMPANY THAT INCLUDES THE PERSON'S NAME, ADDRESS, AGE, DRIVER LICENSE NUMBER, DRIVING HISTORY, MOTOR VEHICLE REGISTRATION, MOTOR VEHICLE

INSURANCE INFORMATION AND ANY OTHER INFORMATION REQUESTED BY THE TRANSPORTATION NETWORK COMPANY.

2. CONDUCT, OR HAVE A THIRD PARTY CONDUCT, A LOCAL AND NATIONAL CRIMINAL BACKGROUND CHECK FOR EACH APPLICANT THAT INCLUDES A SEARCH OF A MULTIJURISDICTION CRIMINAL RECORDS LOCATOR OR SIMILAR, VALIDATED COMMERCIAL NATIONWIDE DATABASE AND A NATIONAL SEX OFFENDER REGISTRY DATABASE.

3. OBTAIN AND REVIEW A DRIVING HISTORY REPORT FOR THE APPLICANT.

4. REQUIRE THAT ALL TRANSPORTATION NETWORK COMPANY VEHICLES USED BY TRANSPORTATION NETWORK COMPANY DRIVERS MEET STATE VEHICLE SAFETY AND EMISSIONS STANDARDS FOR PRIVATE VEHICLES AND HAVE AT A MINIMUM AN ANNUAL BRAKE AND TIRE INSPECTION THAT IS PERFORMED BY A QUALIFIED THIRD PARTY.

B. A TRANSPORTATION NETWORK COMPANY MAY NOT ALLOW A PERSON TO ACT AS A TRANSPORTATION NETWORK COMPANY DRIVER WHO:

1. HAS HAD MORE THAN THREE MOVING VIOLATIONS OR ONE MAJOR VIOLATION PURSUANT TO TITLE 28 IN THE PRECEDING THREE YEARS. FOR THE PURPOSES OF THIS PARAGRAPH, "MAJOR VIOLATION" INCLUDES ATTEMPTING TO EVADE THE POLICE, RECKLESS DRIVING OR DRIVING ON A SUSPENDED OR REVOKED LICENSE.

2. HAS BEEN CONVICTED WITHIN THE PRECEDING SEVEN YEARS OF VIOLATION OF SECTION 13-706, 28-1381, 28-1382 OR 28-1383 OR TITLE 13, CHAPTER 14, 19, 22, 23, 34 OR 35.1.

3. IS LISTED IN A NATIONAL SEX OFFENDER REGISTRY DATABASE.

4. DOES NOT POSSESS A VALID DRIVER LICENSE.

5. DOES NOT POSSESS PROOF OF REGISTRATION FOR THE MOTOR VEHICLE THAT WILL BE USED AS A TRANSPORTATION NETWORK COMPANY VEHICLE.

6. DOES NOT POSSESS PROOF OF FINANCIAL RESPONSIBILITY FOR THE MOTOR VEHICLE THAT WILL BE USED AS A TRANSPORTATION NETWORK COMPANY VEHICLE.

7. IS NOT AT LEAST NINETEEN YEARS OF AGE.

C. A TRANSPORTATION NETWORK COMPANY OR ITS AGENT SHALL MAINTAIN RECORDS OF THE CRIMINAL BACKGROUND CHECK CONDUCTED ON BEHALF OF EACH TRANSPORTATION NETWORK COMPANY DRIVER AND MAKE THE RECORDS AVAILABLE TO THE DEPARTMENT ON REQUEST.

**41-2139.04. Transportation network services; civil penalty; street hails prohibited; records**

A. A TRANSPORTATION NETWORK COMPANY DRIVER SHALL ACCEPT RIDES BOOKED AND PAID FOR EXCLUSIVELY THROUGH A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION. THE DEPARTMENT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION AGAINST ANY TRANSPORTATION NETWORK COMPANY DRIVER WHO IS FOUND TO BE SOLICITING OR ACCEPTING STREET HAILS.

B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO A TRANSPORTATION NETWORK COMPANY DRIVER OF A TRANSPORTATION NETWORK COMPANY VEHICLE INSURED PURSUANT TO SECTION 28-4038, SUBSECTION C.

C. A TRANSPORTATION NETWORK COMPANY SHALL MAINTAIN INDIVIDUAL TRIP RECORDS FOR AT LEAST ONE YEAR AFTER THE DATE EACH TRIP WAS PROVIDED AND TRANSPORTATION NETWORK COMPANY DRIVER RECORDS UNTIL THE ONE-YEAR ANNIVERSARY OF THE DATE OF THE DRIVER'S ACTIVATION ON THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION HAS ENDED AND SHALL MAKE THE RECORDS AVAILABLE TO THE DEPARTMENT ON REQUEST.

**41-2139.05. Transportation network companies; drivers; transaction privilege tax prohibited**

A TRANSPORTATION NETWORK COMPANY THAT HAS A PERMIT ISSUED PURSUANT TO THIS ARTICLE AND A TRANSPORTATION NETWORK COMPANY DRIVER MAY NOT BE REQUIRED TO PAY TRANSACTION PRIVILEGE TAX OR ANY SIMILAR TAX IMPOSED BY ANY TAXING AUTHORITY IN THIS STATE ON TRANSACTIONS IN WHICH A TRANSPORTATION NETWORK COMPANY DRIVER IS PROVIDING TRANSPORTATION NETWORK SERVICES.

**41-2139.06. Transportation network company disclosures; insurance proceeds**

A. A TRANSPORTATION NETWORK COMPANY SHALL DISCLOSE TO ITS TRANSPORTATION NETWORK COMPANY DRIVERS, IN WRITING OR IN AN ELECTRONIC FORMAT, THE FOLLOWING INFORMATION BEFORE THE DRIVERS MAY ACCEPT A REQUEST FOR TRANSPORTATION NETWORK SERVICES ON THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION:

1. THE INSURANCE COVERAGE AND LIMITS OF LIABILITY THAT THE TRANSPORTATION NETWORK COMPANY PROVIDES WHILE THE TRANSPORTATION NETWORK COMPANY DRIVER USES A TRANSPORTATION NETWORK COMPANY VEHICLE IN CONNECTION

WITH THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION.

2. THAT THE TRANSPORTATION NETWORK COMPANY DRIVER'S OWN INSURANCE POLICY MIGHT NOT PROVIDE COVERAGE WHILE THE TRANSPORTATION NETWORK COMPANY DRIVER USES A TRANSPORTATION NETWORK COMPANY VEHICLE IN CONNECTION WITH THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION, DEPENDING ON ITS TERMS.

3. THAT THE TRANSPORTATION NETWORK COMPANY DRIVER'S USE OF A VEHICLE THAT HAS A LIEN AGAINST IT TO PROVIDE TRANSPORTATION NETWORK SERVICES FOR THE TRANSPORTATION NETWORK COMPANY MIGHT VIOLATE THE TERMS OF THE TRANSPORTATION NETWORK COMPANY DRIVER'S CONTRACT WITH THE DRIVER'S LIENHOLDER.

B. THE DISCLOSURES REQUIRED BY SUBSECTION A OF THIS SECTION SHALL BE PLACED IN THE PROSPECTIVE TRANSPORTATION NETWORK COMPANY VEHICLE OWNER'S WRITTEN TERMS OF SERVICE.

C. IF A TRANSPORTATION NETWORK COMPANY'S INSURER MAKES A PAYMENT FOR A CLAIM COVERED UNDER COMPREHENSIVE COVERAGE OR COLLISION COVERAGE, THE TRANSPORTATION NETWORK COMPANY SHALL CAUSE ITS INSURER TO ISSUE THE PAYMENT DIRECTLY TO THE BUSINESS REPAIRING THE VEHICLE OR JOINTLY TO THE OWNER OF THE VEHICLE AND THE PRIMARY LIENHOLDER ON THE COVERED VEHICLE.

**Sec. 12.** Section 42-5062, Arizona Revised Statutes, is amended to read:

**42-5062. Transporting classification**

A. The transporting classification is comprised of the business of transporting for hire persons, freight or property by motor vehicle, railroads or aircraft from one point to another point in this state. The transporting classification does not include:

1. Transporting for hire persons, freight or property by motor carriers subject to a fee prescribed in title 28, chapter 16, article 4 or by light motor vehicles subject to a fee under title 28, chapter 15, article 4, TRANSPORTATION NETWORK COMPANIES SUBJECT TO A FEE PRESCRIBED BY SECTION 41-2139 OR TRANSPORTATION NETWORK COMPANY DRIVERS ON TRANSACTIONS INVOLVING TRANSPORTATION NETWORK SERVICES AS DEFINED IN SECTION 41-2138.

2. The business of transporting for hire persons traveling in air commerce by aircraft if taxation of the business is preempted by federal law.

3. Ambulances or ambulance services provided under title 48 or certified pursuant to title 36, chapter 21.1 or provided by a city or town in a county with a population of less than one hundred fifty thousand persons as determined in the most recent United States decennial census.

4. Public transportation program services for the dial-a-ride programs and special needs transportation services.

5. Transporting freight or property for hire by a railroad operating exclusively in this state if the transportation comprises a portion of a single shipment of freight or property, involving more than one railroad, either from a point in this state to a point outside this state or from a point outside this state to a point in this state. For the purposes of this paragraph, "a single shipment" means the transportation that begins at the point at which one of the railroads first takes possession of the freight or property and continues until the point at which one of the railroads relinquishes possession of the freight or property to a party other than one of the railroads.

6. Arranging transportation as a convenience or service to a person's customers if that person is not otherwise engaged in the business of transporting persons, freight or property for hire. This exception does not apply to businesses that dispatch vehicles pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the transportation is performed by third-party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

B. The tax base for the transporting classification is the gross proceeds of sales or gross income derived from the business, except that the following shall be deducted from the tax base:

1. The gross proceeds of sales or gross income derived from transporting for hire persons, freight or property by a railroad pursuant to a contract with another railroad that is also considered to be engaged in the businesses of transporting persons, freight or property for hire if the other railroad is liable for the tax on gross proceeds of sales or gross income attributable to the transportation.

2. The gross proceeds of sales or gross income derived from business activity that is properly included in any other business classification under this article and that is taxable to the person engaged in that classification, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

3. The gross proceeds of sales or gross income derived from a business activity that is arranged by the person who is subject to tax under this section and that is not taxable to the person conducting the activity due to an exclusion, exemption or deduction under this section or section 42-5073, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

4. The gross proceeds of sales or gross income derived from business activity that is arranged by a person who is subject to tax under this section and that is taxable to another person under this section who conducts the activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

5. The gross proceeds of sales or gross income derived from transporting fertilizer by a railroad from a point in this state to another point in this state.

**Sec. 13. Legislative intent; department of insurance**

It is the intent of the legislature that the department of insurance immediately expedite review of any application for approval of a motor vehicle insurance product providing coverage for a transportation network company as defined in section 41-2138, Arizona Revised Statutes, or a transportation network company driver as defined in section 41-2138, Arizona Revised Statutes, who is engaged in providing transportation network services as defined in section 41-2138, Arizona Revised Statutes, and that at least two of these products be available for purchase on or before March 1, 2016.

**Sec. 14. Exemption from rulemaking**

For the purposes of this act, the department of weights and measures or the department of transportation, as applicable, is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, until March 1, 2016.

**Sec. 15. Statutory revision; legislative council**

If the department of transportation succeeds to the authority, powers, duties and responsibility of the department of weights and measures relating to the regulation of taxis, livery vehicles and limousines, the legislative council staff shall transfer and renumber title 41, chapter 15, article 8, Arizona Revised Statutes, for placement in title 28, Arizona Revised Statutes, as applicable.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## FIRE DISTRICTS—FIRE CODES—STUDY COMMITTEE

### CHAPTER 236

### H. B. 2162

**AN ACT AMENDING SECTIONS 48-820 AND 48-822, ARIZONA REVISED STATUTES; ESTABLISHING A RURAL FIRE DISTRICT JOINT LEGISLATIVE STUDY COMMITTEE; RELATING TO FIRE DISTRICTS.**

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

**Section 1.** Section 48-820, Arizona Revised Statutes, is amended to read:

**48-820. Election to merge fire districts; notice; hearing; approval; joint meeting; merged district board**

A. Except as provided in subsection K of this section, the board of supervisors shall make an order calling for an election to decide whether to merge fire districts when a resolution for merger from each district is submitted to the board. The board of supervisors shall not make an order calling for an election to merge fire districts more frequently than once every two years. Whether or not the

districts are merged, the fire districts shall reimburse the counties for the expenses of the election, including the cost of mailing any notices required pursuant to this section. If the proposed district is located in more than one county, the resolutions shall be submitted to the board of supervisors of the county in which the majority of the assessed valuation of the proposed district is located. The words appearing on the ballot shall be "(insert fire districts' names) merge as a fire district--yes" and "(insert fire districts' names) merge as fire district--no."

B. Except for a district organized pursuant to article 3 of this chapter, at least six days but not more than twenty days after the election, the board of supervisors shall meet and canvass the returns, and if it is determined that a majority of the votes cast at the election in each of the affected districts is in favor of merging the fire districts, the board shall enter that fact on its minutes.

C. For a district organized pursuant to article 3 of this chapter, within fourteen days after the election, the board of supervisors shall meet and canvass the returns, and if it is determined that a majority of the votes cast at the election in each of the affected districts is in favor of merging the fire districts, the board shall enter the fact on its minutes.

D. Except as prescribed in subsection E of this section, two or more fire districts may merge if the governing body of each affected fire district, by a majority vote of the members of each governing body, adopts a resolution declaring that a merger be considered and a public hearing be held to determine if a merger would be in the best interests of the district and would promote public health, comfort, convenience, necessity or welfare. After each district adopts such a resolution, the governing body by first class mail shall send written notice of the resolution, its purpose and notice of the day, hour and place of a hearing on the proposed merger to each owner of taxable property within the boundaries of the district. The notice shall contain the name and description of the boundaries of each district proposed to be merged and a detailed, accurate map of the area to be included in the merger. The notice also shall contain an estimate of the assessed value of the merged district, the estimated change in property tax liability for a typical resident of the proposed merged district and a list of the benefits and injuries that may result from the proposed merged district. No new territory may be included as a result of the merger.

E. A noncontiguous county island fire district formed pursuant to section 48-851 shall not merge with a fire district formed pursuant to section 48-261.

F. The clerk of the governing body shall post notice in at least three conspicuous public places in the district and shall also publish notice twice in a daily newspaper of general circulation in the county in which the district is located, at least ten days before the public hearing. The clerk of each governing body affected by the proposed merger shall also mail notice and a copy of the resolution in support of considering the merger to the chairman of the board of supervisors of the county or counties in which the affected districts are located. The chairman of the board of supervisors shall order a review of the proposed merger and shall submit written comments to the governing body of each fire district located in that county within ten days after receipt of the notice.

G. At the hearing, each governing body of the district shall consider the comments of the board of supervisors, hear those persons who appear for or against the proposed merger and determine whether the proposed merger will promote public health, comfort, convenience, necessity or welfare. If, after the public hearing each of the governing bodies of the districts affected by the proposed merger adopt a resolution by a majority vote that the merger will promote public health, comfort, convenience, necessity or welfare, each of the governing bodies of the districts affected by the proposed merger shall submit to the board of supervisors the resolutions that call for an election.

H. Before considering any resolution of merger pursuant to this section, a governing body shall obtain written consent to the merger from any single taxpayer residing within each of the affected districts who owns thirty per cent or more of the net assessed valuation of the total net assessed valuation of the district. If written consent contemplated by this subsection is not obtained, subsections A and B apply, and the merger may only be accomplished by election.

I. If the merger is approved as provided by subsection B or K of this section, within thirty days after the approval, the governing body of the affected district with the largest population shall call a joint meeting of the governing bodies of all of the affected districts. At the joint meeting, a majority of the members of the governing body of each affected district constitutes a quorum for the purpose of transacting business. The members of the governing body shall appoint a total of five persons from those currently serving on the governing bodies who shall complete their regular terms of office, except that no more than three of the persons appointed may serve terms that end in the same year. No more than three members shall be appointed from the same fire district board. Subsequent terms of office for district board members shall be filled by election of board members who shall be qualified electors of the merged district.

J. The appointed governing body shall immediately meet and organize itself and elect from its members a chairman and a clerk. The appointed board by resolution shall declare the districts merged and each affected district joined. The governing board by resolution shall declare the name of the newly merged fire district. The resolution and the names of the new board members for the newly organized district shall be sent to the board of supervisors, and the districts are merged effective thirty days after the adoption of the resolution.

K. If the requirements of subsection H of this section are met and each of the governing body votes required by subsections D and G of this section are unanimous, the following apply:

1. The governing bodies of each district may choose to merge by unanimous resolution without an election and subsections A and B of this section do not apply.

2. The governing bodies of each district may choose to hold an election on the question of merger and subsections A and B of this section apply.

L. IF THE MERGER IS APPROVED PURSUANT TO SUBSECTION B OR K OF THIS SECTION, THE GOVERNING BODY OF THE NEWLY MERGED DISTRICT MAY ADOPT A NATIONALLY RECOGNIZED FIRE CODE WITH THE APPROVAL OF THE STATE FIRE MARSHAL AND AFTER

A HEARING HELD PURSUANT TO POSTED AND PUBLISHED NOTICE AS PRESCRIBED BY SECTION 48-805.02, SUBSECTION A. THE DISTRICT SHALL KEEP A COPY OF THE ADOPTED FIRE CODE ON FILE FOR PUBLIC INSPECTION.

**Sec. 2.** Section 48-822, Arizona Revised Statutes, is amended to read:

**48-822. Election to consolidate fire districts; resolution; hearing**

A. Except as provided in subsection E of this section, the board of supervisors shall make an order calling for an election to decide whether to consolidate fire districts when a resolution for consolidation of fire districts from each district is submitted to the board of supervisors. The board of supervisors shall not make an order calling for an election to consolidate fire districts more frequently than once every two years. Whether or not the districts are consolidated, the fire districts shall reimburse the counties for the expenses of the election, including the cost of mailing any notices. If the proposed district is located in more than one county, the resolutions shall be submitted to the board of supervisors of the county in which the majority of the assessed valuation of the proposed district is located. The words appearing on the ballot shall be "(insert fire districts' names) consolidate as a fire district—yes" and "(insert fire districts' names) consolidate as fire district—no."

B. Within fourteen days after the election, the board of supervisors shall meet and canvass the returns, and if it is determined that a majority of the votes cast at the election in each of the affected districts is in favor of consolidating the fire districts, the board shall enter that fact on its minutes.

C. Except as proscribed by subsection D of this section, a fire district may consolidate with one or more other fire districts formed pursuant to section 48-261 as follows:

1. A resolution requesting the consolidation of a fire district is passed by a majority vote of the governing body requesting consolidation into another fire district. The requesting district shall send by first class mail the notice of request to consolidate districts to the fire district in which the consolidation is requested.

2. On receipt of the resolution requesting consolidation, and on approval by majority vote of the governing body receiving the request, two or more fire districts may consolidate if the governing body of each affected fire district by a majority vote of the members of each governing body adopts a resolution declaring that a consolidation be considered and a public hearing be held to determine if a consolidation would be in the best interest of the districts and would promote the public health, comfort, convenience, necessity or welfare. After each district adopts such a resolution, the governing body by first class mail shall send written notice of the resolution, its purpose and notice of the day, hour and place of a hearing on the proposed consolidation to each owner of taxable property within the boundaries of the district. The notice shall contain the name and description of the boundaries of each district that is proposed to be consolidated and a detailed, accurate map of the area to be included in the consolidation. The notice also shall contain an estimate of the assessed value of the consolidated district, the estimated change in the property tax liability for a typical resident of the proposed consolidated district and a list of

the benefits and injuries that may result from the proposed consolidated district. No new territory may be included as a result of the consolidation.

3. The clerk of the governing body of the fire districts affected by the proposed consolidation shall post notice in at least three conspicuous public places in the district and also shall publish notice twice in a daily newspaper of general circulation in the county in which the district is located at least ten days before the public hearing. The clerk of each governing body affected by the proposed consolidation shall also mail notice and a copy of the resolution in support of considering consolidation to the chairman of the board of supervisors of the county or counties in which the affected districts are located. The chairman of the board of supervisors shall order a review of the proposed consolidation and shall submit written comments to the governing body of each fire district located in the county within ten days after receipt of the notice.

4. At the hearing, the governing body of the district shall consider the comments of the board of supervisors, hear those persons who appear for or against the proposed consolidation and determine whether the proposed consolidation will promote the public health, comfort, convenience, necessity or welfare. If, after the public hearing, each of the governing bodies of the districts affected by the proposed consolidation adopt a resolution by a majority vote that the consolidation will promote the public health, comfort, convenience, necessity or welfare, each of the governing bodies of the districts affected by the proposed consolidation shall submit the resolutions calling for an election to the board of supervisors.

5. If the proposal for consolidation is approved as provided in subsections A and B of this section, the governing body of the district into which consolidation was requested shall by resolution declare the district consolidated and each affected district joined. Those persons currently serving as the governing body of the district into which consolidation was requested shall serve as the governing body of the newly consolidated district and complete their regular terms of office. The newly consolidated district governing body shall consist of at least five members.

6. If the consolidation results in a new district population that is greater than fifty thousand persons, the new governing board may appoint an additional two members to serve until the next general election at which time the newly elected member with the highest number of votes serves a four year term and the other member serves a two year term. Thereafter, the term of office for these two new members is four years.

7. The governing body by resolution shall declare the name of the newly consolidated fire district.

8. If a proposed consolidated district would include property located in an incorporated city or town, in addition to the other requirements of this section, the governing body of the district shall approve the creation of the consolidated district only if the governing body of the city or town endorses the creation by ordinance or resolution.

9. Before considering any resolution of consolidation pursuant to this section, a governing body shall obtain written consent to the consolidation from any single taxpayer residing within each of the affected districts who owns thirty per cent

or more of the net assessed valuation of the total net assessed valuation of the district.

D. A noncontiguous county island fire district formed pursuant to section 48-851 shall not consolidate with a fire district formed pursuant to section 48-261.

E. If the requirements of subsection C, paragraph 9 of this section are met and each of the governing body votes required by this section are unanimous, the following apply:

1. The governing bodies of each district may choose to consolidate by unanimous resolution without an election and subsections A and B of this section do not apply.

2. The governing bodies of each district may choose to hold an election on the question of consolidation and subsections A and B of this section apply.

F. IF THE CONSOLIDATION IS APPROVED PURSUANT TO SUBSECTION A OR E OF THIS SECTION, THE ADOPTED FIRE CODE OF THE DISTRICT INTO WHICH THE CONSOLIDATION WAS REQUESTED SHALL APPLY TO THE ENTIRETY OF THE NEWLY CONSOLIDATED DISTRICT.

**Sec. 3. Joint legislative study committee on rural area fire district funding and taxation; membership; duties; report; delayed repeal**

A. The joint legislative study committee on rural area fire district funding and taxation is established consisting of the following members:

1. Three members of the senate who are appointed by the president of the senate, not more than two of whom are members of the same political party.

2. Three members of the house of representatives who are appointed by the speaker of the house of representatives, not more than two of whom are members of the same political party.

3. A person who is elected to a fire district board within a county with a population of five hundred thousand persons or more and who is appointed by the president of the senate.

4. A person who is elected to a fire district board within a county with a population of less than five hundred thousand persons and who is appointed by the speaker of the house of representatives.

5. A representative of a city or town whose fire and emergency medical services are provided by a fire district and who is appointed by the president of the senate.

6. A representative of an association of counties in this state that represents the county boards of supervisors and who is appointed by the speaker of the house of representatives.

7. A representative of an association of fire districts in this state that represents elected fire district board members and who is appointed by the president of the senate.

8. A representative of a firefighter organization in this state and who is appointed by the speaker of the house of representatives.

9. A representative of a taxpayer organization in this state and who is appointed by the president of the senate.

B. The members of the study committee shall select a chairperson of the study committee from among its membership.

C. The study committee shall consider the level of fire safety services provided to rural areas by fire districts and fire departments, review taxation levels in various counties, both countywide and in the unincorporated areas of those counties and review the frequency of mergers and consolidations of fire districts in rural areas.

D. The study committee shall submit a report of the study committee's findings and any recommendations on or before December 15, 2015 to the president of the senate, the speaker of the house of representatives and the governor and provide a copy of this report to the secretary of state.

E. This section is repealed from and after December 31, 2015.

**Sec. 4. Retroactivity**

Section 48-820, Arizona Revised Statutes, as amended by this act applies retroactively from and after January 1, 2014.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## VICTIMS' RIGHTS—ELECTRONIC RECORDINGS

### CHAPTER 237

### H. B. 2203

### AN ACT AMENDING SECTIONS 8-395 AND 13-4414, ARIZONA REVISED STATUTES; RELATING TO VICTIMS' RIGHTS.

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

**Section 1.** Section 8-395, Arizona Revised Statutes, is amended to read:

**8-395. Notice of postadjudication release; right to be heard; hearing; final decision; free electronic recording**

A. The victim has the right to be present and be heard at any proceeding in which postadjudication release from confinement is being considered and the right to submit a statement to the department of juvenile corrections when a request for discharge on successful completion of the ~~individualized~~ INDIVIDUAL treatment plan is considered pursuant to section 41-2820.

B. If the victim has made a request for postadjudication notice, at least fifteen days before the hearing or before the juvenile's discharge is considered pursuant to section 41-2820, the department of juvenile corrections shall give to the victim written notice of the hearing and of the victim's right to be present and be

heard at the hearing or to submit a statement to the department regarding the request for discharge.

C. If the victim has made a request for postadjudication notice, the department of juvenile corrections shall give notice to the victim of the decision reached by the department. The department shall mail the notice within fifteen days after the department reaches its decision.

D. ANY ELECTRONIC RECORDINGS THAT ARE MADE DURING A POSTADJUDICATION RELEASE HEARING SHALL BE PROVIDED, ON REQUEST, TO THE VICTIM FREE OF CHARGE.

**Sec. 2.** Section 13-4414, Arizona Revised Statutes, is amended to read:

**13-4414. Notice of postconviction release; right to be heard; hearing; final decision; free electronic recording**

A. The victim has the right to be present and be heard at any proceeding in which ~~post-conviction~~ POSTCONVICTION release from confinement is being considered pursuant to section 31-233, ~~31-236 or~~ 31-411 OR 41-1604.13.

B. If the victim has made a request for ~~post-conviction~~ POSTCONVICTION notice, the board of executive clemency shall, at least fifteen days before the hearing, give to the victim written notice of the hearing and of the victim's right to be present and be heard at the hearing.

C. If the victim has made a request for ~~post-conviction~~ POSTCONVICTION notice, the board of executive clemency shall give to the victim notice of the decision reached by the board. The notice shall be mailed within fifteen days after the board reaches its decision.

D. ANY ELECTRONIC RECORDINGS THAT ARE MADE DURING A POSTCONVICTION RELEASE HEARING SHALL BE PROVIDED, ON REQUEST, TO THE VICTIM FREE OF CHARGE.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## CRIMINAL RESTITUTION

### CHAPTER 238

### H. B. 2204

### AN ACT AMENDING SECTIONS 13-805 AND 13-809, ARIZONA REVISED STATUTES; RELATING TO CRIMINAL RESTITUTION.

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

**Section 1.** Section 13-805, Arizona Revised Statutes, is amended to read:

**13-805. Jurisdiction**

A. The trial court shall retain jurisdiction of the case for purposes of ordering, modifying and enforcing the manner in which court-ordered payments are made until paid in full or until the defendant's sentence expires.

B. At the time the defendant is ordered to pay restitution by the ~~superior~~ court, the court may enter a criminal restitution order in favor of each person who is entitled to restitution for the unpaid balance of any restitution order. A criminal restitution order does not affect any other monetary obligation imposed on the defendant pursuant to law.

C. At the time the defendant completes the defendant's period of probation or the defendant's sentence or the defendant absconds from probation or the defendant's sentence, the court shall enter both:

1. A criminal restitution order in favor of the state for the unpaid balance, if any, of any fines, costs, incarceration costs, fees, surcharges or assessments imposed.

2. A criminal restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered, if a criminal restitution order is not issued pursuant to subsection B of this section.

D. The clerk of the court shall notify each person who is entitled to restitution of the criminal restitution order.

E. A criminal restitution order may be recorded and is enforceable as any civil judgment, except that a criminal restitution order does not require renewal pursuant to section 12-1611 or 12-1612. Enforcement of a criminal restitution order by any person who is entitled to restitution or by the state includes the collection of interest that accrues at a rate of ten ~~per cent~~ PERCENT per annum. A criminal restitution order does not expire until paid in full.

F. All monies paid pursuant to a criminal restitution order entered by the superior court shall be paid to the clerk of the superior court.

G. Monies received as a result of a criminal restitution order entered pursuant to this section shall be distributed in the following order of priority:

1. Restitution ordered that is reduced to a criminal restitution order.

2. Associated interest.

H. The interest accrued pursuant to subsection E of this section does not apply to fees imposed for collection of the court ordered payments.

I. A criminal restitution order is a criminal penalty for the purposes of a federal bankruptcy involving the defendant.

**Sec. 2.** Section 13-809, Arizona Revised Statutes, is amended to read:

**13-809. Priority of payments; application to traffic offenses; orders to reimburse public monies**

A. If a defendant is sentenced to pay a fine or incarceration costs, payment and enforcement of restitution take priority over payment to the state.

B. Section 13-804 does not apply to traffic offenses, except for a violation of section 28-661, 28-662, 28-693, 28-1381, 28-1382 or 28-1383 or any local ordinance relating to the same subject matter of such sections.

C. The court may impose an additional fine on sentencing for any offense to require that the defendant reimburse the law enforcement agency for any public monies paid to any person.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## EMERGENCY SERVICE PROVIDERS—CIVIL LIABILITY

### CHAPTER 239

### H. B. 2205

**AN ACT REPEALING SECTION 12-713, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 6, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 12-713; RELATING TO EMERGENCY SERVICE PROVIDERS.**

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

**Section 1. Repeal**

Section 12-713, Arizona Revised Statutes, is repealed.

**Sec. 2.** Title 12, chapter 6, article 12, Arizona Revised Statutes, is amended by adding a new section 12-713, to read:

**12-713. Providers of emergency services; civil liability**

IN THE PROVISION OF 911 SERVICES, A PERSON, A PROVIDER AS DEFINED IN SECTION 42-5251 OR A PUBLIC ENTITY OR ANY EMPLOYEE OF THE PUBLIC ENTITY IS NOT LIABLE FOR DAMAGES IN ANY CIVIL ACTION FOR INJURIES, DEATH OR LOSS TO A PERSON OR PROPERTY THAT ARE INCURRED BY ANY PERSON WITH RESPECT TO ALL DECISIONS MADE AND ACTIONS OR OMISSIONS TAKEN THAT ARE BASED ON GOOD FAITH IMPLEMENTATION EXCEPT IN THE CASES OF WANTON OR WILLFUL MISCONDUCT, REGARDLESS OF TECHNOLOGY PLATFORM INCLUDING A PUBLIC SAFETY RADIO COMMUNICATIONS NETWORK, THAT RECEIVES, DEVELOPS, COLLECTS OR PROCESSES INFORMATION FOR THE SERVICE'S LOCATION INFORMATION DATABASES, RELAYS, TRANSFERS, OPERATES, MAINTAINS OR PROVIDES EMERGENCY NOTIFICATION SERVICES OR SYSTEM CAPABILITIES, OR PROVIDES EMERGENCY COMMUNICATIONS OR SERVICES FOR AMBULANCES, POLICE AND FIRE DEPARTMENTS OR OTHER PUBLIC SAFETY ENTITIES.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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# STATE AGENCY RULEMAKING RESTRICTIONS

## CHAPTER 240

## H. B. 2297

**AN ACT AMENDING TITLE 41, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1038; RELATING TO STATE AGENCY RULEMAKING.**

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

**Section 1.** Title 41, chapter 6, article 3, Arizona Revised Statutes, is amended by adding section 41-1038, to read:

**41-1038. Rules; restrictions; affirmative defense; fees and costs; exceptions; definition**

A. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY MAY NOT ADOPT ANY NEW RULE THAT WOULD INCREASE EXISTING REGULATORY RESTRAINTS OR BURDENS ON THE FREE EXERCISE OF PROPERTY RIGHTS OR THE FREEDOM TO ENGAGE IN AN OTHERWISE LAWFUL BUSINESS OR OCCUPATION UNLESS THE RULE IS EITHER OF THE FOLLOWING:

1. A COMPONENT OF A COMPREHENSIVE EFFORT TO REDUCE REGULATORY RESTRAINTS OR BURDENS.

2. NECESSARY TO IMPLEMENT STATUTES OR REQUIRED BY A FINAL COURT ORDER OR DECISION.

B. ANY PERSON WHO IS SUBJECT TO A CIVIL OR CRIMINAL PROCEEDING ARISING FROM THE ENFORCEMENT OF A RULE IN VIOLATION OF SUBSECTION A OF THIS SECTION HAS AN AFFIRMATIVE DEFENSE TO THE ENFORCEMENT ACTION. ANY COURT OR ADMINISTRATIVE BODY CONSIDERING OR REVIEWING THE DEFENSE SHALL RULE ON ITS MERITS WITHOUT DEFERENCE TO ANY LEGISLATIVE, ADMINISTRATIVE OR EXECUTIVE FINDING CONCERNING THE RULE. THE COURT OR ADMINISTRATIVE BODY MAY AWARD THE PREVAILING PARTY, OTHER THAN THE AGENCY, ATTORNEY FEES AND COSTS.

C. THIS SECTION DOES NOT APPLY TO RULES THAT EITHER:

1. GOVERN PUBLIC EMPLOYEES.

2. ARE NECESSARY TO PROTECT PUBLIC HEALTH AND SAFETY.

3. ARE NECESSARY TO AVOID SANCTIONS THAT WOULD RESULT FROM A FAILURE TO TAKE RULEMAKING ACTION PURSUANT TO A COURT ORDER OR FEDERAL LAW.

D. FOR THE PURPOSES OF THIS SECTION, AGENCY DOES NOT INCLUDE ANY BOARD, COMMISSION, DEPARTMENT, OFFICER OR

OTHER ADMINISTRATIVE UNIT OF THIS STATE ESTABLISHED UNDER THE AUTHORITY OF THE CONSTITUTION OF ARIZONA.

E. FOR THE PURPOSES OF THIS SECTION, "TO PROTECT PUBLIC HEALTH AND SAFETY" MEANS THE IMMEDIATE NEED TO ADDRESS OR PREVENT AN OUTBREAK OF AN INFECTIOUS DISEASE, A DISASTER OR ANY OTHER CATASTROPHIC EVENT.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## SMALL WATER SYSTEMS FUND

### CHAPTER 241

### H. B. 2316

**AN ACT AMENDING SECTION 49-355, ARIZONA REVISED STATUTES; RELATING TO WATER QUALITY CONTROL.**

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

**Section 1.** Section 49-355, Arizona Revised Statutes, is amended to read:

**49-355. Small water systems fund; definition**

A. ~~A.~~ THE small water systems fund is established in the department of environmental quality. On designation of the director of environmental quality, the fund may be administered by the water infrastructure finance authority of Arizona. The fund consists of monies appropriated by the legislature. Monies in the fund are exempt from lapsing under section 35-190. Interest earned on monies in the fund shall be credited to the fund.

B. Monies from the small water systems fund shall be used to~~:~~

~~1. Develop public education and information programs for owners, operators and customers of small water systems.~~

~~2. Provide advice and assistance in managerial, accounting, engineering and other technical areas for owners and operators of small water systems.~~

~~3. Integrate and coordinate information databases among the government agencies involved in regulating small water systems.~~

~~4. Develop other programs which would benefit the owners, operators and customers of small water systems.~~

~~5.~~ provide emergency grants to interim operators or interim managers of small water systems that are appointed by the Arizona corporation commission to repair OR REPLACE water infrastructure.

C. On recommendation of the Arizona corporation commission the water infrastructure finance authority of Arizona may approve a grant FROM THE FUND to an interim operator or an interim manager of a small water system pursuant to

~~subsection B, paragraph 5 of~~ this section only if the operator or manager demonstrates that it requires immediate financial assistance to REPLACE, make repairs to or to rehabilitate the public water system INFRASTRUCTURE that is operated by the interim operator or manager in order to correct or avoid an interruption in water service.

D. FOR THE PURPOSES OF THIS SECTION, "SMALL WATER SYSTEM" MEANS A PUBLIC WATER SYSTEM THAT SERVES FIVE HUNDRED OR FEWER CONNECTIONS.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## CENTRAL ARIZONA GROUNDWATER REPLENISHMENT DISTRICT—MEMBER LAND STATUS—TERMINATION

### CHAPTER 242

### H. B. 2325

**AN ACT AMENDING SECTION 48-3774, ARIZONA REVISED STATUTES; RELATING TO MULTI-COUNTY WATER CONSERVATION DISTRICT MEMBER LANDS.**

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

**Section 1.** Section 48-3774, Arizona Revised Statutes, is amended to read:

**48-3774. Qualification as member land**

A. Real property qualifies as member land only if all of the following apply:

1. The real property is located in an active management area in which a part of the central Arizona project aqueduct is located.

2. The real property is not in a member service area or in a groundwater replenishment district under chapter 27 of this title.

3. The real property is not a water district member land or a parcel of water district member land, or in a water district member service area established under chapter 28 of this title.

4. The conditions stated in section 45-576.01, subsection B, paragraphs 2 and 3 are satisfied with respect to the district at the time of the qualification.

5. The owner of the real property, or other person or entity, such as a property owners' or homeowners' association, if the person or entity has proper authority, records a declaration that has been approved by the district against the real property in the official records of the county where the real property is located that:

(a) Contains the legal description of the real property.

(b) Declares the intent of the owner that the real property qualify as member land under this chapter.

(c) Declares that, in order to permit the delivery of excess groundwater to the real property, each parcel of member land thereafter established at the real property is subject to a parcel replenishment obligation and to a replenishment assessment to be determined by the district.

(d) Declares that qualifying as member land and subjecting the real property to the parcel replenishment obligation and the replenishment assessment directly benefits the real property by increasing the potential of the property to qualify for a certificate of assured water supply issued by the department of water resources pursuant to title 45, chapter 2, article 9, thereby allowing the development, use and enjoyment of the real property.

(e) Contains a covenant that is binding against the real property and each parcel of member land thereafter established at the real property to pay to the district a replenishment assessment based on the parcel replenishment obligation in an amount determined by the district pursuant to section 48-3772, subsection A.

(f) Declares that the district may impose a lien on the real property and each parcel of member land thereafter established at the real property to secure payment of the replenishment assessment and any applicable replenishment reserve fee.

(g) Declares that the covenants, conditions and restrictions contained in the declaration run with the land and bind all successors and assigns of the owner.

B. The declaration may contain covenants, conditions and restrictions in addition to those prescribed by this section. The declaration may be an amendment or supplement to covenants, conditions and restrictions recorded against developed or undeveloped land.

C. Notwithstanding subsection A of this section, no real property qualifies as member land unless the municipal provider that will provide water to the real property that is subject to the declaration records in the official records of the county where the real property is located an agreement between the district and the municipal provider that contains both of the following:

1. The legal description of the real property and the tax parcel numbers for the real property.

2. An agreement by the municipal provider to submit to the district by March 31 of each year after the recordation of the instrument the information prescribed by section 48-3775, subsection A and such other information as the district may reasonably request.

D. REAL PROPERTY PREVIOUSLY ACCEPTED AS MEMBER LAND PURSUANT TO SUBSECTION A OF THIS SECTION TERMINATES ITS MEMBER LAND STATUS ONLY IF ALL OF THE FOLLOWING APPLY:

1. NO LOT OR PARCEL OF SUBDIVIDED LAND WITHIN THE REAL PROPERTY HAS BEEN SOLD OR LEASED TO A RETAIL PURCHASER OR LESSEE.

2. THE STATE REAL ESTATE COMMISSIONER HAS NOT ISSUED A PUBLIC REPORT FOR THE REAL PROPERTY.

3. IF LOT OR PARCEL BOUNDARIES WERE PREVIOUSLY RECORDED FOR THE REAL PROPERTY, THE PLANNING AGENCY HAVING PLANNING AUTHORITY OVER THE REAL PROPERTY HAS

APPROVED A PLAT VACATING THE LOT OR PARCEL BOUNDARIES THAT WERE PREVIOUSLY RECORDED FOR THE REAL PROPERTY.

4. THE OWNER OR OWNERS OF THE REAL PROPERTY OR OTHER PERSON OR ENTITY, SUCH AS A PROPERTY OWNERS' OR HOMEOWNERS' ASSOCIATION, IF THE PERSON OR ENTITY HAS PROPER AUTHORITY, RECORDS A DECLARATION THAT HAS BEEN EXECUTED BY THE DISTRICT AND THE DIRECTOR OF WATER RESOURCES AGAINST THE REAL PROPERTY IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED THAT:

(a) CONTAINS THE LEGAL DESCRIPTION OF THE REAL PROPERTY THAT IS SUBSTANTIALLY SIMILAR TO THE LEGAL DESCRIPTION OF THE REAL PROPERTY INCLUDED IN THE DECLARATION RECORDED PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS SECTION.

(b) DECLARES THAT THE COVENANTS, CONDITIONS AND RESTRICTIONS PREVIOUSLY RECORDED PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS SECTION ARE REVOKED.

5. THE AGREEMENT RECORDED PURSUANT TO SUBSECTION C OF THIS SECTION HAS BEEN REVOKED BY MUTUAL AGREEMENT OF THE PARTIES TO THAT AGREEMENT AND THE MUNICIPAL PROVIDER HAS RECORDED NOTICE OF THE REVOCATION IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

6. IF THE DEPARTMENT OF WATER RESOURCES HAS ISSUED A CERTIFICATE OF ASSURED WATER SUPPLY FOR THE REAL PROPERTY, THE DIRECTOR OF WATER RESOURCES HAS REVOKED THE CERTIFICATE PURSUANT TO A WRITTEN AGREEMENT FOR REVOCATION ENTERED INTO BETWEEN THE HOLDER OF THE CERTIFICATE AND THE DIRECTOR.

E. FOR THE PURPOSES OF SUBSECTION D OF THIS SECTION, A RETAIL PURCHASER OR LESSEE MEANS A PURCHASER OR LESSEE OF A LOT OR PARCEL OF SUBDIVIDED LANDS THAT IS ENTITLED TO RECEIVE A PUBLIC REPORT FROM THE SELLER OR LESSOR PURSUANT TO SECTION 32-2183, SUBSECTION I.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## AIR QUALITY—AGRICULTURAL MANAGEMENT PRACTICES

### CHAPTER 243

### H. B. 2394

**AN ACT AMENDING SECTION 49-457, ARIZONA REVISED STATUTES; RELATING TO AIR QUALITY.**

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

**Section 1.** Section 49-457, Arizona Revised Statutes, is amended to read:

**49-457. Agricultural best management practices committee; members; powers; permits; enforcement; preemption; definitions**

A. A best management practices committee for regulated agricultural activities is established.

B. The committee shall consist of:

1. The director of environmental quality or the director's designee.
2. The director of the Arizona department of agriculture or the director's designee.
3. The dean of the college of agriculture of the university of Arizona or the dean's designee.
4. The state director of the United States natural resources conservation service or the director's designee.
5. One person actively engaged in the production of citrus.
6. One person actively engaged in the production of vegetables.
7. One person actively engaged in the production of cotton.
8. One person actively engaged in the production of alfalfa.
9. One person actively engaged in the production of grain.
10. One soil taxonomist from the university of Arizona college of agriculture.
11. One person actively engaged in the operation of a beef cattle feed lot.
12. One person actively engaged in the operation of a dairy.
13. One person actively engaged in the operation of a poultry facility.
14. One person actively engaged in the operation of a swine facility.
15. One person who is employed by a county air quality department or agency.

C. The governor shall appoint the members designated pursuant to subsection B, paragraphs 5 through 15 of this section for a term of six years. Members may be reappointed. Members are not entitled to compensation for their services but are entitled to receive reimbursement of expenses pursuant to title 38, chapter 4, article 2.

D. The committee shall elect a chairman from the appointed members to serve a two year term.

E. The committee shall meet at the call of the chairman or at the request of a majority of the appointed members.

F. The department of environmental quality, the Arizona department of agriculture and the college of agriculture of the university of Arizona shall cooperate with and provide technical assistance and any necessary information to the committee. The department of environmental quality shall provide the necessary staff support and meeting facilities for the committee.

G. A person who commences a regulated agricultural activity ~~after December 31, 2000~~ shall IMMEDIATELY comply with the AGRICULTURAL general permit ~~within eighteen months of commencing the activity~~ PRESCRIBED BY THIS SECTION.

H. The committee shall adopt, by rule, an agricultural general permit specifying best management practices, including record keeping and reporting requirements, for regulated agricultural activities to reduce PM-10 particulate emissions. A person who is subject to an agricultural general permit pursuant to this section is not subject to a permit issued pursuant to section 49-426 except as provided in subsection K of this section. The committee shall adopt by rule a list of best management practices, at least one of which shall be used in areas designated as moderate nonattainment for PM-10 particulate matter and at least two of which shall be used in areas designated as serious nonattainment for PM-10 particulate matter, to demonstrate compliance with applicable provisions of the general permit. Best management practices may vary within the regulated area, according to regional or geographical conditions or cropping patterns.

I. If the director determines that a person who is engaged in a regulated activity is not in compliance with the general permit, and that person has not previously been subject to a compliance order issued pursuant to this section, the director may serve on the person by certified mail an order requiring compliance with the general permit and notifying the person of the opportunity for a hearing pursuant to title 41, chapter 6, article 10. The order shall state with reasonable particularity the nature of the noncompliance and shall specify that the person has a period that the director determines is reasonable, but is not less than sixty days, to submit a plan to the supervisors of the natural resource conservation district in which the person engages in the regulated activity that specifies the best management practices from among those adopted in rule pursuant to subsection H of this section that the person will use to comply with the general permit.

J. If the director determines that a person who is engaged in a regulated activity is not in compliance with the general permit, and that person has previously submitted a plan pursuant to subsection I of this section, the director may serve on the person by certified mail an order requiring compliance with the general permit and notifying the person of the opportunity for a hearing pursuant to title 41, chapter 6, article 10. The order shall state with reasonable particularity the nature of the noncompliance and shall specify that the person has a period that the director determines is reasonable, but is not less than sixty days, to submit a plan to the department that specifies the best management practices from among those adopted in rule pursuant to subsection H of this section that the person will use to comply with the general permit.

K. If a person fails to comply with the plan submitted pursuant to subsection J of this section, the director may revoke the agricultural general permit for that person and require that the person obtain an individual permit pursuant to section 49-426. A revocation becomes effective after the director has provided the person with notice and an opportunity for a hearing pursuant to title 41, chapter 6, article 10.

L. The committee may periodically reexamine, evaluate and modify best management practices. Any approved modifications shall be submitted to the United States environmental protection agency as a revision to the applicable implementation plan.

M. The committee shall develop and commence an education program. The education program shall be conducted by the director or the director's designee or designees.

N. A best management practice adopted pursuant to this section does not affect any applicable requirements in an applicable implementation plan or any other applicable requirements of the clean air act, including section 110(l) of the act (42 United States Code section 7410(l)).

O. The regulation of PM-10 particulate emissions produced by regulated agricultural activities is a matter of statewide concern. Accordingly, this section preempts further regulation of regulated agricultural activities by a county, city, town or other political subdivision of this state.

P. For the purposes of this section, unless the context otherwise requires:

1. "Agricultural general permit" means best management practices that:

(a) Reduce PM-10 particulate emissions from tillage practices and from harvesting on a commercial farm.

(b) Reduce PM-10 particulate emissions from those areas of a commercial farm that are not normally in crop production.

(c) Reduce PM-10 particulate emissions from those areas of a commercial farm that are normally in crop production including prior to plant emergence and when the land is not in crop production.

(d) ~~Reduces~~ REDUCE PM-10 particulate emissions from those areas of a commercial farm undergoing significant agricultural earthmoving activities.

(e) Reduce PM-10 particulate emissions from the activities of a dairy, a beef cattle feed lot, a poultry facility or a swine facility, including practices relating to the following:

(i) Unpaved access connections.

(ii) Unpaved roads or feed lanes.

(iii) Animal waste handling and transporting.

(iv) Arenas, corrals and pens.

(f) Only in those regulated areas that are established after June 1, 2009, as prescribed in paragraph 6, subdivision (c) of this subsection, reduce PM-10 particulate emissions from the activities of an irrigation district governed by title 48, chapter 19 and affecting those lands and facilities that are under the jurisdiction and control of the district, including practices relating to the following:

(i) Unpaved operation and maintenance roads.

(ii) Canals.

(iii) Unpaved utility access roads.

2. "Applicable implementation plan" means that term as defined in 42 United States Code section 7601(q).

3. "Best management practices" means techniques that are verified by scientific research and that on a case by case basis are practical, economically feasible and effective in reducing PM-10 particulate emissions from a regulated agricultural activity.

4. "Maricopa PM-10 particulate nonattainment area" means the Phoenix planning area as set forth in 40 Code of Federal Regulations section 81.303.

5. "Regulated agricultural activities" means:

(a) Commercial farming practices that may produce PM-10 particulate emissions within the regulated area, including activities of a dairy, a beef cattle feed lot, a poultry facility and a swine facility.

(b) Only in those regulated areas that are established after June 1, 2009, as prescribed in paragraph 6, subdivision (c) of this subsection, activities of an irrigation district that is governed by title 48, chapter 19.

6. "Regulated area" means any of the following:

(a) The Maricopa PM-10 particulate nonattainment area.

(b) Any portion of area A that is located in a county with a population of two million or more persons.

(c) Any other PM-10 particulate nonattainment area established in this state on or after June 1, 2009.

**Sec. 2. Effective date**

Section 49-457, Arizona Revised Statutes, as amended by this act, is effective from and after December 31, 2015.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## TRANSFER OF WEIGHTS AND MEASURES POWERS AND DUTIES

### CHAPTER 244

### H. B. 2480

**AN ACT AMENDING TITLE 3, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 19; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTION 3-102, ARIZONA REVISED STATUTES; AMENDING SECTIONS 3-3401, 3-3413, 3-3414, 3-3418, 3-3431, 3-3433, 3-3434, 3-3451, 3-3453, 3-3454, 3-3471, 3-3472, 3-3473, 3-3475, 3-3492, 3-3493, 3-3494, 3-3495, 3-3496, 3-3512, 3-3513 AND 3-3515, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING SECTIONS 9-499.18, 28-364, 28-5602, 28-5605 AND 28-5936, ARIZONA REVISED STATUTES; AMENDING TITLE 28, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 30; AMENDING TITLE 28, CHAPTER 30, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; AMENDING SECTION 41-112, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-2052, 41-2061 AND 41-3021.02, ARIZONA REVISED STATUTES; RELATING TO WEIGHTS AND MEASURES.**

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

**Section 1.** Title 3, Arizona Revised Statutes, is amended by adding chapter 19, to read:

CHAPTER 19
WEIGHTS AND MEASURES SERVICES DIVISION
ARTICLE 1. GENERAL PROVISIONS
ARTICLE 2. STATE ADMINISTRATION OF WEIGHTS AND MEASURES
ARTICLE 3. METHOD OF SALE OF COMMODITIES AND SERVICES
ARTICLE 4. LICENSING, TESTING AND CERTIFICATION
ARTICLE 5. REGULATION
ARTICLE 6. MOTOR FUEL
ARTICLE 7. GASOLINE VAPOR CONTROL

**Sec. 2. Transfer and renumber**

Title 41, chapter 15, Arizona Revised Statutes, is transferred and renumbered for placement in title 3, Arizona Revised Statutes, as added by this act, as chapter 19. Title 41, chapter 15, articles 1, 2, 3, 4, 5, 6 and 7, Arizona Revised Statutes, are transferred and renumbered for placement in title 3, chapter 19, Arizona Revised Statutes, as added by this act, as articles 1, 2, 3, 4, 5, 6 and 7, respectively. The following section is transferred and renumbered for placement in title 3, chapter 19, article 1:

| Former Section | New Section |
|---|---|
| 41-2051 | 3-3401 |

The following sections are transferred and renumbered for placement in title 3, chapter 19, article 2:

| Former Sections | New Sections |
|---|---|
| 41-2062 | 3-3411 |
| 41-2063 | 3-3412 |
| 41-2064 | 3-3413 |
| 41-2065 | 3-3414 |
| 41-2066 | 3-3415 |
| 41-2067 | 3-3416 |
| 41-2068 | 3-3417 |
| 41-2069 | 3-3418 |

The following sections are transferred and renumbered for placement in title 3, chapter 19, article 3:

| Former Sections | New Sections |
|---|---|
| 41-2081 | 3-3431 |
| 41-2082 | 3-3432 |
| 41-2083 | 3-3433 |
| 41-2083.01 | 3-3434 |
| 41-2084 | 3-3435 |
| 41-2085 | 3-3436 |
| 41-2086 | 3-3437 |

The following sections are transferred and renumbered for placement in title 3, chapter 19, article 4:

| Former Sections | New Sections |
|---|---|
| 41-2091 | 3-3451 |
| 41-2092 | 3-3452 |
| 41-2093 | 3-3453 |
| 41-2094 | 3-3454 |

The following sections are transferred and renumbered for placement in title 3, chapter 19, article 5:

| Former Sections | New Sections |
|---|---|
| 41-2111 | 3-3471 |
| 41-2112 | 3-3472 |
| 41-2113 | 3-3473 |
| 41-2114 | 3-3474 |
| 41-2115 | 3-3475 |
| 41-2116 | 3-3476 |

The following sections are transferred and renumbered for placement in title 3, chapter 19, article 6:

| Former Sections | New Sections |
|---|---|
| 41-2121 | 3-3491 |
| 41-2122 | 3-3492 |
| 41-2123 | 3-3493 |
| 41-2124 | 3-3494 |
| 41-2124.01 | 3-3495 |
| 41-2125 | 3-3496 |
| 41-2126 | 3-3497 |
| 41-2127 | 3-3498 |
| 41-2128 | 3-3499 |

The following sections are transferred and renumbered for placement in title 3, chapter 19, article 7:

| Former Sections | New Sections |
|---|---|
| 41-2132 | 3-3512 |
| 41-2133 | 3-3513 |
| 41-2134 | 3-3514 |
| 41-2135 | 3-3515 |

Section 41-2131, Arizona Revised Statutes, as amended by Laws 2014, chapter 132, section 5, is transferred and renumbered for placement in title 3, chapter 19, article 7, Arizona Revised Statutes, as section 3-3511. Section 41-2131, Arizona Revised Statutes, as amended by Laws 2014, chapter 132, section 6, is transferred and renumbered for placement in title 3, chapter 19, article 7, Arizona Revised Statutes, as section 3-3511.

**Sec. 3.** Section 3-102, Arizona Revised Statutes, is amended to read:

**3-102. Department organization**

A. The Arizona department of agriculture is established consisting of the following divisions:

1. The animal services division, which is responsible for milk, dairy, livestock and aquaculture regulation, the state veterinarian, meat, poultry and egg

inspection and performing the administrative functions authorized or contracted pursuant to law for the Arizona beef council.

2. The plant services division, which is responsible for the fruit and vegetable standardization program and entomological services.

3. The environmental services division, which is responsible for regulating seed, feed and agricultural chemicals, including pesticides and fertilizers, and for native plant protection.

4. THE WEIGHTS AND MEASURES SERVICES DIVISION, WHICH IS RESPONSIBLE FOR THE INSPECTION, TESTING AND LICENSING OF COMMERCIAL WEIGHING AND MEASURING DEVICES.

B. The following are established in addition to and separate from the divisions of the department:

1. A state agricultural laboratory.

2. An office of agriculture safety.

3. An office of inspections.

4. An office of commodity development and promotion.

C. The department shall have a central administrative service office providing:

1. Data processing, accounting and budgeting, records management, publications, property control and personnel services and training.

2. A program to cross-train appropriate personnel to enable them to perform similar functions or comparable work for different administrative units in the department.

**Sec. 4.** Section 3-3401, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3401. Definitions**

In this chapter, unless the context otherwise requires:

1. "ASSOCIATE DIRECTOR" MEANS THE ASSOCIATE DIRECTOR OF THE DIVISION.

~~1.~~ 2. "Biodiesel" means a diesel fuel substitute that is produced from nonpetroleum renewable resources as defined by the United States environmental protection agency and that meets the registration requirements for fuels and fuel additives established by the United States environmental protection agency pursuant to section 211 of the clean air act, as defined in section 49-401.01.

~~2.~~ 3. "Biodiesel blend" means a motor fuel that is ~~comprised~~ COMPOSED of biodiesel and diesel fuel and that is designated by the letter "B", followed by the numeric value of the volume percentage of biodiesel in the blend.

~~3.~~ 4. "Biofuel" means a solid, liquid or gaseous fuel that is derived from biomass and that can be used directly for heating or power or as a motor fuel.

~~4.~~ 5. "Biofuel blend" means a motor fuel that is ~~comprised~~ COMPOSED of a biofuel, that is combined with a petroleum based fuel and that is designated by the volume percentage of biofuel in the blend.

~~5.~~ 6. "Biomass" means biological material, such as plant or animal matter, excluding organic material that has been transformed by geological processes into

substances such as coal or petroleum or derivatives thereof, that may be transformed into biofuel.

~~6.~~ 7. "Certification" means the process of determining the accuracy of a commercial device to the standards of this state by a registered service representative or the department.

~~7.~~ 8. "Commercial device" means any weighing, measuring, metering or counting device that is used to determine the direct cost of things sold or offered or exposed for sale, or used to establish a fee for service if the cost is based on weight, measure or count, except that it does not include those devices used for in-house packaging, inventory control or law enforcement purposes.

~~8.~~ 9. "Commodity" means any merchandise, product or substance produced or distributed for sale to or use by others.

~~9.~~ 10. "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this chapter.

~~10. "Department" means the department of weights and measures.~~

11. "Diesel fuel" means a refined middle distillate that is used as a fuel in a compression-ignition internal combustion engine and that meets the specifications of ASTM D975.

~~12. "Director" means the director of the department of weights and measures.~~

12. "DIVISION" MEANS THE WEIGHTS AND MEASURES SERVICES DIVISION OF THE DEPARTMENT.

13. "E85" means a fuel ethanol gasoline blend that meets the specifications of ASTM D5798.

14. "Inspector" means A state ~~officials~~ OFFICIAL of the ~~department of weights and measures~~ DIVISION.

~~15. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers, including the driver.~~

~~16.~~ 15. "Liquid fuel measuring device" means any meter, pump, tank, gauge or apparatus used for volumetrically determining the quantity of any internal combustion engine fuel, liquefied petroleum gas or low viscosity heating oil.

~~17. "Livery vehicle" means a motor vehicle that:~~

~~(a) Has a seating capacity not exceeding fifteen passengers, including the driver.~~

~~(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.~~

~~(c) Is available for hire on an exclusive or shared ride basis.~~

~~(d) May do any of the following:~~

~~(i) Operate on a regular route or between specified places.~~

~~(ii) Offer prearranged ground transportation service as defined in section 28-141.~~

~~(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.~~

~~18.~~ 16. "Misfuel" means the act of dispensing into the fuel tank of a motor vehicle a motor fuel that was not intended to be used in the engine of that motor vehicle.

~~19.~~ 17. "Motor fuel" means a petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, number one or number two diesel fuel or any grade of oxygenated gasoline typically used in the operation of a motor engine, including biodiesel blends, biofuel blends and the ethanol blend E85 as defined in ASTM D5798.

~~20.~~ 18. "Package" means any commodity enclosed in a container or wrapped in any manner in advance of sale in units suitable for either wholesale or retail trade.

~~21.~~ 19. "Person" means both the plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations.

~~22.~~ 20. "Public weighmaster" means any person who is engaged in any of the following:

(a) The business of weighing any object or thing for the public generally for hire or for internal use and issuing for that weighing a weight certificate intended to be accepted as an accurate weight upon which a purchase or sale is to be based or on which a service fee is to be charged.

(b) The business of weighing for hire motor vehicles, trailers or semitrailers and issuing weight certificates intended to be accepted as an accurate weight for the purpose of determining the amount of any tax, fee or other assessment on the vehicles.

~~23.~~ 21. "Reference standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

~~24.~~ 22. "Registered service agency" means any agency, firm, company or corporation that for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and that has been issued a license by the ~~department~~ DIVISION.

~~25.~~ 23. "Registered service representative" means any individual who for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and who has been issued a license by the ~~department~~ DIVISION.

~~26.~~ 24. "Retail seller" means a person whose business purpose is to sell, expose or offer for sale or use any package or commodity by weight, measure or count.

~~27. "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.~~

~~28.~~ 25. "Secondary standards" means the physical standards that are traceable to the reference standards through comparisons, using acceptable

laboratory procedures, and that are used in the enforcement of weights and measures laws and rules.

~~29. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that is registered as a taxi in this state or any other state, that provides passenger services and that:~~

~~(a) Does not primarily operate on a regular route or between specified places.~~

~~(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.~~

~~30. "Taxi meter" means a commercial device that meets the requirements of the national institute of standards and technology handbook 44 as prescribed by section 41-2064.~~

~~31.~~ 26. "Weight" as used in connection with any commodity means net weight.

~~32.~~ 27. "Weights" or "measures", or both, means all weights, measures, meters or counters of every kind, instruments and devices for weighing, measuring, metering or counting and any appliance and accessories associated with any or all such instruments and devices.

**Sec. 5.** Section 3-3413, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3413. Technical requirements for commercial devices**

The specifications, tolerances and other technical requirements for commercial devices as adopted by the national conference on weights and measures and published in national institute of standards and technology handbook 44, "specifications, tolerances, and other technical requirements for commercial weighing and measuring devices" shall apply to commercial weighing and measuring devices in the state. The edition of the national institute of standards and technology handbook 44 shall be determined by rule, pursuant to section ~~41-2065~~ 3-3414, subsection A, paragraph 4.

**Sec. 6.** Section 3-3414, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3414. Powers and duties; definition**

A. The ~~department~~ DIVISION shall:

1. Maintain custody of the state reference standards of weights and measures that are traceable to the United States prototype standards and that are supplied to the states by the federal government or that are otherwise approved as being satisfactory by the national institute of standards and technology.

2. Keep the state reference standards in a safe and suitable place in the metrology laboratory of the ~~department~~ DIVISION and ensure that they shall not be removed from the laboratory except for repairs or for calibration as may be prescribed by the national institute of standards and technology.

3. Keep accurate records of all standards and equipment.

4. Adopt any rules necessary to carry out this chapter and adopt reasonable rules for the enforcement of this chapter. These rules have the force and effect of

law and shall be adopted pursuant to TITLE 41, chapter 6 ~~of this title~~. In adopting these rules, the ASSOCIATE director shall consider, as far as is practicable, the requirements established by other states and by authority of the United States, except that rules shall not be made in conflict with this chapter.

5. Publish rules adopted pursuant to this chapter and issue appropriate copies at no cost to all new applicants for licensure and certification. Updated copies of the rules shall be distributed, on request, at no cost to the public.

6. Investigate complaints made to the ~~department~~ DIVISION concerning violations of this chapter and, on its own initiative, conduct investigations it deems appropriate to develop information relating to prevailing procedures in commercial quantity determination and relating to possible violations of this chapter, and in order to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

7. Establish labeling standards, establish standards of weight, measure or count and establish reasonable standards of fill for any packaged commodity, and may establish standards for open dating information.

8. Grant, pursuant to this chapter, exemptions from the licensing provisions of this chapter for weighing and measuring instruments, standards or devices when the ownership or use of the instrument or device is limited to federal, state or local government agencies in the performance of official functions. On request, the ~~department~~ DIVISION may conduct inspections of ~~the~~ instruments, standards or devices and shall charge a fee pursuant to section ~~41-2092, subsection B~~ 3-3452.

9. Delegate to appropriate personnel any of the responsibilities of the ASSOCIATE director for the proper administration of this chapter.

10. Inspect and test weights and measures kept, offered or exposed for sale.

11. Inspect and test, to ascertain if they are correct, weights and measures commercially used either:

(a) In determining the weight, measure or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure or count.

(b) In computing the basic charge or payment for services rendered on the basis of weight, measure or count.

12. Test, at random, commodities, weights and measures used in public institutions for which monies are appropriated by the legislature. The testing of commodities, weights and measures in public institutions shall include~~, but not be limited to,~~ items:

(a) That have historically been of short weight, measure or count.

(b) Found to be of short weight, measure or count by other jurisdictions.

(c) To be tested as part of a regional or national survey.

13. Test, approve for use and affix a seal of approval for use of all weights, measures and commercial devices manufactured in or brought into this state as it finds to be correct and shall reject and mark as rejected weights, measures and devices it finds to be incorrect. Weights, measures and devices that have been rejected may be seized by the ~~department~~ DIVISION if not corrected within the time specified or if used or disposed of in a manner not specifically authorized. The

~~department~~ DIVISION shall condemn and may seize weights, measures and devices that are found to be incorrect and that are not capable of being made correct.

14. Sample and test motor fuel that is stored, sold or exposed or offered for sale or that is stored for use by a fleet owner to determine whether the motor fuel meets the standards for motor fuel set forth in section ~~41-2083~~ 3-3433 and article 6 of this chapter and in any rule adopted by the ASSOCIATE director pursuant to this chapter. For the purposes of this paragraph, "fleet owner" has the same meaning prescribed in section ~~41-2121~~ 3-3491.

15. Randomly witness tests on all mandated vapor recovery systems that are installed or operated in this state and if the systems are determined to be in compliance with the law approve those systems for use and reject, mark as rejected and stop the use of those systems determined not to be in compliance with the law.

16. Inspect facilities at which motor fuel is stored, sold or exposed or offered for sale to determine whether dispensing devices are properly labeled.

17. Publish and distribute to consumers weighing and measuring information.

18. Weigh, measure or inspect commodities kept, offered or exposed for sale, sold or in the process of delivery to determine whether they contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this chapter or rules adopted pursuant to this chapter. In carrying out this section, the ASSOCIATE director shall employ recognized sampling procedures, such as are designated in appropriate national institute of standards and technology handbooks and supplements to those handbooks, except as modified or rejected by rule.

19. Allow reasonable variations from the stated quantity of contents only after a commodity has entered intrastate commerce. These variations shall include those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice.

20. Prescribe the standards of weight and measure and additional equipment methods of test and inspection to be employed in the enforcement of this chapter. The ASSOCIATE director may prescribe or provide the official test and inspection forms to be used in the enforcement of this chapter.

21. Apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

22. Report to the governor on OR BEFORE August 1 OF each year and at such other times as may be required on the work accomplished under this chapter.

23. Subject to TITLE 41, chapter 4, article 4 ~~of this title~~, employ such personnel as needed to assist in administering this chapter.

24. Ensure that any information that is required to be filed with the department, that relates to the contents of motor fuels that are sold in this state and that is a trade secret as defined in section 49-201 is not disclosed.

25. Establish by rule labeling standards for tanks and containers of motor fuels.

B. The ASSOCIATE director may provide for the periodic examination and inspection of metering devices, including ~~but not limited to~~ devices ~~utilized~~ USED to

measure usage of electricity, natural gas or water by a consumer. Examination and inspection authority shall not apply to metering devices owned by federal, state or local government agencies unless requested by the government agency that owns the metering devices.

C. The ASSOCIATE director may establish standards for the presentation of cost-per-unit information. ~~Nothing in~~ This subsection ~~shall be construed to~~ DOES NOT mandate the use of cost-per-unit information in connection with the sale of any standard packed commodity.

D. The ASSOCIATE director, when necessary to carry out this chapter, may adopt and enforce rules relating to quality standards for motor fuel, kerosene, oil, except used oil fuel, and hazardous waste fuel, lubricating oils, lubricants, antifreeze and other liquid or gaseous fuels. The ASSOCIATE director shall adopt rules to ~~assure~~ ENSURE that oxygenated fuels, as described in article 6 of this chapter, THAT ARE stored, used, sold or exposed or offered for use or sale are blended and stored, sold, exposed or offered in such a manner as to ~~assure~~ ENSURE that the oxygenated fuels are properly blended, that they meet the standards set forth in section ~~41-2083~~ 3-3433 and article 6 of this chapter, and in rules adopted pursuant to this chapter, and that dispensers at which the oxygenated fuels are dispensed are labeled as defined by rule of the ~~department~~ DIVISION in such a manner as to notify persons of the type of oxygenated fuel being dispensed and the maximum percentage of oxygenate by volume contained in the oxygenated fuel. The ASSOCIATE director of the ~~department of weights and measures~~ DIVISION shall consult with the director of the department of environmental quality in adopting rules pursuant to this subsection.

E. Testing and inspection conducted pursuant to this chapter shall be done, to the extent practicable, without prior notice, by a random systematic method determined by the ASSOCIATE director or in response to a complaint by the public. The testing and inspection may be done by private persons and firms pursuant to contracts entered into by the ASSOCIATE director in accordance with TITLE 41, chapter 23 ~~of this title~~ or by a registered service agency or registered service representative licensed pursuant to section ~~41-2094~~ 3-3454. The ASSOCIATE director shall establish qualifications of persons and firms for selection for purposes of this subsection. The persons or firms conducting the testing and inspection shall immediately report to the ~~department~~ DIVISION any violations of this chapter and incorrect weights, measures, devices, vapor recovery systems or vapor recovery components for investigation and enforcement by the department. A person or firm that tests or inspects a weight, measure, device, vapor recovery system or vapor recovery component that is rejected shall not correct the defect causing the rejection without the permission of the ~~department~~ DIVISION.

F. During the course of an investigation or an enforcement action by the ~~department~~ DIVISION, information regarding the complainant is confidential and is exempt from title 39, chapter 1, unless the complainant authorizes the information to be public.

G. For the purposes of the labeling requirements prescribed in this section, "oxygenated fuel" means a motor fuel blend containing 1.5 ~~per cent~~ PERCENT or more by weight of oxygen.

**Sec. 7.** Section 3-3418, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3418. Disposition of seized property**

One hundred eighty days after the final disposition of an investigation and any ensuing enforcement action, the ~~department~~ DIVISION may destroy those weights, measures or devices that are seized pursuant to section ~~41-2065~~ 3-3414 or ~~41-2066~~ 3-3415 or transfer the items to the department of administration for disposition as state surplus property pursuant to the direction of the department of administration, surplus property division.

**Sec. 8.** Section 3-3431, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3431. Sale of commodities**

A. A person shall not sell or offer or expose for sale less than the quantity the person represents.

B. As a buyer, a person shall not take any more than the quantity the person represents when the person furnishes the weight or measure by means of which the quantity is determined.

C. A person shall not misrepresent the price of any commodity or service sold or offered, exposed or advertised for sale by weight, measure or count or represent the price in any manner calculated or tending to mislead or in any way deceive a person.

D. Except as otherwise provided by the ASSOCIATE director, commodities in liquid form shall be sold by liquid measure or by weight, and commodities not in liquid form shall be sold only by weight, by measure or by count, as long as the method of sale provides accurate quantity information.

E. If the quantity is determined by the seller, bulk sales shall be accompanied by a delivery ticket containing the following information unless exempted by rule:

1. The name and address of the vendor and purchaser.

2. The date delivered.

3. The quantity delivered and the quantity ~~upon~~ ON which the price is based, if this differs from the delivered quantity.

4. The identity in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale.

5. The count of individually wrapped packages, if more than one.

F. Except as otherwise provided in this chapter or by rules adopted pursuant to this chapter, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain and conspicuous declaration of:

1. The identity of the commodity in the package, unless the commodity can easily be identified through the wrapper or container.

2. The quantity of contents in terms of weight, measure or count.

3. The name and place of business of the manufacturer, packer or distributor, in the case of any package kept, offered or exposed for sale or sold in any place other than on the premises where packed.

4. The price, except as provided in subsections L and M OF THIS SECTION.

G. In addition to the declarations required by subsection F OF THIS SECTION, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight.

H. If a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or rule to appear on the package. If a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement.

I. The packager of a short weighted item offered for sale is liable under this chapter.

J. If a retail seller engaging in the sale of motor fuel posts the selling price of the fuel on the premises, the seller shall post the selling price only by the price per gallon, except that if the fuel is dispensed by a measure other than whole gallons the seller shall represent the selling price for each unit of such other measure on the individual pump or other dispensing device. If a retail seller engaging in the sale of motor fuel advertises the price of the fuel off the premises, the retail seller shall advertise the price only by the price per gallon.

K. The owner or operator of a motor fuel dispensing site shall ensure that a sticker provided by the department of transportation that is three inches by five inches and that depicts the amount of federal and state taxes imposed on one gallon of gasoline is displayed on one side of each motor fuel dispenser. The sticker required by this subsection shall contain white lettering on a black background or black lettering on a white background to ensure a contrasting color to the motor fuel dispenser and shall be placed on the upper sixty ~~per cent~~ PERCENT of the dispenser. The ~~department of weights and measures~~ DIVISION shall use stickers provided by the department of transportation. A template of the sticker shall be placed on the ~~department of weights and measures'~~ DIVISION'S website for use by retailers. During the course of its normal random inspections, the ~~department of weights and measures~~ DIVISION shall apply the stickers with a compliance schedule of four years after July 29, 2010.

L. Instead of each package bearing the price as required under subsection F, paragraph 4 OF THIS SECTION, the seller may post the price of the package on the shelf or display at the point of display of the product.

M. If the package is offered for sale at a price reduced by a percentage or a fixed amount from a previously offered price, the reduction shall be displayed at the point of display of the package in the manner required by this section.

N. On the request of a consumer, a retail seller shall provide:

1. A means of recording prices such as grease pencils, felt markers, scanners or other similar instruments for recording the price.

2. A written statement of the retail seller's policies regarding errors in pricing.

**Sec. 9.** Section 3-3433, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3433. Standards for motor fuel; exceptions**

A. Except as provided in section ~~41-2083.01~~ 3-3434 and subsections C, D, E, F, G, K and L of this section, a retail seller or fleet owner shall not store, sell or expose or offer for sale any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the ASSOCIATE director.

B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive. This subsection does not prohibit product origination disclaimer labeling on the retail dispenser.

C. After consultation with the director of the department of environmental quality, the standards and test methods for motor fuels shall be established by the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION by rule.

D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A as defined in section 49-541 shall be 9.0 pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section ~~41-2121~~ 3-3491 is exempt from this subsection.

E. From and after September 30 through March 31 of each year, a person shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor pressure/distillation class ten volume ~~per cent~~ PERCENT evaporated distillation temperature.

F. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand persons or more and any portion of a county contained in area A as defined in section 49-541 shall be 7.0 pounds per square inch from and after May 31 through September 30 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section ~~41-2121~~ 3-3491 is exempt from this subsection.

G. Exclusively for the purposes of transportation conformity and only if the administrator of the United States environmental protection agency fails to approve the applicable plan required pursuant to section 49-406, maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area B as defined in section 49-541 shall be ten

pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section ~~41-2121~~ 3-3491 is exempt from this subsection.

H. Notwithstanding subsections D, F and G of this section, the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the ~~directors~~ DIRECTOR AND THE ASSOCIATE DIRECTOR determine will result in either of the following:

1. Motor vehicle carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection D of this section and section ~~41-2123~~ 3-3493. In making this determination, the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure standard as prescribed by this section and with the minimum oxygen content or percentage by volume of ethanol as prescribed by section ~~41-2123~~ 3-3493.

2. Motor vehicle non-methane hydrocarbon emissions that are equal to or less than the emissions that result under compliance with subsection F of this section. In making this determination, the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION and the director of the department of environmental quality shall compare the motor vehicle non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane hydrocarbon emissions of a fuel that complies with the maximum vapor pressure standard as prescribed by subsection F of this section.

I. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection H of this section and this subsection may be used by any manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the ASSOCIATE director ~~of the department of weights and measures~~ no later than sixty days before the first day of a gasoline control period.

J. A person shall not sell or offer or expose for sale diesel fuel grade 1, 2 or 4 as defined in ASTM D975 that contains sulfur in excess of:

1. For low sulfur diesel fuel, five hundred parts per million by weight for use in area A as defined in section 49-541.

2. For ultra low sulfur diesel fuel, the amount that conforms with 40 Code of Federal Regulations section 80.520(a)(1).

K. A person shall not sell or offer or expose for sale diesel fuel, biodiesel or biodiesel blends that contain sulfur in excess of five hundred parts per million for use in area A as defined in section 49-541.

L. A person shall label dispensers at which biodiesel or biodiesel blends are dispensed in conformance with 16 Code of Federal Regulations part 306 and 40

Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574. This section does not preclude a person from labeling a dispenser that dispenses diesel fuel that contains up to five ~~per cent~~ PERCENT biodiesel with a label that states "may contain up to five ~~per cent~~ PERCENT biodiesel".

M. For biodiesel blends that contain more than five ~~per cent~~ PERCENT by volume of biodiesel, a person shall prepare product transfer documents in a manner that notifies the transferee of the ~~per cent~~ PERCENT by volume of biodiesel in the product. For diesel fuel that contains five ~~per cent~~ PERCENT or less by volume of biodiesel, a person shall prepare product transfer documents in a manner that notifies that transferee of any volume ~~per cent~~ PERCENT of biodiesel intentionally added to or known by the transferor to be in the product.

N. The ASSOCIATE director shall adopt rules regarding the establishment and enforcement of all of the following:

1. National or federal standards for individual biofuels and biofuel blends.

2. United States environmental protection agency and ASTM test methods for individual biofuels and biofuel blends.

3. Registration and reporting requirements for producers, blenders and suppliers of biofuels and biofuel blends.

4. Labeling requirements for biofuels and biofuel blends other than biodiesel or biodiesel blends.

5. Quality assurance and quality control programs for producers, blenders and suppliers of biofuels and biofuel blends addressing rack, batch or other blending.

6. Requirements that the dispensing equipment meet appropriate UL ratings where available and applicable, that the equipment comply with rules adopted by the ~~department~~ DIVISION relating to approval, installation and sale of devices and that the equipment be compatible with the products being dispensed.

O. A biofuels or biofuel blends producer, blender, distributor, supplier or retail seller that is in compliance with this section and the rules adopted pursuant to this section is not liable to a consumer for any injuries or property damage related to a consumer who misfuels.

P. A person shall label each dispenser at which ultra low sulfur diesel fuel is dispensed in a manner that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.

Q. A person shall label each dispenser at which low sulfur diesel fuel is dispensed in a manner that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.

R. If any person transfers custody or title of a diesel fuel or distillate, except if the diesel fuel is dispensed into a motor vehicle or nonroad, locomotive or marine equipment, the transferor shall provide to the transferee product transfer documents that conform with 40 Code of Federal Regulations section 80.590.

S. If the transfer of a motor fuel is from a terminal, storage facility, or transmix facility, the product transfer documents shall contain the information prescribed in subsection R of this section as well as the name and address of the final

destination for the shipment, as prescribed by ~~department~~ DIVISION rule, and must accompany the shipment to its final destination.

**Sec. 10.** Section 3-3434, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3434. Area C; standards for motor fuel; exceptions**

A. Except as provided in subsections C and D of this section, after May 31, 2008, a retail seller or fleet owner shall not store, sell or expose or offer for sale in area C as defined in section ~~41-2121~~ 3-3491 any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the ASSOCIATE director.

B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive.

C. After consultation with the director of the department of environmental quality, the standards and test methods for motor fuels shall be established by the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION by rule.

D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area C as defined in section ~~41-2121~~ 3-3491 shall be 7.0 pounds per square inch from and after May 31 through September 30 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section ~~41-2121~~ 3-3491 is exempt from this subsection.

E. The ASSOCIATE director of the ~~department of weights and measures~~ DIVISION in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the directors determine will result in motor vehicle non-methane hydrocarbon emissions that are equal to or less than the emissions that result under compliance with subsection D of this section. In making this determination, the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION and the director of the department of environmental quality shall compare the motor vehicle non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane hydrocarbon emissions of a fuel that complies with the maximum vapor pressure standard as prescribed by subsection D of this section.

F. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection E of this section and this subsection may be used by any manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the

ASSOCIATE director ~~of the department of weights and measures~~ no later than sixty days before the first day of a gasoline control period.

**Sec. 11.** Section 3-3451, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3451. Licensing devices used for commercial purposes; authorization to test devices used for all other purposes; fees; certification; issuance of license; violation; classification**

A. A person shall not use a commercial device unless the device is licensed or certified as provided in this chapter.

B. A license shall be obtained annually from the ~~department~~ DIVISION on forms prescribed and furnished by the ~~department~~ DIVISION. The fee prescribed in this chapter shall be submitted with the prescribed form. A license shall be obtained not later than thirty days following the first day of commercial use for original installations. If the ownership of a device that is licensed is transferred, the ownership of the license may be transferred. On transfer of a license, new licensees shall notify the ~~department~~ DIVISION of the licensee's name and address and the location of the device. A license for a device shall be posted at the licensed business location in a manner that provides the ~~department~~ DIVISION access to the license during normal business hours.

~~C. If a fare is based on time or mileage or both time and mileage, a taxi shall have a commercial device and shall obtain a license as prescribed by the department, except that if the service offered by the taxi is a prearranged ground transportation service as defined in section 28-141 for a predetermined fare, a taxi shall not be required to use a commercial device.~~

~~D.~~ C. Any license issued under this chapter applies only to the instrument or device specified in the license, except that the ASSOCIATE director may permit the license to be applicable to a replacement for the original instrument or device.

~~E.~~ D. Noncommercial devices may be tested by the ~~department~~ DIVISION pursuant to this chapter. A weighing device owned by a person who uses it only for the purpose of weighing the person's own livestock or agricultural products and for no commercial purposes is declared to be a noncommercial device, and the owner of the device is exempt from paying any licensing fees collected pursuant to this chapter.

~~F.~~ E. If a commercial livestock scale is used for thirty or more days in a calendar year, the scale is required to be licensed. If a commercial livestock scale is used for fewer than thirty days in a calendar year, the scale is required to be certified. If an owner or operator of a commercial livestock scale requests that the ~~department~~ DIVISION certify the scale, the certification fee shall be comparable to the license fee prescribed in section ~~41-2092~~ 3-3452. If an owner or operator of a noncommercial scale requests that the ~~department~~ DIVISION certify the scale, the certification fee shall be comparable to the license fee prescribed in section ~~41-2092~~ 3-3452.

~~G.~~ F. At the request of the owner or user of a portable batch plant, the ~~department~~ DIVISION may certify the portable batch plant. If the ~~department~~

DIVISION certifies a portable batch plant, the certification fee shall be comparable to the license fee prescribed in section ~~41-2092~~ 3-3452.

~~H.~~ G. Any portable measuring device that is five gallons or less and that is properly marked by the manufacturer according to standards established by the national institute of standards and technology shall be exempt from the licensing and certification provisions of this chapter.

~~I.~~ H. For the purpose of ascertaining compliance with the licensing provisions of this article, the department of revenue shall provide the ~~department of weights and measures~~ DIVISION with a monthly report of all transaction privilege tax licenses issued in the prior month. The report shall include the business name, type of business and business address of the licensee.

~~J.~~ I. The department of revenue shall annually notify each transaction privilege tax licensee that the licensee is required to register new or existing weighing or measuring devices with the ~~department of weights and measures~~ DIVISION.

~~K. The department shall not issue a license for a taxi, livery vehicle or limousine, unless the taxi, livery vehicle or limousine meets the requirements for both of the following:~~

~~1. Motor vehicle licensing as prescribed by the department of transportation.~~

~~2. Motor vehicle insurance as prescribed by section 28-4033.~~

~~L. The department shall revoke a license if the taxi, livery vehicle or limousine fails to maintain the requirements for either of the following:~~

~~1. Motor vehicle licensing as prescribed by the department of transportation.~~

~~2. Motor vehicle insurance as prescribed by section 28-4033.~~

~~M. A taxi or livery vehicle shall have a license issued under this chapter posted on the outside of the rear window as required by the department. A limousine shall carry a license issued under this chapter inside the vehicle at all times.~~

~~N. A taxi that is licensed by the department and that offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare is not required to be additionally licensed as a livery vehicle.~~

~~O.~~ J. A person or the person's agent who knowingly files with the department any notice, statement or other document required under this section that is false or that contains any material misstatement of fact is guilty of a class 2 misdemeanor.

**Sec. 12.** Section 3-3453, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3453. License as public weighmaster or deputy weighmaster required; application; fee; renewal; exemptions**

A. A person shall not serve as a public weighmaster or deputy weighmaster unless the person is issued a public weighmaster or deputy weighmaster license by the ~~department~~ DIVISION in accordance with practices and procedures to be established by the ASSOCIATE director. An applicant for a public weighmaster or deputy weighmaster license shall:

1. Demonstrate a thorough knowledge of all appropriate weights and measures laws, rules and policies.

2. Have possession of, or have available for use, a scale that is of sufficient capacity and size and that is licensed and certified pursuant to section ~~41-2091~~ 3-3451.

3. Demonstrate the necessary experience and training to operate the scale.

4. Pass the required examination administered by the ~~department~~ DIVISION.

B. An application for a public weighmaster or deputy weighmaster license shall be submitted to the ~~department~~ DIVISION on a form prescribed and furnished by the ~~department~~ DIVISION and shall be accompanied by the license fee prescribed in section ~~41-2092~~ 3-3452. The ~~department~~ DIVISION shall issue a public weighmaster or deputy weighmaster license for a period of twelve calendar months. The license expires on the first day of the month and year indicated on the license. A public weighmaster or deputy weighmaster license shall be posted at the licensed scale site in a manner that provides the ~~department~~ DIVISION access to the license during normal business hours.

C. If a licensee submits a license renewal application to the ~~department~~ DIVISION before the date of expiration of the current license together with the renewal fee prescribed by the ~~department~~ DIVISION, the existing license shall be valid for thirty days following its expiration date, or until issuance of the renewal license, whichever occurs first.

D. Except as otherwise provided in subsection F of this section, certified weighing of any property, livestock or commodity shall be performed only by a public weighmaster or deputy weighmaster. The following persons are not required to obtain licenses as public weighmasters or deputy weighmasters:

1. A person weighing property, livestock or a commodity that the person or the person's employer is either buying or selling for the person's or the person's employer's own account.

2. A person weighing property, livestock or a commodity in conjunction with or on behalf of a publicly sponsored or nonprofit organization sponsored exposition, fair or show event.

E. The official weighing of vehicles or conveyances by any employee of a city, county or state agency for weight-control regulatory purposes on public highways, roads or streets does not constitute public weighing.

F. On request and without charge, the ~~department~~ DIVISION may issue a limited weighmaster license to any qualified officer or employee of a city, a county or the state authorizing the officer or employee to act as a public weighmaster only within the scope of the officer's or employee's official employment and duties in enforcing local ordinances substantially complying with the requirements of this chapter. While performing the duties of a limited weighmaster, a limited weighmaster shall have the limited weighmaster's license in the limited weighmaster's possession.

G. The ~~department~~ DIVISION shall approve all forms, certificates, seals and other documents together with practices, procedures and equipment used by public weighmasters or deputy weighmasters in the performance of their duties. A public

weighmaster or deputy weighmaster shall keep for such period as the ~~department~~ DIVISION by rule may require a legible copy of each weight certificate the public weighmaster or deputy weighmaster issues. Copies of weight certificates shall be available at all reasonable times for inspection by the ~~department~~ DIVISION.

**Sec. 13.** Section 3-3454, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3454. License required as registered service agency or registered service representative; qualifications; application; fees; renewal**

A. A person shall not operate as a registered service agency or as a registered service representative until a license is issued as provided in this section.

B. An applicant for a registered service agency license shall:

1. Submit application information satisfactory to the ~~department~~ DIVISION.

2. Comply with section ~~41-2067~~ 3-3416, subsection E or provide evidence that the applicant's vapor recovery test equipment has been certified by the manufacturer of the equipment within one year of the date of the application or as deemed appropriate by the ~~department~~ DIVISION.

3. Pay all required fees.

C. An applicant for a registered service representative license shall:

1. Demonstrate a thorough working knowledge of all appropriate weights and measures laws, orders and rules.

2. Demonstrate to the ~~department~~ DIVISION that the applicant has possession of, or has available for use, weights and testing equipment appropriate in design and adequate in amount.

3. Demonstrate the necessary knowledge, training and experience regarding appropriate standards and testing equipment to service commercial devices, vapor recovery systems or vapor recovery components.

4. Pass the required examination administered by the ~~department~~ DIVISION.

5. Pay all required fees.

D. An application for a registered service agency or registered service representative license shall be submitted by the applicant to the ~~department~~ DIVISION on a form prescribed and furnished by the ~~department~~ DIVISION. The ~~department~~ DIVISION shall issue a registered service agency or registered service representative license for a period of twelve calendar months. The license expires on the first day of the month and year indicated on the license. Each license shall contain, among other information, a license number. A registered service agency license shall be posted at the licensed business location in a manner that provides the ~~department~~ DIVISION access to the license during normal business hours. While performing the duties of a registered service representative, a registered service representative shall have a registered service representative's license in the registered service representative's possession.

E. If a licensee submits a license renewal application to the ~~department~~ DIVISION before the date of expiration of the current license, together with the prescribed renewal fee, the existing license shall be valid for thirty days following its expiration date, or until issuance of the renewal license, whichever occurs first.

F. The ASSOCIATE director shall publish, from time to time as the director deems appropriate, and may supply on request, lists of registered service representatives and registered service agencies.

G. Each registered service representative license issued by the ~~department~~ DIVISION shall indicate the type of service approved by the ~~department~~ DIVISION for the licensee.

H. A registered service agency shall use forms and related procedures prescribed by the ~~department~~ DIVISION in the performance of its duties. A registered service agency shall keep a legible copy of each form used for at least the time period prescribed by the ~~department~~ DIVISION in its rules. Copies of the forms shall be available during normal business hours for inspection by the ~~department~~ DIVISION.

**Sec. 14.** Section 3-3471, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3471. Registered service representative; powers; violation; classification**

A. When any commercial device specified in this chapter is in commercial use and a valid license for the device has not been procured by the owner, the owner's agent or the operator of the device, the ~~department~~ DIVISION, after giving notice of the licensing requirements to the owner, the owner's agent or the operator, shall prohibit the further commercial use of the unlicensed device until the proper license has been issued. The ~~department~~ DIVISION may employ and attach to the device such forms, notices or security seals as it considers necessary to prevent the continued unauthorized use of the device.

B. A registered service representative may ~~also~~:

1. With approval of the ~~department~~ DIVISION, remove an official rejection tag placed on a commercial device, vapor recovery system or vapor recovery component.

2. Place in service, until such time as an official examination can be made, a commercial device, vapor recovery system or vapor recovery component that has been officially rejected or placed out of service.

3. Place in service, until such time as an official examination can be made, a commercial device for which a commercial device application has been completed and submitted to the ~~department~~ DIVISION.

C. The owner of any business who has not applied for and has not been issued a license for the right to do business, involving the use of a commercial device, by the ~~department~~ DIVISION and who is found selling or offering for sale or delivering or distributing to a consumer is guilty of a class 2 misdemeanor, and the ~~department~~ DIVISION shall confiscate and seize the commercial device or any vehicle tank, or vehicle tank and meter, or any other such measuring device used by the business for the sale, delivery or distribution as evidence.

D. The ASSOCIATE director and any other authorized personnel shall not be liable to the owner or any other persons, firms, partnerships, corporations, trusts or agencies for damages, directly or indirectly, caused by or resulting from the seizure.

E. If a commercial device licensed pursuant to this chapter is used contrary to any provision of this chapter or any rule adopted pursuant to this chapter, the ~~department~~ DIVISION, in addition to any other penalty imposed by this chapter, shall suspend, revoke or refuse to renew the license.

**Sec. 15.** Section 3-3472, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3472. Revocation or suspension of licenses; procedure; judicial review**

A. Except as otherwise provided by this section, any proceeding to revoke or suspend a license issued pursuant to this chapter shall be conducted in accordance with TITLE 41, chapter 6, article 10 ~~of this title~~.

B. The ASSOCIATE director may initiate proceedings for revocation or suspension of a license issued pursuant to this chapter on the ASSOCIATE director's own motion or on a verified complaint for noncompliance with or a violation of this chapter or of any rule adopted pursuant to this chapter.

C. If, after having been served with the notice of hearing as provided for in TITLE 41, chapter 6, article 10 ~~of this title~~, the licensee fails to appear at the hearing and defend, the ~~department~~ DIVISION shall proceed to hear evidence against the licensee and shall enter such order as is justified by the evidence, which order shall be final unless the licensee petitions for a review as provided in TITLE 41, chapter 6, article 10 ~~of this title~~.

D. At all hearings the attorney general of this state, one of the attorney general's assistants, or a special assistant designated by the attorney general shall appear and represent the ~~department~~ DIVISION.

E. Except as provided in section 41-1092.08, subsection H, any final administrative decision made pursuant to this chapter is subject to judicial review pursuant to title 12, chapter 7, article 6.

**Sec. 16.** Section 3-3473, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3473. Violation; classification; jurisdiction**

A. A person is guilty of a class 1 misdemeanor who:

1. Knowingly hinders, interferes with or obstructs in any way the ASSOCIATE director or any of the ASSOCIATE director's agents or inspectors in entering the premises where a commercial device may be kept for inspecting or testing or in the performance of the OFFICIAL DUTIES OF THE ASSOCIATE director's or the ASSOCIATE director's ~~agent's~~ AGENT or ~~inspector's official duties~~ INSPECTOR.

2. Impersonates in any way the ASSOCIATE director or any one of the ASSOCIATE director's agents or inspectors by the use of the ASSOCIATE director's seal, or a counterfeit of the ASSOCIATE director's seal, or in any other manner.

3. Uses, or has in possession for the purpose of using for any commercial purpose, sells, offers or exposes for sale or hire, or has in possession for the purpose of selling or hiring an incorrect weight or measure or any device or instrument used or calculated to falsify any weight or measure.

4. Sells, or offers or exposes for sale, less than the quantity the person represents of any commodity, thing or service.

5. Takes more than the quantity the person represents of any commodity, thing or service, when, as buyer, the person furnishes the weight or measure by means of which the amount of the commodity, thing or service is determined.

B. A person is guilty of a class 2 misdemeanor who:

1. Uses, or has in possession for the purpose of current use for any commercial purpose, a weight or measure that does not bear a seal or mark of approval based on inspection and test as provided in section ~~41-2065~~ 3-3414, subsection A, paragraph 11, unless the weight or measure has been exempted from testing by order of the ~~department~~ DIVISION, or unless the device has been placed in service as provided in this chapter. Any person or persons making use of a commercial device THAT IS subject to this chapter shall report to the ASSOCIATE director or the ASSOCIATE director's representatives, in writing, the number and location of the commercial device and shall promptly report the installation of any new commercial device.

2. Disposes of any rejected or condemned weight or measure in a manner contrary to law or rule.

3. Removes from any weight or measure, contrary to law or rule, any tag, seal or mark placed on the weight or measure by the appropriate authority pursuant to this chapter.

4. Keeps for the purpose of selling, advertising or offering or exposing for sale or sells any commodity, thing or service in a condition or manner contrary to law or rule.

5. Uses in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is so positioned that its indications may not be accurately read and the weighing, metering, measuring or counting operation observed from some position that may reasonably be assumed by a customer.

6. Violates this chapter or rules adopted under this chapter. A continuing violation may be deemed to be a separate violation each day during which the violation is committed for the purpose of imposing a fine.

C. The provisions of this section are in addition to and not in limitation of any other provision of law.

D. The attorney general and the county attorney shall have concurrent jurisdiction to prosecute violations of this chapter.

**Sec. 17.** Section 3-3475, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3475. Civil penalties**

A. A person who violates this chapter, any rule of the ~~department~~ DIVISION or any license requirement is subject to a civil penalty imposed by the ASSOCIATE director. A person who violates this chapter, any rule of the ~~department~~ DIVISION or any license requirement may request a hearing to review a civil penalty imposed under this section. The ~~department~~ DIVISION shall conduct the hearing in accordance with TITLE 41, chapter 6, article 10 ~~of this title~~. Except as prescribed in

subsection B of this section, the civil penalty shall not exceed one thousand dollars for each infraction nor more than ten thousand dollars for any thirty-day period at each business location, for each registered service representative or for each public weighmaster, provided that no person shall be assessed more than fifty thousand dollars per thirty-day period.

B. The ASSOCIATE director may double the maximum civil penalty if any of the following applies:

1. A commercial device is found to be in violation with results that favor the retailer at more than twice the allowable tolerance as stated in national institute of standards and technology handbook 44.

2. A package is found to exceed the maximum allowable variation for the labeled quantity allowed in national institute of standards and technology handbook 133 or the average error of the lot is twice the sample error limit in favor of the retailer.

3. A vapor recovery system reinspection fails the required tests.

4. A maximum civil penalty has been imposed on a retailer for a price posting or price verification violation and in a reinspection, if conducted within ninety days, the failure rate is ten ~~per cent~~ PERCENT or more and at least one error is in favor of the retailer.

5. A maximum civil penalty has been imposed on a refiner, refinery, registered supplier or transmix processing facility for a violation of motor fuel quality standards or producing a product transfer document that is incorrect, incomplete or produced in any manner tending to mislead or deceive a person.

C. The attorney general shall bring actions to recover civil penalties pursuant to this section in the superior court in the county in which the violation occurred or in a county where the agency has its office. All monies derived from civil penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

**Sec. 18.** Section 3-3492, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3492. Standards for oxygenated fuel; volatility; exceptions**

A. From and after September 30 through March 31 of each year, in a county with a population of one million two hundred thousand or more persons and in any portion of a county contained in area A, blends of gasoline with ethanol shall not exceed the volatility requirements prescribed by section ~~41-2083~~ 3-3433 and rules adopted by the ASSOCIATE director under that section. ~~From and after September 30, 1999 through March 31, 2000 and~~ From and after September 30 through March 31 of each year ~~thereafter~~, in area B, blends of gasoline with ethanol may exceed the volatility requirements prescribed by section ~~41-2083~~ 3-3433 and rules adopted by the ASSOCIATE director under that section by up to one pound per square inch if the base fuel meets the requirements of ASTM D4814 and the final gasoline-ethanol blend contains at least six ~~per cent~~ PERCENT ethanol by volume but does not exceed United States environmental protection agency waivers. For any other locations and period of time, blends of gasoline with ethanol shall meet the volatility requirements as determined by ~~department~~ DIVISION rule.

B. Notwithstanding subsection D of this section, the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the directors determine will result in motor vehicle carbon monoxide emission reductions that will equal or exceed the reductions that result under subsection D of this section. In making those determinations, the ~~directors~~ DIRECTOR AND THE ASSOCIATE DIRECTOR shall compare the alternative measure against the emission reduction that would be obtained from a fuel with the maximum vapor pressure standard prescribed by subsection D of this section and the minimum oxygen standard prescribed by section ~~41-2123~~ 3-3493 or ~~41-2125~~ 3-3496. Alternative fuel control measures approved by the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION in consultation with the director of the department of environmental quality may be used by any manufacturer or supplier of gasoline unless the approval is rescinded by the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION at least one hundred eighty days before the beginning of any oxygenate period in the future. Manufacturers and suppliers who choose to use an approved alternate fuel control measure shall annually submit a compliance plan to the ASSOCIATE director ~~of the department of weights and measures~~ not later than sixty days prior to the start of the oxygenate period.

C. From and after September 30 through March 31 of each year, all blends of gasoline with alcohol other than ethanol shall satisfy all of the requirements prescribed by section ~~41-2083~~ 3-3433 and rules adopted by the ASSOCIATE director under that section and the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).

D. Notwithstanding subsection A of this section, if the director of the department of environmental quality has previously raised the minimum oxygen content to the maximum percentage of oxygen allowed for each oxygenate as provided by section ~~41-2125~~ 3-3496, the designated air quality planning agency for area B has considered, analyzed and reviewed the costs and benefits of all other reasonable and available control measures in lieu of reducing volatility requirements to nine pounds per square inch and the director of the department of environmental quality finds that area B has failed to maintain the carbon monoxide national ambient air quality standards by violating the standard, beginning with the oxygenate period beginning on the following September 30 and for each oxygenate period thereafter in area B, the volatility requirements described by section ~~41-2083~~ 3-3433, subsection G may be reduced to nine pounds per square inch. If a violation of the carbon monoxide national ambient air quality standards is recorded after the volatility requirements have been reduced to nine pounds per square inch, the director of the department of environmental quality shall remove the one pound per square inch waiver for gasoline-ethanol blends.

E. ~~Beginning on January 1, 2005,~~ Gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within this state shall not contain the following:

1. Methyl tertiary butyl ether that exceeds 0.3 ~~per cent~~ PERCENT by volume.

2. ~~Beginning on January 1, 2006,~~ A total of more than 0.10 ~~per cent~~ PERCENT oxygen by weight collectively from all of the following oxygenates:

(a) Diisopropylether (DIPE).

(b) Ethyl tert-butylether (ETBE).

(c) Iso-butanol.

(d) Isopropanol.

(e) Methanol.

(f) N-butanol.

(g) N-propanol.

(h) Sec-butanol.

(i) Tert-amylmethylether (TAME).

(j) Tert-butanol.

(k) Tert-pentanol (tert-amylalcohol).

F. Subsection E of this section does not prohibit the transshipment through this state, including storage incident to that transshipment, of gasoline that contains the oxygenates prescribed by subsection E of this section if both of the following apply:

1. The gasoline is used or disposed outside this state.

2. The gasoline is segregated from gasoline that is intended for use inside this state.

**Sec. 19.** Section 3-3493, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3493. Area A; sale of gasoline; oxygen content**

A. From and after November 1 through March 31 of each year:

1. All gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A or that is consumed in a motor vehicle in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A by a fleet owner shall, for a gasoline-ethanol blend, contain not less than ten ~~per cent~~ PERCENT by volume of ethanol nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued or other limits established by the United States environmental protection agency.

2. All gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A or that is consumed in a motor vehicle within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A by a fleet owner shall, for a blend other than a gasoline-ethanol blend, contain not less than 2.7 ~~per cent~~ PERCENT by weight of oxygen nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued or other limits established by the United States environmental protection agency.

B. Notwithstanding subsection A of this section, the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the ~~directors~~ DIRECTOR AND THE ASSOCIATE DIRECTOR determine will result in motor vehicle carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection A of this section and section ~~41-2083~~ 3-3433. In making this determination, the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure standard as prescribed by section ~~41-2083~~ 3-3433 and with the minimum oxygen content or percentage by volume of ethanol as prescribed by this section.

C. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection B of this section and this subsection may be used by any manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the ASSOCIATE director ~~of the department of weights and measures~~ no later than sixty days before the first day of a gasoline control period.

**Sec. 20.** Section 3-3494, Arizona Revised Statutes, is amended to read:

**3-3494. Area A; fuel reformulation; rules**

A. From and after May 1, 1999, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with either of the following fuel reformulation options:

1. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section ~~41-2083~~ 3-3433, subsections D and F.

2. California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section ~~41-2083~~ 3-3433, subsections D and F.

B. ~~From and after November 1, 2000 through March 31, 2001 and from~~ FOR the period beginning November 1 through March 31 of each ~~subsequent~~ year, all gasoline produced and shipped to or within this state and sold or offered for sale for

use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with standards for California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997 and shall meet the maximum vapor pressure requirements in section ~~41-2083~~ 3-3433, subsections D and F. The fuel described in this subsection shall meet the requirements of section ~~41-2123~~ 3-3493, subsection A, paragraph 1.

C. ~~From November 1, 2000 through March 31, 2001 and~~ For each winter season of November through March ~~thereafter~~, the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall provide the results of this determination to the director of environmental quality. The director of environmental quality shall analyze the data provided by the ASSOCIATE director of the ~~department of weights and measures and~~ DIVISION, no later than July 1~~, 2001 and each July thereafter~~ OF EACH YEAR, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season. ~~If the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season are less than ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons per day in 2005, twenty-nine tons per day in 2007 or twenty-eight tons per day in 2009, the director of the department of environmental quality shall immediately notify the governor, the president of the senate and the speaker of the house of representatives.~~

D. Any registered supplier or oxygenate blender, as defined in ~~department~~ DIVISION rules, may petition the ASSOCIATE director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of section ~~41-2123~~ 3-3493, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

E. The petition shall:

1. Identify specific supply conditions that will result in a shortage of ethanol.

2. Identify which oxygenate or oxygenates and the concentration that will be blended into gasoline for sale or use in area A.

3. Demonstrate that the alternative oxygenate blend comes closest to meeting a three and one-half ~~per cent~~ PERCENT by weight oxygen content at reasonable cost, unless the registered supplier or oxygenate blender is petitioning to use a gasoline-ethanol blend containing less than ten ~~per cent~~ PERCENT by volume of ethanol.

4. Specify a time period for compliance with any provision of section ~~41-2123~~ 3-3493, subsection A, not to exceed sixty days.

F. The ASSOCIATE director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the ASSOCIATE director to grant the petition shall be equally applicable to all registered suppliers or oxygenate blenders and shall not be selectively applied to any single registered supplier or oxygenate blender. The petition may be granted only if the ASSOCIATE director verifies that the basis for requesting the petition is factual.

G. The ASSOCIATE director may reauthorize a petition if the petitioner can demonstrate that the conditions have continued. The reauthorization of a petition shall not exceed thirty days.

H. The ASSOCIATE director of the ~~department of weights and measures~~ DIVISION shall consult with the director of the department of environmental quality ~~prior to~~ BEFORE granting, reauthorizing or denying any such petition.

I. The director of environmental quality in consultation with the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION shall adopt by rule:

1. Requirements to implement subsections A through E of this section.

2. Requirements for ~~record keeping~~ RECORDKEEPING, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A through E of this section.

J. This section does not apply to fuel sold for use at a motor vehicle manufacturer proving ground or at a motor vehicle racing event.

**Sec. 21.** Section 3-3495, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3495. Area C; fuel reformulation; rules**

A. ~~From and after May 31, 2008 through September 30, 2008 and during the period~~ From and after May 1 through September 30 of each ~~subsequent~~ year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in area C shall comply with either of the following fuel reformulation options:

1. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section ~~41-2083.01~~ 3-3434, subsection D.

2. California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section ~~41-2083.01~~ 3-3434, subsection D.

B. Any registered supplier, as defined in ~~department~~ DIVISION rules, may petition the ASSOCIATE director to request that all registered suppliers be allowed to supply gasoline in area C that does not meet the standards in subsection A of this section if the petitioner demonstrates that a shortage in the supply of gasoline meeting the standards in subsection A of this section is imminent.

C. A petition under subsection B of this section shall:

1. Identify specific supply conditions that will result in a shortage of gasoline meeting the standards in subsection A of this section.

2. Identify the formulation of gasoline that will be sold in area C in lieu of gasoline meeting the standards in subsection A of this section.

3. Specify a time period for compliance with the standards of subsection A of this section not to exceed sixty days.

D. The ASSOCIATE director shall either grant or deny a petition under subsection B of this section in writing within seven days of its receipt. Any decision by the ASSOCIATE director to grant the petition shall be equally applicable to all registered suppliers and shall not be selectively applied to any single registered supplier. The petition may be granted only if the ASSOCIATE director verifies that the basis for requesting the petition is factual.

E. The ASSOCIATE director may reauthorize a petition granted under subsection B of this section if the petitioner demonstrates that the conditions identified in the petition have continued. The reauthorization of a petition shall not exceed thirty days.

F. The ASSOCIATE director of the ~~department of weights and measures~~ DIVISION shall consult with the director of the department of environmental quality before granting, reauthorizing or denying any petition under subsection B of this section.

G. The director of the department of environmental quality in consultation with the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION shall adopt by rule:

1. Requirements to implement subsections A, B and C of this section.

2. Requirements for ~~record keeping~~ RECORDKEEPING, reporting and analytical methods for fuel providers to demonstrate compliance with subsection A of this section.

H. This section does not apply to fuel sold for use at a motor vehicle manufacturer proving ground or at a motor vehicle racing event.

**Sec. 22.** Section 3-3496, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3496. Area B; sale of gasoline; oxygen content**

A. From and after September 30 through March 31 of each year, all gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within area B or that is consumed in a motor vehicle within area B by a fleet owner shall contain not less than 1.8 ~~per cent~~ PERCENT by weight of oxygen nor more than the maximum percentage of oxygen allowed by the provisions of a waiver issued by the United States environmental protection agency.

B. Notwithstanding subsection A of this section, at any time earlier than sixty days before September 30 of each year, the designated air quality planning agency for area B with the concurrence of the director of the department of environmental quality may give notice, pursuant to the applicable plan required under section 49-406 for the Tucson air planning area, to the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION that the minimum oxygen

content for the ensuing oxygenate seasons will be increased not less than .3 ~~per cent~~ PERCENT by weight of oxygen and not more than the maximum percentage of oxygen allowed for oxygenates by provisions of a waiver issued or other limits established by the United States environmental protection agency. Before making a determination to increase the minimum oxygen content pursuant to this subsection, the designated air quality planning agency for area B shall consider and conduct a cost-benefit analysis on all reasonable carbon monoxide emission reduction measures that could be implemented in lieu of increasing the minimum oxygen content.

**Sec. 23.** Section 3-3512, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3512. Stage I vapor recovery systems**

A. A person shall not offer for sale, sell, install or use a new gasoline stage I vapor recovery system, or any new or rebuilt component parts of the system, unless the system or component part has been certified by the California air resources board as of March 31, 2001 or after that date, or has been approved by a third party accredited to test equipment and recognized by industry and the department, and has not been rejected by the ~~department~~ DIVISION. The ~~department~~ DIVISION shall maintain and keep current a list of stage I vapor recovery systems and component parts that are approved by the ~~department~~ DIVISION. Only those systems that are approved shall be used in this state. All certified vapor recovery components must be clearly identified by a permanent identification affixed by the certified manufacturer or rebuilder.

B. For gasoline dispensing sites with a throughput of over ten thousand gallons per month in area A or area B as defined in section 49-541, a person shall not transfer or allow the transfer of gasoline into storage tanks at gasoline dispensing sites unless the storage tank is equipped with a stage I vapor recovery system consisting of a vapor-tight return line from the storage tank or its vent to the gasoline transport vehicle.

C. An owner or operator of a gasoline storage tank, gasoline transport vehicle or gasoline dispensing site subject to stage I vapor recovery requirements shall comply with the following:

1. Install all necessary stage I vapor recovery systems and make any modifications necessary to comply with the requirements.

2. Provide adequate training and written instructions to the operator of the affected gasoline dispensing site and the gasoline transport vehicle.

3. Replace, repair or modify any worn or ineffective component or design element to ensure the vapor-tight integrity and efficiency of the stage I vapor recovery systems.

4. Connect and ensure proper operation of the stage I vapor recovery systems whenever gasoline is being loaded, unloaded or dispensed.

5. In area A and other geographical areas as provided by subsection G of this section, have the stage I vapor recovery system tested annually by a registered service representative licensed by the ~~department~~ DIVISION.

D. Before the initial installation or modification of any stage I vapor recovery system, the owner or operator of a gasoline storage tank, gasoline transport vehicle or gasoline dispensing site shall obtain a plan review and approval from the ~~department~~ DIVISION. Application for the plan review and approval shall be on forms prescribed and provided by the ~~department~~ DIVISION.

E. The ~~department of weights and measures~~ DIVISION in consultation with the department of environmental quality and the state fire marshal shall establish by rule standards for the installation and operation of stage I vapor recovery systems. The ~~department of weights and measures~~ DIVISION shall establish by rule plan review and approval fees. In establishing those rules and standards, the ASSOCIATE director shall consider requirements in other states to ensure that only state-of-the-art technology is used.

F. Approval of a stage I vapor recovery system by the ~~department~~ DIVISION does not relieve the owner or operator of the responsibility to comply with other applicable statutes, codes and rules pertaining to fire prevention, environmental quality and safety matters.

G. Any county, city or town outside of area A or area B as defined in section 49-541 may require gasoline dispensing sites with a throughput greater than ten thousand gallons per month to install, operate and maintain stage I vapor recovery systems in accordance with this section. Any county, city or town, including cities and towns within area B, also may require annual testing of required stage I vapor recovery systems pursuant to subsection C of this section. For a county, city or town considering the adoption of a resolution to require stage I vapor recovery systems or annual testing within its jurisdiction and on request, the department of environmental quality shall provide technical assistance in evaluating the air quality in that county, city or town and shall provide final review and approval of an adopted resolution.

H. A county board of supervisors or governing body of a city or town shall submit a resolution approved by the department of environmental quality to the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION requesting the imposition of the requirements for stage I vapor recovery systems within its jurisdiction.

I. The ASSOCIATE director shall adopt, by rule, compliance schedules for gasoline dispensing sites located within the jurisdiction requesting stage I vapor recovery system requirements no later than twelve months after receipt of the resolution from the county board of supervisors or governing board of a city or town. All gasoline dispensing sites shall be required to comply with stage I vapor recovery system rules within twenty-four months after the rules have been filed with the secretary of state. Sites with stage I vapor recovery systems already installed must comply with the testing requirements at the time the rules become effective.

J. A county board of supervisors or governing body of a city or town that adopts the requirements for stage I vapor recovery systems may repeal those requirements by adopting a resolution to remove the imposition of those requirements within its jurisdiction unless the county, city or town is in an ozone nonattainment area that has since been designated as moderate, serious or severe by the United States environmental protection agency under section 107(d) of the clean

air act. On receipt of the resolution, the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION shall consult with the director of the department of environmental quality to verify that a county, city or town is outside of an ozone nonattainment area designated as moderate, serious or severe by the United States environmental protection agency under section 107(d) of the clean air act. After consultation with the department of environmental quality, the ASSOCIATE director of the ~~department of weights and measures~~ DIVISION shall revise the rules to repeal the requirements for stage I vapor recovery systems within that jurisdiction as soon as practicable.

**Sec. 24.** Section 3-3513, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3513. Compliance schedules**

Notwithstanding section ~~41-2132~~ 3-3512, subsection I relating to schedules of compliance:

1. Gasoline dispensing facilities located in area A or in any other geographical area as provided in section ~~41-2132~~ 3-3512, subsection G for which construction began after the certification of rules adopted pursuant to section ~~41-2132~~ 3-3512 shall be constructed to include stage I vapor recovery systems that meet the minimum standards set forth in this chapter and ~~department~~ DIVISION rules.

2. All gasoline dispensing sites located in area A or in any other geographical area as provided in section ~~41-2132~~ 3-3512, subsection G that begin underground storage tank replacement and that apply for a permit pursuant to title 49, chapter 3, article 3 or 5 on or after September 30, 1992 shall be in compliance within six months after the effective date of the rules adopted pursuant to section ~~41-2132~~ 3-3512. Compliance with this article is a condition of the permit.

**Sec. 25.** Section 3-3515, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

**3-3515. Stage II vapor recovery systems**

A. A person shall not offer for sale, sell, install or use a new gasoline vapor recovery system, or any new or rebuilt component parts of the system, unless the system or component part has been certified by the California air resources board as of March 31, 2001 or after that date, or has been approved by a third party accredited to test equipment and recognized by industry and the ~~department~~ DIVISION, and has not been rejected by the ~~department~~ DIVISION. The ~~department~~ DIVISION shall maintain and keep current a list of stage II vapor recovery systems and component parts that are approved by the ~~department~~ DIVISION. Only those systems that are approved shall be used in this state. All certified vapor recovery components must be clearly identified by a permanent identification affixed by the certified manufacturer or rebuilder.

B. In an ozone nonattainment area designated as moderate, serious, severe or extreme by the United States environmental protection agency under section 107(d) of the clean air act or area A, an owner or operator of a gasoline dispensing site shall not transfer or allow the transfer of gasoline into a motor vehicle fuel tank at a gasoline dispensing site unless the gasoline dispensing site is equipped with a stage

II vapor recovery system, unless the stage II equipment has been decommissioned in accordance with the procedures established pursuant to subsection H of this section. This subsection does not apply to gasoline dispensing sites with a throughput of less than ten thousand gallons per month, or to a gasoline dispensing site with a throughput of less than fifty thousand gallons per month in the case of an independent small business marketer of gasoline as defined in section 324 of the clean air act or to a gasoline dispensing site that is located on a manufacturer's proving ground. This subsection applies to gasoline dispensing sites that are located within area A but outside the Phoenix area Maricopa county ozone nonattainment area as defined in 40 Code of Federal Regulations section 81.303.

C. An owner or operator of a gasoline storage tank, gasoline transport vehicle or gasoline dispensing site subject to stage II vapor recovery requirements shall comply with the following:

1. Install all necessary stage II vapor recovery systems and make any modifications necessary to comply with the requirements.

2. Provide adequate training and written instructions to the operator of the affected gasoline dispensing site and the gasoline transport vehicle.

3. Replace, repair or modify any worn or ineffective component or design element to ensure the vapor-tight integrity and efficiency of the stage II vapor recovery systems.

4. Connect and ensure proper operation of the stage II vapor recovery systems whenever gasoline is being loaded, unloaded or dispensed.

5. Have the stage II vapor recovery system tested annually by a registered service representative licensed by the ~~department~~ DIVISION.

D. Before the modification of any stage II vapor recovery system, the owner or operator of a gasoline storage tank, gasoline transport vehicle or gasoline dispensing site shall obtain a plan review and approval from the ~~department~~ DIVISION. The ~~department~~ DIVISION shall prescribe forms for the application for the plan review and approval.

E. The operator of each gasoline dispensing site using a stage II vapor recovery system shall conspicuously post operating instructions for the system in the gasoline or oxygenated fuel dispensing area. The instructions shall clearly describe how to fuel vehicles correctly with the vapor recovery nozzles used at the station and shall include a warning that topping off may result in spillage or recirculation of gasoline or oxygenated fuel and is prohibited.

F. The ~~department of weights and measures~~ DIVISION in consultation with the department of environmental quality and the state fire marshal shall establish by rule standards for the installation and operation of stage II vapor recovery systems. The ~~department of weights and measures~~ DIVISION shall establish by rule plan review and approval fees. In establishing those rules and standards, the ASSOCIATE director shall consider requirements in other states to ensure that only state-of-the-art technology is used.

G. Approval of a stage II vapor recovery system by the ~~department~~ DIVISION does not relieve the owner or operator of the responsibility to comply

with other applicable statutes, codes and rules pertaining to fire prevention, environmental quality and safety matters.

H. The ~~department of weights and measures~~ DIVISION in consultation with the department of environmental quality and the state fire marshal shall establish by rule standards for decommissioning stage II vapor recovery systems on or after October 1, 2016 but not later than September 30, 2018, or such dates as approved by the United States environmental protection agency in the state implementation plan revision for the removal of stage II vapor recovery systems submitted under section 110(l) of the clean air act, whichever is later. The rules must require removal of stage II vapor recovery systems no later than September 30, 2018, or the final removal date approved by the United States environmental protection agency in the state implementation plan revision for the removal of stage II vapor recovery systems submitted under section 110(l) of the clean air act, whichever is later. The ~~department~~ DIVISION shall prescribe forms for the application for the plan review and approval. The ~~department~~ DIVISION shall establish by rule plan review and approval fees.

I. All stage II vapor recovery systems and testing must remain in place until such systems are decommissioned pursuant to subsection H of this section.

J. The requirements prescribed for stage II vapor recovery systems pursuant to subsections A through E of this section do not apply to a retail station if the construction begins after ~~the effective date of this section~~ APRIL 22, 2014.

K. The requirements for stage II vapor recovery systems prescribed in subsections A through E of this section do not apply to an owner or operator who has decommissioned stage II vapor recovery equipment in accordance with the standards established by the ~~department~~ DIVISION pursuant to subsection H of this section.

**Sec. 26.** Section 9-499.18, Arizona Revised Statutes, is amended to read:

**9-499.18. Transportation safety zones; passenger convenience areas; definitions**

A. A city or town may adopt a resolution or ordinance establishing passenger convenience areas and vehicle-for-hire lanes within a transportation safety zone. The governing body of a city or town may adopt resolutions or ordinances establishing hours of operation and procedures for the use of passenger convenience areas and vehicle-for-hire lanes.

B. The governing body of a city or town may establish, by resolution or ordinance, a transportation safety zone, if the governing body finds that a transportation safety zone is necessary to preserve the public health, safety and general welfare. A resolution or ordinance adopted pursuant to this subsection must include a map establishing the boundaries of the zone and traffic safety data used to justify the establishment of the zone. Each transportation safety zone must be no greater than three square miles, and a city or town may not create more than two transportation safety zones within its corporate boundaries. A transportation safety zone may not include any portion of a state highway or state route.

C. On establishment of a transportation safety zone, the city or town may place and maintain permanently affixed signs located in a visible manner at the

public vehicular access points leading into the zone for the purpose of delineating the boundaries of the zone.

D. A city or town with a transportation safety zone may require a vehicle that is self-propelled entirely or partially by pedals operated by the passengers to operate pursuant to public safety and traffic ordinances.

E. Except in the event of a public safety emergency, a city or town may not prescribe the order in which a vehicle may load or unload passengers in a transportation safety zone. ~~Nothing in~~ This subsection ~~shall be construed to~~ DOES NOT interfere WITH or restrict the ability of a city or town to regulate the flow of traffic or enforce any state law.

F. This section does not impose or authorize additional regulation, permitting or licensing requirements beyond those required by this section and title ~~41, chapter 15~~ 28, CHAPTER 30.

G. Drivers shall not leave vehicles unattended in a passenger convenience area.

H. For the purposes of this section:

1. "Passenger cart" means any motorized vehicle, except a bus, that is used to transport passengers on a public roadway in exchange for any form of payment or gratuity and that is not licensed as a livery vehicle, taxi or limousine pursuant to title ~~41, chapter 15~~ 28, CHAPTER 30.

2. "Passenger convenience area" means an area designated by a city or town where taxis, passenger carts, livery vehicles or limousines may enter for the purpose of the loading and unloading of passengers.

3. "Vehicle-for-hire lane" means a designated traffic lane for use exclusively by vehicles picking up or dropping off passengers in exchange for any form of payment, including a fee, fare, donation or gratuity.

**Sec. 27.** Section 28-364, Arizona Revised Statutes, is amended to read:

**28-364. Powers of the director**

A. The director may provide technical transportation planning expertise to local governments when requested, coordinate local government transportation planning with regional and state transportation planning and guide local transportation planning to assure compliance with federal requirements. The planning authority granted by this subsection does not preempt planning responsibilities and decisions of local governments.

B. If the governor declares a state of emergency, the director may contract and do all things necessary to provide emergency transportation services for the residents in the affected areas whether the emergency transportation is by street, rail or air.

C. On a determination that it is in this state's best interest, the director may authorize payment for necessary relocation costs in advance of work being performed if an existing facility owned by the United States must be relocated or adjusted due to construction, modification or improvement of a state highway. The director shall base each advance payment on an estimate of cost of the proposed relocation or adjustment prepared by the federal government and acceptable to the director and shall base the final compensation on the actual agreed cost.

D. The director of the department of transportation in consultation with the director of the department of public safety shall develop procedures to exchange information for any purpose related to sections 28-1324, 28-1325, 28-1326, 28-1462 and 28-3318.

~~E. The director of the department of transportation in conjunction with the director of the department of weights and measures shall develop procedures to electronically exchange and record information between the departments for enforcement purposes or any other purpose that the directors deem necessary related to the registration and licensing of taxis, livery vehicles or limousines.~~

**Sec. 28.** Section 28-5602, Arizona Revised Statutes, is amended to read:

**28-5602. Enforcement**

The following persons have authority to enforce this article:

1. The director of the department of transportation and the director's duly appointed agents.

2. The ASSOCIATE director of ~~the department of weights and measures~~ THE WEIGHTS AND MEASURES SERVICES DIVISION OF THE ARIZONA DEPARTMENT OF AGRICULTURE and the ASSOCIATE director's duly appointed agents.

3. The department of public safety and its officers.

**Sec. 29.** Section 28-5605, Arizona Revised Statutes, is amended to read:

**28-5605. Use fuel tax collection; fuel dispenser labels; civil penalty**

A. A vendor shall not collect more than the use fuel tax imposed pursuant to section 28-5606, subsection B, paragraph 1 from a person who purchases use fuel for use in the propulsion of a light class motor vehicle on a highway in this state or for use in the propulsion of a use class motor vehicle that is exempt pursuant to section 28-5432 from the weight fee prescribed in section 28-5433 on a highway in this state.

B. Subject to the following, vendors shall label use fuel dispensers pursuant to standards established by the WEIGHTS AND MEASURES SERVICES DIVISION OF THE ARIZONA department of ~~weights and measures~~ AGRICULTURE:

1. Labels on use fuel dispensers shall notify the purchaser of the state use fuel tax rate. The department of transportation shall provide the use fuel dispenser labels to vendors.

2. If the vendor only sells use fuel to light class motor vehicles or use class motor vehicles that are exempt pursuant to section 28-5432 from the weight fee prescribed in section 28-5433, or both, the vendor shall post that limitation and include the tax rate prescribed in section 28-5606, subsection B, paragraph 1.

3. If light class motor vehicles and use class motor vehicles are allowed to fuel at the same use fuel dispenser, the vendor shall include the tax rate prescribed in section 28-5606, subsection B, paragraph 2 and post a notice that the tax rate for light class motor vehicles and use class motor vehicles that are exempt pursuant to section 28-5432 from the weight fee prescribed in section 28-5433 is the tax rate prescribed in section 28-5606, subsection B, paragraph 1.

4. If the vendor prohibits light class motor vehicles or use class motor vehicles from dispensing fuel from a specific fuel dispenser, the vendor shall post that prohibition.

5. In addition to posting a sign on a use fuel dispenser that indicates that the price of the use fuel dispensed from that dispenser includes the applicable federal and state taxes, a vendor that dispenses use fuel from a cardlock facility shall require the purchaser of use fuel for light class motor vehicles or use class motor vehicles that are exempt pursuant to section 28-5432 from the weight fee prescribed in section 28-5433, or both, to complete a declaration of status in a form and a manner approved by the director. For the purposes of this paragraph, "cardlock facility" means a use fuel vendor that satisfies all of the following:

(a) Is licensed in this state.

(b) Sells only to preapproved purchasers of use fuel who have been issued cards, keys or other controlled access to identify the exclusive withdrawal of that particular purchaser.

(c) Does not have a representative on the premises to observe the withdrawal of use fuel from the vendor's storage.

(d) Measures volumes of fuel dispensed by pump meters or other accurate recording devices.

C. A vendor who violates subsection B of this section is subject to a civil penalty of one hundred dollars for each day the violation continues.

**Sec. 30.** Section 28-5936, Arizona Revised Statutes, is amended to read:

**28-5936. Confidential information; disclosure allowed**

A. A person may disclose confidential information as follows:

1. Confidential information relating to:

(a) A taxpayer may be disclosed to the taxpayer, the taxpayer's successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer.

(b) A corporate taxpayer may be disclosed to a principal officer of the corporation.

(c) A partnership may be disclosed to a partner of the partnership, excluding disclosure of confidential information of a particular partner unless otherwise authorized.

(d) An estate may be disclosed to the personal representative of the estate and to an heir, next of kin or beneficiary under the will of the decedent if the director finds that the heir, next of kin or beneficiary has a material interest that will be affected by the confidential information.

(e) A trust may be disclosed to the trustee or trustees, jointly or separately, and to the grantor or any beneficiary of the trust if the director finds that the grantor or beneficiary has a material interest that will be affected by the confidential information.

(f) A taxpayer may be disclosed if the taxpayer has waived any rights to confidentiality either in writing or on the record in any administrative or judicial proceeding.

2. Confidential information may be disclosed to:

(a) An employee of the department whose official duties involve tax administration.

(b) The office of the attorney general or the office of a county attorney authorized in writing by the attorney general solely for its use in preparation for, or an investigation that may result in, a proceeding involving tax administration before the director, department or other agency or board of this state or before a grand jury or a state or federal court.

(c) Other state tax officials of this state whose official duties require the disclosure for proper tax administration purposes if the information is sought in connection with any investigation or other proceeding conducted by the tax official, except that a disclosure is limited to information of a taxpayer who is being investigated or who is a party to a proceeding conducted by the tax official.

(d) The United States internal revenue service or state tax officials of other states pursuant to statute and a written agreement between the director and the internal revenue service or other state, if the internal revenue service or the other state grants substantially similar privileges to the director for the type of information being sought.

(e) The auditor general if in connection with an audit of the department subject to the restrictions in section 28-5935, subsection B.

(f) Any person to the extent necessary for effective tax administration in connection with the processing, storage, transmission and reproduction of the information and the programming, maintenance, repair, testing and procurement of equipment for purposes of tax administration.

3. Confidential information may be disclosed in a state or federal judicial or administrative proceeding pertaining to tax administration if:

(a) The taxpayer is a party to the proceeding.

(b) The treatment of an item reflected in the information is directly related to the resolution of an issue in the proceeding.

(c) The information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer that directly affects the resolution of an issue in the proceeding.

4. Identity information may be disclosed for purposes of notifying persons entitled to tax refunds if the director is unable to locate the persons after reasonable effort.

5. If necessary to effect collection of a delinquent tax, penalties or interest, the outstanding obligation and information obtained in the collection investigation may be disclosed.

6. The director may disclose statistical information gathered from confidential information if the disclosure does not include confidential information attributable to any one taxpayer.

7. Confidential information may be disclosed to law enforcement agencies for law enforcement purposes.

B. Except as provided in section 28-5935, subsection B, a court may order the director to disclose confidential information pertaining to a party to an action.

The court shall make an order only on a showing of good cause and that the party seeking the information has made demand on the taxpayer for the information.

C. Except as prescribed in subsection D of this section or except if required to do so by a court, it is unlawful for a person to disclose information acquired by the director or an agent under section 28-5620. This subsection does not mean that the information or evidence is privileged if it is used by this state or an officer of this state in an action for collection of the tax or a prosecution for a violation of article 1 of this chapter.

D. The department of transportation shall provide information to the WEIGHTS AND MEASURES SERVICES DIVISION OF THE ARIZONA department of ~~weights and measures~~ AGRICULTURE to determine compliance with title ~~41, chapter 15, article 7~~ 3, CHAPTER 19, ARTICLE 7. A gasoline dispensing site shall provide the department of transportation with information the director of the department of transportation requests and in the form that the director of the department of transportation determines is necessary for the purposes of this subsection.

E. This article does not prevent the director from disclosing to a person any aggregate statistical information gathered from confidential information regarding the distribution of gasoline sales by a distributor in each of the several counties of this state. The director shall provide this gasoline sales distribution information to a person pursuant to section 39-121.

**Sec. 31.** Title 28, Arizona Revised Statutes, is amended by adding chapter 30, to read:

CHAPTER 30
FOR-HIRE TRANSPORTATION
ARTICLE 1. GENERAL PROVISIONS

**28-9501. Definitions**

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "COMMERCIAL DEVICE" MEANS ANY MEASURING DEVICE THAT IS USED TO DETERMINE THE DIRECT COST OF THINGS OR USED TO ESTABLISH A FEE FOR SERVICE IF THE COST IS BASED ON MEASURE.

2. "TAXI METER" MEANS A COMMERCIAL DEVICE THAT MEETS THE REQUIREMENTS OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY HANDBOOK 44 AS PRESCRIBED BY SECTION 3-3413.

**28-9502. Powers and duties**

A. THE DEPARTMENT SHALL:

1. ADOPT ANY RULES NECESSARY TO CARRY OUT THIS CHAPTER AND ADOPT REASONABLE RULES FOR THE ENFORCEMENT OF THIS CHAPTER. THESE RULES HAVE THE FORCE AND EFFECT OF LAW AND SHALL BE ADOPTED PURSUANT TO TITLE 41, CHAPTER 6. IN ADOPTING THESE RULES, THE DIRECTOR SHALL CONSIDER, AS FAR AS IS PRACTICABLE, THE REQUIREMENTS ESTABLISHED BY OTHER STATES AND BY AUTHORITY OF THE UNITED STATES, EXCEPT THAT RULES MAY NOT BE MADE IN CONFLICT WITH THIS CHAPTER.

2. INVESTIGATE COMPLAINTS MADE TO THE DEPARTMENT CONCERNING VIOLATIONS OF THIS CHAPTER AND, ON ITS OWN INITIATIVE, CONDUCT INVESTIGATIONS IT DEEMS APPROPRIATE IN ORDER TO DEVELOP INFORMATION RELATING TO PREVAILING PROCEDURES IN COMMERCIAL QUANTITY DETERMINATION AND POSSIBLE VIOLATIONS OF THIS CHAPTER AND TO PROMOTE ACCURACY IN THE DETERMINATION AND REPRESENTATION OF QUANTITY IN COMMERCIAL TRANSACTIONS.

3. INSPECT AND TEST TAXI METERS TO DETERMINE WHETHER THE TAXI METERS MEET THE REQUIREMENTS OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY HANDBOOK 44 AS PRESCRIBED BY SECTION 3-3413.

4. APPLY TO ANY COURT OF COMPETENT JURISDICTION FOR A TEMPORARY OR PERMANENT INJUNCTION RESTRAINING ANY PERSON FROM VIOLATING THIS CHAPTER.

5. REPORT TO THE GOVERNOR ON OR BEFORE AUGUST 1 OF EACH YEAR AND AT SUCH OTHER TIMES AS MAY BE REQUIRED ON THE WORK ACCOMPLISHED UNDER THIS CHAPTER.

6. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, EMPLOY SUCH PERSONNEL AS NEEDED TO ASSIST IN ADMINISTERING THIS CHAPTER.

B. TESTING AND INSPECTION CONDUCTED PURSUANT TO THIS CHAPTER SHALL BE DONE, TO THE EXTENT PRACTICABLE, WITHOUT PRIOR NOTICE, BY A RANDOM SYSTEMATIC METHOD DETERMINED BY THE DIRECTOR OR IN RESPONSE TO A COMPLAINT BY THE PUBLIC.

C. DURING THE COURSE OF AN INVESTIGATION OR AN ENFORCEMENT ACTION BY THE DEPARTMENT, INFORMATION REGARDING THE COMPLAINANT IS CONFIDENTIAL AND IS EXEMPT FROM TITLE 39, CHAPTER 1 UNLESS THE COMPLAINANT AUTHORIZES THE INFORMATION TO BE PUBLIC.

**28-9503. Licensing of devices used for commercial purposes; fees; posting; violation; classification**

A. A PERSON MAY NOT USE A COMMERCIAL DEVICE UNLESS THE DEVICE IS LICENSED AS PROVIDED IN THIS CHAPTER.

B. A LICENSE SHALL BE OBTAINED ANNUALLY FROM THE DEPARTMENT ON FORMS PRESCRIBED AND FURNISHED BY THE DEPARTMENT. THE FEE, AS DETERMINED BY THE DIRECTOR BY RULE, SHALL BE SUBMITTED WITH THE PRESCRIBED FORM. A LICENSE SHALL BE OBTAINED NOT LATER THAN THIRTY DAYS FOLLOWING THE FIRST DAY OF COMMERCIAL USE FOR ORIGINAL INSTALLATIONS. IF THE OWNERSHIP OF A LICENSED DEVICE IS TRANSFERRED, THE OWNERSHIP OF THE LICENSE MAY BE TRANSFERRED. ON TRANSFER OF A LICENSE, NEW LICENSEES SHALL NOTIFY THE DEPARTMENT OF THE LICENSEE'S NAME AND ADDRESS AND THE LOCATION OF THE DEVICE.

C. IF A FARE IS BASED ON TIME OR MILEAGE OR BOTH TIME AND MILEAGE, A TAXI SHALL HAVE A COMMERCIAL DEVICE AND SHALL OBTAIN A LICENSE AS PRESCRIBED BY THE DEPARTMENT, EXCEPT THAT IF THE SERVICE OFFERED BY THE TAXI IS A PREARRANGED GROUND TRANSPORTATION SERVICE AS PRESCRIBED IN SECTION 28-141 FOR A PREDETERMINED FARE, A TAXI IS NOT REQUIRED TO USE A COMMERCIAL DEVICE.

D. THE DEPARTMENT MAY NOT ISSUE A LICENSE FOR A TAXI, LIVERY VEHICLE OR LIMOUSINE UNLESS THE TAXI, LIVERY VEHICLE OR LIMOUSINE MEETS THE REQUIREMENTS FOR BOTH OF THE FOLLOWING:

1. MOTOR VEHICLE LICENSING AS PRESCRIBED BY THE DEPARTMENT.

2. MOTOR VEHICLE INSURANCE AS PRESCRIBED BY SECTION 28-4033.

E. THE DEPARTMENT SHALL REVOKE A LICENSE IF THE TAXI, LIVERY VEHICLE OR LIMOUSINE FAILS TO MAINTAIN THE REQUIREMENTS FOR EITHER OF THE FOLLOWING:

1. MOTOR VEHICLE LICENSING AS PRESCRIBED BY THE DEPARTMENT.

2. MOTOR VEHICLE INSURANCE AS PRESCRIBED BY SECTION 28-4033.

F. A TAXI OR LIVERY VEHICLE SHALL HAVE A LICENSE ISSUED UNDER THIS CHAPTER POSTED ON THE OUTSIDE OF THE REAR WINDOW AS REQUIRED BY THE DEPARTMENT. A LIMOUSINE SHALL CARRY A LICENSE ISSUED UNDER THIS CHAPTER INSIDE THE VEHICLE AT ALL TIMES.

G. A TAXI THAT IS LICENSED BY THE DEPARTMENT AND THAT OFFERS LOCAL TRANSPORTATION FOR A FARE DETERMINED ON THE BASIS OF THE DISTANCE TRAVELED OR PREARRANGED GROUND TRANSPORTATION SERVICE AS PRESCRIBED IN SECTION 28-141 FOR A PREDETERMINED FARE IS NOT REQUIRED TO BE ADDITIONALLY LICENSED AS A LIVERY VEHICLE.

H. A PERSON OR THE PERSON'S AGENT WHO KNOWINGLY FILES WITH THE DEPARTMENT ANY NOTICE, STATEMENT OR OTHER DOCUMENT REQUIRED UNDER THIS SECTION THAT IS FALSE OR THAT CONTAINS ANY MATERIAL MISSTATEMENT OF FACT IS GUILTY OF A CLASS 2 MISDEMEANOR.

**28-9504. Fees to general fund**

THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES COLLECTED PURSUANT TO THIS CHAPTER IN THE STATE GENERAL FUND.

**Sec. 32. Transfer and renumber**

The following sections are transferred and renumbered for placement in title 28, chapter 30, article 1:

| Former Sections | New Sections |
|---|---|
| 41-2095 | 28-9505 |
| 41-2096 | 28-9506 |
| 41-2097 | 28-9507 |

**Sec. 33.** Title 28, chapter 30, Arizona Revised Statutes, is amended by adding article 2, to read:

ARTICLE 2. REGULATION

**28-9521. Unlawful use of device; authorization to prevent such use; seizure; violation; classification**

A. WHEN ANY COMMERCIAL DEVICE SPECIFIED IN THIS CHAPTER IS IN COMMERCIAL USE AND A VALID LICENSE FOR THE DEVICE HAS NOT BEEN PROCURED BY THE OWNER, THE OWNER'S AGENT OR THE OPERATOR OF THE DEVICE, THE DEPARTMENT, AFTER GIVING NOTICE OF THE LICENSING REQUIREMENTS TO THE OWNER, THE OWNER'S AGENT OR THE OPERATOR, SHALL PROHIBIT THE FURTHER COMMERCIAL USE OF THE UNLICENSED DEVICE UNTIL THE PROPER LICENSE HAS BEEN ISSUED. THE DEPARTMENT MAY EMPLOY AND ATTACH TO THE DEVICE SUCH FORMS, NOTICES OR SECURITY SEALS AS IT CONSIDERS NECESSARY TO PREVENT THE CONTINUED UNAUTHORIZED USE OF THE DEVICE.

B. A REGISTERED SERVICE REPRESENTATIVE MAY ALSO:

1. WITH APPROVAL OF THE DEPARTMENT, REMOVE AN OFFICIAL REJECTION TAG PLACED ON A COMMERCIAL DEVICE.

2. PLACE IN SERVICE, UNTIL AN OFFICIAL EXAMINATION CAN BE MADE, A COMMERCIAL DEVICE THAT HAS BEEN OFFICIALLY REJECTED OR PLACED OUT OF SERVICE.

3. PLACE IN SERVICE, UNTIL AN OFFICIAL EXAMINATION CAN BE MADE, A COMMERCIAL DEVICE FOR WHICH A COMMERCIAL DEVICE APPLICATION HAS BEEN COMPLETED AND SUBMITTED TO THE DEPARTMENT.

C. THE OWNER OF ANY BUSINESS WHO HAS NOT APPLIED FOR AND HAS NOT BEEN ISSUED A LICENSE FOR THE RIGHT TO DO BUSINESS INVOLVING THE USE OF A COMMERCIAL DEVICE BY THE DEPARTMENT AND WHO IS FOUND SELLING OR OFFERING FOR SALE OR DELIVERING OR DISTRIBUTING TO A CONSUMER IS GUILTY OF A CLASS 2 MISDEMEANOR, AND THE DEPARTMENT SHALL CONFISCATE AND SEIZE THE COMMERCIAL DEVICE OR ANY OTHER SUCH MEASURING DEVICE USED BY THE BUSINESS FOR THE SALE, DELIVERY OR DISTRIBUTION AS EVIDENCE.

D. THE DIRECTOR AND ANY OTHER AUTHORIZED PERSONNEL ARE NOT LIABLE TO THE OWNER OR ANY OTHER PERSONS, FIRMS, PARTNERSHIPS, CORPORATIONS, TRUSTS OR AGENCIES FOR DAMAGES, DIRECTLY OR INDIRECTLY, CAUSED BY OR RESULTING FROM THE SEIZURE.

E. IF A COMMERCIAL DEVICE LICENSED PURSUANT TO THIS CHAPTER IS USED CONTRARY TO ANY PROVISION OF THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER, THE DEPARTMENT, IN ADDITION TO ANY OTHER PENALTY IMPOSED BY THIS CHAPTER, SHALL SUSPEND, REVOKE OR REFUSE TO RENEW THE LICENSE.

**28-9522. Revocation or suspension of licenses; procedure; judicial review**

A. EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, ANY PROCEEDING TO REVOKE OR SUSPEND A LICENSE ISSUED PURSUANT TO THIS CHAPTER SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 41, CHAPTER 6, ARTICLE 10.

B. THE DIRECTOR MAY INITIATE PROCEEDINGS FOR REVOCATION OR SUSPENSION OF A LICENSE ISSUED PURSUANT TO THIS CHAPTER ON THE DIRECTOR'S OWN MOTION OR ON A VERIFIED COMPLAINT FOR NONCOMPLIANCE WITH OR A VIOLATION OF THIS CHAPTER OR OF ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.

C. IF, AFTER HAVING BEEN SERVED WITH THE NOTICE OF HEARING AS PROVIDED FOR IN TITLE 41, CHAPTER 6, ARTICLE 10, THE LICENSEE FAILS TO APPEAR AT THE HEARING AND DEFEND, THE DEPARTMENT SHALL PROCEED TO HEAR EVIDENCE AGAINST THE LICENSEE AND SHALL ENTER AN ORDER AS JUSTIFIED BY THE EVIDENCE. THE ORDER IS FINAL UNLESS THE LICENSEE PETITIONS FOR A REVIEW AS PROVIDED IN TITLE 41, CHAPTER 6, ARTICLE 10.

D. AT ALL HEARINGS, THE ATTORNEY GENERAL OF THIS STATE, AN ASSISTANT ATTORNEY GENERAL OR A SPECIAL ASSISTANT DESIGNATED BY THE ATTORNEY GENERAL SHALL APPEAR AND REPRESENT THE DEPARTMENT.

E. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, ANY FINAL ADMINISTRATIVE DECISION MADE PURSUANT TO THIS CHAPTER IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

**28-9523. Violations; classification; jurisdiction**

A. A PERSON IS GUILTY OF A CLASS 1 MISDEMEANOR WHO:

1. KNOWINGLY HINDERS, INTERFERES WITH OR OBSTRUCTS IN ANY WAY THE DIRECTOR OR ANY OF THE DIRECTOR'S AGENTS OR INSPECTORS IN ENTERING THE PREMISES WHERE A COMMERCIAL DEVICE MAY BE KEPT FOR INSPECTING OR TESTING OR IN THE PERFORMANCE OF THE DIRECTOR'S OR THE DIRECTOR'S AGENT'S OR INSPECTOR'S OFFICIAL DUTIES.

2. IMPERSONATES IN ANY WAY THE DIRECTOR OR ANY OF THE DIRECTOR'S AGENTS OR INSPECTORS BY THE USE OF THE DIRECTOR'S SEAL OR A COUNTERFEIT OF THE DIRECTOR'S SEAL OR IN ANY OTHER MANNER.

3. USES, OR HAS IN POSSESSION FOR THE PURPOSE OF USING FOR ANY COMMERCIAL PURPOSE, SELLS, OFFERS OR EXPOSES FOR SALE OR HIRE, OR HAS IN POSSESSION FOR THE PURPOSE OF SELLING OR HIRING AN INCORRECT WEIGHT OR MEASURE OR ANY DEVICE OR INSTRUMENT USED OR CALCULATED TO FALSIFY ANY WEIGHT OR MEASURE.

4. SELLS, OR OFFERS OR EXPOSES FOR SALE, LESS THAN THE QUANTITY THE PERSON REPRESENTS OF ANY COMMODITY, THING OR SERVICE.

5. TAKES MORE THAN THE QUANTITY THE PERSON REPRESENTS OF ANY COMMODITY, THING OR SERVICE, WHEN, AS BUYER, THE PERSON FURNISHES THE WEIGHT OR MEASURE BY MEANS OF WHICH THE AMOUNT OF THE COMMODITY, THING OR SERVICE IS DETERMINED.

B. A PERSON IS GUILTY OF A CLASS 2 MISDEMEANOR WHO:

1. USES, OR HAS IN POSSESSION FOR THE PURPOSE OF CURRENT USE FOR ANY COMMERCIAL PURPOSE, A WEIGHT OR MEASURE THAT DOES NOT BEAR A SEAL OR MARK OF APPROVAL BASED ON AN INSPECTION AND TEST, UNLESS THE WEIGHT OR MEASURE HAS BEEN EXEMPTED FROM TESTING BY ORDER OF THE DEPARTMENT, OR UNLESS THE DEVICE HAS BEEN PLACED IN SERVICE AS PROVIDED IN THIS CHAPTER. ANY PERSON OR PERSONS MAKING USE OF A COMMERCIAL DEVICE THAT IS SUBJECT TO THIS CHAPTER SHALL REPORT TO THE DIRECTOR OR THE DIRECTOR'S REPRESENTATIVES, IN WRITING, THE NUMBER AND LOCATION OF THE COMMERCIAL DEVICE AND SHALL PROMPTLY REPORT THE INSTALLATION OF ANY NEW COMMERCIAL DEVICE.

2. DISPOSES OF ANY REJECTED OR CONDEMNED WEIGHT OR MEASURE IN A MANNER CONTRARY TO LAW OR RULE.

3. REMOVES FROM ANY WEIGHT OR MEASURE, CONTRARY TO LAW OR RULE, ANY TAG, SEAL OR MARK PLACED ON THE WEIGHT OR MEASURE BY THE APPROPRIATE AUTHORITY PURSUANT TO THIS CHAPTER.

4. KEEPS FOR THE PURPOSE OF SELLING, ADVERTISING OR OFFERING OR EXPOSING FOR SALE OR SELLS ANY COMMODITY, THING OR SERVICE IN A CONDITION OR MANNER CONTRARY TO LAW OR RULE.

5. USES IN RETAIL TRADE, EXCEPT IN THE PREPARATION OF PACKAGES PUT UP IN ADVANCE OF SALE AND OF MEDICAL PRESCRIPTIONS, A WEIGHT OR MEASURE THAT IS SO POSITIONED THAT ITS INDICATIONS CANNOT BE ACCURATELY READ AND THE WEIGHING, METERING, MEASURING OR COUNTING OPERATION CANNOT BE OBSERVED FROM SOME POSITION THAT MAY REASONABLY BE ASSUMED BY A CUSTOMER.

6. VIOLATES THIS CHAPTER OR RULES ADOPTED UNDER THIS CHAPTER. A CONTINUING VIOLATION MAY BE DEEMED TO BE A SEPARATE VIOLATION EACH DAY DURING WHICH THE VIOLATION IS COMMITTED FOR THE PURPOSE OF IMPOSING A FINE.

C. THE PROVISIONS OF THIS SECTION ARE IN ADDITION TO AND NOT IN LIMITATION OF ANY OTHER PROVISION OF LAW.

D. THE ATTORNEY GENERAL AND THE COUNTY ATTORNEY SHALL HAVE CONCURRENT JURISDICTION TO PROSECUTE VIOLATIONS OF THIS CHAPTER.

**28-9524. Presumptive evidence of use**

WHEN A WEIGHT, MEASURE, METER, COUNTER OR COMMERCIAL DEVICE IS IN OR ABOUT ANY PLACE IN WHICH OR FROM WHICH BUYING OR SELLING IS COMMONLY CARRIED ON, THERE SHALL BE A REBUTTABLE PRESUMPTION THAT THE WEIGHT, MEASURE, METER, COUNTER OR COMMERCIAL DEVICE IS REGULARLY USED FOR THE BUSINESS PURPOSE OF THE PLACE.

**28-9525. Civil penalties**

A. A PERSON WHO VIOLATES THIS CHAPTER, ANY RULE OF THE DEPARTMENT OR ANY LICENSE REQUIREMENT IS SUBJECT TO A CIVIL PENALTY IMPOSED BY THE DIRECTOR. A PERSON WHO VIOLATES THIS CHAPTER, ANY RULE OF THE DEPARTMENT OR ANY LICENSE REQUIREMENT MAY REQUEST A HEARING TO REVIEW A CIVIL PENALTY IMPOSED UNDER THIS SECTION. THE DEPARTMENT SHALL CONDUCT THE HEARING IN ACCORDANCE WITH TITLE 41, CHAPTER 6, ARTICLE 10. EXCEPT AS PRESCRIBED IN SUBSECTION B OF THIS SECTION, THE CIVIL PENALTY MAY NOT EXCEED ONE THOUSAND DOLLARS FOR EACH INFRACTION OR MORE THAN TEN THOUSAND DOLLARS FOR ANY THIRTY-DAY PERIOD AT EACH BUSINESS LOCATION OR FOR EACH PUBLIC WEIGHMASTER, PROVIDED THAT NO PERSON SHALL BE ASSESSED MORE THAN FIFTY THOUSAND DOLLARS PER THIRTY-DAY PERIOD.

B. THE DIRECTOR MAY DOUBLE THE MAXIMUM CIVIL PENALTY IF ANY OF THE FOLLOWING APPLIES:

1. A COMMERCIAL DEVICE IS FOUND TO BE IN VIOLATION WITH RESULTS THAT FAVOR THE RETAILER AT MORE THAN TWICE THE ALLOWABLE TOLERANCE AS STATED IN NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY HANDBOOK 44.

2. A PACKAGE IS FOUND TO EXCEED THE MAXIMUM ALLOWABLE VARIATION FOR THE LABELED QUANTITY ALLOWED IN NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY HANDBOOK 133 OR THE AVERAGE ERROR OF THE LOT IS TWICE THE SAMPLE ERROR LIMIT IN FAVOR OF THE RETAILER.

3. A MAXIMUM CIVIL PENALTY HAS BEEN IMPOSED ON A RETAILER FOR A PRICE POSTING OR PRICE VERIFICATION VIOLATION AND IN A REINSPECTION, IF CONDUCTED WITHIN NINETY DAYS, THE

FAILURE RATE IS TEN PERCENT OR MORE AND AT LEAST ONE ERROR IS IN FAVOR OF THE RETAILER.

C. THE ATTORNEY GENERAL SHALL BRING ACTIONS TO RECOVER CIVIL PENALTIES PURSUANT TO THIS SECTION IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE VIOLATION OCCURRED OR IN A COUNTY WHERE THE AGENCY HAS ITS OFFICE. ALL MONIES DERIVED FROM CIVIL PENALTIES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE STATE GENERAL FUND.

**28-9526. Delinquent civil penalties and fees**

IN ADDITION TO ANY OTHER PENALTY, IF A CIVIL PENALTY OR ANY FEE DUE PURSUANT TO THIS CHAPTER HAS NOT BEEN PAID WITHIN THIRTY DAYS AFTER THE DUE DATE, THE CIVIL PENALTY OR FEE IS DELINQUENT AND THE DEPARTMENT MAY REFUSE TO ISSUE A LICENSE OR MAY REVOKE A LICENSE PURSUANT TO THIS CHAPTER UNTIL THE CIVIL PENALTY OR FEE IS PAID IN FULL.

**Sec. 34.** Section 41-112, Arizona Revised Statutes, is amended to read:

**41-112. Arizona biofuels conversion program; fund; program termination; definitions**

A. The Arizona biofuels conversion program is established in the governor's ~~energy~~ office OF ENERGY POLICY to encourage the use of biofuels.

B. The Arizona biofuels conversion program fund is established consisting of monies received through gifts, grants, donations, other state and United States government funds or private sources.

C. The ~~energy~~ office OF ENERGY POLICY shall develop a procedure for awarding grants from the fund to provide for conversion of existing and installation of new storage and dispensing equipment for biofuels as follows:

1. For commercial motor fuel dispensing sites, the procedure for awarding grants shall include consideration of traffic patterns, the proximity to other biofuel dispensing sites, fleet involvement, the population of vehicles that uses biofuels and the costs of the project.

2. For county, city, town and school district motor fuel dispensing sites, the procedure for awarding grants shall include consideration of the project plan, the expected usage of biofuels per year for each site, the number of vehicles in the fleet capable of using biofuels and the costs of the project.

3. For wholesale manufacturing and distribution facility sites, the procedure for awarding grants shall include consideration of the project plan, the type of biofuel to be manufactured or distributed, an assessment of potential customers for the biofuel to be manufactured or distributed, how the project furthers the use of biofuels and the costs of the project.

D. The ~~energy~~ office OF ENERGY POLICY shall administer the program and the fund.

E. Subject to the availability of monies in the fund, the ~~energy~~ office OF ENERGY POLICY shall award grants equal to the lesser of seventy-five thousand dollars or the conversion cost per site to applicants who provide an acceptable

project plan that includes a detailed cost schedule and timeline for the completion of the project.

F. Monies in the fund:

1. Shall be spent only for the purposes prescribed in this section, except that the ~~energy~~ office OF ENERGY POLICY may use up to five ~~per cent~~ PERCENT of the monies in the fund each year to administer the program.

2. Are continuously appropriated.

3. Are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

G. The program established by this section ends on July 1, 2015 pursuant to section 41-3102.

H. For the purposes of this section, "biofuel" and "biomass" have the same meanings prescribed in section ~~41-2051~~ 3-3401.

**Sec. 35. Heading repeal**

The chapter heading of title 41, chapter 15, Arizona Revised Statutes, is repealed.

**Sec. 36. Repeal**

Sections 41-2052, 41-2061 and 41-3021.02, Arizona Revised Statutes, are repealed.

**Sec. 37. Succession**

A. As provided by this act, the department of transportation or the Arizona department of agriculture, as applicable, succeeds to the authority, powers, duties and responsibilities of department of weights and measures.

B. This act does not alter the effect of any actions that were taken or impair the valid obligations of the department of weights and measures in existence before the effective date of this act.

C. Administrative rules and orders that were adopted by the department of weights and measures continue in effect until superseded by administrative action by the department of transportation or the Arizona department of agriculture, as applicable.

D. All administrative matters, contracts and judicial and quasi-judicial actions, whether completed, pending or in process, of the department of weights and measures on the effective date of this act are transferred to and retain the same status with the department of transportation or the Arizona department of agriculture, as applicable.

E. All certificates, licenses, registrations, permits and other indicia of qualification and authority that were issued by the department of weights and measures retain their validity for the duration of their terms of validity as provided by law.

F. All equipment, records, furnishings and other property, all data and investigative findings and all appropriated monies that remain unexpended and unencumbered on the effective date of this act of the department of weights and measures are transferred to the department of transportation or the Arizona department of agriculture, as applicable. The director of the department of administration shall determine and allocate the transfer, consistent with the

provisions of this act. Before the transfer is made pursuant to this subsection, the department of administration shall submit a succession plan on or before March 1, 2016 to the joint legislative budget committee for review.

G. All personnel who are under the state personnel system and employed by the department of weights and measures are transferred to comparable positions and pay classifications in the respective administrative units of the department of transportation or the Arizona department of agriculture, as applicable, on effective date of this act.

**Sec. 38. Exemption from rulemaking**

For the purposes of this act, the Arizona department of agricultural and the department of transportation are exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.

**Sec. 39. Conforming legislation**

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

**Sec. 40. Effective date**

This act is effective from and after June 30, 2016.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## INTERNET CRIMES AGAINST CHILDREN—FUND

### CHAPTER 245

### H. B. 2517

**AN ACT AMENDING SECTIONS 5-554, 5-568 AND 5-572, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 35.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3562; AMENDING TITLE 41, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-199; AMENDING SECTION 41-1727, ARIZONA REVISED STATUTES; RELATING TO INTERNET CRIMES AGAINST CHILDREN.**

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

**Section 1.** Section 5-554, Arizona Revised Statutes, is amended to read:

**5-554. Commission; director; powers and duties; definitions**

A. The commission shall meet with the director not less than once each quarter to make recommendations and set policy, receive reports from the director and transact other business properly brought before the commission.

B. The commission shall oversee a state lottery to produce the maximum amount of net revenue consonant with the dignity of the state. To achieve these ends, the commission shall authorize the director to adopt rules in accordance with title 41, chapter 6. Rules adopted by the director may include provisions relating to the following:

1. Subject to the approval of the commission, the types of lottery games and the types of game play-styles to be conducted.

2. The method of selecting the winning tickets or shares for noncomputerized online games, except that no method may be used that, in whole or in part, depends on the results of a dog race, a horse race or any sporting event.

3. The manner of payment of prizes to the holders of winning tickets or shares, including providing for payment by the purchase of annuities in the case of prizes payable in installments, except that the commission staff shall examine claims and may not pay any prize based on altered, stolen or counterfeit tickets or based on any tickets that fail to meet established validation requirements, including rules stated on the ticket or in the published game rules, and confidential validation tests applied consistently by the commission staff. No particular prize in a lottery game may be paid more than once, and in the event of a binding determination that more than one person is entitled to a particular prize, the sole remedy of the claimants is the award to each of them of an equal portion of the single prize.

4. The method to be used in selling tickets or shares, except that no elected official's name may be printed on such tickets or shares. The overall estimated odds of winning some prize or some cash prize, as appropriate, in a given game shall be printed on each ticket or share.

5. The licensing of agents to sell tickets or shares, except that a person who is under eighteen years of age shall not be licensed as an agent.

6. The manner and amount of compensation to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public, including provision for variable compensation based on sales volume.

7. Matters necessary or desirable for the efficient and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

C. The commission shall authorize the director to issue orders and shall approve orders issued by the director for the necessary operation of the lottery. Orders issued under this subsection may include provisions relating to the following:

1. The prices of tickets or shares in lottery games.

2. The themes, game play-styles, and names of lottery games and definitions of symbols and other characters used in lottery games, except that each ticket or share in a lottery game shall bear a unique distinguishable serial number.

3. The sale of tickets or shares at a discount for promotional purposes.

4. The prize structure of lottery games, including the number and size of prizes available. Available prizes may include free tickets in lottery games and merchandise prizes.

5. The frequency of drawings, if any, or other selections of winning tickets or shares, except that:

(a) All drawings shall be open to the public.

(b) The actual selection of winning tickets or shares may not be performed by an employee or member of the commission.

(c) Noncomputerized online game drawings shall be witnessed by an independent observer.

6. Requirements for eligibility for participation in grand drawings or other runoff drawings, including requirements for the submission of evidence of eligibility within a shorter period than that provided for claims by section 5-568.

7. Incentive and bonus programs designed to increase sales of lottery tickets or shares and to produce the maximum amount of net revenue for this state.

8. THE METHOD USED FOR THE VALIDATION OF A TICKET, WHICH MAY BE BY PHYSICAL OR ELECTRONIC PRESENTATION OF A TICKET.

D. Notwithstanding title 41, chapter 6 and subsection B of this section, the director, subject to the approval of the commission, may establish a policy, procedure or practice that relates to an existing online game or a new online game that is the same type and has the same type of game play-style as an online game currently being conducted by the lottery or may modify an existing rule for an existing online game or a new online game that is the same type and has the same type of game play-style as an online game currently being conducted by the lottery, including establishing or modifying the matrix for an online game by giving notice of the establishment or modification at least thirty days before the effective date of the establishment or modification.

E. The commission shall maintain and make the following information available for public inspection at its offices during regular business hours:

1. A detailed listing of the estimated number of prizes of each particular denomination expected to be awarded in any instant game currently on sale.

2. After the end of the claim period prescribed by section 5-568, a listing of the total number of tickets or shares sold and the number of prizes of each particular denomination awarded in each lottery game.

3. Definitions of all play symbols and other characters used in each lottery game and instructions on how to play and how to win each lottery game.

F. Any information that is maintained by the commission and that would assist a person in locating or identifying a winning ticket or share or that would otherwise compromise the integrity of any lottery game is deemed confidential and is not subject to public inspection.

G. The commission, in addition to other games authorized by this article, may establish multistate lottery games to be conducted concurrently with other lottery games authorized under subsection B of this section. The monies for prizes, for operating expenses and for payment to the state general fund shall be accounted for separately as nearly as practicable in the lottery commission's general accounting system. The monies shall be derived from the revenues of multistate lottery games.

H. The commission, in addition to other games authorized by this article, shall establish special instant ticket games with play areas protected by paper tabs designated for use by charitable organizations. The monies for prizes and for operating expenses shall be accounted for separately as nearly as practicable in the lottery commission's general accounting system. Monies saved from the revenues of the special games, by reason of operating efficiencies, shall become other revenue of the lottery commission and revert to the state general fund, EXCEPT THAT THE COMMISSION SHALL TRANSFER THE PROCEEDS FROM ANY GAMES THAT ARE SOLD FROM A VENDING MACHINE IN AN AGE-RESTRICTED AREA TO THE STATE TREASURER FOR DEPOSIT IN THE FOLLOWING AMOUNTS:

1. NINE HUNDRED THOUSAND DOLLARS EACH FISCAL YEAR IN THE INTERNET CRIMES AGAINST CHILDREN ENFORCEMENT FUND ESTABLISHED BY SECTION 41-199.

2. ONE HUNDRED THOUSAND DOLLARS EACH FISCAL YEAR IN THE VICTIMS' RIGHTS ENFORCEMENT FUND ESTABLISHED BY SECTION 41-1727.

3. ANY MONIES IN EXCESS OF THE AMOUNTS LISTED IN PARAGRAPHS 1 AND 2 OF THIS SUBSECTION, IN THE STATE LOTTERY FUND ESTABLISHED BY SECTION 5-571.

I. The commission or director shall not establish or operate any online or electronic keno game or any game played on the internet.

J. The commission or director shall not establish or operate any lottery game or any type of game play-style, either individually or in combination, that uses gaming devices or video lottery terminals as those terms are used in section 5-601.02, including monitor games that produce or display outcomes or results more than once per hour.

K. The director shall print, in a prominent location on each lottery ticket or share, a statement that help is available if a person has a problem with gambling and a toll-free telephone number where problem gambling assistance is available. The director shall require all licensed agents to post a sign with the statement that help is available if a person has a problem with gambling and the toll-free telephone number at the point of sale as prescribed and supplied by the director. The requirements of this subsection apply to tickets and shares printed after July 18, 2000.

L. For the purposes of this section:

1. "Charitable organization" means any nonprofit organization, including not more than one auxiliary of that organization, that has operated for charitable purposes in this state for at least two years before submitting a license application under this article.

2. "Game play-style" means the process or procedure that a player must follow to determine if a lottery ticket or share is a winning ticket or share.

3. "Matrix" means the odds of winning a prize and the prize payout amounts in a given game.

**Sec. 2.** Section 5-568, Arizona Revised Statutes, is amended to read:

**5-568. Disposition of unclaimed prize money**

Unclaimed prize money for the prize on a winning ticket or share shall be retained for the person entitled to the prize for one hundred eighty days after the drawing in which the prize was won in the case of a drawing prize and for one hundred eighty days after the announced end of the game in question in the case of a prize determined in any manner other than by means of a drawing. If a claim is not made for the money within the applicable period, THE MONEY SHALL BE TRANSFERRED IN THE FOLLOWING AMOUNTS:

1. Seventy ~~per cent~~ PERCENT of the prize money shall be held in the state lottery prize fund for use as additional prizes in future games ~~and~~, EXCEPT THAT IF THE AMOUNT OF MONIES TRANSFERRED BY THE COMMISSION PURSUANT TO SECTION 5-554, SUBSECTION H, PARAGRAPH 1 IS LESS THAN NINE HUNDRED THOUSAND DOLLARS EACH FISCAL YEAR, THE DIFFERENCE SHALL BE TRANSFERRED TO THE INTERNET CRIMES AGAINST CHILDREN ENFORCEMENT FUND ESTABLISHED BY SECTION 41-199 AND IF THE MONIES TRANSFERRED BY THE COMMISSION PURSUANT TO SECTION 5-554, SUBSECTION H, PARAGRAPH 2 IS LESS THAN ONE HUNDRED THOUSAND DOLLARS EACH FISCAL YEAR, THE DIFFERENCE SHALL BE TRANSFERRED TO THE VICTIMS' RIGHTS ENFORCEMENT FUND ESTABLISHED BY SECTION 41-1727.

2. Thirty ~~per cent~~ PERCENT shall be transferred ~~monthly~~ QUARTERLY to the court appointed special advocate fund established by section 8-524.

**Sec. 3.** Section 5-572, Arizona Revised Statutes, is amended to read:

**5-572. Use of monies in state lottery fund; report**

A. If there are any bonds or bond related obligations payable from the state lottery revenue bond debt service fund, the state lottery revenue bond debt service fund shall be secured by a first lien on the monies in the state lottery fund after the payment of operating costs of the lottery, as prescribed in section 5-555, subsection A, paragraph 1, until the state lottery bond debt service fund contains sufficient monies to meet all the requirements for the current period as required by the bond documents. Debt service for revenue bonds issued pursuant to this chapter shall be paid first from monies that would have otherwise been deposited pursuant to this section in the state general fund. After the requirements for the current period have been satisfied as required by the bond documents, the monies in the state lottery fund shall be expended for the expenses of the commission incurred in carrying out its powers and duties and in the operation of the lottery.

B. Of the monies remaining in the state lottery fund each fiscal year after appropriations and deposits authorized in subsection A of this section, ten million dollars shall be deposited in the Arizona game and fish commission heritage fund established by section 17-297.

C. Of the monies remaining in the state lottery fund each fiscal year after appropriations and deposits authorized in subsections A and B of this section, five million dollars shall be allocated to the department of child safety for the healthy families program established by section 8-481, four million dollars shall be allocated

to the Arizona board of regents for the Arizona area health education system established by section 15-1643, three million dollars shall be allocated to the department of health services to fund the teenage pregnancy prevention programs established in Laws 1995, chapter 190, sections 2 and 3, two million dollars shall be allocated to the department of health services for the health start program established by section 36-697, two million dollars shall be deposited in the disease control research fund established by section 36-274 and one million dollars shall be allocated to the department of health services for the federal women, infants and children food program. The allocations in this subsection shall be adjusted annually according to changes in the GDP price deflator as defined in section 41-563 and the allocations are exempt from the provisions of section 35-190 relating to lapsing of appropriations. If there are not sufficient monies available pursuant to this subsection, the allocation of monies for each program shall be reduced on a pro rata basis.

D. If the state lottery director determines that monies available to the state general fund may not equal eighty-four million one hundred fifty thousand dollars in a fiscal year, the director shall not authorize deposits to the Arizona game and fish commission heritage fund pursuant to subsection B of this section until the deposits to the state general fund equal eighty-four million one hundred fifty thousand dollars in a fiscal year.

E. Of the monies remaining in the state lottery fund each fiscal year after appropriations and deposits authorized in subsections A through D of this section, one million dollars or the remaining balance in the fund, whichever is less, is appropriated to the department of economic security for grants to nonprofit organizations, including faith based organizations, for homeless emergency and transitional shelters and related support services. The department of economic security shall submit a report on the amounts, recipients, purposes and results of each grant to the governor, the speaker of the house of representatives and the president of the senate on or before December 31 of each year for the prior fiscal year and shall provide a copy of this report to the secretary of state.

F. Of the monies remaining in the state lottery fund each fiscal year after appropriations and deposits authorized in subsections A through E of this section, and after a total of at least ninety-nine million six hundred forty thousand dollars has been deposited in the state general fund, three million five hundred thousand dollars shall be deposited in the Arizona competes fund established by section 41-1545.01. The balance in the state lottery fund remaining after deposits into the Arizona competes fund shall be deposited in the university capital improvement lease-to-own and bond fund established by section 15-1682.03, up to a maximum of eighty ~~per cent~~ PERCENT of the total annual payments of lease-to-own and bond agreements entered into by the Arizona board of regents.

G. All monies remaining in the state lottery fund after the appropriations and deposits authorized in this section shall be deposited in the state general fund.

H. Except for monies expended for debt service of revenue bonds as provided in subsection A of this section, monies expended under subsection A of this section are subject to legislative appropriation.

I. THE COMMISSION SHALL TRANSFER MONIES PRESCRIBED IN THIS SECTION ON A QUARTERLY BASIS.

**Sec. 4.** Title 13, chapter 35.1, Arizona Revised Statutes, is amended by adding section 13-3562, to read:

**13-3562. Notice to communication service provider of website hosting alleged sexual exploitation of children**

A. IF A LAW ENFORCEMENT AGENCY RECEIVES INFORMATION THAT A COMMUNICATION SERVICE PROVIDER IS HOSTING A WEBSITE THAT CONTAINS AN ALLEGED VIOLATION OF THIS CHAPTER, THE LAW ENFORCEMENT AGENCY SHALL NOTIFY THE COMMUNICATION SERVICE PROVIDER BY SERVING A NOTICE OF THE ALLEGED VIOLATION ON THE STATUTORY AGENT OF THE COMMUNICATION SERVICE PROVIDER.

B. THE NOTICE SHALL INCLUDE SPECIFIC INFORMATION ON THE LOCATION OF THE ALLEGED VIOLATION.

**Sec. 5.** Title 41, chapter 1, article 5, Arizona Revised Statutes, is amended by adding section 41-199, to read:

**41-199. Internet crimes against children enforcement fund; use; reporting**

A. THE INTERNET CRIMES AGAINST CHILDREN ENFORCEMENT FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTIONS 5-554 AND 5-568 AND MONIES AVAILABLE FROM ANY OTHER SOURCE. THE ATTORNEY GENERAL SHALL ADMINISTER THE FUND.

B. SUBJECT TO LEGISLATIVE APPROPRIATION, THE ATTORNEY GENERAL SHALL USE MONIES IN THE FUND TO ENTER INTO ONE OR MORE INTERGOVERNMENTAL AGREEMENTS TO CONTINUE THE OPERATION OF THE FEDERALLY RECOGNIZED INTERNET CRIMES AGAINST CHILDREN TASK FORCE PROGRAM THAT COORDINATES A NATIONAL NETWORK OF COORDINATED TASK FORCES THAT ASSIST FEDERAL, STATE, LOCAL AND TRIBAL LAW ENFORCEMENT AGENCIES IN INVESTIGATIONS, FORENSIC EXAMINATIONS AND PROSECUTIONS RELATED TO TECHNOLOGY-FACILITATED SEXUAL EXPLOITATION OF CHILDREN AND INTERNET CRIMES AGAINST CHILDREN.

C. WITHIN THIRTY DAYS AFTER THE LAST DAY OF EACH CALENDAR QUARTER, THE ATTORNEY GENERAL SHALL PROVIDE A SUMMARY OF QUARTERLY AND YEAR-TO-DATE EXPENDITURES AND PROGRESS TO THE JOINT LEGISLATIVE BUDGET COMMITTEE, INCLUDING ANY PRIOR YEAR APPROPRIATIONS THAT WERE NONLAPSING.

**Sec. 6.** Section 41-1727, Arizona Revised Statutes, is amended to read:

**41-1727. Victims' rights enforcement fund; use; reporting**

A. The victims' rights enforcement fund is established consisting of monies collected pursuant to ~~section~~ SECTIONS 5-568 AND 12-116.09 and monies available from any other source. The department shall administer the fund, shall

distribute the monies to qualifying organizations and entities and may use up to five ~~per cent~~ PERCENT of the monies deposited in the fund for its administrative costs. Monies in the fund are continuously appropriated.

B. On application, the department shall annually distribute monies from the fund to nonprofit organizations and entities that can demonstrate a five-year history of providing, without cost to the crime victim, each of the following services to crime victims:

1. Legal representation to enforce the rights of crime victims as counsel of record in criminal cases.

2. Social services to assist the crime victim during the course of the legal representation.

C. An organization or entity that applies for monies pursuant to this section may establish its qualifications through an attorney who otherwise meets the requirements of subsection B of this section.

D. An organization that qualifies under the terms of subsection B of this section shall be funded to provide the services included in subsection B of this section without limitation on the types of crimes against victims, including administrative support for the services. Each organization and entity that receives funding pursuant to this section shall submit an annual report to the department that details the organization's or entity's budget for the program and all of the sources and amounts of public monies that are spent on the program that provides the services to crime victims included in subsection B of this section. The report shall include the following:

1. The expenditures of the public monies.

2. The level of crime victim satisfaction with the services.

E. This section does not require the reporting of the name or personal identifying information of any crime victim or crime victim advocate, any information protected under the attorney-client privilege or any information the crime victim requests to remain private.

**Sec. 7. Emergency**

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

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## ASBESTOS RELATED PERSONAL INJURY ACTIONS

### CHAPTER 246

### H. B. 2603

**AN ACT AMENDING TITLE 12, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 19; RELATING TO ASBESTOS RELATED PERSONAL INJURY ACTIONS.**

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

**Section 1.** Title 12, chapter 6, Arizona Revised Statutes, is amended by adding article 19, to read:

ARTICLE 19. ASBESTOS EXPOSURE RELATED PERSONAL INJURY CLAIMS

**12-782. Asbestos exposure related claims; disclosures; discovery; mandatory claims; stay of proceedings; assignment of rights and claims; remedies; definitions**

A. IN ANY ACTION INVOLVING A PERSONAL INJURY CLAIM, WITHIN FORTY-FIVE DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION FOR PENDING PERSONAL INJURY CLAIMS IN WHICH THE DEFENDANT'S ANSWER HAS BEEN FILED OR WITHIN FORTY-FIVE DAYS AFTER THE FILING OF THE DEFENDANT'S ANSWER IN A LAWSUIT INVOLVING A PERSONAL INJURY CLAIM, WHICHEVER IS LATER, THE PLAINTIFF SHALL PROVIDE TO ALL PARTIES A SWORN STATEMENT IDENTIFYING EACH PERSONAL INJURY CLAIM THAT THE PLAINTIFF HAS FILED OR REASONABLY ANTICIPATES FILING AGAINST AN ASBESTOS TRUST. THE STATEMENT FOR EACH CLAIM SHALL INCLUDE THE NAME, ADDRESS AND CONTACT INFORMATION FOR THE ASBESTOS TRUST, THE AMOUNT CLAIMED BY THE PLAINTIFF, THE DATE THAT THE PLAINTIFF FILED THE CLAIM, THE DISPOSITION OF THE CLAIM AND WHETHER THERE HAS BEEN A REQUEST TO DEFER, DELAY, SUSPEND OR TOLL THE CLAIM AGAINST THE ASBESTOS TRUST.

B. IN ANY ACTION INVOLVING A PERSONAL INJURY CLAIM, WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION FOR PENDING PERSONAL INJURY CLAIMS IN WHICH THE DEFENDANT'S ANSWER HAS BEEN FILED OR WITHIN SIXTY DAYS AFTER THE FILING OF THE DEFENDANT'S ANSWER IN A LAWSUIT INVOLVING A PERSONAL INJURY CLAIM, WHICHEVER IS LATER, THE PLAINTIFF SHALL PROVIDE TO ALL PARTIES ALL OF THE FOLLOWING:

1. FOR EACH PERSONAL INJURY CLAIM THAT THE PLAINTIFF HAS FILED AGAINST AN ASBESTOS TRUST, A COPY OF THE FINAL EXECUTED PROOF OF CLAIM, ALL TRUST DOCUMENTS, INCLUDING TRUST CLAIMS MATERIALS, TRUST GOVERNANCE DOCUMENTS, ANY DOCUMENTS REFLECTING THE CURRENT STATUS OF THE CLAIM AND, IF THE CLAIM IS SETTLED, ALL DOCUMENTS RELATING TO THE SETTLEMENT OF THE CLAIM.

2. A LIST OF EACH PERSONAL INJURY CLAIM THAT THE PLAINTIFF REASONABLY ANTICIPATES FILING AGAINST AN ASBESTOS TRUST, INCLUDING THE NAME, ADDRESS, AND CONTACT INFORMATION FOR THE ASBESTOS TRUST AND THE AMOUNT THAT THE PLAINTIFF ANTICIPATES CLAIMING AGAINST THE ASBESTOS TRUST.

C. THE PLAINTIFF SHALL SUPPLEMENT THE INFORMATION AND MATERIALS THAT ARE PROVIDED UNDER SUBSECTIONS A AND B OF THIS SECTION WITHIN THIRTY DAYS AFTER THE PLAINTIFF FILES AN ADDITIONAL CLAIM OR RECEIVES ADDITIONAL INFORMATION OR DOCUMENTS RELATED TO ANY CLAIM THAT THE PLAINTIFF MAKES AGAINST AN ASBESTOS TRUST.

D. IF THE PLAINTIFF IDENTIFIES ANY ASBESTOS TRUSTS PURSUANT TO SUBSECTION B, PARAGRAPH 2 OF THIS SECTION, THE COURT SHALL STAY ALL PROCEEDINGS UNTIL THE PLAINTIFF FILES A CLAIM AGAINST THE ASBESTOS TRUST AND PROVIDES TO THE COURT AND TO ALL PARTIES IN THE PERSONAL INJURY ACTION A COPY OF THE FINAL EXECUTED PROOF OF CLAIM AND ALL OTHER TRUST CLAIMS MATERIALS RELEVANT TO EACH CLAIM THE PLAINTIFF HAS AGAINST EACH ASBESTOS TRUST IDENTIFIED PURSUANT TO SUBSECTION B, PARAGRAPH 2 OF THIS SECTION. THE PLAINTIFF SHALL DISCLOSE WHETHER THERE HAS BEEN A REQUEST TO DEFER, DELAY, SUSPEND OR TOLL THE CLAIM AGAINST ANY ASBESTOS TRUST.

E. TO THE EXTENT PERMITTED BY COURT RULE, IN A PERSONAL INJURY CLAIM ACTION, TRUST CLAIMS MATERIALS AND TRUST GOVERNANCE DOCUMENTS ARE ADMISSIBLE IN EVIDENCE. CLAIMS OF PRIVILEGE DO NOT APPLY TO TRUST CLAIMS MATERIALS OR TRUST GOVERNANCE DOCUMENTS.

F. A DEFENDANT IN A PERSONAL INJURY CLAIM MAY SEEK DISCOVERY AGAINST AN ASBESTOS TRUST IDENTIFIED UNDER SUBSECTIONS A, B, C, H, I, J, K AND L OF THIS SECTION. THE PLAINTIFF MAY NOT CLAIM PRIVILEGE OR CONFIDENTIALITY TO BAR DISCOVERY AND THE PLAINTIFF SHALL PROVIDE CONSENTS OR OTHER EXPRESSION OF PERMISSION THAT MAY BE REQUIRED BY THE ASBESTOS TRUST TO RELEASE INFORMATION AND MATERIALS SOUGHT BY THE DEFENDANT.

G. A COURT MAY NOT SCHEDULE A TRIAL IN A PERSONAL INJURY CLAIM ACTION UNTIL AT LEAST ONE HUNDRED EIGHTY DAYS AFTER THE PLAINTIFF MAKES THE DISCLOSURES REQUIRED BY SUBSECTIONS A, B AND C OF THIS SECTION.

H. IF ANY DEFENDANT IDENTIFIES AN ASBESTOS TRUST NOT NAMED BY THE PLAINTIFF AGAINST WHICH THE DEFENDANT REASONABLY BELIEVES THE PLAINTIFF SHOULD FILE A CLAIM, ON MOTION BY THE DEFENDANT, THE COURT SHALL DETERMINE WHETHER TO ORDER THE PLAINTIFF TO FILE A CLAIM AGAINST THE ASBESTOS TRUST. FOR EACH ASBESTOS TRUST A DEFENDANT IDENTIFIES, THE DEFENDANT SHALL PRODUCE OR DESCRIBE THE EVIDENCE REQUIRED TO FILE A VALID CLAIM WITH THE ASBESTOS TRUST AND THE AMOUNT OF MONEY THE ASBESTOS TRUST SHOULD PAY FOR THE PLAINTIFF'S CLAIM.

I. THE COURT SHALL ESTABLISH A DEADLINE FOR FILING A MOTION UNDER SUBSECTION H OF THIS SECTION. ANY DEADLINE THAT IS ESTABLISHED PURSUANT TO THIS SUBSECTION MUST AFFORD THE PARTIES AN ADEQUATE OPPORTUNITY TO INVESTIGATE THE DEFENDANT'S CLAIMS.

J. IF THE COURT ORDERS THE PLAINTIFF TO FILE A CLAIM WITH THE ASBESTOS TRUST, THE COURT SHALL STAY THE IMMEDIATE ACTION UNTIL THE PLAINTIFF SWEARS OR AFFIRMS THAT THE PLAINTIFF HAS FILED THE CLAIM AGAINST THE ASBESTOS TRUST AND THE PLAINTIFF PROVIDES TO THE COURT AND TO ALL PARTIES A FINAL EXECUTED PROOF OF CLAIM AND ALL OTHER TRUST CLAIMS MATERIALS RELEVANT TO EACH CLAIM THE PLAINTIFF HAS AGAINST AN ASBESTOS TRUST.

K. THE COURT MAY ALLOW ADDITIONAL TIME FOR DISCOVERY OR MAY STAY THE PROCEEDINGS FOR OTHER GOOD CAUSE SHOWN.

L. NOT LESS THAN THIRTY DAYS BEFORE TRIAL, THE COURT SHALL DIRECT THE PARTIES TO ENTER INTO THE RECORD A TRUST CLAIMS DOCUMENT THAT IDENTIFIES EACH PERSONAL INJURY CLAIM THE PLAINTIFF HAS MADE AGAINST AN ASBESTOS TRUST.

M. A PLAINTIFF'S SUBMISSION OF A CLAIM TO AN ASBESTOS TRUST AND RELATED TRUST CLAIMS MATERIALS MAY BE CONSIDERED BY A JURY OR OTHER TRIER OF FACT TO DETERMINE LIABILITY AND APPORTION FAULT IN A PERSONAL INJURY CLAIM AND SHALL BE SUFFICIENT TO SUPPORT A JURY FINDING THAT THE PLAINTIFF HAS BEEN EXPOSED TO PRODUCTS FOR WHICH THE ASBESTOS TRUST WAS ESTABLISHED TO PROVIDE COMPENSATION AND THAT THE EXPOSURE MAY BE A SUBSTANTIAL FACTOR IN CAUSING THE PLAINTIFF'S INJURY THAT IS AT ISSUE IN THE PERSONAL INJURY CLAIM. IF A PLAINTIFF IN A PERSONAL INJURY CLAIM PROCEEDS TO TRIAL BEFORE ONE OR MORE OF THE CLAIMS AGAINST AN ASBESTOS TRUST IS RESOLVED AND SUBSEQUENTLY RECEIVES COMPENSATION FROM AN ASBESTOS TRUST, THE AMOUNT OF THE COMPENSATION SHALL BE CREDITED AGAINST ANY JUDGMENT ENTERED AGAINST ANY DEFENDANT FOUND TO BE AT FAULT IN THE ACTION TO THE EXTENT THAT THE COMPENSATION AMOUNT EXCEEDS THE FAULT APPORTIONED TO THE ASBESTOS TRUST BY THE JURY OR OTHER FACT FINDER. IF MULTIPLE DEFENDANTS ARE FOUND LIABLE FOR DAMAGES, THE COURT SHALL DISTRIBUTE THE AMOUNT OF THE SETOFF OR CREDIT PROPORTIONALLY ACCORDING TO THE LIABILITY OF EACH DEFENDANT.

N. A PLAINTIFF WHO FAILS TO TIMELY PROVIDE ALL OF THE INFORMATION REQUIRED UNDER SUBSECTIONS A, B, C, H, I, J, K AND L OF THIS SECTION IS SUBJECT TO SECTIONS 12-349 AND 12-3201 AND ANY OTHER SANCTION THAT THE COURT ORDERS.

O. NOTHING IN THIS SECTION REQUIRES DISCLOSURE OF INFORMATION OR DOCUMENTS THAT EITHER:

1. IS THE SUBJECT OF A BINDING CONTRACTUAL CONFIDENTIALITY CLAUSE IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

2. IS RESTRICTED FROM DISCLOSURE BY FEDERAL LAW OR COURT ORDER.

P. FOR THE PURPOSES OF THIS SECTION:

1. "ASBESTOS TRUST" MEANS A TRUST, QUALIFIED SETTLEMENT FUND, COMPENSATION FUND OR CLAIMS FACILITY THAT IS CREATED AS A RESULT OF AN ADMINISTRATIVE OR LEGAL ACTION, BANKRUPTCY, AGREEMENT OR OTHER SETTLEMENT OR PURSUANT TO 11 UNITED STATES CODE SECTION 524(g) AND THAT IS INTENDED TO PROVIDE COMPENSATION TO CLAIMANTS ALLEGING PERSONAL INJURY CLAIMS AS A RESULT OF HARM, ALSO POTENTIALLY COMPENSABLE IN THE IMMEDIATE ACTION, FOR WHICH THE ENTITY CREATING THE TRUST, QUALIFIED SETTLEMENT FUND, COMPENSATION FUND OR CLAIMS FACILITY IS ALLEGED TO BE RESPONSIBLE.

2. "PERSONAL INJURY CLAIM" MEANS ANY CLAIM FOR DAMAGES, LOSS, INDEMNIFICATION, CONTRIBUTION, RESTITUTION OR OTHER RELIEF, INCLUDING PUNITIVE DAMAGES, THAT IS RELATED TO BODILY INJURY OR ANOTHER HARM, INCLUDING LOSS OF CONSORTIUM, SOCIETY OR COMPANIONSHIP, LOSS OF SUPPORT, PERSONAL INJURY OR DEATH, MENTAL OR EMOTIONAL INJURY, RISK OR FEAR OF DISEASE OR OTHER INJURY OR COSTS OF MEDICAL MONITORING OR SURVEILLANCE AND THAT IS ALLEGEDLY CAUSED BY OR RELATED TO THE CLAIMANT'S EXPOSURE TO ASBESTOS, AND INCLUDES A CLAIM MADE BY OR ON BEHALF OF THE PERSON WHO CLAIMS THE INJURY OR HARM OR BY OR ON BEHALF OF THE PERSON'S REPRESENTATIVE, SPOUSE, PARENT, MINOR CHILD OR OTHER RELATIVE. PERSONAL INJURY CLAIM DOES NOT INCLUDE A CLAIM FOR COMPENSATORY BENEFITS PURSUANT TO WORKER'S COMPENSATION OR VETERANS BENEFITS.

3. "TRUST CLAIMS MATERIALS" MEANS ALL DOCUMENTS AND INFORMATION RELEVANT OR RELATED TO A PENDING OR POTENTIAL CLAIM AGAINST AN ASBESTOS TRUST AND INCLUDES CLAIMS FORMS AND SUPPLEMENTARY MATERIALS, PROOFS OF CLAIM, AFFIDAVITS, DEPOSITIONS AND TRIAL TESTIMONY, WORK HISTORY AND MEDICAL AND HEALTH RECORDS.

4. "TRUST GOVERNANCE DOCUMENT" MEANS ANY DOCUMENT THAT DETERMINES ELIGIBILITY AND PAYMENT LEVELS, INCLUDING CLAIMS PAYMENT MATRICES, TRUST DISTRIBUTION PROCEDURES OR PLANS FOR REORGANIZATION, FOR AN ASBESTOS TRUST.

**Sec. 2. Severability**

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

**Sec. 3. Legislative intent**

It is the intent of the legislature in enacting this act to allow claimants to exercise their rights to recovery in personal injury actions involving exposure to asbestos and materials containing asbestos while simultaneously prohibiting claimants from obtaining duplicative or excessive recovery by obtaining monetary damages from lawsuits filed in Arizona courts and also filing claims with national trust funds established to compensate individuals for damages resulting from exposure to asbestos and materials containing asbestos. To that end, this act is intended to permit defendants in both pending and future personal injury actions seeking monetary damages for claims resulting from exposure to asbestos and materials containing asbestos to present evidence, and for the jury in such actions to consider evidence, that a third party is partially or wholly liable for the plaintiff's alleged damages and that the plaintiff has received or may receive an award of monetary damages from a collateral source that should be taken into consideration when determining the amount of monetary damages that should be awarded to the plaintiff in the personal injury action.

**Sec. 4. Retroactivity**

This act applies retroactivity to actions involving personal injury claims, as defined in section 12-782, Arizona Revised Statutes, that are pending or filed on or after the effective date of this act.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## UNDERGROUND STORAGE TANKS—REVISIONS—REORGANIZATION

### CHAPTER 247

### H. B. 2636

**AN ACT AMENDING SECTIONS 49-1001 AND 49-1002, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 49-1006.01 AND 49-1006.02; REPEALING SECTIONS 49-1015 AND 49-1015.01, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 49-1015; AMENDING SECTIONS 49-1017 AND 49-1017.01, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 6,**

**ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-1017.02; AMENDING SECTIONS 49-1018, 49-1019, 49-1020, 49-1022 AND 49-1023, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-1024; AMENDING SECTIONS 49-1031 AND 49-1036, ARIZONA REVISED STATUTES; REPEALING TITLE 49, CHAPTER 6, ARTICLES 3 AND 4, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING NEW ARTICLES 3 AND 4; AMENDING SECTIONS 49-1091 AND 49-1091.01, ARIZONA REVISED STATUTES; REPEALING SECTIONS 49-1031, 49-1092 AND 49-1093, ARIZONA REVISED STATUTES; REPEALING LAWS 2004, CHAPTER 273, SECTION 7; REPEALING LAWS 2004, CHAPTER 273, SECTION 14, AS AMENDED BY LAWS 2013, CHAPTER 244, SECTION 5; AMENDING LAWS 2015, CHAPTER 13, SECTION 6; MAKING APPROPRIATIONS; RELATING TO UNDERGROUND STORAGE TANKS.**

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

**Section 1.** Section 49-1001, Arizona Revised Statutes, is amended to read:

**49-1001. Definitions**

In this chapter, unless the context otherwise requires:

1. "Being used" means not having been taken out of operation.

2. "Closure" means the removal of an underground storage tank from operation.

3. "Corrective actions" means those actions that are prescribed pursuant to section 49-1005.

4. "Designated representative" means a person to whom an owner or an operator, or both, assign in writing any right, title or interest ~~which~~ THAT the owner or operator, or both, may have in and to the proceeds of a reimbursement for a corrective action made under article 3 of this chapter.

5. "Energy policy act" means the underground storage tank compliance act, title XV, subtitle B of the ~~federal~~ energy policy act of 2005 (P.L. 109-58; 119 Stat. 1092~~; 42 United States Code section 6991~~), as amended.

6. "Fiduciary" means:

(a) A trust company or bank certified or authorized to engage in the trust business pursuant to title 6, chapter 8, article 1.

(b) Any person appointed by a court or testamentary act to act as personal representative, executor, trustee, administrator, guardian, conservator, receiver or trustee in bankruptcy.

(c) Any person acting as a trustee of a deed of trust pursuant to section 33-803.

(d) Any person acting as a trustee pursuant to title 14, chapter 7.

(e) Any person acting pursuant to and subject to fiduciary obligations under the employee retirement income security act of 1974 (29 United States Code sections 1101 through 1114).

7. "Guarantor" means a person, other than an owner or operator, who provides evidence of financial responsibility for an owner or operator pursuant to this chapter.

8. "Motor fuel" means petroleum or a petroleum based substance that is motor gasoline, aviation gasoline, number 1 or number 2 diesel fuel or any grade of oxygenated gasoline typically used in the operation of a motor engine.

9. "New piping component" means any underground pipe or combination of pipes that contains and conveys a regulated substance between a tank and a motor fuel dispenser, including any valve, elbow, connector or joint that is added to an underground storage tank on or after January 1, 2009 and that was not originally included or installed as part of the underground storage tank.

10. "Occurrence" means an incident or accident, including continuous or repeated exposure to conditions, which results in a release from an underground storage tank.

11. "Operator" means a person in control of, or having responsibility for, the day-to-day operation of an underground storage tank.

12. "Out of operation" means having been closed in accordance with all applicable fire codes and other statutory and regulatory requirements for closure in effect on the date that closure was accomplished.

13. "Person" means an individual, trust, firm, joint stock company, corporation, joint venture, partnership, association, consortium, state, municipality, interstate body, commission, political subdivision of a state and the United States government.

14. "Petroleum" means petroleum, including crude oil or any fraction of crude oil, which is liquid at sixty degrees Fahrenheit and 14.7 pounds per square inch absolute, and petroleum based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, residual fuel oils, lubricants, jet fuels, distillate fuel oils, petroleum solvents and used oils.

15. "Political subdivision" means a county, city, town or other taxing district other than the state that is authorized to take property by eminent domain.

16. "Regulated substance" means:

(a) Petroleum.

(b) A substance specified in the comprehensive environmental response, compensation, and liability act of 1980 (P.L. 96-510; 94 Stat. 2767; 42 United States Code section 9601(14)) but not including a substance regulated as a hazardous waste under the HAZARDOUS AND solid waste ~~disposal act~~ AMENDMENTS of 1984 (P.L. 98-616; 98 Stat. 3221~~; 42 United States Code section 6921~~).

17. "Release" means a spill, leak, emission, discharge, escape, leach or disposal of a regulated substance from an underground storage tank into groundwater, surface water or soils.

18. "Suspected release" means any of the following:

(a) The discovery by owners and operators or others of released regulated substances at the underground storage tank site or in the surrounding area.

(b) Erratic behavior of regulated substance dispensing equipment, the sudden loss of a regulated substance from an underground storage tank, an unexplained presence of water in the underground storage tank or other extraordinary operating conditions that could reasonably be associated with a release from an underground storage tank and that are observed by owners and operators, unless system equipment is found to be defective but not leaking and is repaired or replaced immediately.

(c) That the monitoring results from a release detection method required under 40 Code of Federal Regulations sections 280.41 and 280.42, this chapter or rules adopted pursuant to this chapter indicate that a release may have occurred unless either of the following occurs:

(i) The monitoring device is found to be defective and is immediately repaired, recalibrated or replaced and additional monitoring data do not confirm the initial result.

(ii) In the case of inventory control, a second month of inventory reconciliation data does not confirm the initial result.

19. "Tank" means a stationary device constructed of wood, concrete, steel, plastic or other nonearthen materials and used to contain regulated substances.

20. "Under-dispenser containment" means a secondary containment device that is beneath a motor fuel dispenser, that is connected to the underground storage tank and that is designed to be liquid tight.

21. "Underground storage tank" means a tank or combination of tanks and underground pipes and impact valves connected to tanks being used or having been used to contain regulated substances and which has at least ten ~~per cent~~ PERCENT of the total volume of the tank and underground portions of pipes connected to the tank underground. Underground storage tank does not mean any of the following:

(a) A farm or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes.

(b) A tank used for storing heating oil for consumptive use on the premises where stored.

(c) A septic tank.

(d) A pipeline facility, including gathering lines, regulated under either:

(i) The natural gas pipeline safety act of 1968 (49 United States Code sections 1671 through 1686).

(ii) The hazardous liquid pipeline safety act of 1979 (49 United States Code section 2001).

(e) An intrastate pipeline facility regulated under a state law comparable to the provisions of law referred to in subdivision (d), item (i) or (ii) OF THIS PARAGRAPH.

(f) A surface impoundment, pit, pond or lagoon.

(g) A storm water or wastewater collection system.

(h) A flow-through process tank.

(i) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

(j) A storage tank situated in an underground area, such as a basement, cellar, mine working, drift, shaft or tunnel, if the storage tank is situated on or above the surface of the floor.

(k) Pipes connected to any of the structures described in subdivisions (a) through (j) OF THIS PARAGRAPH.

22. "VOLUNTEER" MEANS A PROPERTY OWNER OR A PERSON OTHER THAN AN OWNER OR OPERATOR THAT ASSUMES RESPONSIBILITY FOR CORRECTIVE ACTIONS FOR A RELEASE FROM AN UNDERGROUND STORAGE TANK.

**Sec. 2.** Section 49-1002, Arizona Revised Statutes, is amended to read:

**49-1002. Notification requirements; exemptions**

A. Except as otherwise provided in this section, each owner of an underground storage tank shall notify the department in writing and shall specify the tank's age, size, type, location and use.

B. For an underground storage tank that was taken out of operation on or before January 1, 1974, regardless of whether the tank was removed from the ground, the owner is exempt from giving notice.

C. For an underground storage tank that was taken out of operation after January 1, 1974 but before November 8, 1984 and that was removed from the ground, the owner is exempt from giving notice.

D. For an underground storage tank that was taken out of operation after January 1, 1974 but before November 8, 1984 and that was not removed from the ground, the owner shall specify the type and quantity of the substances that were stored in the tank immediately before it was taken out of operation. These requirements are in addition to the requirements for notice prescribed in subsection A OF THIS SECTION.

E. For an underground storage tank that was taken out of operation after November 8, 1984 but before December 22, 1988 the director may require the owner to make reasonable efforts to specify the age, size, location and use of the tank, the type and quantity of the substances that were stored in the tank immediately before it was taken out of operation and the date of its removal from operation.

F. An owner OR OPERATOR who brings an underground storage tank into operation shall meet the notification requirements of this section ~~within~~ AT LEAST thirty days ~~after~~ BEFORE BRINGING the tank ~~is brought~~ into operation. An owner OR OPERATOR who brings a new piping component or under-dispenser containment into operation on or after January 1, 2009 shall meet the notification requirements of this section within thirty days after the new piping component or under-dispenser containment is brought into operation.

G. A person who sells a tank for use as an underground storage tank shall notify the purchaser of the notice requirements of subsection F OF THIS SECTION AND SHALL PROVIDE TO THE DEPARTMENT DOCUMENTATION OF THE NOTICE GIVEN.

H. The notices required by this section shall be made on forms prescribed by the department.

**Sec. 3.** Title 49, chapter 6, article 1, Arizona Revised Statutes, is amended by adding sections 49-1006.01 and 49-1006.02, to read:

**49-1006.01. Insurance for releases; termination; notice; coverage; assistance**

A. BEGINNING ON JANUARY 1, 2016 AND CONTINUING FOR TWENTY-FOUR MONTHS, IF AN OWNER OR OPERATOR MAKES A CLAIM AGAINST ITS INSURANCE OR AN ALTERNATIVE FINANCIAL RESPONSIBILITY MECHANISM FOR A RELEASE AND ITS CLAIM IS DENIED OR OTHERWISE NOT PAID, THE OWNER OR OPERATOR SHALL PROVIDE TO THE DEPARTMENT A COPY OF THE NOTICE OF DENIAL OR OTHER EVIDENCE OF NONPAYMENT.

B. IF THE INSURANCE USED TO MEET THE FINANCIAL RESPONSIBILITY REQUIREMENTS OF THIS CHAPTER IS TERMINATED OR NOT RENEWED, THE INSURER SHALL NOTIFY THE DEPARTMENT OF THE TERMINATION OR NONRENEWAL WITHIN THIRTY DAYS AFTER THE DATE OF TERMINATION OR NONRENEWAL. THE NOTICE TO THE DEPARTMENT SHALL STATE THE NAME AND ADDRESS OF THE INSURED, THE DATE OF TERMINATION OR NONRENEWAL AND THE ADDRESS OF THE FACILITY THAT HAD BEEN INSURED.

C. BEFORE JANUARY 1, 2017 OR ON THE INSURANCE CONTRACT RENEWAL DATE, WHICHEVER IS EARLIER, AN OWNER OR OPERATOR THAT SATISFIES FINANCIAL RESPONSIBILITY REQUIREMENTS THROUGH INSURANCE SHALL HAVE POLICY COVERAGE THAT EXTENDS TO ONE OF THE FOLLOWING:

1. THE DATE OF THE MOST RECENT BASELINE ASSESSMENT CONDUCTED PURSUANT TO SECTION 49-1052 OR COMPARABLE SITE CHARACTERIZATION AS DETERMINED BY THE DEPARTMENT.

2. THE DATE OF THE UNDERGROUND STORAGE TANK SYSTEM INSTALLATION.

3. THE EARLIEST RETROACTIVE COVERAGE DATE OF THE PREVIOUS INSURANCE POLICY OR ALTERNATIVE FINANCIAL RESPONSIBILITY MECHANISM.

D. THE DEPARTMENT SHALL ASSIST AN OWNER OR OPERATOR IN PURSUING THE OWNER'S OR OPERATOR'S CLAIM AGAINST THE FINANCIAL RESPONSIBILITY MECHANISM AND OBTAINING COVERAGE FOR A CONFIRMED RELEASE FROM AN UNDERGROUND STORAGE TANK SYSTEM THAT IS COVERED BY THE MECHANISM.

**49-1006.02. Insurance primacy; requirements; fund access**

A. FOR OWNERS OR OPERATORS THAT SATISFY FINANCIAL RESPONSIBILITY REQUIREMENTS THROUGH INSURANCE, THE FOLLOWING APPLY:

1. THE POLICY THAT COVERS THE UNDERGROUND STORAGE TANK SYSTEM AT THE TIME THE RELEASE IS DISCOVERED SHALL BE PRIMARY TO ELIGIBILITY UNDER SECTIONS 49-1017 AND 49-1054.

2. THE OWNER OR OPERATOR IS NOT REQUIRED TO EXHAUST INSURANCE COVERAGE IN ORDER TO BE ELIGIBLE UNDER SECTIONS 49-1017 AND 49-1054.

3. ELIGIBILITY UNDER SECTIONS 49-1017 AND 49-1054 IS CONTINGENT ON FILING A TIMELY INSURANCE CLAIM UNDER THE POLICY AND PURSUING THAT CLAIM UNTIL A DENIAL IS RECEIVED OR, AFTER ASSISTANCE FROM THE DEPARTMENT AS PRESCRIBED IN SECTION 49-1006.01, SUBSECTION D, UNTIL THE DEPARTMENT DETERMINES THAT THE CLAIM HAS BEEN CONSTRUCTIVELY DENIED.

4. AN OWNER OR OPERATOR THAT FAILS TO PURSUE AN INSURANCE CLAIM IS NO LONGER ELIGIBLE UNDER SECTIONS 49-1017 AND 49-1054.

B. AN OWNER OR OPERATOR THAT SATISFIES FINANCIAL RESPONSIBILITY REQUIREMENTS THROUGH INSURANCE AND THAT WILL NOT RECEIVE PAYMENT FROM ITS INSURANCE PROVIDER UNTIL AFTER THE EXPENDITURE OF AT LEAST FIFTY THOUSAND DOLLARS PER FACILITY AS PROVIDED IN AN INSURANCE POLICY THAT IS IN EFFECT ON APRIL 1, 2015 OR THAT SATISFIES FINANCIAL RESPONSIBILITY REQUIREMENTS THROUGH AN ALTERNATIVE FINANCIAL RESPONSIBILITY MECHANISM IS ELIGIBLE UNDER SECTIONS 49-1017 AND 49-1054 AFTER MEETING A COST SHARING OBLIGATION BY PAYMENT OF THE FIRST FIFTY THOUSAND DOLLARS PER FACILITY FOR WORK THAT IS CONDUCTED ON OR AFTER JANUARY 1, 2016. THIS ELIGIBILITY IS SUBJECT TO THE LIMITS PRESCRIBED IN SECTION 49-1054, SUBSECTION A AND IS SUBJECT TO THE PREAPPROVAL PROCESS PRESCRIBED IN SECTION 49-1051. ELIGIBILITY PURSUANT TO THIS SUBSECTION FOR OWNERS OR OPERATORS THAT MEET FINANCIAL RESPONSIBILITY REQUIREMENTS THROUGH INSURANCE IS CONTINGENT ON PROVIDING TIMELY NOTICE OF THE RELEASE TO THE INSURANCE CARRIER UNDER THE POLICY AND THAT ELIGIBILITY ENDS ON THE DATE THAT THE INSURER IS OBLIGATED TO PROVIDE PAYMENT UNDER THE POLICY.

**Sec. 4. Repeal**

Sections 49-1015 and 49-1015.01, Arizona Revised Statutes, are repealed.

**Sec. 5.** Title 49, chapter 6, article 1, Arizona Revised Statutes, is amended by adding a new section 49-1015, to read:

**49-1015. Underground storage tank revolving fund; use; purpose**

A. THE UNDERGROUND STORAGE TANK REVOLVING FUND IS ESTABLISHED AND SHALL BE ADMINISTERED BY THE DIRECTOR. MONIES IN THE FUND ARE EXEMPT FROM LAPSING UNDER SECTION 35-190.

B. THE FUND CONSISTS OF MONIES APPROPRIATED BY THE LEGISLATURE, UNDERGROUND STORAGE TANK TAX REVENUES COLLECTED AND DISTRIBUTED PURSUANT TO SECTION 49-1036, MONIES OBTAINED FROM THE FEES IMPOSED BY THIS CHAPTER AND THE RULES ADOPTED UNDER THIS CHAPTER AND MONIES REIMBURSED TO THE FUND BY THE DEPARTMENT.

C. MONIES FROM THE FUND MAY BE USED FOR THE FOLLOWING:

1. TO PROVIDE STATE MATCHING MONIES AND TO MEET OTHER OBLIGATIONS AS PRESCRIBED BY SECTION 9003(h)(7)(B) OF THE FEDERAL SOLID WASTE DISPOSAL ACT (42 UNITED STATES CODE SECTION 6991(c)).

2. FOR ALL THE REASONABLE AND NECESSARY COSTS INCURRED IN TAKING CORRECTIVE ACTIONS PURSUANT TO SECTION 49-1017 AND NONCORRECTIVE ACTIONS PURSUANT TO SECTION 49-1017.02.

3. FOR THE COSTS OF RECOVERING THE EXPENSES OF CORRECTIVE ACTIONS PURSUANT TO SECTION 49-1017 AND NONCORRECTIVE ACTIONS PURSUANT TO SECTION 49-1017.02.

4. TO PROVIDE REIMBURSEMENT FOR ELIGIBLE COSTS.

5. FOR THE COSTS INCURRED IN ADMINISTERING THE REGULATORY REQUIREMENTS OF THIS CHAPTER.

6. TO REIMBURSE THE DEPARTMENT FOR THE REASONABLE AND NECESSARY COSTS INCURRED BY THE DEPARTMENT IN ADMINISTERING THE CORRECTIVE ACTION REQUIREMENTS OF THIS CHAPTER.

7. TO REIMBURSE THE DEPARTMENT FOR THE REASONABLE AND NECESSARY COSTS INCURRED BY THE DEPARTMENT IN ADMINISTERING UNDERGROUND STORAGE TANK GRANT PROGRAMS.

8. TO REIMBURSE THE DEPARTMENT FOR THE REASONABLE AND NECESSARY COSTS INCURRED BY THE DEPARTMENT IN ADMINISTERING THE FUND. THE DEPARTMENT MAY NOT PAY FROM THE FUND ANY COSTS, PAYMENTS OR OTHER EXPENSES THAT RESULT FROM A CONTRACT AWARDED PURSUANT TO THIS SECTION UNLESS THE CONTRACT INCLUDES PERFORMANCE STANDARDS AND CONTRACTUAL PENALTIES FOR NONPERFORMANCE OR INADEQUATE PERFORMANCE UNDER THE CONTRACT.

C. THE DIRECTOR SHALL REIMBURSE THE FUND FOR ANY CORRECTIVE ACTION COSTS OR NONCORRECTIVE ACTION COSTS THAT ARE PAID OUT OF THE FUND AND THAT ARE SUBSEQUENTLY RECOVERED BY THE DEPARTMENT.

D. MONIES IN THE FUND MAY NOT BE USED TO IMPLEMENT THE WATER QUALITY ASSURANCE REVOLVING FUND PROGRAM PURSUANT TO CHAPTER 2, ARTICLE 5 OF THIS TITLE.

**Sec. 6.** Section 49-1017, Arizona Revised Statutes, is amended to read:

**49-1017. Powers of director; corrective actions**

A. The director may take corrective action with respect to a release of a regulated substance that is petroleum into the environment from an underground storage tank if the director determines that action is necessary to protect human health, safety or the environment and any of the following conditions exist:

1. The department cannot locate, within ninety days or a shorter period necessary to protect human health or the environment, a person who is all of the following:

(a) An owner or operator of the tank concerned.

(b) Subject to the corrective action requirements of section 49-1005.

(c) Financially or technically capable of properly carrying out the corrective action required by section 49-1005. If the owner or operator and the department jointly determine that the owner or operator is not financially or technically able to carry out the corrective action ~~and the owner or operator has demonstrated an inability to use an environmental contractor~~, the department and the owner may enter into a contract under which the department acts as manager of the corrective action on behalf of the owner or operator. The existence of a management contract with the department does not relieve the owner of any liability for costs that are not ~~covered by section 49-1054, subsection A~~ PAYABLE BY THE DEPARTMENT UNDER THIS CHAPTER.

2. Corrective action costs at a facility exceed the amount of coverage required by section 49-1006 and~~, considering the class or category of underground storage tank from which the release occurred,~~ expenditures from the underground storage tank revolving fund are necessary to ensure effective corrective action.

~~3. The owner or operator has failed or refused to comply with an order of the director under section 49-1013 to take the corrective actions required by section 49-1005.~~

B. In determining whether to take a corrective action pursuant to subsection A of this section, the director shall consider and make written findings regarding all of the following factors:

1. The physical and chemical characteristics of the type of petroleum released, including its toxicity, persistence and potential for migration.

2. The hydrogeologic characteristics of the site where the underground storage tank is located and the surrounding area.

3. The proximity, quality and current and future uses of nearby surface water and groundwater.

4. The potential effects of residual contamination on nearby surface water and groundwater.

5. The degree of exposure.

6. THE NEED FOR FINANCIAL ASSISTANCE.

C. If direct costs are incurred by the director for undertaking corrective action with respect to a release of a regulated substance that is petroleum, the owner and operator are liable to this state for these direct costs~~, except for those amounts that are eligible for and within the coverage limits provided by section 49-1054 or~~

~~those amounts that are not allocated to the owner or operator pursuant to subsection D of this section~~. Liability imposed pursuant to this subsection is strict. ~~In~~ FOR THE PURPOSES OF this subsection, "direct costs" means the cost of the corrective actions, investigations, enforcement and litigation EXCEPT FOR THOSE AMOUNTS THAT ARE NOT ALLOCATED TO THE OWNER OR OPERATOR PURSUANT TO SUBSECTION D OF THIS SECTION.

D. If there is more than one responsible person, liability under this section shall be equitably allocated on a case-by-case basis according to section 49-1016, subsection F, and using the following factors as those factors are appropriate under the circumstances:

1. The duration and percentage of ownership or operation of the underground storage tank during a release of regulated substances from the tank.

2. The amount and nature of the regulated substances released.

3. The degree of care exercised by each person with respect to the regulated substances released.

4. The ability to distinguish between the respective releases of more than one responsible person.

5. Other factors that are appropriate under the circumstances.

E. The allocation of liability under this section shall be promptly determined by one or more mediators who shall be selected by the responsible persons within sixty days after the responsible persons are identified by the director. The director may select a mediator and convene a mediation ~~upon~~ ON the failure of the responsible persons to select one or more mediators. The mediator shall not have a conflict of interest with the responsible persons. A mediation convened by the director shall be held within sixty days ~~of~~ AFTER the mediator being selected. The director shall provide notice to the responsible persons of the time and place for the mediation and the name of the mediator or mediators. This notice shall be provided at least forty-five days prior to the date scheduled for mediation. Costs of mediation shall be eligible for ~~coverage under section 49-1054~~ PAYMENT and shall be allocated to participants in the mediation in the same proportion as the costs of corrective action. Nothing in this section shall excuse the obligations of an owner or operator to take timely and adequate action in response to a release of regulated substances as required in this chapter. Nothing in this section shall diminish the right of any person to bring an action against any other person as provided in section 49-1019 for contribution or reimbursement for the reasonable costs of corrective action that person has been allocated pursuant to this section.

F. The director may take a corrective action with respect to a release of a regulated substance that is not petroleum only as a remedial action subject to chapter 2, article 5 of this title, and the rules adopted pursuant to that article. If the director takes a corrective action for the release of a regulated substance that is not petroleum, all of the rights, duties and responsibilities of a person associated with the release shall be determined pursuant to that article.

G. AN OWNER, OPERATOR OR OTHER PERSON THAT MEETS THE REQUIREMENTS OF SECTION 49-1016, SUBSECTION C MAY REQUEST THAT THE DEPARTMENT CONDUCT CORRECTIVE ACTION UNDER THIS

SECTION. SUBJECT TO THE AVAILABILITY OF MONIES ALLOCATED AND THE PRIORITY ASSIGNED TO THE SITE PURSUANT TO SUBSECTION B OF THIS SECTION, THE DEPARTMENT MAY CONDUCT THE CORRECTIVE ACTION.

H. A REQUEST FOR CORRECTIVE ACTION PURSUANT TO SUBSECTION G OF THIS SECTION SHALL BE ON A FORM PROVIDED BY THE DEPARTMENT AND SHALL CONTAIN SUFFICIENT INFORMATION RELATED TO THE SITE AND THE FACTORS PRESCRIBED IN SUBSECTION B OF THIS SECTION TO ALLOW THE DIRECTOR TO MAKE A DETERMINATION OF PRIORITY FOR THAT REQUEST.

**Sec. 7.** Section 49-1017.01, Arizona Revised Statutes, is amended to read:

**49-1017.01. Settlement authority; participation; financial information; process; payment; notice**

A. The director shall consider any offer by an owner or operator who is potentially liable for direct costs incurred by the director pursuant to section 49-1017, subsection C, without regard to the extent of that owner's or operator's liability, if the owner or operator is unable to pay for the direct costs. An owner or operator whose liability for direct costs arose from a criminal act is not eligible to enter into a settlement agreement pursuant to this section. An owner's or operator's decision to enter into a settlement agreement pursuant to this section is not an admission in a judicial proceeding as to the fact or extent of that owner's or operator's liability with respect to releases or threatened releases that are covered by the settlement. An owner or operator who is a party to a settlement pursuant to this section is not required to participate in allocation proceedings pursuant to section 49-1017, subsections D and E. Any settlement approved by the department does not release the owner or operator from any responsibility or duty imposed pursuant to this chapter other than liability for direct costs incurred pursuant to section 49-1017, subsection C.

B. Any settlement approved by the department does not increase the liability of any other owner or operator pursuant to this chapter and does not create any liability for the department or this state.

C. The director shall consider all of the following factors in considering an owner's or operator's ability to pay for the direct costs:

1. The financial resources of the owner or operator, including available financial assurance mechanisms other than the ~~assurance account~~ UNDERGROUND STORAGE TANK REVOLVING FUND.

2. The amount of coverage available to the owner or operator from the ~~assurance account~~ UNDERGROUND STORAGE TANK REVOLVING FUND for the direct costs. As a condition of settlement, the owner or operator shall apply to the ~~assurance account~~ UNDERGROUND STORAGE TANK REVOLVING FUND and any applicable grant program for coverage of the direct costs before requesting settlement pursuant to this section.

3. The owner's or operator's ability to continue in business after payment of the owner's or operator's liability for direct costs as defined in section 49-1017, subsection C.

4. Whether payment of the owner's or operator's liability for direct costs as defined in section 49-1017, subsection C would require the owner or operator to seek protection under the federal bankruptcy law or render the owner or operator insolvent.

5. The financial resources of all concerns in which the owner or operator maintains ownership, control or management.

D. An owner or operator seeking settlement pursuant to subsection A of this section shall submit a letter requesting a financial hardship settlement and shall include the owner's or operator's tax returns and all schedules, financial statements, balance statements and other information concerning the owner's or operator's gross income and net worth for the five years immediately preceding the date of the application. Within ninety days after the receipt of the application, the director may require additional information to verify the owner's or operator's eligibility for settlement pursuant to subsection A of this section. The owner or operator may provide any additional information the owner or operator believes to be relevant to the application. The director shall keep confidential any financial information submitted by the owner or operator pursuant to this subsection. If the director or the attorney general disputes a claim of confidentiality, the director or the attorney general shall provide written notice that the claim is disputed to the owner or operator claiming the confidentiality. The information shall be made available to the public if the owner or operator claiming confidentiality does not file an action for declaratory relief in superior court within thirty days after receiving the notice.

E. The owner or operator shall cooperate with the director in providing reasonable access and information for the director to carry out the requirements of this section as a condition of the settlement.

F. If the director verifies that the owner or operator is unable to pay the direct costs incurred by the director pursuant to section 49-1017, subsection C, the director shall enter into a settlement within ninety days after receipt of the application and any other information required pursuant to this section. The director shall allow the settlement amount to be paid over a period of time that does not exceed ten years. Settlement payments over a period of time are subject to the payment of interest at the rate of six ~~per cent~~ PERCENT a year, except that payments are not subject to interest if the entire settlement amount is paid within five years. The owner or operator may file a petition with the director to modify the payment schedule on a showing of good cause that the payment schedule cannot be met.

G. The director may require that notice of the terms of the settlement agreement be provided to the public to allow for comment for a period of thirty days before the department enters into a settlement agreement. Any interested person may comment on the settlement agreement in writing to the director. The director may withdraw from a settlement agreement after considering the comments.

H. If the director determines that the owner or operator does not qualify for a settlement pursuant to this section, the director shall notify the owner or operator in writing within ninety days after the receipt of all information required pursuant to this section stating the reasons for ineligibility. The application for settlement is deemed denied if the director does not notify the owner or operator within ninety

days ~~of~~ AFTER the director's receipt of all applicable information. A denial of a settlement application under this subsection constitutes an appealable agency action as defined in section 41-1092. In any administrative appeal hearing conducted pursuant to title 41, chapter 6, article 10, the documents submitted by the owner or operator pursuant to this section are not confidential. Any appeal is limited to the owner's or operator's eligibility for a financial hardship settlement pursuant to this section and the owner's or operator's ability to pay the direct costs incurred by the director pursuant to section 49-1017, subsection C.

**Sec. 8.** Title 49, chapter 6, article 1, Arizona Revised Statutes, is amended by adding section 49-1017.02, to read:

**49-1017.02. Powers of the director; noncorrective actions**

A. SUBJECT TO THE AVAILABILITY OF MONIES IN THE UNDERGROUND STORAGE TANK REVOLVING FUND THAT ARE ALLOCATED BY THE DIRECTOR, AN OWNER, AN OPERATOR OR ANOTHER PERSON THAT MEETS THE REQUIREMENTS OF SECTION 49-1016, SUBSECTION C MAY REQUEST THAT THE DEPARTMENT CONDUCT ONE OR MORE OF THE FOLLOWING NONCORRECTIVE ACTIONS AT A SITE:

1. OBTAINING A BASELINE ASSESSMENT OF A TANK OR SITE AS PRESCRIBED IN SECTION 49-1052.

2. CONFIRMATION OF A SUSPECTED RELEASE AT A TANK OR SITE.

3. PERMANENT CLOSURE OF AN UNDERGROUND STORAGE TANK AS PRESCRIBED BY SECTION 49-1008.

B. IN DETERMINING THE PRIORITY FOR REQUESTS UNDER SUBSECTION A OF THIS SECTION, THE DIRECTOR MAY CONSIDER THE FOLLOWING FACTORS:

1. THE AGE, CONSTRUCTION AND OPERATIONAL HISTORY OF THE UNDERGROUND STORAGE TANK AT THE SITE.

2. THE HYDROGEOLOGIC CHARACTERISTICS OF THE SITE WHERE THE UNDERGROUND STORAGE TANK IS LOCATED AND THE SURROUNDING AREA.

3. THE PROXIMITY, QUALITY AND CURRENT AND FUTURE USES OF NEARBY SURFACE WATER AND GROUNDWATER.

4. THE POTENTIAL EFFECTS OF RESIDUAL CONTAMINATION TO NEARBY SURFACE WATER AND GROUNDWATER.

5. THE DEGREE OF EXPOSURE, INCLUDING THE PHYSICAL AND CHEMICAL CHARACTERISTICS OF THE TYPE OF PETROLEUM SOLD OR SUSPECTED TO HAVE BEEN RELEASED, INCLUDING ITS TOXICITY, PERSISTENCE AND POTENTIAL FOR MIGRATION.

6. THE FINANCIAL ABILITY OF THE PERSON TO CONDUCT THE ACTION WITH THE PERSON'S OWN MONIES.

C. A REQUEST FOR A NONCORRECTIVE ACTION UNDER THIS SECTION SHALL BE ON A FORM PROVIDED BY THE DEPARTMENT AND SHALL CONTAIN SUFFICIENT INFORMATION RELATED TO THE SITE

AND THE FACTORS PRESCRIBED IN SUBSECTION B OF THIS SECTION TO ALLOW THE DIRECTOR TO MAKE A DETERMINATION OF PRIORITY FOR THAT REQUEST.

**Sec. 9.** Section 49-1018, Arizona Revised Statutes, is amended to read:

**49-1018. Corrective action; enforcement; priority**

The director shall give priority in undertaking state-led corrective actions pursuant to section 49-1017 to releases of regulated substances from underground storage tanks ~~which~~ THAT pose the greatest threat to human health and the environment AND SHALL CONSIDER THE DEGREE TO WHICH FINANCIAL ASSISTANCE FROM THE DEPARTMENT IS NECESSARY TO ENSURE THAT CORRECTIVE ACTIONS WILL BE CONDUCTED.

**Sec. 10.** Section 49-1019, Arizona Revised Statutes, is amended to read:

**49-1019. Release of regulated substance; causes of action; limitation; liability**

A. Any one of the following persons may bring an action in superior court against a person who caused or contributed to the release of a regulated substance from an underground storage tank to require that person to reimburse one of the following persons for the reasonable costs of corrective actions taken in response to the release:

1. An owner or operator of an underground storage tank or any other person who takes a corrective action pursuant to section 49-1005.

2. An owner or operator of an underground storage tank or any other person from whom costs are recovered by this state pursuant to ~~section 49-1017 or 49-1017.01~~ THIS CHAPTER.

B. The person seeking reimbursement has the burden of demonstrating that the corrective action costs incurred were reasonable.

C. This article does not affect or modify the obligations or liability of a person, by reason of subrogation or otherwise, under any other provision of common law, federal law or the laws of this state, for damages, injury or loss resulting from a release of a regulated substance or for the costs of a corrective action, except that a person who receives compensation for the costs of a corrective action pursuant to this article is precluded from recovering compensation for the same corrective action costs pursuant to any other federal law or the laws of this state. A person who receives compensation for corrective action costs pursuant to federal law or the laws of this state is precluded from receiving compensation for the same corrective action costs as provided in this article.

D. Liability under this section shall be equitably allocated on a case-by-case basis in accordance with section 49-1017, subsection D. Any party authorized to bring an action pursuant to subsection A of this section and any party against whom an action is brought may have liability allocated through mediation in accordance with section 49-1017, subsection D or through the informal appeal process in accordance with section 49-1091.

E. The department may take corrective action for a release and recover direct costs pursuant to section 49-1017 in proportion to the allocation made pursuant to subsection D of this section if an owner or an operator does not perform all necessary

corrective actions and there is no other person to perform corrective actions pursuant to section ~~49-1052, subsection I~~ 49-1016, SUBSECTION C. ~~An owner or an operator is eligible for ninety per cent coverage from the assurance account for reasonable and necessary eligible costs above those for which the owner or operator is liable if the owner or operator elects to perform corrective action which exceeds the allocated share of liability.~~

**Sec. 11.** Section 49-1020, Arizona Revised Statutes, is amended to read:

**49-1020. Fees**

Each owner and operator of an underground storage tank ~~which~~ THAT is subject to regulation under this chapter shall pay annually to the department a fee of one hundred dollars for each tank. An owner or operator who sold or relinquished legal, equitable or possessory interest in the property on or before January 1, 1990 shall not be responsible to pay the fee prescribed by this section. The director, with the approval of the attorney general, may abate fee balances if the administration costs exceed the amount of the fees due. The fees collected under this section shall be deposited, pursuant to sections 35-146 and 35-147, in the ~~regulatory account of the~~ underground storage tank revolving fund established ~~in~~ BY section 49-1015. The director shall adopt rules to provide for the orderly imposition and collection of the fees imposed by this section.

**Sec. 12.** Section 49-1022, Arizona Revised Statutes, is amended to read:

**49-1022. Regulated substance migration off site; responsibility; corrective action; notice; appeal; coverage**

A. The director may undertake corrective action in response to a release from an underground storage tank that migrates on or under a person's property as the result of an occurrence at another property or that the department determines is likely to migrate on or under a person's property, if all of the following occur:

1. The person has authority to allow access to the property so that corrective action may be taken on the person's property.

2. The owner or operator of the underground storage tank that is the source of the release makes a written request that the department attempt to obtain access to the property. As part of the written request, the owner or operator shall demonstrate to the department the following before the department attempts to obtain access to the property:

(a) The owner or operator has sent and the person has received at least two written requests to allow the owner or operator to have access to the property at reasonable times and under reasonable conditions.

(b) The owner or operator has made an offer of reasonable compensation to the person.

(c) Contamination is likely to spread or increase in severity if access to the property is not obtained.

3. The person has received a written request from the department to have access to the property, at reasonable times and under reasonable conditions in a manner that does not constitute a taking as provided by law, to take corrective action with respect to only the release that has migrated on that person's property.

4. The person has refused to allow the owner or operator or the department to have access to the property or does not respond to the department within sixty days after receiving the request for access.

B. The department shall issue a notice describing the proposed corrective action to the owner or operator and the person on whose property the department will undertake corrective action if it elects to undertake corrective action pursuant to subsection A of this section. The owner or operator or the person on whose property the department undertakes corrective action may appeal pursuant to title 41, chapter 6, article 10, within thirty days ~~of~~ AFTER the notice or within thirty days ~~from~~ AFTER the performance of the corrective action. If, after an appeal, it is determined that the department failed to return the property to substantially the same condition the property was in before being accessed, the person on whose property the department undertakes the corrective action may be eligible for ~~coverage from the assurance account~~ PAYMENT FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND only to the extent the department failed to return the property to substantially the same condition the property was in before being accessed.

C. ~~The department is eligible for coverage of corrective action costs incurred in obtaining access, performing corrective action pursuant to this section and returning the property to substantially the same condition the property was in before being accessed.~~ The owner or operator shall reimburse the ~~assurance account for ten per cent of~~ DEPARTMENT FOR any costs paid from the ~~assurance account to the department or the person~~ UNDERGROUND STORAGE TANK REVOLVING FUND pursuant to this section.

D. The department shall promptly provide to a person whose property is accessed under this section a copy of the results of any analysis of the soil or groundwater relating to the accessed property arising from the department's access or corrective action undertaken at the property. The department shall not sue the person for any secondary contamination created by the access or corrective action.

E. If a release of a regulated substance has migrated on or under a person's property, the department shall relieve the owner or operator of the underground storage tank from responsibility from performing corrective action at the property where the release has migrated or where the department has determined it is likely to have migrated, if the owner or operator is unable to gain access to the property after complying with ~~the provisions of~~ subsection A, paragraph 2, subdivisions (a) and (b) of this section. Nothing in this section relieves the owner or operator from liability for completing the requirements of section 49-1005 relating to the owner's or operator's property or any other property to which the contamination may have migrated. The department may require that the owner or operator investigate any other properties potentially impacted by the release in order to complete the requirements of section 49-1005.

**Sec. 13.** Section 49-1023, Arizona Revised Statutes, is amended to read:

**49-1023. Delivery prohibition; stop use tag; definitions**

A. A product deliverer shall not deliver, deposit or place a regulated substance into an underground storage tank that has a stop use tag from the director

affixed to a fill pipe of the underground storage tank pursuant to subsection B of this section.

B. The director may issue a stop use order to the owner and operator of the underground storage tank and affix a stop use tag that is easily visible to the product deliverer on all fill pipes of the underground storage tank to stop operation of the underground storage tank if either of the following ~~exist~~ EXISTS:

1. The director has determined that the underground storage tank is in violation of section 49-1003 or 49-1009 or the rules adopted pursuant to those sections, as applicable, and the continued operation of the underground storage tank may result in a continued release or new release from the underground storage tank.

2. The director has determined that the underground storage tank is in violation of section 49-1006, 49-1020 OR 49-1031 or the rules adopted pursuant to ~~that section~~ THOSE SECTIONS, after providing the owner and operator with thirty days' notice and an opportunity to demonstrate compliance.

C. A stop use order becomes effective immediately on issuance and suspends use of the underground storage tank.

D. The owner and operator of an underground storage tank that has received a stop use tag pursuant to subsection B of this section shall ensure that no person removes or tampers with the stop use tag until the requirements for return of the underground storage tank to operation pursuant to subsection E of this section are met, and shall immediately empty the underground storage tank and comply with the remaining temporary closure requirements adopted under section 49-1008.

E. An owner or operator shall not bring an underground storage tank that has received a stop use tag pursuant to subsection B of this section back into operation until the owner or operator has demonstrated to the director that the underground storage tank meets the requirements of sections 49-1003, 49-1006 and 49-1009 and the rules adopted pursuant to those sections, as applicable, and the owner or operator has received written confirmation from the director that the requirements of sections 49-1003, 49-1006, ~~and~~ 49-1009, 49-1020 AND 49-1031 and the rules adopted pursuant to those sections, as applicable, have been met. The director shall provide written confirmation as soon as practicable, but not later than five business days, to the owner or operator that the requirements of sections 49-1003, 49-1006, ~~and~~ 49-1009, 49-1020 AND 49-1031 and the rules adopted pursuant to those sections have been met.

F. ~~Upon~~ ON issuance of a stop use order, the director shall notify product deliverers by posting on the department's website the name and location of a facility with an underground storage tank that has a stop use tag. The notice shall also specify which underground storage tank at the facility has a stop use tag.

G. The director shall remove the stop use notice from the department's website within five business days after determining that the requirements of subsection E of this section have been met.

H. The director may adopt rules to implement this section.

I. For the purposes of this section:

1. "Product deliverer" means a person, including an owner, operator or oil company, or a distributor as defined in section 28-5601, a supplier as defined in

section 28-5601, a petroleum transportation company and any other entity that delivers, deposits or places a regulated substance into an underground storage tank.

2. "Stop use tag" means a tag, device or mechanism that is prescribed by the director, that is designed to be affixed to a fill pipe of an underground storage tank and that clearly states and conveys that it is unlawful to deliver, deposit or place a regulated substance into the underground storage tank to which it is affixed.

**Sec. 14.** Title 49, chapter 6, article 1, Arizona Revised Statutes, is amended by adding section 49-1024, to read:

**49-1024. Report; underground storage tank revolving fund program**

THE DEPARTMENT SHALL COMPILE A REPORT ON THE UNDERGROUND STORAGE TANK REVOLVING FUND PROGRAM ON OR BEFORE DECEMBER 31, 2017, AND ON OR BEFORE DECEMBER 31 EVERY THREE YEARS THEREAFTER. THE DEPARTMENT SHALL SUBMIT THE REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND PROVIDE A COPY OF EACH REPORT TO THE SECRETARY OF STATE. THE DEPARTMENT SHALL POST EACH REPORT ON AN ACCESSIBLE, PUBLIC WEBPAGE ON THE DEPARTMENT'S WEBSITE. THE REPORT SHALL CONTAIN THE DEPARTMENT'S FINDINGS AND SHALL INCLUDE THE FOLLOWING INFORMATION:

1. UNDERGROUND STORAGE TANK REVOLVING FUND FINANCIAL INFORMATION, INCLUDING REVENUES, EXPENDITURES AND CURRENT ACCOUNT BALANCES.

2. THE AMOUNT OF ANY REMAINING UNPAID TIME-BARRED CLAIMS.

3. A DESCRIPTION OF THE WORK COMPLETED FOR EACH PROGRAM GRANT COMPONENT.

4. THE AMOUNT OF REIMBURSEMENTS MADE ANNUALLY FROM THE FUND.

5. A LISTING OF NEW RELEASES REPORTED AND SITES CLOSED, A LISTING OF LIABILITIES OWED TO SMALL OWNERS AND OTHER OWNERS AND PROJECTED LIABILITIES FOR THE FUND THROUGH THE TERMINATION OF THE PROGRAM.

6. A DESCRIPTION OF ANY STATE-LED CORRECTIVE ACTIONS, INCLUDING THE NUMBER OF NEW SITES, THE NUMBER OF NEW RELEASES REPORTED, THE NUMBER OF SITES CLOSED, THE AVERAGE COST OF CORRECTIVE ACTION AND PROJECTED LIABILITIES FOR STATE-LED CORRECTIVE ACTIONS THROUGH THE TERMINATION OF THE PROGRAM.

7. THE TOTAL NUMBER OF OPEN RELEASES THAT ARE CLEANED TO CLOSURE, THE REMAINING NUMBER OF OPEN RELEASES, THE NUMBER OF APPLICATION OR REIMBURSEMENT DENIALS BY THE DEPARTMENT AND THE NUMBER OF PREAPPROVAL APPEALS.

**Sec. 15.** Section 49-1031, Arizona Revised Statutes, is amended to read:

**49-1031. Imposition of tax**

A. From and after July 1, 1990, there is imposed and the director shall collect an excise tax on the operation of underground storage tanks regulated under this chapter measured by the quantity of regulated substances placed in a tank in any calendar year. The tax is levied at the rate of one cent per gallon of regulated substance. ~~On or before December 15 each year the director shall recommend to the legislature any revision to the tax rate necessary to maintain the assurance account of the underground storage tank revolving fund at the level prescribed by section 49-1051.~~

B. For proper administration of this article, and to prevent the evasion of the tax imposed by this article, it shall be presumed until the contrary is established by competent proof under rules and procedures adopted by the director that all regulated substances ~~which~~ THAT are motor vehicle fuel as defined in section 28-101, aviation fuel as defined in section 28-101 and diesel as defined in section 28-6001, subsection B and ~~which~~ THAT are refined, manufactured, produced, compounded or blended in this state, or imported into this state, will be placed in an underground storage tank from which the fuel is dispensed to users who consume the fuel and do not further distribute it. Under this presumption, the owner and operator of an underground storage tank from which motor vehicle fuel, aviation fuel or diesel is dispensed and from which no further bulk distribution will be made, shall be considered to have paid the tax collected under title 28, chapter 16, article 6.

C. The tax imposed by this article does not apply to underground storage tanks operated by the United States or this state or agencies of the United States or this state or to any of the following substances placed in underground storage tanks:

1. Naphtha-type jet fuel or kerosene-type jet fuel.

2. Regulated substances as defined in section 49-1001, paragraph 16, subdivision (b), unless such regulated substances were placed in an underground storage tank prior to July 1, 1997, and the owner or operator of the underground storage tank has paid prior to July 1, 1997 all taxes imposed by this article applicable to such regulated substances. If the owner or operator has paid those taxes, the owner or operator may elect to continue to pay the tax imposed by this article regarding such regulated substances.

D. The owner and operator of an underground storage tank regulated under this chapter are jointly and severally liable for the tax, but the owner and operator may agree between themselves and file a notarized affidavit with the director designating either the owner or operator as primarily responsible for the tax under this article.

E. Any person who purchases motor vehicle fuel as defined in section 28-101, aviation fuel as defined in section 28-101, or diesel as defined in section 28-6001, subsection B for which the tax imposed by this section has been paid and which fuel has been placed in a tank which is not subject to the underground storage tank tax imposed by this section and from which no further bulk distribution of the fuel will be made, may claim a refund of the tax levied. Refunds shall be submitted

on forms prescribed by the director and shall be supported by substantiation for the amount of the tax paid.

F. Any person eligible to claim a refund of the tax imposed by this section, including an assignee of a refund claim, may assign such claim to the person from whom the fuel was purchased, and the assignee of the claim may claim the refund allowed under subsection E of this section provided that the assignor of the claim certifies in writing to the assignee, on forms prescribed by the director, that the assignor relinquishes all interest in the refund and shall not also claim a refund from the director.

G. If a refund claim is assigned to a person who is required to make payments under title 28, chapter 16, article 6, the refund shall be taken into account in the manner provided in section 28-6005.

H. The director shall adopt temporary and permanent rules for administering the tax imposed by this article and specifying the forms of the return and of the certification provided for in sections 28-6003 and 28-6004. The temporary and permanent rules shall prescribe the forms for and manner in which refunds may be claimed and refund claims assigned pursuant to subsection F of this section, shall specify the circumstances in which fuel may be excluded from the quantity of fuel used to measure the tax pursuant to title 28, chapter 16, article 6, and shall prescribe the forms for and manner which the certification provided in title 28, chapter 16, article 6 shall be made.

I. Title 41, chapter 6 shall not apply to the temporary rules adopted pursuant to this section. The temporary rules shall be filed with the secretary of state and shall be effective for a period of one hundred eighty days ~~from~~ AFTER the date of filing with the secretary of state. The temporary rules may be renewed twice in the same manner as they were adopted, may be amended at the time or times they are renewed, and shall be effective for a period of one hundred eighty days ~~from~~ AFTER the date the renewed temporary rules are filed with the secretary of state.

J. The permanent rules adopted pursuant to this section shall be adopted as provided in title 41, chapter 6.

**Sec. 16.** Section 49-1036, Arizona Revised Statutes, is amended to read:

**49-1036. Remission and disposition of revenues**

The director shall promptly deposit, pursuant to sections 35-146 and 35-147, all monies collected under this article and shall credit these payments to the underground storage tank revolving fund. ~~as follows:~~

~~1. Nine-tenths of the net revenues shall be credited to the assurance account.~~

~~2. One-tenth of the net revenues shall be credited to the grant account until the balance in the grant account exceeds five million six hundred thousand dollars, from and after which date all of the net revenues shall be credited to the assurance account.~~

**Sec. 17. Repeal**

Title 49, chapter 6, articles 3 and 4, Arizona Revised Statutes, are repealed.

**Sec. 18.** Title 49, chapter 6, Arizona Revised Statutes, is amended by adding new articles 3 and 4, to read:

ARTICLE 3. UNDERGROUND STORAGE TANK
REVOLVING FUND PAYMENT PROCESS

**49-1051. Preapproval process; requirements; corrective action priority**

A. AN OWNER, AN OPERATOR OR THE DESIGNATED REPRESENTATIVE OF EITHER OR A PERSON THAT MEETS THE REQUIREMENTS OF SECTION 49-1016, SUBSECTION C MUST FOLLOW THE PREAPPROVAL PROCESS PURSUANT TO THIS SECTION TO BE ELIGIBLE FOR REIMBURSEMENT FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND FOR CORRECTIVE ACTIONS TAKEN PURSUANT TO SECTION 49-1053, SUBSECTION A. PREAPPROVAL APPLICATIONS MUST INCLUDE A DETAILED SCOPE OF WORK THAT CONFORMS TO THE REQUIREMENTS OF SECTIONS 49-1005 AND 49-1053, A SCHEDULE FOR CONDUCTING CORRECTIVE ACTIONS AND A COST SHEET. BEGINNING JANUARY 1, 2016, CORRECTIVE ACTIONS AND COSTS FOR ACTIVITIES THAT WERE COMPLETED BEFORE DEPARTMENTAL APPROVAL OF THE SCOPE OF WORK ARE NOT ELIGIBLE FOR REIMBURSEMENT UNDER SECTION 49-1054. IF THE PREAPPROVED SCOPE OF WORK CANNOT BE IMPLEMENTED AS APPROVED, THE PERSON SEEKING REIMBURSEMENT SHALL SUBMIT A CHANGE NOTICE TO THE DEPARTMENT. TO BE ELIGIBLE FOR REIMBURSEMENT, A CHANGE NOTICE MUST BE APPROVED BY THE DEPARTMENT BEFORE IMPLEMENTATION OF THE CHANGE NOTICE.

B. THIS SECTION DOES NOT RELIEVE AN OWNER, AN OPERATOR OR THE DESIGNATED REPRESENTATIVE OF EITHER FROM ANY OF THE REQUIREMENTS OF THIS CHAPTER.

C. WHILE THE APPLICATION FOR PREAPPROVAL IS PENDING, THE DEPARTMENT MAY NOT TAKE ENFORCEMENT ACTION OR IMPOSE PENALTIES AGAINST THE OWNER, OPERATOR OR DESIGNATED REPRESENTATIVE WHO SUBMITTED THE APPLICATION FOR PREAPPROVAL. THE DEPARTMENT MAY NOT CONSIDER THE PASSAGE OF TIME WHILE THE PREAPPROVAL APPLICATION IS PENDING TO BE A BASIS FOR TAKING AN ENFORCEMENT ACTION. FOR ANY CORRECTIVE ACTION SUBMITTED FOR PREAPPROVAL PURSUANT TO RULE, THE PERIOD OF TIME FOR COMPLIANCE WITH CORRECTIVE ACTIONS ASSOCIATED WITH THAT PREAPPROVAL BEGINS TO RUN FROM THE DATE OF PREAPPROVAL OF THE CORRECTIVE ACTION.

D. ON DETERMINATION BY THE DEPARTMENT OR ITS DESIGNATED CONTRACTOR THAT THE APPLICATION FOR PREAPPROVAL IS COMPLETE, THE DEPARTMENT OR ITS DESIGNATED CONTRACTOR SHALL DETERMINE WHETHER THE OWNER OR OPERATOR WAS A SMALL OWNER AT THE TIME OF THE APPLICATION. FOR THE PURPOSES OF THIS SUBSECTION, "SMALL OWNER" MEANS AN

OWNER THAT OWNS FEWER THAN TWENTY UNDERGROUND STORAGE TANK FACILITIES IN THIS STATE.

E. IN PROCESSING THE APPLICATION FOR PREAPPROVAL, THE DEPARTMENT SHALL DETERMINE THE CORRECTIVE ACTION PRIORITY OF THE RELEASE WITHIN NINETY DAYS AFTER THE RECEIPT OF THE MATERIALS REQUIRED BY THIS SECTION. THE CORRECTIVE ACTION PRIORITY SHALL BE BASED ON ALL OF THE FOLLOWING:

1. THE NEED FOR FINANCIAL ASSISTANCE, INCLUDING THE AVAILABILITY OF COVERAGE UNDER INSURANCE OR OTHER FINANCIAL ASSURANCE MECHANISMS.

2. THE EXTENT TO WHICH A DELAY IN REIMBURSEMENT WILL AFFECT THE ABILITY TO CONDUCT CORRECTIVE ACTIONS.

3. THE RISK TO HUMAN HEALTH AND THE ENVIRONMENT.

4. THE PRESENCE OF PREEXISTING CONTAMINATION OF GROUNDWATER BY A HAZARDOUS SUBSTANCE AS DEFINED IN SECTION 49-281.

F. AN OWNER, OPERATOR OR PERSON WHO MEETS THE REQUIREMENTS OF SECTION 49-1016, SUBSECTION C MAY REQUEST REIMBURSEMENT UNDER SECTION 49-1053. SUBJECT TO THE AVAILABILITY OF MONIES ALLOCATED AND THE ASSIGNED PRIORITY OF THE SITE PURSUANT TO SUBSECTION E OF THIS SECTION, THE DEPARTMENT MAY MAKE REIMBURSEMENTS FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND.

G. AN APPLICATION FOR PREAPPROVAL AND REIMBURSEMENT PURSUANT TO THIS SECTION SHALL BE ON A FORM PROVIDED BY THE DEPARTMENT AND SHALL CONTAIN SUFFICIENT INFORMATION TO ALLOW THE DIRECTOR TO MAKE A DETERMINATION OF PRIORITY FOR THAT REQUEST.

H. ANY DETERMINATION MADE BY THE DEPARTMENT PURSUANT TO THIS SECTION CONSTITUTES A WRITTEN INTERIM DETERMINATION RELATING TO PREAPPROVAL PURSUANT TO SECTION 49-1091.

I. THE DEPARTMENT MAY ALTER THE CORRECTIVE ACTION PRIORITY OF THE RELEASE AT ANY TIME BASED ON THE RESULTS OF SAMPLING AND MONITORING CONDUCTED PURSUANT TO THIS SECTION OR ANY OTHER INFORMATION OBTAINED BY THE DEPARTMENT.

**49-1052. Noncorrective actions; baseline assessment**

A. A BASELINE PERIOD OF SEVEN YEARS FROM JANUARY 1, 2016 IS ESTABLISHED FOR UNDERGROUND STORAGE TANKS. BEGINNING JANUARY 1, 2016, DURING THE BASELINE PERIOD, AN OWNER, OPERATOR OR PERSON WHO MEETS THE REQUIREMENTS OF SECTION 49-1016, SUBSECTION C MAY DO THE FOLLOWING:

1. ELECT TO CONDUCT A BASELINE ASSESSMENT PURSUANT TO THIS SECTION.

2. REQUEST A GRANT TO COVER COSTS ASSOCIATED WITH THE BASELINE ASSESSMENT PURSUANT TO SECTION 49-1071.

3. REQUEST THE DEPARTMENT TO PERFORM THE BASELINE ASSESSMENT UNDER SECTION 49-1017.02.

B. THE DEPARTMENT SHALL ESTABLISH STANDARDS FOR CONDUCTING BASELINE ASSESSMENTS PURSUANT TO THIS SECTION. UNTIL THE DEPARTMENT ESTABLISHES STANDARDS BY RULE OR BY GUIDANCE DOCUMENTS, BASELINE ASSESSMENT WORK PLANS SHALL BE SUBMITTED TO THE DEPARTMENT FOR APPROVAL AND SHALL BE CONSIDERED FOR PREAPPROVAL ON A CASE-BY-CASE BASIS, BASED ON COMPLIANCE WITH SUBSECTION D OF THIS SECTION.

C. BASELINE ASSESSMENTS SHALL BE CONDUCTED UNDER THE DIRECTION OF A PERSON WHO IS A PROFESSIONAL ENGINEER OR A REGISTERED GEOLOGIST WHO IS REGISTERED UNDER TITLE 32, CHAPTER 1 OR A REMEDIATION SPECIALIST WHO IS CERTIFIED UNDER TITLE 32, CHAPTER 1 AND THE RULES ADOPTED UNDER THAT CHAPTER.

D. THE SCOPE OF THE BASELINE ASSESSMENT SHALL ADDRESS LIKELY RELEASE AREAS AND SHALL INCLUDE A COLLECTION OF SUFFICIENT INFORMATION TO ALLOW FOR A DETERMINATION OF THE CURRENT ENVIRONMENTAL CONDITION OF THE PROPERTY. SAMPLES SHALL BE COLLECTED IN AREAS WHERE CONTAMINATION IS MOST LIKELY TO HAVE OCCURRED AND SAMPLE LOCATIONS SHALL CONSIDER SITE-SPECIFIC CONDITIONS, LOCATION OF POTENTIAL RECEPTORS AND PREEXISTING CONTAMINATION. THE BASELINE ASSESSMENT MUST INCLUDE THE REGISTERED OR CERTIFIED PROFESSIONAL'S INTERPRETATION REGARDING CONFIRMATION OF AN UNKNOWN RELEASE AND EVALUATION OF POTENTIAL RISK FOR THE PURPOSE OF PRIORITIZING CORRECTIVE ACTIONS.

E. IF UNKNOWN CONTAMINATION IS IDENTIFIED IN THE BASELINE ASSESSMENT, ALL OF THE FOLLOWING APPLY:

1. THE OWNER, OPERATOR OR PERSON THAT MEETS THE REQUIREMENTS OF SECTION 49-1016, SUBSECTION C SHALL COMPLY WITH THE REPORTING REQUIREMENTS PURSUANT TO SECTION 49-1004 AND SHALL INITIATE CORRECTIVE ACTIONS PURSUANT TO SECTION 49-1005.

2. UNLESS DOCUMENTATION IS PROVIDED TO THE DEPARTMENT THAT DEMONSTRATES THAT THE OPERATING UNDERGROUND STORAGE TANK IS NOT THE SOURCE OF THE RELEASE, THE DEPARTMENT SHALL REQUIRE TIGHTNESS TESTING.

3. IF CONTINUED OPERATION OF THE UNDERGROUND STORAGE TANK MAY RESULT IN A CONTINUED RELEASE, THE DEPARTMENT MAY INITIATE DELIVERY PROHIBITION AS PRESCRIBED IN SECTION 49-1023.

**49-1053. Reimbursement of corrective action costs; definition**

A. THE DEPARTMENT MAY PROVIDE REIMBURSEMENT FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND UNDER THE PREAPPROVAL PROCESS PRESCRIBED IN SECTION 49-1051 IN THE AMOUNTS AUTHORIZED BY SECTION 49-1054 OF THE COSTS INCURRED FOR THE FOLLOWING:

1. SAMPLING, ANALYSIS AND REPORTING THAT ARE INITIATED PURSUANT TO SECTION 49-1004 AND THAT CONFIRM THE PRESENCE OF A RELEASE THAT REQUIRES CORRECTIVE ACTION PURSUANT TO SECTION 49-1005.

2. SAMPLING, ANALYSIS AND REPORTING THAT ARE INITIATED PURSUANT TO SECTION 49-1008 AND THAT CONFIRM THE PRESENCE OF A RELEASE THAT REQUIRES CORRECTIVE ACTION PURSUANT TO SECTION 49-1005.

3. CORRECTIVE ACTIONS INITIATED PURSUANT TO SECTION 49-1005.

B. THE DEPARTMENT MAY PROVIDE THE REIMBURSEMENT REQUIRED BY THIS SECTION EITHER BY PAYING THE OWNER, THE OPERATOR OR A DESIGNATED REPRESENTATIVE OF THE OWNER OR OPERATOR OR ANY COMBINATION OF THESE PERSONS, A POLITICAL SUBDIVISION PURSUANT TO SUBSECTION F OF THIS SECTION OR A PERSON WHO MEETS THE REQUIREMENTS OF SECTION 49-1016, SUBSECTION C. IF THE DEPARTMENT DETERMINES THAT AN APPLICATION FOR REIMBURSEMENT IS INCOMPLETE, THE DEPARTMENT WITHIN FORTY-FIVE DAYS AFTER THE APPLICATION SHALL NOTIFY THE APPLICANT OF THE MISSING INFORMATION AS SPECIFICALLY AS POSSIBLE AND SHALL PERMIT THE APPLICANT TO PROVIDE THE ADDITIONAL INFORMATION WITHIN THIRTY DAYS. ON THE REQUEST OF AN APPLICANT, THE DEPARTMENT SHALL GRANT AN ADDITIONAL SIXTY DAYS TO SUBMIT THE MISSING INFORMATION. THE GRANT OF ADDITIONAL TIME TOLLS THE PERIOD FOR MAKING AN INTERIM DETERMINATION ON MATTERS RELATING TO REIMBURSEMENT PURSUANT TO SECTION 49-1091.

C. THE DEPARTMENT MAY NOT PAY FOR ELIGIBLE COSTS UNLESS THE DEPARTMENT DETERMINES THAT THE ELIGIBLE ACTIVITIES HAVE MET, OR WHEN COMPLETED WILL MEET, THE APPLICABLE REQUIREMENTS OF SECTION 49-1004 OR 49-1005. THE DEPARTMENT MAY REQUIRE BY RULE THAT PERSONS THAT PERFORM PAYABLE ELIGIBLE ACTIVITIES MEET SPECIFIED STANDARDS OF QUALIFICATION AND BE APPROVED BY THE DEPARTMENT.

D. THE DEPARTMENT MAY NOT PROVIDE ANY REIMBURSEMENT DESCRIBED IN THIS ARTICLE TO AN OWNER OR OPERATOR OF UNDERGROUND STORAGE TANKS DESCRIBED IN SECTION 49-1031, SUBSECTION C. THE DEPARTMENT MAY NOT PROVIDE ANY REIMBURSEMENT DESCRIBED IN THIS ARTICLE WITH

RESPECT TO THE SUBSTANCES DESCRIBED IN SECTION 49-1031, SUBSECTION C, UNLESS THE TAX IMPOSED BY ARTICLE 2 OF THIS CHAPTER APPLIES TO SUCH SUBSTANCES.

E. THE DEPARTMENT SHALL ESTABLISH CRITERIA FOR DETERMINING PRIORITIES AMONG THE APPLICATIONS FROM SMALL OWNERS FOR REIMBURSEMENT UNDER THIS ARTICLE. FOR ALL OTHER OWNERS THAT ARE ELIGIBLE FOR REIMBURSEMENT FROM THE FUND THROUGH THE COST SHARING PRESCRIBED IN SECTION 49-1006.02, SUBSECTION B, PRIORITY SHALL BE BASED ON THE DATE OF COMPLETION OF THE WORK. THE CRITERIA FOR SMALL OWNERS SHALL INCLUDE:

1. THE NEED FOR FINANCIAL ASSISTANCE.

2. THE EXTENT TO WHICH A DELAY IN PROVIDING REIMBURSEMENT WILL AFFECT AN ELIGIBLE ACTIVITY IN PROGRESS.

3. THE DATE ON WHICH AN APPLICATION FOR REIMBURSEMENT IS SUBMITTED TO THE DEPARTMENT.

4. WHETHER THE PAYMENT HAS BEEN PREVIOUSLY DEFERRED BECAUSE OF INSUFFICIENT MONIES IN THE UNDERGROUND STORAGE TANK REVOLVING FUND AND, IF DEFERRED, THE LENGTH OF THE DEFERRAL.

F. THE DEPARTMENT MAY PROVIDE THE REIMBURSEMENT DESCRIBED IN THIS ARTICLE FOR ELIGIBLE ACTIVITY COSTS INCURRED BY A POLITICAL SUBDIVISION WITH RESPECT TO A RELEASE FROM AN UNDERGROUND STORAGE TANK IF THE UNDERGROUND STORAGE TANK OR THE PROPERTY WHERE THE UNDERGROUND STORAGE TANK IS LOCATED COMES INTO THE POSSESSION OR CONTROL OF THE POLITICAL SUBDIVISION UNDER TITLE 12, CHAPTER 8, ARTICLE 2 OR 3.

G. SUBJECT TO SECTION 38-503 AND OTHER APPLICABLE STATUTES AND RULES, THE DEPARTMENT MAY CONTRACT WITH A PRIVATE CONSULTANT FOR THE PURPOSE OF ASSISTING THE DEPARTMENT IN REVIEWING PREAPPROVAL AND REIMBURSEMENT APPLICATIONS, SITE CHARACTERIZATION REPORTS, CORRECTIVE ACTION PLANS, MONITORING REPORTS AND OTHER INFORMATION TO DETERMINE WHETHER CORRECTIVE ACTIONS MEET THE CRITERIA AND REQUIREMENTS OF THIS CHAPTER AND THE RULES ADOPTED BY THE DIRECTOR.

H. REQUESTS BY THE DEPARTMENT FOR ADDITIONAL INFORMATION FROM APPLICANTS SHALL BE REASONABLY RELATED TO THE DETERMINATION OF THE VALIDITY OF THE CLAIM AS PRESCRIBED BY THIS ARTICLE.

I. EXCEPT FOR APPEALS COSTS AUTHORIZED PURSUANT TO SECTION 49-1091.01, APPLICATIONS FOR REIMBURSEMENT UNDER A PREAPPROVED SCOPE OF WORK SHALL BE SUBMITTED TO THE DEPARTMENT NOT MORE THAN ONE YEAR AFTER THE APPLICANT

RECEIVES A CLOSURE LETTER SENT BY THE DEPARTMENT BY CERTIFIED MAIL WITH NOTICE THAT THE APPLICANT HAS ONE YEAR TO SUBMIT A CLAIM FOR THAT RELEASE. FAILURE TO SUBMIT A TIMELY REIMBURSEMENT REQUEST UNDER A PREAPPROVED SCOPE OF WORK SHALL RESULT IN DENIAL OF THE CLAIM. THE TIME LIMIT PRESCRIBED BY THIS SUBSECTION DOES NOT APPLY TO CLOSED RELEASES THAT ARE SUBSEQUENTLY REOPENED FOR THE PERFORMANCE OF ADDITIONAL CORRECTIVE ACTIONS OR AT WHICH CORRECTIVE ACTIONS ARE PROCEEDING PURSUANT TO A WORK PLAN FOR PREAPPROVAL SUBMITTED BEFORE THE RELEASE WAS CLOSED.

J. THE DEPARTMENT MAY PROVIDE REIMBURSEMENT UNDER A PREAPPROVED SCOPE OF WORK FOR THE REASONABLE, NECESSARY, COST-EFFECTIVE AND TECHNICALLY FEASIBLE COSTS OF CORRECTIVE ACTIONS RELATING TO SOIL REMEDIATION THAT ARE CONSISTENT WITH REMEDIATION STANDARDS ADOPTED PURSUANT TO CHAPTER 1, ARTICLE 4 OF THIS TITLE OR SITE-SPECIFIC, RISK-BASED LEVELS AS DETERMINED UNDER RULES ADOPTED PURSUANT TO THIS CHAPTER. THE DEPARTMENT MAY PROVIDE REIMBURSEMENT UNDER A PREAPPROVED SCOPE OF WORK FOR THE REASONABLE, NECESSARY, COST-EFFECTIVE AND TECHNICALLY FEASIBLE COSTS OF CORRECTIVE ACTIONS RELATING TO GROUNDWATER REMEDIATION TO PREDETERMINED STANDARDS OR SITE-SPECIFIC, RISK-BASED LEVELS AS DETERMINED UNDER RULES ADOPTED PURSUANT TO THIS CHAPTER. THE DEPARTMENT MAY PROVIDE REIMBURSEMENT FOR CORRECTIVE ACTIONS RELATED TO THE CONTROL AND REMOVAL OF A SOURCE OF CONTAMINATION. A SOURCE OF CONTAMINATION INCLUDES ANY ONE OR MORE OF THE FOLLOWING:

1. FREE PRODUCT.

2. A REGULATED SUBSTANCE PRESENT IN SOIL THAT CAUSES OR THREATENS TO CAUSE AN EXCEEDANCE OF THE AQUIFER WATER QUALITY STANDARDS.

3. A REGULATED SUBSTANCE PRESENT IN GROUNDWATER AT LEVELS THAT WOULD PREVENT TIMELY REDUCTION OF CONTAMINANT CONCENTRATIONS IN COMPARISON WITH THE PERFORMANCE OF ACTIVE REMEDIATION.

4. ANY OTHER PRESENCE OF A REGULATED SUBSTANCE CAUSING AN ONGOING SOURCE OF CONTAMINATION, AS DETERMINED BY THE DEPARTMENT.

K. ON PREAPPROVAL BY THE DEPARTMENT OR ITS DESIGNATED CONTRACTOR OF CORRECTIVE ACTION COSTS FOR SMALL OWNERS, THE DEPARTMENT OR ITS DESIGNATED CONTRACTOR SHALL ENCUMBER MONIES IN THE CORRECTIVE ACTION ALLOCATION FOR THAT YEAR. IF MONIES ARE AVAILABLE IN THE CORRECTIVE ACTION ALLOCATION FOR THAT YEAR, REIMBURSEMENT SHALL BE MADE WHEN THE CORRECTIVE ACTION FOR WHICH THE MONIES WERE

ENCUMBERED IS COMPLETED AS DETERMINED BY THE DEPARTMENT OR ITS DESIGNATED CONTRACTOR.

L. THE DEPARTMENT OR ITS DESIGNATED CONTRACTOR SHALL PREAPPROVE REIMBURSEMENT OF CORRECTIVE ACTION COSTS FOR AN OWNER THAT IS NOT A SMALL OWNER WITHOUT ENCUMBERING MONIES. IF MONIES ARE AVAILABLE IN THE CORRECTIVE ACTION ALLOCATION FOR THAT YEAR AT THE END OF THE CORRECTIVE ACTION ALLOCATION YEAR, REIMBURSEMENT SHALL BE BASED ON THE DATE THE CORRECTIVE ACTION IS COMPLETED AS DETERMINED BY THE DEPARTMENT OR ITS DESIGNATED CONTRACTOR.

M. IF THERE ARE INSUFFICIENT MONIES TO PAY FOR APPROVED CORRECTIVE ACTION IN ANY ANNUAL CORRECTIVE ACTION ALLOCATION, THE DEPARTMENT SHALL REIMBURSE THE CORRECTIVE ACTION FROM THE NEXT ANNUAL CORRECTIVE ACTION ALLOCATION, WITH THE PRIORITY THAT REIMBURSEMENTS FIRST GO TO SMALL OWNERS.

N. THE DEPARTMENT MAY NOT ACCEPT AN APPLICATION TO THE UNDERGROUND STORAGE TANK REVOLVING FUND FOR REIMBURSEMENT FROM AN APPLICANT FOR COSTS ASSOCIATED WITH A SINGLE FACILITY MORE FREQUENTLY THAN ONCE EACH CALENDAR MONTH, AND THE DEPARTMENT MAY NOT ACCEPT AN APPLICATION FOR COSTS ASSOCIATED WITH A SINGLE FACILITY FOR AN AMOUNT OF LESS THAN FIVE THOUSAND DOLLARS UNLESS THE REIMBURSEMENT IS THE FINAL APPLICATION ASSOCIATED WITH THE FACILITY.

O. AN APPLICATION FOR REIMBURSEMENT PURSUANT TO THIS SECTION SHALL BE ON A FORM PROVIDED BY THE DEPARTMENT AND SHALL CONTAIN SUFFICIENT INFORMATION TO ALLOW THE DIRECTOR TO MAKE A DETERMINATION OF PRIORITY FOR THAT REQUEST.

P. FOR THE PURPOSES OF THIS SECTION, "SMALL OWNER" MEANS AN OWNER THAT OWNS FEWER THAN TWENTY UNDERGROUND STORAGE TANK FACILITIES IN THIS STATE.

**49-1054. Extent of reimbursement**

A. THE DEPARTMENT MAY PROVIDE REIMBURSEMENT FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND FOR THE REASONABLE AND NECESSARY COSTS OF ELIGIBLE ACTIVITIES PURSUANT TO SECTION 49-1053, SUBSECTION A FOR RELEASES THAT ARE REPORTED BEFORE THE END OF THE BASELINE PERIOD ESTABLISHED PURSUANT TO SECTION 49-1052. RECEIPT OF FINANCIAL ASSISTANCE FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND DOES NOT CONSTITUTE A FINANCIAL ASSURANCE MECHANISM AND MAY NOT BE USED TO DEMONSTRATE COMPLIANCE WITH FINANCIAL RESPONSIBILITY REQUIREMENTS OR TO PROVIDE COMPENSATION TO THIRD PARTIES FOR BODILY INJURY OR PROPERTY DAMAGE. REIMBURSEMENT FROM THE UNDERGROUND STORAGE

TANK REVOLVING FUND TO OWNERS, OPERATORS AND PERSONS THAT MEET THE REQUIREMENTS OF SECTION 49-1016, SUBSECTION C MAY NOT EXCEED ONE MILLION DOLLARS PER FACILITY.

B. THE DEPARTMENT MAY COMPEL THE PRODUCTION OF DOCUMENTS TO DETERMINE THE EXISTENCE, AMOUNT AND TYPE OF INSURANCE OR ALTERNATIVE COVERAGE AVAILABLE. AN OWNER, OPERATOR OR PERSON THAT MEETS THE REQUIREMENTS OF SECTION 49-1016, SUBSECTION C SHALL REPORT TO THE DEPARTMENT ANY PAYMENT OF CORRECTIVE ACTIONS COSTS THROUGH INSURANCE AND ALTERNATIVE MECHANISMS.

C. THE DEPARTMENT MAY NOT DISBURSE MORE THAN THE MAXIMUM AMOUNTS PRESCRIBED BY SUBSECTION A OF THIS SECTION FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND FOR CORRECTIVE ACTION COSTS ASSOCIATED WITH A FACILITY.

D. THE DEPARTMENT SHALL PAY ELIGIBLE COSTS THAT ARE REASONABLE AND WERE ACTUALLY INCURRED FOR CORRECTIVE ACTIONS THAT WERE ACTUALLY PERFORMED. THE COSTS FOR THE CORRECTIVE ACTIONS SHALL BE SUBMITTED AS PRESCRIBED IN SECTIONS 49-1051 AND 49-1053. THE DEPARTMENT SHALL PAY ONLY FOR CORRECTIVE ACTIONS THAT HAVE BEEN COMPLETED AND THAT HAVE BEEN CONDUCTED PURSUANT TO THE PREAPPROVAL APPROVED BY THE DEPARTMENT. REASONABLENESS OF CORRECTIVE ACTIONS SHALL BE DETERMINED BASED ON THE LAW AND THE FACTS AVAILABLE TO THE OWNER, OPERATOR OR PERSON THAT MEETS THE REQUIREMENTS OF SECTION 49-1016, SUBSECTION C AT THE TIME THE TECHNICAL DECISION WAS MADE. THE DEPARTMENT SHALL ESTABLISH SCHEDULES OF CORRECTIVE ACTION COSTS THAT THE DEPARTMENT CONSIDERS REASONABLE.

E. THE OWNER OR OPERATOR IS ELIGIBLE FOR PAYMENT FROM THE DEPARTMENT TO THE EXTENT THAT THE CORRECTIVE ACTION COSTS HAVE NOT BEEN REIMBURSED TO THE OWNER OR OPERATOR, OR ITS CONSULTANT, REPRESENTATIVE OR AGENT, BY INSURANCE OR BY AN ALTERNATIVE FINANCIAL ASSURANCE MECHANISM. A PROVIDER OF INSURANCE OR AN ALTERNATIVE FINANCIAL ASSURANCE MECHANISM WHO IS NOT AN OWNER OR OPERATOR WITH RESPECT TO THE OCCURRENCE IS NOT ELIGIBLE FOR PAYMENT FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND.

F. AN OWNER OR OPERATOR SHALL REPORT TO THE DEPARTMENT WHETHER IT HAS INSURANCE COVERAGE AVAILABLE AND SHALL COMPLY WITH ALL APPLICABLE FINANCIAL RESPONSIBILITY REQUIREMENTS. IF THE DIRECTOR HAS REASON TO BELIEVE THAT AN OWNER OR OPERATOR, OR ITS CONSULTANT, REPRESENTATIVE OR AGENT, HAS RECEIVED OR MAY RECEIVE ANY PAYMENT FOR CORRECTIVE ACTIONS FROM INSURANCE OR ALTERNATIVE FINANCIAL ASSURANCE MECHANISM, THE

DEPARTMENT MAY COMPEL THE PRODUCTION OF DOCUMENTS TO DETERMINE THE EXISTENCE, AMOUNT AND TYPE OF INSURANCE OR ALTERNATIVE FINANCIAL ASSURANCE COVERAGE AVAILABLE AND TO WHOM PAYMENT WAS MADE OR MAY BE MADE. AN OWNER OR OPERATOR SHALL REPORT TO THE DEPARTMENT ANY SUBSEQUENT PAYMENT OR REIMBURSEMENT FROM INSURANCE OR AN ALTERNATIVE FINANCIAL ASSURANCE MECHANISM TO THE OWNER OR OPERATOR OR ITS CONSULTANT, REPRESENTATIVE OR AGENT FOR CORRECTIVE ACTIONS COSTS.

G. THE OWNER OR OPERATOR SHALL REMIT TO THE DEPARTMENT WITHIN THIRTY DAYS ANY AMOUNTS THAT WERE PREVIOUSLY PAID TO THE OWNER OR OPERATOR OR ITS CONSULTANT, REPRESENTATIVE OR AGENT FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND AND THAT HAVE ALSO BEEN RECOVERED FROM INSURANCE OR ANY ALTERNATIVE FINANCIAL ASSURANCE MECHANISMS.

H. APPEALS FEES AND COSTS PAYABLE PURSUANT TO SECTION 49-1091.01 SHALL BE PAID IN THE NEXT REGULAR ROUND OF PAYMENT WITHOUT BEING SUBJECT TO RANKING AND IN THE ORDER RECEIVED BY THE DEPARTMENT.

**49-1055. Extent of reimbursement; termination of eligibility**

A. FROM AND AFTER DECEMBER 31, 2022, ONLY THOSE RELEASES OF A REGULATED SUBSTANCE THAT ARE REPORTED BEFORE JANUARY 1, 2023 AS PRESCRIBED IN SECTION 49-1004 ARE ELIGIBLE FOR CORRECTIVE ACTION COST REIMBURSEMENTS FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND.

B. AN APPLICATION FOR REIMBURSEMENT OF ELIGIBLE COSTS FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND SHALL BE FILED WITH THE DEPARTMENT NOT LATER THAN 5:00 P.M. ON DECEMBER 31, 2030.

C. AN APPLICATION FOR PREAPPROVAL MADE PURSUANT TO SECTION 49-1051 SHALL BE FILED WITH THE DEPARTMENT NOT LATER THAN 5:00 P.M. ON DECEMBER 31, 2029.

D. ANY APPLICATION MADE OR EXPENSE INCURRED AFTER DECEMBER 31, 2030 IS NOT ELIGIBLE FOR REIMBURSEMENT FROM THE UNDERGROUND STORAGE TANK REVOLVING FUND AND ALL SUCH CLAIMS ARE EXTINGUISHED.

**49-1056. Lien rights; unrecovered corrective action costs**

IF THE DEPARTMENT OR THIS STATE INCURS UNRECOVERED CORRECTIVE ACTION COSTS FROM A CORRECTIVE ACTION UNDERTAKEN ON BEHALF OF A VOLUNTEER, A PROPERTY OWNER, A PERSON OTHER THAN THE UNDERGROUND STORAGE TANK OWNER OR AN OWNER OR OPERATOR THAT DID NOT HAVE THE REQUIRED FINANCIAL RESPONSIBILITY MECHANISM AT THE TIME THE RELEASE IS DISCOVERED OR THE CLAIM IS FILED, THE DEPARTMENT HAS A LIEN

ON THE PROPERTY FOR THE UNRECOVERED CORRECTIVE ACTION COSTS, OR, BY AGREEMENT WITH THE RESPONSIBLE PARTY, MAY OBTAIN A LIEN ON ANY OTHER PROPERTY OR OTHER FINANCIAL RESPONSIBILITY MECHANISM OF THE RESPONSIBLE PARTY.

**49-1057. Intergovernmental agreements**

THE DEPARTMENT MAY ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH INDIAN TRIBES PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3 TO EXTEND TO THE TRIBES THE PARTIAL COVERAGE PROVIDED BY THIS ARTICLE AND THE RESPONSIBILITIES IMPOSED BY ARTICLES 1 AND 2 OF THIS CHAPTER.

ARTICLE 4. GRANTS

**49-1071. Grants; purposes; priority**

A. SUBJECT TO THE AVAILABILITY OF MONIES IN THE UNDERGROUND STORAGE TANK REVOLVING FUND THAT ARE ANNUALLY ALLOCATED BY THE DIRECTOR FOR EACH OF THE FOLLOWING TYPES OF ACTIONS, AN OWNER, OPERATOR OR PERSON THAT MEETS THE REQUIREMENTS OF SECTION 49-1016, SUBSECTION C MAY REQUEST THAT THE DEPARTMENT PROVIDE MONIES FOR THAT PERSON TO CONDUCT ONE OR MORE OF THE FOLLOWING ACTIONS, UP TO A MAXIMUM OF ONE HUNDRED THOUSAND DOLLARS PER SITE:

1. ACTIONS NECESSARY TO ENSURE THAT THE UNDERGROUND STORAGE TANK, ITS PIPING AND ITS UNDER-DISPENSER CONTAINMENT COMPLY WITH STANDARDS FOR NEW INSTALLATIONS PRESCRIBED BY SECTION 49-1009 OR OTHER APPLICABLE FEDERAL REQUIREMENTS, INCLUDING REPLACEMENT OF SYSTEM COMPONENTS, UP TO A MAXIMUM OF ONE HUNDRED THOUSAND DOLLARS.

2. REMOVAL OF UNDERGROUND STORAGE TANKS FOR PURPOSES OF PERMANENT CLOSURE OR REPLACEMENT, UP TO A MAXIMUM OF TWENTY THOUSAND DOLLARS PER TANK.

3. CONFIRMATION OF A SUSPECTED RELEASE AT A TANK OR SITE, UP TO A MAXIMUM OF TEN THOUSAND DOLLARS.

4. OBTAINING A BASELINE ASSESSMENT OF A SITE AS PRESCRIBED IN SECTION 49-1052, UP TO A MAXIMUM OF THIRTY THOUSAND DOLLARS.

B. IN DETERMINING THE PRIORITY FOR REQUESTS UNDER SUBSECTION A OF THIS SECTION, THE DIRECTOR MAY CONSIDER THE FOLLOWING FACTORS:

1. THE AGE, CONSTRUCTION AND OPERATIONAL HISTORY OF THE UNDERGROUND STORAGE TANK.

2. THE HYDROGEOLOGIC CHARACTERISTICS OF THE SITE WHERE THE UNDERGROUND STORAGE TANK IS LOCATED AND THE SURROUNDING AREA.

3. THE PROXIMITY, QUALITY AND CURRENT AND FUTURE USES OF NEARBY SURFACE WATER AND GROUNDWATER.

4. THE POTENTIAL EFFECTS OF RESIDUAL CONTAMINATION ON NEARBY SURFACE WATER AND GROUNDWATER.

5. THE DEGREE OF EXPOSURE.

6. THE FINANCIAL RESOURCES OF THE GRANT APPLICANT.

C. A REQUEST FOR A GRANT OF MONIES UNDER THIS SECTION SHALL INCLUDE:

1. DETAILED INFORMATION ABOUT THE SITE, INCLUDING THE TYPE, NUMBER AND LOCATION OF TANKS.

2. INFORMATION ABOUT THE OWNER AND OPERATOR, INCLUDING THE TYPE OF FINANCIAL RESPONSIBILITY.

3. A DESCRIPTION OF THE EVIDENCE OF ANY RELEASE OR SUSPECTED RELEASE.

4. THE PROPOSED ACTIONS NECESSARY TO MEET TANK AND SYSTEM PERFORMANCE STANDARDS.

D. MONIES MAY NOT BE PROVIDED UNDER THIS SECTION FOR WORK THAT TAKES PLACE MORE THAN ONE YEAR AFTER THE DATE THAT MONIES ARE APPROVED.

**Sec. 19.** Section 49-1091, Arizona Revised Statutes, is amended to read:

**49-1091. Underground storage tank informal appeals**

A. A person ~~who~~ THAT undertakes corrective action pursuant to section ~~49-1052, subsection I~~ 49-1016, SUBSECTION C or an owner or operator may informally appeal the following decisions or determinations pursuant to this section:

1. A written interim decision from the underground storage tank program of the department.

2. A written interim determination from the department on matters relating to owner or operator status.

3. A written interim determination from the department on matters relating to preapproval~~, direct payment~~ or reimbursement from the underground storage tank ~~assurance account~~ REVOLVING FUND.

4. A written interim determination or decision relating to the allocation of liability pursuant to this chapter.

B. The department's failure to respond with a written interim decision to the owner's or operator's submission to the department of any documents identified in subsection G of this section within one hundred twenty days ~~of~~ AFTER receipt is a basis for an informal appeal.

C. A person ~~who~~ THAT undertakes corrective action pursuant to section ~~49-1052, subsection I~~ 49-1016, SUBSECTION C or an owner or operator who is subject to an interim decision or determination described in subsections A and B of this section, and who disagrees with the interim decision or determination, may file a written notice of disagreement with the department within thirty days ~~of~~ AFTER receiving the department's interim decision or determination. The notice shall include a description of the specific portions of the interim decision or determination with which the person, owner or operator disagrees and may include a request to

meet with the department to resolve the disagreement. The department shall schedule a meeting within thirty days after receiving the request.

D. A person ~~who~~ THAT requests a meeting pursuant to subsection C of this section or an authorized representative of the person designated in writing may attend the meeting with any individuals who may be helpful in discussing the matter with the department.

E. The department shall issue a final written decision or determination within forty-five days ~~of~~ AFTER receiving the notice of disagreement or within fifteen days ~~of~~ AFTER a meeting pursuant to subsection C of this section, whichever is later. If no notice of disagreement is filed, the department shall issue a final written decision or determination within forty-five days after the issuance of the interim decision or determination. Before the expiration of time for the department to issue a final written decision or determination, the department may request additional information from the person who has submitted a notice of disagreement that is necessary to make a final decision or determination. A person ~~who~~ THAT receives this request shall have fifteen days to submit the requested information to the department. The time frames for the department to issue a final decision or determination shall be extended for up to fifteen days during the time the requested information is outstanding, and for up to fifteen additional days, if applicable, after any information is submitted to the department. The time to submit the requested information may be extended for up to sixty days on the request of a person ~~who~~ THAT submits a notice of disagreement. The time frames for the department to issue a final decision or determination shall be extended accordingly. The time frames for the department to issue a final decision or determination shall also be extended if information relating to the subject of the notice of disagreement is not requested by the department but is provided to the department for the first time less than fifteen days ~~from~~ AFTER the date the department is required to issue a final decision or determination. In this situation, the time frames shall be extended to allow the department fifteen days ~~from~~ AFTER the date the information is submitted to issue a final decision or determination. If the department fails to issue a final written decision or determination within the time specified in this subsection, the department's written interim decision or determination becomes the final written decision or determination. The final written decision or determination shall address the notice of disagreement received pursuant to subsection C of this section. The final written decision or determination is the only decision or determination that is appealable as an appealable agency action as defined in section 41-1092 or a contested case as defined in section 41-1001.

F. The period of time for compliance with corrective actions associated with the subject matter of a notice of disagreement is tolled from the date that a person who undertakes corrective action pursuant to section ~~49-1052, subsection I~~ 49-1016, SUBSECTION C or an owner or operator files a written notice of disagreement with the department until the date the final decision or determination is rendered by the department and any appeals are completed.

G. A written interim decision shall address one of the following technical issues:

1. The department's approval, disapproval or notice of deficiency of site characterization reports.

2. The department's approval, disapproval or notice of deficiency of corrective action plans for soil or groundwater, or both.

3. The department's approval, disapproval or notice of deficiency of a work plan.

4. The department's determination or confirmation of a release.

5. The department's approval, disapproval or notice of deficiency of requests for closing a case file corresponding to a release from a leaking underground storage tank.

H. The department shall not alter the time limits prescribed by this chapter by adoption of a time limit by rule.

I. The department's failure to respond with a written interim determination to the owner's or operator's submission, or to the submission from a person ~~who~~ THAT undertakes corrective action pursuant to section ~~49-1052, subsection I~~ 49-1016, SUBSECTION C, of an application for preapproval~~, direct payment~~ or reimbursement from the underground storage tank ~~assurance account~~ REVOLVING FUND within ninety days ~~of~~ AFTER receipt is a basis for an informal appeal.

**Sec. 20.** Section 49-1091.01, Arizona Revised Statutes, is amended to read:

**49-1091.01. Fee and cost reimbursement; application; limitations**

A. ~~The provisions of~~ This section ~~apply~~ APPLIES to an owner, AN operator or a person ~~who~~ THAT undertakes corrective action pursuant to section ~~49-1052, subsection I~~ 49-1016, SUBSECTION C for any of the following:

1. A written interim determination or interim decision from the department on matters relating to:

(a) Owner or operator status.

(b) Preapproval~~, direct payment~~ or reimbursement from the ~~assurance account, as defined in~~ UNDERGROUND STORAGE TANK REVOLVING FUND ESTABLISHED BY section ~~49-1051~~ 49-1015.

2. The department's approval, disapproval or notice of deficiency of:

(a) Site characterization reports.

(b) Corrective action plans for soil~~,~~ OR groundwater, or both.

B. An owner, operator or person ~~who~~ THAT undertakes corrective action pursuant to section ~~49-1052, subsection I~~ 49-1016, SUBSECTION C shall receive reimbursement for reasonable attorney fees, consultant fees and costs that are actually incurred and not excessive in all proceedings that follow the interim decision or interim determination pursuant to section 49-1091, if that party satisfies both of the following requirements:

1. Submitted a written notice of the disagreement to the department within thirty days pursuant to section 49-1091.

2. Requested and participated in a meeting with the department regarding decisions or determinations pursuant to section 49-1091, subsection A, paragraph 2 or ~~section 49-1091,~~ subsection G, paragraph 1 or 2.

C. The attorney fees, consultant fees and costs shall be paid only for those amounts that are reasonable, actually incurred and not excessive in the portion of the proceedings that are the subject of the notice of disagreement in which the owner, operator or person ~~who~~ THAT undertakes corrective action pursuant to section ~~49-1052, subsection I,~~ 49-1016, SUBSECTION C prevailed, including proceedings resulting in a favorable decision or determination from the department or in a judicial proceeding.

D. The reimbursement provided by subsection B of this section is subject to the following limitations:

1. Fees and costs shall not be paid if the department makes a favorable determination or decision on the issue appealed before or in the final decision or determination.

2. Fees and costs shall not be paid if all of the following conditions are met:

(a) Information requested pursuant to section ~~49-1052~~ 49-1053, subsection B or section 49-1091, subsection E is not provided to the department before the time the department issues a final decision or determination that is adverse to the owner, operator or person ~~who~~ THAT undertakes corrective action pursuant to section ~~49-1052, subsection I~~ 49-1016, SUBSECTION C.

(b) The final decision or determination is subsequently reversed or otherwise decided in favor of the person based on information previously requested by the department.

3. In an appeal of a determination regarding an application for preapproval~~, direct payment~~ or reimbursement from the ~~assurance account~~ UNDERGROUND STORAGE TANK REVOLVING FUND, attorney fees, consultant fees and costs paid pursuant to this subsection may not exceed the amount that is in dispute.

4. If information requested by the department pursuant to section ~~49-1052~~ 49-1053, subsection B or section 49-1091, subsection E is provided to the department before the department issues a final decision or determination that is adverse to the owner, operator or person ~~who~~ THAT undertakes corrective action pursuant to section ~~49-1052, subsection I~~ 49-1016, SUBSECTION C, and the final decision or determination is subsequently reversed or otherwise decided in favor of the owner, operator or person ~~who~~ THAT undertakes corrective action pursuant to section ~~49-1052, subsection I~~ 49-1016, SUBSECTION C based on that information, attorney fees, consultant fees and costs shall only be paid for those amounts actually incurred after the information was provided.

**Sec. 21. Repeal**

Sections 49-1092 and 49-1093, Arizona Revised Statutes, are repealed.

**Sec. 22. Delayed repeal**

Section 49-1031, Arizona Revised Statutes, as amended by this act, is repealed from and after December 31, 2023.

**Sec. 23. Repeal**

A. Laws 2004, chapter 273, section 7 is repealed.

B. Laws 2004, chapter 273, section 14, as amended by Laws 2013, chapter 244, section 5, is repealed.

**Sec. 24.** Laws 2015, chapter 13, section 6 is amended to read:

**Sec. 6. Underground storage tank revolving fund; transfer of monies; uses**

Notwithstanding any other law, ~~the administrative caps established in section 49-1051, subsection B, paragraphs 2 and 3, Arizona Revised Statutes, are suspended for fiscal year 2015-2016, and~~ the department of environmental quality may transfer a ~~combined~~ total of $6,531,000 from the ~~assurance account of the~~ underground storage tank revolving fund established by section ~~49-1051~~ 49-1015, Arizona Revised Statutes, ~~and the regulated substance fund established by section 49-1015.01, Arizona Revised Statutes,~~ AS ADDED BY THIS ACT, for administrative costs of the department in fiscal year 2015-2016.

**Sec. 25. Previously time-barred underground storage tank revolving fund claims; requirements; limitations; appeals**

Notwithstanding any other law:

1. For releases of a regulated substance that were properly reported before July 1, 2006:

(a) Costs for corrective action are eligible for reimbursement up to five hundred thousand dollars per facility for an applicant who satisfies federal financial responsibility obligations prescribed in 40 code of federal regulations part 280 through a financial assurance mechanism other than insurance and one million dollars per facility for an applicant who satisfies federal financial responsibility obligations through insurance, without regard to the number of releases at the facility.

(b) If reimbursement eligibility for a facility was exhausted through claims submitted on or before June 30, 2010 as a result of payment or eligibility limits in place on that date, that facility is not eligible for any additional reimbursement under this section.

(c) If claims for reimbursement at a facility were made on or before June 30, 2010, the total amount of payment on those claims shall reduce eligibility for reimbursement under this section by the amount paid on the claims.

2. For releases of a regulated substance that were properly reported on or after July 1, 2006, but before January 1, 2016, costs for corrective actions are eligible for reimbursement up to five hundred thousand dollars per facility for an applicant who satisfies federal financial responsibility obligations prescribed in 40 code of federal regulations part 280 through a financial assurance mechanisms other than insurance and one million dollars per facility for an applicant who satisfies federal financial responsibility obligations through insurance, without regard to the number of releases at the facility.

3. The department of environmental quality is not required to take any action on an application for reimbursement until January 1, 2017.

4. The department of environmental quality shall pay all compensable claims for corrective action costs arising from releases that were reported before July 1, 2006 and that are submitted on or before December 31, 2016, before paying any claims under this section for corrective action costs arising from releases reported on

or after July 1, 2006. Claims submitted pursuant to this section are compensable only for costs incurred after June 30, 2010.

5. Subject to paragraph 4 of this section, the department of environmental quality shall pay all compensable claims submitted by December 31, 2016 in equal proportion based on the amount of the claim, without regard to who the applicant is or the time that the claim is submitted, if the claim is timely submitted. The department of environmental quality shall determine the percentage of each claim to be paid based on the monies available in the underground storage tank revolving fund established by section 49-1015, Arizona Revised Statutes.

6. Only claims that are approved by the department of environmental quality are eligible for payment under this section. The department shall reimburse costs that are reasonable and were actually incurred for corrective actions that were actually performed. The costs for the corrective actions shall be documented in an application by the facility for payment from the underground storage tank revolving fund that shall be submitted by December 31, 2016. The department shall provide reimbursement for ninety percent of the reasonable and necessary costs of eligible activities pursuant to this section. Applications for reimbursement shall include a declaration that is signed by the owner or operator and that affirms that the submitted costs are true and accurate, have not previously been submitted to the department and have not been reimbursed to the owner or operator by insurance or an alternative financial assurance mechanism. A provider of insurance or an alternative financial assurance mechanism that is not an owner or operator with respect to that facility is not eligible for payment under this section.

7. The department of environmental quality shall determine the amount of monies in the underground storage tank revolving fund prescribed by section 49-1015, Arizona Revised Statutes, as added by this act, on December 31, 2016 that is available to pay claims under this section. The department is not required to evaluate available monies from the fund and issue payments more than once per year thereafter.

8. An owner or operator is not eligible to receive payment from the department of environmental quality unless the owner or operator is in compliance with the financial responsibility obligations under 40 code of federal regulations part 280.

9. Any appeals of reimbursement decisions made under this section are subject to title 41, chapter 6, article 10, Arizona Revised Statutes.

**Sec. 26. Transfer of fund monies; underground storage tank revolving fund; regulated substance fund**

All unexpended and unencumbered monies remaining in the following are transferred to the underground storage tank revolving fund established by section 49-1015, Arizona Revised Statutes, as added by this act:

1. The underground storage tank revolving fund established by section 49-1015, Arizona Revised Statutes, as repealed by this act.

2. The regulated substance fund established by section 49-1015.01, Arizona Revised Statutes, as repealed by this act.

3. The regulatory account of the underground storage tank revolving fund established by section 49-1015, as repealed by this act.

4. The assurance account of the underground storage tank revolving fund established by section 49-1015, Arizona Revised Statutes, as repealed by this act.

5. The grant account of the underground storage tank revolving fund established by section 49-1015, Arizona Revised Statutes, as repealed by this act.

**Sec. 27. Distribution of underground storage tank revolving fund monies for fiscal year 2015-2016**

In addition to the monies transferred pursuant to Laws 2015, chapter 13, section 6, as amended by this act, for fiscal year 2015-2016, the director of environmental quality may distribute monies in the underground storage tank revolving fund established by section 49-1015, Arizona Revised Statutes, as added by this act, as follows:

1. Not more than $3,000,000 for the administrative costs of the underground storage tank program.

2. Not more than $3,000,000 for grants authorized under section 49-1071, Arizona Revised Statutes.

3. Not more than $7,000,000 for corrective actions taken under section 49-1017, Arizona Revised Statutes.

4. Not more than $1,000,000 for noncorrective actions taken under section 49-1017.02, Arizona Revised Statutes.

5. Not more than $6,000,000 for corrective actions preapproved under title 49, chapter 6, article 3, Arizona Revised Statutes.

6. Not less than $28,000,000 for payment of time-barred claims as provided by this act.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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# TRANSFER OF FEDERAL LANDS STUDY COMMITTEE

## CHAPTER 248

## H. B. 2658

## AN ACT ESTABLISHING THE TRANSFER OF FEDERAL LANDS STUDY COMMITTEE.

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

**Section 1. Transfer of federal lands study committee; membership; duties; report; delayed repeal**

A. The transfer of federal lands study committee is established consisting of the following members:

1. The chairperson and vice chairperson of the house of representatives committee on agriculture, water and lands, or its successor committee.

2. The chairperson and vice chairperson of the senate committee on rural affairs and environment, or its successor committee.

3. One member of the public who is appointed by the governor.

B. The transfer of federal lands study committee is formed to examine processes to transfer, manage and dispose of federal lands within this state.

C. The transfer of federal lands study committee shall:

1. Conduct hearings to collect, evaluate and analyze information relating to federal lands in this state to identify significant concerns, risks, solutions and goals associated with these lands relating to the following:

(a) Environmental quality.

(b) Economic productivity and sustainability.

(c) Public health, safety and welfare.

(d) Consistency with state and local objectives.

(e) Ownership and jurisdictional responsibilities.

(f) Other aspects considered appropriate by the transfer of federal lands study committee.

2. Consult with experts in the fields and industries associated with or related to public lands.

3. Survey the county board of supervisors of counties that contain at least fifteen percent land area under the management of federal agencies.

4. Develop management priorities for public lands received from the federal government for this state and local jurisdictions.

5. Identify measures that will ensure that public lands in this state are managed responsibly and prudently for present and future generations.

6. Develop processes for this state to receive title to public lands from the federal government and to transfer title to the public lands received from the federal government.

7. Investigate lawful mechanisms, including actions implemented in other states, that may aid in achieving the goals identified pursuant to paragraph 1 of this subsection.

8. Submit a report regarding the committee's activities, findings and recommendations on or before December 31, 2019 to the governor, the president of the senate and the speaker of the house of representatives and provide a copy of this report to the secretary of state.

D. This section is repealed from and after September 30, 2020.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## SMALL CLAIMS DIVISION—VENUE

### CHAPTER 249

### H. B. 2663

**AN ACT AMENDING SECTION 22-505, ARIZONA REVISED STATUTES; RELATING TO THE SMALL CLAIMS DIVISIONS OF JUSTICE COURTS.**

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

**Section 1.** Section 22-505, Arizona Revised Statutes, is amended to read:

**22-505. Venue of small claims actions; permissible motions; satisfaction of judgment**

A. The rules governing venue of civil actions in the justice courts govern small claims actions.

B. A motion for change of venue and a motion to vacate a judgment are the only motions allowed in a small claims action. These motions shall be heard only by a justice of the peace.

C. A SATISFACTION OF JUDGMENT MAY BE FILED IN A SMALL CLAIMS ACTION.

Approved by the Governor April 9, 2015.
Filed in the Office of the Secretary of State April 10, 2015.

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## CHARITABLE TAX CREDIT—FOSTER CARE CHILDREN

### CHAPTER 250

### S. B. 1103

**AN ACT AMENDING SECTION 43-1088, ARIZONA REVISED STATUTES; RELATING TO TAX CREDITS.**

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

**Section 1.** Section 43-1088, Arizona Revised Statutes, is amended to read:

**43-1088. Credit for contribution to qualifying charitable organizations; definitions**

A. Except as provided in subsection B of this section, a credit is allowed against the taxes imposed by this title for voluntary cash contributions by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G during the taxable year to a qualifying charitable organization not to exceed:

1. Two hundred dollars in any taxable year for a single individual or a head of household.

2. Four hundred dollars in any taxable year for a married couple filing a joint return.

B. If the voluntary cash contribution by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G is to a qualifying foster care charitable organization, the credit shall not exceed:

1. Four hundred dollars in any taxable year for a single individual or a head of household.

2. Eight hundred dollars in any taxable year for a married couple filing a joint return.

C. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

D. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry forward the amount of the claim not used to offset the taxes under this title for not more than five consecutive taxable years' income tax liability.

E. The credit allowed by this section is in lieu of a deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

F. Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the contribution to the department of revenue on forms provided by the department.

G. A qualifying charitable organization shall provide the department of revenue with a written certification that it meets all criteria to be considered a qualifying charitable organization. The organization shall also notify the department of any changes that may affect the qualifications under this section.

H. The charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification must include the following:

1. Verification of the organization's status under section 501(c)(3) of the internal revenue code or verification that the organization is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901.

2. Financial data indicating the organization's budget for the organization's prior operating year and the amount of that budget spent on services to residents of this state who either:

(a) Receive temporary assistance for needy families benefits.

(b) Are low-income residents of this state.

(c) Are chronically ill or children with physical disabilities.

3. A statement that the organization plans to continue spending at least fifty per cent of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low-income residents of this state or who are chronically ill or children with physical disabilities.

4. A statement that the organization does not provide, pay for or provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions.

I. The department shall review each written certification and determine whether the organization meets all the criteria to be considered a qualifying charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of the qualifying charitable organizations.

J. For the purposes of this section:

1. "Chronically ill or children with physical disabilities" has the same meaning prescribed in section 36-260.

2. "Low-income residents" means persons whose household income is less than one hundred fifty ~~per cent~~ PERCENT of the federal poverty level.

3. "Qualifying charitable organization" means a charitable organization that is exempt from federal income taxation under section 501(c)(3) of the internal revenue code or is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901. The organization must spend at least fifty ~~per cent~~ PERCENT of its budget on services to residents of this state who receive temporary assistance for needy families benefits or low-income residents of this state and their households or to chronically ill or children with physical disabilities who are residents of this state. Taxpayers choosing to make donations through an umbrella charitable organization that collects donations on behalf of member charities shall designate that the donation be directed to a member charitable organization that would qualify under this section on a stand-alone basis. Qualifying charitable organization does not include any entity that provides, pays for or provides coverage of abortions or that financially supports any other entity that provides, pays for or provides coverage of abortions.

4. "Qualifying foster care charitable organization" means a qualifying charitable organization that each operating year provides services to at least two hundred ~~foster children~~ QUALIFIED INDIVIDUALS in this state and spends at least fifty ~~per cent~~ PERCENT of its budget on services to ~~foster children~~ QUALIFIED INDIVIDUALS in this state. For the purposes of this paragraph, ~~"foster children" has the same meaning prescribed~~ "QUALIFIED INDIVIDUAL" MEANS A FOSTER CHILD AS DEFINED in section 8-501 OR A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO IS PARTICIPATING IN A TRANSITIONAL INDEPENDENT LIVING PROGRAM AS PRESCRIBED BY SECTION 8-521.01.

5. "Services" means cash assistance, medical care, child care, food, clothing, shelter, job placement and job training services or any other assistance that is reasonably necessary to meet immediate basic needs and that is provided and used in this state.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

# ARIZONA MEDICAL BOARD—LICENSURE—CREDENTIALING

## CHAPTER 251

## S. B. 1258

**AN ACT AMENDING SECTIONS 32-1405 AND 32-1422, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA MEDICAL BOARD.**

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

**Section 1.** Section 32-1405, Arizona Revised Statutes, is amended to read:

**32-1405. Executive director; compensation; duties; appeal to the board**

A. Subject to title 41, chapter 4, article 4, the committee on executive director selection and retention established by section 32-1403 shall appoint an executive director of the board who shall serve at the pleasure of the committee. The executive director shall not be a board member, except that the board may authorize the executive director to represent the board and to vote on behalf of the board at meetings of the federation of state medical boards of the United States.

B. The executive director is eligible to receive compensation set by the board within the range determined under section 38-611.

C. The executive director or the executive director's designee shall:

1. Subject to title 41, chapter 4, article 4 and, as applicable, articles 5 and 6, employ, evaluate, dismiss, discipline and direct professional, clerical, technical, investigative and administrative personnel necessary to carry on the work of the board. An investigator shall complete a nationally recognized investigator training program within one year of date of hire. Until an investigator completes a training program, the investigator shall work under the supervision of an investigator who has completed a training program.

2. Set compensation for board employees within the range determined under section 38-611.

3. As directed by the board, prepare and submit recommendations for amendments to the medical practice act for consideration by the legislature.

4. Subject to title 41, chapter 4, article 4, employ medical consultants and agents necessary to conduct investigations, gather information and perform those duties the executive director determines are necessary and appropriate to enforce this chapter.

5. Issue licenses, registrations and permits to applicants who meet the requirements of this chapter.

6. Manage the board's offices.

7. Prepare minutes, records, reports, registries, directories, books and newsletters and record all board transactions and orders.

8. Collect all monies due and payable to the board.

9. Pay all bills for authorized expenditures of the board and its staff.

10. Prepare an annual budget.

11. Submit a copy of the budget each year to the governor, the speaker of the house of representatives and the president of the senate.

12. Initiate an investigation if evidence appears to demonstrate that a physician may be engaged in unprofessional conduct or may be medically incompetent or mentally or physically unable to safely practice medicine.

13. Issue subpoenas if necessary to compel the attendance and testimony of witnesses and the production of books, records, documents and other evidence.

14. Provide assistance to the attorney general in preparing and sign and execute disciplinary orders, rehabilitative orders and notices of hearings as directed by the board.

15. Enter into contracts for goods and services pursuant to title 41, chapter 23 that are necessary to carry out board policies and directives.

16. Execute board directives.

17. Manage and supervise the operation of the Arizona regulatory board of physician assistants.

18. Issue licenses to physician assistant applicants who meet the requirements of chapter 25 of this title.

19. Represent the board with the federal government, other states or jurisdictions of the United States, this state, political subdivisions of this state, the news media and the public.

20. On behalf of the Arizona medical board, enter into stipulated agreements with persons under the jurisdiction of either the Arizona medical board or the Arizona regulatory board of physician assistants for the treatment, rehabilitation and monitoring of chemical substance abuse or misuse.

21. Review all complaints filed pursuant to section 32-1451. The executive director shall submit all medical complaints alleging harm as a result of patient care to a medical consultant for review. THE EXECUTIVE DIRECTOR SHALL SUBMIT TO THE MEDICAL CONSULTANT ONLY THOSE MEDICAL COMPLAINTS THAT INVOLVE A STANDARD OF CARE ISSUE AND THAT REQUIRE MEDICAL TRAINING AND EXPERTISE TO DETERMINE WHETHER A VIOLATION HAS OCCURRED. If delegated by the board, the executive director may also dismiss a complaint if the complaint is without merit. The executive director shall not dismiss a complaint if a court has entered a medical malpractice judgment against a physician. The executive director shall submit a report of the cases dismissed with the complaint number, the name of the physician and the investigation timeline to the board for review at its regular board meetings.

22. If delegated by the board, directly refer cases to a formal hearing.

23. If delegated by the board, close cases resolved through mediation.

24. If delegated by the board, issue advisory letters.

25. If delegated by the board, enter into a consent agreement if there is evidence of danger to the public health and safety.

26. If delegated by the board, grant uncontested requests for inactive status and cancellation of a license pursuant to sections 32-1431 and 32-1433.

27. If delegated by the board, refer cases to the board for a formal interview.

28. Perform all other administrative, licensing or regulatory duties required by the board.

29. Disseminate any information received from the office of ~~the~~ ombudsman-citizens aide to the board at its regular board meetings.

D. Medical consultants and agents appointed pursuant to subsection C, paragraph 4 of this section are eligible to receive compensation determined by the executive director in an amount not to exceed two hundred dollars for each day of service.

E. A person who is aggrieved by an action taken by the executive director pursuant to subsection C, paragraphs 21 through 27 of this section or section 32-1422, subsection E may request the board to review that action by filing with the board a written request within thirty days after that person is notified of the executive director's action by personal delivery or, if the notification is mailed to that person's last known residence or place of business, within thirty-five days after the date on the notification. At the next regular board meeting, the board shall review the executive director's action. On review, the board shall approve, modify or reject the executive director's action.

**Sec. 2.** Section 32-1422, Arizona Revised Statutes, is amended to read:

**32-1422. Basic requirements for granting a license to practice medicine; credentials verification**

A. An applicant for a license to practice medicine in this state pursuant to this article shall meet each of the following basic requirements:

1. Graduate from an approved school of medicine or receive a medical education that the board deems to be of equivalent quality.

2. Successfully complete an approved twelve-month hospital internship, residency or clinical fellowship program.

3. Have the physical and mental capability to safely engage in the practice of medicine.

4. Have a professional record that indicates that the applicant has not committed any act or engaged in any conduct that would constitute grounds for disciplinary action against a licensee under this chapter.

5. Not have had a license to practice medicine revoked by a medical regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter.

6. Not be currently under investigation, suspension or restriction by a medical regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter. If the applicant is under investigation by a medical regulatory board in another jurisdiction, the board shall suspend the application process and may not issue or deny a license to the applicant until the investigation is resolved.

7. Not have surrendered a license to practice medicine in lieu of disciplinary action by a medical regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

8. Pay all fees required by the board.

9. Complete the application as required by the board.

10. Complete a training unit as prescribed by the board relating to the requirements of this chapter and board rules. The applicant shall submit proof with the application form of having completed the training unit.

11. Have submitted directly to the board, electronically or by hard copy, verification of the following:

(a) Licensure from every state in which the applicant has ever held a medical license.

(b) All hospital affiliations and MEDICAL employment for the five years preceding application. Each hospital must verify affiliations or employment on the hospital's official letterhead or the electronic equivalent. IF THE APPLICANT IS EMPLOYED BY A HOSPITAL OR MEDICAL GROUP OR ORGANIZATION, THE BOARD SHALL ACCEPT THE VERIFICATIONS REQUIRED UNDER THIS SUBDIVISION FROM THE APPLICANT'S EMPLOYER.

12. Beginning September 2, 2014, have submitted a full set of fingerprints to the board for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

B. The board may require the submission of credentials or other evidence, written and oral, and make any investigation it deems necessary to adequately inform itself with respect to an applicant's ability to meet the requirements prescribed by this section, including a requirement that the applicant for licensure undergo a physical examination, a mental evaluation and an oral competence examination and interview, or any combination thereof, as the board deems proper.

C. In determining if the requirements of subsection A, paragraph 4 of this section have been met, if the board finds that the applicant committed an act or engaged in conduct that would constitute grounds for disciplinary action, the board shall determine to its satisfaction that the conduct has been corrected, monitored and resolved. If the matter has not been resolved, the board shall determine to its satisfaction that mitigating circumstances exist that prevent its resolution.

D. In determining if the requirements of subsection A, paragraph 6 of this section have been met, if another jurisdiction has taken disciplinary action against an applicant, the board shall determine to its satisfaction that the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that jurisdiction, the board shall determine to its satisfaction that mitigating circumstances exist that prevent its resolution.

E. The board may delegate authority to the executive director to deny licenses if applicants do not meet the requirements of this section.

F. Any credential information required to be submitted to the board pursuant to this article must be submitted, electronically or by hard copy, from the primary

source where the document or information originated, except that the board may accept primary-source verified credentials from a credentials verification service approved by the board. The board is not required to verify any documentation or information received by the board from a credentials verification service that has been approved by the board. If an applicant is unable to provide a document or information from the primary source due to no fault of the applicant, the executive director shall forward the issue to the full board for review and determination. The board shall adopt rules establishing the criteria that must be met in order to waive a documentation requirement of this article.

**Sec. 3. Rulemaking**

The Arizona medical board is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act to adopt rules relating to the implementation of this act and licensure and credentialing. The board shall provide public notice and an opportunity for public comment on proposed rules at least thirty days before a rule is adopted or amended.

**Sec. 4. Request for information; credentialing and verifications**

A. The Arizona medical board shall issue a request for information to vendors for the sole purpose of seeking information about the availability in the commercial marketplace of materials or services to outsource any or all of the credentialing or verification process relating to licensure.

B. This section does not require the Arizona medical board to outsource any or all of the credentialing or verification process relating to licensure.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## INDEPENDENT MEDICAL EXAMINATIONS—COMPLAINTS OF UNPROFESSIONAL CONDUCT

### CHAPTER 252

### S. B. 1290

**AN ACT AMENDING SECTIONS 23-1026, 32-852.01, 32-1451 AND 32-1855, ARIZONA REVISED STATUTES; RELATING TO INDEPENDENT MEDICAL EXAMINATIONS.**

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

**Section 1.** Section 23-1026, Arizona Revised Statutes, is amended to read:

**23-1026. Periodical medical examination of employee; effect of refusal or obstruction of examination or treatment**

A. An employee who may be entitled to compensation under this chapter shall submit himself for medical examination from time to time at a place reasonably

convenient for the employee, if and when requested by the commission, his employer or the insurance carrier. A place is reasonably convenient even if it is not where the employee resides if it is the place where the employee was injured and the employer or the insurance carrier pays in advance the employee's reasonable travel expenses, including the cost of transportation, food, lodging and loss of pay, if applicable.

B. The request for the medical examination shall fix a time and place having regard to the convenience of the employee, his physical condition and his ability to attend. The employee may have a physician present at the examination if procured and paid for by ~~himself~~ THE EMPLOYEE.

C. If the employee refuses to submit to the medical examination or obstructs the examination, his right to compensation shall be suspended until the examination has been made, and no compensation shall be payable during or for such period.

D. A physician who makes or is present at the medical examination provided by this section may be required to testify as to the result ~~thereof~~ OF THE EXAMINATION. THE PHYSICIAN IS NOT SUBJECT TO A COMPLAINT FOR UNPROFESSIONAL CONDUCT TO THE PHYSICIAN'S LICENSING BOARD IF THE COMPLAINT IS BASED ON A DISAGREEMENT WITH THE FINDINGS AND OPINIONS EXPRESSED BY THE PHYSICIAN AS A RESULT OF THE EXAMINATION.

E. ~~Upon~~ ON appropriate application and hearing, the commission may reduce or suspend the compensation of an employee who persists in unsanitary or injurious practices tending to imperil or retard his recovery, or who refuses to submit to medical or surgical treatment reasonably necessary to promote his recovery.

F. An employee shall be excused from attending a scheduled medical examination if the employee requests a protective order and the administrative law judge finds that the scheduled examination is unnecessary, would be cumulative or could reasonably be timely scheduled with an appropriate physician where the employee resides. If a protective order is requested the burden is on the employer or insurance carrier to establish that a medical examination should be scheduled at a place other than where the employee resides. If an employee has left this state and the employer or insurance carrier pays in advance the employee's reasonable travel expenses, including the cost of transportation, food, lodging and loss of pay, if applicable, the employer or insurance carrier is entitled to have the employee return to this state one time a year for examination or one time following the filing of a petition to reopen.

G. If a physician performs an examination under this section and is provided data from the Arizona state board of pharmacy pursuant to title 36, chapter 28, the physician may disclose that data to the employee, employer, insurance carrier and ~~the~~ commission.

**Sec. 2.** Section 32-852.01, Arizona Revised Statutes, is amended to read:

**32-852.01. Investigations; duty to report; unprofessional conduct hearing; decision of board; appeal**

A. The board on its own motion may investigate any evidence that appears to show that a podiatrist is or may be guilty of a violation of section 32-852. Any

podiatrist or the Arizona podiatry association shall, or any other person may, report to the board any information the podiatrist, association or person may have that appears to show that a podiatrist is or may be guilty of unprofessional conduct or is or may be guilty of practice without regard for the safety and welfare of the public. A PODIATRIST CONDUCTING A MEDICAL EXAMINATION PURSUANT TO SECTION 23-1026 IS NOT SUBJECT TO A COMPLAINT OF UNPROFESSIONAL CONDUCT BASED ON A DISAGREEMENT WITH THE FINDINGS AND OPINIONS EXPRESSED BY THE PODIATRIST AS A RESULT OF THE EXAMINATION. Any podiatrist, association, health care institution or other person that reports or provides information to the board in good faith is not subject to civil liability and the name of the reporter shall not be disclosed unless the information is essential to the investigative proceedings conducted pursuant to this section. It is an act of unprofessional conduct for any podiatrist to fail to report as required by this subsection. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if the privileges of a podiatrist to practice in that health care institution are denied, revoked, suspended or limited because of actions by the podiatrist that appear to show that the podiatrist is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of podiatry, along with a general statement of the reasons, including patient chart numbers, that led the health care institution to take the action. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if a podiatrist under investigation resigns or if a podiatrist resigns in lieu of disciplinary action by the health care institution. Notification shall include a general statement of the reasons for the resignation, including patient chart numbers. The board shall inform all appropriate health care institutions in this state as defined in section 36-401 and the Arizona health care cost containment system administration of a resignation, denial, revocation, suspension or limitation, and the general reason for that action, without divulging the name of the reporting health care institution. A person who reports information in good faith pursuant to this subsection is not subject to civil liability.

B. Based on information received pursuant to subsection A of this section, the board may order a summary suspension of a license pending formal proceedings for license revocation or other disciplinary action if the board finds that the protection of the public health or safety requires emergency action. The board shall serve the licensee with a written notice that states the charges and that the licensee is entitled to a formal hearing before the board or an administrative law judge within sixty days.

C. If the board finds after completing its investigation that the information provided pursuant to subsection A of this section is not of sufficient seriousness to merit direct action against the license of the podiatrist, it may take any of the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.
2. File a letter of concern.

3. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

D. If the board finds after completing its investigation that the information is or may be true, the board may request an informal hearing with the licensee. If the licensee refuses the invitation or accepts the invitation and the results of the hearing indicate suspension or revocation of the license might be in order, the board shall issue a complaint and conduct a formal hearing pursuant to title 41, chapter 6, article 10. If the board finds at the informal hearing that the information provided under subsection A of this section is true but is not of sufficient seriousness to merit suspension or revocation of the license, it may take one or more of the following actions:

1. File a letter of concern.

2. Issue a decree of censure.

3. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate the licensee. If a licensee fails to comply with the terms of probation the board may file a complaint and hold a formal hearing pursuant to this section.

4. Impose a civil penalty of not more than two thousand dollars for each violation. The board shall deposit, pursuant to sections 35-146 and 35-147, all monies collected pursuant to this paragraph in the state general fund.

5. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

E. If the board believes that the charge is or may be true, the board shall serve on the licensee a summons and complaint that fully states the conduct or inability concerned and the time and place of the hearing. The board shall schedule the hearing not less than thirty days after the date of the summons and complaint.

F. The board may require that the licensee under investigation undergo any mental and physical examination and may conduct any investigation, including the taking of depositions, necessary to fully inform itself with respect to the complaint.

G. If the licensee wishes to be present at the hearing in person or by representation, or both, the licensee shall file with the board a written and verified answer to the charges within twenty days after service of the summons and complaint. A licensee who complies with this subsection may be present at the hearing with any witnesses of the licensee's choice.

H. The board may issue subpoenas for any witnesses, documents and other evidence it may need and for any witnesses, documents and other evidence the licensee may request. The superior court may hold a person who refuses to obey a subpoena in contempt of court.

I. Service of the summons and complaint shall be as provided for service of the summons and complaint in civil cases.

J. Service of subpoenas for witnesses shall be as provided by law for the service of subpoenas generally.

K. The board may administer the oath to all witnesses, shall keep a written transcript of all oral testimony submitted at the hearing and shall keep the original or a copy of all other evidence submitted. The board shall make copies of the transcript available to the licensee at that person's expense and without charge to the court in which the appeal may be taken. At all hearings the board may waive the technical rules of evidence.

L. A licensee who, after a hearing held pursuant to this section, is found to be guilty of a violation of section 32-852 or this section is subject to censure, probation as provided in this section, suspension of a license or revocation of a license, or any combination of these, for a period of time or permanently and under any conditions the board deems appropriate for the protection of the public health and safety and just in the circumstances. The board may file a letter of concern if it finds that the violation is not of sufficient seriousness to merit censure, probation or suspension or revocation of a license. The board may also issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

M. Patient records, including clinical records, medical reports, laboratory statements and reports, any file, film, other report or oral statement relating to diagnostic findings or treatment of patients, any information from which a patient or the patient's family might be identified or information received and records kept by the board as a result of the investigation procedure outlined in this chapter are not available to the public.

N. Except as provided in section 41-1092.08, subsection H, final decisions of the board are subject to judicial review pursuant to title 12, chapter 7, article 6.

O. This section and any other law relating to a privileged communication do not apply to investigations or proceedings conducted pursuant to this chapter. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this chapter.

P. If the board acts to modify any podiatrist's prescription writing privileges, it shall immediately notify the state board of pharmacy of the modification.

Q. A letter of concern is a public document and may be used in future disciplinary actions against a podiatrist.

**Sec. 3.** Section 32-1451, Arizona Revised Statutes, is amended to read:

**32-1451. Grounds for disciplinary action; duty to report; immunity; proceedings; board action; notice requirements**

A. The board on its own motion may investigate any evidence that appears to show that a doctor of medicine is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. On written request of a complainant, the board shall review a complaint that has been administratively closed by the executive

director and take any action it deems appropriate. Any person may, and a doctor of medicine, the Arizona medical association, a component county society of that association and any health care institution shall, report to the board any information that appears to show that a doctor of medicine is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. The board or the executive director shall notify the doctor as to the content of the complaint as soon as reasonable. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. If requested, the board shall not disclose the name of a person who supplies information regarding a licensee's drug or alcohol impairment. It is an act of unprofessional conduct for any doctor of medicine to fail to report as required by this section. The board shall report any health care institution that fails to report as required by this section to that institution's licensing agency.

B. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if the privileges of a doctor to practice in that health care institution are denied, revoked, suspended or limited because of actions by the doctor that appear to show that the doctor is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of medicine, along with a general statement of the reasons, including patient chart numbers, that led the health care institution to take the action. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if a doctor under investigation resigns or if a doctor resigns in lieu of disciplinary action by the health care institution. Notification shall include a general statement of the reasons for the resignation, including patient chart numbers. The board shall inform all appropriate health care institutions in this state as defined in section 36-401 and the Arizona health care cost containment system administration of a resignation, denial, revocation, suspension or limitation, and the general reason for that action, without divulging the name of the reporting health care institution. A person who reports information in good faith pursuant to this subsection is not subject to civil liability.

C. The board or, if delegated by the board, the executive director shall require, at the doctor's expense, any combination of mental, physical or oral or written medical competency examinations and conduct necessary investigations, including investigational interviews between representatives of the board and the doctor to fully inform itself with respect to any information filed with the board under subsection A of this section. These examinations may include biological fluid testing and other examinations known to detect the presence of alcohol or other drugs. The board or, if delegated by the board, the executive director may require the doctor, at the doctor's expense, to undergo assessment by a board approved rehabilitative, retraining or assessment program. This subsection does not establish a cause of action against any person, facility or program that conducts an assessment, examination or investigation in good faith pursuant to this subsection.

D. If the board finds, based on the information it receives under subsections A and B of this section, that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the board may restrict a license or order a summary suspension of a license pending proceedings for revocation or other action. If the board takes action pursuant to this subsection, it shall also serve the licensee with a written notice that states the charges and that the licensee is entitled to a formal hearing before the board or an administrative law judge within sixty days.

E. If, after completing its investigation, the board finds that the information provided pursuant to subsection A of this section is not of sufficient seriousness to merit disciplinary action against the license of the doctor, the board or a board committee may take any of the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.

2. Require the licensee to complete designated continuing medical education courses.

3. File an advisory letter. The licensee may file a written response with the board within thirty days after receiving the advisory letter.

F. If the board finds that it can take rehabilitative or disciplinary action without the presence of the doctor at a formal interview, it may enter into a consent agreement with the doctor to limit or restrict the doctor's practice or to rehabilitate the doctor in order to protect the public and ensure the doctor's ability to safely engage in the practice of medicine. The board may also require the doctor to successfully complete a board approved rehabilitative, retraining or assessment program at the doctor's own expense.

G. The board shall not disclose the name of the person who provided information regarding a licensee's drug or alcohol impairment or the name of the person who files a complaint if that person requests anonymity.

H. If after completing its investigation the board believes that the information is or may be true, it may request a formal interview with the doctor. If the doctor refuses the invitation for a formal interview or accepts and the results indicate that grounds may exist for revocation or suspension of the doctor's license for more than twelve months, the board shall issue a formal complaint and order that a hearing be held pursuant to title 41, chapter 6, article 10. If after completing a formal interview the board finds that the protection of the public requires emergency action, it may order a summary suspension of the license pending formal revocation proceedings or other action authorized by this section.

I. If after completing the formal interview the board finds the information provided under subsection A of this section is not of sufficient seriousness to merit suspension for more than twelve months or revocation of the license, it may take the following actions:

1. Dismiss if, in the opinion of the board, the complaint is without merit.

2. Require the licensee to complete designated continuing medical education courses.

3. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

4. Enter into an agreement with the doctor to restrict or limit the doctor's practice or professional activities or to rehabilitate, retrain or assess the doctor in order to protect the public and ensure the doctor's ability to safely engage in the practice of medicine. The board may also require the doctor to successfully complete a board approved rehabilitative, retraining or assessment program at the doctor's own expense pursuant to subsection F of this section.

5. File a letter of reprimand.

6. Issue a decree of censure. A decree of censure is an official action against the doctor's license and may include a requirement for restitution of fees to a patient resulting from violations of this chapter or rules adopted under this chapter.

7. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the doctor concerned. Probation may include temporary suspension for not to exceed twelve months, restriction of the doctor's license to practice medicine, a requirement for restitution of fees to a patient or education or rehabilitation at the licensee's own expense. If a licensee fails to comply with the terms of probation, the board shall serve the licensee with a written notice that states that the licensee is subject to a formal hearing based on the information considered by the board at the formal interview and any other acts or conduct alleged to be in violation of this chapter or rules adopted by the board pursuant to this chapter, including noncompliance with the term of probation, a consent agreement or a stipulated agreement. A licensee shall pay the costs associated with probation monitoring each year during which the licensee is on probation. The board may adjust this amount on an annual basis. The board may allow a licensee to make payments on an installment plan if a financial hardship occurs. A licensee who does not pay these costs within thirty days after the due date prescribed by the board violates the terms of probation.

J. If the board finds that the information provided in subsection A of this section warrants suspension or revocation of a license issued under this chapter, it shall initiate formal proceedings pursuant to title 41, chapter 6, article 10.

K. In a formal interview pursuant to subsection H of this section or in a hearing pursuant to subsection J of this section, the board in addition to any other action may impose a civil penalty in the amount of not less than one thousand dollars nor more than ten thousand dollars for each violation of this chapter or a rule adopted under this chapter.

L. An advisory letter is a public document.

M. Any doctor of medicine who after a formal hearing is found by the board to be guilty of unprofessional conduct, to be mentally or physically unable safely to engage in the practice of medicine or to be medically incompetent is subject to censure, probation as provided in this section, suspension of license or revocation of license or any combination of these, including a stay of action, and for a period of time or permanently and under conditions as the board deems appropriate for the protection of the public health and safety and just in the circumstance. The board may charge the costs of formal hearings to the licensee who it finds to be in violation of this chapter.

N. If the board acts to modify any doctor of medicine's prescription writing privileges, the board shall immediately notify the state board of pharmacy of the modification.

O. If the board, during the course of any investigation, determines that a criminal violation may have occurred involving the delivery of health care, it shall make the evidence of violations available to the appropriate criminal justice agency for its consideration.

P. The board may divide into review committees of not less than three members, including a public member. The committees shall review complaints not dismissed by the executive director and may take the following actions:

1. Dismiss the complaint if a committee determines that the complaint is without merit.

2. Issue an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

3. Conduct a formal interview pursuant to subsection H of this section. This includes initiating formal proceedings pursuant to subsection J of this section and imposing civil penalties pursuant to subsection K of this section.

4. Refer the matter for further review by the full board.

Q. Pursuant to sections 35-146 and 35-147, the board shall deposit all monies collected from civil penalties paid pursuant to this chapter in the state general fund.

R. Notice of a complaint and hearing is effective by a true copy of it being sent by certified mail to the doctor's last known address of record in the board's files. Notice of the complaint and hearing is complete on the date of its deposit in the mail. The board shall begin a formal hearing within one hundred twenty days of that date.

S. A physician who submits an independent medical examination pursuant to an order by a court OR PURSUANT TO SECTION 23-1026 is not subject to a complaint for unprofessional conduct unless, ~~a~~ IN THE CASE OF A COURT-ORDERED EXAMINATION, THE complaint is made or referred by a court to the board, OR IN THE CASE OF AN EXAMINATION CONDUCTED PURSUANT TO SECTION 23-1026, THE COMPLAINT ALLEGES UNPROFESSIONAL CONDUCT BASED ON SOME ACT OTHER THAN A DISAGREEMENT WITH THE FINDINGS AND OPINIONS EXPRESSED BY THE PHYSICIAN AS A RESULT OF THE EXAMINATION. For the purposes of this subsection, "independent medical examination" means a professional analysis of medical status THAT IS based on a person's past and present physical, MEDICAL and psychiatric history and conducted by a licensee or group of licensees on a contract basis for a court OR FOR A WORKERS' COMPENSATION CARRIER, SELF-INSURED EMPLOYER OR CLAIMS PROCESSING REPRESENTATIVE IF THE EXAMINATION WAS CONDUCTED PURSUANT TO SECTION 23-1026.

T. The board may accept the surrender of an active license from a person who admits in writing to any of the following:

1. Being unable to safely engage in the practice of medicine.

2. Having committed an act of unprofessional conduct.

3. Having violated this chapter or a board rule.

U. In determining the appropriate disciplinary action under this section, the board shall consider all previous nondisciplinary and disciplinary actions against a licensee.

V. In determining the appropriate action under this section, the board may consider a direct or indirect competitive relationship between the complainant and the respondent as a mitigating factor.

**Sec. 4.** Section 32-1855, Arizona Revised Statutes, is amended to read:

**32-1855. Disciplinary action; duty to report; hearing; notice; independent medical examinations; surrender of license**

A. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, the board on its own motion may investigate any information that appears to show that an osteopathic physician and surgeon is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. A PHYSICIAN WHO CONDUCTS AN INDEPENDENT MEDICAL EXAMINATION PURSUANT TO AN ORDER BY A COURT OR PURSUANT TO SECTION 23-1026 IS NOT SUBJECT TO A COMPLAINT FOR UNPROFESSIONAL CONDUCT UNLESS, IN THE CASE OF A COURT-ORDERED EXAMINATION, THE COMPLAINT IS MADE OR REFERRED BY A COURT TO THE BOARD, OR IN THE CASE OF AN EXAMINATION CONDUCTED PURSUANT TO SECTION 23-1026, THE COMPLAINT ALLEGES UNPROFESSIONAL CONDUCT BASED ON SOME ACT OTHER THAN A DISAGREEMENT WITH THE FINDINGS AND OPINIONS EXPRESSED BY THE PHYSICIAN AS A RESULT OF THE EXAMINATION. Any osteopathic physician or surgeon or the Arizona osteopathic medical association or any health care institution as defined in section 36-401 shall, and any other person may, report to the board any information the physician or surgeon, association, health care institution or other person may have that appears to show that an osteopathic physician and surgeon is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. The board shall notify the doctor about whom information has been received as to the content of the information as soon as reasonable after receiving the information. Any person who reports or provides information to the board in good faith is not subject to civil damages as a result of that action. If requested the board shall not disclose the informant's name unless it is essential to the disciplinary proceedings conducted pursuant to this section. It is an act of unprofessional conduct for any osteopathic physician or surgeon to fail to report as required by this section. The board shall report any health care institution that fails to report as required by this section to that institution's licensing agency. A person who reports information in good faith pursuant to this subsection is not subject to civil liability. FOR THE PURPOSES OF THIS SUBSECTION, "INDEPENDENT MEDICAL EXAMINATION" MEANS A PROFESSIONAL ANALYSIS OF MEDICAL STATUS THAT IS BASED ON A PERSON'S PAST AND PRESENT PHYSICAL, MEDICAL AND PSYCHIATRIC HISTORY AND CONDUCTED BY A

LICENSEE OR GROUP OF LICENSEES ON A CONTRACT BASIS FOR A COURT OR FOR A WORKERS' COMPENSATION CARRIER, SELF-INSURED EMPLOYER OR CLAIMS PROCESSING REPRESENTATIVE IF THE EXAMINATION WAS CONDUCTED PURSUANT TO SECTION 23-1026.

B. The board may require a physician under investigation pursuant to subsection A of this section to be interviewed by the board or its representatives. The board or the executive director may require a licensee who is under investigation pursuant to subsection A of this section to undergo at the licensee's expense any combination of medical, physical or mental examinations the board finds necessary to determine the physician's competence.

C. If the board finds, based on the information it received under subsections A and B of this section, that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, the board may order a summary suspension of a license pending proceedings for revocation or other action. If an order of summary suspension is issued, the licensee shall also be served with a written notice of complaint and formal hearing setting forth the charges made against the licensee and is entitled to a formal hearing on the charges pursuant to title 41, chapter 6, article 10. Formal proceedings shall be promptly instituted and determined.

D. If, after completing its investigation, the board finds that the information provided pursuant to this section is not of sufficient seriousness to merit direct action against the physician's license, it may take any combination of the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.

2. File a letter of concern.

3. In addition to the requirements of section 32-1825, require continuing medical education on subjects and within a time period determined by the board.

4. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

E. If, in the opinion of the board, it appears that information provided pursuant to this section is or may be true, the board may request an investigative hearing with the physician concerned. At an investigative hearing the board may receive and consider sworn statements of persons who may be called as witnesses in a formal hearing and other pertinent documents. Legal counsel may be present and participate in the meeting. If the physician refuses the request or if the physician accepts the request and the results of the investigative hearing indicate suspension of more than twelve months or revocation of the license may be in order, a complaint shall be issued and an administrative hearing shall be held pursuant to title 41, chapter 6, article 10. If, after the investigative hearing and a mental, physical or medical competence examination as the board deems necessary, the board finds the information provided pursuant to this section to be true but not of sufficient seriousness to merit suspension or revocation of the license, it may take any of the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.

2. File a letter of concern.

3. In addition to the requirements of section 32-1825, require continuing medical education on subjects and within a time period determined by the board.

4. Issue a decree of censure, which constitutes an official action against a physician's license.

5. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the physician concerned. Any costs incidental to the terms of probation are at the physician's own expense.

6. Restrict or limit the physician's practice in a manner and for a time determined by the board.

7. Suspend the physician's license for not more than twelve months.

8. Impose a civil penalty of not to exceed five hundred dollars for each violation of this chapter.

9. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

10. Issue an administrative warning.

F. If, in the opinion of the board, it appears the charge is of such magnitude as to warrant suspension for more than twelve months or revocation of the license, the board shall immediately initiate formal revocation or suspension proceedings pursuant to title 41, chapter 6, article 10. The board shall notify a licensee of a complaint and hearing by certified mail addressed to the licensee's last known address on record in the board's files.

G. If the physician wishes to be present at the investigative or administrative hearing in person or by representation, or both, the physician shall file with the board an answer to the charges in the complaint. The answer shall be in writing, verified under oath and filed within twenty days after service of the summons and complaint.

H. A physician who complies with subsection G of this section may be present at the hearing in person with counsel and witnesses.

I. A physician who, after an investigative or administrative hearing, is found to be guilty of unprofessional conduct or is found to be mentally or physically unable safely to engage in the practice of osteopathic medicine is subject to any combination of censure, probation, suspension of license, revocation of license, an order to return patient fees, imposition of hearing costs, imposition of a civil penalty of not to exceed five hundred dollars for each violation for a period of time, or permanently, and under conditions the board deems appropriate for the protection of the public health and safety and just in the circumstances. The board may charge the costs of an investigative or administrative hearing to the licensee if pursuant to that hearing the board determines that the licensee violated this chapter or board rules.

J. If the board acts to modify a physician's prescription writing privileges, it shall immediately notify the state board of pharmacy and the federal drug enforcement administration in the United States department of justice of the modification.

K. The board shall report allegations of evidence of criminal wrongdoing to the appropriate criminal justice agency.

L. Notice of a complaint and administrative hearing is effective when a true copy of the notice is sent by certified mail to the licensee's last known address of record in the board's files and is complete on the date of its deposit in the mail. The board shall hold an administrative hearing within one hundred twenty days after that date.

M. The board may accept the surrender of an active license from a licensee who admits in writing to having committed an act of unprofessional conduct or to having violated this chapter or board rules.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## UNIFORM INTERSTATE FAMILY SUPPORT ACT

### CHAPTER 253

### S. B. 1313

**AN ACT AMENDING SECTION 25-1202, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-1203; AMENDING SECTION 25-1204, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-1205; AMENDING SECTIONS 25-1221, 25-1223, 25-1224, 25-1226, 25-1227, 25-1228, 25-1229, 25-1230, 25-1231, 25-1241, 25-1244, 25-1245, 25-1247, 25-1248, 25-1250, 25-1251, 25-1253, 25-1256, 25-1257, 25-1258, 25-1259 AND 25-1271, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 9, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-1272; AMENDING SECTIONS 25-1284, 25-1285, 25-1287, 25-1301, 25-1302, 25-1303, 25-1304, 25-1305, 25-1306, 25-1307, 25-1308, 25-1309, 25-1310, 25-1311 AND 25-1315, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 9, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-1316; REPEALING TITLE 25, CHAPTER 9, ARTICLE 7, ARIZONA REVISED STATUTES; PROVIDING FOR RENUMBERING; AMENDING TITLE 25, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 7; RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT.**

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

**Section 1.** Section 25-1202, Arizona Revised Statutes, is amended to read:

**25-1202. Definitions**

In this chapter, unless the context otherwise requires:

1. "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

2. "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state OR FOREIGN COUNTRY.

3. "CONVENTION" MEANS THE CONVENTION ON THE INTERNATIONAL RECOVERY OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE, CONCLUDED AT THE HAGUE ON NOVEMBER 23, 2007.

~~3.~~ 4. "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse or former spouse, including an unsatisfied obligation to provide support.

5. "FOREIGN COUNTRY" MEANS A COUNTRY, INCLUDING A POLITICAL SUBDIVISION OF A COUNTRY, OTHER THAN THE UNITED STATES, THAT AUTHORIZES THE ISSUANCE OF SUPPORT ORDERS AND TO WHICH ANY OF THE FOLLOWING APPLIES:

(a) IT HAS BEEN DECLARED UNDER THE LAW OF THE UNITED STATES TO BE A FOREIGN RECIPROCATING COUNTRY.

(b) IT HAS ESTABLISHED A RECIPROCAL ARRANGEMENT FOR CHILD SUPPORT WITH THIS STATE AS PROVIDED IN SECTION 25-1248.

(c) IT HAS ENACTED A LAW OR ESTABLISHED PROCEDURES FOR THE ISSUANCE AND ENFORCEMENT OF SUPPORT ORDERS THAT ARE SUBSTANTIALLY SIMILAR TO THE PROCEDURES PRESCRIBED IN THIS CHAPTER.

(d) THE CONVENTION IS IN FORCE IN THE COUNTRY WITH RESPECT TO THE UNITED STATES.

6. "FOREIGN SUPPORT ORDER" MEANS A SUPPORT ORDER OF A FOREIGN TRIBUNAL.

7. "FOREIGN TRIBUNAL" MEANS A COURT, ADMINISTRATIVE AGENCY OR QUASI-JUDICIAL ENTITY OF A FOREIGN COUNTRY THAT IS AUTHORIZED TO ESTABLISH, ENFORCE OR MODIFY SUPPORT ORDERS OR TO DETERMINE PARENTAGE OF A CHILD. FOREIGN TRIBUNAL INCLUDES A COMPETENT AUTHORITY UNDER THE CONVENTION.

~~4.~~ 8. "Home state" means the state OR FOREIGN COUNTRY in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing a petition or a comparable pleading for support and, if a child is less than six months old, the state OR FOREIGN COUNTRY in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six month or other period.

~~5.~~ 9. "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the laws of this state.

~~6.~~ 10. "Income withholding order" means an order or other legal process directed to an obligor's employer, PAYOR or other debtor to withhold support from the income of the obligor.

~~7. "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter.~~

~~8.~~ 11. "Initiating tribunal" means the ~~authorized~~ tribunal ~~in an initiating~~ OF A state OR FOREIGN COUNTRY FROM WHICH A PETITION OR COMPARABLE PLEADING IS FORWARDED OR IN WHICH A PETITION OR COMPARABLE PLEADING IS FILED FOR FORWARDING TO ANOTHER STATE OR FOREIGN COUNTRY.

12. "ISSUING FOREIGN COUNTRY" MEANS THE FOREIGN COUNTRY IN WHICH A TRIBUNAL ISSUES A SUPPORT ORDER OR A JUDGMENT DETERMINING PARENTAGE OF A CHILD.

~~9.~~ 13. "Issuing state" means the state in which a tribunal issues a support order or ~~renders~~ a judgment determining parentage OF A CHILD.

~~10.~~ 14. "Issuing tribunal" means the tribunal OF A STATE OR FOREIGN COUNTRY that issues a support order or ~~renders~~ a judgment determining parentage OF A CHILD.

~~11.~~ 15. "Law" includes decisional and statutory law and rules and regulations having the force of law.

~~12.~~ 16. "Obligee" means any of the following:

(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order ~~has been issued~~ or a judgment determining parentage OF A CHILD has been ~~rendered~~ ISSUED.

(b) A FOREIGN COUNTRY, A state or A political subdivision OF A STATE to which the rights under a duty of support or support order have been assigned or that has independent claims based on financial assistance provided to an individual obligee IN PLACE OF CHILD SUPPORT.

(c) An individual who seeks a judgment determining parentage of the individual's child.

(d) A PERSON THAT IS A CREDITOR IN A PROCEEDING UNDER ARTICLE 7 OF THIS CHAPTER.

~~13.~~ 17. "Obligor" means an individual or the estate of a decedent that meets any of the following conditions:

(a) Owes or is alleged to owe a duty of support.

(b) Is alleged but has not been adjudicated to be a parent of a child.

(c) Is liable under a support order.

(d) IS A DEBTOR IN A PROCEEDING UNDER ARTICLE 7 OF THIS CHAPTER.

18. "OUTSIDE THIS STATE" MEANS A LOCATION IN ANOTHER STATE OR A COUNTRY OTHER THAN THE UNITED STATES, WHETHER OR NOT THE COUNTRY IS A FOREIGN COUNTRY.

~~14.~~ 19. "Person" ~~has the same meaning prescribed in section 1-215~~ MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY OR INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

~~15.~~ 20. "Petition" includes a complaint.

~~16.~~ 21. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and that is retrievable in perceivable form.

~~17.~~ 22. "Register" means to file IN A TRIBUNAL IN THIS STATE a support order or judgment ~~determining~~ THAT DETERMINES parentage ~~in superior court~~ OF A CHILD AND THAT IS ISSUED IN ANOTHER STATE OR A FOREIGN COUNTRY.

~~18.~~ 23. "Registering tribunal" means a tribunal in which a support order OR A JUDGMENT DETERMINING PARENTAGE OF A CHILD is registered.

~~19.~~ 24. "Responding state" means a state in which a ~~proceeding~~ PETITION OR COMPARABLE PLEADING FOR SUPPORT OR DETERMINATION OF PARENTAGE is filed or to which a ~~proceeding~~ PETITION OR COMPARABLE PLEADING is forwarded for filing from ~~an initiating~~ ANOTHER state ~~under this chapter or a law substantially similar to this chapter~~ OR A FOREIGN COUNTRY.

~~20.~~ 25. "Responding tribunal" means the authorized tribunal in a responding state OR A FOREIGN COUNTRY.

~~21.~~ 26. "Spousal support order" means a support order for a spouse or former spouse of the obligor.

~~22.~~ 27. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. State includes~~:~~

~~(a)~~ an Indian NATION OR tribe.

~~(b) A foreign country or political subdivision that has:~~

~~(i) Been declared to be a foreign reciprocating country or political subdivision under federal law.~~

~~(ii) Established a reciprocal arrangement for child support with this state pursuant to section 25-1248.~~

~~(iii) Enacted a law or established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this chapter.~~

~~23.~~ 28. "Support enforcement agency" means a public official ~~or~~, GOVERNMENTAL ENTITY OR PRIVATE agency authorized to ~~seek~~ DO ANY OF THE FOLLOWING:

(a) SEEK the enforcement of support orders or laws relating to the duty of support.

(b) SEEK the establishment or modification of child support.

(c) ~~The~~ REQUEST A determination of parentage.

(d) ~~The location of~~ ATTEMPT TO LOCATE obligors or their assets.

(e) REQUEST a determination of the controlling child support order.

~~24.~~ 29. "Support order" means a judgment, decree, order, DECISION or directive, whether temporary, final or subject to modification, ISSUED IN A STATE OR FOREIGN COUNTRY for the benefit of a child, a spouse or a former spouse, that provides for monetary support, health care, arrearages, RETROACTIVE SUPPORT or reimbursement ~~and that~~ FOR FINANCIAL ASSISTANCE PROVIDED TO AN INDIVIDUAL OBLIGEE IN PLACE OF CHILD SUPPORT. SUPPORT ORDER may include related costs and fees, interest, income withholding, AUTOMATIC ADJUSTMENT, REASONABLE attorney fees and other relief.

~~25.~~ 30. "Tribunal" means a court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage OF A CHILD.

**Sec. 2.** Title 25, chapter 9, article 1, Arizona Revised Statutes, is amended by adding section 25-1203, to read:

**25-1203. State tribunal and support enforcement agency**

A. THE SUPERIOR COURT IS THE TRIBUNAL OF THIS STATE.

B. THE DEPARTMENT OF ECONOMIC SECURITY IS THE SUPPORT ENFORCEMENT AGENCY OF THIS STATE.

**Sec. 3.** Section 25-1204, Arizona Revised Statutes, is amended to read:

**25-1204. Remedies cumulative**

A. Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law~~, including~~ OR the recognition of a FOREIGN support order ~~of a foreign country or political subdivision~~ on the basis of comity.

B. This chapter does not:

1. Provide the exclusive method of establishing or enforcing a support order under the laws of this state.

2. Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to ~~access~~ LEGAL DECISION-MAKING and parenting times in a proceeding under this chapter.

**Sec. 4.** Title 25, chapter 9, article 1, Arizona Revised Statutes, is amended by adding section 25-1205, to read:

**25-1205. Application of chapter to resident of foreign country and foreign support proceeding**

A. A TRIBUNAL OF THIS STATE SHALL APPLY ARTICLES 1, 2, 3, 4, 5 AND 6 OF THIS CHAPTER AND, AS APPLICABLE, ARTICLE 7 OF THIS CHAPTER TO A SUPPORT PROCEEDING THAT INVOLVES ANY OF THE FOLLOWING:

1. A FOREIGN SUPPORT ORDER.

2. A FOREIGN TRIBUNAL.

3. AN OBLIGEE, AN OBLIGOR OR A CHILD RESIDING IN A FOREIGN COUNTRY.

B. A TRIBUNAL OF THIS STATE THAT IS REQUESTED TO RECOGNIZE AND ENFORCE A SUPPORT ORDER ON THE BASIS OF COMITY MAY APPLY THE PROCEDURAL AND SUBSTANTIVE PROVISIONS OF ARTICLES 1, 2, 3, 4, 5 AND 6 OF THIS CHAPTER.

C. ARTICLE 7 OF THIS CHAPTER APPLIES ONLY TO A SUPPORT PROCEEDING UNDER THE CONVENTION. IN SUCH A PROCEEDING, IF A PROVISION OF ARTICLE 7 OF THIS CHAPTER IS INCONSISTENT WITH ARTICLES 1, 2, 3, 4, 5 AND 6 OF THIS CHAPTER, THE ARTICLE 7 PROVISION CONTROLS.

**Sec. 5.** Section 25-1221, Arizona Revised Statutes, is amended to read:

**25-1221. Bases for jurisdiction over nonresident**

A. In a proceeding to establish or enforce a support order or to determine parentage OF A CHILD, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if any of the following is true:

1. The individual is personally served within this state.

2. The individual submits to the jurisdiction of this state by consent IN A RECORD, by entering a general appearance or by filing a responsive document having the effect of waiving any contest to personal jurisdiction.

3. The individual resided with the child in this state.

4. The individual resided in this state and provided prenatal expenses or support for the child.

5. The child resides in this state as a result of the acts or directives of the individual.

6. The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse.

7. The individual asserted parentage OF A CHILD on a birth certificate filed in this state.

8. There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

B. The bases of personal jurisdiction prescribed in subsection A of this section or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of section 25-1311 ~~or 25-1315~~ are met, OR, IN THE CASE OF A FOREIGN SUPPORT ORDER, UNLESS THE REQUIREMENTS OF SECTION 25-1315 ARE MET.

**Sec. 6.** Section 25-1223, Arizona Revised Statutes, is amended to read:

**25-1223. Initiating and responding tribunal of state**

Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to A TRIBUNAL OF another state and as a responding tribunal for proceedings initiated in another state OR A FOREIGN COUNTRY.

**Sec. 7.** Section 25-1224, Arizona Revised Statutes, is amended to read:

**25-1224. Simultaneous proceedings**

A. A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state OR A FOREIGN COUNTRY only if all of the following are true:

1. The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state OR THE FOREIGN COUNTRY for filing a responsive pleading challenging the exercise of jurisdiction by the other state OR THE FOREIGN COUNTRY.

2. The contesting party timely challenges the exercise of jurisdiction in the other state OR THE FOREIGN COUNTRY.

3. If relevant, this state is the home state of the child.

B. A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state OR A FOREIGN COUNTRY if all of the following are true:

1. The petition or comparable pleading in the other state OR THE FOREIGN COUNTRY is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state.

2. The contesting party timely challenges the exercise of jurisdiction in this state.

3. If relevant, the other state OR THE FOREIGN COUNTRY is the home state of the child.

**Sec. 8.** Section 25-1226, Arizona Revised Statutes, is amended to read:

**25-1226. Continuing jurisdiction to enforce child support order**

A. A tribunal of this state that has issued a child support order consistent with the laws of this state may serve as an initiating tribunal to request a tribunal of another state to enforce:

1. The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the uniform interstate family support act.

2. A money judgment for arrears of support and interest on the order accrued before a determination that an order OF A TRIBUNAL of another state is the controlling order.

B. A tribunal of this state having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

**Sec. 9.** Section 25-1227, Arizona Revised Statutes, is amended to read:

**25-1227. Determination of controlling child support order**

A. If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal is controlling and shall be recognized.

B. If a proceeding is brought under this chapter and two or more child support orders have been issued by tribunals in this state, ~~or~~ another state OR A FOREIGN COUNTRY with regard to the same obligor and the same child, a tribunal of this state having personal jurisdiction over both the obligor and individual

obligee shall apply the following rules and by order shall determine which order controls AND MUST BE RECOGNIZED:

1. If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal ~~is controlling and shall be recognized~~ CONTROLS.

2. If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child is controlling. If an order has not been issued in the current home state of the child, the order most recently issued is controlling.

3. If none of the tribunals would have continuing exclusive jurisdiction under this chapter, the tribunal of this state shall issue a child support order that is controlling.

C. If two or more child support orders have been issued for the same obligor and the same child, on request of a party ~~that~~ WHO is an individual or THAT IS a support enforcement agency, a tribunal of this state having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection B of this section. The request may be filed with a registration for enforcement or registration for modification pursuant to article 6 of this chapter OR MAY BE FILED AS A SEPARATE PROCEEDING.

D. A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

E. The tribunal that issued the order that is recognized as controlling under subsection A, B or C of this section has continuing jurisdiction to the extent provided pursuant to section 25-1225 or 25-1226.

F. A tribunal of this state that determines the order that is the controlling ~~child~~ support order under subsection B, paragraph 1 or 2 of this section or subsection C of this section or that issues a new controlling ~~child~~ support order under subsection B, paragraph 3 of this section shall state in that order:

1. The basis on which the tribunal made its determination.

2. The amount of prospective support, if any.

3. The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited pursuant to section 25-1229.

G. Within thirty days after issuance of an order determining WHICH IS the controlling order, the party obtaining the order shall file a certified copy of the order in each tribunal that had issued or registered an earlier order of child support. A party or support enforcement agency that obtains the controlling order but fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

H. An order that has been determined to be the controlling order or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this chapter.

**Sec. 10.** Section 25-1228, Arizona Revised Statutes, is amended to read:

**25-1228. Child support orders for two or more obligees**

In responding to registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state OR A FOREIGN COUNTRY, a tribunal of this state shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this state.

**Sec. 11.** Section 25-1229, Arizona Revised Statutes, is amended to read:

**25-1229. Credit for payments**

A tribunal of this state shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this state, ~~or any other~~ ANOTHER state OR A FOREIGN COUNTRY.

**Sec. 12.** Section 25-1230, Arizona Revised Statutes, is amended to read:

**25-1230. Application of chapter to nonresident subject to personal jurisdiction**

A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter or other laws of this state relating to a support order, or recognizing a FOREIGN support order ~~of a foreign country or political subdivision on the basis of comity~~, may receive evidence from ~~another~~ OUTSIDE THIS state pursuant to section 25-1256, communicate with a tribunal ~~of another~~ OUTSIDE THIS state pursuant to section 25-1257 and obtain discovery through a tribunal ~~of another~~ OUTSIDE THIS state pursuant to section 25-1258. In all other respects, articles 3, ~~through 7~~ 4, 5 AND 6 of this chapter do not apply and the tribunal shall apply the procedural and substantive law of this state.

**Sec. 13.** Section 25-1231, Arizona Revised Statutes, is amended to read:

**25-1231. Continuing, exclusive jurisdiction to modify spousal support order**

A. A tribunal of this state issuing a spousal support order consistent with the laws of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

B. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state OR A FOREIGN COUNTRY having continuing, exclusive jurisdiction over that order under the laws of that state OR FOREIGN COUNTRY.

C. A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as either:

1. An initiating tribunal TO REQUEST A TRIBUNAL of another state to enforce the spousal support order issued in ~~that~~ THIS state.

2. A responding tribunal to enforce or modify its own spousal support order.

**Sec. 14.** Section 25-1241, Arizona Revised Statutes, is amended to read:

**25-1241. Proceedings under this chapter**

A. Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

B. An individual petitioner or a support enforcement agency may initiate a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state OR A FOREIGN COUNTRY that has or can obtain personal jurisdiction over the respondent.

**Sec. 15.** Section 25-1244, Arizona Revised Statutes, is amended to read:

**25-1244. Duties of initiating tribunal**

A. On the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward the petition and its accompanying documents either:

1. To the responding tribunal or the appropriate support enforcement agency in the responding state.

2. If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that the petition be forwarded to the appropriate tribunal and that receipt be acknowledged.

B. If requested by the responding tribunal, a tribunal of this state shall issue ~~any~~ A certificate or other document and may make findings required by the law of the responding state. If the responding ~~state~~ TRIBUNAL is IN a foreign country ~~or political subdivision~~, on request the tribunal OF THIS STATE shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding ~~state~~ FOREIGN TRIBUNAL.

**Sec. 16.** Section 25-1245, Arizona Revised Statutes, is amended to read:

**25-1245. Duties and powers of responding tribunal**

A. When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 25-1241, subsection B, it shall file the petition or pleading and notify the petitioner of where and when it was filed.

B. A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:

1. ~~Issue~~ ESTABLISH or enforce a support order, modify a child support order, determine the controlling child support order or determine parentage OF A CHILD.

2. Order an obligor to comply with a support order, specifying the amount and the manner of compliance.

3. Order income withholding.

4. Determine the amount of any arrearages and specify a method of payment.

5. Enforce orders by civil or criminal contempt, or both.

6. Set aside property for satisfaction of the support order.

7. Place liens and order execution on the obligor's property.

8. Order an obligor to keep the tribunal informed of the obligor's current residential address, E-MAIL ADDRESS, telephone number, employer, address of employment and telephone number at the place of employment.

9. Issue a ~~civil~~ CHILD SUPPORT arrest warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the

~~civil~~ CHILD SUPPORT arrest warrant in any local and state computer systems for criminal warrants.

10. Order the obligor to seek appropriate employment by specified methods.

11. Award reasonable attorney fees and other fees and costs.

12. Grant any other available remedy.

C. A responding tribunal of this state shall include in a support order issued under this chapter or in the documents accompanying the order the calculations on which the support order is based.

D. A responding tribunal of this state may not condition the payment of a support order issued under this chapter on compliance by a party with provisions for visitation.

E. If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

F. If requested to enforce a support order, arrears or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

**Sec. 17.** Section 25-1247, Arizona Revised Statutes, is amended to read:

**25-1247. Duties of support enforcement agency**

A. IN A PROCEEDING UNDER THIS CHAPTER, a support enforcement agency of this state, on request: ~~,~~

1. Shall provide services to a petitioner ~~in a proceeding under this chapter~~ THAT RESIDES IN A STATE.

2. SHALL PROVIDE SERVICES TO A PETITIONER THAT REQUESTS SERVICES THROUGH A CENTRAL AUTHORITY OF A FOREIGN COUNTRY DESCRIBED IN SECTION 25-1202, PARAGRAPH 5, SUBDIVISION (a) OR (d).

3. MAY PROVIDE SERVICES TO A PETITIONER WHO IS AN INDIVIDUAL NOT RESIDING IN A STATE.

B. A support enforcement agency of this state that is providing services to the petitioner shall:

1. Take all steps necessary to enable an appropriate tribunal ~~in~~ OF this state, ~~or~~ another state OR A FOREIGN COUNTRY to obtain jurisdiction over the respondent.

2. Request an appropriate tribunal to set a date, time and place for a hearing.

3. Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties.

4. Within two days, exclusive of Saturdays, Sundays and ~~other~~ legal holidays, after receipt of a ~~written~~ notice in a record from an initiating, responding or registering tribunal, send a copy of the notice by first class mail to the petitioner.

5. Within two days, exclusive of Saturdays, Sundays and ~~other~~ legal holidays, after receipt of a ~~written~~ communication in a record from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner.

6. Notify the petitioner if jurisdiction over the respondent cannot be obtained.

C. A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts to either:

1. Ensure that the order to be registered is the controlling order.

2. If two or more child support orders exist and the identity of the controlling order has not been determined, ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

D. A support enforcement agency of this state that requests registration and enforcement of a support order, arrears or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

E. A support enforcement agency of this state shall request a tribunal of this state to issue a child support order and an income withholding order that redirect payment of current support, arrears and interest if requested to do so by a support enforcement agency of another state pursuant to section 25-1259.

F. This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

**Sec. 18.** Section 25-1248, Arizona Revised Statutes, is amended to read:

**25-1248. Duty of the attorney general**

A. If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

B. The attorney general may determine that a foreign country ~~or political subdivision~~ has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

**Sec. 19.** Section 25-1250, Arizona Revised Statutes, is amended to read:

**25-1250. Duties of department of economic security**

A. The department of economic security is the state information agency under this chapter.

B. The department shall:

1. Compile and maintain a current list, including addresses, of the tribunals in this state that have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state.

2. Maintain a register OF NAMES AND ADDRESSES of tribunals and support enforcement agencies received from other states.

3. Forward to the appropriate tribunal in the county in this state in which the obligee WHO IS AN INDIVIDUAL or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from ~~an initiating tribunal or the~~ ANOTHER state ~~information agency of the initiating state~~ OR A FOREIGN COUNTRY.

4. Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification, federal or state locator services, examination of telephone directories, requests for the obligor's address from employers and examination of governmental records, including to the extent not prohibited by other law those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver licenses and social security.

**Sec. 20.** Section 25-1251, Arizona Revised Statutes, is amended to read:

**25-1251. Pleadings and accompanying documents**

A. In a proceeding under this chapter, a petitioner seeking to establish a support order, determine parentage OF A CHILD or register and modify a support order OF A TRIBUNAL of another state OR A FOREIGN COUNTRY must file a petition. Unless otherwise ordered under section 25-1252, the petition or accompanying documents shall provide, as far as known, the name, residential address and social security number of the obligor and the obligee OR THE PARENT AND ALLEGED PARENT and the name, sex, residential address, social security number and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Any social security numbers may be redacted and filed separately pursuant to section 25-501, subsection G. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

B. The petition shall specify the relief sought. The petition and accompanying documents shall conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

**Sec. 21.** Section 25-1253, Arizona Revised Statutes, is amended to read:

**25-1253. Costs and fees**

A. The petitioner ~~shall not~~ MAY NOT BE REQUIRED TO pay a filing fee or other costs.

B. If an obligee prevails, a responding tribunal OF THIS STATE may assess against an obligor filing fees, reasonable attorney fees, other costs and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal shall not assess fees, costs or expenses against the obligee or the support enforcement agency of either the initiating or the responding state OR FOREIGN COUNTRY, except as provided by other law. Attorney fees may be taxed as costs and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

C. The tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. In a proceeding under article 6 of this chapter for the enforcement and modification of a support order after registration, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

**Sec. 22.** Section 25-1256, Arizona Revised Statutes, is amended to read:

**25-1256. Special rules of evidence and procedure**

A. The physical presence of a nonresident party who is an individual in a tribunal ~~proceeding~~ of this state is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage OF A CHILD.

B. An affidavit, a document substantially complying with federally mandated forms or a document incorporated by reference in any affidavit or mandated form that would not be excluded under the hearsay rule if given in person is admissible in evidence if given under penalty of perjury by a party or witness residing ~~in another~~ OUTSIDE THIS state.

C. A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.

D. Copies of bills for testing for parentage OF A CHILD and for prenatal and postnatal health care of the mother and child furnished to the adverse party at least ten days before trial are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

E. Documentary evidence transmitted from ~~another~~ OUTSIDE THIS state to a tribunal of this state by telephone, fax or other ELECTRONIC means that do not provide an original record shall not be excluded from evidence on an objection based on the means of transmission.

F. In a proceeding under this chapter, a tribunal of this state shall permit a party or witness residing ~~in another~~ OUTSIDE THIS state to be deposed or to testify UNDER PENALTY OF PERJURY by telephone, audiovisual means or other electronic means at a designated tribunal or other location ~~in that state~~. A tribunal of this state shall cooperate with OTHER tribunals ~~of other states~~ in designating an appropriate location for the deposition or testimony.

G. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

H. A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

I. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

J. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

**Sec. 23.** Section 25-1257, Arizona Revised Statutes, is amended to read:

**25-1257. Communications between tribunals**

A tribunal of this state may communicate with a tribunal ~~of another~~ OUTSIDE THIS state ~~or a foreign country or political subdivision~~ in a record or by telephone, E-MAIL or other means to obtain information concerning the laws, the legal effect of a judgment, decree or order of that tribunal and the status of a proceeding ~~in the other state or the foreign country or political subdivision~~. A

tribunal of this state may furnish similar information by similar means to a tribunal ~~of another~~ OUTSIDE THIS state ~~or a foreign country or political subdivision~~.

**Sec. 24.** Section 25-1258, Arizona Revised Statutes, is amended to read:

**25-1258. Assistance with discovery**

A tribunal of this state may:

1. Request a tribunal ~~of another~~ OUTSIDE THIS state to assist in obtaining discovery.

2. On request, compel a person over ~~whom~~ WHICH it has jurisdiction to respond to a discovery order issued by a tribunal ~~of another~~ OUTSIDE THIS state.

**Sec. 25.** Section 25-1259, Arizona Revised Statutes, is amended to read:

**25-1259. Receipt and disbursement of payments**

A. A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state OR A FOREIGN COUNTRY a certified statement by the custodian of the record of the amounts and dates of all payments received.

B. If neither the obligor, the obligee who is an individual nor the child resides in this state, on request from the support enforcement agency of this state or another state, a tribunal of this state shall:

1. Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services.

2. Issue and send to the obligor's employer a conforming income withholding order or an administrative notice of change of payee, reflecting the redirected payments.

C. The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection B shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

**Sec. 26. Heading change**

The article heading of title 25, chapter 9, article 4, Arizona Revised Statutes, is changed from "ESTABLISHMENT OF SUPPORT ORDER" to "ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION OF PARENTAGE".

**Sec. 27.** Section 25-1271, Arizona Revised Statutes, is amended to read:

**25-1271. Establishment of support order**

A. If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state WITH PERSONAL JURISDICTION OVER THE PARTIES may issue a support order if either:

1. The individual seeking the order resides ~~in another~~ OUTSIDE THIS state.

2. The support enforcement agency seeking the order is located ~~in another~~ OUTSIDE THIS state.

B. The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

1. A presumed father of the child.

2. Petitioning to have his paternity adjudicated.

3. Identified as the father of the child through genetic testing.
4. An alleged father who has declined to submit to genetic testing.
5. Shown by clear and convincing evidence to be the father of the child.
6. An acknowledged father as provided pursuant to section ~~36-322~~ 36-334.
7. The mother of the child.
8. An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

C. On finding, after notice and an opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 25-1245.

**Sec. 28.** Title 25, chapter 9, article 4, Arizona Revised Statutes, is amended by adding section 25-1272, to read:

**25-1272. Proceeding to determine parentage of a child**

A TRIBUNAL OF THIS STATE AUTHORIZED TO DETERMINE PARENTAGE OF A CHILD MAY SERVE AS A RESPONDING TRIBUNAL IN A PROCEEDING TO DETERMINE THE PARENTAGE OF A CHILD BROUGHT UNDER THIS CHAPTER OR A LAW OR PROCEDURE SUBSTANTIALLY SIMILAR TO THIS CHAPTER.

**Sec. 29. Heading change**

The article heading of title 25, chapter 9, article 5, Arizona Revised Statutes, is changed from "ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION" to "ENFORCEMENT OF SUPPORT ORDER WITHOUT REGISTRATION".

**Sec. 30.** Section 25-1284, Arizona Revised Statutes, is amended to read:

**25-1284. Immunity from civil liability**

An employer ~~who~~ THAT complies with an income withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

**Sec. 31.** Section 25-1285, Arizona Revised Statutes, is amended to read:

**25-1285. Penalties for noncompliance**

An employer ~~who~~ THAT wilfully fails to comply with an income withholding order issued ~~by~~ IN another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

**Sec. 32.** Section 25-1287, Arizona Revised Statutes, is amended to read:

**25-1287. Administrative enforcement of orders**

A. A party or support enforcement agency seeking to enforce a support order or an income withholding order, or both, issued ~~by a tribunal of~~ IN another state OR A FOREIGN SUPPORT ORDER may send the documents required for registering the order to a support enforcement agency of this state.

B. On receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the laws of this state to enforce a support order or an income withholding order, or both. If the obligor does not contest

administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

**Sec. 33.** Section 25-1301, Arizona Revised Statutes, is amended to read:

**25-1301. Registration of order for enforcement**

A support order or an income withholding order issued ~~by a tribunal of~~ IN another state OR A FOREIGN SUPPORT ORDER may be registered in this state for enforcement.

**Sec. 34.** Section 25-1302, Arizona Revised Statutes, is amended to read:

**25-1302. Procedure to register order for enforcement**

A. EXCEPT AS PROVIDED IN SECTION 25-1336, a support order or income withholding order of another state OR A FOREIGN SUPPORT ORDER may be registered in this state by sending the following documents ~~and information~~ to the appropriate tribunal in this state:

1. A letter of transmittal to the tribunal requesting registration and enforcement.

2. Two copies, including one certified copy, of the order to be registered, including any modification of the order.

3. A sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage.

4. The name of the obligor and, if known:

(a) The obligor's address and social security number. The obligor's social security number may be redacted and filed separately pursuant to section 25-501, subsection G.

(b) The name and address of the obligor's employer and any other source of income of the obligor.

(c) A description and the location of property of the obligor in this state not exempt from execution.

5. Except as otherwise provided in section 25-1252, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

B. On receipt of a request for registration, the registering tribunal shall cause the order to be filed as ~~a foreign judgment~~ AN ORDER OF A TRIBUNAL OF ANOTHER STATE OR A FOREIGN SUPPORT ORDER, together with one copy of the documents and information, regardless of their form.

C. A PETITION OR COMPARABLE PLEADING SEEKING A REMEDY THAT MUST BE AFFIRMATIVELY SOUGHT UNDER OTHER LAW OF THIS STATE MAY BE FILED AT THE SAME TIME AS THE REQUEST FOR REGISTRATION OR LATER. THE PLEADING MUST SPECIFY THE GROUNDS FOR THE REMEDY SOUGHT.

~~C.~~ D. If two or more orders are in effect, the person requesting registration shall:

1. Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section.

2. Specify the order alleged to be the controlling order, if any.

3. Specify the amount of consolidated arrears, if any.

~~D.~~ E. A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

**Sec. 35.** Section 25-1303, Arizona Revised Statutes, is amended to read:

**25-1303. Effect of registration for enforcement**

A. A support order or income withholding order issued in another state OR A FOREIGN SUPPORT ORDER is registered when the order is filed in the registering tribunal of this state.

B. A registered SUPPORT order issued in another state OR A FOREIGN COUNTRY is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

C. Except as otherwise provided in this article, a tribunal of this state shall recognize and enforce, but may not modify, a registered SUPPORT order if the issuing tribunal had jurisdiction.

**Sec. 36.** Section 25-1304, Arizona Revised Statutes, is amended to read:

**25-1304. Choice of law**

A. Except as otherwise provided in subsection D OF THIS SECTION, the law of the issuing state OR FOREIGN COUNTRY governs:

1. The nature, extent, amount and duration of current payments under a registered support order.

2. The computation and payment of arrearages and accrual of interest on the arrearages under the SUPPORT order.

3. The existence and satisfaction of other obligations under the support order.

B. In a proceeding for arrears under a registered support order, the statute of limitation of this state or of the issuing state OR FOREIGN COUNTRY, whichever is longer, applies.

C. A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state OR A FOREIGN COUNTRY registered in this state.

D. After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state OR FOREIGN COUNTRY issuing the controlling order, including its law on interest on arrears, on current and future support and on consolidated arrears.

**Sec. 37.** Section 25-1305, Arizona Revised Statutes, is amended to read:

**25-1305. Notice of registration of order**

A. When a support order or income withholding order issued in another state OR A FOREIGN SUPPORT ORDER is registered, the registering tribunal OF THIS STATE shall notify the nonregistering party. Notice shall be given by first class or registered mail or by any means of personal service authorized by the law of this

state. The notice shall be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

B. A notice shall inform the nonregistering party:

1. That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state.

2. That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after the date of mailing or personal service of the notice, UNLESS THE REGISTERED ORDER IS UNDER SECTION 25-1337.

3. That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted.

4. Of the amount of any alleged arrearages.

C. If the registering party asserts that two or more orders are in effect, a notice must also:

1. Identify the two or more orders and the order alleged by the registering ~~person~~ PARTY to be the controlling order and the consolidated arrears, if any.

2. Notify the nonregistering party of the right to a determination of which is the controlling order.

3. State that the procedures provided in subsection B of this section apply to the determination of which is the controlling order.

4. State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

D. On registration of an income withholding order for enforcement, THE SUPPORT ENFORCEMENT AGENCY OR the registering tribunal shall serve the obligor's employer with a wage assignment subject to the provisions of section 25-504 or 25-506.

**Sec. 38.** Section 25-1306, Arizona Revised Statutes, is amended to read:

**25-1306. Procedure to contest validity or enforcement of registered support order**

A. A nonregistering party seeking to contest the validity or enforcement of a registered SUPPORT order in this state shall request a hearing within ~~twenty days after the date of mailing or personal service of notice of the registration~~ THE TIME REQUIRED BY SECTION 25-1305. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 25-1307.

B. If the nonregistering party fails to contest the validity or enforcement of the registered SUPPORT order in a timely manner, the order is confirmed by operation of law.

C. If a nonregistering party requests a hearing to contest the validity or enforcement of the registered SUPPORT order, the registering tribunal shall

schedule the matter for a hearing and give notice to the parties by first class mail of the date, time and place of the hearing.

**Sec. 39.** Section 25-1307, Arizona Revised Statutes, is amended to read:

**25-1307. Contest of registration or enforcement**

A. A party contesting the validity or enforcement of a registered SUPPORT order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

1. The issuing tribunal lacked personal jurisdiction over the contesting party.
2. The order was obtained by fraud.
3. The order has been vacated, suspended or modified by a later order.
4. The issuing tribunal has stayed the order pending appeal.
5. There is a defense under the law of this state to the remedy sought.
6. Full or partial payment has been made.
7. The statute of limitation applicable under section 25-1304 precludes enforcement of some or all of the ALLEGED arrearages.
8. The alleged controlling order is not the controlling order.

B. If a party presents evidence establishing a full or partial defense under subsection A of this section, a tribunal may stay enforcement of ~~the~~ A registered SUPPORT order, continue the proceeding to permit production of additional relevant evidence and issue other appropriate orders. An uncontested portion of the registered SUPPORT order may be enforced by all remedies available under the laws of this state.

C. If the contesting party does not establish a defense under subsection A of this section to the validity or enforcement of ~~the~~ A REGISTERED SUPPORT order, the registering tribunal shall issue an order confirming the order.

**Sec. 40.** Section 25-1308, Arizona Revised Statutes, is amended to read:

**25-1308. Confirmed order**

Confirmation of a registered SUPPORT order, whether by operation of law or after notice and a hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

**Sec. 41.** Section 25-1309, Arizona Revised Statutes, is amended to read:

**25-1309. Procedure to register child support order of another state for modification**

A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner as provided in ~~this article~~ SECTIONS 25-1301, 25-1302, 25-1303, 25-1304, 25-1305, 25-1306, 25-1307 AND 25-1308 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration or later. The pleading shall specify the grounds for modification.

**Sec. 42.** Section 25-1310, Arizona Revised Statutes, is amended to read:

**25-1310. Effect of registration for modification**

A tribunal of this state may enforce a child support order of another state registered for purposes of modification in the same manner as if the order had been issued by a tribunal of this state, but the registered SUPPORT order may be modified

only if the requirements of section 25-1311~~,~~ OR 25-1313 ~~or 25-1315 of this section~~ have been met.

**Sec. 43.** Section 25-1311, Arizona Revised Statutes, is amended to read:

**25-1311. Modification of child support order of another state**

A. If section 25-1313 does not apply ~~and except as provided in section 25-1315~~, on petition, a tribunal of this state may modify a child support order issued in another state that is registered in this state if, after notice and a hearing, it finds that any of the following is true:

1. The following requirements are met:

(a) Neither the child, the obligee who is an individual nor the obligor resides in the issuing state.

(b) A petitioner who is a nonresident of this state seeks modification.

(c) The respondent is subject to the personal jurisdiction of the tribunal of this state.

2. This state is the ~~state of~~ residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed consents in ~~the~~ A record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.

B. Modification of a registered child support order is subject to the same requirements, procedures and defenses that apply to the modification of an order issued by a tribunal of this state, and the order may be enforced and satisfied in the same manner.

C. ~~Except as otherwise provided in section 25-1315,~~ A tribunal of this state may not modify any aspect of a child support order that may not be modified under the laws of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and SAME child, the order that ~~is controlling~~ CONTROLS and MUST BE recognized under section 25-1227 establishes the aspects of the support order that are nonmodifiable.

D. In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

E. On issuance of an order by a tribunal of this state modifying a child support order issued in another state, the tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.

F. NOTWITHSTANDING THIS SECTION AND SECTION 25-1221, SUBSECTION B, A TRIBUNAL OF THIS STATE RETAINS JURISDICTION TO MODIFY AN ORDER ISSUED BY A TRIBUNAL OF THIS STATE IF BOTH OF THE FOLLOWING ARE TRUE:

1. ONE PARTY RESIDES IN ANOTHER STATE.

2. THE OTHER PARTY RESIDES OUTSIDE THE UNITED STATES.

**Sec. 44.** Section 25-1315, Arizona Revised Statutes, is amended to read:

**25-1315. Jurisdiction to modify child support order of foreign country**

A. EXCEPT AS PROVIDED IN SECTION 25-1341, if a foreign country ~~or political subdivision that is a state will not or may not modify its order~~ LACKS OR REFUSES TO EXERCISE JURISDICTION TO MODIFY ITS CHILD SUPPORT ORDER pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether ~~or not~~ the consent to modification of a child support order otherwise required of the individual pursuant to section 25-1311 has been given or whether the individual seeking modification is a resident of this state or of the foreign country ~~or political subdivision~~.

B. An order issued BY A TRIBUNAL OF THIS STATE MODIFYING A FOREIGN CHILD SUPPORT ORDER pursuant to this section is the controlling order.

**Sec. 45.** Title 25, chapter 9, article 6, Arizona Revised Statutes, is amended by adding section 25-1316, to read:

**25-1316. Procedure to register child support order of foreign country for modification**

A PARTY OR SUPPORT ENFORCEMENT AGENCY SEEKING TO MODIFY, OR TO MODIFY AND ENFORCE, A FOREIGN CHILD SUPPORT ORDER NOT UNDER THE CONVENTION MAY REGISTER THAT ORDER IN THIS STATE IN THE SAME MANNER AS PROVIDED IN SECTIONS 25-1301, 25-1302, 25-1303, 25-1304, 25-1305, 25-1306, 25-1307 AND 25-1308 IF THE ORDER HAS NOT BEEN REGISTERED. A PETITION FOR MODIFICATION MAY BE FILED AT THE SAME TIME AS A REQUEST FOR REGISTRATION, OR AT ANOTHER TIME. THE PETITION MUST SPECIFY THE GROUNDS FOR MODIFICATION.

**Sec. 46. Repeal**

Title 25, chapter 9, article 7, Arizona Revised Statutes, is repealed.

**Sec. 47. Renumber**

The following sections are renumbered:

| Former Sections | New Sections |
|---|---|
| 25-1341 | 25-1361 |
| 25-1342 | 25-1362 |

**Sec. 48.** Title 25, chapter 9, Arizona Revised Statutes, is amended by adding a new article 7, to read:

ARTICLE 7. SUPPORT PROCEEDING UNDER CONVENTION

**25-1331. Definitions**

IN THIS ARTICLE:

1. "APPLICATION" MEANS A REQUEST UNDER THE CONVENTION BY AN OBLIGEE OR OBLIGOR, OR ON BEHALF OF A CHILD, MADE THROUGH A CENTRAL AUTHORITY FOR ASSISTANCE FROM ANOTHER CENTRAL AUTHORITY.

2. "CENTRAL AUTHORITY" MEANS THE ENTITY DESIGNATED BY THE UNITED STATES OR A FOREIGN COUNTRY DESCRIBED IN SECTION 25-1202, PARAGRAPH 5, SUBDIVISION (d) TO PERFORM THE FUNCTIONS SPECIFIED IN THE CONVENTION.

3. "CONVENTION SUPPORT ORDER" MEANS A SUPPORT ORDER OF A TRIBUNAL OF A FOREIGN COUNTRY DESCRIBED IN SECTION 25-1202, PARAGRAPH 5, SUBDIVISION (d).

4. "DIRECT REQUEST" MEANS A PETITION FILED BY AN INDIVIDUAL IN A TRIBUNAL OF THIS STATE IN A PROCEEDING INVOLVING AN OBLIGEE, OBLIGOR OR CHILD RESIDING OUTSIDE THE UNITED STATES.

5. "FOREIGN CENTRAL AUTHORITY" MEANS THE ENTITY DESIGNATED BY A FOREIGN COUNTRY DESCRIBED IN SECTION 25-1202 TO PERFORM THE FUNCTIONS SPECIFIED IN THE CONVENTION.

6. "FOREIGN SUPPORT AGREEMENT":

(a) MEANS AN AGREEMENT FOR SUPPORT IN A RECORD TO WHICH ALL OF THE FOLLOWING APPLY:

(i) IT IS ENFORCEABLE AS A SUPPORT ORDER IN THE COUNTRY OF ORIGIN.

(ii) IT HAS BEEN FORMALLY DRAWN UP OR REGISTERED AS AN AUTHENTIC INSTRUMENT BY A FOREIGN TRIBUNAL OR AUTHENTICATED BY, OR CONCLUDED, REGISTERED OR FILED WITH, A FOREIGN TRIBUNAL.

(iii) IT MAY BE REVIEWED AND MODIFIED BY A FOREIGN TRIBUNAL.

(b) INCLUDES A MAINTENANCE ARRANGEMENT OR AUTHENTIC INSTRUMENT UNDER THE CONVENTION.

7. "UNITED STATES CENTRAL AUTHORITY" MEANS THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

**25-1332. Applicability**

THIS ARTICLE APPLIES ONLY TO A SUPPORT PROCEEDING UNDER THE CONVENTION. IN SUCH A PROCEEDING, IF A PROVISION OF THIS ARTICLE IS INCONSISTENT WITH ARTICLES 1, 2, 3, 4, 5 AND 6 OF THIS CHAPTER, THIS ARTICLE CONTROLS.

**25-1333. Relationship of department of economic security to United States central authority**

THE DEPARTMENT OF ECONOMIC SECURITY IS RECOGNIZED AS THE AGENCY DESIGNATED BY THE UNITED STATES CENTRAL AUTHORITY TO PERFORM SPECIFIC FUNCTIONS UNDER THE CONVENTION.

**25-1334. Initiation by department of economic security of support proceeding under convention**

A. IN A SUPPORT PROCEEDING UNDER THIS ARTICLE, THE DEPARTMENT OF ECONOMIC SECURITY SHALL DO BOTH OF THE FOLLOWING:

1. TRANSMIT AND RECEIVE APPLICATIONS.

2. INITIATE OR FACILITATE THE INSTITUTION OF A PROCEEDING REGARDING AN APPLICATION IN A TRIBUNAL OF THIS STATE.

B. THE FOLLOWING SUPPORT PROCEEDINGS ARE AVAILABLE TO AN OBLIGEE UNDER THE CONVENTION:

1. RECOGNITION OR RECOGNITION AND ENFORCEMENT OF A FOREIGN SUPPORT ORDER.

2. ENFORCEMENT OF A SUPPORT ORDER ISSUED OR RECOGNIZED IN THIS STATE.

3. ESTABLISHMENT OF A SUPPORT ORDER IF THERE IS NO EXISTING ORDER, INCLUDING, IF NECESSARY, A DETERMINATION OF PARENTAGE OF A CHILD.

4. ESTABLISHMENT OF A SUPPORT ORDER IF RECOGNITION OF A FOREIGN SUPPORT ORDER IS REFUSED UNDER SECTION 25-1338, SUBSECTION B, PARAGRAPH 2, 4 OR 9.

5. MODIFICATION OF A SUPPORT ORDER OF A TRIBUNAL OF THIS STATE.

6. MODIFICATION OF A SUPPORT ORDER OF A TRIBUNAL OF ANOTHER STATE OR A FOREIGN COUNTRY.

C. THE FOLLOWING SUPPORT PROCEEDINGS ARE AVAILABLE UNDER THE CONVENTION TO AN OBLIGOR AGAINST WHICH THERE IS AN EXISTING SUPPORT ORDER:

1. RECOGNITION OF AN ORDER SUSPENDING OR LIMITING ENFORCEMENT OF AN EXISTING SUPPORT ORDER OF A TRIBUNAL OF THIS STATE.

2. MODIFICATION OF A SUPPORT ORDER OF A TRIBUNAL OF THIS STATE.

3. MODIFICATION OF A SUPPORT ORDER OF A TRIBUNAL OF ANOTHER STATE OR A FOREIGN COUNTRY.

D. A TRIBUNAL OF THIS STATE MAY NOT REQUIRE SECURITY, BOND OR DEPOSIT, HOWEVER DESCRIBED, TO GUARANTEE THE PAYMENT OF COSTS AND EXPENSES IN PROCEEDINGS UNDER THE CONVENTION.

**25-1335. Direct request**

A. A PETITIONER MAY FILE A DIRECT REQUEST SEEKING ESTABLISHMENT OR MODIFICATION OF A SUPPORT ORDER OR DETERMINATION OF PARENTAGE OF A CHILD. IN THE PROCEEDING, THE LAW OF THIS STATE APPLIES.

B. A PETITIONER MAY FILE A DIRECT REQUEST SEEKING RECOGNITION AND ENFORCEMENT OF A SUPPORT ORDER OR SUPPORT AGREEMENT. IN THE PROCEEDING, SECTIONS 25-1336, 25-1337, 25-1338, 25-1339, 25-1340, 25-1341, 25-1342 AND 25-1343 APPLY.

C. IN A DIRECT REQUEST FOR RECOGNITION AND ENFORCEMENT OF A CONVENTION SUPPORT ORDER OR FOREIGN SUPPORT AGREEMENT:

1. A SECURITY, BOND OR DEPOSIT IS NOT REQUIRED TO GUARANTEE THE PAYMENT OF COSTS AND EXPENSES.

2. AN OBLIGEE OR OBLIGOR THAT IN THE ISSUING COUNTRY HAS BENEFITED FROM FREE LEGAL ASSISTANCE IS ENTITLED TO BENEFIT, AT LEAST TO THE SAME EXTENT, FROM ANY FREE LEGAL ASSISTANCE PROVIDED FOR BY THE LAW OF THIS STATE UNDER THE SAME CIRCUMSTANCES.

D. A PETITIONER FILING A DIRECT REQUEST IS NOT ENTITLED TO ASSISTANCE FROM THE DEPARTMENT OF ECONOMIC SECURITY.

E. THIS ARTICLE DOES NOT PREVENT THE APPLICATION OF LAWS OF THIS STATE THAT PROVIDE SIMPLIFIED, MORE EXPEDITIOUS RULES REGARDING A DIRECT REQUEST FOR RECOGNITION AND ENFORCEMENT OF A FOREIGN SUPPORT ORDER OR FOREIGN SUPPORT AGREEMENT.

**25-1336. Registration of convention support order**

A. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A PARTY WHO IS AN INDIVIDUAL OR THAT IS A SUPPORT ENFORCEMENT AGENCY SEEKING RECOGNITION OF A CONVENTION SUPPORT ORDER SHALL REGISTER THE ORDER IN THIS STATE AS PROVIDED IN ARTICLE 6 OF THIS CHAPTER.

B. NOTWITHSTANDING SECTION 25-1251 AND SECTION 25-1302, SUBSECTION A, A REQUEST FOR REGISTRATION OF A CONVENTION SUPPORT ORDER MUST BE ACCOMPANIED BY ALL OF THE FOLLOWING:

1. A COMPLETE TEXT OF THE SUPPORT ORDER OR AN ABSTRACT OR EXTRACT OF THE SUPPORT ORDER DRAWN UP BY THE ISSUING FOREIGN TRIBUNAL, WHICH MAY BE IN THE FORM RECOMMENDED BY THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW.

2. A RECORD STATING THAT THE SUPPORT ORDER IS ENFORCEABLE IN THE ISSUING COUNTRY.

3. IF THE RESPONDENT DID NOT APPEAR AND WAS NOT REPRESENTED IN THE PROCEEDINGS IN THE ISSUING COUNTRY, A RECORD ATTESTING, AS APPROPRIATE, EITHER THAT THE RESPONDENT HAD PROPER NOTICE OF THE PROCEEDINGS AND AN OPPORTUNITY TO BE HEARD OR THAT THE RESPONDENT HAD PROPER NOTICE OF THE SUPPORT ORDER AND AN OPPORTUNITY TO BE HEARD IN A CHALLENGE OR APPEAL ON FACT OR LAW BEFORE A TRIBUNAL.

4. A RECORD SHOWING THE AMOUNT OF ARREARS, IF ANY, AND THE DATE THE AMOUNT WAS CALCULATED.

5. A RECORD SHOWING A REQUIREMENT FOR AUTOMATIC ADJUSTMENT OF THE AMOUNT OF SUPPORT, IF ANY, AND THE INFORMATION NECESSARY TO MAKE THE APPROPRIATE CALCULATIONS.

6. IF NECESSARY, A RECORD SHOWING THE EXTENT TO WHICH THE APPLICANT RECEIVED FREE LEGAL ASSISTANCE IN THE ISSUING COUNTRY.

C. A REQUEST FOR REGISTRATION OF A CONVENTION SUPPORT ORDER MAY SEEK RECOGNITION AND PARTIAL ENFORCEMENT OF THE ORDER.

D. A TRIBUNAL OF THIS STATE MAY VACATE THE REGISTRATION OF A CONVENTION SUPPORT ORDER WITHOUT THE FILING OF A CONTEST UNDER SECTION 25-1337 ONLY IF, ACTING ON ITS OWN MOTION, THE TRIBUNAL FINDS THAT RECOGNITION AND ENFORCEMENT OF THE ORDER WOULD BE MANIFESTLY INCOMPATIBLE WITH PUBLIC POLICY.

E. THE TRIBUNAL SHALL PROMPTLY NOTIFY THE PARTIES OF THE REGISTRATION OR THE ORDER VACATING THE REGISTRATION OF A CONVENTION SUPPORT ORDER.

**25-1337. Contest of registered convention support order**

A. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, SECTIONS 25-1305, 25-1306, 25-1307 AND 25-1308 APPLY TO A CONTEST OF A REGISTERED CONVENTION SUPPORT ORDER.

B. A PARTY CONTESTING A REGISTERED CONVENTION SUPPORT ORDER SHALL FILE A CONTEST NOT LATER THAN THIRTY DAYS AFTER THE DATE OF MAILING OR PERSONAL SERVICE OF THE NOTICE OF THE REGISTRATION, BUT IF THE CONTESTING PARTY DOES NOT RESIDE IN THE UNITED STATES, THE CONTESTING PARTY SHALL FILE THE CONTEST NOT LATER THAN SIXTY DAYS AFTER THE DATE OF MAILING OR PERSONAL SERVICE OF THE NOTICE OF THE REGISTRATION.

C. IF THE NONREGISTERING PARTY FAILS TO CONTEST THE REGISTERED CONVENTION SUPPORT ORDER BY THE TIME SPECIFIED IN SUBSECTION B OF THIS SECTION, THE ORDER IS ENFORCEABLE.

D. A CONTEST OF A REGISTERED CONVENTION SUPPORT ORDER MAY BE BASED ONLY ON GROUNDS SET FORTH IN SECTION 25-1338. THE CONTESTING PARTY BEARS THE BURDEN OF PROOF.

E. IN A CONTEST OF A REGISTERED CONVENTION SUPPORT ORDER, A TRIBUNAL OF THIS STATE:

1. IS BOUND BY THE FINDINGS OF FACT ON WHICH THE FOREIGN TRIBUNAL BASED ITS JURISDICTION.

2. MAY NOT REVIEW THE MERITS OF THE ORDER.

F. A TRIBUNAL OF THIS STATE DECIDING A CONTEST OF A REGISTERED CONVENTION SUPPORT ORDER SHALL PROMPTLY NOTIFY THE PARTIES OF ITS DECISION.

G. A CHALLENGE OR APPEAL, IF ANY, DOES NOT STAY THE ENFORCEMENT OF A CONVENTION SUPPORT ORDER UNLESS THERE ARE EXCEPTIONAL CIRCUMSTANCES.

**25-1338. Recognition and enforcement of registered convention support order**

A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A TRIBUNAL OF THIS STATE SHALL RECOGNIZE AND ENFORCE A REGISTERED CONVENTION SUPPORT ORDER.

B. THE FOLLOWING GROUNDS ARE THE ONLY GROUNDS ON WHICH A TRIBUNAL OF THIS STATE MAY REFUSE RECOGNITION AND ENFORCEMENT OF A REGISTERED CONVENTION SUPPORT ORDER:

1. RECOGNITION AND ENFORCEMENT OF THE ORDER IS MANIFESTLY INCOMPATIBLE WITH PUBLIC POLICY, INCLUDING THE FAILURE OF THE ISSUING TRIBUNAL TO OBSERVE MINIMUM STANDARDS OF DUE PROCESS, WHICH INCLUDE NOTICE AND AN OPPORTUNITY TO BE HEARD.

2. THE ISSUING TRIBUNAL LACKED PERSONAL JURISDICTION CONSISTENT WITH SECTION 25-1221.

3. THE ORDER IS NOT ENFORCEABLE IN THE ISSUING COUNTRY.

4. THE ORDER WAS OBTAINED BY FRAUD IN CONNECTION WITH A MATTER OF PROCEDURE.

5. A RECORD TRANSMITTED UNDER SECTION 25-1336 LACKS AUTHENTICITY OR INTEGRITY.

6. A PROCEEDING BETWEEN THE SAME PARTIES AND HAVING THE SAME PURPOSE IS PENDING BEFORE A TRIBUNAL OF THIS STATE AND THAT PROCEEDING WAS THE FIRST TO BE FILED.

7. THE ORDER IS INCOMPATIBLE WITH A MORE RECENT SUPPORT ORDER INVOLVING THE SAME PARTIES AND HAVING THE SAME PURPOSE IF THE MORE RECENT SUPPORT ORDER IS ENTITLED TO RECOGNITION AND ENFORCEMENT UNDER THIS CHAPTER IN THIS STATE.

8. PAYMENT, TO THE EXTENT ALLEGED ARREARS HAVE BEEN PAID IN WHOLE OR IN PART.

9. IN A CASE IN WHICH THE RESPONDENT DID NOT APPEAR OR WAS NOT REPRESENTED IN THE PROCEEDING IN THE ISSUING FOREIGN COUNTRY:

(a) IF THE LAW OF THAT COUNTRY PROVIDES FOR PRIOR NOTICE OF PROCEEDINGS, THE RESPONDENT DID NOT HAVE PROPER NOTICE OF THE PROCEEDINGS AND AN OPPORTUNITY TO BE HEARD.

(b) IF THE LAW OF THAT COUNTRY DOES NOT PROVIDE FOR PRIOR NOTICE OF THE PROCEEDINGS, THE RESPONDENT DID NOT HAVE PROPER NOTICE OF THE ORDER AND AN OPPORTUNITY TO BE HEARD IN A CHALLENGE OR APPEAL ON FACT OR LAW BEFORE A TRIBUNAL.

10. THE ORDER WAS MADE IN VIOLATION OF SECTION 25-1341.

C. IF A TRIBUNAL OF THIS STATE DOES NOT RECOGNIZE A CONVENTION SUPPORT ORDER UNDER SUBSECTION B, PARAGRAPH 2, 4 OR 9 OF THIS SECTION:

1. THE TRIBUNAL MAY NOT DISMISS THE PROCEEDING WITHOUT ALLOWING A REASONABLE TIME FOR A PARTY TO REQUEST THE ESTABLISHMENT OF A NEW CONVENTION SUPPORT ORDER.

2. THE DEPARTMENT OF ECONOMIC SECURITY SHALL TAKE ALL APPROPRIATE MEASURES TO REQUEST A CHILD SUPPORT ORDER FOR THE OBLIGEE IF THE APPLICATION FOR RECOGNITION AND ENFORCEMENT WAS RECEIVED UNDER SECTION 25-1334.

**25-1339. Partial enforcement**

IF A TRIBUNAL OF THIS STATE DOES NOT RECOGNIZE AND ENFORCE A CONVENTION SUPPORT ORDER IN ITS ENTIRETY, IT SHALL ENFORCE ANY SEVERABLE PART OF THE ORDER. AN APPLICATION OR DIRECT REQUEST MAY SEEK RECOGNITION AND PARTIAL ENFORCEMENT OF A CONVENTION SUPPORT ORDER.

**25-1340. Foreign support agreement**

A. EXCEPT AS PROVIDED IN SUBSECTIONS C AND D OF THIS SECTION, A TRIBUNAL OF THIS STATE SHALL RECOGNIZE AND ENFORCE A FOREIGN SUPPORT AGREEMENT REGISTERED IN THIS STATE.

B. AN APPLICATION OR DIRECT REQUEST FOR RECOGNITION AND ENFORCEMENT OF A FOREIGN SUPPORT AGREEMENT MUST BE ACCOMPANIED BY BOTH OF THE FOLLOWING:

1. A COMPLETE TEXT OF THE FOREIGN SUPPORT AGREEMENT.

2. A RECORD STATING THAT THE FOREIGN SUPPORT AGREEMENT IS ENFORCEABLE AS AN ORDER OF SUPPORT IN THE ISSUING COUNTRY.

C. A TRIBUNAL OF THIS STATE MAY VACATE THE REGISTRATION OF A FOREIGN SUPPORT AGREEMENT ONLY IF, ACTING ON ITS OWN MOTION, THE TRIBUNAL FINDS THAT RECOGNITION AND ENFORCEMENT WOULD BE MANIFESTLY INCOMPATIBLE WITH PUBLIC POLICY.

D. IN A CONTEST OF A FOREIGN SUPPORT AGREEMENT, A TRIBUNAL OF THIS STATE MAY REFUSE RECOGNITION AND ENFORCEMENT OF THE AGREEMENT IF IT FINDS ANY OF THE FOLLOWING:

1. RECOGNITION AND ENFORCEMENT OF THE AGREEMENT IS MANIFESTLY INCOMPATIBLE WITH PUBLIC POLICY.

2. THE AGREEMENT WAS OBTAINED BY FRAUD OR FALSIFICATION.

3. THE AGREEMENT IS INCOMPATIBLE WITH A SUPPORT ORDER INVOLVING THE SAME PARTIES AND HAVING THE SAME PURPOSE IN THIS STATE, ANOTHER STATE OR A FOREIGN COUNTRY IF THE

SUPPORT ORDER IS ENTITLED TO RECOGNITION AND ENFORCEMENT UNDER THIS CHAPTER IN THIS STATE.

4. THE RECORD SUBMITTED UNDER SUBSECTION B OF THIS SECTION LACKS AUTHENTICITY OR INTEGRITY.

E. A PROCEEDING FOR RECOGNITION AND ENFORCEMENT OF A FOREIGN SUPPORT AGREEMENT MUST BE SUSPENDED DURING THE PENDENCY OF A CHALLENGE TO OR APPEAL OF THE AGREEMENT BEFORE A TRIBUNAL OF ANOTHER STATE OR A FOREIGN COUNTRY.

**25-1341. Modification of convention child support order**

A. A TRIBUNAL OF THIS STATE MAY NOT MODIFY A CONVENTION CHILD SUPPORT ORDER IF THE OBLIGEE REMAINS A RESIDENT OF THE FOREIGN COUNTRY WHERE THE SUPPORT ORDER WAS ISSUED UNLESS EITHER OF THE FOLLOWING APPLIES:

1. THE OBLIGEE SUBMITS TO THE JURISDICTION OF A TRIBUNAL OF THIS STATE, EITHER EXPRESSLY OR BY DEFENDING ON THE MERITS OF THE CASE WITHOUT OBJECTING TO THE JURISDICTION AT THE FIRST AVAILABLE OPPORTUNITY.

2. THE FOREIGN TRIBUNAL LACKS OR REFUSES TO EXERCISE JURISDICTION TO MODIFY ITS SUPPORT ORDER OR ISSUE A NEW SUPPORT ORDER.

B. IF A TRIBUNAL OF THIS STATE DOES NOT MODIFY A CONVENTION CHILD SUPPORT ORDER BECAUSE THE ORDER IS NOT RECOGNIZED IN THIS STATE, SECTION 25-1338, SUBSECTION C APPLIES.

**25-1342. Personal information; limit on use**

PERSONAL INFORMATION GATHERED OR TRANSMITTED UNDER THIS ARTICLE MAY BE USED ONLY FOR THE PURPOSES FOR WHICH IT WAS GATHERED OR TRANSMITTED.

**25-1343. Record in original language; English translation**

A RECORD FILED WITH A TRIBUNAL OF THIS STATE UNDER THIS ARTICLE MUST BE IN THE ORIGINAL LANGUAGE AND, IF NOT IN ENGLISH, MUST BE ACCOMPANIED BY AN ENGLISH TRANSLATION.

**Sec. 49. Uniformity of application and construction**

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**Sec. 50. Severability**

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

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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# CHILD SAFETY OVERSIGHT COMMITTEE—CONTINUATION

## CHAPTER 254

## H. B. 2024

**AN ACT AMENDING LAWS 2012, CHAPTER 50, SECTION 1, AS AMENDED BY LAWS 2013, CHAPTER 220, SECTION 6 AND LAWS 2014, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 155; RELATING TO THE CHILD SAFETY OVERSIGHT COMMITTEE.**

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

**Section 1.** Laws 2012, chapter 50, section 1, as amended by Laws 2013, chapter 220, section 6 and Laws 2014, second special session, chapter 1, section 155, is amended to read:

**Section 1. Child safety oversight committee; membership; duties; delayed repeal**

A. The child safety oversight committee is established consisting of the following members:

1. Two members of the house of representatives who are appointed by the speaker of the house of representatives and who are not members of the same political party. The speaker of the house of representatives shall designate one of these members to serve as cochairperson of the committee.

2. Two members of the senate who are appointed by the president of the senate and who are not members of the same political party. The president of the senate shall designate one of these members to serve as cochairperson of the committee.

~~3. The director of the department of child safety or the director's designee.~~

~~4.~~ 3. One member of a law enforcement agency in this state. The speaker of the house of representatives shall appoint this member.

~~5.~~ 4. One child safety worker or administrator with child safety worker knowledge who is appointed by the director of the department of child safety.

~~6.~~ 5. One foster parent who is appointed by the director of the department of child safety.

~~7.~~ 6. One guardian ad litem who is appointed by the director of the administrative office of the courts.

~~8.~~ 7. One former foster child who is appointed by the president of the senate.

~~9.~~ 8. One representative from a foster care licensing agency who is appointed by the speaker of the house of representatives.

~~10.~~ 9. One public member who has significant experience with child safety who is appointed by the president of the senate.

~~11.~~ 10. One representative of a Native American tribe or nation who is appointed by the president of the senate.

11. ONE PEDIATRICIAN WHO HAS EXPERIENCE WITH THE DEPARTMENT OR CHILD FATALITIES, OR BOTH, AND WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

B. The oversight committee shall:

1. Identify the responsibilities and scope of the department of child safety, its statutory mandates, policies and procedures.

2. Identify areas for statutory improvement in the child safety system and recommend statutory and administrative changes.

3. Monitor department program effectiveness and recommend any statutory efficiencies that further the purpose to protect children.

4. Review all semiannual reports on program outcomes released by the department to the legislature for trends and areas for statutory improvement.

5. Make recommendations on the membership and duties of any future legislative committee to oversee the department of child safety.

6. On or before December 15, ~~2015~~ 2016, submit a report of its findings and recommendations to the governor, the speaker of the house of representatives and the president of the senate, and provide a copy of its report to the secretary of state.

C. Committee members are not eligible to receive compensation or reimbursement of expenses.

D. This section is repealed from and after December 31, ~~2015~~ 2016.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## NATUROPATHIC PHYSICIANS MEDICAL BOARD—CONTINUATION

### CHAPTER 255

### H. B. 2035

**AN ACT REPEALING SECTION 41-3015.04, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3023.05; RELATING TO THE NATUROPATHIC PHYSICIANS MEDICAL BOARD.**

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

**Section 1. Repeal**

Section 41-3015.04, Arizona Revised Statutes, is repealed.

**Sec. 2.** Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3023.05, to read:

**41-3023.05. Naturopathic physicians medical board; termination July 1, 2023**

A. THE NATUROPATHIC PHYSICIANS MEDICAL BOARD TERMINATES ON JULY 1, 2023.

B. TITLE 32, CHAPTER 14 IS REPEALED ON JANUARY 1, 2024.

**Sec. 3. Purpose**

Pursuant to section 41-2955, subsection B, Arizona Revised Statutes, the legislature continues the naturopathic physicians medical board to promote the safe and professional practice of naturopathic medicine in this state.

**Sec. 4. Retroactivity**

Sections 1 and 2 of this act are effective retroactively to July 1, 2015.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## NATUROPATHIC MEDICINE—UNPROFESSIONAL CONDUCT—LICENSURE

### CHAPTER 256

### H. B. 2036

**AN ACT AMENDING SECTIONS 32-1501, 32-1503, 32-1523, 32-1525, 32-1528 AND 32-1552, ARIZONA REVISED STATUTES; RELATING TO NATUROPATHIC MEDICINE.**

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

**Section 1.** Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 32-1501, Arizona Revised Statutes, is amended to read:

**32-1501. Definitions**

In this chapter, unless the context otherwise requires:

1. "Accepted therapeutic purpose" means treatment of a disease, injury, ailment or infirmity that is competent and generally recognized as safe and effective.

2. "Active license" means a current valid license to practice naturopathic medicine.

3. "Adequate medical records" means legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, describe the treatment, accurately document the results, indicate advice and cautionary warning provided to the patient and provide sufficient information for a

similarly qualified practitioner to assume continuity of the patient's care at any point in the course of treatment.

4. "Approved clinical training program" or "clinical training program" means a program for naturopathic medical students in which the training occurred or is being conducted by or in conjunction with an approved school of naturopathic medicine.

5. "Approved internship program" or "internship" means that the program in which the training occurred or is being conducted has been approved for internship training for physicians or for graduates of a school of naturopathic medicine by the board or was approved or accredited by an educational or professional association recognized by the board or by another state's or country's licensing agency recognized by the board.

6. "Approved postdoctoral training" or "postdoctoral training" means that the program in which the training occurred or is being conducted has been approved for specialty training or for graduate medical education in naturopathic medicine by the board or approved or accredited by an educational or professional association recognized by the board or by another state's or country's licensing agency recognized by the board.

7. "Approved preceptorship program" or "preceptorship" means that the program in which the training occurred or is being conducted has been approved for preceptorship training for physicians or for graduates of a school of naturopathic medicine by the board or was approved or accredited by an educational or professional association recognized by the board or by another state's or country's licensing agency recognized by the board.

8. "Approved school of naturopathic medicine" or "school of naturopathic medicine" means a school or college determined by the board to have an educational program that meets standards prescribed by the council on naturopathic medical education, or its successor agency, and that offers a course of study that, on successful completion, results in the awarding of the degree of doctor of naturopathic medicine and whose course of study is either of the following:

(a) Accredited or a candidate for accreditation by an accrediting agency recognized by the United States secretary of education as a specialized accrediting agency for schools of naturopathic medicine or its successor.

(b) Accredited or a candidate for accreditation by an accrediting agency recognized by the council for higher education accreditation or its successor.

9. "Board" means the naturopathic physicians medical board.

10. "Chelation therapy" means an experimental medical therapy to restore cellular homeostasis through the use of intravenous, metal-binding and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation therapy does not include experimental therapy used to treat heavy metal poisoning.

11. "Completed application" means that the applicant paid the required fees and supplied all documents and information as requested by the board and in a manner acceptable to the board.

12. "Controlled substance" means a drug, substance or immediate precursor in schedules I through V of title 36, chapter 27, article 2.

13. "Direct supervision" means that a physician who is licensed pursuant to this chapter or chapter 13, 17 or 29 of this title:

(a) Is physically present and within sight or sound of the person supervised and is available for consultation regarding procedures that the physician has authorized and for which the physician remains responsible.

(b) Has designated a person licensed pursuant to this chapter or chapter 13, 17 or 29 of this title to provide direct supervision in the physician's absence.

14. "Doctor of naturopathic medicine" or "doctor" means a natural person licensed to practice naturopathic medicine under this chapter.

15. "Drug" has the same meaning prescribed in section 32-1901 but does not include:

(a) Intravenous administration of legend drugs, except for:

(i) Vitamins, chelation therapy and drugs used in emergency resuscitation and stabilization.

(ii) Minerals.

(iii) Nutrients. For the purposes of this item, "nutrient" means a substance that provides nourishment for growth or metabolism and that is manufactured and supplied for intravenous use by a manufacturer registered with the United States food and drug administration or compounded by a pharmacy licensed by the state board of pharmacy.

(b) Controlled substances listed as schedule I or II controlled substances as defined in the federal controlled substances act of 1970 (21 United States Code section 802), except morphine, any drug that is reclassified from schedule III to schedule II after January 1, 2014 and any homeopathic preparations that are also controlled substances.

(c) Cancer chemotherapeutics classified as legend drugs.

(d) Antipsychotics.

16. "General supervision" means that the physician is available for consultation regarding procedures that the physician has authorized and for which the physician remains responsible.

17. "Legend drug" means any drug defined by section 503(b) of the federal food, drug and cosmetic act and under which definition its label is required to bear the statement "Rx only".

18. "Letter of concern" means a nondisciplinary advisory letter that is issued by the board to a person who is regulated under this chapter and that states that while there is insufficient evidence to support disciplinary action the board believes that the person should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the board may result in action against the person's license, certificate or registration.

19. "Letter of reprimand" means a disciplinary letter that is issued by the board and that informs a person who is regulated under this chapter that the person's conduct violates state or federal law but does not require the board to restrict the person's license, certificate or registration because the person's conduct did not result in harm to a patient or to the public.

20. "Limit" means taking a nondisciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be mentally or physically unable to safely engage in the practice of medicine.

21. "Medical assistant" or "naturopathic medical assistant" means a person who is certified by the board as a medical assistant, who assists a doctor of naturopathic medicine and who may perform delegated procedures that are commensurate with the assistant's education and training under the direct supervision of a doctor of naturopathic medicine and that do not include diagnosing, designing or modifying established treatment programs or those procedures prohibited by the board or by this chapter.

22. "Medically incompetent" means a person who is licensed, certified or registered pursuant to this chapter and who lacks sufficient naturopathic medical knowledge or skills, or both, to a degree that is likely to endanger the health of patients.

23. "Natural substance" means a homeopathic, botanical, nutritional or other supplement that does not require a prescription pursuant to federal law before it is prescribed, dispensed or otherwise furnished to a patient and that is prescribed by a physician licensed pursuant to this chapter to enhance health, prevent disease or treat a medical condition diagnosed by the physician.

24. "Naturopathic medical student" means a person who is enrolled in a course of study at an approved school of naturopathic medicine.

25. "Naturopathic medicine" means medicine as taught in approved schools of naturopathic medicine and in clinical, internship, preceptorship and postdoctoral training programs approved by the board and practiced by a recipient of a degree of doctor of naturopathic medicine licensed pursuant to this chapter.

26. "Nurse" means a person licensed pursuant to chapter 15 of this title.

27. "Physician" means a doctor of naturopathic medicine licensed pursuant to this chapter.

28. "Practice of naturopathic medicine" means a medical system of diagnosing and treating diseases, injuries, ailments, infirmities and other conditions of the human mind and body including by natural means, drugless methods, drugs, nonsurgical methods, devices, physical, electrical, hygienic and sanitary measures and all forms of physical agents and modalities.

29. "Restrict" means taking a disciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be medically incompetent or guilty of unprofessional conduct.

30. "Specialist" means a physician who has successfully completed approved postdoctoral training, who is certified by a specialty board of examiners recognized by the board and who is certified by the board to practice the specialty pursuant to this chapter.

31. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:

(a) Intentionally disclosing a professional secret or intentionally disclosing a privileged communication except as either of these may otherwise be required by law.

(b) Any dishonorable conduct reflecting unfavorably on the profession.

(c) Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission of the felony or misdemeanor.

(d) Habitual intemperance in the use of alcohol or any substance abuse.

(e) The illegal use of any narcotic or hypnotic drugs, or illegal substances.

(f) Conduct that the board determines is gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient.

(g) Impersonating another doctor of naturopathic medicine or any other practitioner of the healing arts.

(h) Falsely acting or assuming to act as a member, an employee or an authorized agent of the board.

(i) Procuring or attempting to procure a license or a certificate pursuant to this chapter by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or agency.

(j) Having professional connection with or lending one's name to enhance or continue the activities of an illegal physician or an illegal practitioner of any healing art.

(k) Representing that a manifestly incurable disease, injury, ailment or infirmity can be permanently cured, or falsely or fraudulently representing that a curable disease, injury, ailment or infirmity can be cured within a stated time.

(l) Offering, undertaking or agreeing to cure or treat a disease, injury, ailment or infirmity by a secret means, method, treatment, medicine, substance, device or instrumentality.

(m) Refusing to divulge to the board on demand the means, method, treatment, medicine, substance, device or instrumentality used in the treatment of a disease, injury, ailment or infirmity.

(n) Giving or receiving, or aiding or abetting the giving or receiving of, rebates, either directly or indirectly.

(o) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of naturopathic medicine or any naturopathic treatment method.

(p) Immorality or misconduct that tends to discredit the naturopathic profession.

(q) Refusal, revocation or suspension of a license by any other state, district or territory of the United States or any other country, unless it can be shown that this action was not due to reasons that relate to the ability to safely and skillfully practice as a doctor of naturopathic medicine or to any act of unprofessional conduct in this paragraph.

(r) Any conduct or practice that is contrary to recognized standards of ethics of the naturopathic profession, any conduct or practice that does or might constitute a

danger to the health, welfare or safety of the patient or the public, or any conduct, practice or condition that does or might impair the ability to safely and skillfully practice as a doctor of naturopathic medicine.

(s) Failure to observe any federal, state, county or municipal law relating to public health as a physician in this state.

(t) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate this chapter or board rules.

(u) False, fraudulent, deceptive or misleading advertising or advertising the quality of a medical or health care service by a physician or by the physician's staff, employer or representative.

(v) Failing or refusing to maintain adequate medical records on a patient or failing or refusing to make medical records in the physician's possession promptly available to another physician or health care provider who is licensed pursuant to chapter 7, 8, 13, 15, 17 or 29 of this title on request and receipt of proper authorization to do so from the patient, a minor patient's parent, the patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.

(w) Referring a patient to a diagnostic or treatment facility or prescribing goods and services without disclosing in writing to the patient that the physician has a pecuniary interest in the facility, goods or services to which the patient is referred or prescribed. This subdivision does not apply to a referral by one physician or practitioner to another physician or practitioner within a group of physicians or practitioners practicing together.

(x) Sexual intimacies with a patient in the course of direct treatment.

(y) Failing to dispense drugs and devices in compliance with article 4 of this chapter.

(z) Administering, dispensing or prescribing any drug or a device for other than an accepted therapeutic purpose.

(aa) Falsely representing or holding oneself out as being a specialist or representation by a doctor of naturopathic medicine or the doctor's staff, employer or representative that the doctor is boarded or board certified if this is not true or that standing is not current.

(bb) Delegating professional duties and responsibilities to a person if the person has not been approved or qualified by licensure or by certification to perform these duties or responsibilities.

(cc) Failing to appropriately supervise a naturopathic medical student, a nurse, a medical assistant, a health care provider or a technician employed by or assigned to the physician during the performance of delegated professional duties and responsibilities.

(dd) Using experimental forms of diagnosis or treatment without adequate informed consent of the patient or the patient's legal guardian and without conforming to experimental criteria including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee as approved by the federal food and drug administration or its successor agency.

(ee) Failing to furnish information in a timely manner to the board or investigators or representatives of the board if this information is legally requested by the board and failing to allow properly authorized board personnel on demand to examine and have access to documents, reports and records maintained by the physician that relate to the physician's medical practice or medically related activities.

(ff) Failing to report in writing to the board evidence that a person licensed, certified or registered pursuant to this chapter is or may be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to safely practice or assist in the practice of naturopathic medicine.

(gg) Conducting or engaging in an internship, preceptorship or clinical training program in naturopathic medicine without being approved and registered by the board for that internship, preceptorship or clinical training program.

(hh) Signing a blank, undated or predated prescription form.

(ii) Conduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm or death to a patient.

(jj) Knowingly making a false or misleading statement in oral testimony to the board on a form required by the board or in written correspondence to the board, including attachments to that correspondence.

(kk) The failure of a physician who is the chief medical officer, the executive officer or the chief of staff of an internship, a preceptorship or a clinical training program to report in writing to the board that the privileges of a doctor of naturopathic medicine, a naturopathic medical student or a medical assistant have been denied, limited, revoked or suspended because that doctor's, student's or assistant's actions appear to indicate that the person is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be unable to safely engage or assist in the practice of naturopathic medicine.

(ll) Action taken against a doctor of naturopathic medicine by a licensing or regulatory board in another jurisdiction due to that doctor's mental or physical inability to engage safely in the practice of naturopathic medicine or the doctor's medical incompetence or for unprofessional conduct as defined by that licensing or regulatory board and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken may include refusing, denying, revoking or suspending a license, otherwise limiting, restricting or monitoring a licensee or placing a licensee on probation by that licensing or regulatory board.

(mm) Sanctions imposed by an agency of the federal government, including restricting, suspending, limiting or removing a person from the practice of naturopathic medicine or restricting that person's ability to obtain financial remuneration.

(nn) Violating any formal order, probation, consent agreement or stipulation issued or entered into by the board pursuant to this chapter.

(oo) Refusing to submit to a body fluid examination pursuant to a board investigation of alleged substance abuse by a doctor of naturopathic medicine.

(pp) Charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement that has this effect.

(qq) Obtaining a fee by fraud, deceit or misrepresentation.

(rr) Charging or collecting a clearly excessive fee. In determining if a fee is clearly excessive, the board shall consider the fee or range of fees customarily charged in this state for similar services, in light of modifying factors such as the time required, the complexity of the service and the skill required to perform the service properly. This subdivision does not apply if there is a clear written contract for a fixed fee between the physician and the patient that was entered into before the service was provided.

(ss) With the exception of heavy metal poisoning, using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy without adequate informed patient consent and without conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee.

(tt) Using a controlled substance unless it is prescribed by another physician for use during a prescribed course of treatment.

(uu) Prescribing, dispensing or administering anabolic androgenic steroids for other than therapeutic purposes.

(vv) Except in an emergency or urgent care situation, prescribing or dispensing a controlled substance to a member of the naturopathic physician's immediate family.

(ww) Prescribing, dispensing or furnishing a prescription medication or a prescription-only device as defined in section 32-1901 to a person unless the licensee first conducts a physical examination of that person or has previously established a doctor-patient relationship. The physical examination may be conducted during a real-time telemedicine encounter with audio and video capability if the telemedicine audio and video capability meets the elements required by the centers for medicare and medicaid services, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This subdivision does not apply to:

(i) A licensee who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional.

(ii) An emergency medical situation as defined in section 41-1831.

(iii) Prescriptions written to prepare a patient for a medical examination.

(iv) Prescriptions written or prescription medications issued for use by a county or tribal public health department for immunization programs or emergency treatment or in response to an infectious disease investigation, a public health emergency, an infectious disease outbreak or an act of bioterrorism. For the purposes of this item, "bioterrorism" has the same meaning prescribed in section 36-781.

(v) Prescriptions written or antimicrobials dispensed to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in

section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661 by the prescribing or dispensing physician.

(vi) Prescriptions written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

(xx) If medical treatment is considered experimental or investigational, failing to include in a patient's record a consent to treatment document that is signed by the patient or the patient's parent or legal guardian and that indicates that the patient or the patient's parent or legal guardian has been informed of the risk of any treatment to be provided and the expected cost of that treatment.

(yy) WHEN ISSUING A WRITTEN CERTIFICATION AS DEFINED IN SECTION 36-2801, FAILING OR REFUSING TO INCLUDE IN THE ADEQUATE MEDICAL RECORDS OF A PATIENT A COPY OF ALL OF THE FOLLOWING:

(i) THE MEDICAL RECORDS RELIED ON BY THE PHYSICIAN TO SUPPORT THE DIAGNOSIS OR CONFIRMED DIAGNOSIS OF THE PATIENT'S DEBILITATING MEDICAL CONDITION.

(ii) THE WRITTEN CERTIFICATION.

(iii) THE PATIENT'S PROFILE ON THE ARIZONA BOARD OF PHARMACY CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM DATABASE.

**Sec. 2.** Section 32-1503, Arizona Revised Statutes, is amended to read:

**32-1503. Board organization; meetings; compensation; committees**

A. The board shall annually elect, from among its membership, a chairman, a vice-chairman and a secretary-treasurer, who shall hold their respective offices at the pleasure of the board.

B. The board shall hold a regular meeting at least semiannually on a date and at a time and place it designates. In addition, the board may hold special meetings it deems necessary.

C. A majority of the members of the board constitutes a quorum, and a majority vote of a quorum present at any meeting governs all actions taken by the board, except as provided in section 32-1525, subsection ~~G~~ I and section 32-1526, subsection A.

D. Members of the board are eligible to receive compensation established by the board of not more than one hundred fifty dollars for each day of actual service in the business of the board.

E. In order to carry out the board's duties and functions, the chairman may establish committees from the board membership and define the duties of these committees.

**Sec. 3.** Section 32-1523, Arizona Revised Statutes, is amended to read:

**32-1523. Qualifications for license to practice by endorsement; restrictions**

A. To be eligible for a license to practice naturopathic medicine pursuant to this chapter by endorsement, the applicant shall:

1. Qualify under section 32-1522.

2. Be licensed to practice as a doctor of naturopathic medicine by either:

(a) Another state, district or territory of the United States.

(b) Another country that requires a written examination that is substantially equivalent to the written examination provided for in section 32-1525.

3. Be ~~actively engaged~~ CONTINUOUSLY ACTIVE, for at least three years immediately preceding the application, in one or more of the following:

(a) Active practice as a doctor of naturopathic medicine.

(b) An approved internship, preceptorship or clinical training program in naturopathic medicine.

(c) An approved postdoctoral training program in naturopathic medicine.

(d) The resident study of naturopathic medicine at an approved school of naturopathic medicine.

4. Pass the ~~examination~~ EXAMINATIONS provided for in section 32-1525.

B. IF AN APPLICANT FOR LICENSURE PURSUANT TO THIS SECTION IS LICENSED IN ANOTHER STATE, DISTRICT OR TERRITORY OF THE UNITED STATES OR ANOTHER COUNTRY THAT DOES NOT REQUIRE THAT COMPETENCY BE SHOWN IN THE SAME ELECTIVE PRACTICE AREAS AS THIS STATE, THE APPLICANT SHALL BE REQUIRED TO SUCCESSFULLY COMPLETE EXAMINATIONS IN THESE ELECTIVE PRACTICE AREAS OR, IF OTHERWISE QUALIFIED, BE ISSUED A LICENSE THAT DOES NOT INCLUDE THESE ELECTIVE PRACTICE AREAS.

**Sec. 4.** Section 32-1525, Arizona Revised Statutes, is amended to read:

**32-1525. Examinations**

A. The board shall use the naturopathic physicians licensing examination conducted by the North American board of naturopathic examiners, or its successor agency, for the NATIONAL examinations required under sections 32-1522, ~~and~~ 32-1523 AND 32-1523.01. The board may administer its own examination only for those areas that are determined by the board to be necessary for the safe practice of naturopathic medicine and not covered on the naturopathic physicians licensing examination. The board must accept the grade issued by the North American board of naturopathic examiners without adjustment. A board member or staff member shall not have any financial interest in the North American board of naturopathic examiners or the naturopathic physicians licensing examination.

~~B. The examination required for a license under section 32-1522 shall include the following subjects:~~

~~1. The basic medical science subjects of anatomy, basic pharmacology and toxicology, biochemistry, microbiology and immunology, physiology, pathology and naturopathic jurisprudence.~~

~~2. The clinical medical science subjects of dermatology, ophthalmology and otolaryngology, geriatrics, infectious diseases, neurology and psychiatry, pediatrics, obstetrics and gynecology, orthopedics, physical medicine and rehabilitation.~~

~~3. The clinical competency medical subjects of emergency medicine and minor surgery, clinical pharmacology, pharmacotherapeutics, internal medicine, laboratory diagnosis and diagnostic imaging, clinical nutrition, botanicals and diet therapy.~~

B. AN INDIVIDUAL WHO IS APPLYING FOR LICENSURE UNDER SECTION 32-1522 OR 32-1523.01 SHALL TAKE AND PASS THE FOLLOWING PORTIONS OF THE NATUROPATHIC PHYSICIANS LICENSING EXAMINATIONS OR OTHER EXAMINATIONS:

1. PART I BASIC BIOMEDICAL SCIENCE EXAMINATION.

2. PART II CORE SCIENCE AND CORE CLINICAL SCIENCE EXAMINATIONS.

3. CLINICAL ELECTIVE EXAMINATIONS OF MINOR SURGERY AND ACUPUNCTURE.

C. AN INDIVIDUAL WHO IS APPLYING FOR LICENSURE UNDER SECTION 32-1523:

1. SHALL TAKE AND PASS BOTH:

(a) PART I BASIC BIOMEDICAL SCIENCE EXAMINATION.

(b) PART II CORE SCIENCE AND CORE CLINICAL SCIENCE EXAMINATIONS.

2. SHALL TAKE AND PASS THE CLINICAL ELECTIVE EXAMINATIONS OF MINOR SURGERY AND ACUPUNCTURE IF THE PERSON IS APPLYING FOR A LICENSE THAT INCLUDES THOSE ELECTIVE PRACTICE AREAS.

~~4.~~ D. ~~For all persons~~ AN INDIVIDUAL WHO IS applying for a license by endorsement PURSUANT TO SECTION 32-1523 AND who ~~were~~ WAS licensed in another state or a Canadian province before January 1, 2005, IN ADDITION TO MEETING THE REQUIREMENTS OF SUBSECTION C OF THIS SECTION, SHALL TAKE AND PASS an additional sixty-hour course and examination in pharmacotherapeutics.

~~C.~~ E. The ~~examination~~ EXAMINATIONS required for a license ~~by endorsement~~ under section 32-1522, 32-1523 OR 32-1523.01 shall include an examination in Arizona naturopathic jurisprudence that is administered by the board.

~~D.~~ F. Examinations for licensure under this chapter shall:

1. Be practical in character and consist of multiple choice and true and false questions.

2. Be designed to ascertain the applicant's knowledge of naturopathic medicine and the applicant's ability to practice naturopathic medicine.

3. Include examination questions that are generally accepted as necessary for a competent knowledge of the practice of naturopathic medicine.

~~E.~~ G. The board by rule shall prescribe any subjects on which the applicant must be tested in addition to those required by this section. The board may prescribe rules for conducting its own examinations.

~~F.~~ H. An applicant shall obtain a passing score on the national examination and shall obtain a grade of seventy-five ~~per cent~~ PERCENT or more in each subject administered by the board that is not covered on the national examination.

~~G.~~ I. An applicant may challenge the applicant's grade on an examination conducted by the board by submitting a written request to the board within sixty days of receiving the grade. If the board upholds the applicant's challenge, it may change,

within one hundred twenty days of the challenge, the grade on the examination on the vote of a majority of the full board.

~~H.~~ J. ~~An applicant for examination~~ AN INDIVIDUAL APPLYING FOR LICENSURE UNDER SECTION 32-1522 OR 32-1523.01 shall take and complete all of the examinations required by this section within a five-year period IMMEDIATELY PRECEDING THE SUBMISSION OF AN APPLICATION FOR LICENSURE. Each time an applicant files a request with the board to retake any part of an examination, the applicant shall pay the examination fee pursuant to section 32-1527.

~~I.~~ K. All examination materials and records of examination grading are confidential and are not public records.

**Sec. 5.** Section 32-1528, Arizona Revised Statutes, is amended to read:

**32-1528. Retired licensee; waiver of fees; reinstatement**

A. The board may waive a physician's annual renewal fee if the physician has paid all past fees and presents an affidavit to the board that the physician has permanently retired from the practice of naturopathic medicine.

B. A physician whose annual renewal fee has been waived by the board and who is permanently retired from the practice of naturopathic medicine is not required to comply with any continuing medical education requirements of this chapter.

C. If a retired physician who has had the annual renewal fee waived by the board engages in the practice of naturopathic medicine, the physician is subject to the same penalties that are imposed under this chapter on a person who practices naturopathic medicine without a license or without being exempt from licensure.

D. The board may reinstate a retired physician to active practice on payment of the annual renewal fee AS PRESCRIBED IN SECTION 32-1527 AND, IF REQUESTED BY THE BOARD, ON PRESENTATION OF EVIDENCE SATISFACTORY TO THE BOARD THAT THE APPLICANT FOR REINSTATEMENT OF A RETIRED LICENSE IS PROFESSIONALLY ABLE TO ENGAGE OR ASSIST IN THE PRACTICE OF NATUROPATHIC MEDICINE AND POSSESSES THE PROFESSIONAL KNOWLEDGE REQUIRED. ~~and presentation of evidence satisfactory to the board that the physician meets the qualifications prescribed under section 32-1522, subsection A, paragraphs 4, 5 and 6.~~

E. If an applicant for reinstatement of a retired license has not been licensed and actively practicing in a jurisdiction of the United States or Canada in the three years immediately preceding the application, the board may issue a limited license that requires a period of general or direct supervision by another licensed naturopathic physician not to exceed one year.

**Sec. 6.** Section 32-1552, Arizona Revised Statutes, is amended to read:

**32-1552. Reinstatement of a suspended license, certificate or registration; reissuance of a revoked license, certificate or registration**

A. A person whose license, certificate or registration has been suspended for an indefinite period of time or revoked by the board may apply to the board for the termination of the suspension or reissuance of the revoked license, certificate or registration under the following terms and conditions:

1. The application ~~shall be~~ HAS BEEN submitted in writing, ~~shall be~~ HAS BEEN verified under oath and ~~shall contain~~ CONTAINS or ~~have~~ HAS attached to it substantial evidence showing that the basis for suspension or revocation has been removed and that the termination of the suspension or reissuance of the revoked license, certificate or registration will not constitute a threat to the public health or safety.

2. THE APPLICANT HAS PAID THE APPLICATION FEE AS PRESCRIBED IN SECTION 32-1527 AND, IF REQUESTED BY THE BOARD, HAS PRESENTED EVIDENCE SATISFACTORY TO THE BOARD THAT THE APPLICANT IS PROFESSIONALLY ABLE TO ENGAGE OR ASSIST IN THE PRACTICE OF NATUROPATHIC MEDICINE AND POSSESSES THE PROFESSIONAL KNOWLEDGE REQUIRED.

~~2.~~ 3. If it is an application for the termination of a suspension for an indefinite period, the applicant has not applied for termination more frequently than once in any six-month period.

~~3.~~ 4. If it is an application for the reissuance of a revoked license, certificate or registration, the applicant has not applied for reissuance more frequently than once in any twenty-four-month period.

B. The board may interview an applicant under subsection A OF THIS SECTION.

C. The board shall make its determination on each application as it deems consistent with the public health and safety and just in the circumstances.

**Sec. 7. Requirements for enactment; three-fourths vote**

Pursuant to article IV, part 1, section 1, Constitution of Arizona, section 32-1501, Arizona Revised Statutes, as amended by this act, is effective only on the affirmative vote of at least three-fourths of the members of each house of the legislature.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## DEPARTMENT OF CHILD SAFETY—CONFORMING CHANGES

### CHAPTER 257

### H. B. 2098

**AN ACT AMENDING SECTION 1-602, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-132; AMENDING SECTIONS 8-272, 8-273 AND 8-462, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 8-463 AND 8-464;**

**AMENDING SECTION 8-501, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 4, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-502; AMENDING SECTIONS 8-506, 8-512, 8-520, 8-521, 8-526 AND 8-528, ARIZONA REVISED STATUTES; REPEALING SECTION 8-809, ARIZONA REVISED STATUTES; AMENDING SECTIONS 8-811, 8-821, 12-2452, 15-1809, 28-907, 36-664, 36-2936, 41-198, 41-619.51, 41-1005, 41-1954.01, 41-1959, 41-1966, 41-1967, 41-2501, 41-3802 AND 46-134, ARIZONA REVISED STATUTES; RELATING TO CHILD SAFETY.**

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

**Section 1.** Section 1-602, Arizona Revised Statutes, is amended to read:

**1-602. Parents' bill of rights; definition**

A. All parental rights are reserved to a parent of a minor child without obstruction or interference from this state, any political subdivision of this state, any other governmental entity or any other institution, including~~, but not limited to, the following rights~~:

1. The right to direct the education of the minor child.

2. All rights of parents identified in title 15, including the right to access and review all records relating to the minor child.

3. The right to direct the upbringing of the minor child.

4. The right to direct the moral or religious training of the minor child.

5. The right to make health care decisions for the minor child, including rights pursuant to sections 15-873, 36-2271 and 36-2272, unless otherwise prohibited by law.

6. The right to access and review all medical records of the minor child unless otherwise prohibited by law or the parent is the subject of an investigation of a crime committed against the minor child and a law enforcement official requests that the information not be released.

7. The right to consent in writing before a biometric scan of the minor child is made pursuant to section 15-109.

8. The right to consent in writing before any record of the minor child's blood or deoxyribonucleic acid is created, stored or shared, except as required by section 36-694, or before any genetic testing is conducted on the minor child pursuant to section 12-2803 unless authorized pursuant to section 13-610 or a court order.

9. The right to consent in writing before the state or any of its political subdivisions makes a video or voice recording of the minor child, unless the video or voice recording is made during or as a part of a court proceeding, by law enforcement officers during or as part of a law enforcement investigation, during or as part of ~~a forensic~~ AN interview in a criminal or child ~~protective~~ SAFETY services investigation or to be used solely for any of the following:

(a) Safety demonstrations, including the maintenance of order and discipline in the common areas of a school or on pupil transportation vehicles.

(b) A purpose related to a legitimate academic or extracurricular activity.

(c) A purpose related to regular classroom instruction.

(d) Security or surveillance of buildings or grounds.

(e) A photo identification card.

10. The right to be notified promptly if an employee of this state, any political subdivision of this state, any other governmental entity or any other institution suspects that a criminal offense has been committed against the minor child by someone other than a parent, unless the incident has first been reported to law enforcement and notification of the parent would impede a law enforcement or child ~~protective~~ SAFETY services investigation. This paragraph does not create any new obligation for school districts and charter schools to report misconduct between students at school, such as fighting or aggressive play, that is routinely addressed as a student disciplinary matter by the school.

11. The right to obtain information about a child SAFETY ~~protective~~ services investigation involving the parent pursuant to section 8-807.

B. This section does not authorize or allow a parent to engage in conduct that is unlawful or to abuse or neglect a child in violation of the laws of this state. This section does not prohibit courts, law enforcement officers or employees of a government agency responsible for child welfare from acting in their official capacity within the scope of their authority. This section does not prohibit a court from issuing an order that is otherwise permitted by law.

C. Any attempt to encourage or coerce a minor child to withhold information from the child's parent shall be grounds for discipline of an employee of this state, any political subdivision of this state or any other governmental entity, except for law enforcement personnel.

D. Unless those rights have been legally waived or legally terminated, parents have inalienable rights that are more comprehensive than those listed in this section. This chapter does not prescribe all rights of parents. Unless otherwise required by law, the rights of parents of minor children shall not be limited or denied.

E. For the purposes of this section, "parent" means the natural or adoptive parent or legal guardian of a minor child.

**Sec. 2.** Title 8, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 8-132, to read:

**8-132. Adoption agency information confidentiality; permissible disclosure; use violation; classification; definitions**

A. UNLESS OTHERWISE PROVIDED BY LAW AND EXCEPT AS PROVIDED IN SUBSECTION C OR D OF THIS SECTION, ALL PERSONAL INFORMATION CONCERNING AN INDIVIDUAL WHO APPLIES FOR OR WHO RECEIVES AN ADOPTION AGENCY LICENSE IS CONFIDENTIAL AND MAY NOT BE RELEASED, UNLESS THE RELEASE IS ORDERED BY THE SUPERIOR COURT OR PROVIDED FOR BY COURT RULE. DCS INFORMATION IS CONFIDENTIAL AND MAY BE RELEASED ONLY AS PRESCRIBED IN SECTION 8-807.

B. ADOPTION AGENCY INFORMATION IS NOT CONFIDENTIAL, EXCEPT FOR BOTH OF THE FOLLOWING:

1. ANY DCS INFORMATION IN THE LICENSING FILES.

2. THE ADDRESS OF ANY FACILITY WHERE A FOSTER CHILD IS PLACED, EVEN IF THE ADDRESS IS ALSO THE CORPORATE ADDRESS OF THE ADOPTION AGENCY.

C. AN EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY, THE DEPARTMENT OF LAW OR A COURT MAY OBTAIN THE INFORMATION DESCRIBED IN SUBSECTION A OR B OF THIS SECTION IN THE PERFORMANCE OF THE EMPLOYEE'S DUTIES.

D. AN EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY, THE DEPARTMENT OF LAW OR A COURT MAY RELEASE INFORMATION THAT IS OTHERWISE CONFIDENTIAL UNDER THIS SECTION UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

1. TO AN APPLICANT OR LICENSEE IF A REQUEST IS MADE IN WRITING SPECIFICALLY REQUESTING INFORMATION THAT DIRECTLY RELATES TO THE PERSON WHO REQUESTS THE INFORMATION.

2. IN ORAL OR WRITTEN COMMUNICATIONS INVOLVING THE PROVISION OF SERVICES OR THE REFERRAL TO SERVICES BETWEEN EMPLOYEES OF, PERSONS UNDER CONTRACT WITH OR PERSONS HOLDING A GENERAL EMPLOYMENT RELATIONSHIP WITH THE DEPARTMENT OF CHILD SAFETY, THE DEPARTMENT OF LAW OR THE JUVENILE COURT.

3. IF THE DISCLOSURE IS NECESSARY TO PROTECT AGAINST A CLEAR AND SUBSTANTIAL RISK OF IMMINENT SERIOUS INJURY TO A CLIENT OF THE DEPARTMENT OF CHILD SAFETY.

4. TO AN AGENCY OF THE FEDERAL GOVERNMENT, THIS STATE OR ANOTHER STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE FOR OFFICIAL PURPOSES. INFORMATION RECEIVED BY A GOVERNMENTAL AGENCY PURSUANT TO THIS PARAGRAPH SHALL BE MAINTAINED AS CONFIDENTIAL, UNLESS THE INFORMATION IS PERTINENT TO A CRIMINAL PROSECUTION.

5. TO A FOSTER PARENT OR A PARENT CERTIFIED TO ADOPT, IF THE INFORMATION IS NECESSARY TO ASSIST IN THE PLACEMENT WITH OR CARE OF A CHILD BY THE FOSTER PARENT OR PERSON CERTIFIED TO ADOPT.

6. TO AN OFFICER OF THE SUPERIOR COURT, THE DEPARTMENT OR AN AGENCY THAT IS REQUIRED TO PERFORM AN INVESTIGATION PURSUANT TO SECTION 8-105, IF THE INFORMATION IS PERTINENT TO THE INVESTIGATION. INFORMATION RECEIVED PURSUANT TO THIS PARAGRAPH MAY BE DISCLOSED TO THE COURT, BUT SHALL OTHERWISE BE MAINTAINED AS CONFIDENTIAL.

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

F. FOR THE PURPOSES OF THIS SECTION:

1. "ADOPTION AGENCY INFORMATION" MEANS ALL INFORMATION IN THE LICENSING FILE OF THE DEPARTMENT, INCLUDING ALL INFORMATION ON CORPORATE OR OTHER ENTITY APPLICANTS OR LICENSEES AND ANY LICENSING INVESTIGATIONS. ADOPTION AGENCY INFORMATION DOES NOT INCLUDE PERSONAL INFORMATION ABOUT INDIVIDUALS WHO APPLY FOR LICENSURE TO OR WHO ARE LICENSED BY THE DEPARTMENT AS AN ADOPTION AGENCY OR OTHER SIMILAR PERSONAL INFORMATION CONTAINED IN THE LICENSING FILE OF THE DEPARTMENT.

2. "DCS INFORMATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 8-807.

3. "PERSONAL INFORMATION" MEANS INFORMATION ABOUT AN INDIVIDUAL THAT IS DISCLOSED BY THE INDIVIDUAL OR BY A THIRD PARTY ON BEHALF OF THE INDIVIDUAL TO OBTAIN OR MAINTAIN A LICENSE. PERSONAL INFORMATION INCLUDES ALL OF THE FOLLOWING:

(a) THE INDIVIDUAL'S IDENTITY, SOCIAL SECURITY NUMBER, ADDRESS AND PERSONAL HISTORY.

(b) FINANCIAL, HEALTH OR MEDICAL INFORMATION ABOUT THE INDIVIDUAL.

(c) REFERENCES FOR THE INDIVIDUAL.

**Sec. 3.** Section 8-272, Arizona Revised Statutes, is amended to read:

**8-272. Psychiatric acute care services; outpatient and inpatient assessments; definition**

A. If a child exhibits behavior that indicates the child may suffer from a mental disorder or is a danger to self or others, an entity may request that the child receive an outpatient assessment or inpatient assessment.

B. A psychologist, psychiatrist or physician shall conduct an outpatient assessment at a time and place that is convenient for the psychologist, psychiatrist or physician and the child. At the conclusion of the outpatient assessment, the psychologist, psychiatrist or physician shall recommend that the child be either:

1. Provided with outpatient treatment services.

2. Admitted to a psychiatric acute care facility for inpatient assessment or inpatient psychiatric acute care services.

3. Provided with residential treatment services.

4. Discharged to the entity without further psychological or psychiatric services because the child does not suffer from a mental disorder, is not a danger to self or others or is not a child with a persistent or acute disability or grave disability.

C. A psychologist, psychiatrist or physician shall conduct an inpatient assessment within seventy-two hours after a child is admitted to an inpatient assessment facility, excluding weekends and holidays. At the conclusion of the inpatient assessment, the psychologist, psychiatrist or physician shall recommend that the child be either:

1. Admitted to a psychiatric acute care facility for inpatient psychiatric acute care services.

2. Discharged to an entity and provided with outpatient treatment services.

3. Provided with residential treatment services.

4. Discharged to the entity without further psychological or psychiatric services because the child does not suffer from a mental disorder, is not a danger to self or others or is not a child with a persistent or acute disability or grave disability.

D. Within twenty-four hours after a child is admitted for an inpatient assessment, excluding weekends and holidays, the entity shall file a motion for approval of admission for inpatient assessment with the juvenile court. The motion shall include all of the following:

1. The name and address of the inpatient assessment facility.

2. The name of the psychologist, psychiatrist or physician who is likely to perform the inpatient assessment.

3. The date and time the child was admitted to the inpatient assessment facility.

4. A short statement explaining why the child needs an inpatient assessment.

E. An entity that files a motion under subsection D of this section shall provide a copy of the motion to all of the parties and their attorneys. The court shall rule on the motion without response from any party, except that any party may request a hearing to review the child's admission for an inpatient assessment. If the court grants a hearing, the court shall set the hearing on an accelerated basis.

F. If the psychologist, psychiatrist or physician who performed the outpatient assessment or inpatient assessment of the child recommends that the child receive inpatient acute care psychiatric services, the entity may file a motion for inpatient psychiatric acute care services with the juvenile court. If the psychologist, psychiatrist or physician makes this recommendation after conducting an inpatient assessment, the entity shall file the motion for inpatient psychiatric acute care services within twenty-four hours after the completion of the inpatient assessment, excluding weekends and holidays. The motion shall include all of the following:

1. A copy of the written report of the results of the inpatient assessment or outpatient assessment, including:

(a) The reason why inpatient psychiatric acute care services are in the child's best interests.

(b) The reason why inpatient psychiatric acute care services are the least restrictive available treatment.

(c) A diagnosis of the child's condition that requires inpatient psychiatric acute care services.

(d) The estimated length of time that the child will require inpatient psychiatric acute care services.

2. A written statement from the medical director of the proposed inpatient psychiatric acute care facility or the medical director's designee that the facility's services are appropriate to meet the child's mental health needs.

G. As soon as practicable after the filing of a motion under subsection D or F of this section, the court shall appoint an attorney for the child if an attorney has not

been previously appointed. The court may also appoint a guardian ad litem for the child.

H. If a motion is filed pursuant to subsection F of this section, the court shall hold a hearing on the motion within seventy-two hours after the motion is filed, excluding weekends and holidays. If the child has been admitted for an inpatient assessment, the child may remain at the inpatient assessment facility until the court rules on the motion.

I. If a child is admitted for an inpatient assessment and an entity fails to file a motion pursuant to and within the time limit prescribed in subsection F of this section, the child shall be discharged from the inpatient assessment facility.

J. If the court approves the admission of the child for inpatient psychiatric acute care services, the court shall find by clear and convincing evidence that both:

1. The child is suffering from a mental disorder or is a danger to self or others and requires inpatient psychiatric acute care services.

2. Available alternatives to inpatient psychiatric acute care services were considered, but that inpatient psychiatric acute care services are the least restrictive available alternative.

K. The court shall review the child's continuing need for inpatient psychiatric acute care services at least every sixty days after the date of the treatment order. The inpatient psychiatric acute care facility shall submit a progress report to the court at least five days before the review and shall provide copies of the progress report to all of the parties, including the child's attorney and guardian ad litem. On its own motion or on the motion of a party, the court may hold a hearing on the child's continuing need for inpatient psychiatric acute care services. If requested by the child, the court shall hold a hearing unless the court has held a review hearing within sixty days before the child's request. If requested by the child, the court may hold a hearing at any time for good cause shown. The progress report shall make recommendations and shall include at least the following:

1. The nature of the treatment provided, including any medications and the child's current diagnosis.

2. The child's need for continued inpatient psychiatric acute care services, including the estimated length of the services.

3. A projected discharge date.

4. The level of care required by the child and the potential placement options that are available to the child on discharge.

5. A statement from the medical director of the inpatient psychiatric acute care facility or the medical director's designee as to whether inpatient psychiatric acute care services are necessary to meet the child's mental health needs and whether the facility that is providing the inpatient psychiatric acute care services to the child is the least restrictive available alternative.

L. If a child is transferred from an inpatient psychiatric acute care facility to another inpatient psychiatric acute care facility, no new inpatient assessment or outpatient assessment is required. Unless the court orders otherwise due to an emergency, an entity shall file a notice of transfer with the juvenile court at least five days before the transfer of the child. The notice shall include all of the following:

1. The name and address of the facility to which the child is being transferred and the date of the transfer.

2. A statement from the medical director of the receiving inpatient psychiatric acute care facility or the medical director's designee that the receiving facility is an appropriate facility to meet the child's mental health needs and that it is the least restrictive available alternative.

3. A statement that the entity has contacted the child's attorney or guardian ad litem and whether the child or the child's attorney or guardian ad litem opposes the transfer.

M. Any party may request a hearing to review the transfer of a child to another inpatient psychiatric acute care facility pursuant to subsection L of this section.

N. Within fifteen days after a child is discharged, the inpatient psychiatric acute care facility shall prepare a discharge summary. Within twenty days after a child is discharged, an entity shall file a notice of discharge with the juvenile court. The notice shall include:

1. A statement of the child's current placement.

2. A statement of the mental health services that are being provided to the child and the child's family.

3. A copy of the discharge summary that is prepared by a mental health professional.

O. When possible, the child's attorney shall communicate with the child within twenty-four hours after a motion is filed pursuant to subsection D or F of this section, excluding weekends and holidays. The child's attorney shall discuss treatment recommendations and shall advise the child of the child's right to request a hearing. The child's attorney or designee shall attend all court hearings related to the child's inpatient assessment or inpatient psychiatric acute care services and shall be prepared to report to the court the child's position on any recommended assessments or treatment. The child may attend any hearing unless the court finds by a preponderance of the evidence that allowing the child to attend would not be in the child's best interests.

P. If the child is a dually adjudicated child, the entity that requests an order for inpatient psychiatric acute care services shall notify any other entity of all notices, motions, hearings or other proceedings related to the provision of inpatient psychiatric acute care services. Any entity may attend and participate in all hearings or other proceedings relating to the provision of inpatient psychiatric acute care services to a dually adjudicated child.

Q. Section 8-273 applies if residential treatment services are recommended after an inpatient assessment or outpatient assessment or any inpatient psychiatric acute care treatment. Section 8-341.01 applies if a child who is adjudicated delinquent or incorrigible and who is subject to the jurisdiction of the juvenile court requires residential treatment services. Section 41-2815 applies if a child who is committed to the department of juvenile corrections requires residential treatment services.

R. Information and records that are obtained or created in the course of any assessment, examination or treatment are subject to the confidentiality requirements of section 36-509, except that information and records may be provided to the department of juvenile corrections pursuant to section 8-341.

S. For the purposes of this section, "child" means a person who is under eighteen years of age and who is either:

1. Found to be dependent or temporarily subject to court jurisdiction pending an adjudication of a dependency petition.

2. In the temporary custody of ~~child protective services~~ THE DEPARTMENT pursuant to section 8-821.

3. Detained in a juvenile court detention facility.

4. Committed to the department of juvenile corrections.

**Sec. 4.** Section 8-273, Arizona Revised Statutes, is amended to read:

**8-273. Residential treatment services; definition**

A. If a child exhibits behavior that indicates the child may suffer from a mental disorder or if it is recommended as a result of an outpatient assessment or inpatient assessment pursuant to section 8-272 that a child receive residential treatment services, an entity may file a motion requesting that the juvenile court order a child to receive residential treatment services. If the motion states that all parties, including counsel for the child, have been contacted and are in agreement, the court is not required to set a hearing on the motion.

B. A motion for residential treatment services shall be supported by a written psychological, psychiatric or medical assessment recommending residential treatment services. The court may waive the written assessment on a finding of good cause. The written assessment shall include at least the following:

1. The reason why residential treatment services are in the child's best interests.

2. The reason why residential treatment services are the least restrictive treatment available.

3. The reason why the child's behavioral, psychological, social or mental health needs require residential treatment services.

4. The estimated length of time that the child will require residential treatment services.

C. A motion for residential treatment services shall be supported by a written statement from the medical or clinical director of the residential treatment facility or the director's designee that the facility's services are appropriate to meet the child's needs.

D. As soon as practicable after an entity files a motion under subsection A of this section, the court shall appoint an attorney for the child if an attorney has not been previously appointed. The court may also appoint a guardian ad litem for the child.

E. The child's attorney shall discuss the treatment recommendations with the child. The child's attorney or designee shall attend all court hearings related to the child's placement in a residential treatment facility and shall be prepared to report to the court on the child's position regarding any recommendations or requests related

to the provision of residential treatment services. The child may appear at any hearing, unless the court finds by a preponderance of the evidence that allowing the child to attend the hearing would not be in the child's best interests.

F. If the court orders a child to receive residential treatment services, the court shall find by clear and convincing evidence that both:

1. The child requires residential treatment services to address the child's behavioral, psychological, social or mental health needs.

2. Available alternatives to residential treatment services were considered, but that residential treatment services are the least restrictive available alternative.

G. The court shall review the child's continuing need for residential treatment services at least every sixty days from the date of the treatment order. The residential treatment facility shall submit a progress report to the court at least five days before the review and shall provide copies of its report to all of the parties, including the child's attorney and guardian ad litem. The progress report shall include the recommendations of the child's treatment facility and shall include at least the following:

1. The nature of the treatment provided, including any medications and the child's current diagnosis.

2. The child's need for continued residential treatment services, including the estimated length of the services.

3. A projected discharge date.

4. The level of care required by the child and the potential placement options that are available to the child on discharge.

5. A statement from the medical or clinical director of the residential treatment services facility or the director's designee as to whether residential treatment services are necessary to meet the child's needs and whether the facility that is providing the residential treatment services to the child is the least restrictive available alternative.

H. On its own motion or on the motion of a party, the court may schedule a hearing concerning the child's continuing need for residential treatment services. If requested by the child, the court shall schedule a hearing unless the court has held a review hearing within sixty days before the child's request. If requested by the child, the court may hold a hearing at any time for good cause shown.

I. If the child is a dually adjudicated child, the entity that requests an order for residential treatment services shall notify any other entity of all notices, motions, hearings or other proceedings related to the provision of residential treatment services. Any entity may attend and participate in all hearings or other proceedings relating to the provision of residential treatment services to a dually adjudicated child.

J. Information or records that are obtained or created pursuant to any assessment, examination or treatment are subject to the confidentiality requirements of section 36-509, except that information and records may be provided to the department of juvenile corrections pursuant to section 8-341.

K. This section does not apply to a child who is either:

1. Committed to the department of juvenile corrections. Section 41-2815 applies if a child who is committed to the department of juvenile corrections requires residential treatment services.

2. Adjudicated delinquent or incorrigible and who is subject to the jurisdiction of the juvenile court. Section 8-341.01 applies if a child who is adjudicated delinquent or incorrigible and who is subject to the jurisdiction of the juvenile court requires residential treatment services.

L. For the purposes of this section, "child" means a person who is under eighteen years of age and who is either:

1. Found to be dependent or temporarily subject to court jurisdiction pending an adjudication of a dependency petition.

2. In the temporary custody of ~~child protective services~~ THE DEPARTMENT pursuant to section 8-821.

**Sec. 5.** Section 8-462, Arizona Revised Statutes, is amended to read:

**8-462. Housing assistance**

A. Notwithstanding any other provision in this title, the department may provide special housing assistance in the form of vendor payments to achieve permanency for children who are involved in open child ~~protective~~ SAFETY services cases. The child's family may qualify for this special housing assistance only if the lack of adequate housing is a significant barrier preventing the child from being reunited with or being able to remain with the child's family or other caretakers who will provide permanency for the child. The amount of housing assistance provided by the department for each family for an incident shall not exceed one thousand eight hundred dollars during a six month period. The housing assistance may only be used for rent, utilities, deposits and arrears. The department may provide housing assistance only if other resources are unavailable.

B. The case plan for the child and family shall contain a reference to the lack of adequate housing.

C. The case notes shall reflect barriers that the family faces in obtaining adequate housing, a specific, time oriented plan for phasing out the need of the family for continued housing assistance, the actions that are being taken by the family for economic self-sufficiency and a complete financial picture of the family at the time of application to the program, including housing related expenses and income, including entitlements.

D. For the period a family is receiving housing assistance, the department shall provide case management services that include monitoring the financial situation of the family.

E. The department shall make the following information regarding the housing assistance program available to the public on request and on the department's web site:

1. The number of children and families, by district, receiving services through this program during the previous fiscal year.

2. The total amount of monies spent on the program by district.

3. A programmatic and fiscal evaluation of the effectiveness of this program which includes the amount of monies saved by reducing foster care expenditures.

F. The department may adopt rules to carry out this section.

**Sec. 6.** Title 8, chapter 4, article 1, Arizona Revised Statutes, is amended by adding sections 8-463 and 8-464, to read:

**8-463. Electronic communication by department**

A. NOTWITHSTANDING ANY OTHER LAW, IF THE DEPARTMENT IS REQUIRED TO PROVIDE AN ADMINISTRATIVE ORDER, A NOTICE OR A LETTER TO AN APPLICANT, A RECIPIENT OR A CLIENT, THE DEPARTMENT MAY SEND THE ADMINISTRATIVE ORDER, NOTICE OR LETTER BY ELECTRONIC MEANS IF THE PARTY BEING SERVED OR NOTIFIED CONSENTS.

B. CONSENT MAY BE OBTAINED IN WRITING ON A FORM APPROVED BY THE DEPARTMENT, VERBALLY ON THE RECORD IN A HEARING OR ELECTRONICALLY THROUGH THE DEPARTMENT'S WEBSITE BY THE PARTY BEING SERVED FOLLOWING AN AFFIRMATIVE CONSENT PROCEDURE. AT THE TIME OF CONSENT, THE PARTY MUST BE ADVISED OF THE NATURE OF THE NOTICES TO BE DELIVERED OR SERVED, THE LEGAL CONSEQUENCE OF THE CHOICE AND THE RIGHT TO REVOKE THE CONSENT. CONSENT MAY BE PROVIDED FOR A PROCEEDING OR FOR NOTICES PROVIDED ON AN ONGOING BASIS.

C. DELIVERY OR SERVICE BY ELECTRONIC MEANS IS COMPLETE ON TRANSMISSION UNLESS IT IS ESTABLISHED THAT DELIVERY OR TRANSMISSION OF THE ELECTRONIC DOCUMENT FAILED DUE TO DEPARTMENT ERROR OR FAILURE OF THE RECIPIENT TO RECEIVE THE ELECTRONIC DOCUMENT FOR ANY OTHER REASON OUTSIDE THE CONTROL OF THE RECIPIENT.

D. CONSENT MAY BE REVOKED IN WRITING TO THE DEPARTMENT OR BY FOLLOWING AN AFFIRMATIVE REVOCATION PROCEDURE ESTABLISHED ON THE DEPARTMENT'S WEBSITE.

E. IF THE DEPARTMENT RECEIVES ELECTRONIC NOTICE THAT THE ELECTRONIC ADDRESS TO WHICH A DOCUMENT IS BEING SENT IS NO LONGER VALID OR IS OTHERWISE NOT FUNCTIONING, THE DEPARTMENT SHALL DEEM THE CONSENT TO ELECTRONIC NOTICE TO HAVE BEEN REVOKED AND THE DOCUMENT SHALL BE SERVED BY MAIL.

F. THIS SECTION ONLY APPLIES TO NOTICES, DECISIONS AND ORDERS REQUIRED FOR SERVICES AND PROGRAMS OF THE DEPARTMENT. THIS SECTION DOES NOT APPLY TO A NOTICE THAT IS REQUIRED IN CONNECTION WITH LITIGATION BEFORE A COURT OF RECORD IN THIS STATE.

**8-464. Auditor general; department audit team; duties**

A. THE AUDITOR GENERAL SHALL ESTABLISH AN AUDIT TEAM TO BE LOCATED IN THE DEPARTMENT OF CHILD SAFETY TO PROVIDE ONGOING PERFORMANCE REVIEWS AND ANALYSES.

B. PURSUANT TO AN AUDIT PLAN ADOPTED AFTER REVIEW BY THE JOINT LEGISLATIVE AUDIT COMMITTEE, THE AUDIT TEAM MAY:

1. DETERMINE THE VALIDITY AND ACCURACY OF INFORMATION REPORTED BY THE DEPARTMENT TO THE LEGISLATURE.

2. PERFORM OTHER REVIEWS AND ANALYSES RELATING TO THE DEPARTMENT.

3. REVIEW A SPECIFIC DEPARTMENT FUNCTION OR PROCESS.

C. PURSUANT TO SECTION 41-1279.04, THE DEPARTMENT SHALL PROVIDE THE AUDITOR GENERAL ACCESS TO ANY DATA FROM THE DEPARTMENT, INCLUDING ELECTRONIC DATA, THAT THE AUDITOR GENERAL DEEMS NECESSARY TO PERFORM THE DUTIES PRESCRIBED IN THIS SECTION. THIS DATA SHALL BE PROVIDED IN THE MANNER AND FORMAT PRESCRIBED BY THE AUDITOR GENERAL.

**Sec. 7.** Section 8-501, Arizona Revised Statutes, is amended to read:

**8-501. Definitions**

A. In this article, unless the context otherwise requires:

1. "Child welfare agency" or "agency":

(a) Means:

(i) Any agency or institution maintained by a person, firm, corporation, association or organization to receive children for care and maintenance or for twenty-four hour social, emotional or educational supervised care or who have been adjudicated as a delinquent or dependent child.

(ii) Any institution that provides care for unmarried mothers and their children.

(iii) Any agency maintained by this state, a political subdivision of this state or a person, firm, corporation, association or organization to place children or unmarried mothers in a foster home.

(b) Does not include state operated institutions or facilities, detention facilities for children established by law, health care institutions that are licensed by the department of health services pursuant to title 36, chapter 4 or private agencies that exclusively provide children with social enrichment or recreational opportunities and that do not use restrictive behavior management techniques.

2. "Division" or "department" means the department of child safety.

3. "Former dependent child" means a person who was previously adjudicated a dependent child in a dependency proceeding that has been dismissed by order of the juvenile court.

4. "Foster child" means a child placed in a foster home or child welfare agency.

5. "Foster home" means a home maintained by any individual or individuals having the care or control of minor children, other than those related to each other by blood or marriage, or related to such individuals, or who are legal wards of such individuals.

6. "Foster parent" means any individual or individuals maintaining a foster home.

7. "Group foster home" means a licensed regular or special foster home suitable for placement of more than five minor children but not more than ten minor children.

8. "Out-of-home placement" means the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian and includes placement in temporary custody pursuant to section 8-821, subsection A or B, voluntary placement pursuant to section 8-806 or placement due to dependency actions.

9. "Parent" means the natural or adoptive mother or father of a child.

10. "Reason for leaving care" means one of the following:

(a) Reunification with a parent or primary caretaker.

(b) Living with another relative.

(c) Adoption by a relative.

(d) Adoption by a foster parent.

(e) Adoption by another person.

(f) Age of majority.

(g) Guardianship by a relative.

(h) Guardianship by another person.

(i) Transfer to another agency.

(j) Runaway.

(k) Death.

11. "Receiving foster home" means a licensed foster home suitable for immediate placement of children when taken into custody or pending medical examination and court disposition.

12. "Regular foster home" means a licensed foster home suitable for placement of not more than five minor children.

13. "Relative" means a grandparent, great-grandparent, brother or sister of whole or half blood, aunt, uncle or first cousin.

14. "Restrictive behavior management" means an intervention or procedure that attempts to guide, redirect, modify or manage behavior through the use of any of the following:

(a) Physical force to cause a child to comply with a directive. Physical force does not include physical escort. For the purposes of this subdivision, "physical escort" means temporarily touching or holding a child's hand, wrist, arm, shoulder or back to induce the child to walk to a safe location.

(b) A device, action or medication to restrict the movement or normal function of a child in order to control or change the child's behavior and that includes:

(i) Chemical restraint. For the purposes of this item, "chemical restraint" means the use of any psychoactive medication as a restraint to control the child's behavior or to restrict the child's freedom of movement and that is not a standard treatment for the child's medical or psychiatric condition.

(ii) Mechanical restraint. For the purposes of this item, "mechanical restraint" means the use of any physical device to limit a child's movement and to prevent the child from causing harm to self or to others. Mechanical restraint does

not include devices such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets or any other method that involves the physical holding of a child to conduct a routine physical examination or test or to protect the child from falling out of bed or to permit the child to participate in activities in order to reduce the risk of physical harm to the child.

(iii) Physical restraint. For the purposes of this item, "physical restraint" means applying physical force to reduce or restrict a child's ability to freely move the child's arms, legs or head. Physical restraint does not include temporarily holding a child to permit the child to participate in activities of daily living if this holding does not involve the risk of physical harm to the child.

(iv) Seclusion. For the purposes of this item, "seclusion" means placing a child against the child's will in a room in which the child is unable to open the door in order to prevent the child from doing harm to self or others.

15. "Special foster home" means a licensed foster home capable of handling not more than five minor children who require special care for physical, mental or emotional reasons or who have been adjudicated delinquent. Special foster home includes any home handling foster children aged twelve through seventeen.

B. A foster home or any classification of foster home defined in subsection A of this section includes a home having the care of persons who are under twenty-one years of age and the cost of whose care is provided pursuant to section ~~46-134, paragraph 12~~ 8-521.01.

**Sec. 8.** Title 8, chapter 4, article 4, Arizona Revised Statutes, is amended by adding section 8-502, to read:

**8-502. Foster parent and child welfare agency information; confidentiality; permissible disclosure; use; violation; classification; definitions**

A. UNLESS OTHERWISE PROVIDED BY LAW AND EXCEPT AS PROVIDED IN SUBSECTION E, F OR G OF THIS SECTION, ALL PERSONAL INFORMATION CONCERNING A FOSTER PARENT APPLICANT OR LICENSEE OR AN INDIVIDUAL WHO APPLIES FOR OR RECEIVES A CHILD WELFARE AGENCY LICENSE IS CONFIDENTIAL AND MAY NOT BE RELEASED, UNLESS THE RELEASE IS ORDERED BY THE SUPERIOR COURT OR PROVIDED FOR BY COURT RULE. DCS INFORMATION IS CONFIDENTIAL AND MAY BE RELEASED ONLY AS PRESCRIBED IN SECTION 8-807.

B. FOSTER PARENT INFORMATION IS CONFIDENTIAL, EXCEPT THE DEPARTMENT MAY RELEASE THE INFORMATION PRESCRIBED IN SUBSECTION C OF THIS SECTION IF THE FOSTER PARENT'S LICENSE HAS BEEN REVOKED OR ALL OF THE FOLLOWING APPLY:

1. NO FOSTER CHILDREN ARE RESIDING IN THE HOME.

2. THE DEPARTMENT HAS BEGUN A LICENSING DENIAL, SUSPENSION OR REVOCATION ACTION.

3. THE FOSTER PARENT'S IDENTITY HAS BEEN MADE PUBLIC BY SOURCES OUTSIDE THE DEPARTMENT.

C. IF REQUESTED, THE DEPARTMENT MAY RELEASE THE FOLLOWING FOSTER CARE PARENT INFORMATION IF PERMISSIBLE UNDER SUBSECTION B OF THIS SECTION:

1. THE NAME OF THE LICENSEE.

2. THE DATES OF CURRENT AND PAST LICENSURE.

3. ANY TRAINING IN WHICH THE LICENSEE PARTICIPATED.

4. THE NUMBER, AGES AND GENDER OF CHILDREN FOR WHICH THE FOSTER CARE PROVIDER IS LICENSED.

5. ANY COMPLAINTS THAT DO NOT INVOLVE A CHILD SAFETY OR AN OFFICE OF CHILD WELFARE INVESTIGATIONS INVESTIGATION.

6. ANY RESTRICTIONS ON THE LICENSE OF THE LICENSEE.

D. CHILD WELFARE AGENCY INFORMATION IS NOT CONFIDENTIAL, EXCEPT FOR BOTH OF THE FOLLOWING:

1. ANY DCS INFORMATION IN THE LICENSING FILES OF THE DEPARTMENT.

2. THE ADDRESS OF ANY FACILITY WHERE A FOSTER CHILD IS PLACED, EVEN IF THE ADDRESS IS ALSO THE CORPORATE ADDRESS OF THE CHILD WELFARE AGENCY.

E. AN EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY, THE DEPARTMENT OF LAW OR A COURT MAY OBTAIN THE INFORMATION DESCRIBED IN SUBSECTION A, B, C OR D OF THIS SECTION IN THE PERFORMANCE OF THE EMPLOYEE'S DUTIES.

F. AN EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY, THE DEPARTMENT OF LAW OR A COURT MAY RELEASE INFORMATION THAT IS OTHERWISE CONFIDENTIAL UNDER THIS SECTION UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

1. TO AN APPLICANT OR LICENSEE IF A REQUEST IS MADE IN WRITING SPECIFICALLY REQUESTING INFORMATION THAT DIRECTLY RELATES TO THE PERSON WHO REQUESTS THE INFORMATION.

2. IN ORAL OR WRITTEN COMMUNICATIONS INVOLVING THE PROVISION OF SERVICES OR THE REFERRAL TO SERVICES BETWEEN EMPLOYEES OF, PERSONS UNDER CONTRACT WITH OR PERSONS HOLDING A GENERAL EMPLOYMENT RELATIONSHIP WITH THE DEPARTMENT OF CHILD SAFETY, THE DEPARTMENT OF LAW OR THE JUVENILE COURT.

3. IF THE DISCLOSURE IS NECESSARY TO PROTECT AGAINST A CLEAR AND SUBSTANTIAL RISK OF IMMINENT SERIOUS INJURY TO A CLIENT OF THE DEPARTMENT OF CHILD SAFETY.

4. TO AN AGENCY OF THE FEDERAL GOVERNMENT, THIS STATE OR ANOTHER STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE FOR OFFICIAL PURPOSES. INFORMATION RECEIVED BY A GOVERNMENTAL AGENCY PURSUANT TO THIS PARAGRAPH SHALL BE MAINTAINED AS CONFIDENTIAL UNLESS THE INFORMATION IS PERTINENT TO A CRIMINAL PROSECUTION.

5. TO A FOSTER PARENT OR A PARENT CERTIFIED TO ADOPT IF THE INFORMATION IS NECESSARY TO ASSIST IN THE PLACEMENT WITH OR CARE OF A CHILD BY THE FOSTER PARENT OR PERSON CERTIFIED TO ADOPT.

6. TO AN OFFICER OF THE SUPERIOR COURT, THE DEPARTMENT OR AN AGENCY THAT IS REQUIRED TO PERFORM AN INVESTIGATION PURSUANT TO SECTION 8-105, IF THE INFORMATION IS PERTINENT TO THE INVESTIGATION. INFORMATION RECEIVED PURSUANT TO THIS PARAGRAPH MAY BE DISCLOSED TO THE COURT, BUT SHALL OTHERWISE BE MAINTAINED AS CONFIDENTIAL.

G. NOTWITHSTANDING SECTIONS 8-519, 8-541 AND 8-542, A STANDING COMMITTEE OF THE LEGISLATURE OR A COMMITTEE APPOINTED BY THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY OBTAIN INFORMATION DESCRIBED IN SUBSECTION A, B, C OR D OF THIS SECTION ON WRITTEN REQUEST TO THE DIRECTOR. INFORMATION OBTAINED PURSUANT TO THIS SUBSECTION MAY BE USED ONLY TO CONDUCT INVESTIGATIONS RELATED TO LEGISLATIVE OVERSIGHT OF THE DEPARTMENT. PERSONALLY IDENTIFIABLE INFORMATION MAY NOT BE FURTHER DISCLOSED.

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

I. FOR THE PURPOSES OF THIS SECTION:

1. "CHILD WELFARE AGENCY INFORMATION" MEANS ALL INFORMATION IN THE LICENSING FILE OF THE DEPARTMENT, INCLUDING ALL INFORMATION ON CORPORATE OR OTHER ENTITY APPLICANTS OR LICENSEES AND ANY LICENSING INVESTIGATIONS. CHILD WELFARE AGENCY INFORMATION DOES NOT INCLUDE PERSONAL INFORMATION ABOUT INDIVIDUALS WHO APPLY FOR LICENSURE TO OR ARE LICENSED BY THE DEPARTMENT AS A CHILD WELFARE AGENCY.

2. "DCS INFORMATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 8-807.

3. "FOSTER PARENT INFORMATION" MEANS ALL INFORMATION IN THE LICENSING FILE OF THE DEPARTMENT THAT IS NOT CONFIDENTIAL UNDER ANY OTHER LAW. FOSTER PARENT INFORMATION DOES NOT INCLUDE PERSONAL INFORMATION, INFORMATION THAT IS CONFIDENTIAL UNDER ANOTHER STATUTE OR INFORMATION OF A SIMILAR NATURE.

4. "PERSONAL INFORMATION" MEANS INFORMATION ABOUT AN INDIVIDUAL THAT IS DISCLOSED BY THE INDIVIDUAL OR BY A THIRD PARTY ON BEHALF OF THE INDIVIDUAL TO OBTAIN OR MAINTAIN A LICENSE. PERSONAL INFORMATION INCLUDES ALL OF THE FOLLOWING:

(a) THE INDIVIDUAL'S IDENTITY, SOCIAL SECURITY NUMBER, ADDRESS AND PERSONAL HISTORY.

(b) FINANCIAL, HEALTH OR MEDICAL INFORMATION ABOUT THE INDIVIDUAL.

(c) REFERENCES FOR THE INDIVIDUAL.

**Sec. 9.** Section 8-506, Arizona Revised Statutes, is amended to read:

**8-506. Denial, suspension or revocation of license; foster home; hearing**

The division may deny the application or suspend or revoke the license of any foster home for wilful violation of any provision of this article or failure to maintain the standards of the care prescribed by the division. Written notice of the grounds of the suspension or the proposed denial or revocation shall be given to the applicant or holder of the license. A copy of the written notice of the suspension or the proposed denial or revocation shall be forwarded to the agency that recommended the foster home for licensing. Within ~~twenty~~ TWENTY-FIVE days after ~~receipt~~ THE MAILING DATE of THE written notice of proposed denial, revocation or suspension, the applicant or holder may request a hearing in accordance with the rules of the division. If the hearing is requested it shall be held within ten days of the request, at which time the applicant or holder shall have the right to present testimony and confront witnesses.

**Sec. 10.** Section 8-512, Arizona Revised Statutes, is amended to read:

**8-512. Comprehensive medical and dental care; guidelines**

A. The department shall provide comprehensive medical and dental care, as prescribed by rules of the department, for each child who is:

~~1. Placed in a foster home.~~

1. IN A VOLUNTARY PLACEMENT PURSUANT TO SECTION 8-806.

2. In the custody of the department ~~and placed with a relative~~ IN AN OUT-OF-HOME PLACEMENT.

~~3. In the custody of the department and placed in a certified adoptive home before the entry of the final order of adoption.~~

~~4. In the custody of the department and in an independent living program as provided in section 8-521.~~

~~5.~~ 3. In the custody of a probation department and placed in foster care. The department shall not provide this care if the cost exceeds funds currently appropriated and available for that purpose.

B. On or before October 1, 2015, the department of child safety, in collaboration with the department of health services and the Arizona health care cost containment system administration, shall:

1. Determine the most efficient and effective way to provide comprehensive medical, dental and behavioral health services, including behavioral health diagnostic, evaluation and treatment services for children who are provided care pursuant to subsection A of this section.

2. Determine the number of disruptions of placements in foster care by age of child due to behavioral health management issues and the extent each child is receiving behavioral health services.

3. Determine the number of adopted children who have entered foster care due to the adoptive parents' inability to receive behavioral health services to adequately meet the needs of the child and parents.

4. Submit a report of its recommendations for providing services pursuant to this subsection to the governor, the speaker of the house of representatives and the president of the senate and shall provide a copy of its report to the secretary of state. The collaborative determination shall consider an administratively integrated system.

~~C. The care may include:~~

~~1. A program of regular health examinations and immunizations including as minimums:~~

~~(a) Vaccinations to prevent mumps, rubella, smallpox and polio.~~

~~(b) Tests for anemia, coccidioidomycosis and tuberculosis.~~

~~(c) Urinalysis, blood count and hemoglobin tests.~~

~~(d) Regular examinations for general physical health, hearing and vision, including providing corrective devices when needed.~~

~~2. Inpatient and outpatient hospital care.~~

~~3. Necessary services of physicians, surgeons, psychologists and psychiatrists.~~

~~4. Dental care consisting of at least oral examinations including diagnostic radiographs, oral prophylaxis and topical fluoride applications, restoration of permanent and primary teeth, pulp therapy, extraction when necessary, fixed space maintainers where needed and other services for relief of pain and infection.~~

~~5. Drug prescription service.~~

C. THE COMPREHENSIVE MEDICAL AND DENTAL CARE CONSISTS OF THOSE BENEFITS PROVIDED BY THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM BENEFIT AS PRESCRIBED IN TITLE 36, CHAPTER 29, ARTICLE 1 AND AS SET FORTH IN THE APPROVED MEDICAID STATE PLAN.

D. ~~The facilities of~~ Any ~~hospital or other institution within the state, public or private,~~ PROVIDER THAT HAS A PROVIDER AGREEMENT REGISTRATION may be employed THROUGH THE COMPREHENSIVE MEDICAL AND DENTAL PROGRAM by the foster parent, relative, certified adoptive parent, agency or ~~division~~ DEPARTMENT having responsibility for the care of the child.

E. ~~For inpatient hospital admissions and outpatient hospital services on or after March 1, 1993,~~ The department shall reimburse a ~~hospital~~ PROVIDER according to the rates established by the Arizona health care cost containment system administration pursuant to ~~section 36-2903.01, subsection G~~ TITLE 36, CHAPTER 29, ARTICLE 1.

F. The department shall use the Arizona health care cost containment system administration rates as identified in subsection E of this section for any child eligible for services under this section.

~~G. A hospital bill is considered received for purposes of subsection I of this section on initial receipt of the legible, error-free claim form by the department if the claim includes the following error-free documentation in legible form:~~

~~1. An admission face sheet.~~

~~2. An itemized statement.~~

~~3. An admission history and physical.~~

~~4. A discharge summary or an interim summary if the claim is split.~~

~~5. An emergency record, if admission was through the emergency room.~~

~~6. Operative reports, if applicable.~~

~~7. A labor and delivery room report, if applicable.~~

G. THE DEPARTMENT SHALL REQUIRE PROVIDERS TO SUBMIT CLAIMS FOR MEDICAL AND DENTAL SERVICES PURSUANT TO SECTION 36-2903.01.

H. The department shall require that the ~~hospital~~ PROVIDER pursue other third party payors before submitting a claim to the department. Payment received by a ~~hospital~~ PROVIDER from the department is considered payment by the department of the department's liability for the ~~hospital~~ bill. A ~~hospital~~ PROVIDER may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

~~I. For inpatient hospital admissions and outpatient hospital services rendered on and after October 1, 1997, the department shall pay a hospital's rate established according to this section subject to the following:~~

~~1. If the hospital's bill is paid within thirty days of the date the bill was received, the department shall pay ninety-nine per cent of the rate.~~

~~2. If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate.~~

~~3. If the hospital's bill is paid any time after sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate plus a fee of one per cent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.~~

~~J. For medical services other than those for which a rate has been established pursuant to section 36-2903.01, subsection G, the department shall pay according to the Arizona health care cost containment system capped fee-for-service schedule adopted pursuant to section 36-2904, subsection K.~~

~~K. For any hospital or medical claims not covered under subsection E or J of this section, the department shall establish and adopt a schedule setting out maximum allowable fees that the department deems reasonable for such services after appropriate study and analysis of usual and customary fees charged by providers. The department shall not pay to any plan or intermediary that portion of the cost of any service provided that exceeds allowable charges prescribed by the department pursuant to this subsection.~~

~~L.~~ I. The department shall not pay claims for services pursuant to this section that are submitted more than one hundred eighty days after the date of the service for which the payment is claimed.

~~M.~~ J. The department may provide for payment through an insurance plan, hospital service plan, medical service plan, or any other health service plan authorized to do business in this state, fiscal intermediary or a combination of such plans or methods. The state shall not be liable for and the department shall not pay

to any plan or intermediary any portion of the cost of comprehensive medical and dental care in excess of funds appropriated and available for such purpose at the time the plan or intermediary incurs the expense for such care.

~~N.~~ K. The total amount of state monies that may be spent in any fiscal year by the department for comprehensive medical and dental care shall not exceed the amount appropriated or authorized by section 35-173 for that purpose. This section shall not be construed to impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

**Sec. 11.** Section 8-520, Arizona Revised Statutes, is amended to read:

**8-520. Violations; classification**

Any agency, society, association, institution or person, whether incorporated or unincorporated, and any individual acting for or in its name, which engages in caring for children or children and adults or of placing children for care pursuant to this article, without having first procured a license as a child welfare agency as provided in this article, or which knowingly fails or refuses to report as required by the provisions of this article, or which knowingly obstructs or hinders the division, THE DEPARTMENT OF ECONOMIC SECURITY or ~~its~~ THE agents OF EITHER AGENCY in THE inspection or investigation of the agency, societies, associations, institutions or persons under ~~it's~~ the RESPECTIVE AGENCY'S control or charge, or any person knowingly violating any of the other provisions of this article is guilty of a class 2 misdemeanor unless another classification is specifically prescribed in this article.

**Sec. 12.** Section 8-521, Arizona Revised Statutes, is amended to read:

**8-521. Independent living program; conditions; eligibility; rules; case management unit; reports**

A. The department or a licensed child welfare agency may establish an independent living program for youths who are the subject of a dependency petition or who are adjudicated dependent and are all of the following:

1. In the custody of the department, a licensed child welfare agency or a tribal child welfare agency.

2. At least seventeen years of age.

3. Employed or full-time students.

B. The independent living program may consist of a residential program of less than twenty-four hours' a day supervision for youths under the supervision of the department through a licensed child welfare agency or a foster home under contract with the department. Under the independent living program the youth is not required to reside at a licensed child welfare agency or foster home.

C. The director or the director's designee shall review and approve any recommendation to the court that a youth in the custody of the department be ordered to an independent living program.

D. For a youth to participate in an independent living program, the court must order such a disposition pursuant to section 8-845.

E. The department of child safety, a licensed child welfare agency or a tribal child welfare agency having custody of the youth shall provide the cost of care as required by section ~~46-134~~ 8-453, SUBSECTION A, PARAGRAPH 9, SUBDIVISION (b), ITEM (iii) for each child placed in an independent living program pursuant to this section, except that the monthly amount provided shall not exceed the average monthly cost of purchased services for the child in the three months immediately preceding placement in an independent living program.

F. The department shall adopt rules pursuant to title 41, chapter 6 to carry out this section.

G. The department shall provide quarterly progress reports to the court and to local foster care review boards for each youth participating in the independent living program.

H. The local foster care review boards shall review at least once every six months the case of each youth participating in the independent living program.

I. The department shall establish an educational case management unit within the division consisting of two case managers to develop and coordinate educational case management plans for youths participating in the independent living program and to assist youths in the program to do the following:

1. Graduate from high school.
2. Pass the Arizona instrument to measure standards test.
3. Apply for postsecondary financial assistance.
4. Apply for postsecondary education.

J. The department shall prepare a report on or before March 1 of each year that contains the following information for the previous calendar year:

1. The number of children in the program.
2. The number of children in the program by age and grade.
3. The number of children in the program by county of residence.
4. The number of children in the program who graduated from high school.
5. The number of children in the program who received a general equivalency diploma.
6. The number of children in the program enrolled in postsecondary education.

K. The department shall submit a copy of the report prescribed in subsection J of this section to the governor, the president of the senate, the speaker of the house of representatives and the secretary of state.

**Sec. 13.** Section 8-526, Arizona Revised Statutes, is amended to read:

**8-526. Child welfare; reporting requirements**

A. The department shall compile the following information on a semiannual basis ending March 31 and September 30 of each year:

1. The total number of reports received, by major category and by priority. The report shall include a description of some of those incoming communications determined not to meet the criteria of a report as chosen by a random sample.

2. The number of reports not responded to, by priority, by county and statewide. The report shall include a description of some of these cases as chosen by random sample.

3. The number of reports assigned for investigation by priority and by major category, by county and statewide for the current and previous reporting periods.

4. The number of investigations completed by priority and by major category, by county and statewide for the current and previous reporting periods and as categorized by investigations that resulted in:

(a) A substantiated report.

(b) A report currently proposed for substantiation.

(c) An unsubstantiated report.

5. The number of reports assigned for investigation that remain open for investigation by priority and by major category, by county and statewide for the current and previous reporting periods.

6. Of the number of reports assigned for investigation, the percentage of reports that resulted in a child being placed in out-of-home care by county and statewide.

7. The number of newborn infants delivered to safe haven providers pursuant to section 13-3623.01.

8. The number of children entering out-of-home care by county during the reporting period, and the number and percentage of the children entering out-of-home care by county during the reporting period who are voluntary placements for children under eighteen years of age.

9. The number and percentage of children removed during the reporting period, by county and statewide, who had been in out-of-home care:

(a) Within the previous twelve months.

(b) Within the previous twenty-four months, excluding the children included in subdivision (a) of this paragraph.

10. The number and percentage of children who have remained in a shelter or receiving home for more than twenty-one consecutive days, by the child's age group.

11. The number and type of licensed foster homes and the number of licensed and available spaces in those homes.

12. The number and type of licensed foster homes that leave the foster care system and the reason for the exit.

13. The number of licensed foster homes that receive the required visitation by case managers pursuant to section 8-516.

14. The number of children placed in the care, custody and control of the department at the end of the reporting period and the number of these children who receive the required visitation by case managers pursuant to section 8-516.

15. The number and percentage of children who are in the care, custody and control of the department at the end of the reporting period and who are in out-of-home placement and as categorized by:

(a) Age.

(b) Ethnicity.

(c) Case plan goal.

(d) Type of out-of-home placement, categorized by age.

(e) Length of time in out-of-home placement of less than thirty days, thirty-one days to twelve consecutive months, twelve to twenty-four consecutive

months and more than twenty-four consecutive months, including the median, average and range of the number of out-of-home placements.

(f) Primary legal status including voluntary placement for a child under eighteen years of age, temporary custody, adjudicated dependent, free for adoption, voluntary placement for a child over eighteen years of age, dually adjudicated or any other legal status.

16. If the case plan is to return the child to the parent, the percentage of parents who receive the required contact by case managers.

17. The number and percentage of children who left the custody of the department during the reporting period by reason for leaving care and as categorized by:

(a) Age.

(b) Ethnicity.

(c) Number of placements.

(d) Average length of time in care.

18. The number of children with a petition for termination of parental rights granted and not granted during the reporting period by county and statewide.

19. The number and percentage of children with a case plan goal of adoption and who are not placed in an adoptive home at the end of the reporting period and as categorized by:

(a) Age.

(b) Ethnicity.

(c) Average length of time in care.

(d) Legal status.

20. The number and percentage of children with a case plan goal of adoption and who are placed in an adoptive home at the end of the reporting period and as categorized by:

(a) Age.

(b) Ethnicity.

(c) Average length of time in out-of-home placement.

(d) Length of time from change of case plan goal to adoptive placement.

(e) Legal status.

(f) Marital status and relationship of the adoptive parent or parents to the child.

21. The number of children whose adoptive placement was disrupted during the reporting period and as categorized by:

(a) Age.

(b) Ethnicity.

(c) Cause of the disruption.

(d) Marital status and relationship of the adoptive parent or parents to the child.

22. The number of children whose adoptions were finalized during the reporting period and as categorized by:

(a) Average length of time in out-of-home placement before adoptive placement.

(b) Average length of time in adoptive placement before the final order of adoption.

(c) Marital status and relationship of the adoptive parent or parents to the child.

23. The number of children who died while in the custody of the department by the county where the death occurred and as categorized by:

(a) The cause of death.

(b) The type of out-of-home placement at the time of death.

24. The number of children with an open or active child ~~protective~~ SAFETY services case who died due to abuse, categorized by the person or persons who had care or custody of the child at the time of the child's death as follows:

(a) Biological parent or parents.

(b) Other family member.

(c) Adoptive parent or parents.

(d) Foster care parent or parents.

(e) Other out-of-home care provider.

25. The number of children with an open or active child ~~protective~~ SAFETY services case who died due to abuse allegedly caused by an adult household member who is not listed pursuant to paragraph 24 of this subsection.

B. Based on the data presented in each reporting period, the department, in as brief a format as possible, shall describe three to five major challenges the department faces in achieving the goal of safe, permanent homes for abused and neglected children.

C. Within three months after the end of each reporting period the department shall submit a written report in as brief a format as possible to the governor, the president of the senate, the speaker of the house of representatives, the chairperson of the house human services committee, the chairperson of the senate family services committee, or their successor committees, and the cochairpersons of the joint legislative committee on children and family services. The department shall submit a copy of the report to the secretary of state and the director of the Arizona state library, archives and public records.

**Sec. 14.** Section 8-528, Arizona Revised Statutes, is amended to read:

**8-528. Newborn infants left with safe haven providers; placement protocol; definitions**

A. The placement of newborn infants who are left with safe haven providers pursuant to section 13-3623.01 shall follow the protocols prescribed in this section.

B. If a newborn infant is left with a private child welfare agency that is licensed pursuant to this article or with a private adoption agency that is licensed pursuant to section 8-126 and the agency has the ability and desire to take custody of the infant and to place the infant for adoption, the safe haven provider shall do the following:

1. Immediately transport the newborn infant or arrange for the newborn infant to be transported to a hospital for a physical examination.

2. Immediately call ~~child protective services~~ THE DEPARTMENT to inform it that a newborn infant has been left with the safe haven provider, OF the location of

the hospital where the agency transported the infant or arranged for the infant to be transported and that the agency will take custody of the infant after the hospital completes the physical examination.

3. Take custody of the infant from the hospital within twenty-four hours after the hospital completes the physical examination.

C. If the private child welfare agency or private adoption agency does not have the ability or desire to take custody of the infant and place the infant for adoption, the agency shall do the following:

1. Immediately transport the newborn infant or arrange for the newborn infant to be transported to a hospital for a physical examination.

2. Immediately call ~~child protective services~~ THE DEPARTMENT to inform it that a newborn infant has been left with the safe haven provider, OF the location of the hospital where the agency transported the infant or arranged for the infant to be transported and that the agency will not take custody of the infant after the hospital completes the physical examination.

D. If a newborn infant is left with a church, the safe haven provider must do the following:

1. Immediately transport the infant or arrange for the newborn infant to be transported to a hospital for a physical examination.

2. If the church is affiliated with a private adoption agency, contact the private adoption agency and inform the agency that a newborn infant has been left with the safe haven provider.

3. Immediately call ~~child protective services~~ THE DEPARTMENT to inform it that an infant has been left at the church, OF the location of the hospital where the church transported the infant or arranged for the infant to be transported and whether a private adoption agency will take custody of the infant.

E. If the agency contacted pursuant to subsection D of this section has the ability and desire to take custody of the infant and place the infant for adoption, the agency must take custody of the infant within twenty-four hours after the hospital completes the physical examination.

F. If the church is not affiliated with a private adoption agency or the private adoption agency does not have the ability or desire to take custody of the infant and place the infant for adoption, ~~child protective services~~ THE DEPARTMENT shall contact the next private adoption agency on a rotating list of agencies maintained by ~~child protective services~~ THE DEPARTMENT until it contacts an agency that agrees to take custody of the infant. The adoption agency must take custody of the infant from the hospital within twenty-four hours after the hospital completes the physical examination.

G. If a newborn infant is left with a firefighter who is on duty, an emergency medical technician who is on duty or a staff member at a health care institution that is classified by the department of health services pursuant to section 36-405 as a general hospital or a rural general hospital, the safe haven provider shall do the following:

1. Immediately transport the newborn infant to a hospital for a physical examination.

2. Immediately contact ~~child protective services~~ THE DEPARTMENT OF CHILD SAFETY to inform it that a newborn infant has been left at a fire station or health care institution and of the location of the hospital where the safe haven provider transported the infant.

H. Within eight hours after ~~child protective services~~ THE DEPARTMENT is contacted pursuant to subsection C or G of this section, ~~child protective services~~ THE DEPARTMENT shall contact the next private adoption agency on a rotating list maintained by ~~child protective services~~ THE DEPARTMENT until ~~child protective services~~ THE DEPARTMENT contacts an agency that agrees to take custody of the infant. The adoption agency must take custody of the infant from the hospital within twenty-four hours after the hospital completes the physical examination.

I. If an agency does not take custody of the newborn infant within twenty-four hours after the hospital completes the physical examination, the hospital shall contact ~~child protective services~~ THE DEPARTMENT, and ~~child protective services~~ THE DEPARTMENT shall contact the next private adoption agency on its rotating list until an agency agrees to take custody of the infant.

J. If no agency takes custody of the infant pursuant to this section within forty-eight hours after the hospital completes the physical examination, ~~child protective services~~ THE DEPARTMENT shall take custody of the infant.

K. Notwithstanding any other law, before a private adoption agency or ~~child protective services~~ THE DEPARTMENT takes custody of an infant pursuant to this section, a health care provider, as defined in section 36-3201, may make health care treatment decisions for the infant. A health care provider who makes a good faith medical decision pursuant to this subsection is immune from liability.

L. The safe haven provider that takes custody of the infant shall act as the responsible adult and complete the Arizona health care cost containment system application process on behalf of the infant. If the child is determined ineligible for the Arizona health care cost containment system or if the Arizona health care cost containment system ADMINISTRATION does not reimburse the hospital for the medical examination and treatment provided to the infant, the entity or individual that ultimately takes custody of the infant must compensate the hospital for the medical examination and treatment provided to the infant.

M. An agency that takes custody of the newborn infant must comply with all state and federal laws regarding adoption and placement of children.

N. ~~Child protective services~~ THE DEPARTMENT shall inform an agency when it has rotated to the top of the contact list and inform it that ~~child protective services~~ THE DEPARTMENT will notify it the next time a newborn infant is left with a safe haven provider.

O. A private adoption agency may contact ~~child protective services~~ THE DEPARTMENT to be placed on the rotating list maintained by ~~child protective services~~ THE DEPARTMENT pursuant to this section if it:

1. Is a nonprofit agency.
2. Does not specialize in international adoptions.
3. Has a twenty-four hour emergency contact number.

P. The protocols prescribed in this section apply only to an infant who is seventy-two hours of age or younger and who is not abused. If an infant who is transported to a hospital is older than seventy-two hours or has been abused, the hospital shall contact ~~child protective services~~ THE DEPARTMENT, and ~~child protective services~~ THE DEPARTMENT shall take custody of the infant.

Q. For the purposes of this section:

1. "Church" has the same meaning prescribed in section 13-3623.01, subsection H, paragraph 2, subdivision (d), item (iii).

2. "Custody" means legal authority to act on behalf of a child including the following:

(a) The duty and authority to make decisions that affect the child, including medical decisions.

(b) The authority to file a petition for termination of parental rights.

**Sec. 15. Repeal**

Section 8-809, Arizona Revised Statutes, is repealed.

**Sec. 16.** Section 8-811, Arizona Revised Statutes, is amended to read:

**8-811. Hearing process; definitions**

A. The department shall notify a person who is alleged to have abused or neglected a child that the department intends to substantiate the allegation in the central registry pursuant to section 8-804 and of that person's right:

1. To receive a copy of the report containing the allegation.

2. To a hearing before the entry into the central registry ~~pursuant to section 8-456, subsection D, paragraph 3, subdivision (a)~~.

B. The department shall send the notice prescribed in subsection A of this section by first class mail no more than fourteen days after completion of the investigation.

C. A request for a hearing on the proposed finding must be received by the department within ~~fourteen~~ TWENTY days after ~~receipt~~ THE MAILING of the notice BY THE DEPARTMENT.

D. The department shall not disclose any information related to the investigation of the allegation except as provided in sections 8-456, 8-807 and 13-3620.

E. If a request for a hearing is made pursuant to subsection C of this section, the department shall conduct a review before the hearing. The department shall provide an opportunity for the accused person to provide written or verbal information to support the position that the department should not substantiate the allegation. If the department determines that there is no probable cause that the accused person engaged in the alleged conduct, the department shall amend the information or finding in the report and shall notify the person and a hearing shall not be held.

F. Notwithstanding section 41-1092.03, the notification prescribed in subsection A of this section shall also state that if the department does not amend the information or finding in the report as prescribed in subsection E of this section within sixty days after it receives the request for a hearing the person has a right to a hearing unless:

1. The person is a party in a PENDING civil, criminal or administrative proceeding in which the allegations of abuse or neglect are at issue.

2. THE PERSON IS A PARTY IN A PENDING JUVENILE PROCEEDING IN WHICH THE ALLEGATIONS OF ABUSE OR NEGLECT ARE AT ISSUE.

~~2.~~ 3. A court or administrative law judge has made findings as to the alleged abuse or neglect.

~~3.~~ 4. A ~~finding has been made by a~~ court ~~pursuant to section 8-844, subsection C~~ HAS FOUND that a child is dependent OR HAS TERMINATED A PARENT'S RIGHTS based ~~upon~~ ON an allegation of abuse or neglect.

G. IF THE COURT OR ADMINISTRATIVE LAW JUDGE IN A PENDING PROCEEDING DESCRIBED IN SUBSECTION F, PARAGRAPH 1 OR 2 OF THIS SECTION DOES NOT MAKE A FINDING OF ABUSE OR NEGLECT AND THE MATTER IS NO LONGER PENDING IN THAT FORUM, THE PERSON HAS A RIGHT TO A HEARING PURSUANT TO SUBSECTION F OF THIS SECTION.

H. IF THE COURT OR ADMINISTRATIVE LAW JUDGE IN A PROCEEDING DESCRIBED IN SUBSECTION F OF THIS SECTION HAS MADE A FINDING OF ABUSE OR NEGLECT, THE FINDING SHALL BE ENTERED INTO THE CENTRAL REGISTRY AS A SUBSTANTIATED REPORT.

~~G.~~ I. If the department does not amend the information or finding in the report as prescribed in subsection E of this section, the department shall notify the office of administrative hearings of the request for a hearing no later than five days after completion of the review. The department shall forward all records, reports and other relevant information with the request for hearing within ten days. The department shall redact the identity of the reporting source before transmitting the information to the office of administrative hearings.

~~H.~~ J. The office of administrative hearings shall hold a hearing pursuant to title 41, chapter 6, article 10, with the following exceptions:

1. A child who is the victim of or a witness to abuse or neglect is not required to testify at the hearing.

2. A child's hearsay statement is admissible if the time, content and circumstances of that statement are sufficiently indicative of its reliability.

3. The identity of the reporting source of the abuse or neglect shall not be disclosed without the permission of the reporting source.

4. The reporting source is not required to testify.

5. A written statement from the reporting source may be admitted if the time, content and circumstances of that statement are sufficiently indicative of its reliability.

6. If the person requesting the hearing fails to appear, the hearing shall be vacated and a substantiated finding of abuse or neglect shall be entered. On good cause shown, the hearing may be rescheduled if the request is made within fifteen calendar days after the date of the notice vacating the hearing for failure to appear.

~~I.~~ K. On completion of the presentation of evidence, the administrative law judge shall determine if probable cause exists to sustain the department's finding that the parent, guardian or custodian abused or neglected the child. IF THE ADMINISTRATIVE LAW JUDGE DETERMINES THAT PROBABLE CAUSE EXISTS TO SUSTAIN THE DEPARTMENT'S FINDING OF ABUSE OR NEGLECT, THE SUSTAINED FINDING SHALL BE ENTERED INTO THE CENTRAL REGISTRY AS A SUBSTANTIATED REPORT. If the administrative law judge determines that probable cause does not exist to sustain the department's finding, the administrative law judge shall order the department to amend the information or finding in the report.

~~J.~~ L. When the department is requested to verify pursuant to section 8-807, if the central registry contains a substantiated report about a specific person, the department shall determine if the report was taken after January 1, 1998. If the report was taken after January 1, 1998, the department shall notify the requestor of the substantiated finding. If the report was taken before January 1, 1998, the department shall notify the person of the person's right to request an administrative hearing. The department shall not send this notification if the person was a party in a civil, criminal or administrative proceeding in which the allegations of abuse or neglect were at issue. The provisions of this section shall apply to the person's appeal.

~~K.~~ M. The department shall provide the parent, guardian or custodian who is the subject of the investigation and the person who reported the suspected child abuse or neglect if that person is the child's parent, guardian or custodian with a copy of the outcome of the investigation at one of the following times:

1. If the report is unsubstantiated.

2. If probable cause exists that abuse or neglect has occurred but a specific person is not identified as having abused or neglected the child.

3. After the time to request a hearing has lapsed pursuant to subsection C of this section without the department receiving a request for a hearing.

4. After a final administrative decision has been made pursuant to section 41-1092.08.

~~L.~~ N. For the purposes of this section:

1. "Amend the finding" means to change the finding from substantiated to unsubstantiated.

2. "Amend the information" means to change information identifying the accused of having abused or neglected a child.

**Sec. 17.** Section 8-821, Arizona Revised Statutes, is amended to read:

**8-821. Taking into temporary custody; medical examination; placement; interference; violation; classification**

A. A child shall be taken into temporary custody in proceedings to declare a child a temporary ward of the court to protect the child, pursuant to an order of the juvenile court on a petition by an interested person, a peace officer or a child safety worker under oath that reasonable grounds exist to believe that temporary custody is clearly necessary to protect the child from suffering abuse or neglect. If a child is taken into temporary custody pursuant to this section, the child's sibling shall also be

taken into temporary custody only if reasonable grounds independently exist to believe that temporary custody is clearly necessary to protect the child from suffering abuse or neglect.

B. A child may be taken into temporary custody by a peace officer, A CHILD WELFARE INVESTIGATOR or a child safety worker if temporary custody is clearly necessary to protect the child because probable cause exists to believe that the child is either:

1. A victim or will imminently become a victim of abuse or neglect.

2. Suffering serious physical or emotional injury that can only be diagnosed by a medical doctor or psychologist.

3. Physically injured as a result of living on premises where dangerous drugs or narcotic drugs are being manufactured. For the purposes of this paragraph, "dangerous drugs" and "narcotic drugs" have the same meanings prescribed in section 13-3401.

4. Reported by the department to be a missing child at risk of serious harm.

C. In determining if a child should be taken into temporary custody, the interested person, peace officer, CHILD WELFARE INVESTIGATOR or child safety worker shall take into consideration:

1. As a paramount concern the child's health and safety.

2. Whether the parent is willing to participate in any services that are offered to the parent.

D. A person who takes a child into custody pursuant to subsection B, paragraph 2 of this section shall immediately have the child examined by a medical doctor or psychologist. After the examination the person shall release the child to the custody of the parent or guardian of the child unless the examination reveals abuse or neglect. Temporary custody of a child taken into custody pursuant to subsection B, paragraph 2 of this section shall not exceed twelve hours.

E. A child who is taken into temporary custody pursuant to this article shall not be detained in a police station, jail or lockup where adults charged with or convicted of a crime are detained.

F. A child shall not remain in temporary custody for more than seventy-two hours excluding Saturdays, Sundays and holidays unless a dependency petition is filed.

G. A person who knowingly interferes with the taking of a child into temporary custody under this section is guilty of a class 2 misdemeanor.

**Sec. 18.** Section 12-2452, Arizona Revised Statutes, is amended to read:

**12-2452. Additional court orders**

A. Before an emancipation case proceeds, the court may stay the proceedings and:

1. Refer the parties to mediation.

2. If the court reasonably believes that the petition contains an allegation of child abuse or neglect, require ~~child protective services~~ THE DEPARTMENT OF CHILD SAFETY to investigate the allegation and make a written report of the investigation to the court.

B. If the minor's parent or legal guardian objects to the petition for emancipation, the court shall stay the proceeding and refer the parties to mediation or alternative dispute resolution unless the court reasonably believes that mediation would not be in the best interest of the minor. The court may consider any of the following:

1. The minor's parent or legal guardian has been convicted of abuse, neglect or abandonment.

2. The minor's parent or legal guardian is named as a perpetrator of abuse, neglect or abandonment in the protective services central registry pursuant to section 8-804.

3. Any other information the court deems relevant.

C. If agreement is reached through mediation, the parties shall submit the signed mediation agreement to the court.

**Sec. 19.** Section 15-1809, Arizona Revised Statutes, is amended to read:

**15-1809. Tuition waiver for persons formerly in foster care; pilot program; report; definition**

A. The Arizona board of regents shall develop a five-year pilot program to provide a tuition waiver scholarship at any university under the jurisdiction of the Arizona board of regents and each community college district shall develop a five-year pilot program to provide a tuition waiver scholarship at any community college in that community college district to any person who meets each of the following conditions:

1. Resides in this state.

2. Either:

(a) Is currently in foster care and is at least sixteen years of age.

(b) Was in foster care when the person was at least sixteen years of age.

(c) Was adopted from foster care and the adoption was finalized after the person was sixteen years of age.

3. Is a United States citizen or is a noncitizen who is lawfully present in this country.

4. Has total personal assets, not including scholarships or grants received by the person, that are worth less than ten thousand dollars.

5. Is under twenty-one years of age when the first tuition waiver scholarship is awarded to that person pursuant to this section. If the person has been previously awarded a tuition waiver scholarship pursuant to this section and the person is making satisfactory progress toward a baccalaureate degree, an associate's degree or a certificate at the time the person reaches twenty-one years of age, the person may continue to be awarded a tuition waiver scholarship until the person reaches twenty-three years of age.

6. Is accepted into or enrolled in a degree, certificate or other accredited program at a university under the jurisdiction of the Arizona board of regents or a community college under the jurisdiction of a community college district. The person must demonstrate continuous progress toward a degree or certificate in order to remain eligible for a tuition waiver scholarship issued.

7. Has completed and submitted to the United States department of education a free application for federal student aid before each year in which the person receives a tuition waiver scholarship pursuant to this section.

8. After the first academic year in which the person receives a tuition waiver scholarship pursuant to this section, annually completes at least thirty hours of volunteer service during the previous academic year.

9. Remains in good standing with the policies established by the university or community college at which the person is enrolled.

B. A tuition waiver scholarship provided pursuant to this section shall be reduced by the amount of any other federal aid scholarships or public grants and any other public aid received by that person from or through the university or community college at which the person is enrolled, except that a tuition waiver scholarship shall not be reduced by the amount of federal grants received by the person from the department of ~~economic security~~ CHILD SAFETY under the Arizona education and training voucher program.

C. The auditor general shall review the pilot programs and on or before June 30, 2017 shall submit a report to the governor, the president of the senate and the speaker of the house of representatives that evaluates the effectiveness of the pilot programs. The auditor general shall provide a copy of this report to the secretary of state.

D. If the pilot program is terminated before a tuition waiver scholarship recipient obtains an associate's degree, a baccalaureate degree or a certificate and before the recipient reaches twenty-three years of age, that person shall continue to be awarded a tuition waiver scholarship until the person reaches twenty-three years of age or obtains a baccalaureate degree, an associate's degree or a certificate, whichever occurs first, if the person continues to meet the scholarship criteria prescribed by this section.

E. For the purposes of this section, "tuition" means tuition and mandatory fees charged by the university or community college.

**Sec. 20.** Section 28-907, Arizona Revised Statutes, is amended to read:

**28-907. Child restraint system; civil penalty; exemptions; notice; child restraint fund; definitions**

A. Except as provided in subsection H of this section, a person shall not operate a motor vehicle on the highways in this state when transporting a child who is under five years of age unless that child is properly secured in a child restraint system.

B. The operator of a motor vehicle that is designed for carrying ten or fewer passengers, that is manufactured for the model year 1972 and thereafter and that is required to be equipped with an integrated lap and shoulder belt or a lap belt pursuant to the federal motor vehicle safety standards prescribed in 49 Code of Federal Regulations section 571.208 shall require each passenger who is at least five years of age, who is under eight years of age and who is not more than four feet nine inches tall to be restrained in a child restraint system.

C. The department shall adopt standards in accordance with 49 Code of Federal Regulations section 571.213 for the performance, design and installation of child restraint systems for use in motor vehicles as prescribed in this section.

D. A person who violates this section is subject to a civil penalty of fifty dollars, except that a civil penalty shall not be imposed if the person makes a sufficient showing that the motor vehicle has been subsequently equipped with a child restraint system that meets the standards adopted pursuant to subsection C of this section. A sufficient showing may include a receipt mailed to the appropriate court officer that evidences purchase or acquisition of a child restraint system. The court imposing and collecting the civil penalty shall deposit, pursuant to sections 35-146 and 35-147, the monies, exclusive of any surcharges imposed pursuant to sections 12-116.01 and 12-116.02, in the child restraint fund.

E. If a law enforcement officer stops a vehicle for an apparent violation of this section, the officer shall determine from the driver the age and height of the child or children in the vehicle to assess whether the child or children in the vehicle should be in child restraint systems.

F. If the information given to the officer indicates that a violation of this section has not been committed, the officer shall not detain the vehicle any further unless some additional violation is involved. The stopping of a vehicle for an apparent or actual violation of this section is not probable cause for the search or seizure of the vehicle unless there is probable cause for another violation of law.

G. The requirements of this section or evidence of a violation of this section are not admissible as evidence in a judicial proceeding except in a judicial proceeding for a violation of this section.

H. This section does not apply to any of the following:

1. A person who operates a motor vehicle that was originally manufactured without passenger restraint devices.

2. A person who operates a motor vehicle that is also a recreational vehicle as defined in section 41-2142.

3. A person who operates a commercial motor vehicle and who holds a current commercial driver license issued pursuant to chapter 8 of this title.

4. A person who must transport a child in an emergency to obtain necessary medical care.

5. A person who operates an authorized emergency vehicle that is transporting a child for medical care.

6. A person who transports more than one child under eight years of age in a motor vehicle that because of the restricted size of the passenger area does not provide sufficient area for the required number of child restraint systems, if both of the following conditions are met:

(a) At least one child is restrained or seated as required by this section.

(b) The person has secured as many of the other children in child restraint systems pursuant to this section as is reasonable given the restricted size of the passenger area and the number of passengers being transported in the motor vehicle.

I. Before the release of any newly born child from a hospital, the hospital in conjunction with the attending physician shall provide the parents of the child with a

copy of this section and information with regard to the availability of loaner or rental programs for child restraint systems that may be available in the community where the child is born.

J. A child restraint fund is established. The fund consists of all civil penalties deposited pursuant to this section and any monies donated by the public. The department of ~~economic security~~ CHILD SAFETY shall administer the fund.

K. The department of ~~economic security~~ CHILD SAFETY shall purchase child restraint systems that meet the requirements of this section from monies deposited in the fund. If a responsible agency requests child restraint systems and if they are available, the department of ~~economic security~~ CHILD SAFETY shall distribute child restraint systems to the requesting responsible agency.

L. On the application of a person to a responsible agency on a finding by the responsible agency to which the application was made that the applicant is unable to acquire a child restraint system because the person is indigent and subject to availability, the responsible agency shall ~~loan~~ LEND the applicant a child restraint system at no charge for as long as the applicant has a need to transport a child who is subject to this section.

M. Monies in the child restraint fund shall not exceed twenty thousand dollars. All monies collected over the twenty thousand dollar limit shall be deposited in the Arizona highway user revenue fund established by section 28-6533.

N. For the purposes of this section:

1. "Child restraint system" means an add-on child restraint system, a built-in child restraint system, a factory-installed built-in child restraint system, a rear-facing child restraint system or a booster seat as defined in 49 Code of Federal Regulations section 571.213.

2. "Indigent" means a person who is defined as an eligible person pursuant to section 36-2901.01.

3. "Responsible agency" means a licensed hospital, a public or private agency providing shelter services to victims of domestic violence, a public or private agency providing shelter services to homeless families or a health clinic.

**Sec. 21.** Section 36-664, Arizona Revised Statutes, is amended to read:

**36-664. Confidentiality; exceptions**

A. A person who obtains communicable disease related information in the course of providing a health service or obtains that information from a health care provider pursuant to an authorization shall not disclose or be compelled to disclose that information except to the following:

1. The protected person or, if the protected person lacks capacity to consent, the protected person's health care decision maker.

2. A health care provider or first responder who has had an occupational significant exposure risk to the protected person's blood or bodily fluid if the health care provider or first responder provides a written request that documents the occurrence and information regarding the nature of the occupational significant exposure risk and the report is reviewed and confirmed by a health care provider who is both licensed pursuant to title 32, chapter 13, 15 or 17 and competent to determine a significant exposure risk. A health care provider who releases

communicable disease information pursuant to this paragraph shall provide education and counseling to the person who has had the occupational significant exposure risk.

3. The department or a local health department for purposes of notifying a good samaritan pursuant to subsection E of this section.

4. An agent or employee of a health facility or health care provider to provide health services to the protected person or the protected person's child or for billing or reimbursement for health services.

5. A health facility or health care provider, in relation to the procurement, processing, distributing or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, milk or other body fluids, for use in medical education, research or therapy or for transplantation to another person.

6. A health facility or health care provider, or an organization, committee or individual designated by the health facility or health care provider, that is engaged in the review of professional practices, including the review of the quality, utilization or necessity of medical care, or an accreditation or oversight review organization responsible for the review of professional practices at a health facility or by a health care provider.

7. A private entity that accredits the health facility or health care provider and with whom the health facility or health care provider has an agreement requiring the agency to protect the confidentiality of patient information.

8. A federal, state, county or local health officer if disclosure is mandated by federal or state law.

9. A federal, state or local government agency authorized by law to receive the information. The agency is authorized to redisclose the information only pursuant to this article or as otherwise permitted by law.

10. An authorized employee or agent of a federal, state or local government agency that supervises or monitors the health care provider or health facility or administers the program under which the health service is provided. An authorized employee or agent includes only an employee or agent who, in the ordinary course of business of the government agency, has access to records relating to the care or treatment of the protected person.

11. A person, health care provider or health facility to which disclosure is ordered by a court or administrative body pursuant to section 36-665.

12. The industrial commission or parties to an industrial commission of Arizona claim pursuant to section 23-908, subsection D and section 23-1043.02.

13. Insurance entities pursuant to section 20-448.01 and third-party payors or the payors' contractors.

14. Any person or entity as authorized by the patient or the patient's health care decision maker.

15. A person or entity as required by federal law.

16. The legal representative of the entity holding the information in order to secure legal advice.

17. A person or entity for research only if the research is conducted pursuant to applicable federal or state laws and regulations governing research.

18. A person or entity that provides services to the patient's health care provider, as defined in section 12-2291, and with whom the health care provider has a business associate agreement that requires the person or entity to protect the confidentiality of patient information as required by the health insurance portability and accountability act privacy standards, 45 Code of Federal Regulations part 164, subpart E.

B. At the request of the department of child safety OR THE DEPARTMENT OF ECONOMIC SECURITY and in conjunction with the placement of children in foster care or for adoption or court-ordered placement, a health care provider shall disclose communicable disease information, including HIV-related information, to the department of child safety OR THE DEPARTMENT OF ECONOMIC SECURITY.

C. A state, county or local health department or officer may disclose communicable disease related information if the disclosure is any of the following:

1. Specifically authorized or required by federal or state law.

2. Made pursuant to an authorization signed by the protected person or the protected person's health care decision maker.

3. Made to a contact of the protected person. The disclosure shall be made without identifying the protected person.

4. For the purposes of research as authorized by state and federal law.

D. The director may authorize the release of information that identifies the protected person to the national center for health statistics of the United States public health service for the purposes of conducting a search of the national death index.

E. The department or a local health department shall disclose communicable disease related information to a good samaritan who submits a request to the department or the local health department. The request shall document the occurrence of the accident, fire or other life-threatening emergency and shall include information regarding the nature of the significant exposure risk. The department shall adopt rules that prescribe standards of significant exposure risk based on the best available medical evidence. The department shall adopt rules that establish procedures for processing requests from good samaritans pursuant to this subsection. The rules shall provide that the disclosure to the good samaritan shall not reveal the protected person's name and shall be accompanied by a written statement that warns the good samaritan that the confidentiality of the information is protected by state law.

F. An authorization to release communicable disease related information shall be signed by the protected person or, if the protected person lacks capacity to consent, the protected person's health care decision maker. An authorization shall be dated and shall specify to whom disclosure is authorized, the purpose for disclosure and the time period during which the release is effective. A general authorization for the release of medical or other information, including communicable disease related information, is not an authorization for the release of HIV-related information unless the authorization specifically indicates its purpose as an authorization for the release of confidential HIV-related information and complies with the requirements of this section.

G. A person to whom communicable disease related information is disclosed pursuant to this section shall not disclose the information to another person except as authorized by this section. This subsection does not apply to the protected person or a protected person's health care decision maker.

H. This section does not prohibit the listing of communicable disease related information, including acquired immune deficiency syndrome, HIV-related illness or HIV infection, in a certificate of death, autopsy report or other related document that is prepared pursuant to law to document the cause of death or that is prepared to release a body to a funeral director. This section does not modify a law or rule relating to access to death certificates, autopsy reports or other related documents.

I. If a person in possession of HIV-related information reasonably believes that an identifiable third party is at risk of HIV infection, that person may report that risk to the department. The report shall be in writing and include the name and address of the identifiable third party and the name and address of the person making the report. The department shall contact the person at risk pursuant to rules adopted by the department. The department employee making the initial contact shall have expertise in counseling persons who have been exposed to or tested positive for HIV or acquired immune deficiency syndrome.

J. Except as otherwise provided pursuant to this article or subject to an order or search warrant issued pursuant to section 36-665, a person who receives HIV-related information in the course of providing a health service or pursuant to a release of HIV-related information shall not disclose that information to another person or legal entity or be compelled by subpoena, order, search warrant or other judicial process to disclose that information to another person or legal entity.

K. This section and sections 36-663, 36-666, 36-667 and 36-668 do not apply to persons or entities subject to regulation under title 20.

**Sec. 22.** Section 36-2936, Arizona Revised Statutes, is amended to read:

**36-2936. Preadmission screening programs; functional tests; screening review**

A. The director shall adopt rules establishing a uniform statewide preadmission screening program to determine if a person who has met the eligibility criteria prescribed in section 36-2934 is eligible for institutional services pursuant to this article. To be eligible for institutional services or home and community based services as defined in section 36-2931, a person shall have a nonpsychiatric medical condition or have a developmental disability as defined in section 36-551 that, by itself or in combination with other medical conditions, necessitates the level of care that is provided in a nursing facility or intermediate care facility. These rules shall establish a uniform preadmission screening instrument that assesses the functional, medical, nursing, social and developmental needs of the applicant.

B. A person is not eligible to receive home and community based services unless that person has been determined to need institutional services as determined by the preadmission screening instrument pursuant to subsection C of this section. The administration shall establish guidelines for the periodic reassessment of each member.

C. Preadmission screening conducted pursuant to subsection B of this section shall be conducted by a registered nurse licensed pursuant to title 32, chapter 15 or a social worker. The nurse or social worker shall have a physician licensed pursuant to title 32, chapter 13 or 17 available for consultation and may use the applicant's attending physician's physical assessment form, if appropriate, in assessing needs for long-term care services under this article. A physician who receives a referral from the nurse or social worker may use the physician's medical judgment to determine the medical eligibility of an applicant for the system or the continued medical eligibility of a member or eligible person. In the medical referral, the physician shall use the established combined thresholds for functional ability and medical condition as a guide to determine the risk of institutionalization.

D. If a person who is eligible for services pursuant to this article, who is enrolled with a program contractor pursuant to this article and who is enrolled with a program contractor pursuant to section 36-2940 fails the preadmission screening for institutional services pursuant to subsection A of this section at the time of a reassessment, the administration may administer a second preadmission screening designed to measure the functioning level of the person based on rules adopted by the director. If the person meets the established thresholds of the functional preadmission screening, the person is eligible for home and community based services pursuant to section 36-2939, subsection A, paragraphs 2, 3 and 4, subsection B, paragraph 2 and subsection C. If a person who is determined eligible pursuant to this subsection is institutionalized pursuant to section 36-2939, including residence in an intermediate care facility, institution for mental disease, inpatient psychiatric facility or nursing facility, the person has a maximum of ninety days to vacate the institutional setting and relocate to a home and community based setting approved pursuant to section 36-2939.

E. If the person is determined not to need services pursuant to this section, the administration shall provide the person with information on other available community services.

F. The administration or its designee shall complete the preadmission screening under subsection A of this section within eight days, excluding Saturdays and holidays, and excluding the time period allowed to determine eligibility pursuant to section 36-2934.

G. If a provider who contracts with the administration pursuant to section 36-2904, subsection A is dissatisfied with any action or decision of the administration regarding the eligibility of a person for the system as prescribed in this article, that provider may file a grievance in accordance with the provider grievance procedure prescribed in section 36-2932, subsection I, paragraph 1. If the director determines pursuant to the grievance process that the person should have been determined eligible pursuant to section 36-2933, the director may reimburse the provider for the net cost of services provided pursuant to this article after the cumulative time periods allowed pursuant to section 36-2934 and this section.

H. In addition to those persons seeking services pursuant to this article, the preadmission screening conducted pursuant to this section shall be made available to all other persons applying for admission to a nursing care institution. The cost of preadmission screenings conducted by the administration pursuant to this subsection shall be borne by the state. The administration shall provide nursing care institutions and the general public on request with detailed information about the preadmission screening program and booklets that describe in clear and simple language the availability of services and benefits from the system. The booklet shall:

1. Explain the availability of preadmission screening that will assess the functional, medical, nursing and social needs of the patient and make recommendations on services that meet the patient's needs as identified by the preadmission screening assessment.

2. Describe the availability of public and private services appropriate to meet the patient's needs in institutions and alternatives to institutions.

3. Explain financial eligibility standards for the Arizona long-term care system and its effect on separate and community property.

I. In addition to the preadmission screening program established in this section, the administration shall implement the preadmission screening program as set forth in section 1919 of the social security act. For persons applying for admission to a title XIX certified nursing care institution, an initial level I preadmission screening shall be conducted by the administration on all nursing care institution applicants who are applying for eligibility pursuant to section 36-2933 and by the nursing care institution on all other nursing care institution applicants. The administration shall develop a uniform identification screening instrument, which shall be used by the nursing care institution and the administration in conducting the initial level I screens. If the identification screen indicates the applicant may be mentally ill, the applicant shall be referred to the department of health services, which shall conduct the level II preadmission screening review using a level II screening instrument developed by the department of health services. If the identification screen indicates the applicant may have an intellectual disability, the applicant shall be referred to the department, which shall conduct the level II preadmission screening review using a level II screening instrument developed by the department.

J. Within ten working days a nursing care institution shall notify the department of health services for a person who is mentally ill or the department of economic security for a person with developmental disabilities AND THE DEPARTMENT OF CHILD SAFETY IF THE PERSON IS A MINOR DEPENDENT OF THIS STATE about any significant change that occurs in the physical or mental condition of a member who is residing in the nursing care institution. The department of health services or the department of economic security shall conduct a subsequent level II screening review of the member within the time frame required by the administration after the notification by the nursing care institution.

**Sec. 23.** Section 41-198, Arizona Revised Statutes, is amended to read:

**41-198. Fatal or near fatal domestic violence review teams; duties; membership; report; confidentiality; violation; classification; definitions**

A. A political subdivision of this state or a combination of political subdivisions may establish a fatal or near fatal domestic violence review team to:

1. Examine fatal or near fatal incidents of domestic violence to better understand the dynamics of these fatalities or near fatalities.

2. Report to the office of the attorney general its findings and recommendations as to how fatal or near fatal incidents of domestic violence may be prevented and how the system can be improved. The report shall not contain any information that identifies individuals in specific incidents of domestic violence related fatalities or near fatalities.

3. Determine the number and type of incidents it wishes to review.

B. A review team shall not review a fatal or near fatal incident of domestic violence until a criminal investigation or proceeding connected with the fatality or near fatality is completed.

C. A review team shall designate one of its members to serve as chairperson. The chairperson shall call meetings as necessary and is responsible for submitting the report prescribed in subsection A, paragraph 2 of this section.

D. All information and records acquired by a review team are confidential and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding or disciplinary action. Information that is otherwise available from other sources is not immune from subpoena, discovery or introduction into evidence through those sources solely because they were presented to or reviewed by a review team.

E. A member of a review team or any person who presents information to a review team shall not be questioned in any civil or criminal proceeding or disciplinary action regarding the information presented. This subsection does not prevent a person from testifying regarding information obtained independently of the review team or as to public information.

F. Review team meetings are closed to the public and are not subject to title 38, chapter 3, article 3.1 if the review team is reviewing a fatal or near fatal incident of domestic violence case. All other review team meetings are open to the public.

G. The political subdivision shall establish the membership of a review team. Each review team may be comprised of the following:

1. A representative from a county or municipal law enforcement agency.
2. A representative of a county or municipal court.
3. A representative of a county or municipal prosecutor's office.
4. A representative of a local domestic violence prevention program.
5. A victim of domestic violence.
6. A representative of a county or state public health agency.
7. A representative of the office of the county medical examiner.
8. If ~~child protective services~~ THE DEPARTMENT OF CHILD SAFETY received a report on any person residing with the victim before the fatal or near fatal

incident of domestic violence, a representative of ~~child protective services~~ THE DEPARTMENT OF CHILD SAFETY who serves the area covered by the review team for the duration of the review of that fatality or near fatality.

9. A representative of a statewide domestic violence coalition.

H. The office of the attorney general shall receive the reports of the review teams and distribute copies of them to the president of the senate, the speaker of the house of representatives, the governor, the peace officer standards and training board, the state domestic violence coalition and the chief justice of the supreme court, on or before January 31 of each year. Copies shall also be provided to the secretary of state.

I. When a review team concludes a fatal or near fatal incident of domestic violence review, the review team shall return all information and records concerning the victim and the family to the agency that provided the information or, if directed by that agency, shall destroy that information.

J. A person who violates the confidentiality requirements of this section is guilty of a class 2 misdemeanor.

K. For the purposes of this section:

1. "Domestic violence" has the same meaning prescribed in section 13-3601.

2. "Fatal incident of domestic violence" means a homicide or suicide that is committed by a party to the domestic violence and not committed by an on-duty police officer acting within the scope of employment.

3. "Near fatal incident of domestic violence" means an assault that is committed by a party to the domestic violence where the victim suffered life threatening injuries.

4. "Political subdivision" means a county, city or town.

**Sec. 24.** Section 41-619.51, Arizona Revised Statutes, is amended to read:

**41-619.51. Definitions**

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department, the state board of appraisal or the board of examiners of nursing care institution administrators and assisted living facility managers.

2. "Board" means the board of fingerprinting.

3. "Central registry exception" means notification to the department of economic security, THE DEPARTMENT OF CHILD SAFETY or the department of health services, as appropriate, pursuant to section 41-619.57 that the person is not disqualified because of a central registry check conducted pursuant to section 8-804.

4. "Expedited review" means an examination, in accordance with board rule, of the documents an applicant submits by the board or its hearing officer without the applicant being present.

5. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

6. "Person" means a person who is required to be fingerprinted pursuant to this article or who is subject to a central registry check and any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-509.
(d) Section 8-802.
(e) Section 8-804.
(f) Section 8-804.01.
(g) Section 15-183.
(h) Section 15-534.
(i) Section 15-782.02.
(j) Section 15-1330.
(k) Section 15-1881.
(l) Section 17-215.
(m) Section 26-103.
(n) Section 28-3413.
(o) Section 32-2108.01.
(p) Section 32-2123.
(q) Section 32-2371.
(r) Section 32-2372.
(s) Section 32-3620.
(t) Section 32-3668.
(u) Section 32-3669.
(v) Section 36-207.
(w) Section 36-411.
(x) Section 36-425.03.
(y) Section 36-446.04.
(z) Section 36-594.01.
(aa) Section 36-594.02.
(bb) Section 36-882.
(cc) Section 36-883.02.
(dd) Section 36-897.01.
(ee) Section 36-897.03.
(ff) Section 36-3008.
(gg) Section 41-619.53.
(hh) Section 41-1964.
(ii) Section 41-1967.01.
(jj) Section 41-1968.
(kk) Section 41-1969.
(ll) Section 41-2814.
(mm) Section 46-141, subsection A.
(nn) Section 46-321.

**Sec. 25.** Section 41-1005, Arizona Revised Statutes, is amended to read:

**41-1005. Exemptions**

A. This chapter does not apply to any:

1. Rule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals.

2. Order or rule of the Arizona game and fish commission that does the following:

(a) Opens, closes or alters seasons or establishes bag or possession limits for wildlife.

(b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.

(c) Establishes a license classification, fee or application fee pursuant to title 17, chapter 3, article 2.

3. Rule relating to section 28-641 or to any rule regulating motor vehicle operation that relates to speed, parking, standing, stopping or passing enacted pursuant to title 28, chapter 3.

4. Rule concerning only the internal management of an agency that does not directly and substantially affect the procedural or substantive rights or duties of any segment of the public.

5. Rule that only establishes specific prices to be charged for particular goods or services sold by an agency.

6. Rule concerning only the physical servicing, maintenance or care of agency owned or operated facilities or property.

7. Rule or substantive policy statement concerning inmates or committed youths of a correctional or detention facility in secure custody or patients admitted to a hospital, if made by the state department of corrections, the department of juvenile corrections, the board of executive clemency or the department of health services or a facility or hospital under the jurisdiction of the state department of corrections, the department of juvenile corrections or the department of health services.

8. Form whose contents or substantive requirements are prescribed by rule or statute, and instructions for the execution or use of the form.

9. Capped fee-for-service schedule adopted by the Arizona health care cost containment system administration pursuant to title 36, chapter 29.

10. Fees prescribed by section 6-125.

11. Order of the director of water resources adopting or modifying a management plan pursuant to title 45, chapter 2, article 9.

12. Fees established under section 3-1086.

~~13. Fee-for-service schedule adopted by the department of child safety pursuant to section 8-512.~~

~~14.~~ 13. Fees established under sections 41-2144 and 41-2189.

~~15.~~ 14. Rule or other matter relating to agency contracts.

~~16.~~ 15. Fees established under section 32-2067 or 32-2132.

~~17.~~ 16. Rules made pursuant to section 5-111, subsection A.

~~18.~~ 17. Rules made by the Arizona state parks board concerning the operation of the Tonto natural bridge state park, the facilities located in the Tonto natural bridge state park and the entrance fees to the Tonto natural bridge state park.

~~19.~~ 18. Fees or charges established under section 41-511.05.

~~20.~~ 19. Emergency medical services protocols except as provided in section 36-2205, subsection B.

~~21.~~ 20. Fee schedules established pursuant to section 36-3409.

~~22.~~ 21. Procedures of the state transportation board as prescribed in section 28-7048.

~~23.~~ 22. Rules made by the state department of corrections.

~~24.~~ 23. Fees prescribed pursuant to section 32-1527.

~~25.~~ 24. Rules made by the department of economic security pursuant to section 46-805.

~~26.~~ 25. Schedule of fees prescribed by section 23-908.

~~27.~~ 26. Procedure that is established pursuant to title 23, chapter 6, article 6.

~~28.~~ 27. Rules, administrative policies, procedures and guidelines adopted for any purpose by the Arizona commerce authority pursuant to chapter 10 of this title if the authority provides, as appropriate under the circumstances, for notice of an opportunity for comment on the proposed rules, administrative policies, procedures and guidelines.

~~29.~~ 28. Rules made by a marketing commission or marketing committee pursuant to section 3-414.

~~30.~~ 29. Administration of public assistance program monies authorized for liabilities that are incurred for disasters declared pursuant to sections 26-303 and 35-192.

~~31.~~ 30. User charges, tolls, fares, rents, advertising and sponsorship charges, services charges or similar charges established pursuant to section 28-7705.

~~32.~~ 31. Administration and implementation of the hospital assessment pursuant to section 36-2901.08, except that the Arizona health care cost containment system administration must provide notice and an opportunity for public comment at least thirty days before establishing or implementing the administration of the assessment.

~~33.~~ 32. Rules made by the Arizona department of agriculture to adopt and implement the provisions of the federal milk ordinance as prescribed by section 3-605.

B. Notwithstanding subsection A, paragraph ~~22~~ 21 of this section, at such time as the federal highway administration authorizes the privatization of rest areas, the state transportation board shall make rules governing the lease or license by the department of transportation to a private entity for the purposes of privatization of a rest area.

C. Coincident with the making of a final rule pursuant to an exemption from the applicability of this chapter under this section, another statute or session law, the agency shall file a copy of the rule with the secretary of state for publication pursuant to section 41-1012 and provide a copy to the council.

D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona board of regents and the institutions under its jurisdiction, except that the Arizona board of regents shall make policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the

circumstances, for notice of and opportunity for comment on the policies or rules proposed.

E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona state schools for the deaf and the blind, except that the board of directors of all the state schools for the deaf and the blind shall adopt policies for the board and the schools under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies proposed for adoption.

F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board of education, except that the state board of education shall adopt policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any rule, the state board of education shall provide at least two opportunities for public comment.

**Sec. 26.** Section 41-1954.01, Arizona Revised Statutes, is amended to read:

**41-1954.01. Electronic communication by department; applicability**

A. Notwithstanding any law to the contrary, any agency, division, program or part of the department or its agents that are required to provide administrative orders, notices, decisions or letters to an applicant, claimant, recipient, employer or client may send administrative orders, notices, decisions or letters by electronic means if the party being served or notified consents.

B. Consent may be obtained in writing on a form approved by the department, verbally on the record in a hearing or electronically through the department's website by the applicant, claimant, recipient, employer or client following an affirmative consent procedure. At the time of consent, the party must be advised of the nature of the notices to be delivered or served, the legal consequence of the choice and the right to revoke the consent. Consent may be provided for a proceeding or for notices provided on an ongoing basis.

C. Delivery or service by electronic means is complete on transmission unless it is established that delivery or transmission of the electronic document failed due to department error or failure of the recipient to receive the electronic document for any other reason outside the control of the recipient.

D. Consent may be revoked in writing to the department or by following an affirmative revocation procedure established on the department's website.

E. If the department receives electronic notice that the electronic address to which the administrative order, notice, decision or letter is being sent is no longer valid or is otherwise not functioning, the department shall deem the consent to electronic notice to have been revoked and the order, notice, decision or letter shall be served by mail.

F. This section is limited to notices, decisions and orders required for services and programs in the division of benefits and medical eligibility, ~~the division of children, youth and families related to child protective services and foster care,~~ the division of child support enforcement and the division of employment and rehabilitation services, or their successor divisions, in the department. This section

does not apply to a notice that is required in connection with litigation before a court of record in this state.

**Sec. 27.** Section 41-1959, Arizona Revised Statutes, is amended to read:

**41-1959. Confidential information; permissible disclosure; rules; violation; classification**

A. Unless otherwise provided by law, all personally identifiable information concerning any applicant, claimant, recipient, employer or client or concerning any person involved in an adult protective services action, other than a perpetrator against whom an allegation of abuse, neglect or exploitation has been substantiated pursuant to section 46-458, is confidential and shall not be released unless ordered by a superior court judge or provided for by rule of court except as provided in subsections B, C and D of this section. DEPARTMENT records and files that ~~relate~~ CONTAIN INFORMATION RELATED to investigations conducted by child protective services ~~in~~ OR the department OF CHILD SAFETY are confidential. The department shall release this information only as prescribed by section 8-807.

B. Employees of the department of economic security, the department of law and the court may obtain the information described in subsection A of this section in the performance of their duties as authorized by rules adopted by the director.

C. Employees of the department of economic security, the department of law and the court may release any information ~~which~~ THAT is otherwise held confidential under this section under any of the following circumstances:

1. To the applicant, claimant, recipient, employer or client if a request is made in writing by any of such persons specifically requesting information ~~which~~ THAT directly relates to the person requesting such information.

2. To the extent necessary to make claims on behalf of a client for public or private assistance, insurance or health or medical assistance pursuant to title 11, chapter 2, article 7 or title 36, chapter 29 to which the client may be entitled.

3. In oral and written communications involving the provision of services or the referral to services between employees of, persons under contract with, or persons holding a general employment relationship with the department of economic security, the department of law or the juvenile court.

4. If the disclosure of otherwise confidential information is necessary to protect against a clear and substantial risk of imminent serious injury to a client.

5. To agencies of the federal government, this state or any political subdivision of this state for official purposes. All information received by a governmental agency pursuant to this paragraph shall be maintained as confidential, except where pertinent to a criminal prosecution.

6. To foster parents and persons certified to adopt if necessary to assist in the placement with or care of a child by such persons.

~~7. To an officer of the superior court, the department or any agency required to perform an investigation pursuant to section 8-105 if the information is pertinent to the investigation. All information received by the officer, department or agency pursuant to this paragraph may be disclosed to the court but shall otherwise be maintained as confidential.~~

~~8.~~ 7. In any judicial or administrative proceeding involving an adult protective services client if the director of the department considers the information pertinent to the proceeding.

D. Notwithstanding ~~the provisions of sections 8-519, 8-541, 8-542 and~~ SECTION 46-135, a standing committee of the legislature or a committee appointed by the president of the senate or the speaker of the house of representatives may obtain the information described in subsection A of this section on written notification to the director. Information obtained pursuant to this subsection may be used only for purposes of conducting investigations related to legislative oversight of the department. Information ~~which~~ THAT is personally identifiable shall not be further disclosed.

E. Any violation of this section is a class 2 misdemeanor.

F. The department shall establish safeguards against the unauthorized use or disclosure of confidential information in title IV-D cases.

**Sec. 28.** Section 41-1966, Arizona Revised Statutes, is amended to read:

**41-1966. Auditor general; duties**

A. The auditor general ~~shall establish an audit team to be located in the department of economic security to provide ongoing performance review and analyses.~~

~~B. Pursuant to an audit plan adopted after review by the joint legislative audit committee, the audit team~~ may:

1. Determine the validity and accuracy of information reported by the ~~division~~ DEPARTMENT to the legislature.

2. Perform other reviews and analyses relating to ~~child protective services as set forth in~~ the ~~audit plan~~ DEPARTMENT.

3. Review a specific ~~division~~ DEPARTMENT function or process ~~relating to child protective services as requested by the joint legislative audit committee~~.

~~C.~~ B. Pursuant to section 41-1279.04, the department shall provide the auditor general access to any data from the department, including electronic data, the auditor general deems necessary to perform the duties outlined in this section. This data shall be provided in the manner and format prescribed by the auditor general.

**Sec. 29.** Section 41-1967, Arizona Revised Statutes, is amended to read:

**41-1967. Child care resource and referral system; immunity**

A. The department shall establish and maintain a statewide child care resource and referral system, including a child care home provider registry, through community-based organizations to:

1. Provide families with:

(a) Information on all types of child care.

(b) Referrals to child care providers and programs.

(c) Information about child care resources and services.

(d) Information about choosing child care.

(e) Information about registered child care home providers.

2. Assist child care providers and programs with:

(a) Information on training related to child care issues.

(b) Technical assistance that relates to initiating or providing child care services.

(c) Parent referrals.

(d) Becoming registered as a child care home provider.

3. Coordinate with the community to:

(a) Develop statistics of the demand for and supply of child care.

(b) Maintain ongoing relationships with all local groups interested in child care.

B. The child care resource and referral system shall:

1. Identify all available child care providers and programs through coordination with public and private agencies.

2. Collect in a uniform method provider information for the referral database that includes:

(a) The type of program.

(b) The hours of service.

(c) The ages of children served.

(d) Fees for service.

(e) The licensure, certification and registration status of providers.

(f) Other significant provider and program information.

3. Establish and maintain a referral process that responds to parental need for information. The child care resource and referral system shall make referrals to child care providers and programs that:

(a) Promote parental choice and meet the needs of families.

(b) Are included in the resource and referral database.

4. Collect in a uniform method family information for the referral database that includes the:

(a) Number of calls and contacts.

(b) Ages of children in need of care.

(c) Days and times of care requested.

(d) Type of care requested.

(e) Special needs and requests made by the family.

(f) Reason that the care is needed.

5. Provide outreach services that include:

(a) Efforts to reach parents and providers in local communities.

(b) Involvement in the local communities.

(c) Publication of services through all available media sources, agencies and other appropriate channels.

(d) Public awareness information to parents and providers about the child care home provider registry and the benefits of using the registry or becoming registered.

6. Provide technical assistance to existing and prospective child care providers and programs that include:

(a) Information on all aspects of initiating new child care services including child care regulations, zoning, program and budget development and assistance in finding information from other sources.

(b) Educational information and resources that assist existing child care providers and programs to better serve the children and parents in their community.

(c) Local coordination of existing child care and child related services.

7. Establish and maintain a child care home provider registry that includes:

(a) Child care home providers that are registered pursuant to section 41-1967.01.

(b) A complaint tracking system that contains written complaints concerning providers and written provider responses. The complaints and responses are available to the public.

(c) A system for notifying a provider that is excluded or removed from the registry that the provider may appeal directly to the entity making the determination resulting in the exclusion or removal.

(d) Information provided by registered providers relating to the services provided and child care environment.

C. The following child care providers are eligible to be considered for inclusion in the child care resource and referral database, unless barred by other provisions of law:

1. Child care providers licensed or certified by a government agency that is authorized by law to license, certify or approve child care providers.

2. Child care home providers that are registered pursuant to section 41-1967.01. These providers shall submit and amend when necessary sworn, written statements to the department or its designees, on forms approved by the department, attesting that the provider is not subject to exclusion or removal from the child care resource and referral database under any of the grounds specified in subsection E of this section.

D. Child care providers identified in subsection C, paragraph 1 of this section may be excluded or removed from the child care resource and referral database whenever the provider's license or certification is revoked, terminated or suspended, or when a child care facility is closed for cause.

E. Child care home providers identified in subsection C, paragraph 2 of this section may be excluded or removed from the child care home provider registry and the child care resource and referral database if:

1. The provider fails to obtain a fingerprint clearance card or the provider's fingerprint clearance card is revoked or suspended.

2. The provider has been denied a license to operate a facility for the care of children or had a license or certificate to operate a facility revoked or has been removed for cause from participation in the child and adult food program in this state or in any other state or jurisdiction.

3. The provider, the provider's employees or any person eighteen years of age or older who resides in the provider's child care facility has been convicted of or is awaiting trial on any of the criminal offenses listed in section 41-1758.07, subsections B and C in this state or similar criminal offenses in any other state or jurisdiction.

4. The provider, the provider's employees or any person who resides in the provider's child care facility has been the subject of an investigation where a report

of child abuse or neglect has been substantiated by THE DEPARTMENT OF CHILD SAFETY OR a child ~~protective~~ SAFETY services agency or a law enforcement agency in this state or in any other state or jurisdiction.

5. The provider fails to maintain current training and certification in first aid and infant and child cardiopulmonary resuscitation.

6. The provider fails to enclose a pool pursuant to section 36-1681, subsections A, B and C.

7. The provider fails to separately store firearms and ammunition under lock and key or combination lock.

F. This section and section 41-1967.01 do not create an affirmative obligation on the part of any state agency or any child care resource and referral agency to review, monitor or investigate child care providers and programs.

G. Neither this state nor its officers or employees, acting within the scope of their employment, are liable for any damage or injury caused by their conduct pursuant to this section or section 41-1967.01, except for gross negligence or conduct intended to cause injury.

H. Neither a child care resource and referral agency nor its officers and employees, acting within the scope of their employment, are liable for any damage or injury caused by their conduct pursuant to this section or section 41-1967.01, except for gross negligence or conduct intended to cause injury.

I. The department shall adopt rules that are consistent with the terms of this section.

**Sec. 30.** Section 41-2501, Arizona Revised Statutes, is amended to read:

**41-2501. Applicability**

A. This chapter applies only to procurements initiated after January 1, 1985 unless the parties agree to its application to procurements initiated before that date.

B. This chapter applies to every expenditure of public monies, including federal assistance monies except as otherwise specified in section 41-2637, by this state, acting through a state governmental unit as defined in this chapter, under any contract, except that this chapter does not apply to either grants as defined in this chapter, or contracts between this state and its political subdivisions or other governments, except as provided in chapter 24 of this title and in article 10 of this chapter. This chapter also applies to the disposal of state materials. This chapter and rules adopted under this chapter do not prevent any state governmental unit or political subdivision from complying with the terms of any grant, gift, bequest or cooperative agreement.

C. All political subdivisions and other local public agencies of this state may adopt all or any part of this chapter and the rules adopted pursuant to this chapter.

D. Notwithstanding any other law, sections 41-2517 and 41-2546 apply to any agency as defined in section 41-1001, including the office of the governor.

E. The Arizona board of regents and the legislative and judicial branches of state government are not subject to this chapter except as prescribed in subsection F of this section.

F. The Arizona board of regents and the judicial branch shall adopt rules prescribing procurement policies and procedures for themselves and institutions

under their jurisdiction. The rules must be substantially equivalent to the policies and procedures prescribed in this chapter.

G. The Arizona state lottery commission is exempt from this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets and related materials. The executive director of the Arizona state lottery commission shall adopt rules substantially equivalent to the policies and procedures in this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets or related materials. All other procurement shall be as prescribed by this chapter.

H. The Arizona health care cost containment system administration is exempt from this chapter for provider contracts pursuant to section 36-2904, subsection A and contracts for goods and services, including program contractor contracts pursuant to title 36, chapter 29, articles 2 and 3. All other procurement, including contracts for the statewide administrator of the program pursuant to section 36-2903, subsection B, shall be as prescribed by this chapter.

I. Arizona industries for the blind is exempt from this chapter for purchases of finished goods from members of national industries for the blind and for purchases of raw materials for use in the manufacture of products for sale pursuant to section 41-1972. All other procurement shall be as prescribed by this chapter.

J. Arizona correctional industries is exempt from this chapter for purchases of raw materials, components and supplies that are used in the manufacture or production of goods or services for sale entered into pursuant to section 41-1622. All other procurement shall be as prescribed by this chapter.

K. The state transportation board and the director of the department of transportation are exempt from this chapter other than section 41-2586 for the procurement of construction or reconstruction, including engineering services, of transportation facilities or highway facilities and any other services that are directly related to land titles, appraisals, real property acquisition, relocation, property management or building facility design and construction for highway development and that are required pursuant to title 28, chapter 20.

L. The Arizona highways magazine is exempt from this chapter for contracts for the production, promotion, distribution and sale of the magazine and related products and for contracts for sole source creative works entered into pursuant to section 28-7314, subsection A, paragraph 5. All other procurement shall be as prescribed by this chapter.

M. The secretary of state is exempt from this chapter for contracts entered into pursuant to section 41-1012 to publish and sell the administrative code. All other procurement shall be as prescribed by this chapter.

N. This chapter is not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which this state is or may become a party or to contract for special investigative services for law enforcement purposes.

O. The head of any state governmental unit, in relation to any contract exempted by this section from this chapter, has the same authority to adopt rules, procedures or policies as is delegated to the director pursuant to this chapter.

P. Agreements negotiated by legal counsel representing this state in settlement of litigation or threatened litigation are exempt from this chapter.

Q. This chapter is not applicable to contracts entered into by the department of economic security:

1. With a provider licensed or certified by an agency of this state to provide child day care services.

2. With area agencies on aging created pursuant to the older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001 through 3058ff).

3. For services pursuant to title 36, chapter 29, article 2.

4. With an eligible entity as defined by Public Law 105-285, section ~~673(1)(a)(i)~~ 673(1)(A)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.

R. The department of health services may not require that persons with whom it contracts follow this chapter for the purposes of subcontracts entered into for the provision of the following:

1. Mental health services pursuant to section 36-189, subsection B.

2. Services for the seriously mentally ill pursuant to title 36, chapter 5, article 10.

3. Drug and alcohol services pursuant to section 36-141.

4. Domestic violence services pursuant to title 36, chapter 30, article 1.

S. The department of health services is exempt from this chapter for contracts for services of physicians at the Arizona state hospital.

T. Contracts for goods and services approved by the board of trustees of the public safety personnel retirement system are exempt from this chapter.

U. The Arizona department of agriculture is exempt from this chapter with respect to contracts for private labor and equipment to effect cotton or cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2, article 1.

V. The Arizona state parks board is exempt from this chapter for purchases of guest supplies and items for resale such as food, linens, gift items, sundries, furniture, china, glassware and utensils for the facilities located in the Tonto natural bridge state park.

W. The Arizona state parks board is exempt from this chapter for the purchase, production, promotion, distribution and sale of publications, souvenirs and sundry items obtained and produced for resale.

X. The Arizona state schools for the deaf and the blind are exempt from this chapter for the purchase of textbooks and when purchasing products through a cooperative that is organized and operates in accordance with state law if such products are not available on a statewide contract and are related to the operation of the schools or are products for which special discounts are offered for educational institutions.

Y. Expenditures of monies in the morale, welfare and recreational fund established by section 26-153 are exempt from this chapter.

Z. Notwithstanding section 41-2534, the director of the state department of corrections may contract with local medical providers in counties with a population of less than four hundred thousand persons for the following purposes:

1. To acquire hospital and professional medical services for inmates who are incarcerated in state department of corrections facilities that are located in those counties.

2. To ensure the availability of emergency medical services to inmates in all counties by contracting with the closest medical facility that offers emergency treatment and stabilization.

AA. The department of environmental quality is exempt from this chapter for contracting for procurements relating to the water quality assurance revolving fund program established pursuant to title 49, chapter 2, article 5. The department shall engage in a source selection process that is similar to the procedures prescribed by this chapter. The department may contract for remedial actions with a single selection process. The exclusive remedy for disputes or claims relating to contracting pursuant to this subsection is as prescribed by article 9 of this chapter and the rules adopted pursuant to that article. All other procurement by the department shall be as prescribed by this chapter.

BB. The motor vehicle division of the department of transportation is exempt from this chapter for third-party authorizations pursuant to title 28, chapter 13, only if all of the following conditions exist:

1. The division does not pay any public monies to an authorized third party.

2. Exclusivity is not granted to an authorized third party.

3. The director has complied with the requirements prescribed in title 28, chapter 13 in selecting an authorized third party.

CC. This section does not exempt third-party authorizations pursuant to title 28, chapter 13 from any other applicable law.

DD. The state forester is exempt from this chapter for purchases and contracts relating to wildland fire suppression and pre-positioning equipment resources and for other activities related to combating wildland fires and other unplanned risk activities, including fire, flood, earthquake, wind and hazardous material responses. All other procurement by the state forester shall be as prescribed by this chapter.

EE. The cotton research and protection council is exempt from this chapter for procurements.

FF. Expenditures of monies in the Arizona agricultural protection fund established by section 3-3304 are exempt from this chapter.

GG. The Arizona commerce authority is exempt from this chapter, except article 10 for the purpose of cooperative purchases. The authority shall adopt policies, procedures and practices, in consultation with the department of administration, that are similar to and based on the policies and procedures prescribed by this chapter for the purpose of increased public confidence, fair and equitable treatment of all persons engaged in the process and fostering broad competition while accomplishing flexibility to achieve the authority's statutory requirements. The authority shall make its policies, procedures and practices

available to the public. The authority may exempt specific expenditures from the policies, procedures and practices.

HH. The Arizona exposition and state fair board is exempt from this chapter for contracts for professional entertainment.

II. This chapter does not apply to the purchase of water, gas or electric utilities.

JJ. This chapter does not apply to professional certifications, professional memberships and conference registrations.

KK. The department of gaming is exempt from this chapter for problem gambling treatment services contracts with licensed behavioral health professionals.

LL. This chapter does not apply to contracts for credit reporting services.

MM. This chapter does not apply to contracts entered into by the department of child safety:

1. With a provider of family foster care pursuant to section 8-503 ~~or 36-554~~.

2. With an eligible entity as defined by Public Law 105-285, section 673(1)(A)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.

**Sec. 31.** Section 41-3802, Arizona Revised Statutes, is amended to read:

**41-3802. Human rights committee on children, youth and families**

A. The human rights committee on children, youth and families is established in the department of child safety to promote the rights of persons who receive services from the ~~division of children, youth and families in the~~ department.

B. Notwithstanding section 8-807, the department shall disclose confidential information and records to the committee established pursuant to this section or designated pursuant to subsection C OF THIS SECTION, subject to the requirements of section 41-3804 and applicable federal law.

C. The director of the department may designate a citizen review panel, multidisciplinary case consultation team or other oversight entity as the human rights committee on children, youth and families if the panel, TEAM or entity meets the requirements of this section.

D. The committee shall be organized pursuant to this section and the requirements of section 41-3804.

E. The director of the department may establish additional committees for each district office established pursuant to section 41-1961 or to oversee the activities of any service provider.

F. Each human rights committee established pursuant to this section shall consist of at least seven and not more than fifteen members appointed by the director of the department ~~of economic security~~ with expertise in at least one of the following areas:

1. Psychology.
2. Law.
3. Medicine.
4. Education.

5. Special education.

6. Social work.

G. Each human rights committee shall include at least two parents of children who receive services from the department. If a report of abuse has been substantiated against a parent, that parent shall not serve on a human rights committee.

**Sec. 32.** Section 46-134, Arizona Revised Statutes, is amended to read:

**46-134. Powers and duties; expenditure; limitation**

The state department shall:

1. Administer all forms of public relief and assistance except those that by law are administered by other departments, agencies or boards.

2. Develop a section of rehabilitation for the visually impaired that shall include a sight conservation section, a vocational rehabilitation section in accordance with the federal vocational rehabilitation act, a vending stand section in accordance with the federal Randolph-Sheppard act and an adjustment service section that shall include rehabilitation teaching and other social services deemed necessary, and shall cooperate with similar agencies already established. The administrative officer and staff of the section for the blind and visually impaired shall be employed only in the work of that section.

3. Assist other departments, agencies and institutions of the state and federal governments, when requested, by performing services in conformity with the purposes of this title.

4. Act as agent of the federal government in furtherance of any functions of the state department.

5. Carry on research and compile statistics relating to the entire public welfare program throughout this state, including all phases of dependency and defectiveness.

6. Cooperate with the superior court in cases of delinquency and related problems.

7. Develop plans in cooperation with other public and private agencies for the prevention and treatment of conditions giving rise to public welfare and social security problems.

8. Make necessary expenditures in connection with the duties specified in paragraphs 5, 6, 7, 13 and 14 of this subsection.

9. Have the power to apply for, accept, receive and expend public and private gifts or grants of money or property on the terms and conditions as may be imposed by the donor and for any purpose provided for by this chapter.

10. Make rules, and take action necessary or desirable to carry out the provisions of this title, that are not inconsistent with this title.

11. Administer any additional welfare functions required by law.

~~12. Provide the cost of care and transitional independent living services for a person under twenty-one years of age pursuant to section 8-521.01.~~

~~13.~~ 12. If a tribal government elects to operate a cash assistance program in compliance with the requirements of the United States department of health and human services, with the review of the joint legislative budget committee, provide

matching monies at a rate that is consistent with the applicable fiscal year budget and that is not more than the state matching rate for the aid to families with dependent children program as it existed on July 1, 1994.

~~14.~~ 13. Furnish a federal, state or local law enforcement officer, at the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that the recipient is a fugitive felon or a probation, parole or community supervision violator or has information that is necessary for the officer to conduct the official duties of the officer and the location or apprehension of the recipient is within these official duties.

~~15.~~ 14. In conjunction with Indian tribal governments, request a federal waiver from the United States department of agriculture that will allow tribal governments that perform eligibility determinations for temporary assistance for needy families programs to perform the food stamp eligibility determinations for persons who apply for services pursuant to section 36-2901, paragraph 6, subdivision (a). If the waiver is approved, the state shall provide the state matching monies for the administrative costs associated with the food stamp eligibility based on federal guidelines. As part of the waiver, the department shall recoup from a tribal government all federal fiscal sanctions that result from inaccurate eligibility determinations.

**Sec. 33. Case backlog; request for information; definition**

A. On or before August 1, 2015, the department of child safety shall issue a request for information to interested vendors on using private entities to address the backlog. The department shall report the results of its request for information to the joint legislative budget committee on or before October 1, 2015.

B. For the purposes of this section, "backlog" means nonactive cases for which documentation has not been entered in the child welfare automated system for at least sixty days and for which services have not been authorized for at least sixty days.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## ADOPTION—DEFINITIONS—AGENCY RECORDS

### CHAPTER 258

### H. B. 2099

### AN ACT AMENDING SECTIONS 8-101 AND 8-120, ARIZONA REVISED STATUTES; RELATING TO ADOPTION.

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

**Section 1.** Section 8-101, Arizona Revised Statutes, is amended to read:

**8-101. Definitions**

In this article, unless the context otherwise requires:

1. "Adult" means a person eighteen years of age or older.

2. "Agency" OR "ADOPTION AGENCY" means a person other than the division licensed by the division to place children for adoption, including an attorney or law firm.

3. "Agency placement adoption" means an adoption proceeding in which one or more of the requisite consents are given to an agency pursuant to section 8-107, subsection D, paragraph 1.

4. "Child" means any person under eighteen years of age.

5. "Custody" means a status embodying all of the following rights and responsibilities:

(a) The right to have the physical possession of the child.

(b) The right and the duty to protect, train and discipline the child.

(c) The responsibility to provide the child with food, shelter, education and health care, and the authority to consent to surgery or other extraordinary medical care in an emergency.

6. "Direct placement adoption" means an adoption proceeding in which one or more of the requisite consents are given to a particular person pursuant to section 8-107, subsection D, paragraph 2.

7. "Division" means the department of child safety.

8. "Juvenile court" or "court" means the juvenile division of the superior court.

9. "Permanent guardian" means a legal guardian appointed by the court pursuant to section ~~8-525~~ 8-871.

10. "Petitioner" includes both petitioners under a joint petition.

**Sec. 2.** Section 8-120, Arizona Revised Statutes, is amended to read:

**8-120. Records; inspection; exception; destruction or transfer of certain records**

A. Except as provided in section 8-129, all files, records, reports and other papers compiled ~~in accord with~~ UNDER this article, whether filed in or in possession of the court, an agency or any person or association, shall be withheld from public inspection.

B. Such files, records, reports and other papers may be open to inspection by persons and agencies having a legitimate interest in the case and their attorneys and by other persons and agencies having a legitimate interest in the protection, welfare or treatment of the child if so ordered by the court.

C. This section does not prohibit persons employed by the court, the division or an agency from conducting the investigations or performing other duties pursuant to this article within the normal course of their employment.

D. This section does not prohibit persons employed by the court, the division, an attorney participating or assisting in a direct placement adoption pursuant to section 8-130 or an agency from providing partial or complete identifying information between a birth parent and adoptive parent when the parties

mutually agree to share specific identifying information and make a written request to the court, the division or the agency.

E. Except for files that belong to an attorney, all files, records, reports and other papers not filed in or in the possession of the court shall not be destroyed until after a ninety-nine year period. The files that belong to an attorney shall not be destroyed until after a seven-year period.

F. IF AN ADOPTION AGENCY CEASES OPERATIONS, THE ADOPTION AGENCY SHALL DO ALL OF THE FOLLOWING:

1. TRANSFER THE DOCUMENTS DESCRIBED IN SUBSECTION A OF THIS SECTION TO THE DIVISION OR TO ANOTHER ADOPTION AGENCY IN THIS STATE IF THE DOCUMENTS CONCERN A MATTER THAT IS CLOSED.

2. TRANSFER THE DOCUMENTS DESCRIBED IN SUBSECTION A OF THIS SECTION TO ANOTHER ADOPTION AGENCY IN THIS STATE IF THE DOCUMENTS CONCERN A MATTER THAT IS OPEN.

3. NOTIFY THE DIVISION OF THE TRANSFER OF ANY DOCUMENTS TO ANOTHER ADOPTION AGENCY IN THIS STATE PURSUANT TO THIS SUBSECTION.

4. NOTIFY ALL ADOPTIVE PARENTS WHOSE FILES IT IS TRANSFERRING PURSUANT TO THIS SUBSECTION OF THE TRANSFER.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## DEPARTMENT OF CHILD SAFETY—EMPLOYEE PERSONNEL INFORMATION--CONFIDENTIALITY

### CHAPTER 259

### H. B. 2100

**AN ACT AMENDING SECTIONS 8-807, 11-483, 11-484, 13-2401, 16-153, 28-454, 39-123 AND 39-124, ARIZONA REVISED STATUTES; RELATING TO CONFIDENTIAL INFORMATION.**

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

**Section 1.** Section 8-807, Arizona Revised Statutes, is amended to read:

**8-807. DCS information; public record; use; confidentiality; violation; classification; definitions**

A. DCS information shall be maintained by the department as required by federal law as a condition of the allocation of federal monies to this state. All exceptions for the public release of DCS information shall be construed as openly as possible under federal law.

B. The department, or a person who receives DCS information pursuant to this subsection, shall provide DCS information to a federal agency, a state agency, a tribal agency, a county or municipal agency, a law enforcement agency, a prosecutor, an attorney or a guardian ad litem representing a child victim of crime pursuant to article II, section 2.1, Constitution of Arizona, a school, a community service provider, a contract service provider or any other person that is providing services pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter:

1. To meet its duties to provide for the safety, permanency and well-being of a child, provide services to a parent, guardian or custodian or provide services to family members to strengthen the family pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter.

2. To enforce or prosecute any violation involving child abuse or neglect.

3. To provide information to a defendant after a criminal charge has been filed as required by an order of the criminal court.

4. To help investigate and prosecute any violation involving domestic violence as defined in section 13-3601 or violent sexual assault as prescribed in section 13-1423.

C. The department shall disclose DCS information to a court, a party in a dependency or termination of parental rights proceeding or the party's attorney, the foster care review board or a court appointed special advocate for the purposes of and as prescribed in this title.

D. The department shall disclose DCS information to a domestic relations, family or conciliation court if the DCS information is necessary to promote the safety and well-being of children. The court shall notify the parties that it has received the DCS information.

E. A person or agent of a person who is the subject of DCS information shall have access to DCS information concerning that person.

F. The department:

1. May provide DCS information to confirm, clarify or correct information concerning an allegation or actual instance of child abuse or neglect that has been made public by sources outside the department.

2. Shall promptly provide DCS information to the public regarding a case of child abuse, abandonment or neglect that has resulted in a fatality or near fatality as follows:

(a) The department shall provide preliminary information including at a minimum:

(i) The name, age and city, town or general location of residence of the child who has suffered a near fatality or fatality.

(ii) The fact that a child suffered a near fatality or fatality as the result of abuse, abandonment or neglect.

(iii) The name, age and city, town or general location of residence of the alleged perpetrator, if available.

(iv) Whether there have been reports, or any current or past cases, of abuse, abandonment or neglect involving the child and the current alleged abusive or neglectful parent, guardian or custodian.

(v) Actions taken by the department in response to the fatality or near fatality of the child.

(vi) A detailed synopsis of prior reports or cases of abuse, abandonment or neglect involving the child and the current alleged abusive or neglectful parent, guardian or custodian and of the actions taken or determinations made by the department in response to these reports or cases.

(b) On request by any person, the department shall promptly provide additional DCS information to the requestor. Before releasing additional DCS information, the department shall promptly notify the county attorney of any decision to release that information, and the county attorney shall promptly inform the department if it believes the release would cause a specific, material harm to a criminal investigation. After consulting with the county attorney, pursuant to subdivision (c) of this paragraph, the department shall produce to the requestor as much additional DCS information as promptly as possible about a case of child abuse, abandonment or neglect that resulted in a fatality or near fatality.

(c) On request, the department shall continue to provide DCS information promptly to the public about a fatality or near fatality unless:

(i) After consultation with the county attorney, the county attorney demonstrates that release of particular DCS information would cause a specific, material harm to a criminal investigation.

(ii) The release would violate subsection A or L of this section or the privacy of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

(d) If any person believes that the county attorney has failed to demonstrate that release would cause a specific, material harm to a criminal investigation, that person may file an action in superior court pursuant to title 39, chapter 1, article 2 and subsection J of this section and request the court to review the DCS information in camera and order disclosure.

3. May provide DCS information to a person who is conducting bona fide research, the results of which might provide DCS information that is beneficial in improving the department.

4. May provide access to DCS information to the parent, guardian or custodian of a child if the DCS information is reasonably necessary to promote the safety, permanency and well-being of the child.

G. The department shall disclose DCS information to a county medical examiner or an alternate medical examiner directing an investigation into the circumstances surrounding a death pursuant to section 11-593.

H. Access to DCS information in the central registry shall be provided as prescribed in section 8-804.

I. To provide oversight of the department, the department shall provide access to DCS information to the following persons, if the DCS information is reasonably necessary for the person to perform the person's official duties:

1. Federal or state auditors.

2. Persons conducting any accreditation deemed necessary by the department.

3. A standing committee of the legislature or a committee appointed by the president of the senate or the speaker of the house of representatives for purposes of conducting investigations related to the legislative oversight of the department. This information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding.

4. A legislator who requests DCS information in the regular course of the legislator's duties. This information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding. To request a file pursuant to this paragraph:

(a) The legislator shall submit a written request for DCS information to the presiding officer of the body of which the state legislator is a member. The request shall state the name of the person whose case file is to be reviewed and any other information that will assist the department in locating the file.

(b) The presiding officer shall forward the request to the department within five working days of the receipt of the request.

(c) The department shall make the necessary arrangements for the legislator to review the file at an office of the department, chosen by the legislator, within ten working days.

(d) The legislator shall sign a form, consistent with the requirements of this paragraph and paragraph 3 of this subsection, before reviewing the file, that outlines the confidentiality laws governing department files and penalties for further release of the information.

5. A citizen review panel as prescribed by federal law, a child fatality review team as provided in title 36, chapter 35 and the office of ombudsman-citizens aide.

J. A person who has been denied DCS information regarding a fatality or near fatality caused by abuse, abandonment or neglect pursuant to subsection F, paragraph 2 or subsection L of this section may bring a special action pursuant to section 39-121.02 in the superior court to order the department to release that DCS information. A legislator has standing to bring or to join a special action regarding the release of DCS information or to challenge the redaction of released DCS information. The plaintiff shall provide notice to the county attorney, who has standing and may participate in the action. The court shall review the requested records in camera and order disclosure consistent with subsection A, subsection F, paragraph 2 and subsection L of this section. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

K. The department or a person who is not specifically authorized by this section to obtain DCS information may petition a judge of the superior court to order the department to release DCS information. The plaintiff shall provide notice to the county attorney, who has standing and may participate in the action. The court shall review the requested records in camera and shall balance the rights of the parties

who are entitled to confidentiality pursuant to this section against the rights of the parties who are seeking the release of the DCS information. The court may release otherwise confidential DCS information only if the rights of the parties seeking the DCS information and any benefits from releasing the DCS information outweigh the rights of the parties who are entitled to confidentiality and any harm that may result from releasing the DCS information. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

L. Except as provided in subsection M of this section, before it releases records under this section, the department shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of a person who reports child abuse or neglect and to protect any other person if the department believes that disclosure of the DCS information would be likely to endanger the life or safety of any person. The department is not required by this section to disclose DCS information if the department demonstrates that disclosure would cause a specific, material harm to a department investigation. The department is not required by this section to disclose DCS information if, in consultation with the county attorney, the county attorney demonstrates that disclosure would cause a specific, material harm to a criminal investigation.

M. A person who is the subject of an unfounded report or complaint made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter and who believes that the report or complaint was made in bad faith or with malicious intent may petition a judge of the superior court to order the department to release the DCS information. The petition shall specifically set forth reasons supporting the person's belief that the report or complaint was made in bad faith or with malicious intent. The court shall review the DCS information in camera and the person filing the petition shall be allowed to present evidence in support of the petition. If the court determines that there is a reasonable question of fact as to whether the report or complaint was made in bad faith or with malicious intent and that disclosure of the identity of the person making the report or complaint would not be likely to endanger the life or safety of the person making the report or complaint, it shall provide a copy of the DCS information to the person filing the petition and the original DCS information is subject to discovery in a subsequent civil action regarding the making of the report or complaint.

N. The department shall provide the person who conducts a forensic medical evaluation with any records the person requests, including social history and family history regarding the child, the child's siblings and the child's parents or guardians.

O. The department shall provide DCS information on request to a prospective adoptive parent, foster parent or guardian, if the information concerns a child the prospective adoptive parent, foster parent or guardian seeks to adopt or provide care for.

P. If the department receives information that is confidential by law, the department shall maintain the confidentiality of the information as prescribed in the applicable law.

Q. A person may authorize the release of DCS information about the person but may not waive the confidentiality of DCS information concerning any other person.

R. The department may provide a summary of the outcome of a department investigation to the person who reported the suspected child abuse or neglect.

S. The department shall adopt rules to facilitate the accessibility of DCS information.

T. THE DEPARTMENT OR A PERSON WHO RECEIVES DCS INFORMATION PURSUANT TO SUBSECTION B OF THIS SECTION SHALL PROVIDE DCS INFORMATION TO LAW ENFORCEMENT AND A COURT TO PROTECT THE SAFETY OF ANY EMPLOYEE OF THE DEPARTMENT OR THE OFFICE OF THE ATTORNEY GENERAL OR TO PROTECT A FAMILY MEMBER OF SUCH AN EMPLOYEE.

U. A PERSON WHO RECEIVES DCS INFORMATION SHALL MAINTAIN THE CONFIDENTIALITY OF THE INFORMATION AND SHALL NOT FURTHER DISCLOSE THE INFORMATION UNLESS THE DISCLOSURE IS AUTHORIZED BY LAW OR A COURT ORDER.

~~T.~~ V. The department may charge a fee for copying costs required to prepare DCS information for release pursuant to this section.

~~U.~~ W. A person who violates this section is guilty of a class 2 misdemeanor.

~~V.~~ X. For the purposes of this section:

1. "DCS information" includes all information the department gathers during the course of an investigation conducted under this chapter from the time a file is opened and until it is closed. DCS information does not include information that is contained in child welfare agency licensing records.

2. "Near fatality" means an act that, as certified by a physician, including the child's treating physician, places a child in serious or critical condition.

**Sec. 2.** Section 11-483, Arizona Revised Statutes, is amended to read:

**11-483. Records maintained by county recorder; confidentiality; definitions**

A. Notwithstanding any other provision of this article, in any county an eligible person may request that the general public be prohibited from accessing the unique identifier and the recording date contained in indexes of recorded instruments maintained by the county recorder and may request the county recorder to prohibit access to that person's residential address and telephone number contained in instruments or writings recorded by the county recorder.

B. An eligible person may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties, an organization of peace officers and the motor vehicle division of the department of transportation:

1. The person's full legal name and residential address.

2. The full legal description and parcel number of the person's property.

3. Unless the person is the spouse of a peace officer or the spouse or minor child of a deceased peace officer or the person is a former public official, the position the person currently holds and a description of the person's duties, except

that an eligible person who is protected under an order of protection or injunction against harassment shall instead attach a copy of the order of protection or injunction against harassment or an eligible person who is a participant in the address confidentiality program shall instead attach a copy of the participant's current and valid address confidentiality program authorization card issued pursuant to section 41-163 and a statement of certification provided by the secretary of state's office.

4. The reasons the person reasonably believes that the person's life or safety or that of another person is in danger and that restricting access pursuant to this section will serve to reduce the danger.

5. The document locator number and recording date of each instrument for which the person requests access restriction pursuant to this section.

6. A copy of pages from each instrument that includes the document locator number and the person's full legal name and residential address or full legal name and telephone number.

C. If an eligible person is also requesting pursuant to section 11-484 that the general public be prohibited from accessing records maintained by the county assessor and county treasurer, the eligible person may combine the request pursuant to subsection B of this section with the request pursuant to section 11-484 by filing one affidavit. The affidavit and subsequent action by the appropriate authorities shall meet all of the requirements of this section and section 11-484.

D. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent multiple filings, an eligible person who is a peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff member shall deliver the affidavit to the peace officer's commanding officer, or to the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier presentation, the commanding officer, or the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, shall not file affidavits more often than quarterly.

E. On receipt of an affidavit or affidavits, the presiding judge of the superior court shall file with the clerk of the superior court a petition on behalf of all requesting affiants. Each affidavit presented shall be attached to the petition. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.

F. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each affiant should be granted. If the presiding judge of the superior court concludes that the action requested by the affiant will reduce a danger to the life or safety of the affiant or another person, the presiding judge of the superior court shall order that the

county recorder prohibit access for five years to the affiant's residential address and telephone number contained in instruments or writings recorded by the county recorder and made available on the internet. If the presiding judge of the superior court concludes that the affiant or another person is in actual danger of physical harm from a person or persons with whom the affiant has had official dealings and that action pursuant to this section will reduce a danger to the life or safety of the affiant or another person, the presiding judge of the superior court shall order that the general public be prohibited for five years from accessing the unique identifier and the recording date contained in indexes of recorded instruments maintained by the county recorder and identified pursuant to subsection B of this section.

G. On motion to the court, if the presiding judge of the superior court concludes that an instrument or writing recorded by the county recorder has been redacted or sealed in error, that the original affiant no longer lives at the address listed in the original affidavit, that the cause for the original affidavit no longer exists or that temporary access to the instrument or writing is needed, the presiding judge may temporarily stay or permanently vacate all or part of the court order prohibiting public access to the recorded instrument or writing.

H. On entry of the court order, the clerk of the superior court shall file the court order and a copy of the affidavit required by subsection B of this section with the county recorder. No more than ten days after the date on which the county recorder receives the court order, the county recorder shall restrict access to the information as required by subsection F of this section.

I. If the court denies an affiant's request pursuant to this section, the affiant may request a court hearing. The hearing shall be conducted by the court in the county where the petition was filed.

J. The county recorder shall remove the restrictions on all records restricted pursuant to this section by January 5 in the year after the court order expires. The county recorder shall send by mail one notice to either the former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member, ~~or~~ law enforcement support staff member or EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY WHO HAS DIRECT CONTACT WITH FAMILIES IN THE COURSE OF EMPLOYMENT OR the employing agency of a peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff member who was granted an order pursuant to this section of the order's expiration date at least six months before the expiration date. If the notice is sent to the employing agency, the employing agency shall immediately notify the person who was granted the order of the upcoming expiration date. The county recorder may coordinate with the county assessor and county treasurer to prevent multiple notices from being sent to the same person.

K. To include subsequent recordings in the court order, the eligible person shall present to the county recorder at the time of recordation a certified copy of the court order or shall provide to the county recorder the recording number of the court

order. The county recorder shall ensure that public access shall be restricted pursuant to subsection A of this section.

L. This section shall not be interpreted to restrict access to public records for the purposes of perfecting a lien pursuant to title 12, chapter 9, article 2.

M. This section does not prohibit access to the records of the county recorder by parties to the instrument, a law enforcement officer performing the officer's official duties pursuant to subsection N of this section, a title insurer, a title insurance agent or an escrow agent licensed by the department of insurance or the department of financial institutions.

N. A law enforcement officer is deemed to be performing the officer's official duties if the officer provides a subpoena, court order or search warrant for the records.

O. For the purposes of this section:

1. "Code enforcement officer" means a person who is employed by a state or local government and whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforce national, state and local laws, ordinances and codes.

2. "Commissioner" means a commissioner of the superior court.

3. "Corrections support staff member" means an adult or juvenile corrections employee who has direct contact with inmates.

4. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY WHO HAS DIRECT CONTACT WITH FAMILIES IN THE COURSE OF EMPLOYMENT, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment, person who is a participant in the address confidentiality program pursuant to title 41, chapter 1, article 3 or firefighter who is assigned to the Arizona counterterrorism center in the department of public safety.

5. "Former public official" means a person who was duly elected or appointed to Congress, the legislature or a statewide office, who ceased serving in that capacity and who was the victim of a dangerous offense as defined in section 13-105 while in office.

6. "Indexes" means only those indexes that are maintained by and located in the office of the county recorder, that are accessed electronically and that contain information beginning from and after January 1, 1987.

7. "Judge" means a judge of the United States district court, the United States court of appeals, the United States magistrate court, the United States bankruptcy court, the Arizona court of appeals, the superior court or a municipal court.

8. "Justice" means a justice of the United States or Arizona supreme court or a justice of the peace.

9. "Law enforcement support staff member" means a person who serves in the role of an investigator or prosecutorial assistant in an agency that investigates or prosecutes crimes, who is integral to the investigation or prosecution of crimes and whose name or identity will be revealed in the course of public proceedings.

10. "Peace officer" means any person vested by law, or formerly vested by law, with a duty to maintain public order and make arrests.

11. "Prosecutor" means a county attorney, a municipal prosecutor, the attorney general or a United States attorney and includes an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.

12. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and includes an assistant or deputy federal public defender, county public defender or county legal defender.

**Sec. 3.** Section 11-484, Arizona Revised Statutes, is amended to read:

**11-484. Records maintained by county assessor and county treasurer; redaction; definitions**

A. Notwithstanding any other provision of this article, in any county an eligible person may request that the general public be prohibited from accessing that person's residential address and telephone number that are contained in instruments, writings and information maintained by the county assessor and the county treasurer.

B. An eligible person may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties, an organization of peace officers and the motor vehicle division of the department of transportation:

1. The person's full legal name and residential address.

2. The full legal description and parcel number of the person's property.

3. Unless the person is the spouse of a peace officer or the spouse or minor child of a deceased peace officer or the person is a former public official, the position the person currently holds and a description of the person's duties, except that an eligible person who is protected under an order of protection or injunction against harassment shall attach a copy of the order of protection or injunction against harassment or an eligible person who is a participant in the address confidentiality program shall instead attach a copy of the participant's current and valid address confidentiality program authorization card issued pursuant to section 41-163 and a statement of certification provided by the secretary of state's office.

4. The reasons the person reasonably believes that the person's life or safety or that of another person is in danger and that redacting the residential address and telephone number will serve to reduce the danger.

C. If an eligible person is also requesting pursuant to section 11-483 that the general public be prohibited from accessing records maintained by the county recorder, the eligible person may combine the request pursuant to subsection B of this section with the request pursuant to section 11-483 by filing one affidavit. The affidavit and subsequent action by the appropriate authorities shall meet all of the requirements of this section and section 11-483.

D. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent multiple filings, an eligible person who is a peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff member shall deliver the affidavit to the peace officer's commanding officer, or to the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier presentation, the commanding officer, or the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, shall not file affidavits more often than quarterly.

E. On receipt of an affidavit or affidavits, the presiding judge of the superior court shall file with the clerk of the superior court a petition on behalf of all requesting affiants. Each affidavit presented shall be attached to the petition. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.

F. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each affiant should be granted. If the presiding judge of the superior court concludes that the action requested by the affiant will reduce a danger to the life or safety of the affiant or another person, the presiding judge of the superior court shall order the redaction of the affiant's residential address and telephone number that are contained in instruments, writings and information maintained by the county assessor and the county treasurer. The redaction shall be in effect for five years.

G. On motion to the court, if the presiding judge of the superior court concludes that an instrument or writing maintained by the county assessor or the county treasurer has been redacted or sealed in error, that the original affiant no longer lives at the address listed in the original affidavit, that the cause for the original affidavit no longer exists or that temporary access to the instrument or writing is needed, the presiding judge may temporarily stay or permanently vacate all or part of the court order prohibiting public access to the instrument or writing.

H. On entry of the court order, the clerk of the superior court shall file the court order and a copy of the affidavit required by subsection B of this section with the county assessor and the county treasurer. No more than ten days after the date on which the county assessor and the county treasurer receive the court order, the county assessor and the county treasurer shall restrict access to the information as required by subsection F of this section.

I. If the court denies an affiant's request pursuant to this section, the affiant may request a court hearing. The hearing shall be conducted by the court in the county where the petition was filed.

J. The county assessor and the county treasurer shall remove the restrictions on all records that are redacted pursuant to this section by January 5 in the year after the court order expires. The county assessor or the county treasurer shall send by mail one notice to either the former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member, ~~or~~ law enforcement support staff member or EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY WHO HAS DIRECT CONTACT WITH FAMILIES IN THE COURSE OF EMPLOYMENT OR the employing agency of a peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff member who was granted an order pursuant to this section of the order's expiration date at least six months before the expiration date. If the notice is sent to the employing agency, the employing agency shall immediately notify the person who was granted the order of the upcoming expiration date. The county assessor or county treasurer may coordinate with the county recorder to prevent multiple notices from being sent to the same person.

K. For the purposes of this section:

1. "Code enforcement officer" means a person who is employed by a state or local government and whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforce national, state and local laws, ordinances and codes.

2. "Commissioner" means a commissioner of the superior court.

3. "Corrections support staff member" means an adult or juvenile corrections employee who has direct contact with inmates.

4. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY WHO HAS DIRECT CONTACT WITH FAMILIES IN THE COURSE OF EMPLOYMENT, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment, person who is a participant in the address confidentiality program pursuant to title 41, chapter 1, article 3, or firefighter who is assigned to the Arizona counterterrorism center in the department of public safety.

5. "Former public official" means a person who was duly elected or appointed to Congress, the legislature or a statewide office, who ceased serving in that capacity and who was the victim of a dangerous offense as defined in section 13-105 while in office.

6. "Judge" means a judge of the United States district court, the United States court of appeals, the United States magistrate court, the United States bankruptcy court, the Arizona court of appeals, the superior court or a municipal court.

7. "Justice" means a justice of the United States or Arizona supreme court or a justice of the peace.

8. "Law enforcement support staff member" means a person who serves in the role of an investigator or prosecutorial assistant in an agency that investigates or prosecutes crimes, who is integral to the investigation or prosecution of crimes and whose name or identity will be revealed in the course of public proceedings.

9. "Peace officer" means any person vested by law, or formerly vested by law, with a duty to maintain public order and make arrests.

10. "Prosecutor" means a county attorney, a municipal prosecutor, the attorney general or a United States attorney and includes an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.

11. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and includes an assistant or deputy federal public defender, county public defender or county legal defender.

**Sec. 4.** Section 13-2401, Arizona Revised Statutes, is amended to read:

**13-2401. Personal information on the world wide web; exception; classification; definitions**

A. It is unlawful for a person to knowingly make available on the world wide web the personal information of a peace officer, justice, judge, commissioner, public defender, EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY WHO HAS DIRECT CONTACT WITH FAMILIES IN THE COURSE OF EMPLOYMENT or prosecutor if the dissemination of the personal information poses an imminent and serious threat to the peace officer's, justice's, judge's, commissioner's, public defender's, DEPARTMENT OF CHILD SAFETY EMPLOYEE'S or prosecutor's safety or the safety of that person's immediate family and the threat is reasonably apparent to the person making the information available on the world wide web to be serious and imminent.

B. It is not a violation of this section if an employee of a county recorder, county treasurer or county assessor publishes personal information, in good faith, on the ~~web site~~ WEBSITE of the county recorder, county treasurer or county assessor in the ordinary course of carrying out public functions.

C. A violation of subsection A is a class 5 felony.

D. For the purposes of this section:

1. "Commissioner" means a commissioner of the superior court.

2. "Immediate family" means a peace officer's, justice's, judge's, commissioner's, public defender's or prosecutor's spouse, child or parent and any other adult who lives in the same residence as the person.

3. "Judge" means a judge of the United States district court, the United States court of appeals, the United States magistrate court, the United States bankruptcy court, the Arizona court of appeals, the superior court or a municipal court.

4. "Justice" means a justice of the United States or Arizona supreme court or a justice of the peace.

5. "Personal information" means a peace officer's, justice's, judge's, commissioner's, public defender's or prosecutor's home address, home telephone

number, pager number, personal photograph, directions to the person's home or photographs of the person's home or vehicle.

6. "Prosecutor" means a county attorney, a municipal prosecutor, the attorney general or a United States attorney and includes an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.

7. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and includes an assistant or deputy federal public defender, county public defender or county legal defender.

**Sec. 5.** Section 16-153, Arizona Revised Statutes, is amended to read:

**16-153. Voter registration; confidentiality; definitions**

A. Eligible persons, and any other registered voter who resides at the same residence address as the eligible person, may request that the general public be prohibited from accessing the residential address, telephone number and voting precinct number contained in their voter registration record.

B. Eligible persons may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties and an organization of peace officers:

1. The person's full legal name, residential address and date of birth.

2. Unless the person is the spouse of a peace officer or the spouse or minor child of a deceased peace officer or the person is a former public official, the position the person currently holds and a description of the person's duties, except that an eligible person who is protected under an order of protection or injunction against harassment shall instead attach a copy of the order of protection or injunction against harassment.

3. The reasons for reasonably believing that the person's life or safety or that of another person is in danger and that sealing the residential address, telephone number and voting precinct number of the person's voting record will serve to reduce the danger.

C. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent multiple filings, an eligible person who is a peace officer, prosecutor, public defender, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff member shall deliver the affidavit to the peace officer's commanding officer, or to the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and is supported by facts justifying an earlier presentation, the commanding officer, or the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, shall not file affidavits more often than quarterly.

D. On receipt of an affidavit or affidavits, the presiding judge of the superior court shall file with the clerk of the superior court a petition on behalf of all

requesting affiants. The petition shall have attached each affidavit presented. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.

E. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each affiant should be granted. The presiding judge of the superior court shall order the sealing for five years of the information contained in the voter record of the affiant and, on request, any other registered voter who resides at the same residence address if the presiding judge concludes that this action will reduce a danger to the life or safety of the affiant.

F. The recorder shall remove the restrictions on all voter records submitted pursuant to subsection E of this section by January 5 in the year after the court order expires. The county recorder shall send by mail one notice to either the former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member, ~~or~~ law enforcement support staff member or EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY WHO HAS DIRECT CONTACT WITH FAMILIES IN THE COURSE OF EMPLOYMENT OR the employing agency of a peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff member who was granted an order pursuant to this section of the order's expiration date at least six months before the expiration date. If the notice is sent to the employing agency, the employing agency shall immediately notify the person who was granted the order of the upcoming expiration date. The county recorder may coordinate with the county assessor and county treasurer to prevent multiple notices from being sent to the same person.

G. On entry of the court order, the clerk of the superior court shall file the court order with the county recorder. On receipt of the court order the county recorder shall seal the voter registration of the persons listed in the court order no later than one hundred twenty days from the date of receipt of the court order. To include a subsequent voter registration in the court order, a person listed in the court order shall present to the county recorder at the time of registration a certified copy of the court order or shall provide the county recorder the recording number of the court order. The information in the registration shall not be disclosed and is not a public record.

H. If the court denies an affiant's requested sealing of the voter registration record, the affiant may request a court hearing. The hearing shall be conducted by the court where the petition was filed.

I. On motion to the court, if the presiding judge of the superior court concludes that a voter registration record has been sealed in error or that the cause for the original affidavit no longer exists, the presiding judge may vacate the court order prohibiting public access to the voter registration record.

J. On request by a person who is protected under an order of protection or injunction against harassment and presentation of an order of protection issued pursuant to section 13-3602, an injunction against harassment issued pursuant to section 12-1809 or an order of protection or injunction against harassment issued by a court in another state or a program participant in the address confidentiality program pursuant to title 41, chapter 1, article 3, the county recorder shall seal the voter registration record of the person who is protected and, on request, any other registered voter who resides at the residence address of the protected person. The record shall be sealed no later than one hundred twenty days from the date of receipt of the court order. The information in the registration shall not be disclosed and is not a public record.

K. For the purposes of this section:

1. "Code enforcement officer" means a person who is employed by a state or local government and whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforce national, state and local laws, ordinances and codes.

2. "Commissioner" means a commissioner of the superior court.

3. "Corrections support staff member" means an adult or juvenile corrections employee who has direct contact with inmates.

4. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, border patrol agent, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY WHO HAS DIRECT CONTACT WITH FAMILIES IN THE COURSE OF EMPLOYMENT, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment or firefighter who is assigned to the Arizona counterterrorism center in the department of public safety.

5. "Former public official" means a person who was duly elected or appointed to congress, the legislature or a statewide office, who ceased serving in that capacity and who was the victim of a dangerous offense as defined in section 13-105 while in office.

6. "Judge" means a judge of the United States district court, the United States court of appeals, the United States magistrate court, the United States bankruptcy court, the Arizona court of appeals, the superior court or a municipal court.

7. "Justice" means a justice of the United States or Arizona supreme court or a justice of the peace.

8. "Law enforcement support staff member" means a person who serves in the role of an investigator or prosecutorial assistant in an agency that investigates or prosecutes crimes, who is integral to the investigation or prosecution of crimes and whose name or identity will be revealed in the course of public proceedings.

9. "Prosecutor" means a United States attorney, a county attorney, a municipal prosecutor or the attorney general and includes an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.

10. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and includes an assistant or deputy federal public defender, county public defender or county legal defender.

**Sec. 6.** Section 28-454, Arizona Revised Statutes, is amended to read:

**28-454. Records maintained by department of transportation; redaction; definitions**

A. Notwithstanding sections 28-447 and 28-455, an eligible person may request that persons be prohibited from accessing the eligible person's residential address and telephone number contained in any record maintained by the department.

B. An eligible person may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties, an organization of peace officers and the department:

1. The person's full legal name and residential address.

2. Unless the person is the spouse of a peace officer or the spouse or minor child of a deceased peace officer or the person is a former public official, the position the person currently holds and a description of the person's duties, except that an eligible person who is protected under an order of protection or injunction against harassment shall attach a copy of the order of protection or injunction against harassment.

3. The reasons the person reasonably believes that the person's life or safety or that of another person is in danger and that redacting the residential address and telephone number from the department's public records will serve to reduce the danger.

C. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent multiple filings, an eligible person who is a peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff member shall deliver the affidavit to the peace officer's commanding officer, or to the head of the prosecuting, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier presentation, the commanding officer, or the head of the prosecuting, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, shall not file affidavits more often than quarterly.

D. On receipt of an affidavit or affidavits, the presiding judge of the superior court shall file with the clerk of the superior court a petition on behalf of all requesting affiants. Each affidavit presented shall be attached to the petition. In the

absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.

E. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each affiant should be granted. The presiding judge of the superior court shall order the redaction of the residence address and telephone number from the public records maintained by the department if the judge concludes that this action will reduce a danger to the life or safety of the affiant or another person.

F. On entry of the court order, the clerk of the superior court shall file the court order with the department. No more than one hundred fifty days after the date the department receives the court order, the department shall redact the residence addresses and telephone numbers of the affiants listed in the court order from the public records of the department. The residence addresses and telephone numbers shall not be disclosed and are not part of a public record.

G. If the court denies an affiant's request pursuant to this section, the affiant may request a court hearing. The hearing shall be conducted by the court in the county where the petition was filed.

H. On motion to the court, if the presiding judge of the superior court concludes that a residential address or telephone number has been sealed in error or that the cause for the original affidavit no longer exists, the presiding judge may vacate the court order prohibiting public access to the residential address or telephone number.

I. Notwithstanding sections 28-447 and 28-455, the department shall not release a photograph of a peace officer if the peace officer has made a request as prescribed in this section that persons be prohibited from accessing the peace officer's residential address and telephone number in any record maintained by the department.

J. This section does not prohibit the use of a peace officer's photograph that is either:

1. Used by a law enforcement agency to assist a person who has a complaint against an officer to identify the officer.

2. Obtained from a source other than the department.

K. For the purposes of this section:

1. "Code enforcement officer" means a person who is employed by a state or local government and whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforce national, state and local laws, ordinances and codes.

2. "Corrections support staff member" means an adult or juvenile corrections employee who has direct contact with inmates.

3. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased public officer, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member,

EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY WHO HAS DIRECT CONTACT WITH FAMILIES IN THE COURSE OF EMPLOYMENT, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment or firefighter who is assigned to the Arizona counterterrorism center in the department of public safety.

4. "Former public official" means a person who was duly elected or appointed to Congress, the legislature or a statewide office, who ceased serving in that capacity and who was the victim of a dangerous offense as defined in section 13-105 while in office.

5. "Law enforcement support staff member" means a person who serves in the role of an investigator or prosecutorial assistant in an agency that investigates or prosecutes crimes, who is integral to the investigation or prosecution of crimes and whose name or identity will be revealed in the course of public proceedings.

6. "Prosecutor" means a county attorney, a municipal prosecutor or the attorney general and includes an assistant or deputy county attorney, municipal prosecutor or attorney general.

**Sec. 7.** Section 39-123, Arizona Revised Statutes, is amended to read:

**39-123. Information identifying eligible persons; confidentiality; definitions**

A. Nothing in this chapter requires disclosure from a personnel file by a law enforcement agency or employing state or local governmental entity of the home address or home telephone number of eligible persons.

B. The agency or governmental entity may release the information in subsection A of this section only if either:

1. The person consents in writing to the release.

2. The custodian of records of the agency or governmental entity determines that release of the information does not create a reasonable risk of physical injury to the person or the person's immediate family or damage to the property of the person or the person's immediate family.

C. A law enforcement agency may release a photograph of a peace officer if either:

1. The peace officer has been arrested or has been formally charged by complaint, information or indictment for a misdemeanor or a felony offense.

2. The photograph is requested by a representative of a newspaper for a specific newsworthy event unless:

(a) The peace officer is serving in an undercover capacity or is scheduled to be serving in an undercover capacity within sixty days.

(b) The release of the photograph is not in the best interest of this state after taking into consideration the privacy, confidentiality and safety of the peace officer.

(c) An order pursuant to section 28-454 is in effect.

D. This section does not prohibit the use of a peace officer's photograph that is either:

1. Used by a law enforcement agency to assist a person who has a complaint against an officer to identify the officer.

2. Obtained from a source other than the law enforcement agency.

E. This section does not apply to a certified peace officer or code enforcement officer who is no longer employed as a peace officer or code enforcement officer by a state or local government entity.

F. For the purposes of this section:

1. "Code enforcement officer" means a person who is employed by a state or local government and whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforce national, state and local laws, ordinances and codes.

2. "Commissioner" means a commissioner of the superior court.

3. "Corrections support staff member" means an adult or juvenile corrections employee who has direct contact with inmates.

4. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, border patrol agent, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY WHO HAS DIRECT CONTACT WITH FAMILIES IN THE COURSE OF EMPLOYMENT, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment, firefighter who is assigned to the Arizona counterterrorism center in the department of public safety or victim of domestic violence or stalking who is protected under an order of protection or injunction against harassment.

5. "Former public official" means a person who was duly elected or appointed to Congress, the legislature or a statewide office, who ceased serving in that capacity and who was the victim of a dangerous offense as defined in section 13-105 while in office.

6. "Judge" means a judge of the United States district court, the United States court of appeals, the United States magistrate court, the United States bankruptcy court, the Arizona court of appeals, the superior court or a municipal court.

7. "Justice" means a justice of the United States or Arizona supreme court or a justice of the peace.

8. "Law enforcement support staff member" means a person who serves in the role of an investigator or prosecutorial assistant in an agency that investigates or prosecutes crimes, who is integral to the investigation or prosecution of crimes and whose name or identity will be revealed in the course of public proceedings.

9. "Peace officer" has the same meaning prescribed in section 13-105.

10. "Prosecutor" means a county attorney, a municipal prosecutor, the attorney general or a United States attorney and includes an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.

11. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and includes an assistant or deputy federal public defender, county public defender or county legal defender.

**Sec. 8.** Section 39-124, Arizona Revised Statutes, is amended to read:

**39-124. Releasing information identifying an eligible person; violations; classification; definitions**

A. Any person who is employed by a state or local government entity and who, in violation of section 39-123, knowingly releases the home address or home telephone number of an eligible person with the intent to hinder an investigation, cause physical injury to an eligible person or the eligible person's immediate family or cause damage to the property of an eligible person or the eligible person's immediate family is guilty of a class 6 felony.

B. Any person who is employed by a state or local government entity and who, in violation of section 39-123, knowingly releases a photograph of a peace officer with the intent to hinder an investigation, cause physical injury to a peace officer or the peace officer's immediate family or cause damage to the property of a peace officer or the peace officer's immediate family is guilty of a class 6 felony.

C. For the purposes of this section:

1. "Code enforcement officer" means a person who is employed by a state or local government and whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforce national, state and local laws, ordinances and codes.

2. "Commissioner" means a commissioner of the superior court.

3. "Corrections support staff member" means an adult or juvenile corrections employee who has direct contact with inmates.

4. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, border patrol agent, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, EMPLOYEE OF THE DEPARTMENT OF CHILD SAFETY WHO HAS DIRECT CONTACT WITH FAMILIES IN THE COURSE OF EMPLOYMENT, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment, firefighter who is assigned to the Arizona counterterrorism center in the department of public safety or victim of domestic violence or stalking who is protected under an order of protection or injunction against harassment.

5. "Former public official" means a person who was duly elected or appointed to Congress, the legislature or a statewide office, who ceased serving in that capacity and who was the victim of a dangerous offense as defined in section 13-105 while in office.

6. "Judge" means a judge of the United States district court, the United States court of appeals, the United States magistrate court, the United States bankruptcy court, the Arizona court of appeals, the superior court or a municipal court.

7. "Justice" means a justice of the United States or Arizona supreme court or a justice of the peace.

8. "Law enforcement support staff member" means a person who serves in the role of an investigator or prosecutorial assistant in an agency that investigates or prosecutes crimes, who is integral to the investigation or prosecution of crimes and whose name or identity will be revealed in the course of public proceedings.

9. "Peace officer" has the same meaning prescribed in section 13-105.

10. "Prosecutor" means a county attorney, a municipal prosecutor, the attorney general or a United States attorney and includes an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.

11. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and includes an assistant or deputy federal public defender, county public defender or county legal defender.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## WATER INFRASTRUCTURE FINANCING AUTHORITY—PROHIBITIONS

### CHAPTER 260

### H. B. 2142

**AN ACT AMENDING SECTIONS 49-1225 AND 49-1245, ARIZONA REVISED STATUTES; RELATING TO THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA.**

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

**Section 1.** Section 49-1225, Arizona Revised Statutes, is amended to read:

**49-1225. Clean water revolving fund financial assistance; terms**

A. Financial assistance from the clean water revolving fund shall be evidenced by a financial assistance agreement or bonds of a political subdivision, delivered to and held by the authority.

B. A loan under this section:

1. Shall be repaid in not to exceed thirty years from the date incurred for wastewater treatment facility and nonpoint source loans.

2. Shall require that interest payments begin not later than the next date that either principal or interest must be paid by the authority to the holders of any of the authority's bonds that provided funding for the loan. The authority may provide that loan interest accruing during construction and one year beyond completion of the construction be capitalized in the loan.

3. Shall be conditioned on the establishment of a dedicated revenue source for repaying the loan.

4. To an Indian tribe shall either be conditioned on the establishment of a dedicated revenue source under the control of a tribally chartered corporation, or any other tribal entity that is subject to suit by the attorney general to enforce the loan contract, or be secured by assets that, in the event of default of the loan contract, are subject to execution by the attorney general without the waiver of any claim of sovereign immunity by the tribe.

C. The authority shall prescribe the rate of interest on loans made under this section, but the rate shall not exceed the prevailing market rate for similar types of loans. The authority may also provide for flexible interest rates and interest free loans under rules adopted by the authority. All financial assistance agreements or bonds of a political subdivision shall clearly specify the amount of principal and interest and any redemption premium that is due on any payment date. THE AUTHORITY SHALL NOT UNILATERALLY AMEND A FINANCIAL ASSISTANCE AGREEMENT, LOAN OR BOND AFTER ITS EXECUTION OR IMPLEMENT ANY POLICY THAT MODIFIES TERMS AND CONDITIONS OR AFFECTS A PREVIOUSLY EXECUTED FINANCIAL AGREEMENT, LOAN OR BOND. THE AUTHORITY SHALL NOT IMPOSE A REDEMPTION PREMIUM OR INTEREST PAYMENT BEYOND THE DATE THE PRINCIPAL IS PAID AS A CONDITION OF REFINANCING OR RECEIVING PREPAYMENT ON A FINANCIAL ASSISTANCE AGREEMENT, LOAN OR BOND IF THE FINANCIAL ASSISTANCE AGREEMENT, LOAN OR BOND DID NOT ORIGINALLY CONTAIN A REDEMPTION PREMIUM OR INTEREST PAYMENT BEYOND THE DATE THE PRINCIPAL IS PAID.

D. The approval of a loan is conditioned on a written commitment by the political subdivision or Indian tribe to complete all applicable reviews and approvals and to secure all required permits in a timely manner.

E. All monies received from political subdivisions or Indian tribes as loan repayments, interest and penalties shall be deposited in the appropriate accounts of the clean water revolving fund.

F. A loan made to a political subdivision under this section after June 30, 2001 may be secured additionally by an irrevocable pledge of the shared state revenues due to the political subdivision for the duration of the loan as prescribed by a resolution of the authority's board. If the authority's board requires an irrevocable pledge of the shared state revenues for financial assistance loan repayment agreements after June 30, 2001, the authority's board shall enter into an intercreditor agreement with the greater Arizona development authority to define the allocation of shared state revenues in relation to individual borrowers. If a pledge is required and a political subdivision fails to make any payment due to the authority under its loan repayment agreement or bonds, the authority shall certify to the state treasurer and notify the governing body of the defaulting political subdivision that the political subdivision has failed to make the required payment and shall direct a withholding of state shared revenues as prescribed in subsection G of this section. The certificate of default shall be in the form determined by the authority, except that the certificate shall specify the amount required to satisfy the unpaid payment obligation of the political subdivision.

G. On receipt of a certificate of default from the authority, the state treasurer to the extent not expressly prohibited by law shall withhold the monies due to the defaulting political subdivision from the next succeeding distribution of monies pursuant to section 42-5029. In the case of a city or town, the state treasurer shall also withhold from the monies due to the defaulting city or town from the next succeeding distribution of monies pursuant to section 43-206 the amount specified in the certificate of default and shall immediately deposit the monies in the fund. The state treasurer shall continue to withhold and deposit monies until the authority certifies to the state treasurer that the default has been cured. The state treasurer shall not withhold any amount that is necessary to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision if so certified by the defaulting political subdivision to the state treasurer and the authority. The political subdivision shall not certify deposits as necessary for payment for bonds unless the bonds were issued before the date of the loan repayment agreement and the bonds were secured by a pledge of distribution made pursuant to sections 42-5029 and 43-206.

**Sec. 2.** Section 49-1245, Arizona Revised Statutes, is amended to read:

**49-1245. Drinking water revolving fund financial assistance; terms**

A. A loan from the drinking water revolving fund shall be evidenced by a loan repayment agreement or bonds of a political subdivision, delivered to and held by the authority.

B. A loan under this section:

1. Shall be repaid in not to exceed thirty years from the date incurred for drinking water facility loans.

2. Shall require that interest payments begin not later than the next date that either principal or interest must be paid by the authority to the holders of any of the authority's bonds that provided funding for the loan. The authority may provide that loan interest accruing during construction and one year beyond completion of the construction be capitalized in the loan.

3. Shall be conditioned on the establishment of a dedicated revenue source for repaying the loan.

4. To an Indian tribe shall either be conditioned on the establishment of a dedicated revenue source under the control of a tribally chartered corporation, or any other tribal entity that is subject to suit by the attorney general to enforce the loan contract, or be secured by assets that, in the event of default of the loan contract, are subject to execution by the attorney general without the waiver of any claim of sovereign immunity by the tribe.

C. The authority shall prescribe the rate of interest on loans made under this section, but the rate shall not exceed the prevailing market rate for similar types of loans. The authority may also provide for flexible interest rates, interest free loans and forgivable principal under rules adopted by the authority. All financial assistance agreements or bonds of a political subdivision shall clearly specify the amount of principal and interest and any redemption premium that is due on any payment date. THE AUTHORITY SHALL NOT UNILATERALLY AMEND THE

FINANCIAL ASSISTANCE AGREEMENT, LOAN OR BOND AFTER ITS EXECUTION. THE AUTHORITY SHALL NOT IMPOSE A REDEMPTION PREMIUM AS A CONDITION OF REFINANCING OR RECEIVING PREPAYMENT ON A FINANCIAL ASSISTANCE AGREEMENT, LOAN OR BOND IF THE FINANCIAL ASSISTANCE AGREEMENT, LOAN OR BOND DID NOT CONTAIN A REDEMPTION PREMIUM.

D. The approval of a loan is conditioned on a written commitment by the political subdivision or Indian tribe to complete all applicable reviews and approvals and to secure all required permits in a timely manner.

E. All monies received from political subdivisions or Indian tribes as loan repayments, interest and penalties shall be deposited in the appropriate accounts of the drinking water revolving fund.

F. A loan made to a political subdivision under this section after June 30, 2001 may be secured additionally by an irrevocable pledge of the shared state revenues due to the political subdivision for the duration of the loan as prescribed by a resolution of the authority's board. If the authority's board requires an irrevocable pledge of the shared state revenues for financial assistance loan repayment agreements after June 30, 2001, the authority's board shall enter into an intercreditor agreement with the greater Arizona development authority to define the allocation of shared state revenues in relation to individual borrowers. If a pledge is required and a political subdivision fails to make any payment due to the authority under its loan repayment agreement or bonds, the authority shall certify to the state treasurer and notify the governing body of the defaulting political subdivision that the political subdivision has failed to make the required payment and shall direct a withholding of state shared revenues as prescribed in subsection G of this section. The certificate of default shall be in the form determined by the authority, except that the certificate shall specify the amount required to satisfy the unpaid payment obligation of the political subdivision.

G. On receipt of a certificate of default from the authority, the state treasurer to the extent not expressly prohibited by law shall withhold the monies due to the defaulting political subdivision from the next succeeding distribution of monies pursuant to section 42-5029. In the case of a city or town, the state treasurer shall also withhold from the monies due to the defaulting city or town from the next succeeding distribution of monies pursuant to section 43-206 the amount specified in the certificate of default and shall immediately deposit the monies in the fund. The state treasurer shall continue to withhold and deposit monies until the authority certifies to the state treasurer that the default has been cured. The state treasurer shall not withhold any amount that is necessary to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision if so certified by the defaulting political subdivision to the state treasurer and the authority. The political subdivision shall not certify deposits as necessary for payment for bonds unless the bonds were issued before the date of the loan repayment agreement and the bonds were secured by a pledge of distribution made pursuant to sections 42-5029 and 43-206.

**Sec. 3. Applicability**

This act applies to all financial assistance agreements, loans or bonds issued or executed by the water infrastructure financial authority of Arizona whether issued or executed before or after the effective date of this act.

**(EMERGENCY NOT ENACTED)**

**Sec. 4. Emergency**

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

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## DEPARTMENT OF CHILD SAFETY INFORMATION—EGREGIOUS ABUSE—NEGLECT

### CHAPTER 261

### H. B. 2166

**AN ACT AMENDING SECTIONS 8-471, 8-525, 8-541 AND 8-807, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-807.01; AMENDING SECTIONS 8-811 AND 13-4434, ARIZONA REVISED STATUTES; RELATING TO DEPARTMENT OF CHILD SAFETY INFORMATION.**

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

**Section 1.** Section 8-471, Arizona Revised Statutes, is amended to read:

**8-471. Office of child welfare investigations; training; responsibilities; annual report**

A. The director shall establish the office of child welfare investigations within the department. The director is responsible for the direction, operation and control of the office.

B. The duties of the office include investigating criminal conduct allegations, coordinating with other parts of the department and law enforcement, establishing task forces for the investigation of criminal conduct and other duties as may be assigned by the director.

C. The office shall employ child welfare investigators who have received training to understand law enforcement's role in cases of criminal child abuse or neglect and in social services offered by the department. The office may employ research analysts and peace officers for the purpose of obtaining an originating agency identification number to have direct access to criminal history report information. Each person hired by the office is an employee of the department, is

subject to title 41, chapter 4, article 4 and shall comply with the fingerprint requirements of section 8-802.

D. The department, in coordination with the Arizona peace officer standards and training board, shall provide child welfare investigators with training. The training shall be, at a minimum, in the following areas:

1. First responder training on responding to reports of child abuse.

2. Forensic interviewing and processes.

3. Child physical and sexual abuse investigation.

4. The protocols established pursuant to section 8-817.

5. Relevant law enforcement procedures, including the collection and preservation of evidence.

6. A child's constitutional rights as a victim of a crime pursuant to article II, section 2.1, Constitution of Arizona.

7. Impact and intervention practices related to adverse childhood experiences, culturally and linguistically appropriate service delivery, domestic violence, family engagement, communication with special populations and trauma informed responses.

8. Any other training as directed by the director.

E. A child welfare investigator shall:

1. Protect children.

2. Assess, respond to or investigate all criminal conduct allegations, which shall be a priority, but not otherwise exercise the authority of a peace officer.

3. Not interview a child without the prior written consent of the parent, guardian or custodian of the child unless either:

(a) The child initiates contact with the investigator.

(b) The child who is interviewed is the subject of, is the sibling of or is living with the child who is the subject of an abuse or abandonment investigation pursuant to paragraph 4, subdivision (b) of this subsection.

(c) The interview is conducted pursuant to the terms of the protocols established pursuant to section 8-817.

4. After the receipt of any report or information pursuant to paragraph 2 of this subsection, immediately do both of the following:

(a) Notify the appropriate municipal or county law enforcement agency if they have not already been notified.

(b) Make a prompt and thorough investigation of the nature, extent and cause of any condition that would tend to support or refute the report of child abuse or neglect when investigating allegations pursuant to paragraph 2 of this subsection. A criminal conduct allegation shall be investigated with the appropriate municipal or county law enforcement agency according to the protocols established pursuant to section 8-817.

5. Take a child into temporary custody as provided in section 8-821. Law enforcement officers shall cooperate with the department to remove a child from the custody of the child's parents, guardian or custodian pursuant to section 8-821. A child welfare investigator who is responding to or investigating a report containing a

criminal conduct allegation shall have the primary responsibility for making the decision whether to take a child into temporary custody.

6. Evaluate conditions created by the parents, guardian or custodian that would support or refute the allegation that the child should be adjudicated dependent. The investigator shall then determine whether any child is in need of child safety services.

7. Identify, promptly obtain and abide by court orders that restrict or deny custody, visitation or contact by a parent or other person in the home with the child and notify appropriate personnel within the department to preclude violations of a court order in the provision of any services.

8. On initial contact with the parent, guardian or custodian of a child who is the subject of an investigation pursuant to this section, provide the parent, guardian or custodian with the allegation received by the department. This paragraph does not require the department to disclose details or information that would compromise an ongoing criminal investigation.

9. Have access to all records and information of the department necessary to carry out this section.

F. Unless a dependency petition is filed, a child shall not remain in temporary custody for a period exceeding seventy-two hours, excluding Saturdays, Sundays and holidays. If a petition is not filed, the child shall be released to the child's parent, guardian or custodian.

G. In conducting an investigation pursuant to this section, if the investigator is made aware that an allegation of abuse or neglect may also have been made in another state, the investigator shall contact the appropriate agency in that state to attempt to determine the outcome of any investigation of that allegation.

H. The office of child welfare investigations shall submit a report by August 15 each year to the governor, the speaker of the house of representatives, the president of the senate and the secretary of state that includes the following information for the most recently completed fiscal year:

1. The number of reports for investigation that involve criminal conduct allegations.

2. The number of joint investigations conducted pursuant to section 8-817.

3. For each case in which a joint investigation did not occur pursuant to section 8-817, the reasons why the joint investigation did not occur.

I. All records gathered or created by the department during an investigation conducted under this section are confidential and shall be protected and released as prescribed in ~~section~~ SECTIONS 8-807 AND 8-807.01, except the department shall not release records if the department determines that the release of these records may compromise an ongoing investigation.

J. Notwithstanding any other law, the office of child welfare investigations is not responsible for conducting the criminal investigation of a criminal conduct allegation.

**Sec. 2.** Section 8-525, Arizona Revised Statutes, is amended to read:

**8-525. Open court proceedings; closure; records**

A. Except as otherwise provided pursuant to this section, court proceedings relating to dependent children, permanent guardianship and termination of parental rights are open to the public.

B. At the first hearing in any dependency, permanent guardianship or termination of parental rights proceeding, the court shall ask the parties if there are any reasons the proceeding should be closed. For good cause shown, the court may order any proceeding to be closed to the public. In considering whether to close the proceeding to the public, the court shall consider:

1. Whether doing so is in the child's best interests.

2. Whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person.

3. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the court determines need protection.

4. Whether all parties have agreed to allow the proceeding to be open.

5. If the child is at least twelve years of age and a party to the proceeding, the child's wishes.

6. Whether an open proceeding could cause specific material harm to a criminal investigation OR PROSECUTION.

C. Subject to the requirements of subsection B of this section and section ~~8-807, subsection F, paragraph 2~~ 8-807.01, a court proceeding relating to child abuse, abandonment or neglect that has resulted in a fatality or near fatality is open to the public.

D. At the beginning of a hearing that is open to the public, the court shall do the following:

1. Admonish all attendees that they are prohibited from disclosing any information that may identify the child and the child's siblings, parents, guardians and caregivers, and any other person whose identity will be disclosed during the proceeding.

2. Explain contempt of court to all attendees and the possible consequences of violating an order of the court.

E. A person who remains in the court after the admonition pursuant to subsection D of this section must abide by the court's order prohibiting disclosure of that information. The court may find a person who fails to do so in contempt of court.

F. The court may close an open proceeding at any time for good cause shown and after considering the factors prescribed in subsection B of this section.

G. If a proceeding relating to child abuse, abandonment or neglect that has resulted in a fatality or near fatality has been closed by the court, any person may subsequently request that the court reopen a proceeding or a specific hearing to the public or request a transcript be made of any previously closed proceeding. In ruling on this request, the court shall consider the factors prescribed in subsection B of this section. The person who requested the transcript shall pay the cost of the transcript.

If the court grants a request for a transcript of any closed proceeding, the court shall redact from a transcript any information that:

1. ~~Is essential to protect~~ PROTECTS the privacy, well-being or safety interests prescribed in subsection B of this section.

2. Protects the identity and safety of a person who reports child abuse or neglect and any other person if the court believes that disclosure of the DCS information would be likely to endanger the life or safety of any person.

3. The court has received that is confidential by law. The court shall maintain the confidentiality of the information as prescribed in the applicable law.

H. Any person may request to inspect court records of a proceeding involving the disclosure of DCS information regarding a case of child abuse, abandonment or neglect that has resulted in a fatality or near fatality. In ruling on this request, the court shall consider the factors prescribed in subsection B of this section. If the court grants the request, the court shall redact any information subject to the requirements of subsections B and G of this section and section ~~8-807, subsection F, paragraph 2~~ 8-807.01.

**Sec. 3.** Section 8-541, Arizona Revised Statutes, is amended to read:

**8-541. Records; disclosure; exception**

A. All files, records, reports and other papers compiled in accord with this article, whether filed in or in possession of the court, a child placement agency or other agency or association, are subject to disclosure pursuant to ~~section~~ SECTIONS 8-807 and 8-807.01.

B. This section does not prohibit persons employed by the court, the division or a licensed child welfare agency from conducting the investigations or performing other duties pursuant to this article and done within the normal course of their employment.

**Sec. 4.** Section 8-807, Arizona Revised Statutes, is amended to read:

**8-807. DCS information; public record; use; confidentiality; violation; classification; definition**

A. DCS information shall be maintained by the department as required by federal law as a condition of the allocation of federal monies to this state. All exceptions for the public release of DCS information shall be construed as openly as possible under federal law.

B. The department, or a person who receives DCS information pursuant to this subsection, shall provide DCS information to a federal agency, a state agency, a tribal agency, a county or municipal agency, a law enforcement agency, a prosecutor, an attorney or a guardian ad litem representing a child victim of crime pursuant to article II, section 2.1, Constitution of Arizona, a school, a community service provider, a contract service provider or any other person that is providing services pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter:

1. To meet its duties to provide for the safety~~,~~ – AND permanency ~~and well-being~~ of a child, provide services to a parent, guardian or custodian or provide services to family members to strengthen the family pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter.

2. To enforce or prosecute any violation involving child abuse or neglect OR TO ASSERT THE RIGHTS OF THE CHILD AS A VICTIM OF A CRIME.

3. To provide information to a defendant after a criminal charge has been filed as required by an order of the criminal court.

4. To help investigate and prosecute any violation involving domestic violence as defined in section 13-3601 or violent sexual assault as prescribed in section 13-1423.

C. The department shall disclose DCS information to a court, a party in a dependency or termination of parental rights proceeding or the party's attorney, the foster care review board or a court appointed special advocate for the purposes of and as prescribed in this title.

D. The department shall disclose DCS information to a domestic relations, family or conciliation court if the DCS information is necessary to promote the safety and well-being of children. The court shall notify the parties that it has received the DCS information.

E. A person or agent of a person who is the subject of DCS information shall have access to DCS information concerning that person.

F. The department MAY PROVIDE:

1. ~~May provide~~ DCS information to confirm, clarify ~~or~~, correct OR SUPPLEMENT information concerning an allegation or actual instance of child abuse or neglect that has been made public by A SOURCE OR sources outside the department.

~~2. Shall promptly provide DCS information to the public regarding a case of child abuse, abandonment or neglect that has resulted in a fatality or near fatality as follows:~~

~~(a) The department shall provide preliminary information including at a minimum:~~

~~(i) The name, age and city, town or general location of residence of the child who has suffered a near fatality or fatality.~~

~~(ii) The fact that a child suffered a near fatality or fatality as the result of abuse, abandonment or neglect.~~

~~(iii) The name, age and city, town or general location of residence of the alleged perpetrator, if available.~~

~~(iv) Whether there have been reports, or any current or past cases, of abuse, abandonment or neglect involving the child and the current alleged abusive or neglectful parent, guardian or custodian.~~

~~(v) Actions taken by the department in response to the fatality, or near fatality of the child.~~

~~(vi) A detailed synopsis of prior reports or cases of abuse, abandonment or neglect involving the child and the current alleged abusive or neglectful parent, guardian or custodian and of the actions taken or determinations made by the department in response to these reports or cases.~~

~~(b) On request by any person, the department shall promptly provide additional DCS information to the requestor. Before releasing additional DCS information, the department shall promptly notify the county attorney of any~~

~~decision to release that information, and the county attorney shall promptly inform the department if it believes the release would cause a specific, material harm to a criminal investigation. After consulting with the county attorney, pursuant to subdivision (c) of this paragraph, the department shall produce to the requestor as much additional DCS information as promptly as possible about a case of child abuse, abandonment or neglect that resulted in a fatality or near fatality.~~

~~(c) On request, the department shall continue to provide DCS information promptly to the public about a fatality or near fatality unless:~~

~~(i) After consultation with the county attorney, the county attorney demonstrates that release of particular DCS information would cause a specific, material harm to a criminal investigation.~~

~~(ii) The release would violate subsection A or L of this section or the privacy of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.~~

~~(d) If any person believes that the county attorney has failed to demonstrate that release would cause a specific, material harm to a criminal investigation, that person may file an action in superior court pursuant to title 39, chapter 1, article 2 and subsection J of this section and request the court to review the DCS information in camera and order disclosure.~~

~~3.~~ 2. ~~May provide~~ DCS information to a person who is conducting bona fide research, the results of which might provide DCS information that is beneficial in improving the department.

~~4.~~ 3. ~~May provide~~ Access to DCS information to the parent, guardian or custodian of a child if the DCS information is reasonably necessary to promote the safety, permanency and well-being of the child.

4. DCS INFORMATION IF AN EMPLOYEE OF THE DEPARTMENT HAS A REASONABLE BELIEF THAT EXIGENT CIRCUMSTANCES EXIST. FOR THE PURPOSES OF THIS PARAGRAPH, "EXIGENT CIRCUMSTANCES" MEANS A CONDITION OR SITUATION IN WHICH THE DEATH OF OR SERIOUS INJURY TO A CHILD WILL LIKELY RESULT IN THE NEAR FUTURE WITHOUT IMMEDIATE INTERVENTION.

G. The department shall disclose DCS information to a county medical examiner or an alternate medical examiner directing an investigation into the circumstances surrounding a death pursuant to section 11-593.

H. Access to DCS information in the central registry shall be provided as prescribed in section 8-804.

I. To provide oversight of the department, the department shall provide access to DCS information to the following persons, if the DCS information is reasonably necessary for the person to perform the person's official duties:

1. Federal or state auditors.

2. Persons conducting any accreditation deemed necessary by the department.

3. A standing committee of the legislature or a committee appointed by the president of the senate or the speaker of the house of representatives for purposes of conducting investigations related to the legislative oversight of the department. This

information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding.

4. A legislator who requests DCS information in the regular course of the legislator's duties. This information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding. To request a file pursuant to this paragraph:

(a) The legislator shall submit a written request for DCS information to the presiding officer of the body of which the state legislator is a member. The request shall state the name of the person whose case file is to be reviewed and any other information that will assist the department in locating the file.

(b) The presiding officer shall forward the request to the department within five working days of the receipt of the request.

(c) The department shall make the necessary arrangements for the legislator to review the file at an office of the department, chosen by the legislator, within ten working days.

(d) The legislator shall sign a form, consistent with the requirements of this paragraph and paragraph 3 of this subsection, before reviewing the file, that outlines the confidentiality laws governing department files and penalties for further release of the information.

5. A citizen review panel as prescribed by federal law, a child fatality review team as provided in title 36, chapter 35 and the office of ombudsman-citizens aide.

6. A HUMAN RIGHTS COMMITTEE ESTABLISHED PURSUANT TO SECTION 41-3801.

J. A person who has been denied DCS information regarding a fatality or near fatality caused by abuse, abandonment or neglect pursuant to ~~subsection F, paragraph 2 or~~ subsection L of this section OR SECTION 8-807.01 may bring a special action pursuant to section 39-121.02 in the superior court to order the department to release that DCS information. A legislator has standing to bring or to join a special action regarding the release of DCS information or to challenge the redaction of released DCS information. The plaintiff shall provide notice to the county attorney, who has standing and may participate in the action. The court shall review the requested records in camera and order disclosure consistent with ~~subsection~~ SUBSECTIONS A~~, subsection F, paragraph 2~~ and ~~subsection~~ L of this section AND SECTION 8-807.01. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

K. The department or a person who is not specifically authorized by this section to obtain DCS information may petition a judge of the superior court to order the department to release DCS information. The plaintiff shall provide notice to the county attorney AND TO THE ATTORNEY AND GUARDIAN AD LITEM FOR THE CHILD, who ~~has~~ HAVE standing and may participate in the action. The court

shall review the requested records in camera and shall balance the rights of the parties who are entitled to confidentiality pursuant to this section against the rights of the parties who are seeking the release of the DCS information. The court may release otherwise confidential DCS information only if the rights of the parties seeking the DCS information and any benefits from releasing the DCS information outweigh the rights of the parties who are entitled to confidentiality and any harm that may result from releasing the DCS information. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

L. Except as provided in subsection M of this section, before it releases records under this section OR SECTION 8-807.01, the department shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of a person who reports child abuse or neglect and to protect any other person if the department believes that disclosure of the DCS information would be likely to endanger the life or safety of any person. The department is not required by this section to disclose DCS information if the department demonstrates that disclosure would cause a specific, material harm to a department investigation. The department is not required by this section to disclose DCS information if, in consultation with the county attorney, the county attorney demonstrates that disclosure would cause a specific, material harm to a criminal investigation OR PROSECUTION.

M. A person who is the subject of an unfounded report or complaint made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter and who believes that the report or complaint was made in bad faith or with malicious intent may petition a judge of the superior court to order the department to release the DCS information. The petition shall specifically set forth reasons supporting the person's belief that the report or complaint was made in bad faith or with malicious intent. The court shall review the DCS information in camera and the person filing the petition shall be allowed to present evidence in support of the petition. If the court determines that there is a reasonable question of fact as to whether the report or complaint was made in bad faith or with malicious intent and that disclosure of the identity of the person making the report or complaint would not be likely to endanger the life or safety of the person making the report or complaint, it shall provide a copy of the DCS information to the person filing the petition and the original DCS information is subject to discovery in a subsequent civil action regarding the making of the report or complaint.

N. The department shall provide the person who conducts a forensic medical evaluation with any records the person requests, including social history and family history regarding the child, the child's siblings and the child's parents or guardians.

O. The department shall provide DCS information on request to a prospective adoptive parent, foster parent or guardian, if the information concerns a child the prospective adoptive parent, foster parent or guardian seeks to adopt or provide care for.

P. If the department receives information that is confidential by law, the department shall maintain the confidentiality of the information as prescribed in the applicable law.

Q. A person may authorize the release of DCS information about the person but may not waive the confidentiality of DCS information concerning any other person.

R. The department may provide a summary of the outcome of a department investigation to the person who reported the suspected child abuse or neglect.

S. The department shall adopt rules to facilitate the accessibility of DCS information.

T. The department may charge a fee for copying costs required to prepare DCS information for release pursuant to this section OR SECTION 8-807.01.

U. A person who violates this section is guilty of a class 2 misdemeanor.

V. For the purposes of this section, ~~:~~

~~1.~~ "DCS information" includes all information the department gathers during the course of an investigation conducted under this chapter from the time a file is opened and until it is closed. DCS information does not include information that is contained in child welfare agency licensing records.

~~2. "Near fatality" means an act that, as certified by a physician, including the child's treating physician, places a child in serious or critical condition.~~

**Sec. 5.** Title 8, chapter 4, article 8, Arizona Revised Statutes, is amended by adding section 8-807.01, to read:

**8-807.01. Incidents involving fatality or near fatality; definition**

A. THE DEPARTMENT SHALL PROMPTLY PROVIDE DCS INFORMATION TO THE PUBLIC REGARDING A CASE OF CHILD ABUSE, ABANDONMENT OR NEGLECT THAT HAS RESULTED IN A FATALITY OR NEAR FATALITY AS FOLLOWS:

1. THE DEPARTMENT SHALL PROVIDE PRELIMINARY INFORMATION INCLUDING AT A MINIMUM:

(a) IN THE CASE OF A FATALITY, THE NAME OF THE CHILD WHO HAS DIED.

(b) THE AGE, GENDER, COUNTY AND GENERAL LOCATION OF THE RESIDENCE OF THE CHILD WHO HAS SUFFERED A FATALITY OR A NEAR FATALITY.

(c) THE FACT THAT A CHILD SUFFERED A NEAR FATALITY OR FATALITY AS THE RESULT OF ABUSE, ABANDONMENT OR NEGLECT.

(d) THE NAME, AGE AND CITY, TOWN OR GENERAL LOCATION OF THE RESIDENCE OF THE ALLEGED PERPETRATOR, IF AVAILABLE, UNLESS THE DISCLOSURE WOULD VIOLATE THE PRIVACY OF VICTIMS OF CRIME PURSUANT TO ARTICLE II, SECTION 2.1, CONSTITUTION OF ARIZONA.

(e) WHETHER THERE HAVE BEEN REPORTS, OR ANY CURRENT OR PAST CASES, OF ABUSE, ABANDONMENT OR NEGLECT INVOLVING THE CHILD OR THE ALLEGED PERPETRATOR.

(f) ACTIONS TAKEN BY THE DEPARTMENT IN RESPONSE TO THE FATALITY OR NEAR FATALITY OF THE CHILD.

(g) A DETAILED SYNOPSIS OF PRIOR REPORTS OR CASES OF ABUSE, ABANDONMENT OR NEGLECT INVOLVING THE CHILD OR THE ALLEGED PERPETRATOR AND OF THE ACTIONS TAKEN OR DETERMINATIONS MADE BY THE DEPARTMENT IN RESPONSE TO THESE REPORTS OR CASES.

2. ON REQUEST BY ANY PERSON, THE DEPARTMENT SHALL PROMPTLY PROVIDE ADDITIONAL DCS INFORMATION TO THE REQUESTOR IN A CASE OF CHILD ABUSE, ABANDONMENT OR NEGLECT THAT HAS RESULTED IN A FATALITY OR A NEAR FATALITY. BEFORE RELEASING ADDITIONAL DCS INFORMATION, THE DEPARTMENT SHALL PROMPTLY NOTIFY THE COUNTY ATTORNEY OF ANY DECISION TO RELEASE THAT INFORMATION, AND THE COUNTY ATTORNEY SHALL PROMPTLY INFORM THE DEPARTMENT IF IT BELIEVES THE RELEASE WOULD CAUSE A SPECIFIC, MATERIAL HARM TO A CRIMINAL INVESTIGATION OR PROSECUTION. AFTER CONSULTING WITH THE COUNTY ATTORNEY, PURSUANT TO PARAGRAPH 3 OF THIS SUBSECTION, THE DEPARTMENT SHALL PRODUCE TO THE REQUESTOR AS MUCH ADDITIONAL DCS INFORMATION AS PROMPTLY AS POSSIBLE ABOUT A CASE OF CHILD ABUSE, ABANDONMENT OR NEGLECT THAT RESULTED IN A FATALITY OR NEAR FATALITY.

3. ON REQUEST, THE DEPARTMENT SHALL CONTINUE TO PROVIDE DCS INFORMATION PROMPTLY TO THE PUBLIC ABOUT A FATALITY OR NEAR FATALITY UNLESS:

(a) AFTER CONSULTATION WITH THE COUNTY ATTORNEY, THE COUNTY ATTORNEY DEMONSTRATES THAT RELEASE OF PARTICULAR DCS INFORMATION WOULD CAUSE A SPECIFIC, MATERIAL HARM TO A CRIMINAL INVESTIGATION OR PROSECUTION.

(b) THE RELEASE WOULD VIOLATE SECTION 8-807, SUBSECTION A OR L OR THE PRIVACY OF VICTIMS OF CRIME PURSUANT TO ARTICLE II, SECTION 2.1, CONSTITUTION OF ARIZONA.

4. IF ANY PERSON BELIEVES THAT THE COUNTY ATTORNEY HAS FAILED TO DEMONSTRATE THAT RELEASE WOULD CAUSE A SPECIFIC, MATERIAL HARM TO A CRIMINAL INVESTIGATION OR PROSECUTION, THAT PERSON MAY FILE AN ACTION IN SUPERIOR COURT PURSUANT TO TITLE 39, CHAPTER 1, ARTICLE 2 AND SECTION 8-807, SUBSECTION J AND REQUEST THE COURT TO REVIEW THE DCS INFORMATION IN CAMERA TO DETERMINE IF DISCLOSURE SHOULD BE ORDERED.

5. WITHIN NINETY DAYS AFTER THE DATE OF THE REPORT FOR INVESTIGATION FOR A CASE INVOLVING A FATALITY OR A NEAR FATALITY, THE DEPARTMENT SHALL PROVIDE TO THE PUBLIC A SUMMARY REPORT THAT:

(a) MAY INCLUDE ANY ACTIONS TAKEN BY THE DEPARTMENT IN RESPONSE TO THE CASE, ANY CHANGES IN POLICIES OR PRACTICES THAT HAVE BEEN MADE TO ADDRESS ANY ISSUES RAISED IN THE REVIEW OF THE CASE AND ANY RECOMMENDATIONS FOR FURTHER CHANGES IN POLICIES, PRACTICES, RULES OR STATUTES TO ADDRESS THOSE ISSUES.

(b) SHALL INCLUDE THE INFORMATION PRESCRIBED IN SUBSECTION B OF THIS SECTION IF THE CHILD WAS RESIDING IN THE CHILD'S HOME AND IN SUBSECTION C OF THIS SECTION IF THE CHILD WAS PLACED IN AN OUT-OF-HOME PLACEMENT.

B. IF THE SUMMARY REPORT PRESCRIBED IN SUBSECTION A, PARAGRAPH 5 OF THIS SECTION INVOLVES A CHILD WHO WAS RESIDING IN THE CHILD'S HOME, THE SUMMARY REPORT SHALL CONTAIN A SUMMARY OF ALL OF THE FOLLOWING:

1. WHETHER SERVICES PURSUANT TO THIS CHAPTER WERE BEING PROVIDED TO THE CHILD, A MEMBER OF THE CHILD'S FAMILY OR THE PERSON SUSPECTED OF THE ABUSE OR NEGLECT AT THE TIME OF THE INCIDENT AND THE DATE OF THE LAST CONTACT BEFORE THE INCIDENT BETWEEN THE ENTITY PROVIDING THE SERVICES AND THE PERSON RECEIVING THE SERVICES.

2. WHETHER THE CHILD, A MEMBER OF THE CHILD'S FAMILY OR THE PERSON SUSPECTED OF THE ABUSE OR NEGLECT WAS THE SUBJECT OF A REPORT FOR INVESTIGATION AT THE TIME OF THE INCIDENT.

3. ALL INVOLVEMENT OF THE CHILD'S PARENTS AND OF THE PERSON SUSPECTED OF THE ABUSE OR NEGLECT IN A SITUATION FOR WHICH A REPORT FOR INVESTIGATION WAS MADE OR IN SERVICES PROVIDED PURSUANT TO THIS CHAPTER IN THE FIVE YEARS PRECEDING THE INCIDENT INVOLVING A FATALITY OR A NEAR FATALITY.

4. ANY INVESTIGATION PURSUANT TO A REPORT FOR INVESTIGATION CONCERNING THE CHILD, A MEMBER OF THE CHILD'S FAMILY OR THE PERSON SUSPECTED OF THE ABUSE OR NEGLECT OR SERVICES PROVIDED TO THE CHILD OR THE CHILD'S FAMILY SINCE THE DATE OF THE INCIDENT INVOLVING A FATALITY OR A NEAR FATALITY.

C. IF THE SUMMARY REPORT PRESCRIBED IN SUBSECTION A, PARAGRAPH 5 OF THIS SECTION INVOLVES A CHILD WHO WAS IN OUT-OF-HOME PLACEMENT, THE SUMMARY REPORT SHALL INCLUDE THE NAME OF ANY AGENCY THE LICENSEE WAS LICENSED BY, THE LICENSING HISTORY OF THE OUT-OF-HOME PLACEMENT, INCLUDING THE TYPE OF LICENSE HELD BY THE OPERATOR OF THE PLACEMENT, THE PERIOD FOR WHICH THE PLACEMENT HAS BEEN LICENSED AND A SUMMARY OF ALL VIOLATIONS BY THE LICENSEE AND ANY OTHER ACTIONS BY THE LICENSEE OR AN EMPLOYEE OF THE LICENSEE THAT

CONSTITUTE A SUBSTANTIAL FAILURE TO PROTECT AND PROMOTE THE HEALTH, SAFETY AND WELFARE OF A CHILD.

D. FOR THE PURPOSES OF THIS SECTION, "NEAR FATALITY" MEANS AN ACT THAT, AS CERTIFIED BY A PHYSICIAN, INCLUDING THE CHILD'S TREATING PHYSICIAN, PLACES A CHILD IN SERIOUS OR CRITICAL CONDITION.

**Sec. 6.** Section 8-811, Arizona Revised Statutes, is amended to read:

**8-811. Hearing process; definitions**

A. The department shall notify a person who is alleged to have abused or neglected a child that the department intends to substantiate the allegation in the central registry pursuant to section 8-804 and of that person's right:

1. To receive a copy of the report containing the allegation.

2. To a hearing before the entry into the central registry pursuant to section 8-456, subsection D, paragraph 3, subdivision (a).

B. The department shall send the notice prescribed in subsection A of this section by first class mail no more than fourteen days after completion of the investigation.

C. A request for a hearing on the proposed finding must be received by the department within fourteen days after receipt of the notice.

D. The department shall not disclose any information related to the investigation of the allegation except as provided in sections 8-456, 8-807, 8-807.01 and 13-3620.

E. If a request for a hearing is made pursuant to subsection C of this section, the department shall conduct a review before the hearing. The department shall provide an opportunity for the accused person to provide written or verbal information to support the position that the department should not substantiate the allegation. If the department determines that there is no probable cause that the accused person engaged in the alleged conduct, the department shall amend the information or finding in the report and shall notify the person and a hearing shall not be held.

F. Notwithstanding section 41-1092.03, the notification prescribed in subsection A of this section shall also state that if the department does not amend the information or finding in the report as prescribed in subsection E of this section within sixty days after it receives the request for a hearing the person has a right to a hearing unless:

1. The person is a party in a civil, criminal or administrative proceeding in which the allegations of abuse or neglect are at issue.

2. A court or administrative law judge has made findings as to the alleged abuse or neglect.

3. A finding has been made by a court pursuant to section 8-844, subsection C that a child is dependent based upon an allegation of abuse or neglect.

G. If the department does not amend the information or finding in the report as prescribed in subsection E of this section, the department shall notify the office of administrative hearings of the request for a hearing no later than five days after completion of the review. The department shall forward all records, reports and

other relevant information with the request for hearing within ten days. The department shall redact the identity of the reporting source before transmitting the information to the office of administrative hearings.

H. The office of administrative hearings shall hold a hearing pursuant to title 41, chapter 6, article 10, with the following exceptions:

1. A child who is the victim of or a witness to abuse or neglect is not required to testify at the hearing.

2. A child's hearsay statement is admissible if the time, content and circumstances of that statement are sufficiently indicative of its reliability.

3. The identity of the reporting source of the abuse or neglect shall not be disclosed without the permission of the reporting source.

4. The reporting source is not required to testify.

5. A written statement from the reporting source may be admitted if the time, content and circumstances of that statement are sufficiently indicative of its reliability.

6. If the person requesting the hearing fails to appear, the hearing shall be vacated and a substantiated finding of abuse or neglect shall be entered. On good cause shown, the hearing may be rescheduled if the request is made within fifteen calendar days after the date of the notice vacating the hearing for failure to appear.

I. On completion of the presentation of evidence, the administrative law judge shall determine if probable cause exists to sustain the department's finding that the parent, guardian or custodian abused or neglected the child. If the administrative law judge determines that probable cause does not exist to sustain the department's finding, the administrative law judge shall order the department to amend the information or finding in the report.

J. When the department is requested to verify pursuant to section 8-807, if the central registry contains a substantiated report about a specific person, the department shall determine if the report was taken after January 1, 1998. If the report was taken after January 1, 1998, the department shall notify the requestor of the substantiated finding. If the report was taken before January 1, 1998, the department shall notify the person of the person's right to request an administrative hearing. The department shall not send this notification if the person was a party in a civil, criminal or administrative proceeding in which the allegations of abuse or neglect were at issue. The provisions of this section shall apply to the person's appeal.

K. The department shall provide the parent, guardian or custodian who is the subject of the investigation and the person who reported the suspected child abuse or neglect if that person is the child's parent, guardian or custodian with a copy of the outcome of the investigation at one of the following times:

1. If the report is unsubstantiated.

2. If probable cause exists that abuse or neglect has occurred but a specific person is not identified as having abused or neglected the child.

3. After the time to request a hearing has lapsed pursuant to subsection C of this section without the department receiving a request for a hearing.

4. After a final administrative decision has been made pursuant to section 41-1092.08.

L. For the purposes of this section:

1. "Amend the finding" means to change the finding from substantiated to unsubstantiated.

2. "Amend the information" means to change information identifying the accused of having abused or neglected a child.

**Sec. 7.** Section 13-4434, Arizona Revised Statutes, is amended to read:

**13-4434. Victim's right to privacy; exception; definitions**

A. The victim has the right at any court proceeding not to testify regarding any identifying or locating information unless the victim consents or the court orders disclosure on finding that a compelling need for the information exists. A court proceeding on the motion shall be in camera.

B. A victim's identifying and locating information that is obtained, compiled or reported by a law enforcement agency or prosecution agency shall be redacted by the originating agency and prosecution agencies from records pertaining to the criminal case involving the victim, including discovery disclosed to the defendant.

C. Subsection B OF THIS SECTION does not apply to:

1. The victim's name EXCEPT, IF THE VICTIM IS A MINOR, THE VICTIM'S NAME MAY BE REDACTED FROM PUBLIC RECORDS PERTAINING TO THE CRIME IF THE COUNTERVAILING INTERESTS OF CONFIDENTIALITY, PRIVACY, THE RIGHTS OF THE MINOR OR THE BEST INTERESTS OF THIS STATE OUTWEIGH THE PUBLIC INTEREST IN DISCLOSURE.

2. Any records that are transmitted between law enforcement and prosecution agencies or a court.

3. Any records if the victim OR, IF THE VICTIM IS A MINOR, THE VICTIM'S REPRESENTATIVE AS DESIGNATED UNDER SECTION 13-4403 has consented to the release of the information.

4. The general location at which the reported crime occurred.

D. For the purposes of this section:

1. "Identifying information" includes a victim's date of birth, social security number and official state or government issued driver license or identification number.

2. "Locating information" includes the victim's address, telephone number, e-mail address and place of employment.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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# CERTIFIED NURSING ASSISTANTS—LICENSED NURSING ASSISTANTS—REGULATION

## CHAPTER 262

## H. B. 2196

**AN ACT AMENDING SECTIONS 32-1601, 32-1603, 32-1605.01, 32-1606, 32-1608, 32-1609, 32-1642, 32-1643, 32-1645, 32-1646, 32-1647, 32-1648, 32-1649, 32-1650, 32-1650.01, 32-1650.02, 32-1650.05, 32-1663.01, 32-1666 AND 32-3021, ARIZONA REVISED STATUTES; RELATING TO NURSING.**

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

**Section 1.** Section 32-1601, Arizona Revised Statutes, is amended to read:

**32-1601. Definitions**

In this chapter, unless the context otherwise requires:

1. "Absolute discharge from the sentence" means completion of any sentence, including imprisonment, probation, parole, community supervision or any form of court supervision.

2. "Approval" means that a regulated training or educational program to prepare persons for licensure, ~~or~~ certification OR REGISTRATION has met standards established by the board.

3. "Board" means the Arizona state board of nursing.

4. "CERTIFIED NURSING ASSISTANT" MEANS A PERSON WHO IS REGISTERED ON THE REGISTRY OF NURSING ASSISTANTS PURSUANT TO THIS CHAPTER TO PROVIDE OR ASSIST IN THE DELIVERY OF NURSING OR NURSING-RELATED SERVICES UNDER THE SUPERVISION AND DIRECTION OF A LICENSED NURSING STAFF MEMBER. CERTIFIED NURSING ASSISTANT DOES NOT INCLUDE A PERSON WHO:

(a) IS A LICENSED HEALTH CARE PROFESSIONAL.

(b) VOLUNTEERS TO PROVIDE NURSING ASSISTANT SERVICES WITHOUT MONETARY COMPENSATION.

(c) IS A LICENSED NURSING ASSISTANT.

~~4.~~ 5. "Certified registered nurse" means a registered nurse who has been certified by a national nursing credentialing agency recognized by the board.

~~5.~~ 6. "Certified registered nurse anesthetist" means a registered nurse who meets the requirements of section 32-1634.03 and who practices pursuant to the requirements of section 32-1634.04.

~~6.~~ 7. "Clinical nurse specialist" means a registered nurse who:

(a) Is certified by the board as a clinical nurse specialist.

(b) Holds a graduate degree with a major in nursing and completes educational requirements as prescribed by the board by rule.

(c) Is nationally certified as a clinical nurse specialist or, if certification is not available, provides proof of competence to the board.

(d) Has an expanded scope of practice based on advanced education in a clinical nursing specialty that includes:

(i) Assessing clients, synthesizing and analyzing data and understanding and applying nursing principles at an advanced level.

(ii) Managing directly and indirectly a client's physical and psychosocial health status.

(iii) Analyzing multiple sources of data, identifying alternative possibilities as to the nature of a health care problem and selecting appropriate nursing interventions.

(iv) Developing, planning and guiding programs of care for populations of patients.

(v) Making independent nursing decisions to solve complex client care problems.

(vi) Using research skills and acquiring and applying critical new knowledge and technologies to nursing practice.

(vii) Prescribing and dispensing durable medical equipment.

(viii) Consulting with or referring a client to other health care providers based on assessment of the client's health status and needs.

(ix) Facilitating collaboration with other disciplines to attain the desired client outcome across the continuum of care.

(x) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a clinical nurse specialist.

~~7.~~ 8. "Conditional license" or "conditional approval" means a license or approval that specifies the conditions under which the regulated party is allowed to practice or to operate and that is prescribed by the board pursuant to section 32-1644 or 32-1663.

~~8.~~ 9. "Delegation" means transferring to a competent individual the authority to perform a selected nursing task in a designated situation in which the nurse making the delegation retains accountability for the delegation.

~~9.~~ 10. "Disciplinary action" means a regulatory sanction of a license, certificate or approval pursuant to this chapter in any combination of the following:

(a) A civil penalty for each violation of this chapter, not to exceed one thousand dollars for each violation.

(b) Restitution made to an aggrieved party.

(c) A decree of censure.

(d) A conditional license or a conditional approval that fixed a period and terms of probation.

(e) Limited licensure.

(f) Suspension of a license, a certificate or an approval.

(g) Voluntary surrender of a license, a certificate or an approval.

(h) Revocation of a license, a certificate or an approval.

~~10.~~ 11. "Health care institution" has the same meaning prescribed in section 36-401.

12. "LICENSED NURSING ASSISTANT" MEANS A PERSON WHO IS LICENSED PURSUANT TO THIS CHAPTER TO PROVIDE OR ASSIST IN THE DELIVERY OF NURSING OR NURSING-RELATED SERVICES UNDER THE SUPERVISION AND DIRECTION OF A LICENSED NURSING STAFF MEMBER. LICENSED NURSING ASSISTANT DOES NOT INCLUDE A PERSON WHO:

(a) IS A LICENSED HEALTH CARE PROFESSIONAL.

(b) VOLUNTEERS TO PROVIDE NURSING ASSISTANT SERVICES WITHOUT MONETARY COMPENSATION.

(c) IS A CERTIFIED NURSING ASSISTANT.

~~11.~~ 13. "Licensee" means a person who is licensed pursuant to this chapter or in a party state as defined in section 32-1668.

~~12.~~ 14. "Limited license" means a license that restricts the scope or setting of a licensee's practice.

~~13.~~ 15. "Medication order" means a written or verbal communication given by a certified registered nurse anesthetist to a health care professional to administer a drug or medication.

~~14. "Nursing assistant" means a person who is certified pursuant to this chapter to provide or assist in the delivery of nursing or nursing-related services under the supervision and direction of a licensed nursing staff member. Nursing assistant does not include a person who:~~

~~(a) Is a licensed health care professional.~~

~~(b) Volunteers to provide nursing assistant services without monetary compensation.~~

~~15.~~ 16. "Practical nurse" means a person who holds a practical nurse license issued pursuant to this chapter or pursuant to a multistate compact privilege and who practices practical nursing as defined in this section.

~~16.~~ 17. "Practical nursing" includes the following activities that are performed under the supervision of a physician or a registered nurse:

(a) Contributing to the assessment of the health status of individuals and groups.

(b) Participating in the development and modification of the strategy of care.

(c) Implementing aspects of the strategy of care within the nurse's scope of practice.

(d) Maintaining safe and effective nursing care that is rendered directly or indirectly.

(e) Participating in the evaluation of responses to interventions.

(f) Delegating nursing activities within the scope of practice of a practical nurse.

(g) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a practical nurse.

~~17.~~ 18. "Presence" means within the same room or an adjoining room or within the same surgical or obstetrical suite.

~~18.~~ 19. "Registered nurse" or "professional nurse" means a person who practices registered nursing and who holds a registered nurse license issued pursuant to this chapter or pursuant to a multistate compact privilege.

~~19.~~ 20. "Registered nurse practitioner" means a registered nurse who:

(a) Is certified by the board.

(b) Has completed a nurse practitioner education program approved or recognized by the board and educational requirements prescribed by the board by rule.

(c) If applying for certification after July 1, 2004, holds national certification as a nurse practitioner from a national certifying body recognized by the board.

(d) Has an expanded scope of practice within a specialty area that includes:

(i) Assessing clients, synthesizing and analyzing data and understanding and applying principles of health care at an advanced level.

(ii) Managing the physical and psychosocial health status of clients.

(iii) Analyzing multiple sources of data, identifying alternative possibilities as to the nature of a health care problem and selecting, implementing and evaluating appropriate treatment.

(iv) Making independent decisions in solving complex client care problems.

(v) Diagnosing, performing diagnostic and therapeutic procedures, and prescribing, administering and dispensing therapeutic measures, including legend drugs, medical devices and controlled substances within the scope of registered nurse practitioner practice on meeting the requirements established by the board.

(vi) Recognizing the limits of the nurse's knowledge and experience and planning for situations beyond the nurse's knowledge, educational preparation and expertise by consulting with or referring clients to other health care providers when appropriate.

(vii) Delegating to a medical assistant pursuant to section 32-1456.

(viii) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a nurse practitioner.

~~20.~~ 21. "Registered nursing" includes the following:

(a) Diagnosing and treating human responses to actual or potential health problems.

(b) Assisting individuals and groups to maintain or attain optimal health by implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment.

(c) Assessing the health status of individuals and groups.

(d) Establishing a nursing diagnosis.

(e) Establishing goals to meet identified health care needs.

(f) Prescribing nursing interventions to implement a strategy of care.

(g) Delegating nursing interventions to others who are qualified to do so.

(h) Providing for the maintenance of safe and effective nursing care that is rendered directly or indirectly.

(i) Evaluating responses to interventions.

(j) Teaching nursing knowledge and skills.

(k) Managing and supervising the practice of nursing.

(l) Consulting and coordinating with other health care professionals in the management of health care.

(m) Performing additional acts that require education and training as prescribed by the board and that are recognized by the nursing profession as proper to be performed by a registered nurse.

22. "REGISTRY OF NURSING ASSISTANTS" MEANS THE NURSING ASSISTANTS REGISTRY MAINTAINED BY THE BOARD PURSUANT TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987 (P.L. 100-203; 101 STAT. 1330), AS AMENDED BY THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988 (P.L. 100-360; 102 STAT. 683).

~~21.~~ 23. "Regulated party" means any person or entity that is licensed, certified, REGISTERED, recognized or approved pursuant to this chapter.

~~22.~~ 24. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:

(a) Committing fraud or deceit in obtaining, attempting to obtain or renewing a license or a certificate issued pursuant to this chapter.

(b) Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

(c) Aiding or abetting in a criminal abortion or attempting, agreeing or offering to procure or assist in a criminal abortion.

(d) Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public.

(e) Being mentally incompetent or physically unsafe to a degree that is or might be harmful or dangerous to the health of a patient or the public.

(f) Having a license, certificate, permit or registration to practice a health care profession denied, suspended, conditioned, limited or revoked in another jurisdiction and not reinstated by that jurisdiction.

(g) Wilfully or repeatedly violating a provision of this chapter or a rule adopted pursuant to this chapter.

(h) Committing an act that deceives, defrauds or harms the public.

(i) Failing to comply with a stipulated agreement, consent agreement or board order.

(j) Violating this chapter or a rule that is adopted by the board pursuant to this chapter.

(k) Failing to report to the board any evidence that a registered or practical nurse or a nursing assistant is or may be:

(i) Incompetent to practice.

(ii) Guilty of unprofessional conduct.

(iii) Mentally or physically unable to safely practice nursing or to perform nursing related duties. A nurse who is providing therapeutic counseling for a nurse

who is in a drug rehabilitation program is required to report that nurse only if the nurse providing therapeutic counseling has personal knowledge that patient safety is being jeopardized.

(l) Failing to self-report a conviction for a felony or undesignated offense within ten days after the conviction.

(m) Cheating or assisting another to cheat on a licensure or certification examination.

**Sec. 2.** Section 32-1603, Arizona Revised Statutes, is amended to read:

**32-1603. Qualifications of board members**

A. Each registered nurse member of the board shall:

1. Be a resident of the state.

2. Be a graduate of an approved registered nursing program.

3. Be licensed as a registered nurse in this state.

4. Have had at least five years' experience in nursing following graduation, including executive, supervisory or teaching experience in nursing education or nursing service.

5. Have been actively engaged in the practice of nursing or nursing activities for at least three years preceding the appointment.

B. Each licensed practical nurse member of the board shall:

1. Be a resident of this state.

2. Be a graduate of an approved practical nursing program.

3. Be licensed as a licensed practical nurse in this state.

4. Have had at least five years' experience in practical nursing following graduation.

5. Have been actively engaged in the practice of nursing for at least three years preceding the appointment.

C. Each public member of the board shall be a person who:

1. Is not licensed pursuant to chapter 7, 8, 11, 13, 14, 15.1, 16, 17, 18, 19, 19.1, 21, 25 or 29 of this title or this chapter as an individual health care provider.

2. Is not an employee of any health care institution licensed pursuant to title 36, chapter 4 or any authorized insurer providing disability insurance coverage in this state.

3. Does not have a financial interest as a provider in the delivery of health care services.

D. Each LICENSED NURSING ASSISTANT OR CERTIFIED nursing assistant member of the board shall either:

1. Be ~~certified as~~ a LICENSED NURSING ASSISTANT OR A CERTIFIED nursing assistant pursuant to this chapter and currently practice or have practiced within three years ~~of~~ BEFORE initial appointment to the board.

2. Within one year ~~of~~ BEFORE appointment to the board, have been employed as an instructor or coordinator in an approved LICENSED NURSING ASSISTANT OR CERTIFIED nursing assistant training program.

E. For at least three years preceding appointment to the board, each registered nurse practitioner or clinical nurse specialist member shall be certified

pursuant to this chapter and actively practicing as a registered nurse practitioner, actively engaged in a clinical nurse specialist practice or teaching.

F. Each member of the board shall take and subscribe to the oath prescribed by law for state officers, which shall be filed with the secretary of state.

**Sec. 3.** Section 32-1605.01, Arizona Revised Statutes, is amended to read:

**32-1605.01. Executive director; compensation; powers; duties**

A. Subject to title 41, chapter 4, article 4, the board shall appoint an executive director who is not a member of the board. The executive director is eligible to receive compensation set by the board within the range determined under section 38-611.

B. The executive director or the executive director's designee shall:

1. Perform the administrative duties of the board.

2. Subject to title 41, chapter 4, article 4, employ personnel needed to carry out the functions of the board.

3. Issue and renew temporary and permanent licenses, certificates and prescribing or dispensing authority.

4. Issue single state and multistate licenses pursuant to this chapter ~~and nursing assistant certificates~~ to applicants who are not under investigation and who meet the qualifications for licensure ~~or nursing assistant certification~~ prescribed in this chapter.

5. Perform other duties as directed by the board.

6. REGISTER CERTIFIED NURSING ASSISTANTS AND MAINTAIN A REGISTRY OF LICENSED NURSING ASSISTANTS AND CERTIFIED NURSING ASSISTANTS.

~~6.~~ 7. On behalf of the board, enter into stipulated agreements with a licensee for the confidential treatment, rehabilitation and monitoring of chemical dependency. A licensee who materially fails to comply with a program requirement shall be reported to the board and terminated from the confidential program. Any records of a licensee who is terminated from a confidential program are no longer confidential or exempt from the public records law. Notwithstanding any law to the contrary, stipulated agreements are not public records if the following conditions are met:

(a) The licensee voluntarily agrees to participate in the confidential program.

(b) The licensee complies with all treatment requirements or recommendations, including participation in alcoholics anonymous or an equivalent twelve step program and nurse support group.

(c) The licensee refrains from the practice of nursing until the return to nursing has been approved by the treatment program and the executive director or the executive director's designee.

(d) The licensee complies with all monitoring requirements of the stipulated agreement, including random bodily fluid testing.

(e) The licensee's nursing employer is notified of the licensee's chemical dependency and participation in the confidential program and is provided a copy of the stipulated agreement.

~~7.~~ 8. Approve nursing assistant training programs that meet the requirements of this chapter.

C. If the board adopts a substantive policy statement pursuant to section 41-1091 and the executive director or designee reports all actions taken pursuant to this subsection to the board at the next regular board meeting, the executive director or designee may:

1. Dismiss a complaint pursuant to section 32-1664 if the complainant does not wish to address the board and either there is no evidence substantiating the complaint or, after conducting an investigation, there is insufficient evidence that the regulated party violated this chapter or a rule adopted pursuant to this chapter.

2. Enter into a stipulated agreement with the licensee or certificate holder for the treatment, rehabilitation and monitoring of the licensee's or certificate holder's abuse or misuse of a chemical substance.

3. Close complaints resolved through settlement.

4. Issue letters of concern.

5. In lieu of a summary suspension hearing, enter into a consent agreement if there is sufficient evidence that the public health, safety or welfare imperatively requires emergency action.

D. The executive director may accept the voluntary surrender of a license, certificate or approval to resolve a pending complaint that is subject to disciplinary action. The voluntary surrender or revocation of a license, certificate or approval is a disciplinary action, and the board shall report this action if required by federal law.

**Sec. 4.** Section 32-1606, Arizona Revised Statutes, is amended to read:

**32-1606. Powers and duties of board**

A. The board may:

1. Adopt and revise rules necessary to carry into effect ~~the provisions of~~ this chapter.

2. Publish advisory opinions regarding registered and practical nursing practice and nursing education.

3. Issue limited licenses or certificates if it determines that an applicant or licensee cannot function safely in a specific setting or within the full scope of practice.

4. Refer criminal violations of this chapter to the appropriate law enforcement agency.

5. Establish a confidential program for the monitoring of licensees who are chemically dependent and who enroll in rehabilitation programs that meet the criteria established by the board. The board may take further action if the licensee refuses to enter into a stipulated agreement or fails to comply with its terms. In order to protect the public health and safety, the confidentiality requirements of this paragraph do not apply if the licensee does not comply with the stipulated agreement.

6. On the applicant's or regulated party's request, establish a payment schedule with the applicant or regulated party.

7. Provide education regarding board functions.

8. Collect or assist in the collection of workforce data.

9. Adopt rules for conducting pilot programs consistent with public safety for innovative applications in nursing practice, education and regulation.

10. Grant retirement status on request to retired nurses who are or were licensed under this chapter, who have no open complaint or investigation pending against them and who are not subject to discipline.

11. Accept and spend federal monies and private grants, gifts, contributions and devises to assist in carrying out the purposes of this chapter. These monies do not revert to the state general fund at the end of the fiscal year.

B. The board shall:

1. Approve regulated training and educational programs that meet the requirements of this chapter and rules adopted by the board.

2. By rule, establish approval and reapproval processes for nursing and nursing assistant training programs that meet the requirements of this chapter and board rules.

3. Prepare and maintain a list of approved nursing programs for the preparation of registered and practical nurses whose graduates are eligible for licensing under this chapter as registered nurses or as practical nurses if they satisfy the other requirements of this chapter and board rules.

4. Examine qualified registered and practical nurse applicants.

5. License and renew the licenses of qualified registered and practical nurse applicants AND LICENSED NURSING ASSISTANTS who are not qualified to be licensed by the executive director.

6. Adopt a seal, which the executive director shall keep.

7. Keep a record of all proceedings.

8. For proper cause, deny or rescind approval of a regulated training or educational program for failure to comply with this chapter or the rules of the board.

9. Adopt rules for the approval of credential evaluation services that evaluate the qualifications of applicants who graduated from an international nursing program.

10. Determine and administer appropriate disciplinary action against all regulated parties who are found guilty of violating this chapter or rules adopted by the board.

11. Perform functions necessary to carry out the requirements of ~~the~~ nursing assistant AND NURSE AIDE training and competency evaluation program as set forth in the omnibus budget reconciliation act of 1987 (P.L. 100-203; 101 Stat. 1330), as amended by the medicare catastrophic coverage act of 1988 (P.L. 100-360; 102 Stat. 683). These functions shall include:

(a) Testing and ~~certification~~ REGISTRATION of CERTIFIED nursing assistants.

(b) TESTING AND LICENSING OF LICENSED NURSING ASSISTANTS.

~~(b)~~ (c) Maintaining a list of board approved training programs.

~~(c) Recertifying nursing assistants.~~

(d) Maintaining a registry of NURSING ASSISTANTS FOR all certified nursing assistants AND LICENSED NURSING ASSISTANTS.

(e) Assessing fees.

12. Adopt rules establishing those acts that may be performed by a registered nurse practitioner in collaboration with a licensed physician, except that the board does not have authority to decide scope of practice relating to abortion as defined in section 36-2151.

13. Adopt rules establishing educational requirements for the certification of school nurses.

14. Publish copies of board rules and distribute these copies on request.

15. Require each applicant for initial licensure or certification to submit a full set of fingerprints to the board for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

~~16. Require each applicant for initial nursing assistant certification to submit a full set of fingerprints to the board for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.~~

~~17.~~ 16. Revoke a license of a person, revoke the multistate licensure privilege of a person pursuant to section 32-1669 or not issue a license or renewal to an applicant who has one or more felony convictions and who has not received an absolute discharge from the sentences for all felony convictions five or more years before the date of filing an application pursuant to this chapter.

~~18.~~ 17. Establish standards for approving and reapproving nurse practitioner and clinical nurse specialist programs and provide for surveys of nurse practitioner and clinical nurse specialist programs as it deems necessary.

~~19.~~ 18. Provide the licensing authorities of health care institutions, facilities and homes any information the board receives regarding practices that place a patient's health at risk.

~~20.~~ 19. Limit the multistate licensure privilege of any person who holds or applies for a license in this state pursuant to section 32-1668.

~~21.~~ 20. Adopt rules to establish competency standards for obtaining and maintaining a license.

~~22.~~ 21. Adopt rules for the qualification and certification of clinical nurse specialists.

~~23.~~ 22. Adopt rules for approval and reapproval of refresher courses for nurses who are not currently practicing.

~~24.~~ 23. Maintain a list of approved medication assistant training programs.

~~25.~~ 24. Test and certify medication assistants.

~~26.~~ 25. Maintain a registry and disciplinary record of medication assistants who are certified pursuant to this chapter.

C. The board may conduct an investigation on receipt of information that indicates that a person or regulated party may have violated this chapter or a rule adopted pursuant to this chapter. Following the investigation, the board may take disciplinary action pursuant to this chapter.

D. The board may limit, revoke or suspend the privilege of a nurse to practice in this state granted pursuant to section 32-1668.

E. Failure to comply with any final order of the board, including an order of censure or probation, is cause for suspension or revocation of a license or a certificate.

F. The president or a member of the board designated by the president may administer oaths in transacting the business of the board.

**Sec. 5.** Section 32-1608, Arizona Revised Statutes, is amended to read:

**32-1608. Examinations; notice**

The board shall contract with a private entity to conduct licensure and nursing assistant ~~certification~~ REGISTRATION examinations. The board shall require as part of this contract that the entity provide notice of the examination procedure to applicants.

**Sec. 6.** Section 32-1609, Arizona Revised Statutes, is amended to read:

**32-1609. Register of licenses and registrations; change of address**

A. The executive director shall keep a register of licenses and ~~certificates~~ REGISTRATIONS for each person who holds an Arizona nursing license or WHO IS A ~~nursing assistant~~ LICENSED NURSING ASSISTANT ~~certificate~~ OR A CERTIFIED NURSING ASSISTANT that includes the following:

1. Each ~~licensee's and certificate holder's~~ PERSON'S current address.

2. Licenses, ~~and~~ certificates AND REGISTRATIONS granted or revoked.

B. The register shall be open during office hours to public inspection.

C. Each REGULATED person ~~who holds an Arizona nursing license or nursing assistant certificate~~ shall notify the board in writing within thirty days ~~of~~ AFTER each change in the ~~licensee's or certificate holder's~~ PERSON'S address.

**Sec. 7.** Section 32-1642, Arizona Revised Statutes, is amended to read:

**32-1642. Renewal of license or registration; failure to renew**

A. Except as provided in section 32-4301, a registered and practical nurse licensee shall renew the license every four years on or before April 1. If a licensee does not renew the license on or before May 1, the licensee shall pay an additional fee for late renewal as prescribed in section 32-1643. If a licensee does not renew the license on or before August 1, the license expires. It is a violation of this chapter for a person to practice nursing with an expired license.

B. An applicant for renewal of a registered or practical nursing license shall submit a verified statement that indicates whether the applicant has been convicted of a felony and, if convicted of one or more felonies, indicates the date of absolute discharge from the sentences for all felony convictions.

C. On receipt of the application and fee, the board shall verify the accuracy of the application and issue to the applicant an active renewal license, which shall be effective for the following four calendar years. The renewal license shall render the holder a legal practitioner of nursing, as specified in the license, during the period stated on the certificate of renewal. A licensee who fails to secure a renewal license within the time specified may secure a renewal license by making verified application as the board prescribes by furnishing proof of being qualified and

competent to act as a registered or practical nurse, and additional information and material as required by the board, and by payment of the prescribed fee.

D. Except as provided in section 32-4301, a LICENSED nursing assistant shall renew the ~~certification~~ LICENSE every two years on the last day of the LICENSED NURSING ASSISTANT'S birth month ~~of the nursing assistant~~. An applicant for renewal shall submit a verified statement that indicates whether the applicant has been convicted of a felony and, if convicted of one or more felonies, indicates the date of absolute discharge from the sentences for all felony convictions. On receipt of the application and fee, the board shall ~~recertify~~ ISSUE A RENEWAL LICENSE TO qualified applicants.

E. EXCEPT AS PROVIDED IN SECTION 32-4301, A CERTIFIED NURSING ASSISTANT SHALL FILE AN APPLICATION TO RENEW THE CERTIFIED NURSING ASSISTANT REGISTRATION EVERY TWO YEARS ON THE LAST DAY OF THE CERTIFIED NURSING ASSISTANT'S BIRTH MONTH. AN APPLICANT FOR RENEWAL SHALL SUBMIT A VERIFIED STATEMENT THAT INDICATES WHETHER THE APPLICANT HAS PERFORMED NURSING OR NURSING-RELATED SERVICES WITHIN THE PREVIOUS TWENTY-FOUR CONSECUTIVE MONTHS AND WHETHER THE INDIVIDUAL'S REGISTRY ENTRY INCLUDES DOCUMENTED FINDINGS OF ABUSE, NEGLECT OR MISAPPROPRIATION OF PROPERTY. ON RECEIPT OF THE APPLICATION, THE BOARD SHALL ISSUE A RENEWAL REGISTRATION TO EACH QUALIFIED RENEWAL APPLICANT.

~~E.~~ F. On written request to the board, the name and license of a licensee in good standing may be transferred to an inactive list. The licensee shall not practice during the time the license is inactive, and renewal fees do not accrue. If an inactive licensee wishes to resume the practice of nursing, the board shall renew the license on satisfactory showing that the licensee is then qualified and competent to practice and on payment of the current renewal fee. The licensee shall also file with the board a verified statement that indicates whether the applicant has been convicted of a felony and, if convicted of one or more felonies, that indicates the date of absolute discharge from the sentences for all felony convictions.

**Sec. 8.** Section 32-1643, Arizona Revised Statutes, is amended to read:

**32-1643. Fees; penalties**

A. The board by formal vote at its annual meeting shall establish fees not to exceed the following amounts:

1. Initial application for certification for certified registered nurse anesthetist, registered nurse practitioner and clinical nurse specialist in specialty areas, one hundred fifty dollars.

2. Initial application for school nurse certification, seventy-five dollars.

3. Initial application for license as a registered nurse, one hundred fifty dollars.

4. Initial application for license as a practical nurse, one hundred fifty dollars.

5. Application for reissuance of a registered or practical nursing license, one hundred fifty dollars.

6. Application for renewal of a registered nurse or a practical nurse license before expiration, one hundred sixty dollars.

7. Application for renewal of license after expiration, one hundred sixty dollars, plus a late fee of fifty dollars for each month a license is lapsed, but not to exceed a total of two hundred dollars.

8. Application for renewal of a school nurse certificate, fifty dollars.

9. Application for temporary ~~license or temporary~~ REGISTERED NURSE, PRACTICAL NURSE OR ~~nursing assistant certificate~~ LICENSED NURSING ASSISTANT LICENSE, fifty dollars.

10. Retaking the registered nurse or practical nurse examination, one hundred dollars.

11. Issuing a ~~certification card~~ LICENSE to an applicant ~~for nursing assistant certification~~ TO BECOME A LICENSED NURSING ASSISTANT, fifty dollars.

12. Issuing a ~~certification card~~ LICENSE to a ~~certified~~ LICENSED nursing assistant applicant for renewal, fifty dollars.

13. Application for renewal of a LICENSED nursing assistant ~~certificate~~ LICENSE after its expiration, twenty-five dollars for each year it is expired, not to exceed a total of one hundred dollars.

14. Issuing a duplicate license or certificate, twenty-five dollars.

15. Copying a nursing program transcript, twenty-five dollars.

16. Verification to another state or country of licensure for endorsement, certification for advanced practice or LICENSED nursing assistant ~~certification~~ LICENSURE, fifty dollars.

17. Providing verification to an applicant for licensure or for LICENSED nursing assistant ~~certification~~ LICENSURE by endorsement, fifty dollars.

18. Application to prescribe and dispense medication and application to prescribe medication, one hundred fifty dollars.

19. Application for renewal of prescribing and dispensing medication privileges before expiration and application for renewal of prescribing medication privileges before expiration, twenty dollars.

20. Application for renewal of prescribing and dispensing medication privileges after expiration and application for renewal of prescribing medication privileges after expiration, thirty-five dollars.

21. Issuing an inactive license, fifty dollars.

22. Writing the national council licensing examination for the first time, one hundred fifty dollars.

23. Sale of publications prepared by the board, fifty dollars.

24. Providing notary services, two dollars, or as allowed under section 41-316.

25. Copying records, documents, letters, minutes, applications and files, fifty cents a page.

26. Processing fingerprint cards, fifty dollars.

27. Registration for board seminars, one hundred dollars.

28. Failing to notify the board of a change of address pursuant to section 32-1609, twenty-five dollars.

B. The board may collect from the drawer of a dishonored check, draft order or note an amount allowed pursuant to section 44-6852.

**Sec. 9.** Section 32-1645, Arizona Revised Statutes, is amended to read:

**32-1645. Licensed nursing assistants; certified nursing assistants; qualifications**

A. A person who wishes to practice as a LICENSED nursing assistant shall file a verified application on a form prescribed by the board and accompanied by the fee required pursuant to section 32-1643. The applicant shall also submit a verified statement that indicates whether the applicant has been convicted of a felony and, if convicted of one or more felonies, indicates the date of absolute discharge from the sentences for all felony convictions. The applicant shall also submit proof satisfactory to the board that the applicant has:

1. Satisfactorily completed the basic curriculum of a program approved by the board.

2. Received a valid certificate from a training program approved by the board.

3. Satisfactorily completed a competency examination pursuant to section 32-1647.

B. A PERSON WHO WISHES TO PRACTICE AS A CERTIFIED NURSING ASSISTANT SHALL FILE A VERIFIED FORM PRESCRIBED BY THE BOARD AND AUTHORIZED BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987 (P.L. 100-123; 101 STAT. 1330), AS AMENDED BY THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988 (P.L. 100-360; 102 STAT. 683). THE APPLICANT SHALL ALSO SUBMIT PROOF SATISFACTORY TO THE BOARD THAT THE APPLICANT HAS:

1. SATISFACTORILY COMPLETED THE BASIC CURRICULUM OF A PROGRAM APPROVED BY THE BOARD.

2. RECEIVED A VALID CERTIFICATE FROM A TRAINING PROGRAM APPROVED BY THE BOARD.

3. SATISFACTORILY COMPLETED THE NURSING ASSISTANT COMPETENCY EXAMINATIONS PURSUANT TO SECTION 32-1647.

**Sec. 10.** Section 32-1646, Arizona Revised Statutes, is amended to read:

**32-1646. Licensed nursing assistants; certified nursing assistants; board powers**

A. In the regulation of LICENSED nursing assistants the board may:

1. INVESTIGATE ALLEGATIONS OF VIOLATION OF THIS ARTICLE AND refer criminal violations of this article to the appropriate law enforcement agency.

2. File a letter of concern if the board believes there is insufficient evidence to support direct action against the LICENSED nursing assistant's ~~certificate~~ LICENSE but sufficient evidence for the board to notify the LICENSED nursing assistant of its concern.

~~3. Pursuant to the omnibus budget reconciliation act of 1987 (P.L. 100-203; 101 Stat. 1330), as amended by the medicare catastrophic coverage act of 1988~~

~~(P.L. 100-360; 102 Stat. 683), indicate on the certificate the existence of any substantiated complaints against the certificate holder.~~

~~4.~~ 3. Deny ~~certification or recertification~~ A LICENSE OR REFUSE TO RENEW A LICENSE or take disciplinary action if a LICENSED nursing assistant commits an act of unprofessional conduct. ~~Disciplinary action against nursing assistant certificates is limited to revocation, suspension, a decree of censure, imposing a civil penalty and ordering restitution.~~

~~5.~~ 4. Issue a temporary LICENSED nursing assistant ~~certificate~~ LICENSE to an applicant who meets the qualifications for ~~certification~~ LICENSURE specified in section 32-1645. The ~~certificate~~ LICENSE expires six months after the date of issuance and may be renewed at the discretion of the board.

~~6.~~ 5. In addition to any other disciplinary action it may take, impose a civil penalty of not more than one thousand dollars for each violation of this chapter.

B. The board shall revoke a ~~certificate~~ LICENSE of a person or not issue ~~a certificate or recertification~~ OR RENEW A LICENSE to an applicant who has one or more felony convictions and who has not received an absolute discharge from the sentences for all felony convictions five or more years prior to the date of filing an application pursuant to this chapter.

C. IN THE REGULATION OF CERTIFIED NURSING ASSISTANTS THE BOARD MAY:

1. INVESTIGATE ALLEGATIONS OF ABUSE, NEGLECT OR MISAPPROPRIATION OF PROPERTY AND REFER CRIMINAL VIOLATIONS TO THE APPROPRIATE LAW ENFORCEMENT AGENCY.

2. FILE A LETTER OF CONCERN IF THE BOARD BELIEVES THERE IS INSUFFICIENT EVIDENCE TO SUPPORT DIRECT ACTION AGAINST THE CERTIFIED NURSING ASSISTANT'S REGISTRATION BUT SUFFICIENT EVIDENCE FOR THE BOARD TO NOTIFY THE NURSING ASSISTANT OF ITS CONCERN.

3. PURSUANT TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987 (P.L. 100-203; 101 STAT. 1330), AS AMENDED BY THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988 (P.L. 100-360; 102 STAT. 683), INDICATE ON THE REGISTRATION THE EXISTENCE OF ANY SUBSTANTIATED COMPLAINTS AGAINST THE CERTIFIED NURSING ASSISTANT IN COMPLIANCE WITH TITLE 41, CHAPTER 6, ARTICLE 10.

**Sec. 11.** Section 32-1647, Arizona Revised Statutes, is amended to read:

**32-1647. Examination of licensed nursing assistants and certified nursing assistants**

A. An applicant for ~~certification~~ LICENSURE as a LICENSED nursing assistant OR AN APPLICANT FOR REGISTRATION AS A CERTIFIED NURSING ASSISTANT WHO WISHES TO BE PLACED ON THE REGISTRY OF NURSING ASSISTANTS shall pass ~~a~~ BOTH THE written and manual skills ~~examination~~ COMPETENCY EXAMINATIONS on subjects contained in ~~a~~ THE LICENSED nursing assistant OR CERTIFIED NURSING ASSISTANT training program approved by the board.

B. The board ~~shall~~ MAY issue a ~~certificate~~ LICENSED NURSING ASSISTANT LICENSE to a person who successfully passes both examinations and meets all other requirements as prescribed in this article.

C. If ~~an~~ A CERTIFIED NURSING ASSISTANT applicant fails to pass either the written or the manual skills COMPETENCY examination within two years after completing an educational program, the applicant shall complete to the board's satisfaction an approved nursing assistant training program before the applicant may take that examination again.

**Sec. 12.** Section 32-1648, Arizona Revised Statutes, is amended to read:

**32-1648. Licensed nursing assistants; certified nursing assistants; acceptance of out of state licenses**

A. The board may issue a ~~certificate~~ LICENSE to a nursing assistant who has a current certificate or an equivalent document issued by another state if the board receives an application pursuant to section 32-1645 and determines that the applicant meets the qualifications of this article.

B. The board shall not issue a ~~certificate~~ LICENSE to an applicant UNDER SUBSECTION A OF THIS SECTION who has one or more felony convictions and who has not received an absolute discharge from the sentences for all felony convictions five or more years prior to the date of filing the application.

C. THE BOARD MAY REGISTER A PERSON AS A CERTIFIED NURSING ASSISTANT WHO HAS BEEN LISTED ON THE NURSING ASSISTANT REGISTRY MAINTAINED IN ANOTHER STATE IF THE NURSING ASSISTANT PROVIDES TO THE BOARD CURRENT PROOF OF REGISTRATION OR AN EQUIVALENT DOCUMENT ISSUED BY ANOTHER STATE AND THE BOARD RECEIVES AN APPLICATION PURSUANT TO SECTION 32-1645 AND DETERMINES THAT THE APPLICANT MEETS THE QUALIFICATIONS OF THIS ARTICLE.

**Sec. 13.** Section 32-1649, Arizona Revised Statutes, is amended to read:

**32-1649. Use of title or abbreviations by a licensed nursing assistant and certified nursing assistant**

A. Only a person who is ~~currently certified~~ LICENSED by the board to practice as a LICENSED nursing assistant shall use the title "~~certified~~ LICENSED nursing assistant" and the abbreviation ~~"CNA"~~ "LNA".

B. ONLY A PERSON WHO IS REGISTERED BY THE BOARD TO PRACTICE AS A CERTIFIED NURSING ASSISTANT SHALL USE THE TITLE "CERTIFIED NURSING ASSISTANT" AND THE ABBREVIATION "CNA".

**Sec. 14.** Section 32-1650, Arizona Revised Statutes, is amended to read:

**32-1650. Certified medication assistants; medication administration; delegation**

A. A nurse who is licensed pursuant to this chapter may delegate medication administration to a LICENSED nursing assistant who is ALSO certified by the board as a medication assistant or to a student in an approved medication assistant program under the following conditions:

1. The recipient of the medication is a resident of a licensed nursing care institution as defined in section 36-401.

2. Delegated medications are limited to:

(a) Regularly scheduled medications, including controlled substances, by oral, topical, nasal, otic, optic and rectal routes.

(b) Following the nurse's assessment of the resident's need for the medication and at the direction of the nurse, as-needed medications for bowel care or over-the-counter analgesics. The nurse shall evaluate the effect of the medication and document findings in the resident's record.

3. The delegating nurse maintains accountability for the delegation and management of the resident's medications.

B. A nurse may not delegate to a medication assistant:

1. If, in the professional judgment of the nurse after evaluating the condition of and the level of services required for the resident and the conduct and skills of the certified medication assistant or medication assistant student, the delegation would pose an unacceptable risk of harm or jeopardize the health or welfare of the resident or if safe delegation cannot be accomplished.

2. The first dose of a new medication or of a previously prescribed medication if the dosage is changed.

3. Any new medication that arrives from the pharmacy without ensuring that it reflects the original prescription.

4. As-needed medications except as provided in this section.

5. The counting of controlled substances at the beginning and end of a shift and any act associated with obtaining multiple doses of controlled substances.

6. Any medication delivered by a needle or by intradermal, subcutaneous, intramuscular, intravenous, intrathecal and intraosseous routes.

7. The administration of any medication that must be inserted into a nasogastric tube or gastric tube.

8. Changing oxygen settings or turning oxygen on or off.

9. The administration of inhalant medications.

10. The regulation of intravenous fluids or the programming of insulin pumps.

11. The administration of topical patches or topical medications that require a sterile dressing or assessment of skin condition.

12. The administration of sublingual medications.

13. The administration of any medication that requires a mathematical conversion between units of measurement to determine the correct dose.

**Sec. 15.** Section 32-1650.01, Arizona Revised Statutes, is amended to read:

**32-1650.01. Medication assistant training programs; requirements**

A. The board shall approve medication assistant training programs pursuant to this section and rules adopted by the board. An entity that applies for approval of a medication assistant training program must be either:

1. A postsecondary education institution in this state that is accredited by an accrediting agency recognized by the United States department of education.

2. A postsecondary school that is licensed by the state board ~~of~~ FOR private postsecondary education.

3. A long-term care facility that is licensed by the department of health services.

B. An applicant for a medication assistant training program must:

1. Submit an application on a form and in a manner prescribed by the board that shows compliance with this chapter and board rules and that is accompanied by a fee prescribed by the board by rule.

2. Implement a minimum one hundred hour curriculum that is consistent with the curriculum requirements of a board pilot program that allows ~~certified~~ LICENSED nursing assistants to administer medication or that is specified by the board by rule.

3. Schedule classroom instruction so that there are not more than four hours of classroom instruction in any one day.

4. Implement admission criteria that are consistent with the requirements of section 32-1650.02.

5. Screen potential students for mathematics and reading comprehension skills that are necessary to understand written material and to safely administer medications.

6. Administer at least three separate unit examinations and a comprehensive final examination that students must pass to progress in the program.

7. Provide course policies regarding attendance, clinical supervision, course completion requirements, passing examination scores and makeup examinations.

8. Ensure that ~~a~~ EACH course instructor has an unrestricted registered nursing license or multistate privilege and at least forty hours of experience administering medications in a licensed long-term care facility.

9. Meet other requirements as specified by the board by rule.

C. The board or its authorized agent shall review the application and provide a written analysis of the applicant's compliance with the requirements in this section and board rules. The board shall notify the applicant of any deficiencies in the application. If the board determines that the program meets the requirements prescribed in this chapter and board rules and that approval is in the best interest of the public, the board shall approve the program for a period of not more than four years.

D. The board's authorized employees or representatives periodically may review and conduct a site visit of all approved medication assistant training programs in this state and file written reports of these reviews or site visits with the board. If the board determines that an approved medication assistant training program is not maintaining the required standards, it shall immediately give written notice to the program specifying the defects. If the defects are not corrected within a reasonable time as determined by the board, the board may take either of the following actions:

1. Restrict the program's ability to admit new students until the program complies with board standards.

2. Revoke the approval of the program for a period of two years.

E. An approved medication assistant training program must maintain accurate and current records for at least five years, including the full theoretical and practical curriculum provided to each student.

F. The training program must furnish a copy of a student's certificate of completion to the board within ten days after each student successfully completes a medication assistant training program.

**Sec. 16.** Section 32-1650.02, Arizona Revised Statutes, is amended to read:

**32-1650.02. Certified medication assistants; qualifications**

A. A person who wishes to practice as a medication assistant must:

1. File an application on a form prescribed by the board accompanied by a fee prescribed by the board by rule.

2. Submit a statement that indicates whether the applicant has been convicted of a felony and, if convicted of one or more felonies, that indicates the date of absolute discharge from the sentences for all felony convictions.

3. Have ~~been certified and~~ worked as a LICENSED nursing assistant OR CERTIFIED NURSING ASSISTANT for at least six months before the start of the medication assistant training program, BE A LICENSED NURSING ASSISTANT and have no outstanding complaints or restrictions on the ~~nursing assistant certification~~ LICENSE.

4. Hold one of the following:

(a) A diploma issued by a high school that is located in the United States.

(b) A general equivalency diploma issued in the United States.

(c) A transcript from a nationally or regionally accredited postsecondary school located in the United States or from the United States military that documents successful completion of college-level coursework.

(d) Evidence of completing at least twelve years of education in a foreign country and, if the language of that country was other than English, a passing score on an English language proficiency examination as determined by the board.

5. Be at least eighteen years of age.

6. Provide documentation directly from the program of successfully completing an approved medication assistant training program or a portion of an approved nursing education program equivalent to the medication assistant training course.

7. Have passed a competency examination pursuant to section 32-1650.03.

~~8. Submit a full set of fingerprints under section 32-1606, subsection B, paragraph 15.~~

B. The board ~~shall~~ MAY certify a person as a medication assistant who meets the qualifications of this section for a period of not more than two years. The person's medication assistant certification expires at the same time the person's LICENSED nursing assistant ~~certification~~ LICENSE expires.

**Sec. 17.** Section 32-1650.05, Arizona Revised Statutes, is amended to read:

**32-1650.05. Certified medication assistants; recertification; unprofessional conduct**

A. A medication assistant who is certified pursuant to 32-1650.02 may apply for recertification before expiration of the certificate if that person:

1. Submits an application on a board prescribed form accompanied by a fee prescribed by the board by rule before the expiration date on the certificate.

2. Submits an affidavit with the application that the applicant has practiced as a medication assistant for at least one hundred sixty hours in the past two years.

3. Submits an affidavit with the application that indicates whether the applicant has been convicted of a felony, and if convicted of one or more felonies, indicates the date of absolute discharge from the sentences for all felony convictions.

4. Submits a current application to renew the person's LICENSED nursing assistant ~~certificate~~ LICENSE or holds a current LICENSED nursing assistant ~~certificate~~ LICENSE OR IS REGISTERED AS A CERTIFIED NURSING ASSISTANT AND WAS CERTIFIED AS A MEDICATION ASSISTANT BEFORE JULY 1, 2016.

B. If the current medication assistant certificate has expired, the board may assess a late fee as prescribed by the board by rule. A medication assistant who practices with an expired certificate commits an act of unprofessional conduct and is subject to disciplinary action pursuant to this chapter.

**Sec. 18.** Section 32-1663.01, Arizona Revised Statutes, is amended to read:

**32-1663.01. Administrative violations; administrative penalty**

A. The board may sanction any of the following as an administrative violation rather than as unprofessional conduct and may impose an administrative penalty of not more than one thousand dollars for any of the following:

1. Failing to timely renew a nursing license or ~~nurse assistant~~ ~~certificate~~ LICENSED NURSING ASSISTANT LICENSE while continuing to practice nursing or engage in activities or duties ~~related to nursing~~ REGULATED BY THIS CHAPTER.

2. Failing to notify the board in writing within thirty days after a change in address.

3. Failing to renew nursing, ~~or~~ LICENSED nursing assistant OR CERTIFIED NURSING ASSISTANT program approval and continuing to operate the program.

4. If the board adopts a substantive policy statement pursuant to section 41-1091, practicing nursing without a license.

B. A regulated party who fails to pay an administrative penalty as prescribed by this section or to establish a schedule for payment as prescribed pursuant to section 32-1606, subsection A, paragraph 6 within thirty days after notification commits an act of unprofessional conduct and is subject to disciplinary action.

C. The board shall deposit, pursuant to sections 35-146 and 35-147, all monies collected under this section in the state general fund.

**Sec. 19.** Section 32-1666, Arizona Revised Statutes, is amended to read:

**32-1666. Unlawful acts**

A. It is unlawful for a person who is not licensed or certified under this chapter to:

1. Practice or offer to practice as a registered or practical nurse, registered nurse practitioner or clinical nurse specialist in this state.

2. Represent or use any title, abbreviation, letters, figures, sign, card or device to indicate that the person or any other person is a registered nurse, graduate nurse, professional nurse, nurse practitioner, clinical nurse specialist, ~~or~~ practical

nurse, LICENSED NURSING ASSISTANT OR CERTIFIED NURSING ASSISTANT.

3. Represent or use any title, abbreviation, letters, sign, card or device to indicate that the person or any other person is certified pursuant to this chapter.

B. It is unlawful for a person to operate a training or educational program to prepare students for licensure or certification under this chapter unless it has been approved under this chapter.

**Sec. 20.** Section 32-3021, Arizona Revised Statutes, is amended to read:

**32-3021. Private vocational program license; qualifications; provision of information; exemptions**

A. A person shall not operate a private vocational program unless the person holds a private vocational program license issued pursuant to this chapter. Each program offered by a private vocational program licensee shall be authorized on a private vocational program license. The board shall prescribe the manner in which the programs shall be identified on the license.

B. An applicant for a private vocational program license shall meet all of the following requirements:

1. Furnish a letter of credit, surety bond or cash deposit as provided in section 32-3023.

2. Make specific information concerning educational programs, including statements of purpose, objectives, course of study, policies, fees and other pertinent information, available to prospective students and the general public.

3. Be financially responsible and have management capability.

4. Maintain a qualified faculty.

5. Maintain facilities, equipment and materials that are appropriate for the stated program. All facilities shall meet applicable state and local health and safety laws.

6. Maintain appropriate records as the board prescribes that are properly safeguarded and preserved.

7. Use only advertisements that are consistent with the information made available as provided in paragraph 2 of this subsection.

8. Provide courses of instruction that meet stated objectives.

9. Provide a grievance procedure for students.

10. Comply with all federal and state laws relating to the operation of a private postsecondary educational institution.

11. Other requirements the board deems necessary.

C. An applicant for a private vocational program license shall submit evidence of meeting the requirements prescribed in subsection B of this section to the board. The board shall verify the evidence submitted. Verification shall include on-site verification.

D. The filing of an application grants the board the authority to obtain information from any of the following:

1. A licensing board or agency in any state, district, territory or county of the United States or any foreign country.

2. The Arizona criminal justice information system as defined in section 41-1750.

3. The federal bureau of investigation.

E. The board, on application, may issue a private vocational program license to a new educational institution as provided in this section, except that the board shall establish separate minimum standards for licensure requirements of new educational institutions. These minimum standards may include the modification of licensure requirements as provided in subsection B, paragraphs 3, 5, 6, 7 and 8 of this section to meet the circumstances of new educational institutions. The board shall monitor the new educational institution to ensure compliance with the licensure requirements. The board shall issue a private vocational program license as provided in this subsection one time only to new educational institutions.

F. This section does not apply to any of the following:

1. A school licensed pursuant to chapter 3 or 5 of this title.

2. An instructional program or course sponsored by a bona fide trade association solely for its members.

3. Privately owned academic schools engaged in the process of general education that is designed to produce a level of development equivalent to that necessary to meet the requirements for entrance into a public community college or public university in this state and that may incidentally offer technical and vocational courses as part of the curriculum.

4. Schools or private instruction conducted by any person engaged in training, tutoring or teaching individuals or groups, if the instruction is related to hobbies, avocations, academic improvement or recreation and may only incidentally lead to gainful employment and if the instruction is for a period of under forty hours and costs less than one thousand dollars.

5. Schools conducted by any person solely for training the person's own employees.

6. An instructional program or course offered solely for employees and for the purpose of improving the employees in their employment if both of the following apply:

(a) The employee is not charged a fee.

(b) The employer provides or funds the program or course pursuant to a valid written contract between the employer and a program or course provider.

7. Training conducted pursuant to 14 Code of Federal Regulations part 141.

8. A school that solely provides an instructional program for certified nursing assistants AND LICENSED NURSING ASSISTANTS and is licensed by the nursing board pursuant to section 32-1606, subsection B, paragraph 11.

9. A professional driving training school licensed by the department of transportation pursuant to chapter 23, articles 1, 2 and 3 of this title.

10. A training program approved by the board of examiners of nursing care institution administrators and assisted living facility managers that solely provides training for managers and caregivers of assisted living facilities.

**Sec. 21. Current CNA certificate holders; medication assistant certificates**

A. A certification of a certified nursing assistant that was issued before July 1, 2016 shall remain in effect until the first renewal date of that certification that occurs on or after July 1, 2016.

B. A person who holds a certified nursing assistant certificate that was issued before July 1, 2016, on a renewal date of the certification that occurs on or after July 1, 2016 may either:

1. File a licensed nursing assistant renewal application and pay the renewal fee specified in section 32-1643, Arizona Revised Statutes, and be issued a licensed nursing assistant license.

2. File a renewal application to be registered on the registry of nursing assistants and become a certified nursing assistant.

C. A medication assistant certificate that was issued before July 1, 2016 to a certified nursing assistant remains in effect until the first renewal date of that certification that occurs on or after July 1, 2016. A person who holds a medication assistant certificate that was issued before July 1, 2016 and who elects to file a renewal application to be registered on the registry of nursing assistants and become a certified nursing assistant pursuant to subsection B of this section may renew the medication assistant registration pursuant to section 32-1650.05, Arizona Revised Statutes.

**Sec. 22. Rulemaking; exemption**

For the purposes of this act, the Arizona state board of nursing is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, until December 31, 2016.

**Sec. 23. Effective date**

Sections 32-1601, 32-1603, 32-1605.01, 32-1606, 32-1608, 32-1609, 32-1642, 32-1643, 32-1645, 32-1646, 32-1647, 32-1648, 32-1649, 32-1650, 32-1650.01, 32-1650.02, 32-1650.05, 32-1663.01, 32-1666 and 32-3021, Arizona Revised Statutes, as amended by this act, are effective from and after June 30, 2016.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## HEALTH PROFESSIONALS—CONDITION OF LICENSURE PROHIBITED

### CHAPTER 263

### H. B. 2238

**AN ACT AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3219; RELATING TO HEALTH PROFESSIONALS.**

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

**Section 1.** Title 32, chapter 32, article 1, Arizona Revised Statutes, is amended by adding section 32-3219, to read:

**32-3219. Health professionals; requirements for licensure; prohibition**

A HEALTH PROFESSIONAL IS NOT REQUIRED TO PARTICIPATE IN ANY PUBLIC OR PRIVATE THIRD-PARTY REIMBURSEMENT PROGRAM AS A CONDITION OF LICENSURE UNDER THIS TITLE.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## AHCCCS—COVERAGE FOR ORTHOTICS

### CHAPTER 264

### H. B. 2373

**AN ACT AMENDING SECTION 36-2907, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.**

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

**Section 1.** Section 36-2907, Arizona Revised Statutes, is amended to read:

**36-2907. Covered health and medical services; modifications; related delivery of service requirements; definition**

A. Subject to the limitations and exclusions specified in this section, contractors shall provide the following medically necessary health and medical services:

1. Inpatient hospital services that are ordinarily furnished by a hospital for the care and treatment of inpatients and that are provided under the direction of a physician or a primary care practitioner. For the purposes of this section, inpatient hospital services exclude services in an institution for tuberculosis or mental diseases unless authorized under an approved section 1115 waiver.

2. Outpatient health services that are ordinarily provided in hospitals, clinics, offices and other health care facilities by licensed health care providers. Outpatient health services include services provided by or under the direction of a physician or a primary care practitioner.

3. Other laboratory and x-ray services ordered by a physician or a primary care practitioner.

4. Medications that are ordered on prescription by a physician or a dentist licensed pursuant to title 32, chapter 11. Persons who are dually eligible for title

XVIII and title XIX services must obtain available medications through a medicare licensed or certified medicare advantage prescription drug plan, a medicare prescription drug plan or any other entity authorized by medicare to provide a medicare part D prescription drug benefit.

5. Medical supplies, durable medical equipment, insulin pumps and prosthetic devices ordered by a physician or a primary care practitioner. Suppliers of durable medical equipment shall provide the administration with complete information about the identity of each person who has an ownership or controlling interest in their business and shall comply with federal bonding requirements in a manner prescribed by the administration.

6. For persons who are at least twenty-one years of age, treatment of medical conditions of the eye, excluding eye examinations for prescriptive lenses and the provision of prescriptive lenses.

7. Early and periodic health screening and diagnostic services as required by section 1905(r) of title XIX of the social security act for members who are under twenty-one years of age.

8. Family planning services that do not include abortion or abortion counseling. If a contractor elects not to provide family planning services, this election does not disqualify the contractor from delivering all other covered health and medical services under this chapter. In that event, the administration may contract directly with another contractor, including an outpatient surgical center or a noncontracting provider, to deliver family planning services to a member who is enrolled with the contractor that elects not to provide family planning services.

9. Podiatry services ordered by a primary care physician or primary care practitioner.

10. Nonexperimental transplants approved for title XIX reimbursement.

11. Ambulance and nonambulance transportation, except as provided in subsection G of this section.

12. Hospice care.

13. ORTHOTICS, IF ALL OF THE FOLLOWING APPLY:

(a) THE USE OF THE ORTHOTIC IS MEDICALLY NECESSARY AS THE PREFERRED TREATMENT OPTION CONSISTENT WITH MEDICARE GUIDELINES.

(b) THE ORTHOTIC IS LESS EXPENSIVE THAN ALL OTHER TREATMENT OPTIONS OR SURGICAL PROCEDURES TO TREAT THE SAME DIAGNOSED CONDITION.

(c) THE ORTHOTIC IS ORDERED BY A PHYSICIAN OR PRIMARY CARE PRACTITIONER.

B. The limitations and exclusions for health and medical services provided under this section are as follows:

1. Circumcision of newborn males is not a covered health and medical service.

2. For eligible persons who are at least twenty-one years of age:

(a) Outpatient health services do not include occupational therapy or speech therapy.

(b) Prosthetic devices do not include hearing aids, dentures, bone anchored hearing aids or cochlear implants. Prosthetic devices, except prosthetic implants, may be limited to twelve thousand five hundred dollars per contract year.

(c) Percussive vests and orthotics are not covered health and medical services.

(d) Durable medical equipment is limited to items covered by medicare.

(e) Podiatry services do not include services performed by a podiatrist.

(f) Nonexperimental transplants do not include pancreas only transplants.

(g) Bariatric surgery procedures, including laparoscopic and open gastric bypass and restrictive procedures, are not covered health and medical services.

C. The system shall pay noncontracting providers only for health and medical services as prescribed in subsection A of this section and as prescribed by rule.

D. The director shall adopt rules necessary to limit, to the extent possible, the scope, duration and amount of services, including maximum limitations for inpatient services that are consistent with federal regulations under title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)). To the extent possible and practicable, these rules shall provide for the prior approval of medically necessary services provided pursuant to this chapter.

E. The director shall make available home health services in lieu of hospitalization pursuant to contracts awarded under this article. For the purposes of this subsection, "home health services" means the provision of nursing services, home health aide services or medical supplies, equipment and appliances that are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on the orders of a physician or a primary care practitioner. Home health agencies shall comply with the federal bonding requirements in a manner prescribed by the administration.

F. The director shall adopt rules for the coverage of behavioral health services for persons who are eligible under section 36-2901, paragraph 6, subdivision (a). The administration shall contract with the department of health services for the delivery of all medically necessary behavioral health services to persons who are eligible under rules adopted pursuant to this subsection. The division of behavioral health in the department of health services shall establish a diagnostic and evaluation program to which other state agencies shall refer children who are not already enrolled pursuant to this chapter and who may be in need of behavioral health services. In addition to an evaluation, the division of behavioral health shall also identify children who may be eligible under section 36-2901, paragraph 6, subdivision (a) or section 36-2931, paragraph 5 and shall refer the children to the appropriate agency responsible for making the final eligibility determination.

G. The director shall adopt rules for the provision of transportation services and rules providing for copayment by members for transportation for other than emergency purposes. Subject to approval by the centers for medicare and medicaid services, nonemergency medical transportation shall not be provided except for stretcher vans and ambulance transportation. Prior authorization is required for

transportation by stretcher van and for medically necessary ambulance transportation initiated pursuant to a physician's direction. Prior authorization is not required for medically necessary ambulance transportation services rendered to members or eligible persons initiated by dialing telephone number 911 or other designated emergency response systems.

H. The director may adopt rules to allow the administration, at the director's discretion, to use a second opinion procedure under which surgery may not be eligible for coverage pursuant to this chapter without documentation as to need by at least two physicians or primary care practitioners.

I. If the director does not receive bids within the amounts budgeted or if at any time the amount remaining in the Arizona health care cost containment system fund is insufficient to pay for full contract services for the remainder of the contract term, the administration, on notification to system contractors at least thirty days in advance, may modify the list of services required under subsection A of this section for persons defined as eligible other than those persons defined pursuant to section 36-2901, paragraph 6, subdivision (a). The director may also suspend services or may limit categories of expense for services defined as optional pursuant to title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)) for persons defined pursuant to section 36-2901, paragraph 6, subdivision (a). Such reductions or suspensions do not apply to the continuity of care for persons already receiving these services.

J. Additional, reduced or modified hospitalization and medical care benefits may be provided under the system to enrolled members who are eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c), (d) or (e).

K. All health and medical services provided under this article shall be provided in the geographic service area of the member, except:

1. Emergency services and specialty services provided pursuant to section 36-2908.

2. That the director may permit the delivery of health and medical services in other than the geographic service area in this state or in an adjoining state if the director determines that medical practice patterns justify the delivery of services or a net reduction in transportation costs can reasonably be expected. Notwithstanding the definition of physician as prescribed in section 36-2901, if services are procured from a physician or primary care practitioner in an adjoining state, the physician or primary care practitioner shall be licensed to practice in that state pursuant to licensing statutes in that state similar to title 32, chapter 13, 15, 17 or 25 and shall complete a provider agreement for this state.

L. Covered outpatient services shall be subcontracted by a primary care physician or primary care practitioner to other licensed health care providers to the extent practicable for purposes including, but not limited to, making health care services available to underserved areas, reducing costs of providing medical care and reducing transportation costs.

M. The director shall adopt rules that prescribe the coordination of medical care for persons who are eligible for system services. The rules shall include provisions for the transfer of patients, the transfer of medical records and the initiation of medical care.

N. For the purposes of this section, "ambulance" has the same meaning prescribed in section 36-2201.

**Sec. 2. Conditional repeal; notice**

A. Laws 2013, first special session, chapter 10, section 40 is repealed on the earlier of:

1. The approval of services authorized by section 36-2907, subsection A, paragraph 13, Arizona Revised Statutes, as added by this act, by the centers for medicare and medicaid services.

2. The date specified in Laws 2013, first special session, chapter 10, section 40.

B. The executive director of the Arizona health care cost containment system administration shall notify in writing the director of the Arizona legislative council of the date the centers for medicare and medicaid services approves the application for services authorized by section 36-2907, subsection A, paragraph 13, Arizona Revised Statutes, as added by this act.

**Sec. 3. AHCCCS; application for approval of services**

A. The Arizona health care cost containment system administration shall submit to the centers for medicare and medicaid services an application for approval of services authorized by section 36-2907, subsection A, paragraph 13, Arizona Revised Statutes, as added by this act, no later than thirty days after the effective date of this act. The Arizona health care cost containment system administration shall request that authorization to provide the services authorized by section 36-2907, subsection A, paragraph 13, Arizona Revised Statutes, as added by this act, be approved as soon as practicable, including providing the services in the current contract year.

B. The Arizona health care cost containment system administration may not limit a contractor's ability to approve services authorized by section 36-2907, subsection A, paragraph 13, Arizona Revised Statutes, as added by this act.

C. Arizona health care cost containment system contractors shall determine whether an orthotic ordered by a physician or a primary care practitioner is medically necessary as the preferred treatment option consistent with medicare guidelines and that the orthotic is less expensive than all other treatment options or surgical procedures to treat the same diagnosed condition pursuant to section 36-2907, subsection A, paragraph 13, Arizona Revised Statutes, as added by this act.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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# TOWING SERVICES

## CHAPTER 265

## H. B. 2416

**AN ACT AMENDING SECTIONS 28-1095, 28-2153 AND 28-3512, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 12; AMENDING SECTION 41-1830.51, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING TITLE 41, CHAPTER 12, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-1830.52, 41-1830.53 AND 41-1830.54; RELATING TO TOWING SERVICES.**

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

**Section 1.** Section 28-1095, Arizona Revised Statutes, is amended to read:

**28-1095. Vehicle length; exceptions; permits; rules; definitions**

A. A vehicle, including any load on the vehicle, shall not exceed a length of forty feet extreme overall dimension, including front and rear bumpers. This subsection does not apply to any of the following:

1. A semitrailer when used in combination with a truck or a truck tractor.

2. A truck that is equipped with a conveyor bed, that is used solely as a fiber and forage module mover and that does not exceed forty-eight feet in length.

3. An articulated bus or articulated trolley coach that does not exceed a length of sixty feet.

4. A bus that is not articulated and that does not exceed a length of forty-five feet.

5. A recreational vehicle, a power unit, a farm vehicle, a horse trailer or wheeled equipment as defined in section 28-2153 if used in combination with two units and if the combination does not exceed sixty-five feet in length.

6. A recreational vehicle as defined in section 41-2142, paragraph 30, subdivision (b) that does not exceed a length of forty-five feet.

B. A vehicle transporter may draw only one semitrailer. A combination of vehicles, excluding a vehicle transporter and the semitrailer it draws, that is coupled together shall not consist of more than two units, except that a truck or a truck tractor and semitrailer may draw either one trailer or a forklift.

C. The following restrictions apply:

1. The length of a semitrailer operating in a truck tractor-semitrailer combination or a truck tractor-semitrailer-forklift combination shall not exceed fifty-seven feet six inches.

2. The length of a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination shall not exceed twenty-eight feet six inches.

3. The length of a trailer operating in a truck-trailer combination shall not exceed twenty-eight feet six inches.

4. If the length of a semitrailer is more than fifty-three feet, the overall length of a truck tractor-semitrailer combination shall not exceed sixty-five feet on all highways, except for the national intercity truck route network designated by the United States secretary of transportation as required by the surface transportation assistance act of 1982 or on a system of highways that is designated by a local authority. In designating the streets, the local authority shall consider any reasonable restriction including such safety restrictions as structural hazards and street width and any other safety factors identified by the local authority as a hazard to the motoring public.

5. A vehicle transporter and the semitrailer it draws shall not exceed a length of seventy-five feet.

6. A truck-semitrailer combination shall not exceed an overall length of sixty-five feet.

D. Subsection B and subsection C, paragraphs 1 through 6 of this section do not apply to damaged, disabled or abandoned vehicles or combinations of vehicles while being towed by a tow truck in compliance with section ~~28-1108~~ 41-1830.51.

E. Notwithstanding subsections B and C of this section, extensions of not more than three feet beyond the foremost part and six feet beyond the rear bed or body of a vehicle or combination of vehicles used to transport manufactured vehicles or fiber and forage shall not be included in measuring the length of the vehicle or combination of vehicles when loaded.

F. Pursuant to a permit issued pursuant to section 28-1103, a truck or a truck tractor-semitrailer may draw not more than two additional trailers or semitrailers. The department shall adopt rules governing the movement and safety of a combination of vehicles under this subsection and authorizing the issuance in advance of prepaid permits. The rules shall include the adoption of minimum speeds on grades, lighting, signing, identification and braking requirements and any other rules the department deems necessary. The permit issued pursuant to this subsection is limited to the following highways:

1. An interstate highway that connects with two states if both states allow such combinations of trailers or semitrailers and if the interstate highway does not exceed forty miles between the connecting states.

2. A state route or highway that is located within four miles of and extends to the border of this state and an adjacent state that allows such combinations of trailers or semitrailers.

3. A state route or highway that extends at least ten miles through an Indian reservation, that does not cross the Colorado river and that is located within twenty miles of and extends to the border of this state and an adjacent state that allows such combinations of trailers or semitrailers.

G. Notwithstanding subsections B and C of this section:

1. A motor vehicle may draw one single axle tow dolly on which a motor vehicle may be transported. A person shall secure the raised end of any motor vehicle being transported pursuant to this paragraph to the tow dolly by two separate

chains, cables or equivalent devices adequate to prevent shifting or separation of the drawn vehicle and the tow dolly. For the purposes of this paragraph, "single axle tow dolly" means a vehicle drawn by a motor vehicle and designed and used exclusively to transport another motor vehicle by which the front or rear wheels of the drawn motor vehicle are mounted on the tow dolly while the other wheels of the drawn motor vehicle remain in contact with the ground.

2. A truck or a truck tractor may draw a trailer or semitrailer that does not exceed a length of fifty-seven feet only on an interstate highway or on a highway that is within ten miles of an interstate highway if the trailer or semitrailer is manufactured in this state and is traveling with or without a load from its place of manufacture to be delivered for use outside this state.

3. A recreational vehicle may pull two units if all of the following conditions are met:

(a) The middle unit is equipped with a fifth wheel and brakes. The middle unit may be a farm vehicle or a horse trailer and shall have a weight equal to or greater than the rear unit.

(b) If the rear unit has a gross weight of three thousand pounds or more, it is equipped with brakes.

(c) The total combined gross weight of the towed units does not exceed the manufacturer's stated gross vehicle weight of the towing unit.

H. For the purposes of this section:

1. "Farm vehicle" has the same meaning prescribed in section 28-2514.

2. "Recreational vehicle" means a motor vehicle that is designed and customarily used for private pleasure, including vehicles commonly called motor homes, pickup trucks with campers and pickup trucks with a fifth wheel trailing device.

**Sec. 2.** Section 28-2153, Arizona Revised Statutes, is amended to read:

**28-2153. Registration requirement; exceptions; assessment; violation; classification**

A. A person shall not operate, move or leave standing on a highway a motor vehicle, trailer or semitrailer unless the motor vehicle, trailer or semitrailer has been registered with the department for the current registration year or is properly registered for the current registration year by the state or country of which the owner or lessee is a resident.

B. A resident shall not operate, move or leave standing on a highway a motor vehicle, trailer or semitrailer that is:

1. Owned by a nonresident and that is primarily under the control of a resident of this state for more than seven months unless the motor vehicle, trailer or semitrailer has been registered with the department for the current registration year.

2. Leased by the resident for more than twenty-nine days unless the motor vehicle, trailer or semitrailer has been registered with the department for the current registration year.

C. This section applies to a trailer or semitrailer without motive power unless the vehicle is disabled or is being towed as an abandoned vehicle at the direction of a law enforcement agency.

D. This section does not apply to:

1. A farm tractor.

2. A trailer used solely in the operation of a farm for transporting the unprocessed fiber or forage products of a farm or any implement of husbandry designed primarily for or used in agricultural operations and only incidentally operated or moved on a highway.

3. A road roller or road machinery, including a power sweeper, that is temporarily operating or moved on the highway.

4. An owner permitted to operate a vehicle under special provisions relating to lienholders, manufacturers, dealers and nonresidents.

5. Motorized or nonmotorized equipment designed primarily for and used in mining operations and only incidentally operated or moved on a highway.

6. A motor vehicle that is being towed by a tow truck that has been registered and for which a permit has been obtained pursuant to section ~~28-1108~~ 41-1830.51.

7. A golf cart used in the operation of a golf course or only incidentally operated or moved on a highway.

8. Wheeled equipment. For the purposes of this paragraph, "wheeled equipment" means:

(a) A compressor.

(b) A forklift or a hay squeeze machine that is designed to load hay in an off-road situation.

(c) A portable cement mixer.

(d) A single axle tow dolly as defined in section 28-1095.

(e) A tar pot.

(f) A water trailer used for watering livestock or for agricultural or domestic purposes.

(g) A welder.

(h) Any other similar item designed and used primarily for construction or building trade purposes.

9. An all-terrain vehicle or an off-road recreational motor vehicle operating on a dirt road that is located in an unincorporated area of this state. For the purposes of this paragraph, "dirt road" means an unpaved or ungraveled road that is not maintained by this state or a city, town or county of this state.

10. A person operating an off-highway vehicle who is participating in an off-highway vehicle special event as defined in section 28-1171.

11. An all-terrain vehicle or an off-highway vehicle as defined in section 28-1171 that is only incidentally operated or moved on a highway.

E. A person who owns or operates a trailer that is exempt from registration pursuant to subsection D, paragraph 2 of this section shall notify the county assessor of the exemption, and the assessor shall assess the trailer.

F. A person who violates subsection E of this section is guilty of a class 2 misdemeanor.

**Sec. 3.** Section 28-3512, Arizona Revised Statutes, is amended to read:

**28-3512. Release of vehicle; civil penalties; definition**

A. An immobilizing or impounding agency shall release a vehicle to the registered owner before the end of the thirty day immobilization or impoundment period under any of the following circumstances:

1. If the vehicle is a stolen vehicle.

2. If the vehicle is subject to bailment and is driven by an employee of a business establishment, including a parking service or repair garage, who is subject to section 28-3511, subsection A, B or C.

3. If the owner was operating the vehicle at the time of removal and either immobilization or impoundment and presents proof satisfactory to the immobilizing or impounding agency that the owner's driving privilege has been reinstated.

4. If all of the following apply:

(a) The owner or the owner's agent was not the person driving the vehicle pursuant to section 28-3511, subsection A.

(b) The owner or the owner's agent is in the business of renting motor vehicles without drivers.

(c) The vehicle is registered pursuant to section 28-2166.

(d) There was a rental agreement in effect at the time of the immobilization or impoundment.

5. For the spouse of the owner or any person who is identified as an owner of the vehicle on the records of the department at the time of removal and either immobilization or impoundment, if the spouse or person was not the driver of the vehicle at the time of removal and either immobilization or impoundment and the spouse or person enters into an agreement with the immobilizing or impounding agency that stipulates that if the spouse or person allows a driver who does not have a valid driving privilege or a driver who commits a violation that causes the spouse's or person's vehicle to be removed and either immobilized or impounded pursuant to this article within one year after any agreement is signed by an immobilizing or impounding agency, the spouse or person will not be eligible to obtain release of the spouse's or person's vehicle before the end of the thirty day immobilization or impoundment period.

B. A vehicle shall not be released pursuant to subsection A of this section except pursuant to an immobilization or a poststorage hearing under section 28-3514 or if all of the following are presented to the immobilizing or impounding agency:

1. The owner's or owner's spouse's currently valid driver license issued by this state or the owner's or owner's spouse's state of domicile.

2. Proof of current vehicle registration or a valid salvage or dismantle certificate of title.

3. Proof that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

4. If the person is required by the department to install a certified ignition interlock device on the vehicle, proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow

access during normal business hours to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall not charge any fee or require compensation for providing access to the vehicle or for the installation of the certified ignition interlock device.

C. The owner or the owner's spouse if the vehicle is released to the owner's spouse is responsible for paying all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to section 28-3513, unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.

D. Before the end of the thirty day immobilization or impoundment period, the immobilizing or impounding agency shall release a vehicle to a person, other than the owner, identified on the department's record as having an interest in the vehicle immediately before the immobilization or impoundment if all of the following conditions are met:

1. The person is either of the following:

(a) In the business of renting motor vehicles without drivers and the vehicle is registered pursuant to section 28-2166.

(b) A motor vehicle dealer, bank, credit union or acceptance corporation or any other licensed financial institution legally operating in this state or is another person who is not the owner and who holds a security interest in the vehicle immediately before the immobilization or impoundment.

2. The person pays all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to section 28-3513 unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.

3. The person presents foreclosure documents or an affidavit of repossession of the vehicle.

4. The person requesting release of the vehicle was not the person driving the vehicle at the time of removal and immobilization or impoundment.

E. Before a person described in subsection D of this section releases the vehicle to the owner who was operating the vehicle at the time of removal and immobilization or impoundment, the person described in subsection D of this section shall require the owner to present and shall retain for a period of at least three years from the date of releasing the vehicle a copy of all of the following:

1. A driver license issued by this state or the owner's or owner's agent's state of domicile.

2. A current vehicle registration or a valid salvage or dismantle certificate of title.

3. Evidence that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

F. The person described in subsection D of this section may require the owner to pay charges that the person incurred in connection with obtaining custody of the vehicle, including all immobilization, towing and storage charges that are related to the immobilization or impoundment of the vehicle and any administrative charges that are established pursuant to section 28-3513.

G. A vehicle shall not be released after the end of the thirty day immobilization or impoundment period unless the owner or owner's agent presents all of the following to the impounding or immobilizing agency:

1. A valid driver license issued by this state or by the owner's or owner's agent's state of domicile.

2. A current vehicle registration or a valid salvage or dismantle certificate of title.

3. Evidence that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

4. If the person is required by the department to install a certified ignition interlock device on the vehicle, proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow access during normal business hours to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall not charge any fee or require compensation for providing access to the vehicle or for the installation of the certified ignition interlock device.

H. The storage charges relating to the impoundment of a vehicle pursuant to this section shall be subject to a contractual agreement between the impounding agency and a towing firm for storage services pursuant to section ~~28-1108~~ 41-1830.51 and shall be fifteen dollars for each day of storage, including any time the vehicle remains in storage after the end of the thirty day impoundment period.

I. The immobilizing or impounding agency shall have no lien or possessory interest in a stolen vehicle if the theft was reported to the appropriate law enforcement agency. The immobilizing or impounding agency shall release the vehicle to the owner or person other than the owner as identified in subsection D of this section even if the operator at the time of immobilization or impoundment has not paid all immobilization, towing, storage and administrative charges.

J. A person who enters into an agreement pursuant to subsection A, paragraph 5 of this section and who allows another person to operate the vehicle in violation of the agreement is responsible for a civil traffic violation and shall pay a civil penalty of at least two hundred fifty dollars.

K. A person described in subsection D, paragraph 1 of this section who violates subsection E of this section is responsible for a civil traffic violation and shall pay a civil penalty of at least two hundred fifty dollars.

L. For the purposes of this section, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

**Sec. 4.** Title 41, chapter 12, Arizona Revised Statutes, is amended by adding article 12, to read:

ARTICLE 12. TOWING SERVICES

**Sec. 5. Transfer and renumber**

Section 28-1108, Arizona Revised Statutes, is transferred and renumbered for placement in title 41, chapter 12, article 12, Arizona Revised Statutes, as section 41-1830.51 and, as so renumbered, is amended to read:

**41-1830.51. Vehicle towing; rules; contractual agreement for towing services; weight exemption**

A. If a vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all weight towed by the vehicle and the drawbar or other connection shall not exceed fifteen feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery or other objects of a structural nature that cannot readily be dismembered. For the purposes of this subsection, "drawbar" means a rigid structure that connects a trailer and a towing vehicle and that articulates at the point of connection with the trailer and articulates at the point of connection with the towing vehicle.

B. If a vehicle is towing another vehicle and the connection consists of a chain, rope or cable, a white flag or cloth at least twelve inches square shall be displayed on the connection.

C. The director ~~of the department of public safety~~ shall:

1. Adopt and enforce rules that are not inconsistent with this ~~chapter~~ ARTICLE to govern the design and operation of all tow trucks.

2. ADOPT GUIDELINES TO PROTECT CONSUMERS AGAINST BEING OVERCHARGED FOR TOWING SERVICES. THE GUIDELINES SHALL SPECIFY THAT A LARGER CLASS OF TOW VEHICLE USED FOR LIGHTER TOWS MUST BE BILLED AT THE LIGHTER DUTY TOWING SERVICE RATES.

D. A person may not operate a tow truck for the purpose of towing vehicles without first registering with the director ~~of the department of public safety~~, obtaining a bond and obtaining a permit pursuant to the rules that govern tow trucks and that are adopted by the department ~~of public safety~~.

E. The director ~~of the department of public safety~~ or a county, city or town may enter into a contractual agreement with a towing firm or firms for towing or storage services, or both. At the time of application for a contractual agreement, a towing firm must disclose in writing the owners of the towing firm and, if the owners own other towing firms that are also applying for the same contractual agreement, the names of those towing firms. The contractual agreement shall comply with this section and all rules adopted under this section. Contracts shall be awarded on the basis of competitive bidding. The director ~~of the department of public safety~~ or a county, city or town shall reserve the right to reject all bids. If only one bid is received, the director ~~of the department of public safety~~ or a county, city or town may reject the bid and negotiate a contract without bidding if the negotiated contract is at a price lower than the bid price under the terms and conditions specified in the call for bids.

F. Except as provided in subsection G of this section, a towing firm may only have one contractual agreement per geographic towing area with the department ~~of public safety~~ or a county, city or town for towing or storage services, or both. If an owner of a towing firm has a common ownership interest in another towing firm or the assets of another towing firm, the owner may not participate in any other application for a contractual agreement within the same geographic towing area.

G. If a towing firm that has a contractual agreement pursuant to this section acquires another towing firm that has a contractual agreement pursuant to this section, both contractual agreements remain valid for one year after the date of the acquisition.

H. Notwithstanding subsection F of this section, an agency may allow a towing firm to use resources from another towing firm if an agency deems the use of those resources is necessary for traffic incident management.

I. The total weight of a tow truck and the towed vehicle is exempt from the maximum total gross weight load allowed under section 28-1100 if a damaged, disabled or abandoned vehicle or vehicle combination is towed.

**Sec. 6.** Title 41, chapter 12, article 12, Arizona Revised Statutes, is amended by adding sections 41-1830.52 and 41-1830.53 to read:

**41-1830.52. Department of public safety contractual agreements; towing; maximum allowable rates**

A. THE DIRECTOR SHALL ESTABLISH THE MAXIMUM ALLOWABLE RATES FOR TOWING VEHICLE CLASSIFICATIONS USED IN DEPARTMENT AGREEMENTS WITH A TOWING FIRM FOR TOWING OR STORAGE SERVICES, OR BOTH.

B. THE DIRECTOR SHALL CONSULT EVERY EVEN-NUMBERED YEAR WITH A STATEWIDE TOWING INDUSTRY ASSOCIATION AND PROVIDERS OF TOWING SERVICES FROM EACH GEOGRAPHICAL TOWING AREA, TO REVIEW INFORMATION, INCLUDING CONTRACT RATES AND THE CURRENT INDUSTRY RETAIL RATES. THE DIRECTOR MAY CONSULT ADDITIONAL STAKEHOLDERS AS NEEDED.

C. PRIOR TO THE EXPIRATION OF AN EXISTING CONTRACT THE DEPARTMENT MAY ADJUST THE TOWING SERVICE FEES TO REFLECT INFORMATION RECEIVED PURSUANT TO SUBSECTION B OF THIS SECTION OR ANY OTHER RELEVANT INFORMATION.

**41-1830.53. Heavy duty rotator recovery vehicle classification; rates and guidelines; definition**

A. THE DEPARTMENT SHALL ESTABLISH A HEAVY DUTY ROTATOR RECOVERY VEHICLE CLASSIFICATION FOR TOWING SERVICES AND ESTABLISH RATES AND GENERAL GUIDELINES FOR THE USE OF HEAVY DUTY ROTATOR RECOVERY VEHICLES.

B. FOR THE PURPOSES OF THIS SECTION, "HEAVY DUTY ROTATOR RECOVERY VEHICLE" MEANS A TOW VEHICLE THAT HAS ALL OF THE FOLLOWING:

1. A MANUFACTURER'S GROSS VEHICLE WEIGHT RATING IN EXCESS OF FIFTY-TWO THOUSAND POUNDS.

2. A BOOM THAT IS CAPABLE OF MOVING ITS POSITION TO THE SIDE OF THE VEHICLE TO PERFORM RECOVERIES AND THAT HAS A BOOM RATING OF AT LEAST FORTY TONS.

3. AIR BRAKES THAT ARE CAPABLE OF PROVIDING AIR TO THE TOWED VEHICLE'S BRAKES.

**Sec. 7. Department of public safety rules; towing services**

The director of the department of public safety shall adopt rules establishing a heavy duty rotator recovery vehicle classification for towing services. The rules shall include rates and general guidelines for the use of heavy duty rotator recovery vehicles and shall define "heavy duty rotator recovery vehicle" as a tow vehicle that has all of the following:

1. A manufacturer's gross vehicle weight rating in excess of fifty-two thousand pounds.

2. A boom that is capable of moving its position to the side of the vehicle to perform recoveries and that has a boom rating of at least forty tons.

3. Air brakes that are capable of providing air to the towed vehicle's brakes.

**Sec. 8. Conditional repeal; notice**

A. Section 41-1830.53, Arizona Revised Statutes, and section 7 of this act are repealed as of the date the department of public safety adopts rules establishing a heavy duty rotator recovery vehicle classification for towing services and rates and general guidelines for the use of heavy duty rotator recovery vehicles, including defining "heavy duty rotator recovery vehicle" as a tow vehicle that has all of the following:

1. A manufacturer's gross vehicle weight rating in excess of fifty-two thousand pounds.

2. A boom that is capable of moving its position to the side of the vehicle to perform recoveries and that has a boom rating of at least forty tons.

3. Air brakes that are capable of providing air to the towed vehicle's brakes.

B. The department of public safety shall notify in writing the director of the Arizona legislative council of this date.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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# DIRECT PAYMENTS TO HEALTH CARE PROVIDERS AND FACILITIES

## CHAPTER 266

## H. B. 2417

**AN ACT AMENDING SECTIONS 32-3216 AND 36-437, ARIZONA REVISED STATUTES; REPEALING LAWS 2013, CHAPTER 202, SECTION 7; RELATING TO DIRECT PAYMENTS TO HEALTH CARE PROVIDERS AND FACILITIES.**

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

**Section 1.** Section 32-3216, Arizona Revised Statutes, is amended to read:

**32-3216. Health care providers; charges; public availability; direct payment; notice; definitions**

A. A health care provider must make available on request or online the direct pay price for at least the twenty-five most commonly provided services, if applicable, for the health care provider. The services may be identified by a common procedural terminology code or by a plain-English description. The direct pay prices must be updated at least annually and must be based on the services from a twelve-month period that occurred within the eighteen-month period preceding the annual update. The direct pay price must be for the standard treatment provided for the service and may include the cost of treatment for complications or exceptional treatment. Health care providers who are owners or employees of a legal entity with fewer than three licensed health care providers are exempt from the requirements of this subsection.

B. Subsection A of this section does not apply to emergency services.

C. The health care services provided by health care providers in veterans administration facilities, health facilities on military bases, Indian health services hospitals and other Indian health service facilities, tribal owned clinics, the Arizona state hospital and any health care facility determined to be exempt pursuant to section 36-437, subsection D, are exempt from the requirements ~~and provisions~~ of this section.

D. Subsection A of this section does not prevent a health care provider from offering either additional discounts or additional lawful health care services for an additional cost to a person or an employer paying directly.

E. A health care provider is not required to report the direct pay prices to a government agency or department or to a government-authorized or government-created entity for review or filing. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care provider's direct pay price for services. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care provider's ability to change the published or posted direct pay price for services.

F. A health care system may not punish a person or employer for paying directly for lawful health care services or a health care provider for accepting direct payment from a person or employer for lawful health care services.

G. Except as provided in subsection ~~J~~ N of this section, a health care provider who receives direct payment from a person or employer for a lawful health care service is deemed paid in full if the entire fee for the service is paid and shall not submit a claim for payment or reimbursement for the service to any health care system. This subsection does not prevent a health care provider from pursuing a health care lien for customary charges pursuant to title 33. This subsection does not affect the ability of a health care provider to submit claims for the same service provided on other occasions to the same or a different person if no direct payment

occurs. This subsection does not require a health care provider to refund or adjust any capitated payment, bundled payment or other form of prepayment or global payment made by a health care system to the health care provider for lawful health care services to be provided by the health care provider for the person who makes, or on whose behalf an employer makes, direct payment to the health care provider.

H. Before a health care provider who is contracted as a network provider for a health care system accepts direct payment from a person or an employer, and the person is an enrollee of the same health care system, the health care provider shall obtain the person's or employer's signature on a notice in a form that is substantially similar to the following:

Important notice about direct payment
for your health care services

The Arizona Constitution permits you to pay a health care provider directly for health care services. Before you make any agreement to do so, please read the following important information:

If you are an enrollee of a health care system (more commonly referred to as a health insurance plan) and your health care provider is contracted with the health insurance plan, the following apply:

1. You may not be required to pay the health care provider directly for the services covered by your plan, except for cost share amounts that you are obligated to pay under your plan, such as copayments, coinsurance and deductible amounts.

2. Your provider's agreement with the health insurance plan may prevent the health care provider from billing you for the difference between the provider's billed charges and the amount allowed by your health insurance plan for covered services.

3. If you pay directly for a health care service, your health care provider will not be responsible for submitting claim documentation to your health insurance plan for that claim. Before paying your claim, your health insurance plan may require you to provide information and submit documentation necessary to determine whether the services are covered under your plan.

4. If you do not pay directly for a health care service, your health care provider may be responsible for submitting claim documentation to your health insurance plan for the health care service.

Your signature below acknowledges that you received this notice before paying directly for a health care service.

I. A health care provider who receives direct payment for a lawful health care service and who complies with subsection H of this section is not responsible for submitting documentation of any kind for purposes of reimbursement to any health care system for that claim if the failure to submit such documentation does not conflict with the terms of any federal or state contracts to which the health care system is a party and the health care provider has agreed to serve patients under or

with applicable state or federal programs in which a health care provider and health care system participate.

J. A HEALTH CARE PROVIDER WHO RECEIVES DIRECT PAYMENT PURSUANT TO THIS SECTION SHALL PROVIDE THE PERSON MAKING THE DIRECT PAYMENT WITH A RECEIPT THAT INCLUDES THE FOLLOWING INFORMATION:

1. THE AMOUNT OF THE DIRECT PAYMENT.

2. THE APPLICABLE PROCEDURE AND DIAGNOSIS CODES FOR THE SERVICES RENDERED.

3. A CLEAR NOTATION THAT THE SERVICES WERE SUBJECT TO DIRECT PAYMENT UNDER THIS SECTION.

K. IF AN ENROLLEE PAYS TO A HEALTH CARE PROVIDER WHO IS AN OUT-OF-NETWORK PROVIDER THE DIRECT PAY PRICE FOR A LAWFUL HEALTH CARE SERVICE THAT IS COVERED UNDER THE ENROLLEE'S HEALTH CARE PLAN, PURSUANT TO THE REQUIREMENTS OF THIS SECTION, THE AMOUNT PAID BY THE ENROLLEE SHALL BE APPLIED FIRST TO THE ENROLLEE'S IN-NETWORK DEDUCTIBLE WITH ANY REMAINING MONIES BEING APPLIED TO THE ENROLLEE'S OUT-OF-NETWORK DEDUCTIBLE, IF APPLICABLE. THE AMOUNT APPLIED TO THE IN-NETWORK DEDUCTIBLE SHALL BE THE AMOUNT PAID DIRECTLY OR THE INSURER'S PREVAILING CONTRACTED COMMERCIAL RATE FOR THE ENROLLEE'S HEALTH CARE PLAN IN THIS STATE FOR THE SERVICE OR SERVICES. IF THE SERVICE OR SERVICES DO NOT MATCH STANDARD CODES OR BUNDLED PAYMENT PROGRAMS IN USE IN THIS STATE BY THE INSURER, THE AMOUNT APPLIED TO THE IN-NETWORK DEDUCTIBLE SHALL BE THE AMOUNT PAID DIRECTLY. FOR THE PURPOSES OF THIS SUBSECTION, "PREVAILING CONTRACTED COMMERCIAL RATE" MEANS THE MOST USUAL AND CUSTOMARY RATE THAT AN INSURER OFFERS AS PAYMENT FOR A SPECIFIC SERVICE UNDER A SPECIFIC HEALTH CARE PLAN, NOT INCLUDING A PLAN OFFERED UNDER MEDICARE OR MEDICAID OR ON A HEALTH INSURANCE EXCHANGE.

L. IF AN ENROLLEE IS ENROLLED IN A HIGH DEDUCTIBLE PLAN THAT QUALIFIES THE ENROLLEE FOR A HEALTH SAVINGS ACCOUNT AS DEFINED IN 26 UNITED STATES CODE SECTION 223, THE HEALTH CARE SYSTEM IS NOT LIABLE IF THE ENROLLEE SUBMITS A CLAIM FOR DEDUCTIBLE APPLICATION OF A DIRECT PAY AMOUNT PURSUANT TO SUBSECTION K OF THIS SECTION THAT JEOPARDIZES THE ENROLLEE'S STATUS AS AN INDIVIDUAL ELIGIBLE FOR FAVORABLE TAX TREATMENT OF THE HEALTH SAVINGS ACCOUNT.

M. THIS SECTION DOES NOT CREATE ANY PRIVATE RIGHT OR CAUSE OF ACTION FOR OR ON BEHALF OF ANY PERSON AGAINST THE HEALTH INSURER. THIS SECTION PROVIDES SOLELY AN ADMINISTRATIVE REMEDY FOR ANY VIOLATION OF THIS SECTION OR ANY RELATED RULE.

~~J.~~ N. This section does not impair the provisions of a health care system's private health care network provider contract, except that a health care provider may accept direct payment from a person or employer or may decline to bill the health care system directly for services paid directly by a person or employer if the health care provider has complied with subsection H of this section and the health care provider's receipt of direct payment and the declination to bill the health care system do not conflict with the terms of any federal or state contract to which the health care system is a party and the health care provider has agreed to serve patients under or with applicable state or federal programs in which both a health care provider and health care system participate.

~~K.~~ O. A health care provider who does not comply with the requirements of this section commits unprofessional conduct. Any disciplinary action taken by the health professional's licensing board may not include revocation of the health care provider's license.

~~L.~~ P. For the purposes of this section:

1. "Direct pay price" means the price that will be charged by a health care provider for a lawful health care service, regardless of the health insurance status of the person, if the entire fee for the service is paid in full directly to a health care provider by the person, including the person's health savings account, or by the person's employer and that does not prohibit a provider from establishing a payment plan with the person paying directly for services.

2. "Emergency services" means lawful health care services needed to evaluate and stabilize an emergency medical condition as defined in 42 United States Code section 1396u-2(b)(2)(C).

3. "Enrollee" means a person who is enrolled in a health care plan provided by a health insurer.

4. "Health care plan" means a policy, contract or evidence of coverage issued to an enrollee. Health care plan does not include limited benefit coverage as defined in section 20-1137.

5. "Health care provider" means a person who is licensed pursuant to chapter 7, 8, 13, 16, 17, 19 or 34 of this title.

6. "Health care system" means a public or private entity whose function or purpose is the management, processing or enrollment of individuals or the payment, in full or in part, of health care services.

7. "Health insurer":

(a) Means a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, medical service corporation or hospital and medical service corporation as defined in title 20.

(b) DOES NOT INCLUDE A GOVERNMENTAL PLAN AS DEFINED IN THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (P.L. 93-406; 88 STAT. 829; 29 UNITED STATES CODE SECTION 1002).

8. "Lawful health care services" means any health-related service or treatment, to the extent that the service or treatment is permitted or not prohibited by law or regulation, that may be provided by persons or businesses otherwise permitted to offer the services or treatments.

9. "Punish" means to impose any penalty, surcharge or named fee with a similar effect that is used to discourage the exercise of rights under this section.

**Sec. 2.** Section 36-437, Arizona Revised Statutes, is amended to read:

**36-437. Health care facilities; charges; public availability; direct payment; notice; definitions**

A. A health care facility with more than fifty inpatient beds must make available on request or online the direct pay price for at least the fifty most used diagnosis-related group codes, if applicable, for the facility and at least the fifty most used outpatient service codes, if applicable, for the facility. The services may be identified by a common procedural terminology code or by a plain-English description. The health care facility must update the direct pay prices at least annually based on the services from a twelve-month period that occurred within the eighteen-month period preceding the annual update. The direct pay price must be for the standard treatment provided for the service and may include the cost of treatment for complications or exceptional treatment.

B. A health care facility with fifty or fewer inpatient beds must make available on request or online the direct pay price for at least the thirty-five most used diagnosis-related group codes, if applicable, for the facility and at least the thirty-five most used outpatient service codes if applicable, for the facility. The services may be identified by a common procedural terminology code or by a plain-English description. The health care facility must update the direct pay prices at least annually based on the services from a twelve-month period that occurred within the eighteen-month period preceding the annual update. The direct pay price must be for the standard treatment provided for the service and may include the cost of treatment for complications or exceptional treatment.

C. Subsections A and B of this section do not apply if a discussion of the direct pay price would be a violation of the federal emergency medical treatment and labor act.

D. Veterans administration facilities, health facilities on military bases, Indian health services hospitals and other Indian health services facilities, tribal owned clinics and the Arizona state hospital are exempt from the requirements ~~and provisions~~ of this section. If the director of the Arizona department of health services determines that a health care facility does not serve the general public, the health care facility shall be exempt from the requirements ~~and provisions~~ of this section if the facility does not serve the general public.

E. Subsections A and B of this section do not prevent a health care facility from offering either additional discounts or additional lawful health care services for an additional cost to a person or an employer paying directly.

F. A health care facility is not required to report the direct pay prices to a government agency or department or to a government-authorized or government-created entity for review. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care facility's direct pay price for services. A government agency or department or government-authorized or government-created entity may not

approve, disapprove or limit a health care facility's ability to change the published or posted direct pay price for services.

G. A health care system may not punish a person or employer for paying directly for lawful health care services or a health care facility for accepting direct payment from a person or employer for lawful health care services.

H. Except as provided in subsection ~~K~~ O of this section, a health care facility that receives direct payment from a person or employer for a lawful health care service is deemed paid in full if the entire fee for the service is paid and shall not submit a claim for payment or reimbursement for the service to any health care system. This subsection does not prevent a health care facility from pursuing a health care lien for customary charges pursuant to title 33. This subsection does not affect the ability of a health care facility to submit claims for the same service provided on other occasions to the same or a different person if no direct payment occurs. This subsection does not require a health care facility to refund or adjust any capitated payment, bundled payment or ~~any~~ other form of prepayment or global payment made by a health care system to the health care facility for lawful health care services to be provided by the health care facility for the person who makes, or on whose behalf an employer makes, direct payment to the health care facility.

I. Before a health care facility that is contracted as a network provider for a health care system accepts direct payment from a person or an employer, and the person is an enrollee of the same health care system, the health care facility shall obtain the person's or employer's signature on a notice in a form that is substantially similar to the following:

Important notice about direct payment
for your health care services

The Arizona Constitution permits you to pay a health care facility directly for health care services. Before you make any agreement to do so, please read the following important information:

If you are an enrollee of a health care system (more commonly referred to as a health insurance plan) and your health care facility is contracted with the health insurance plan, the following apply:

1. You may not be required to pay the health care facility directly for the services covered by your plan, except for cost share amounts that you are obligated to pay under your plan, such as copayments, coinsurance and deductible amounts.

2. Your provider's agreement with the health insurance plan may prevent the health care facility from billing you for the difference between the facility's billed charges and the amount allowed by your health insurance plan for covered services.

3. If you pay directly for a health care service, your health care facility will not be responsible for submitting claim documentation to your health insurance plan for that claim. Before paying your claim, your health insurance plan may require you to provide information and submit documentation necessary to determine whether the services are covered under your plan.

4. If you do not pay directly for a health care service, your health care facility may be responsible for submitting claim documentation to your health insurance plan for the health care service.

Your signature below acknowledges that you received this notice before paying directly for a health care service.

J. A health care facility that receives direct payment for a lawful health care service and that complies with subsection I of this section is not responsible for submitting documentation of any kind for purposes of reimbursement to any health care system for that claim if the failure to submit such documentation does not conflict with the terms of any federal or state contracts to which the health care system is a party and the health care facility has agreed to serve patients under or with applicable state or federal programs in which a health care facility and health care system participate.

K. A HEALTH CARE FACILITY THAT RECEIVES DIRECT PAYMENT PURSUANT TO THIS SECTION SHALL PROVIDE THE PERSON MAKING THE DIRECT PAYMENT WITH A RECEIPT THAT INCLUDES THE FOLLOWING INFORMATION:

1. THE AMOUNT OF THE DIRECT PAYMENT.

2. THE APPLICABLE PROCEDURE AND DIAGNOSIS CODES FOR THE SERVICES RENDERED.

3. A CLEAR NOTATION THAT THE SERVICES WERE SUBJECT TO DIRECT PAYMENT UNDER THIS SECTION.

L. IF AN ENROLLEE PAYS TO A HEALTH CARE FACILITY THAT IS AN OUT-OF-NETWORK PROVIDER THE DIRECT PAY PRICE FOR A LAWFUL HEALTH CARE SERVICE THAT IS COVERED UNDER THE ENROLLEE'S HEALTH CARE PLAN, PURSUANT TO THE REQUIREMENTS OF THIS SECTION, THE AMOUNT PAID BY THE ENROLLEE SHALL BE APPLIED FIRST TO THE ENROLLEE'S IN-NETWORK DEDUCTIBLE WITH ANY REMAINING MONIES BEING APPLIED TO THE ENROLLEE'S OUT-OF-NETWORK DEDUCTIBLE, IF APPLICABLE. THE AMOUNT APPLIED TO THE IN-NETWORK DEDUCTIBLE SHALL BE THE AMOUNT PAID DIRECTLY OR THE INSURER'S PREVAILING CONTRACTED COMMERCIAL RATE FOR THE ENROLLEE'S HEALTH CARE PLAN IN THIS STATE FOR THE SERVICE OR SERVICES. IF THE SERVICE OR SERVICES DO NOT MATCH STANDARD CODES OR BUNDLED PAYMENT PROGRAMS IN USE IN THIS STATE BY THE INSURER, THE AMOUNT APPLIED TO THE IN-NETWORK DEDUCTIBLE SHALL BE THE AMOUNT PAID DIRECTLY. FOR THE PURPOSES OF THIS SUBSECTION, "PREVAILING CONTRACTED COMMERCIAL RATE" MEANS THE MOST USUAL AND CUSTOMARY RATE THAT AN INSURER OFFERS AS PAYMENT FOR A SPECIFIC SERVICE UNDER A SPECIFIC HEALTH CARE PLAN, NOT INCLUDING A PLAN OFFERED UNDER MEDICARE OR MEDICAID OR ON A HEALTH INSURANCE EXCHANGE.

M. IF AN ENROLLEE IS ENROLLED IN A HIGH DEDUCTIBLE PLAN THAT QUALIFIES THE ENROLLEE FOR A HEALTH SAVINGS ACCOUNT AS DEFINED IN 26 UNITED STATES CODE SECTION 223, THE HEALTH CARE SYSTEM IS NOT LIABLE IF THE ENROLLEE SUBMITS A CLAIM FOR DEDUCTIBLE APPLICATION OF A DIRECT PAY AMOUNT PURSUANT TO SUBSECTION L OF THIS SECTION THAT JEOPARDIZES THE ENROLLEE'S STATUS AS AN INDIVIDUAL ELIGIBLE FOR FAVORABLE TAX TREATMENT OF THE HEALTH SAVINGS ACCOUNT.

N. THIS SECTION DOES NOT CREATE ANY PRIVATE RIGHT OR CAUSE OF ACTION FOR OR ON BEHALF OF ANY PERSON AGAINST THE HEALTH INSURER. THIS SECTION PROVIDES SOLELY AN ADMINISTRATIVE REMEDY FOR ANY VIOLATION OF THIS SECTION OR ANY RELATED RULE.

~~K.~~ O. This section does not impair the provisions of a health care system's private health care network provider contract, except that a health care facility may accept direct payment from a person or employer or may decline to bill the health care system directly for services paid directly by a person or employer if the health care facility has complied with subsection I of this section and the health care facility's receipt of direct payment and the declination to bill the health care system do not conflict with the terms of any federal or state contract to which the health care system is a party and the health care facility has agreed to serve patients under or with applicable state or federal programs in which a health care facility and health care system participate.

~~L.~~ P. This section may not prevent the ~~Arizona~~ department of health services from performing an investigation of a health care facility under the department's powers and duties as ~~defined~~ PRESCRIBED in THIS title ~~36~~. If a health care facility fails to comply with this section, the penalty shall not include the revocation of the license to deliver health care services.

~~M.~~ Q. For the purposes of this section:

1. "Direct pay price" means the entire price that will be charged by a health care facility for a lawful health care service, regardless of the health insurance status of the person, if the entire fee for the service is paid in full directly to a health care facility by the person, including the person's health savings account, or by the person's employer and that does not prohibit a facility from establishing a payment plan with the person paying directly for services.

2. "Enrollee" means a person who is enrolled in a health care plan provided by a health insurer.

3. "Health care facility" means a hospital, outpatient surgical center, health care laboratory, diagnostic imaging center or urgent care center.

4. "Health care plan" means a policy, contract or evidence of coverage issued to an enrollee. Health care plan does not include limited benefit coverage as defined in section 20-1137.

5. "Health care provider" means a person who is licensed pursuant to TITLE 32, chapter 7, 8, 13, 16, 17, 19 or 34 ~~of title 32~~.

6. "Health care system" means a public or private entity whose function or purpose is the management, processing or enrollment of individuals or the payment, in full or in part, of health care services.

7. "Health insurer":

(a) Means a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, medical service corporation or hospital and medical service corporation as defined in title 20.

(b) DOES NOT INCLUDE A GOVERNMENTAL PLAN AS DEFINED IN THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (P.L. 93-406; 88 STAT. 829; 29 UNITED STATES CODE SECTION 1002).

8. "Lawful health care services" means any health-related service or treatment, to the extent that the service or treatment is permitted or not prohibited by law or regulation, that may be provided by persons or businesses otherwise permitted to offer the services or treatments.

9. "Punish" means to impose any penalty, surcharge or named fee with a similar effect that is used to discourage the exercise of rights under this section.

**Sec. 3. Repeal**

Laws 2013, chapter 202, section 7 is repealed.

**Sec. 4. Effective date**

Sections 32-3216 and 36-437, Arizona Revised Statutes, as amended by this act, are effective from and after December 31, 2016 and apply to policies, contracts and plans that are issued or renewed from and after December 31, 2016.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 13, 2015.

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## SIMULCAST RACING—PARI-MUTUEL WAGERING

### CHAPTER 267

### S. B. 1041

### AN ACT AMENDING SECTION 5-110, ARIZONA REVISED STATUTES; RELATING TO HORSE AND DOG RACING.

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

**Section 1.** Section 5-110, Arizona Revised Statutes, is amended to read:

**5-110. Racing days, times and allocations; emergency transfer; county fairs; charity days**

A. Permits for horse, harness or dog racing meetings shall be approved and issued for substantially the same dates allotted to permittees for the same type of racing during the preceding year or for other dates that permittees request, provided that, in the event there is a conflict in dates requested between two or more

permittees in the same county for the same kind of racing, the permittee whose application is for substantially the same dates as were allotted to the permittee in the preceding year shall be entitled to have preference over other permittees. In the event two or more permittees have agreed that the dates to be allotted to each of them each year shall be alternated from one year to the next, the commission shall recognize their agreement and those permittees may be accorded preference over any other permittee as to those dates to be allotted to those permittees on an alternating basis. Except as otherwise provided, the commission shall allot dates to the respective permittees after giving due consideration to all of the factors involved and the interests of permittees, the public and this state.

B. The commission may require by the terms of any permit that the permittee offer such number of races during any racing meeting as the commission shall determine, provided that the permittee shall be permitted to offer at least the same number of races each day as offered in the prior year. The commission shall require each horse racing permittee to conduct for a period of thirty days a number of races equal to an average of at least two races for each day of racing exclusively for quarter horses. If, in the opinion of the commission, the permittee is offering acceptable quarter horse races but an honest effort is not being put forth to fill these races by the horsemen, the commission may rescind the two race per day quarter horse requirement.

C. Live racing and wagering on simulcast races shall be permissible in either daytime or nighttime, but, unless otherwise agreed by written contract that is submitted to the department between all the permittees in the same county, there shall be no live daytime dog racing on the same day that there is live daytime horse or harness racing in any county in which commercial horse or harness racing has been conducted prior to February 1, 1971, and no live nighttime horse or harness racing on the same day that there is live nighttime dog racing in the same county. UNLESS OTHERWISE AGREED BY WRITTEN CONTRACT THAT IS SUBMITTED TO THE DEPARTMENT BETWEEN ALL THE PERMITTEES IN THE SAME COUNTY, there shall be no wagering on simulcast dog races before 4:15 p.m., mountain standard time, on the same day that there is live daytime horse or harness racing in any county in which commercial horse or harness racing has been conducted before February 1, 1971, and no wagering on simulcast horse or harness racing after 7:30 p.m., mountain standard time, on the same day that there is live nighttime dog racing in the same county. The hours during which any other dog, harness or horse racing is to be conducted shall be determined by the commission. The application for a permit shall state the exact days on which racing will be held and the time of day during which racing will be conducted.

D. If the commission determines that an emergency has obligated or may obligate a permittee to discontinue racing at a location, the commission may authorize the permittee to transfer racing for the number of days lost to any other location.

E. A racing meeting, when operated by a county fair racing association or under lease during the county fair to any individual, corporation or association, shall not come under the limitation placed on days of racing in this section.

F. The department shall be the judge of whether a county fair racing meeting is being operated pursuant to this section. A county fair racing meeting conducted by an individual, corporation or association, other than the properly authorized county fair racing association, shall come under the general provisions of this article the same as a commercial meeting. Notwithstanding this subsection, a county fair racing meeting, whether conducted by a county fair racing association or by an individual, corporation or association other than a county fair racing association, is exempt from the requirement prescribed in section 5-111 to pay to the state a percentage of the pari-mutuel pool collected at the meeting.

G. The commission may allow a permittee, in addition to the days specified in this permit, to operate up to three racing days during any one meeting as charity days. From the amount deducted from the total handled in the pari-mutuel pool on charity days, the permittee shall deduct an amount equal to the purses and the cost of conducting racing on these days, and shall donate the balance to nonprofit organizations and corporations that benefit the general public, that are engaged in charitable, benevolent and other like work and that are selected by the permittee and approved by the department. In no event shall the amount given to charity from charity racing days be less than the amount that otherwise would have gone to this state as the state's share on a noncharity racing day.

H. Notwithstanding any other provision of this chapter, any dog racing permittee to which a permit to conduct dog racing in this state has been issued may in any racing year modify the racing date allocations made to the permittee for conducting dog racing at a track by reallocating up to two-thirds of the racing dates allocated to that permittee for dog racing at a track to another track in this state at which the permittee or a corporation of common ownership to the permittee conducts dog racing. For the purpose of this section, a corporation of common ownership to the permittee is a corporation that is owned or controlled, directly or indirectly, by the same corporation that owns or controls the permittee and that holds a permit to conduct dog racing in this state.

I. Notwithstanding any other provision of this article, any dog racing permittee that has offered live dog racing in eight out of ten calendar years from 1980 to 1990 in counties that have a population of less than five hundred thousand persons shall be considered as operating a racetrack enclosure for all purposes under this article and shall not be required to conduct live racing as a condition of that permittee's racing permit. Any permittee qualified under this subsection may conduct wagering on telecasts of races conducted at racetrack enclosures within this state or at racetrack enclosures outside this state without offering live racing at that permittee's racetrack enclosure.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# POLITICAL SUBDIVISIONS—FINANCIAL REPORTING

## CHAPTER 268

## S. B. 1066

**AN ACT AMENDING SECTION 9-481, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-661; AMENDING SECTIONS 15-1473, 41-1279.07 AND 42-17103, ARIZONA REVISED STATUTES; RELATING TO POLITICAL SUBDIVISION FINANCIAL REPORTING.**

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

**Section 1.** Section 9-481, Arizona Revised Statutes, is amended to read:

**9-481. Audits of cities and towns; posting; budget**

A. The governing body of each incorporated city or town shall cause an audit to be made by a certified public accountant or public accountant who is currently licensed by the Arizona state board of accountancy and who is not an employee of the city or town. Audits shall be made for each fiscal year for all incorporated cities. Audits shall be made at least once for every two fiscal years for all incorporated towns, and the audit shall include financial transactions during both fiscal years.

B. The audit and the audit report shall include all of the accounts and funds of the city or town, including operating, special, utility, debt, trust,~~-~~ AND pension, and all other money or property for which the city or town, or any department or officer of the city or town, is responsible either directly or indirectly. The audits shall be made in accordance with generally accepted auditing standards. The consequent audit report shall contain financial statements that are in conformity with generally accepted municipal accounting principles and shall set forth the financial position and results of the operations for each fund and account of the city or town. The audit report shall also include the following:

1. The professional opinion of the accountant or accountants with respect to the financial statements or, if an opinion cannot be expressed, a declaration of the reasons an opinion cannot be expressed.

2. ~~Beginning with fiscal year 2003-2004,~~ A determination as to whether highway user revenue fund monies received by the city or town pursuant to title 28, chapter 18, article 2 and any other dedicated state transportation revenues received by the city or town are being used solely for the authorized transportation purposes.

C. The audit shall begin as soon as possible after the close of the fiscal year, although interim auditing may be performed during the year or years under audit. The audit shall be completed and the final audit report shall be submitted within six months after the close of the fiscal year or years audited.

D. ~~Not less than three~~ AT LEAST FOUR copies of the audit report shall be signed by the auditor and filed with the city or town. The city or town shall immediately DO THE FOLLOWING:

1. Make one copy of the report a public record ~~which shall be~~ THAT IS open to the public for inspection. ~~and~~

2. FILE ONE COPY OF THE REPORT WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07, SUBSECTION C.

3. SUBMIT one copy ~~shall be deposited with the Arizona state library, archives and public records~~ OF THE REPORT TO THE SECRETARY OF STATE.

E. THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07, INCLUDING THE AUDIT REPORT, MUST BE POSTED IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE OF THE CITY OR TOWN NO LATER THAN SEVEN BUSINESS DAYS AFTER THE DATE OF FILING THE FINANCIAL STATEMENTS WITH THE AUDITOR GENERAL. THE FINANCIAL STATEMENTS MUST BE RETAINED AND ACCESSIBLE IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE FOR AT LEAST SIXTY MONTHS. IF THE FINANCIAL STATEMENTS ARE NOT FILED PURSUANT TO SECTION 41-1279.07, THE FORM AS PRESCRIBED BY SUBSECTION F OF THIS SECTION SHALL BE POSTED ON THE WEBSITE OF THE CITY OR TOWN IN PLACE OF THE FINANCIAL STATEMENTS UNTIL THE FINANCIAL STATEMENTS ARE FILED.

F. IF THE FINANCIAL STATEMENTS FOR A CITY OR TOWN ARE NOT COMPLETED AND FILED AS PRESCRIBED BY SECTION 41-1279.07 ON OR BEFORE THE ADOPTION OF THE CITY OR TOWN BUDGET IN THE SUBSEQUENT FISCAL YEAR, THE GOVERNING BODY SHALL INCLUDE A FORM, AS PRESCRIBED BY THE AUDITOR GENERAL, IN THE PUBLISHED BUDGET IN THE SUBSEQUENT FISCAL YEAR PURSUANT TO SECTIONS 42-17103 AND 42-17105 STATING THAT THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07 ARE PENDING, THE REASONS FOR THE DELAY AND THE ESTIMATED DATE OF COMPLETION.

G. IF THE GOVERNING BODY OF A CITY OR TOWN IS REQUIRED TO COMPLETE THE FORM AS PRESCRIBED BY SUBSECTION F OF THIS SECTION, THE GOVERNING BODY SHALL SEND A COPY OF THE FORM TO THE AUDITOR GENERAL, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE.

**Sec. 2.** Title 11, chapter 4, article 3, Arizona Revised Statutes, is amended by adding section 11-661, to read:

**11-661. Posting of financial statements; budget**

A. THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07 MUST BE POSTED IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE OF THE COUNTY NO LATER THAN SEVEN BUSINESS DAYS AFTER THE DATE OF FILING THE FINANCIAL STATEMENTS WITH THE AUDITOR

GENERAL. THE FINANCIAL STATEMENTS MUST BE RETAINED AND ACCESSIBLE IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE FOR AT LEAST SIXTY MONTHS. IF THE FINANCIAL STATEMENTS ARE NOT FILED PURSUANT TO SECTION 41-1279.07, THE FORM AS PRESCRIBED BY SUBSECTION B OF THIS SECTION SHALL BE POSTED ON THE WEBSITE OF THE COUNTY IN PLACE OF THE FINANCIAL STATEMENTS UNTIL THE FINANCIAL STATEMENTS ARE FILED.

B. IF THE FINANCIAL STATEMENTS FOR A COUNTY ARE NOT COMPLETED AND FILED AS PRESCRIBED BY SECTION 41-1279.07 ON OR BEFORE THE ADOPTION OF THE COUNTY BUDGET IN THE SUBSEQUENT FISCAL YEAR, THE BOARD OF SUPERVISORS MUST INCLUDE A FORM, PRESCRIBED BY THE AUDITOR GENERAL, IN THE PUBLISHED BUDGET IN THE SUBSEQUENT FISCAL YEAR PURSUANT TO SECTIONS 42-17103 AND 42-17105 STATING THAT THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07 ARE PENDING, THE REASONS FOR THE DELAY AND THE ESTIMATED DATE OF COMPLETION.

C. IF THE BOARD OF SUPERVISORS OF A COUNTY IS REQUIRED TO COMPLETE THE FORM AS PRESCRIBED BY SUBSECTION B OF THIS SECTION, THE BOARD OF SUPERVISORS SHALL SEND A COPY OF THE FORM TO THE AUDITOR GENERAL, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE.

**Sec. 3.** Section 15-1473, Arizona Revised Statutes, is amended to read:

**15-1473. Uniform system of accounting for community college districts; duties of auditor general; posting; budget**

A. The auditor general shall determine the accounting systems, accounting methods and accounting procedures for use by the community college districts.

B. The auditor general, in conjunction with the community college districts, shall prescribe a uniform system of accounting as provided in section 41-1279.21 for use by all community college districts.

C. THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07 MUST BE POSTED IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE OF THE COMMUNITY COLLEGE DISTRICT NO LATER THAN SEVEN BUSINESS DAYS AFTER THE DATE OF FILING THE FINANCIAL STATEMENTS WITH THE AUDITOR GENERAL. THE FINANCIAL STATEMENTS MUST BE RETAINED AND ACCESSIBLE IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE FOR AT LEAST SIXTY MONTHS. IF THE FINANCIAL STATEMENTS ARE NOT FILED PURSUANT TO SECTION 41-1279.07, THE FORM AS PRESCRIBED BY SUBSECTION D OF THIS SECTION SHALL BE POSTED ON THE WEBSITE OF THE COMMUNITY COLLEGE DISTRICT IN PLACE OF THE FINANCIAL STATEMENTS UNTIL THE FINANCIAL STATEMENTS ARE FILED.

D. IF THE FINANCIAL STATEMENTS FOR A COMMUNITY COLLEGE DISTRICT ARE NOT COMPLETED AND FILED AS PRESCRIBED

BY SECTION 41-1279.07 ON OR BEFORE THE ADOPTION OF THE COMMUNITY COLLEGE DISTRICT BUDGET IN THE SUBSEQUENT FISCAL YEAR, THE BOARD OF DIRECTORS MUST INCLUDE A FORM, PRESCRIBED BY THE AUDITOR GENERAL, IN THE PUBLISHED BUDGET IN THE SUBSEQUENT FISCAL YEAR PURSUANT TO SECTION 15-1461 STATING THAT THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07 ARE PENDING, THE REASONS FOR THE DELAY AND THE ESTIMATED DATE OF COMPLETION.

E. IF THE COMMUNITY COLLEGE DISTRICT BOARD OF DIRECTORS IS REQUIRED TO COMPLETE THE FORM AS PRESCRIBED BY SUBSECTION D OF THIS SECTION, THE BOARD OF DIRECTORS SHALL SEND A COPY OF THE FORM TO THE AUDITOR GENERAL, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE.

**Sec. 4.** Section 41-1279.07, Arizona Revised Statutes, is amended to read:

**41-1279.07. Uniform expenditure reporting system; reports by counties, community college districts, cities and towns; certification and attestation; assistance by auditor general; violation; classification**

A. The auditor general shall prescribe a uniform expenditure reporting system for all political subdivisions subject to the constitutional expenditure limitations prescribed by article IX, sections 20 and 21, Constitution of Arizona. The system shall include:

1. For counties:

(a) An annual expenditure limitation report that includes at least the following information:

(i) The expenditure limitation established for the reporting fiscal year by the economic estimates commission.

(ii) Total expenditures, by fund, for the reporting fiscal year.

(iii) Total exclusions from local revenues, as defined by article IX, section 20, Constitution of Arizona, by fund, for the reporting fiscal year.

(iv) Total amounts, by fund, of expenditures subject to the expenditure limitation for the reporting fiscal year.

(b) Annual financial statements prepared in accordance with generally accepted accounting principles.

(c) A reconciliation of the total expenditures reported within the financial statements to the total expenditures stated within the expenditure limitation report.

2. For community college districts:

(a) An annual budgeted expenditure limitation report that includes at least the following information:

(i) The expenditure limitation established for the reporting fiscal year by the economic estimates commission.

(ii) Total budgeted expenditures, by fund, for the reporting fiscal year.

(iii) Total exclusions from local revenues, as defined by article IX, section 21, Constitution of Arizona, by fund, for the reporting fiscal year.

(iv) Total amounts, by fund, of budgeted expenditures subject to the expenditure limitation for the reporting fiscal year.

(b) Annual financial statements prepared in accordance with generally accepted accounting principles.

(c) A reconciliation of the total expenditures reported within the financial statements to the total expenditures reported within the expenditure limitation report.

3. For cities and towns:

(a) An annual expenditure limitation report that includes at least the following information:

(i) The expenditure limitation established for the reporting fiscal year by the economic estimates commission and, if applicable, the voter approved alternative expenditure limitation.

(ii) Total expenditures, by fund, for the reporting fiscal year.

(iii) Total exclusions from local revenues, as defined by article IX, section 20, Constitution of Arizona, by fund, for the reporting fiscal year or, if applicable, the total exclusions from the voter approved alternative expenditure limitation.

(iv) Total amounts, by fund, of expenditures subject to the expenditure limitation for the reporting fiscal year.

(b) Financial statements prepared in accordance with generally accepted accounting principles.

(c) A reconciliation of the total expenditures reported within the financial statements to the total expenditures reported within the expenditure limitation report.

B. The auditor general shall provide detailed instructions for completion and submission of the reports described in subsection A of this section. The auditor general shall prescribe definitions for terms utilized in and the form of the reports described in subsection A of this section. The reports described in subsection A of this section are required of counties and community college districts beginning with fiscal year 1981-1982. The reports described in subsection A of this section are required of cities and towns beginning with the fiscal year the political subdivision is subject to the expenditure limitation. The annual reporting requirements also apply to political subdivisions subject to an alternative expenditure limitation enacted pursuant to article IX, section 20, subsection (9), Constitution of Arizona.

C. The reports described in subsection A of this section must be filed with the auditor general within ~~four~~ NINE months after the close of each fiscal year. ~~Upon written request, the auditor general may grant up to a one hundred twenty day extension, if extenuating circumstances exist that prevent submission of the reports within the required four month period.~~

D. The auditor general or a certified public accountant or public accountant performing the annual audit required pursuant to sections 41-1279.21 and 9-481 shall attest to the expenditure limitation reports and financial statements for counties, community college districts and cities. The certified public accountant or public accountant performing the annual or biennial audit required pursuant to section 9-481 shall attest to the expenditure limitation reports and financial statements for towns.

E. Each political subdivision shall provide to the auditor general by July 31 each year the name of the chief fiscal officer designated by the governing board of the political subdivision to submit the current fiscal year's expenditure limitation report. The political subdivision shall notify the auditor general of any changes of individuals designated to file the required reports. The designated chief fiscal officer shall certify to the accuracy of the annual expenditure limitation report.

F. The auditor general shall prescribe forms for the uniform reporting system and may provide assistance to individuals, certified public accountants or public accountants responsible for attesting to the expenditure limitation reports and financial statements.

G. A chief fiscal officer, designated pursuant to subsection E of this section, who subsequent to July 1, 1983 refuses to file the reports required by this section within the prescribed time periods or who intentionally files erroneous reports is guilty of a class 1 misdemeanor. A city or town exceeding the expenditure limitation prescribed or authorized pursuant to article IX, section 20, Constitution of Arizona, for any fiscal year, without authorization pursuant to such section, shall have the amount specified in subsection H of this section of its allocations of the state income tax, distributed pursuant to section 43-206, withheld and redistributed to other cities and towns in the same manner as determined pursuant to that section, except that the population of the city or town exceeding the expenditure limitation shall not be included in the computation, and the city or town exceeding the expenditure limitation shall not be entitled to share in the redistribution. A community college district exceeding the expenditure limitation prescribed pursuant to article IX, section 21, Constitution of Arizona, for any fiscal year, without authorization pursuant to such section or section 15-1471, shall have the amount specified in subsection H of this section of its allocations of state aid, distributed pursuant to section 15-1466, withheld.

H. The auditor general shall hold a hearing to determine if any political subdivision has exceeded the expenditure limitations prescribed pursuant to article IX, sections 20 and 21, Constitution of Arizona. If a county has exceeded the expenditure limitations prescribed pursuant to article IX, section 20, Constitution of Arizona, without authorization pursuant to that section, the auditor general shall notify the board of supervisors of the county to reduce the allowable levy of primary property taxes of the county pursuant to section 42-17051, subsection C. If any political subdivision other than a county has exceeded the expenditure limitations prescribed pursuant to article IX, sections 20 and 21, Constitution of Arizona, without authorization, the auditor general shall notify the state treasurer to withhold a portion of the political subdivision's allocations of the revenues described in subsection G of this section for the fiscal year subsequent to the auditor general's hearing as follows:

1. If the excess expenditures are less than five ~~per cent~~ PERCENT of the limitation, an amount equal to the excess expenditures.

2. If the excess expenditures are equal to or greater than five ~~per cent~~ PERCENT but less than ten ~~per cent~~ PERCENT of the limitation, or are less than five ~~per cent~~ PERCENT of the limitation but it is at least the second consecutive instance of excess expenditures, an amount equal to triple the excess expenditures.

3. If the excess expenditures are equal to or greater than ten ~~per cent~~ PERCENT of the limitation, an amount equal to five times the excess expenditures or one-third of the allocation of the revenues described in subsection G of this section, whichever is less.

I. A county, city or town is not deemed to have exceeded the expenditure limitation if the county, city or town makes expenditures for capital improvements from utility revenues pursuant to title 9, chapter 5, article 3 or from excise taxes levied by the county, city or town for a specific purpose and the county, city or town repays the expenditure from the proceeds of bonds or other lawful long-term obligations before the hearing required by subsection H of this section.

**Sec. 5.** Section 42-17103, Arizona Revised Statutes, is amended to read:

**42-17103. Public access to estimates of revenues and expenses; notice of public hearing; access to adopted budget**

A. The governing body of each county, city or town shall publish the estimates of revenues and expenses, or a summary of the estimates of revenues and expenses, and a notice of a public hearing of the governing body to hear taxpayers and make tax levies at designated times and places. The summary shall set forth the total estimated revenues and expenditures by fund type, truth in taxation calculations and primary and secondary property tax levies for all districts. A complete copy of the estimates of revenues and expenses shall be made available at the city, town or county libraries and city, town or county administrative offices and shall be posted in a prominent location on the official ~~websites, or on a website of an association of cities and towns for cities and towns that do not have official websites,~~ WEBSITE OF THE CITY, TOWN OR COUNTY no later than seven business days after the estimates of revenues and expenses are initially presented before the governing body. A complete copy of the budget finally adopted under section 42-17105 shall be posted in a prominent location on the official websites no later than seven business days after final adoption.

B. Beginning with fiscal year 2011-2012, both the estimates of revenues and expenses initially presented before the governing body and the budget finally adopted under section 42-17105 shall be retained and accessible in a prominent location on the official ~~websites, or on a website of an association of cities and towns for cities and towns that do not have official websites,~~ WEBSITE OF THE CITY, TOWN OR COUNTY for at least sixty months.

C. The summary of estimates and notice, together with the library addresses and websites where the complete copy of estimates may be found, shall be published once a week for at least two consecutive weeks after the estimates are tentatively adopted in the official newspaper of the county, city or town, if there is one, and, if not, in a newspaper of general circulation in the county, city or town.

D. If a truth in taxation notice and hearing is required under section 42-17107, the governing body may combine the notice under this section with the truth in taxation notice.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

# COMMUNITY RESTITUTION—FINES

## CHAPTER 269

## S. B. 1116

**AN ACT AMENDING SECTION 13-810, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-824; AMENDING SECTION 28-1389, ARIZONA REVISED STATUTES; RELATING TO RESTITUTION AND FINES.**

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

**Section 1.** Section 13-810, Arizona Revised Statutes, is amended to read:

**13-810. Consequences of nonpayment of fines, fees, restitution or incarceration costs**

A. In addition to any other remedy provided by law, including a writ of execution or other civil enforcement, if a defendant who is sentenced to pay a fine, a fee or incarceration costs defaults in the payment of the fine, fee or incarceration costs or of any installment as ordered, the clerk of the court imposing the fine, fee or incarceration costs shall notify the prosecutor and the sentencing court. The court, on motion of the prosecuting attorney or on its own motion, shall require the defendant to show cause why the defendant's default should not be treated as contempt and may issue a summons or a warrant of arrest for the defendant's appearance.

B. In addition to any other remedy provided by law, including a writ of execution or other civil enforcement, if a defendant who is ordered to pay restitution defaults in the payment of the restitution or of any installment as ordered, the clerk of the court that imposed the restitution shall notify the prosecutor and the sentencing court on a monthly basis. The court, on motion of the prosecuting attorney, on petition of any person entitled to restitution pursuant to a court order or on its own motion, shall require the defendant to show cause why the defendant's default should not be treated as contempt and may issue a summons or a warrant of arrest for the defendant's appearance.

C. At any hearing on the order to show cause the court, the prosecuting attorney or a person entitled to restitution may examine the defendant under oath concerning the defendant's financial condition, employment and assets or on any other matter relating to the defendant's ability to pay restitution.

D. If the court finds that the defendant has wilfully failed to pay a fine, a fee, restitution or incarceration costs or finds that the defendant has intentionally refused to make a good faith effort to obtain the monies required for the payment, the court shall find that the default constitutes contempt and may do one of the following:

1. Order the defendant incarcerated in the county jail until the fine, fee, restitution or incarceration costs, or a specified part of the fine, fee, restitution or incarceration costs, is paid.

2. Revoke the defendant's probation, parole or community supervision and sentence the defendant to prison pursuant to law.

3. Enter an order pursuant to section 13-812. The levy or execution for the collection of a fine, a fee, restitution or incarceration costs does not discharge a defendant who is incarcerated for nonpayment of the fine, fee, restitution or incarceration costs until the amount of the fine, fee, restitution or incarceration costs is collected.

4. ORDER THE DEFENDANT TO PERFORM COMMUNITY RESTITUTION.

E. If the court finds that the default is not wilful and that the defendant cannot pay despite sufficient good faith efforts to obtain the monies, the court may take any lawful action including:

1. Modify the manner in which the restitution, fine, fee or incarceration costs are to be paid.

2. Enter any reasonable order that would assure compliance with the order to pay.

3. Enter an order pursuant to section 13-812. The levy or execution for the collection of a fine, a fee, restitution or incarceration costs does not discharge a defendant incarcerated for nonpayment of the fine, fee, restitution or incarceration costs until the amount of the fine, fee, restitution or incarceration costs is collected.

F. If a fine, a fee, restitution or incarceration costs are imposed on an enterprise it is the duty of the person or persons authorized to make disbursement from the assets of the enterprise to pay them from those assets, and their failure to do so shall be held a contempt unless they make the showing required in subsection A or B of this section.

**Sec. 2.** Title 13, chapter 8, Arizona Revised Statutes, is amended by adding section 13-824, to read:

**13-824. Community restitution in lieu of fines, fees or incarceration costs**

NOTWITHSTANDING ANY OTHER LAW, IN A MUNICIPAL OR JUSTICE COURT, IF A DEFENDANT IS SENTENCED TO PAY A FINE, A FEE, ASSESSMENT OR INCARCERATION COSTS AND THE COURT FINDS THE DEFENDANT IS UNABLE TO PAY ALL OR PART OF THE FINE, FEE, ASSESSMENT OR INCARCERATION COSTS, THE COURT MAY ORDER THE DEFENDANT TO PERFORM COMMUNITY RESTITUTION IN LIEU OF THE PAYMENT FOR ALL OR PART OF THE FINE, FEE, ASSESSMENT OR INCARCERATION COSTS. THE AMOUNT OF COMMUNITY RESTITUTION SHALL BE EQUIVALENT TO THE AMOUNT OF THE FINE, FEE OR INCARCERATION COSTS BY CREDITING ANY SERVICE PERFORMED AT A RATE OF TEN DOLLARS PER HOUR.

**Sec. 3.** Section 28-1389, Arizona Revised Statutes, is amended to read:

**28-1389. Waiver of fine, surcharge or assessment**

~~Notwithstanding any other law,~~ The court shall not waive a fine or assessment imposed pursuant to this article or a surcharge imposed pursuant to section 12-116.01 or 12-116.02 for a conviction of an offense listed in this article.

**Sec. 4. Effective date**

This act is effective from and after December 31, 2015.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## RESIDENTIAL LANDLORD AND TENANT ACT—GUEST REMOVAL

### CHAPTER 270

### S. B. 1185

**AN ACT AMENDING TITLE 33, CHAPTER 10, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1378; RELATING TO RESIDENTIAL TENANTS.**

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

**Section 1.** Title 33, chapter 10, article 4, Arizona Revised Statutes, is amended by adding section 33-1378, to read:

**33-1378. Removal of guest; notice**

A PERSON WHO IS A GUEST OF A TENANT WHO IS NOT NAMED ON A WRITTEN LEASE AND WHO REMAINS ON THE PREMISES WITHOUT THE PERMISSION OF THE TENANT OR THE LANDLORD IS NOT A LAWFUL TENANT AND THAT PERSON'S PRESENCE IN OR ON THE PREMISES DOES NOT CONSTITUTE RESIDENCY OR TENANCY. A PERSON WHO KNOWINGLY REMAINS ON THE PREMISES WITHOUT THE PERMISSION OF THE TENANT OR THE LANDLORD MAY BE REMOVED BY A LAW ENFORCEMENT OFFICER AT THE REQUEST OF THE TENANT OR THE LANDLORD WHO IS ENTITLED TO POSSESSION OF THE PREMISES.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# PROHIBITION ON REGULATION—AUXILIARY CONTAINERS—ENERGY MEASURING AND REPORTING

## CHAPTER 271

## S. B. 1241

**AN ACT AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.34; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.13; RELATING TO ENERGY REGULATORY PROHIBITION.**

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

**Section 1.** Title 9, chapter 4, article 8, Arizona Revised Statutes, is amended by adding section 9-500.34, to read:

**9-500.34. Prohibition on requirement of energy measuring and reporting; prohibition on regulation of auxiliary containers; state preemption; legislative findings; definition**

A. A CITY OR TOWN MAY NOT:

1. REQUIRE AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY TO MEASURE AND REPORT ENERGY USAGE AND CONSUMPTION, INCLUDING ENERGY CONSUMPTION BENCHMARKING AND BUILDING FACILITY ENERGY EFFICIENCY AUDITS.

2. IMPOSE A TAX, FEE, ASSESSMENT, CHARGE OR RETURN DEPOSIT ON A CONSUMER OR AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY FOR AUXILIARY CONTAINERS.

3. REGULATE THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY.

B. THE REGULATION OF AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY RELATING TO MEASURING AND REPORTING ENERGY USE AND CONSUMPTION AND THE SALE, USE AND DISPOSITION OF AUXILIARY CONTAINERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF MEASURING AND REPORTING ENERGY USE AND CONSUMPTION BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY AND THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY PURSUANT TO THIS

SECTION ARE NOT SUBJECT TO FURTHER REGULATION BY A CITY OR TOWN.

C. THE LEGISLATURE FINDS THAT SMALL BUSINESSES ARE PARTICULARLY SENSITIVE TO COSTS AND EXPENSES INCURRED IN COMPLYING WITH REGULATORY ACTIONS OF A CITY OR TOWN. THE LEGISLATURE FURTHER FINDS THAT INCONSISTENT REGULATION BY CITIES AND TOWNS HINDERS A SMALL BUSINESS FROM BENEFITING FROM FREE AND OPEN COMPETITION.

D. THIS SECTION DOES NOT PREVENT A CITY OR TOWN FROM CONTINUING A VOLUNTARY RECYCLING AND WASTE REDUCTION PROGRAM AS AUTHORIZED BY SECTION 9-500.07 OR ENSURING THAT DISCARDED AUXILIARY CONTAINERS DEFINED AS SOLID WASTE PURSUANT TO SECTION 49-701.01 ARE DISPOSED OF PROPERLY.

E. FOR THE PURPOSES OF THIS SECTION, "AUXILIARY CONTAINER" INCLUDES REUSABLE BAGS, DISPOSABLE BAGS, BOXES, BEVERAGE CANS, BOTTLES, CUPS AND CONTAINERS THAT ARE MADE OUT OF CLOTH, PLASTIC, EXTRUDED POLYSTYRENE, GLASS, ALUMINUM, CARDBOARD OR OTHER SIMILAR MATERIALS AND THAT ARE USED FOR TRANSPORTING MERCHANDISE OR FOOD TO OR FROM A BUSINESS OR MULTIFAMILY HOUSING PROPERTY. AUXILIARY CONTAINER DOES NOT INCLUDE A STATIONARY RECEPTACLE INTENDED SOLELY FOR USE BY THE PUBLIC FOR VOLUNTARY DONATION OF GOODS AND MATERIALS INTENDED FOR SUBSEQUENT REUSE, SALE OR RECYCLING.

**Sec. 2.** Title 11, chapter 2, article 4, Arizona Revised Statutes, is amended by adding section 11-269.13, to read:

**11-269.13. Prohibition on requirement of energy measuring and reporting; prohibition on regulation of auxiliary containers; state preemption; legislative findings; definition**

A. A COUNTY MAY NOT:

1. REQUIRE AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY TO MEASURE AND REPORT ENERGY USAGE AND CONSUMPTION, INCLUDING ENERGY CONSUMPTION BENCHMARKING AND BUILDING FACILITY ENERGY EFFICIENCY AUDITS.

2. IMPOSE A TAX, FEE, ASSESSMENT, CHARGE OR RETURN DEPOSIT ON A CONSUMER OR AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY FOR AUXILIARY CONTAINERS.

3. REGULATE THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY.

B. THE REGULATION OF AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING

PROPERTY RELATING TO MEASURING AND REPORTING ENERGY USE AND CONSUMPTION AND THE SALE, USE AND DISPOSITION OF AUXILIARY CONTAINERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF MEASURING AND REPORTING ENERGY USE AND CONSUMPTION BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY AND THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY PURSUANT TO THIS SECTION ARE NOT SUBJECT TO FURTHER REGULATION BY A COUNTY.

C. THE LEGISLATURE FINDS THAT SMALL BUSINESSES ARE PARTICULARLY SENSITIVE TO COSTS AND EXPENSES INCURRED IN COMPLYING WITH REGULATORY ACTIONS OF A COUNTY. THE LEGISLATURE FURTHER FINDS THAT INCONSISTENT REGULATION BY COUNTIES HINDERS A SMALL BUSINESS FROM BENEFITING FROM FREE AND OPEN COMPETITION.

D. THIS SECTION DOES NOT PREVENT A COUNTY FROM CONTINUING A VOLUNTARY RECYCLING AND WASTE REDUCTION PROGRAM AS AUTHORIZED BY SECTION 11-269 OR ENSURING THAT DISCARDED AUXILIARY CONTAINERS DEFINED AS SOLID WASTE PURSUANT TO SECTION 49-701.01 ARE DISPOSED OF PROPERLY.

E. FOR THE PURPOSES OF THIS SECTION, "AUXILIARY CONTAINER" INCLUDES REUSABLE BAGS, DISPOSABLE BAGS, BOXES, BEVERAGE CANS, BOTTLES, CUPS AND CONTAINERS THAT ARE MADE OUT OF CLOTH, PLASTIC, EXTRUDED POLYSTYRENE, GLASS, ALUMINUM, CARDBOARD OR OTHER SIMILAR MATERIALS AND THAT ARE USED FOR TRANSPORTING MERCHANDISE OR FOOD TO OR FROM A BUSINESS OR MULTIFAMILY HOUSING PROPERTY. AUXILIARY CONTAINER DOES NOT INCLUDE A STATIONARY RECEPTACLE INTENDED SOLELY FOR USE BY THE PUBLIC FOR VOLUNTARY DONATION OF GOODS AND MATERIALS INTENDED FOR SUBSEQUENT REUSE, SALE OR RECYCLING.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## SCHOOLS—TEACHER EXPERIENCE INDEX—UNDERSTATEMENT

### CHAPTER 272

### S. B. 1259

**AN ACT PROVIDING FOR THE SUBMISSION OF CORRECTED DATA TO THE TEACHER EXPERIENCE INDEX.**

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

**Section 1. School districts; teacher experience index; submission of corrected data**

A. Notwithstanding sections 15-905 and 15-915 and section 15-941, subsection C, Arizona Revised Statutes, a school district for which the fiscal year 2014-2015 teacher experience index is less than or equal to 1.0000 may submit corrections to teacher experience index data that are required pursuant to section 15-941, Arizona Revised Statutes, if all of the following conditions exist:

1. The school district's average daily membership for the 2013-2014 school year was less than one hundred fifty but more than one hundred thirty-five.

2. The school district is a common school district.

3. The teacher experience index for the school district pursuant to section 15-941, Arizona Revised Statutes, for fiscal year 2013-2014 was greater than 1.1000 and the current teacher experience index for the school district for fiscal year 2014-2015 is less than or equal to 1.0000.

4. The school district received basic state aid in fiscal year 2013-2014 and is receiving basic state aid for fiscal year 2014-2015.

5. The school district has completed the submission of teacher experience index data required to be submitted on or before October 15, 2014 under section 15-941, Arizona Revised Statutes, and the resulting preliminary teacher experience index as prescribed in section 15-941, subsection C, Arizona Revised Statutes, is greater than 1.0000.

B. If all the conditions prescribed in subsection A of this section are met and the resulting teacher experience index is greater than 1.0000, the school district may revise its budget to reflect this increase and state aid shall be adjusted accordingly.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## IMPOUNDED CATS—STERILIZATION PROGRAMS

### CHAPTER 273

### S. B. 1260

### AN ACT AMENDING SECTION 11-1013, ARIZONA REVISED STATUTES; RELATING TO ANIMAL CONTROL.

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

**Section 1.** Section 11-1013, Arizona Revised Statutes, is amended to read:

**11-1013. Establishment of county pounds; impounding and disposing of dogs and cats; definition; reclaiming impounded dogs and cats; pound fees**

A. The board of supervisors in each county may provide or authorize a county pound or pounds or enter into a cooperative agreement with a city, a veterinarian or an Arizona incorporated humane society for the establishment and operation of a county pound.

B. Any stray dog shall be impounded. All dogs and cats impounded shall be given proper care and maintenance.

C. Each stray dog or any cat impounded AND NOT ELIGIBLE FOR A STERILIZATION PROGRAM shall be kept and maintained at the county pound for a minimum of seventy-two hours or one hundred twenty hours for an animal that is IMPOUNDED WITH A MICROCHIP OR wearing a license OR ANY OTHER DISCERNIBLE FORM OF OWNER IDENTIFICATION, unless claimed or surrendered by its owner. Any person may purchase ~~such~~ a dog or cat on expiration of the impoundment period, if the person pays all pound fees established by the county board of supervisors and complies with the licensing and vaccinating provisions of this article. If ~~such~~ THE dog or cat is to be used for medical research, ~~no~~ A license or vaccination ~~shall be~~ IS NOT required. ANY IMPOUNDED CAT THAT IS ELIGIBLE FOR A STERILIZATION PROGRAM AND THAT WILL BE RETURNED TO THE VICINITY WHERE THE CAT WAS ORIGINALLY CAPTURED MAY BE EXEMPTED FROM THE MANDATORY HOLDING PERIOD REQUIRED BY THIS SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION, "ELIGIBLE" MEANS A CAT THAT IS LIVING OUTDOORS, LACKS DISCERNIBLE IDENTIFICATION, IS OF SOUND HEALTH AND POSSESSES ITS CLAWS.

D. Any impounded licensed dog or any cat may be reclaimed by its owner or ~~such~~ THE owner's agent provided that the person reclaiming the dog or cat furnishes proof of the person's right to do so and pays all pound fees established by the board of supervisors. Any person purchasing ~~such~~ a dog or cat shall pay all pound fees established by the board of supervisors.

E. If the dog or cat is not reclaimed within the impoundment period, the county enforcement agent shall take possession of and may place the dog or cat for sale or may dispose of the dog or cat in a humane manner. The county enforcement agent may destroy impounded sick or injured dogs or cats if destruction is necessary to prevent the dog or cat from suffering or to prevent the spread of disease.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# REGULATION OF FIREWORKS

## CHAPTER 274

## H. B. 2008

**AN ACT AMENDING SECTION 36-1601, ARIZONA REVISED STATUTES; REPEALING SECTION 36-1606, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 13, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 36-1606; RELATING TO FIREWORKS.**

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

**Section 1.** Section 36-1601, Arizona Revised Statutes, is amended to read:

**36-1601. Definitions**

In this article, unless the context otherwise requires:

1. "APA 87-1" means the American pyrotechnics association standard 87-1, standard for construction and approval for transportation of fireworks, novelties and theatrical pyrotechnics, December 1, 2001 version.

2. "Consumer firework" means small firework devices that contain restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion and that comply with the construction, chemical composition and labeling regulations prescribed in 49 Code of Federal Regulations parts 172 and 173, regulations of the United States consumer product safety commission as prescribed in 16 Code of Federal Regulations parts 1500 and 1507 and the APA 87-1.

3. "Display firework" means large firework devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration or detonation as prescribed by 49 Code of Federal Regulations part 172, regulations of the United States consumer product safety commission as prescribed in 16 Code of Federal Regulations parts 1500 and 1507 and the APA 87-1.

4. "Fireworks":

(a) Means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework or display firework.

(b) Does not include:

(i) Toy pistols, toy canes, toy guns or other devices in which paper caps containing not more than twenty-five hundredths grains of explosive compound are used if constructed so that the hand cannot come in contact with the cap when in place for the explosion.

(ii) Toy pistol paper caps that contain less than twenty-hundredths grains of explosive mixture, or fixed ammunition or primers therefor.

(iii) Federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices and sparklers.

(iv) Permissible consumer fireworks.

5. "Governing body" means the board of supervisors of a county as to the area within the county but without the corporate limits of an incorporated city or town and means the governing body of an incorporated city or town as to the area within its corporate limits.

6. "NFPA 1124" MEANS THE NATIONAL FIRE PROTECTION ASSOCIATION CODE FOR THE MANUFACTURE, TRANSPORTATION, STORAGE AND RETAIL SALES OF FIREWORKS AND PYROTECHNIC ARTICLES, 2013 EDITION AS PUBLISHED IN AUGUST 2012.

~~6.~~ 7. "Permissible consumer fireworks":

(a) Means the following types of consumer fireworks as defined by the APA 87-1:

(i) Ground and handheld sparkling devices.

(ii) Cylindrical fountains.

(iii) Cone fountains.

(iv) Illuminating torches.

(v) Wheels.

(vi) Ground spinners.

(vii) Flitter sparklers.

(viii) Toy smoke devices.

(ix) Wire sparklers or dipped sticks.

(x) Multiple tube ground and handheld sparkling devices, cylindrical fountains, cone fountains and illuminating torches manufactured in accordance with section 3.5 of the APA 87-1.

(b) Does not include anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, including firework items defined by the APA 87-1 and known as firecrackers, bottle rockets, sky rockets, missile-type rockets, helicopters, aerial spinners, torpedoes, roman candles, mine devices, shell devices and aerial shell kits or reloadable tubes.

~~7.~~ 8. "Person" includes an individual, partnership, firm or corporation.

**Sec. 2. Repeal**

Section 36-1606, Arizona Revised Statutes, is repealed.

**Sec. 3.** Title 36, chapter 13, article 1, Arizona Revised Statutes, is amended by adding a new section 36-1606, to read:

**36-1606. Consumer fireworks regulation; state preemption; further regulation of fireworks by local jurisdiction**

A. THE SALE AND USE OF PERMISSIBLE CONSUMER FIREWORKS ARE OF STATEWIDE CONCERN. THE REGULATION OF PERMISSIBLE CONSUMER FIREWORKS PURSUANT TO THIS ARTICLE AND THEIR SALE OR USE IS NOT SUBJECT TO FURTHER REGULATION BY A GOVERNING BODY, EXCEPT AS FOLLOWS:

1. IN A COUNTY WITH A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND PERSONS, A CITY OR TOWN WITHIN ITS

CORPORATE LIMITS OR THE COUNTY WITHIN THE UNINCORPORATED AREAS OF THE COUNTY MAY DO ALL OF THE FOLLOWING:

(a) REGULATE, CONSISTENT WITH THE STANDARDS SET FORTH IN NFPA 1124, THE SALE OF PERMISSIBLE CONSUMER FIREWORKS WITHIN ITS CORPORATE LIMITS.

(b) PROHIBIT THE SALE OF PERMISSIBLE CONSUMER FIREWORKS ON DAYS OTHER THAN MAY 20 THROUGH JULY 6 AND DECEMBER 10 THROUGH JANUARY 3 OF EACH YEAR.

(c) PROHIBIT THE USE OF PERMISSIBLE CONSUMER FIREWORKS ON DAYS OTHER THAN JUNE 24 THROUGH JULY 6 AND DECEMBER 24 THROUGH JANUARY 3 OF EACH YEAR.

(d) PROHIBIT ON ALL DAYS THE USE OF PERMISSIBLE CONSUMER FIREWORKS WITHIN A ONE MILE RADIUS OF THE BORDER OF PRESERVATION LANDS OWNED BY A CITY OR TOWN THAT HAS PURCHASED MORE THAN FIFTEEN THOUSAND ACRES OF LAND FOR PRESERVATION PURPOSES.

2. IN A COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS, A CITY OR TOWN WITHIN ITS CORPORATE LIMITS OR THE COUNTY WITHIN THE UNINCORPORATED AREAS OF THE COUNTY MAY DO ALL OF THE FOLLOWING:

(a) REGULATE, CONSISTENT WITH THE STANDARDS SET FORTH IN NFPA 1124, THE SALE OF PERMISSIBLE CONSUMER FIREWORKS.

(b) PROHIBIT THE SALE OF PERMISSIBLE CONSUMER FIREWORKS ON DAYS OTHER THAN MAY 20 THROUGH JULY 6 AND DECEMBER 10 THROUGH JANUARY 3 OF EACH YEAR. THE SALE OF PERMISSIBLE CONSUMER FIREWORKS MAY BE PROHIBITED ON DAYS BETWEEN MAY 20 THROUGH JULY 6 AND DECEMBER 10 THROUGH JANUARY 3 OF EACH YEAR IF A FEDERAL OR STATE AGENCY IMPLEMENTS A STAGE ONE OR HIGHER FIRE RESTRICTION. ANY PROHIBITION DURING THOSE DATES IS LIMITED TO ONLY THE DATES WHEN THE STAGE ONE OR HIGHER FIRE RESTRICTION IS IN PLACE.

(c) PROHIBIT THE USE OF PERMISSIBLE CONSUMER FIREWORKS ON DAYS OTHER THAN JUNE 24 THROUGH JULY 6 AND DECEMBER 24 THROUGH JANUARY 3 OF EACH YEAR. THE USE OF PERMISSIBLE CONSUMER FIREWORKS MAY BE PROHIBITED DURING JUNE 24 THROUGH JULY 6 AND DECEMBER 24 THROUGH JANUARY 3 OF EACH YEAR IF A FEDERAL OR STATE AGENCY IMPLEMENTS A STAGE ONE OR HIGHER FIRE RESTRICTION. ANY PROHIBITION DURING THOSE DATES IS LIMITED TO ONLY THE DATES WHEN THE STAGE ONE OR GREATER FIRE RESTRICTION IS IN PLACE.

(d) PROHIBIT ON ALL DAYS THE USE OF PERMISSIBLE CONSUMER FIREWORKS WITHIN A ONE MILE RADIUS OF THE BORDER OF PRESERVATION LANDS OWNED BY A CITY OR TOWN THAT HAS PURCHASED MORE THAN FIFTEEN THOUSAND ACRES OF LAND FOR PRESERVATION PURPOSES.

B. A GOVERNING BODY THAT CHOOSES TO REGULATE, CONSISTENT WITH THE REQUIREMENTS SET FORTH IN NFPA 1124 AND SUBSECTION A OF THIS SECTION, THE SALE OR USE OF PERMISSIBLE CONSUMER FIREWORKS MAY NOT REQUIRE ANY ADDITIONAL SIGNAGE REQUIREMENTS FOR THE SALE OR USE OF PERMISSIBLE CONSUMER FIREWORKS OTHER THAN THOSE SIGNAGE REQUIREMENTS STIPULATED IN NFPA 1124, EXCEPT THAT ADDITIONAL SIGNAGE THAT IS EIGHT AND ONE-HALF INCHES BY ELEVEN INCHES IN SIZE, THAT IS ON CARDSTOCK PAPER IN LANDSCAPE ORIENTATION AND THAT CONTAINS THE FOLLOWING LANGUAGE ON A CONTRASTING BACKGROUND MAY BE POSTED BY THE RETAIL SALES DISPLAY OF PERMISSIBLE CONSUMER FIREWORKS:

STATE OF ARIZONA
CONSUMER FIREWORKS REGULATIONS
ARIZONA REVISED STATUTES SECTION 36-1601, ET AL.
THE USE OF PERMISSIBLE CONSUMER FIREWORKS
AS DEFINED UNDER STATE LAW IS ALLOWED:
JUNE 24 - JULY 6 AND DECEMBER 24 - JANUARY 3
THE SALE OF PERMISSIBLE CONSUMER FIREWORKS
AS DEFINED UNDER STATE LAW IS ALLOWED:
MAY 20 - JULY 6 AND DECEMBER 10 - JANUARY 3
ALL OTHER FIREWORKS ARE PROHIBITED, EXCEPT
AS AUTHORIZED BY LOCAL FIRE DEPARTMENT PERMIT.
THE SALE AND USE OF NOVELTIES KNOWN AS SNAPPERS
(POP-ITS),
PARTY POPPERS, GLOW WORMS, SNAKES, TOY SMOKE DEVICES
AND
SPARKLERS ARE PERMITTED AT ALL TIMES.
PERMISSIBLE CONSUMER FIREWORKS MAY NOT BE SOLD TO
PERSONS UNDER SIXTEEN YEARS OF AGE.
CHECK WITH YOUR LOCAL FIRE DEPARTMENT FOR ADDITIONAL
REGULATIONS AND DATES BEFORE USING.

C. THIS ARTICLE DOES NOT PROHIBIT THE IMPOSITION BY ORDINANCE OF FURTHER REGULATIONS AND PROHIBITIONS BY A GOVERNING BODY ON THE SALE, USE AND POSSESSION OF FIREWORKS OTHER THAN PERMISSIBLE CONSUMER FIREWORKS. A GOVERNING BODY MAY NOT ALLOW OR AUTHORIZE THE SALE, USE OR POSSESSION OF ANY FIREWORKS IN VIOLATION OF THIS ARTICLE.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# COUNTY EMPLOYEE MERIT SYSTEMS

## CHAPTER 275

## H. B. 2063

## AN ACT AMENDING SECTION 11-352, ARIZONA REVISED STATUTES; RELATING TO COUNTY EMPLOYEE MERIT SYSTEMS.

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

**Section 1.** Section 11-352, Arizona Revised Statutes, is amended to read:

**11-352. Adoption of limited county employee merit system by resolution**

~~A.~~ Any county may by resolution of the board adopt a limited county employee merit system ~~for all county appointive officers and employees~~. THIS SYSTEM MAY BE APPLIED TO COUNTY APPOINTED OFFICERS AND EMPLOYEES. Elected officers shall not be included in such a merit system.

~~B. Any county may by resolution of the board remove certain administrative positions from the county employee merit system. The positions that may be removed from the county employee merit system are:~~

~~1. County manager.~~

~~2. Deputy county manager.~~

~~3. Assistant county manager.~~

~~4. Chief deputies to elected officials.~~

~~5. Department directors.~~

~~6. Deputy directors, not to exceed three in each department.~~

~~7. One position in each department that reports directly to the director or deputy director as designated by the director and deputy director.~~

~~8. An administrative position declared exempt after August 8, 1985. The number of positions declared exempt under this paragraph shall not exceed ten per cent of the total number of county appointive officers and employees.~~

~~C. Any employee who was included as a covered employee in the county employee merit system at the time the employee assumed the employee's present position and whose position becomes exempt under subsection B may elect to remain included under the merit system, but if terminated the employee must be afforded the opportunity to accept another vacant position within the merit system for which the employee is qualified.~~

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# COURTS—JUDICIARY APPROPRIATION

## CHAPTER 276

## H. B. 2088

**AN ACT AMENDING SECTIONS 1-215, 11-952, 12-1578.01, 12-1598.06, 22-375, 36-2021 AND 42-1122, ARIZONA REVISED STATUTES; AMENDING LAWS 2015, CHAPTER 8, SECTION 59; RELATING TO COURTS.**

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

**Section 1.** Section 1-215, Arizona Revised Statutes, is amended to read:

**1-215. Definitions**

In the statutes and laws of this state, unless the context otherwise requires:

1. "Action" includes any matter or proceeding in a court, civil or criminal.
2. "Adopted rule" means a final rule as defined in section 41-1001.
3. "Adult" means a person who has attained eighteen years of age.
4. "Alternative fuel" means:

(a) Electricity.

(b) Solar energy.

(c) Liquefied petroleum gas, natural gas, hydrogen or a blend of hydrogen with liquefied petroleum or natural gas that complies with any of the following:

(i) Is used in an engine that is certified to meet at a minimum the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

(ii) Is used in an engine that is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency as printed in the federal register, volume 62, number 207, October 27, 1997, pages 55635 through 55637.

(iii) Is used in an engine that is the subject of a waiver for that specific engine application from the United States environmental protection agency's memorandum 1-A addendum requirements and that waiver is documented to the reasonable satisfaction of the director of the department of environmental quality.

(d) Only for vehicles that use alcohol fuels before August 21, 1998, alcohol fuels that contain not less than eighty-five per cent alcohol by volume.

(e) A combination of at least seventy per cent alternative fuel and no more than thirty per cent petroleum based fuel that operates in an engine that meets the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94 and that is certified by the engine manufacturer to consume at least seventy per cent alternative fuel during normal vehicle operations.

5. "Bribe" means anything of value or advantage, present or prospective, asked, offered, given, accepted or promised with a corrupt intent to influence,

unlawfully, the person to whom it is given in that person's action, vote or opinion, in any public or official capacity.

6. "Child" or "children" as used in reference to age of persons means persons under eighteen years of age.

7. "Clean burning fuel" means:

(a) An emulsion of water-phased hydrocarbon fuel that contains not less than twenty per cent water by volume and that complies with any of the following:

(i) Is used in an engine that is certified to meet at a minimum the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

(ii) Is used in an engine that is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency as printed in the federal register, volume 62, number 207, October 27, 1997, pages 55635 through 55637.

(iii) Is used in an engine that is the subject of a waiver for that specific engine application from the United States environmental protection agency's memorandum 1-A addendum requirements and that waiver is documented to the reasonable satisfaction of the director of the department of environmental quality.

(b) A diesel fuel substitute that is produced from nonpetroleum renewable resources if the qualifying volume of the nonpetroleum renewable resources meets the standards for California diesel fuel as adopted by the California air resources board pursuant to 13 California Code of Regulations sections 2281 and 2282 in effect on January 1, 2000, the diesel fuel substitute meets the registration requirement for fuels and additives established by the United States environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01 and the use of the diesel fuel substitute complies with the requirements listed in 10 Code of Federal Regulations part 490, as printed in the federal register, volume 64, number 96, May 19, 1999.

(c) A diesel fuel that complies with all of the following:

(i) Contains a maximum of fifteen parts per million by weight of sulfur.

(ii) Meets ASTM D975.

(iii) Meets the registration requirements for fuels and additives established by the United States environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01.

(iv) Is used in an engine that is equipped or has been retrofitted with a device that has been certified by the California air resources board diesel emission control strategy verification procedure, the United States environmental protection agency voluntary diesel retrofit program or the United States environmental protection agency verification protocol for retrofit catalyst, particulate filter and engine modification control technologies for highway and nonroad use diesel engines.

(d) A blend of unleaded gasoline that contains at minimum eighty-five per cent ethanol by volume or eighty-five per cent methanol by volume.

(e) Neat methanol.

(f) Neat ethanol.

8. "Corruptly" means a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.

9. "Daytime" means the period between sunrise and sunset.

10. "Depose" includes every manner of written statement under oath or affirmation.

11. "Federal poverty guidelines" means the poverty guidelines as updated annually in the federal register by the United States department of health and human services.

12. "Grantee" includes every person to whom an estate or interest in real property passes, in or by a deed.

13. "Grantor" includes every person from or by whom an estate or interest in real property passes, in or by a deed.

14. "Includes" or "including" means not limited to and is not a term of exclusion.

15. "Inhabitant" means a resident of a city, town, village, district, county or precinct.

16. "Issue" as used in connection with descent of estates includes all lawful, lineal descendants of the ancestor.

17. "Knowingly":

(a) MEANS only a knowledge that the facts exist that bring the act or omission within the provisions of the statute using such word.

(b) Does not require any knowledge of the unlawfulness of the act or omission.

18. "Magistrate" means an officer having power to issue a warrant for the arrest of a person charged with a public offense and includes the chief justice and justices of the supreme court, judges of the superior court, JUDGES OF THE COURT OF APPEALS, justices of the peace and ~~police magistrates in cities and towns~~ JUDGES OF A MUNICIPAL COURT.

19. "Majority" or "age of majority" as used in reference to age of persons means the age of eighteen years or more.

20. "Malice" and "maliciously" mean a wish to vex, annoy or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.

21. "Minor" means a person under the age of eighteen years.

22. "Minor children" means persons under the age of eighteen years.

23. "Month" means a calendar month unless otherwise expressed.

24. "Neglect", "negligence", "negligent" and "negligently" import a want of such attention to the nature or probable consequence of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

25. "Nighttime" means the period between sunset and sunrise.

26. "Oath" includes an affirmation or declaration.

27. "Peace officers" means sheriffs of counties, constables, marshals, policemen of cities and towns, commissioned personnel of the department of public safety, personnel who are employed by the state department of corrections and the

department of juvenile corrections and who have received a certificate from the Arizona peace officer standards and training board, peace officers who are appointed by a multicounty water conservation district and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by community college district governing boards and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by the Arizona board of regents and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by the governing body of a public airport pursuant to section 28-8426 and who have received a certificate from the Arizona peace officer standards and training board and special agents from the office of the attorney general, or of a county attorney, and who have received a certificate from the Arizona peace officer standards and training board.

28. "Person" includes a corporation, company, partnership, firm, association or society, as well as a natural person. When the word "person" is used to designate the party whose property may be the subject of a criminal or public offense, the term includes the United States, this state, or any territory, state or country, or any political subdivision of this state that may lawfully own any property, or a public or private corporation, or partnership or association. When the word "person" is used to designate the violator or offender of any law, it includes corporation, partnership or any association of persons.

29. "Personal property" includes money, goods, chattels, ~~dogs,~~ things in action and evidences of debt.

30. "Population" means the population according to the most recent United States decennial census.

31. "Process" means a citation, writ or summons issued in the course of judicial proceedings.

32. "Property" includes both real and personal property.

33. "Real property" is coextensive with lands, tenements and hereditaments.

34. "Registered mail" includes certified mail.

35. "Seal" as used in reference to a paper issuing from a court or public office to which the seal of such court or office is required to be affixed means an impression of the seal on that paper, an impression of the seal affixed to that paper by a wafer or wax, a stamped seal, a printed seal, a screened seal or a computer generated seal.

36. "Signature" or "subscription" includes a mark, if a person cannot write, with the person's name written near it and witnessed by a person who writes the person's own name as witness.

37. "State", as applied to the different parts of the United States, includes the District of Columbia, this state and the territories.

38. "Testify" includes every manner of oral statement under oath or affirmation.

39. "United States" includes the District of Columbia and the territories.

40. "Vessel", as used in reference to shipping, includes ships of all kinds, steamboats, steamships, barges, canal boats and every structure adapted to navigation from place to place for the transportation of persons or property.

41. "Wilfully" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that the person's conduct is of that nature or that the circumstance exists.

42. "Will" includes codicils.

43. "Workers' compensation" means workmen's compensation as used in article XVIII, section 8, Constitution of Arizona.

44. "Writ" means an order or precept in writing issued in the name of the state or by a court or judicial officer.

45. "Writing" includes printing.

**Sec. 2.** Section 11-952, Arizona Revised Statutes, is amended to read:

**11-952. Intergovernmental agreements and contracts**

A. If authorized by their legislative or other governing bodies, two or more public agencies or public procurement units by direct contract or agreement may contract for services or jointly exercise any powers common to the contracting parties and may enter into agreements with one another for joint or cooperative action or may form a separate legal entity, including a nonprofit corporation, to contract for or perform some or all of the services specified in the contract or agreement or exercise those powers jointly held by the contracting parties.

B. Any such contract or agreement shall specify the following:

1. Its duration.

2. Its purpose or purposes.

3. The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget for the undertaking.

4. The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property on such partial or complete termination.

5. If a separate legal entity is formed pursuant to subsection A, the precise organization, composition, title and nature of the entity.

6. Any other necessary and proper matters.

C. No agreement made pursuant to this article shall relieve any public agency of any obligation or responsibility imposed on it by law.

D. Except as provided in subsection E, every agreement or contract involving any public agency or public procurement unit of this state made pursuant to this article, before its execution, shall be submitted to the attorney for each such public agency or public procurement unit, who shall determine whether the agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.

E. A federal department or agency or public agency of another state that is a party to an agreement or contract made pursuant to this article is not required to submit the agreement or contract to the attorney for the department or agency unless required under federal law or the law of the other state.

F. Appropriate action by ordinance or resolution or otherwise pursuant to the laws applicable to the governing bodies of the participating agencies approving or extending the duration of the agreement or contract shall be necessary before any such agreement, contract or extension may be filed or become effective.

G. An agreement or contract may be extended as many times as is desirable, but each extension may not exceed the duration of the previous agreement.

H. Payment for services under this section shall not be made unless pursuant to a fully approved written contract.

I. A person who authorizes payment of any monies in violation of this section is liable for the monies paid plus twenty ~~per cent~~ PERCENT of such amount and legal interest from the date of payment.

J. Notwithstanding any other provision of law, public agencies may enter into a contract or agreement pursuant to this section with the superior court, justice courts and ~~police~~ MUNICIPAL courts for related services and facilities of such courts for a term not to exceed ten years, with the approval of such contract or agreement by the presiding judge of the superior court in the county in which the court or courts that provide the facilities or services are located.

**Sec. 3.** Section 12-1578.01, Arizona Revised Statutes, is amended to read:

**12-1578.01. Time for answer**

The writ, whether issued in the superior court, the justice court or the ~~police~~ MUNICIPAL court, shall require the garnishee to answer within ten days after being served with the writ.

**Sec. 4.** Section 12-1598.06, Arizona Revised Statutes, is amended to read:

**12-1598.06. Time for answer**

The writ, whether issued in the superior court, the justice court or the ~~police~~ MUNICIPAL court, shall require the garnishee to answer within ten days from service of the writ.

**Sec. 5.** Section 22-375, Arizona Revised Statutes, is amended to read:

**22-375. Limitation of appeal from superior court in action appealed from inferior court**

A. An appeal may be taken by the defendant, this state or any of its political subdivisions from a final judgment of the superior court in an action appealed from a justice of the peace or ~~police~~ MUNICIPAL court, if the action involves the validity of a tax, impost, assessment, toll, municipal fine or statute.

B. Except as provided in this section, there shall be no appeal from the judgment of the superior court given in an action appealed from a justice of the peace or a ~~police~~ MUNICIPAL court.

**Sec. 6.** Section 36-2021, Arizona Revised Statutes, is amended to read:

**36-2021. Definitions**

In this chapter, unless the context otherwise requires:

1. "Alcoholic" means a person who habitually lacks self-control with respect to the use of alcoholic beverages or who uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic functions are substantially disrupted.

2. "Approved private treatment facility" means a private agency meeting the standards established by the division and approved pursuant to sections 36-2023 and 36-2029.

3. "Approved public treatment facility" means a treatment agency operating under the directions and control of a county, providing treatment through a contract with a county, meeting the standards established by the division and approved pursuant to sections 36-2023 and 36-2029.

4. "Chronic alcoholic" means an alcoholic who is incapacitated by alcohol and who during the preceding twelve months has been admitted to a local alcoholism reception center on ten or more occasions or has been admitted for three or more episodes of inpatient or residential alcoholism treatment.

5. "Court" means ~~a court of record~~ THE SUPREME COURT, THE COURT OF APPEALS, A SUPERIOR COURT, a justice of the peace court, a ~~police~~ MUNICIPAL court or a city court authorized by charter.

6. "Department" means the department of health services.

7. "Deputy director" means the deputy director of the division of behavioral health in the department of health services.

8. "Director" means the director of the department of health services.

9. "Division" means the division of behavioral health in the department of health services.

10. "Evaluation" means multidisciplinary professional analysis of a person's medical, psychological, social, financial and legal conditions. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an approved treatment facility providing evaluation services or may be part-time employees or may be employed on a contractual basis.

11. "Incapacitated by alcohol" means that a person as a result of the use of alcohol is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for evaluation and treatment, is unable to take care of his basic personal needs or safety such as food, clothing, shelter or medical care or lacks sufficient understanding or capacity to make or communicate rational decisions concerning himself.

12. "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the immediate effects of alcohol in his system.

13. "Local alcoholism reception center" or "center" means an initial reception agency for a person who is intoxicated or who is incapacitated by alcohol to receive initial evaluation and processing for assignment for further evaluation or into a treatment program.

14. "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons.

**Sec. 7.** Section 42-1122, Arizona Revised Statutes, is amended to read:

**42-1122. Setoff for debts to state agencies, political subdivisions and courts; revolving fund; definitions**

A. The department shall establish a liability setoff program by which refunds under sections 42-1118 and 43-1072 may be used to satisfy debts that the taxpayer owes to this state, a political subdivision or a court. The program shall comply with the standards and requirements prescribed by this section.

B. If a taxpayer owes an agency, political subdivision or court a debt, the agency, political subdivision or court, by November 1 of each year, may notify the department, furnishing at least the state agency, court or program identifier, the first name, last name, middle initial or middle name and suffix, social security number and any other available identification that the agency, political subdivision or court deems appropriate of the debtor as shown on the records of the agency, political subdivision or court, and the amount of the debt.

C. The department shall match the information submitted by the agency, political subdivision or court by at least two items of identification of the taxpayer with taxpayers who qualify for refunds under section 42-1118 and:

1. Notify the agency, political subdivision or court of a potential match, the taxpayer's home address and any additional taxpayer identification numbers used by the taxpayer. Even if the taxpayer is not entitled to a refund, the department of revenue shall provide to:

(a) The court, the clerk of the court and the department of economic security, for child support and spousal maintenance purposes only, the home address of a taxpayer whose debt for overdue support is referred for setoff and any additional taxpayer identification numbers used by the taxpayer.

(b) The court, the home address and any additional taxpayer identification numbers used by the taxpayer whose debt for a court obligation is referred for setoff and who is identified by the court as a probationer on absconder status.

2. Request final agency, political subdivision or court confirmation in writing or electronically as determined by the department within ten days of the match and of the continuation of the debt. If the agency, political subdivision or court fails to provide confirmation within forty-five days after the request, the department shall release the refund to the taxpayer.

D. An agency, political subdivision or court may submit updated information, additions, deletions and other changes on a quarterly or more frequent basis, at the convenience of the agency, political subdivision or court.

E. On confirmation pursuant to subsection C, paragraph 2 of this section, the agency or political subdivision shall notify the taxpayer, by mail to the most recent address provided by the taxpayer to the department:

1. Of the intention to set off the debt against the refund due.

2. Of the taxpayer's right to appeal to the appropriate court, or to request a review by the agency or political subdivision pursuant to agency or political subdivision rule, within thirty days of the mailing of the notice.

F. In addition the taxpayer shall receive notice that if the refund is intercepted in error through no fault of the taxpayer, the taxpayer is entitled to the

full refund plus interest and penalties from the agency, political subdivision or court as provided by subsection O of this section.

G. The basis for a request for review as provided by subsection E of this section shall not include the validity of the claim if its validity has been established at an agency hearing, by judicial review in a court of competent jurisdiction in this or any other state or by final administrative decision and shall state with specificity why the taxpayer claims the obligation does not exist or why the amount of the obligation is incorrect.

H. If, within thirty days of the mailing of the notice, the taxpayer requests a review by the agency or political subdivision or provides the agency or political subdivision with proof that an appeal has been taken to the appropriate court, the agency or political subdivision shall immediately notify the department and the setoff procedure shall be stayed pending resolution of the review or appeal.

I. If the department does not receive notice of a timely appeal, it shall draw and deliver a warrant in the amount of the available refund up to the amount of the debt in favor of the agency or political subdivision and notify the taxpayer of the action by mail.

J. Subsections E, G, H and I of this section do not apply to a debt imposed by a court except that the taxpayer shall receive notice of the intent to set off the debt against the refund due and the right to appeal to the court that imposed the debt within thirty days of the mailing of the notice. The basis for the request for review shall not include the validity of the claim and shall state with specificity why the taxpayer claims the obligation does not exist or why the obligation is incorrect.

K. If the setoff accounts for only a portion of the refund due, the remainder of the refund shall be sent to the taxpayer. A court shall not use this section to satisfy a judgment or payment of a fine or civil penalty until the judgment has become final or until the time to appeal the imposition of a fine or civil penalty has expired.

L. A revolving fund is established to recover and pay the cost of operating the setoff program under this section. The department may prescribe a fee to be collected from each agency, political subdivision or court utilizing the setoff procedure or from the taxpayer, and the amount shall be deposited in the fund. The amount of the fee shall reasonably reflect the actual cost of the service provided. Monies in the revolving fund are subject to legislative appropriation.

M. If agencies, political subdivisions or courts have two or more delinquent accounts for the same taxpayer, the refund may be apportioned among them pursuant to rules prescribed by the department of revenue, except that a setoff to the department of economic security for overdue support has priority over all other setoffs.

N. If the refund is insufficient to satisfy the entire debt, the remainder of the debt may be collected by the agency, political subdivision or court as provided by law or resubmitted for setoff against subsequent refunds.

O. In the case of a refund that is intercepted in error through no fault of the taxpayer under this section, the taxpayer shall be reimbursed by the agency, political subdivision or court with interest pursuant to section 42-1123. In addition, if all or

part of a refund is intercepted in error due to an agency, political subdivision or court incorrectly identifying a taxpayer as a debtor through no fault of the taxpayer, the agency, political subdivision or court shall also pay the taxpayer a penalty as follows:

1. If the agency, political subdivision or court reimburses the taxpayer sixteen through one hundred eighty days after the agency, political subdivision or court receives notification that the refund was erroneously intercepted and the refund was received by the agency, political subdivision or court, the penalty is equal to ten ~~per cent~~ PERCENT of the amount of the refund that was intercepted.

2. If the agency, political subdivision or court reimburses the taxpayer one hundred eighty-one through three hundred sixty-five days after the agency, political subdivision or court receives notification that the refund was erroneously intercepted and the refund was received by the agency, political subdivision or court, the penalty is equal to fifteen ~~per cent~~ PERCENT of the amount of the refund that was intercepted.

3. If the agency, political subdivision or court fails to reimburse the taxpayer within three hundred sixty-five days after the agency, political subdivision or court receives notification that the refund was erroneously intercepted and the refund was received by the agency, political subdivision or court, the penalty is equal to twenty ~~per cent~~ PERCENT of the amount of the refund that was intercepted.

P. The time periods set forth in subsection O of this section shall be stayed during a review of an agency decision pursuant to section 25-522.

Q. Except as is reasonably necessary to accomplish the purposes of this section, the department shall not disclose under this section any information in violation of chapter 2, article 1 of this title.

R. An agency, political subdivision or court shall not enter into an agreement with a debtor for:

1. The assignment of any prospective refund to the agency, political subdivision or court in satisfaction of the debt.

2. Payment of the debt if the debt has been confirmed to the department for setoff under subsection C, paragraph 2 of this section.

S. If a tax refund is based on a joint income tax return and the department of economic security receives a written claim from the nonobligated spouse within forty-five days after the notice of a setoff for overdue child support, the setoff only applies to that portion of the refund due to the obligor. The nonobligated spouse shall provide to the department of economic security copies of both the obligated and nonobligated spouse's federal W-2 forms and evidence of estimated tax payments supporting the proportionate share of each spouse's payment of tax. The department of economic security shall retain the amount of the set off refund due to the obligated spouse determined by a proration based on the tax payments of each spouse by estimated tax payment or tax withheld from wages.

T. For the purposes of this section:

1. "Agency" means a department, agency, board, commission or institution of this state. Agency also means a corporation that is under contract with this state and that provides a service that would otherwise be provided by a department,

agency, board, commission or institution of this state, if the contract specifically authorizes participation in the liability setoff program and the attorney general's office has reviewed the contract and approves such authorization. The participation in the liability setoff program shall be limited to debt related to the services the corporation provides for or on behalf of this state.

2. "Court" means all courts of record, justice courts~~,~~ AND municipal courts ~~and police courts~~.

3. "Debt" means an amount over fifty dollars owed to an agency, political subdivision or court by a taxpayer and may include a judgment in favor of this state or a political subdivision of this state, interest, penalties, charges, costs, fees, fines, civil penalties, surcharges, assessments, administrative charges or any other amount. Debt also includes monies owed by a taxpayer for overdue support and referred to the department of economic security or the clerk of the court for collection.

4. "Overdue support" means a delinquency in court ordered payments for spousal maintenance or support of a child or for spousal maintenance to the parent with whom the child is living if child support is also being enforced pursuant to an assignment or application filed under 42 United States Code section 654(6) or other applicable law.

5. "Political subdivision" means a county or an incorporated city or town in this state.

**Sec. 8.** Laws 2015, chapter 8, section 59 is amended to read:

**Sec. 59. ARIZONA JUDICIARY**

| | 2015-16 |
|---|---|
| Supreme court | |
| FTE positions | 175.0 |
| Operating lump sum appropriation | ~~$ 13,219,300~~ |
| | $ 13,079,300 |
| Automation | ~~16,620,600~~ |
| | 20,013,100 |
| County reimbursements | 187,900 |
| Court appointed special advocate | ~~2,962,800~~ |
| | 2,860,800 |
| Domestic relations | ~~639,100~~ |
| | 629,100 |
| State foster care review board | ~~3,555,900~~ |
| | 3,255,900 |
| Commission on judicial conduct | ~~522,500~~ |
| | 512,500 |
| Judicial nominations and performance review | ~~428,500~~ |
| | 418,500 |
| Model court | ~~447,600~~ |
| | 437,600 |
| State aid | 5,648,000 |
| Total appropriation – supreme court | ~~$ 44,232,200~~ |
| | $ 47,042,700 |

| | |
|---|---|
| Fund sources: | |
| State general fund | ~~$ 15,303,000~~ |
| | $ 18,113,500 |
| Confidential intermediary and fiduciary fund | 488,200 |
| Court appointed special advocate fund | 2,941,100 |
| Criminal justice enhancement fund | 4,358,200 |
| Defensive driving school fund | 4,194,700 |
| Judicial collection enhancement fund | 14,002,400 |
| State aid to the courts fund | 2,944,600 |

On or before September 1, 2015, the supreme court shall report to the joint legislative budget committee on current and future automation projects coordinated by the administrative office of the courts. The report shall include a list of court automation projects receiving or anticipated to receive state monies in the current or next two fiscal years as well as a description of each project, the number of FTE positions, the entities involved and the goals and anticipated results for each automation project. The report shall be submitted in one summary document. The report shall indicate each project's total multiyear cost by fund source and budget line item, including any prior year, current year and future year expenditures.

Included in the appropriation for the supreme court program is $1,000 for the purchase of mementos and items for visiting officials.

Of the $187,900 appropriated for county reimbursements, state grand jury is limited to $97,900 and capital postconviction relief is limited to $90,000.

Automation expenses of the ~~judiciary~~ SUPREME COURT shall be funded only from the automation line item. Monies in the operating lump sum appropriation or other line items intended for automation purposes shall be transferred to the automation line item before expenditure.

| | |
|---|---|
| Court of appeals | |
| FTE positions | 136.8 |
| Division I | $ 10,039,900 |
| Division II | $ 4,340,300 |
| Total appropriation – court of appeals | $ 14,380,200 |
| Fund sources: | |
| State general fund | $ 14,380,200 |

Of the 136.8 FTE positions for fiscal year 2015-2016, 98.3 FTE positions are for Division I and 38.5 FTE positions are for Division II.

| | |
|---|---|
| Superior court | |
| FTE positions | 137.5 |
| Operating lump sum appropriation | ~~$ 4,567,300~~ |
| | $ 4,437,300 |
| Judges compensation | 8,231,000 |
| Centralized service payments | ~~4,128,000~~ |
| | 3,458,000 |
| Adult standard probation | 15,109,200 |

| | |
|---|---|
| Adult intensive probation | ~~9,930,000~~ |
| | 9,910,000 |
| Community punishment | 2,310,300 |
| Interstate compact | ~~426,700~~ |
| | 416,700 |
| Drug court | ~~1,013,600~~ |
| | 993,600 |
| Juvenile standard probation | ~~3,955,700~~ |
| | 3,745,700 |
| Juvenile intensive probation | ~~6,002,700~~ |
| | 5,532,700 |
| Juvenile treatment services | ~~20,497,800~~ |
| | 19,937,800 |
| Juvenile family counseling | ~~660,400~~ |
| | 500,000 |
| Juvenile crime reduction | 3,308,000 |
| Juvenile diversion consequences | ~~8,539,400~~ |
| | 8,039,300 |
| Special water master | ~~220,000~~ |
| | 160,000 |
| Total appropriation - superior court | ~~$ 88,900,100~~ |
| | $ 86,089,600 |
| Fund sources: | |
| State general fund | ~~$ 76,721,900~~ |
| | $ 73,911,400 |
| Criminal justice enhancement fund | 5,648,800 |
| Drug treatment and education fund | 500,200 |
| Judicial collection enhancement fund | 6,029,200 |

Of the 137.5 FTE positions, 82 FTE positions represent superior court judges in counties with a population of less than two million persons. One-half of their salaries are provided by state general fund appropriations pursuant to section 12-128, Arizona Revised Statutes. This is not meant to limit the counties' ability to add judges pursuant to section 12-121, Arizona Revised Statutes.

Up to 4.6 percent of the amounts appropriated for juvenile treatment services and juvenile diversion consequences may be retained and expended by the supreme court to administer the programs established pursuant to section 8-322, Arizona Revised Statutes, and to conduct evaluations as needed. The remaining portion of the juvenile treatment services and juvenile diversion consequences appropriations shall be deposited in the juvenile probation services fund established by section 8-322, Arizona Revised Statutes.

Receipt of state probation monies by the counties is contingent on the county maintenance of fiscal year 2003-2004 expenditure levels for each probation program. State probation monies are not intended to supplant county dollars for probation programs.

On or before November 1, 2015, the administrative office of the courts shall report to the joint legislative budget committee the fiscal year 2014-2015 actual, fiscal year 2015-2016 estimated and fiscal year 2016-2017 requested amounts for the following:

1. On a county-by-county basis, the number of authorized and filled case carrying probation positions and non-case carrying positions, distinguishing between adult standard, adult intensive, juvenile standard and juvenile intensive. The report shall indicate the level of state probation funding, other state funding, county funding and probation surcharge funding for those positions.

2. Total receipts and expenditures by county and fund source for the adult standard, adult intensive, juvenile standard and juvenile intensive probation line items, including the amount of personal services expended from each revenue source of each account.

3. The amount of monies from the adult standard, adult intensive, juvenile standard and juvenile intensive probation line items that the office does not distribute as direct aid to counties. The report shall delineate how the office expends these monies that are not distributed as direct aid to counties.

All centralized service payments made by the administrative office of the courts on behalf of counties shall be funded only from the centralized service payments line item. Centralized service payments include only training, motor vehicle payments, CORP review board funding, LEARN funding, research, operational reviews and GPS vendor payments. This footnote does not apply to treatment or counseling services payments made from the juvenile treatment services and juvenile diversion consequences line items. Monies in the operating lump sum appropriation or other line items intended for centralized service payments shall be transferred to the centralized service payments line item before expenditure.

All monies in the adult standard probation, adult intensive probation, interstate compact, juvenile standard probation and juvenile intensive probation line items shall be used only as pass-through monies to county probation departments. Monies in the operating lump sum appropriation or other line items intended as pass-through for the purpose of administering a county probation program shall be transferred to the appropriate probation line item before expenditure.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## CLAIMS OF PUBLIC RIGHTS-OF-WAY

### CHAPTER 277

### H. B. 2175

**AN ACT AMENDING TITLE 37, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; RELATING TO PUBLIC RIGHTS-OF-WAY.**

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

**Section 1.** Title 37, chapter 5, Arizona Revised Statutes, is amended by adding article 2, to read:

ARTICLE 2. RIGHTS-OF-WAY ACROSS PUBLIC LANDS

**37-931. Claims of right-of-way under revised statute 2477**

A. THIS STATE, ON BEHALF OF ITSELF AND ITS POLITICAL SUBDIVISIONS, ASSERTS AND CLAIMS RIGHTS-OF-WAY ACROSS PUBLIC LANDS UNDER SECTION 8 OF THE MINING ACT OF 1866, REENACTED AND RECODIFIED AS REVISED STATUTE 2477; 43 UNITED STATES CODE SECTION 932, ACQUIRED FROM AND AFTER ITS EFFECTIVE DATE THROUGH OCTOBER 21, 1976, THE DATE OF ITS REPEAL, BY AUTHORITY OF THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1997, SECTION 108, ENACTED BY THE OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997 (P.L. 104-208; 110 STAT. 3009). THESE RIGHTS-OF-WAY ACROSS PUBLIC LANDS MAY HAVE BEEN ACQUIRED IN ANY MANNER AUTHORIZED BY THE LAW OF THE UNITED STATES, THE TERRITORY OF ARIZONA OR THIS STATE, INCLUDING:

1. THE USE BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE WITH THE INTENTION OF ESTABLISHING A PUBLIC HIGHWAY OVER PUBLIC LANDS.

2. THE CONSTRUCTION OR MAINTENANCE OF A PUBLIC HIGHWAY OVER PUBLIC LANDS.

3. THE INCLUSION OF A LEGALLY DESCRIBED RIGHT-OF-WAY ACROSS PUBLIC LANDS IN A STATE, COUNTY OR MUNICIPAL PLAT OR MAP OF PUBLIC ROADS.

4. THE EXPENDITURE OF PUBLIC MONIES ON THE HIGHWAY.

5. THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING OR OTHER AGREEMENT WITH ANY AGENCY OF THE UNITED STATES GOVERNMENT THAT RECOGNIZES THE RIGHT OR OBLIGATION OF THIS STATE OR A COUNTY, CITY OR TOWN OF THIS STATE TO WIDEN OR MAINTAIN A HIGHWAY OR A PORTION OF A HIGHWAY.

6. ANY OTHER AFFIRMATIVE ACT BY THIS STATE OR A COUNTY, CITY OR TOWN OF THIS STATE, CONSISTENT WITH FEDERAL, TERRITORIAL OR STATE LAW, INDICATING ACCEPTANCE OF A RIGHT-OF-WAY ACROSS PUBLIC LANDS.

7. THE USE BY THE PUBLIC FOR A PERIOD REQUIRED BY LAW.

B. THIS STATE DOES NOT RECOGNIZE OR CONSENT, AND HAS NOT CONSENTED, TO THE EXCHANGE, WAIVER OR ABANDONMENT OF ANY REVISED STATUTE 2477 RIGHT-OF-WAY ACROSS PUBLIC LANDS UNLESS BY FORMAL, WRITTEN OFFICIAL ACTION THAT WAS TAKEN BY THE STATE, COUNTY OR MUNICIPAL AGENCY OR INSTRUMENTALITY THAT HELD THE RIGHT-OF-WAY ACROSS PUBLIC LANDS AND THAT WAS RECORDED IN THE OFFICE OF THE COUNTY

RECORDER OF THE COUNTY IN WHICH THE PUBLIC LANDS ARE LOCATED. NO OFFICER, EMPLOYEE OR AGENT OF THIS STATE OR A COUNTY, CITY OR TOWN OF THIS STATE HAS OR HAD AUTHORITY TO EXCHANGE, WAIVE OR ABANDON A REVISED STATUTE 2477 RIGHT-OF-WAY ACROSS PUBLIC LANDS IN VIOLATION OF THIS SUBSECTION, AND ANY SUCH PURPORTED ACTION WAS VOID WHEN TAKEN UNLESS LATER RATIFIED BY OFFICIAL ACTION IN COMPLIANCE WITH THIS SUBSECTION.

C. THE FAILURE TO CONDUCT MECHANICAL MAINTENANCE OF A REVISED STATUTE 2477 RIGHT-OF-WAY ACROSS PUBLIC LANDS DOES NOT AFFECT THE STATUS OF THE RIGHT-OF-WAY ACROSS PUBLIC LANDS AS A HIGHWAY FOR ANY PURPOSE OF REVISED STATUTE 2477.

D. THE OMISSION OF A REVISED STATUTE 2477 RIGHT-OF-WAY ACROSS PUBLIC LANDS FROM ANY PLAT, DESCRIPTION OR MAP OF PUBLIC ROADS DOES NOT WAIVE OR CONSTITUTE A FAILURE TO ACQUIRE A RIGHT-OF-WAY ACROSS PUBLIC LANDS UNDER REVISED STATUTE 2477.

E. FOR THE PURPOSES OF THIS SECTION:

1. THE EXTENT OF A REVISED STATUTE 2477 RIGHT-OF-WAY ACROSS PUBLIC LANDS IS THE DIMENSION THAT IS REASONABLE UNDER THE CIRCUMSTANCE.

2. A REVISED STATUTE 2477 RIGHT-OF-WAY ACROSS PUBLIC LANDS INCLUDES THE RIGHT TO:

(a) WIDEN THE HIGHWAY AS NECESSARY TO ACCOMMODATE INCREASED PUBLIC TRAVEL AND TRAFFIC ASSOCIATED WITH ALL ACCEPTED USES.

(b) CHANGE OR MODIFY THE HORIZONTAL ALIGNMENT OR VERTICAL PROFILES AS REQUIRED FOR PUBLIC SAFETY AND CONTEMPORARY DESIGN STANDARDS.

3. THE PUBLIC HAS THE RIGHT TO USE A REVISED STATUTE 2477 RIGHT-OF-WAY ACROSS PUBLIC LANDS TO ACCESS PUBLIC LANDS.

4. IF PRIVATELY OWNED LAND IS COMPLETELY SURROUNDED BY OR ADJACENT TO PUBLIC LANDS, THE LANDOWNER HAS THE RIGHT TO USE A REVISED STATUTE 2477 RIGHT-OF-WAY ACROSS PUBLIC LANDS TO ACCESS THAT LAND.

5. A REVISED STATUTE 2477 RIGHT-OF-WAY ACROSS PUBLIC LANDS SHALL BE CLOSED ONLY BY ORDER OF A COURT OF COMPETENT JURISDICTION OR THE PROPER COMPLETION OF AN ADMINISTRATIVE PROCESS ESTABLISHED FOR THE ABANDONMENT, MAINTENANCE, CONSTRUCTION OR VACATION OF A PUBLIC RIGHT-OF-WAY OTHERWISE ALLOWED BY LAW.

F. THIS SECTION DOES NOT AFFECT THE INCLUSION OR EXCLUSION OF, OR THE OBLIGATION OF MAINTAINING, ANY HIGHWAY, ROAD, STREET OR ROUTE IN ANY SYSTEM OF STATE, COUNTY OR MUNICIPAL STREETS, ROADS OR HIGHWAYS. THE

INCLUSION OF ANY HIGHWAY, ROAD, STREET OR ROUTE IN THE STATE, COUNTY OR MUNICIPAL SYSTEM SHALL BE SOLELY IN ACCORDANCE WITH OTHER LAW.

G. THIS SECTION DOES NOT:

1. APPLY TO ANY REVISED STATUTE 2477 RIGHT-OF-WAY ACROSS PRIVATE PROPERTY.

2. IMPAIR, MODIFY OR OTHERWISE AFFECT ANY PRIVATE PROPERTY RIGHTS IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION. ANY CLAIM, DETERMINATION OR IDENTIFICATION OF A RIGHT-OF-WAY ACROSS PUBLIC LANDS PURSUANT TO THIS SECTION DOES NOT ESTABLISH PRIOR RIGHTS FOR DETERMINING FINANCIAL OR LEGAL RESPONSIBILITY FOR TAKING ANY PRIVATE PROPERTY RIGHTS, IN WHOLE OR IN PART. ALL PRESUMPTIONS AND INTERPRETATIONS OF FACT AND LAW RELATING TO A CLAIM, DETERMINATION OR IDENTIFICATION OF A RIGHT-OF-WAY ACROSS PUBLIC LANDS PURSUANT TO THIS SECTION SHALL BE IN FAVOR OF PRESERVING PRIVATE PROPERTY RIGHTS.

**(EMERGENCY NOT ENACTED)**

**Sec. 2. Emergency**

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

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## GAMBLING—EXCEPTION— OUTSIDE MANAGEMENT SERVICES

### CHAPTER 278

### H. B. 2182

**AN ACT AMENDING SECTION 13-3302, ARIZONA REVISED STATUTES; RELATING TO GAMBLING.**

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

**Section 1.** Section 13-3302, Arizona Revised Statutes, is amended to read:

**13-3302. Exclusions**

A. The following conduct is not unlawful under this chapter:

1. Amusement gambling.

2. Social gambling.

3. Regulated gambling if the gambling is conducted in accordance with the statutes, rules or orders governing the gambling.

4. Gambling that is conducted at state, county or district fairs and that complies with section 13-3301, paragraph 1, subdivision (d).

B. An organization that has qualified for an exemption from taxation of income under section 43-1201, SUBSECTION A, paragraph 1, 2, 4, 5, 6, 7, 10 or 11 may conduct a raffle that is subject to the following restrictions:

1. The nonprofit organization shall maintain this status and no member, director, officer, employee or agent of the nonprofit organization may receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.

2. The nonprofit organization has been in existence continuously in this state for a five year period immediately before conducting the raffle.

3. No person except a bona fide local member of the sponsoring organization may participate directly or indirectly in the management, sales or operation of the raffle.

4. Nothing in paragraph 1 or 3 of this subsection prohibits:

(a) A licensed general hospital, a licensed special hospital or a foundation established to support cardiovascular medical research that is exempt from taxation of income under section 43-1201, SUBSECTION A, paragraph 4 or section 501(c)(3) of the internal revenue code from contracting with an outside agent who participates in the management, sales or operation of the raffle if the proceeds of the raffle are used to fund medical research, graduate medical education or indigent care and the raffles are conducted no more than three times per calendar year. The maximum fee for an outside agent shall not exceed fifteen ~~per cent~~ PERCENT of the net proceeds of the raffle.

(b) AN ENTITY THAT IS EXEMPT FROM TAXATION OF INCOME UNDER SECTION 43-1201, SUBSECTION A, PARAGRAPH 4 OR SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE AND THAT HAS AT LEAST A TWENTY-YEAR HISTORY OF PROVIDING COMPREHENSIVE SERVICES TO PREVENT CHILD ABUSE AND TO PROVIDE SERVICES AND ADVOCACY FOR VICTIMS OF CHILD ABUSE FROM CONTRACTING WITH AN OUTSIDE AGENT WHO PARTICIPATES IN THE MANAGEMENT, SALES OR OPERATION OF THE RAFFLE IF THE PROCEEDS OF THE RAFFLE ARE USED TO PROVIDE COMPREHENSIVE SERVICES TO PREVENT CHILD ABUSE AND TO PROVIDE SERVICES AND ADVOCACY FOR VICTIMS OF CHILD ABUSE AND THE RAFFLES ARE CONDUCTED NO MORE THAN THREE TIMES PER CALENDAR YEAR. THE MAXIMUM FEE FOR AN OUTSIDE AGENT SHALL NOT EXCEED FIFTEEN PERCENT OF THE NET PROCEEDS OF THE RAFFLE.

C. A state, county or local historical society designated by this state or a county, city or town to conduct a raffle may conduct the raffle subject to the following conditions:

1. No member, director, officer, employee or agent of the historical society may receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.

2. The historical society must have been in existence continuously in this state for a five year period immediately before conducting the raffle.

3. No person except a bona fide local member of the sponsoring historical society may participate directly or indirectly in the management, sales or operation of the raffle.

D. A nonprofit organization that is a booster club, a civic club or a political club or political organization as defined in section 16-901 may conduct a raffle that is subject to the following restrictions:

1. No member, director, officer, employee or agent of the club or organization may receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.

2. No person except a bona fide local member of the sponsoring club or organization may participate directly or indirectly in the management, sales or operation of the raffle.

3. The maximum annual benefit that the club or organization receives for all raffles is ten thousand dollars.

4. The club or organization is organized and operated exclusively for pleasure, recreation or other nonprofit purposes and no part of the club's or organization's net earnings inures to the personal benefit of any member, director, officer, employee or agent of the club or organization.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## MOTORIZED QUADRICYCLES

### CHAPTER 279

### H. B. 2211

### AN ACT AMENDING SECTIONS 28-101, 28-966 AND 28-2157, ARIZONA REVISED STATUTES; RELATING TO MOTOR VEHICLES.

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

**Section 1.** Section 28-101, Arizona Revised Statutes, is amended to read:

**28-101. Definitions**

In this title, unless the context otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.

2. "Alcohol concentration" if expressed as a percentage means either:

(a) The number of grams of alcohol per one hundred milliliters of blood.

(b) The number of grams of alcohol per two hundred ten liters of breath.

3. "All-terrain vehicle" means either of the following:

(a) A motor vehicle that satisfies all of the following:
(i) Is designed primarily for recreational nonhighway all-terrain travel.
(ii) Is fifty or fewer inches in width.
(iii) Has an unladen weight of one thousand two hundred pounds or less.
(iv) Travels on three or more nonhighway tires.
(v) Is operated on a public highway.
(b) A recreational off-highway vehicle that satisfies all of the following:
(i) Is designed primarily for recreational nonhighway all-terrain travel.
(ii) Is sixty-five or fewer inches in width.
(iii) Has an unladen weight of one thousand eight hundred pounds or less.
(iv) Travels on four or more nonhighway tires.

4. "Authorized emergency vehicle" means any of the following:
(a) A fire department vehicle.
(b) A police vehicle.
(c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.
(d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.

5. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.

6. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:
(a) Two tandem wheels, either of which is more than sixteen inches in diameter.
(b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

7. "Board" means the transportation board.

8. "Bus" means a motor vehicle designed for carrying sixteen or more passengers, including the driver.

9. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any six hundred feet along the highway, including hotels, banks or office buildings, railroad stations and public buildings that occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

10. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.

11. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.

12. "Conviction" means:

(a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.

(b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.

(c) A plea of guilty or no contest accepted by the court.

(d) The payment of a fine or court costs.

13. "County highway" means a public road constructed and maintained by a county.

14. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business.

15. "Department" means the department of transportation acting directly or through its duly authorized officers and agents.

16. "Director" means the director of the department of transportation.

17. "Drive" means to operate or be in actual physical control of a motor vehicle.

18. "Driver" means a person who drives or is in actual physical control of a vehicle.

19. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.

20. "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device with an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

21. "Farm" means any lands primarily used for agriculture production.

22. "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

23. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

24. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than one thousand eight hundred pounds, that is designed to be and is operated at not more than twenty-five miles per hour and that is designed to carry not more than four persons including the driver.

25. "Hazardous material" means a material, and its mixtures or solutions, that the United States department of transportation determines under 49 Code of Federal Regulations is, or any quantity of a material listed as a select agent or toxin under 42 Code of Federal Regulations part 73 that is, capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

26. "Implement of husbandry" means a vehicle designed primarily for agricultural purposes and used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

27. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

28. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in section 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

29. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

30. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

31. "Moped" means a bicycle that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one ~~per cent~~ PERCENT grade.

32. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower.

33. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a motorized wheelchair, an electric personal assistive mobility device or a motorized skateboard. For the purposes of this subdivision:

(i) "Motorized skateboard" means a self-propelled device that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

34. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

35. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excluding a tractor and a moped.

36. "MOTORIZED QUADRICYCLE" MEANS A SELF-PROPELLED MOTOR VEHICLE TO WHICH ALL OF THE FOLLOWING APPLY:

(a) THE VEHICLE IS SELF-PROPELLED BY AN EMISSION-FREE ELECTRIC MOTOR AND MAY INCLUDE PEDALS OPERATED BY THE PASSENGERS.

(b) THE VEHICLE HAS AT LEAST FOUR WHEELS IN CONTACT WITH THE GROUND.

(c) THE VEHICLE SEATS AT LEAST EIGHT PASSENGERS, INCLUDING THE DRIVER.

(d) THE VEHICLE IS OPERABLE ON A FLAT SURFACE USING SOLELY THE ELECTRIC MOTOR WITHOUT ASSISTANCE FROM THE PEDALS OR PASSENGERS.

(e) THE VEHICLE IS A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 28-5201.

(f) THE VEHICLE IS LICENSED BY THE DEPARTMENT OF WEIGHTS AND MEASURES TO OPERATE AS A LIMOUSINE PURSUANT TO SECTION 41-2091.

(g) THE VEHICLE IS MANUFACTURED BY A MOTOR VEHICLE MANUFACTURER THAT IS LICENSED PURSUANT TO CHAPTER 10 OF THIS TITLE.

(h) THE VEHICLE COMPLIES WITH THE DEFINITION AND STANDARDS FOR LOW-SPEED VEHICLES SET FORTH IN FEDERAL MOTOR VEHICLE SAFETY STANDARD 500 AND 49 CODE OF FEDERAL REGULATIONS SECTION 571.3(b) AND 571.500, RESPECTIVELY.

~~36.~~ 37. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~37.~~ 38. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

~~38.~~ 39. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

~~39.~~ 40. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

~~40.~~ 41. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.

(c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

~~41.~~ 42. "Pedestrian" means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle. For the purposes of this paragraph, "motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

~~42.~~ 43. "Power sweeper" means an implement, with or without motive power, that is only incidentally operated or moved on a street or highway and that is designed for the removal of debris, dirt, gravel, litter or sand whether by broom, vacuum or regenerative air system from asphaltic concrete or cement concrete surfaces, including parking lots, highways, streets and warehouses, and a vehicle on which the implement is permanently mounted.

~~43.~~ 44. "Public transit" means the transportation of passengers on scheduled routes by means of a conveyance on an individual passenger fare-paying basis excluding transportation by a sight-seeing bus, school bus or taxi or a vehicle not operated on a scheduled route basis.

~~44.~~ 45. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

~~45.~~ 46. "Residence district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

~~46.~~ 47. "Right-of-way" when used within the context of the regulation of the movement of traffic on a highway means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

~~47.~~ 48. "School bus" means a motor vehicle that is designed for carrying more than ten passengers and that is either:

(a) Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis.

(b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.

~~48.~~ 49. "Semitrailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~49.~~ 50. "State" means a state of the United States and the District of Columbia.

~~50.~~ 51. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.

~~51.~~ 52. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

~~52.~~ 53. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

~~53.~~ 54. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that is registered as a taxi in this state or any other state, that provides passenger services and that:

(a) Does not primarily operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

~~54.~~ 55. "Traffic survival school" means a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

~~55.~~ 56. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~56.~~ 57. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

~~57.~~ 58. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

~~58.~~ 59. "Vehicle" means a device in, on or by which a person or property is or may be transported or drawn on a public highway, excluding devices moved by human power or used exclusively on stationary rails or tracks.

~~59.~~ 60. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.

**Sec. 2.** Section 28-966, Arizona Revised Statutes, is amended to read:

**28-966. Neighborhood electric vehicles; motorized quadricycles; speed; restrictions**

A. A neighborhood electric vehicle shall not be operated at a speed of more than twenty-five miles per hour. A MOTORIZED QUADRICYCLE SHALL NOT BE OPERATED AT A SPEED OF MORE THAN FIFTEEN MILES PER HOUR.

B. A neighborhood electric vehicle AND A MOTORIZED QUADRICYCLE shall not be driven on a highway that has a posted speed limit of more than thirty-five miles per hour. This subsection does not prohibit a neighborhood electric vehicle OR A MOTORIZED QUADRICYCLE from crossing a highway that has a posted speed limit of more than thirty-five miles per hour at an intersection.

C. A neighborhood electric vehicle AND A MOTORIZED QUADRICYCLE shall have a notice of the operational restrictions applying to the vehicle permanently attached to or painted on the vehicle in a location that is in clear view of the driver.

**Sec. 3.** Section 28-2157, Arizona Revised Statutes, is amended to read:

**28-2157. Application for registration**

A. A person shall apply to the department for registration of a motor vehicle, trailer or semitrailer on forms prescribed or authorized by the department.

B. The application shall contain:

1. The name and complete residence address of the owner.

2. A description of the vehicle, including the serial number.

3. If it is a new vehicle, the date of sale by the manufacturer or dealer to the person first operating the vehicle.

4. If the owner of the vehicle rents or intends to rent the vehicle without a driver, a statement of that fact.

5. Other facts required by the department.

C. The registering officer shall indicate on the face of the registration application that the registrant may be subject to vehicle emissions testing requirements pursuant to section 49-542.

D. On request of an applicant, the department shall allow the applicant to provide on the registration of a motor vehicle, trailer or semitrailer a post office box address that is regularly used by the applicant and that is located in the county in which the applicant resides.

E. The person shall include with the application the required fees and the certificate of title to the vehicle for which registration is sought. The registering officer may waive the requirement that the applicant present a certificate of title at the time of making an application for renewal if the registering officer has available complete and sufficient records to accurately compute the vehicle license tax.

F. The department may request an applicant who appears in person to register a motor vehicle, trailer or semitrailer to ~~complete~~ satisfactorily COMPLETE the vision screening test prescribed by the department.

G. A person applying for initial registration of a neighborhood electric vehicle OR A MOTORIZED QUADRICYCLE shall certify in writing that a notice of the operational restrictions applying to the vehicle as provided in section 28-966 are contained on a permanent notice attached to or painted on the vehicle in a location that is in clear view of the driver.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## CONSUMER REPORTING AGENCIES

### CHAPTER 280

### H. B. 2220

**AN ACT AMENDING TITLE 44, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-1698.02; RELATING TO CONSUMER REPORTING AGENCIES.**

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

**Section 1.** Title 44, chapter 11, article 6, Arizona Revised Statutes, is amended by adding section 44-1698.02, to read:

**44-1698.02. Security freezes; credit reports; protected person; fees; definitions**

A. A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE ON A PROTECTED PERSON'S RECORD OR CREDIT REPORT IF BOTH OF THE FOLLOWING APPLY:

1. THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST FROM THE PROTECTED PERSON'S REPRESENTATIVE FOR THE PLACEMENT OF THE SECURITY FREEZE.

2. THE PROTECTED PERSON'S REPRESENTATIVE DOES ALL OF THE FOLLOWING:

(a) SUBMITS THE REQUEST TO THE CONSUMER REPORTING AGENCY AT THE ADDRESS OR OTHER POINT OF CONTACT AND IN THE MANNER SPECIFIED BY THE CONSUMER REPORTING AGENCY.

(b) PROVIDES TO THE CONSUMER REPORTING AGENCY SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED PERSON AND THE REPRESENTATIVE.

(c) PROVIDES TO THE CONSUMER REPORTING AGENCY SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF THE PROTECTED PERSON.

(d) PAYS TO THE CONSUMER REPORTING AGENCY A FEE AS PRESCRIBED IN SUBSECTION H OF THIS SECTION.

B. IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE PERTAINING TO A PROTECTED PERSON WHEN THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST PURSUANT TO SUBSECTION A, PARAGRAPH 1 OF THIS SECTION, THE CONSUMER REPORTING AGENCY SHALL CREATE A RECORD FOR THE PROTECTED PERSON.

C. WITHIN THIRTY DAYS AFTER RECEIVING A REQUEST PURSUANT TO THIS SECTION, A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE ON THE PROTECTED PERSON'S RECORD OR CREDIT REPORT.

D. UNLESS A SECURITY FREEZE IS REMOVED PURSUANT TO SUBSECTION F OR J OF THIS SECTION, A CONSUMER REPORTING AGENCY MAY NOT RELEASE THE PROTECTED PERSON'S CREDIT REPORT, ANY INFORMATION DERIVED FROM THE PROTECTED PERSON'S CREDIT REPORT OR ANY RECORD CREATED FOR THE PROTECTED PERSON.

E. A SECURITY FREEZE THAT IS PLACED ON A PROTECTED PERSON'S RECORD OR CREDIT REPORT PLACED UNDER THIS SECTION REMAINS IN EFFECT UNTIL EITHER:

1. THE PROTECTED PERSON OR THE PROTECTED PERSON'S REPRESENTATIVE REQUESTS THAT THE CONSUMER REPORTING AGENCY REMOVE THE SECURITY FREEZE PURSUANT TO SUBSECTION F OF THIS SECTION.

2. THE SECURITY FREEZE IS REMOVED PURSUANT TO SUBSECTION J OF THIS SECTION.

F. TO REMOVE A SECURITY FREEZE FOR A PROTECTED PERSON, THE PROTECTED PERSON OR THE PROTECTED PERSON'S REPRESENTATIVE SHALL SUBMIT A REQUEST FOR THE REMOVAL OF THE SECURITY FREEZE TO THE CONSUMER REPORTING AGENCY AT THE ADDRESS OR OTHER POINT OF CONTACT AND IN THE MANNER SPECIFIED BY THE CONSUMER REPORTING AGENCY AND PAY A FEE AS PRESCRIBED IN SUBSECTION H OF THIS SECTION. IN ADDITION:

1. IF THE PROTECTED PERSON REQUESTED THE REMOVAL OF THE SECURITY FREEZE, THE PROTECTED PERSON SHALL PROVIDE TO THE CONSUMER REPORTING AGENCY EITHER OF THE FOLLOWING:

(a) PROOF THAT THE PROTECTED PERSON'S REPRESENTATIVE NO LONGER HAS SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF THE PROTECTED PERSON.

(b) SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED PERSON.

2. IF THE PROTECTED PERSON'S REPRESENTATIVE REQUESTED THE REMOVAL OF THE SECURITY FREEZE ON BEHALF OF THE PROTECTED PERSON, THE PROTECTED PERSON'S REPRESENTATIVE SHALL PROVIDE TO THE CONSUMER REPORTING AGENCY BOTH OF THE FOLLOWING:

(a) SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED PERSON AND THE REPRESENTATIVE.

(b) SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF THE PROTECTED PERSON.

G. WITHIN THIRTY DAYS AFTER RECEIVING A REQUEST TO REMOVE A SECURITY FREEZE PLACED PURSUANT TO SUBSECTION A OF THIS SECTION, THE CONSUMER REPORTING AGENCY SHALL REMOVE THE SECURITY FREEZE FOR THE PROTECTED PERSON.

H. A CONSUMER REPORTING AGENCY MAY CHARGE A FIVE DOLLAR FEE FOR EACH PLACEMENT OR REMOVAL OF A SECURITY FREEZE ON A PROTECTED PERSON'S RECORD OR CREDIT REPORT.

I. NOTWITHSTANDING SUBSECTION H OF THIS SECTION, A CONSUMER REPORTING AGENCY MAY NOT CHARGE ANY FEE UNDER THIS SECTION IF EITHER OF THE FOLLOWING APPLIES:

1. THE PROTECTED PERSON'S REPRESENTATIVE PROVIDES A COPY OF A POLICE REPORT TO THE CONSUMER REPORTING AGENCY ALLEGING THAT THE PROTECTED PERSON HAS BEEN A VICTIM OF AN OFFENSE INVOLVING A VIOLATION OF SECTION 13-2008 OR 13-2009.

2. A REQUEST FOR THE PLACEMENT OR REMOVAL OF A SECURITY FREEZE IS FOR A PROTECTED PERSON WHO IS UNDER SIXTEEN YEARS OF AGE AT THE TIME OF THE REQUEST AND THE CONSUMER REPORTING AGENCY HAS A CREDIT REPORT PERTAINING TO THE PROTECTED PERSON.

J. A CONSUMER REPORTING AGENCY MAY REMOVE A SECURITY FREEZE FOR A PROTECTED PERSON OR MAY DELETE A PROTECTED PERSON'S RECORD IF THE SECURITY FREEZE WAS PLACED OR THE RECORD WAS CREATED BASED ON A MATERIAL MISREPRESENTATION OF FACT BY THE PROTECTED PERSON OR THE PROTECTED PERSON'S REPRESENTATIVE.

K. AN ACT OR PRACTICE IN VIOLATION OF THIS SECTION IS AN UNLAWFUL PRACTICE UNDER SECTION 44-1522 AND IS SUBJECT TO ENFORCEMENT THROUGH A PRIVATE ACTION AND BY THE ATTORNEY GENERAL. THE ATTORNEY GENERAL MAY INVESTIGATE AND TAKE APPROPRIATE ACTION AS PRESCRIBED BY CHAPTER 10, ARTICLE 7 OF THIS TITLE. THE REMEDIES PROVIDED IN THIS SECTION ARE NOT INTENDED TO BE THE EXCLUSIVE REMEDIES AVAILABLE TO A PROTECTED PERSON.

L. THIS SECTION DOES NOT APPLY TO THE USE OF A PROTECTED PERSON'S CREDIT REPORT OR RECORD BY ANY OF THE FOLLOWING:

1. A PERSON ADMINISTERING A CREDIT FILE MONITORING SUBSCRIPTION SERVICE TO WHICH EITHER:

(a) THE PROTECTED PERSON HAS SUBSCRIBED.

(b) THE PROTECTED PERSON'S REPRESENTATIVE HAS SUBSCRIBED ON BEHALF OF THE PROTECTED PERSON.

2. A PERSON PROVIDING THE PROTECTED PERSON OR THE PROTECTED PERSON'S REPRESENTATIVE WITH A COPY OF THE PROTECTED PERSON'S CREDIT REPORT ON THE REQUEST OF THE PROTECTED PERSON OR THE PROTECTED PERSON'S REPRESENTATIVE.

3. A CHECK SERVICES OR FRAUD PREVENTION SERVICES COMPANY THAT ISSUES EITHER:

(a) REPORTS ON INCIDENTS OF FRAUD.

(b) AUTHORIZATIONS FOR THE PURPOSE OF APPROVING OR PROCESSING NEGOTIABLE INSTRUMENTS, ELECTRONIC FUNDS TRANSFERS OR SIMILAR PAYMENT METHODS.

4. A DEPOSIT ACCOUNT INFORMATION SERVICE COMPANY THAT ISSUES REPORTS RELATING TO ACCOUNT CLOSURES DUE TO FRAUD, SUBSTANTIAL OVERDRAFTS, AUTOMATED TELLER MACHINE ABUSE OR SIMILAR NEGATIVE INFORMATION ABOUT A PROTECTED PERSON TO INQUIRING BANKS OR OTHER FINANCIAL INSTITUTIONS FOR USE ONLY IN REVIEWING A PROTECTED PERSON REQUEST FOR A DEPOSIT ACCOUNT AT THE INQUIRING BANK OR FINANCIAL INSTITUTION.

5. AN INSURANCE COMPANY FOR THE PURPOSE OF CONDUCTING ITS ORDINARY BUSINESS.

6. A CONSUMER REPORTING AGENCY THAT BOTH:

(a) ACTS ONLY TO RESELL CREDIT INFORMATION BY ASSEMBLING AND MERGING INFORMATION CONTAINED IN A DATABASE OF ANOTHER CONSUMER REPORTING AGENCY.

(b) DOES NOT MAINTAIN A PERMANENT DATABASE OF CREDIT INFORMATION FROM WHICH NEW CREDIT REPORTS ARE PRODUCED.

7. A CONSUMER REPORTING AGENCY'S DATABASE OR FILE THAT CONSISTS OF INFORMATION CONCERNING AND USED FOR ONE OR MORE OF THE FOLLOWING, BUT NOT FOR CREDIT GRANTING, PURPOSES:

(a) CRIMINAL RECORD INFORMATION.

(b) FRAUD PREVENTION OR DETECTION.

(c) PERSONAL LOSS HISTORY INFORMATION.

(d) EMPLOYMENT, TENANT OR INDIVIDUAL BACKGROUND SCREENING.

8. A GOVERNMENTAL ENTITY WHEN CARRYING OUT ITS DUTIES.

9. A PERSON, A SUBSIDIARY, AFFILIATE, AGENT OR SUBCONTRACTOR OF THAT PERSON, AN ASSIGNEE OF A FINANCIAL OBLIGATION OWED BY THE PROTECTED PERSON TO THAT PERSON OR A PROSPECTIVE ASSIGNEE OF A FINANCIAL OBLIGATION OWED BY THE PROTECTED PERSON TO THAT PERSON IN CONJUNCTION WITH THE PROPOSED PURCHASE OF THE FINANCIAL OBLIGATION WITH WHICH THE PROTECTED PERSON HAS OR HAD BEFORE ASSIGNMENT AN ACCOUNT OR CONTRACT, INCLUDING A DEMAND DEPOSIT ACCOUNT, OR TO WHOM THE PROTECTED PERSON ISSUED A NEGOTIABLE INSTRUMENT, FOR THE PURPOSES OF REVIEWING THE ACCOUNT OR COLLECTING THE FINANCIAL OBLIGATION OWED FOR THE ACCOUNT, CONTRACT OR NEGOTIABLE INSTRUMENT. FOR THE PURPOSES OF THIS PARAGRAPH, "REVIEWING THE ACCOUNT" INCLUDES ACTIVITIES THAT ARE RELATED TO ACCOUNT MAINTENANCE, MONITORING, CREDIT LINE INCREASES AND ACCOUNT UPGRADES AND ENHANCEMENTS.

M. FOR THE PURPOSES OF THIS SECTION:

1. "PROTECTED PERSON" MEANS AN INDIVIDUAL WHO IS UNDER SIXTEEN YEARS OF AGE AT THE TIME A REQUEST FOR THE PLACEMENT OF A SECURITY FREEZE IS MADE OR WHO IS AN INCAPACITATED PERSON OR A PROTECTED PERSON FOR WHOM A GUARDIAN OR CONSERVATOR HAS BEEN APPOINTED.

2. "RECORD" MEANS A COMPILATION OF INFORMATION TO WHICH ALL OF THE FOLLOWING APPLY:

(a) THE RECORD IDENTIFIES A PROTECTED PERSON.

(b) THE RECORD IS CREATED BY A CONSUMER REPORTING AGENCY SOLELY FOR THE PURPOSE OF COMPLYING WITH THIS SECTION.

(c) THE RECORD IS NOT CREATED OR USED TO CONSIDER THE PROTECTED PERSON'S CREDIT WORTHINESS, CREDIT STANDING, CREDIT CAPACITY, CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS OR MODE OF LIVING.

3. "REPRESENTATIVE" MEANS A PERSON WHO PROVIDES TO A CONSUMER REPORTING AGENCY SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF A PROTECTED PERSON.

4. "SECURITY FREEZE" MEANS:

(a) IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE PERTAINING TO A PROTECTED PERSON, A RESTRICTION THAT IS PLACED ON THE PROTECTED PERSON'S RECORD AND THAT PROHIBITS THE CONSUMER REPORTING AGENCY FROM RELEASING THE PROTECTED PERSON'S RECORD.

(b) IF A CONSUMER REPORTING AGENCY HAS A FILE PERTAINING TO THE PROTECTED PERSON, A RESTRICTION THAT IS PLACED ON THE PROTECTED PERSON'S CREDIT REPORT AND THAT PROHIBITS THE CONSUMER REPORTING AGENCY FROM RELEASING THE PROTECTED PERSON'S CREDIT REPORT OR ANY INFORMATION DERIVED FROM THE PROTECTED PERSON'S CREDIT REPORT.

5. "SUFFICIENT PROOF OF AUTHORITY" MEANS DOCUMENTATION THAT SHOWS A REPRESENTATIVE HAS AUTHORITY TO ACT ON BEHALF OF A PROTECTED PERSON AND INCLUDES:

(a) A COURT ORDER.

(b) A LAWFULLY EXECUTED AND VALID POWER OF ATTORNEY.

(c) A WRITTEN, NOTARIZED STATEMENT SIGNED BY A REPRESENTATIVE THAT EXPRESSLY DESCRIBES THE AUTHORITY OF THE REPRESENTATIVE TO ACT ON BEHALF OF A PROTECTED PERSON.

6. "SUFFICIENT PROOF OF IDENTIFICATION" MEANS INFORMATION OR DOCUMENTATION THAT IDENTIFIES A PROTECTED PERSON OR A REPRESENTATIVE OF A PROTECTED PERSON AND INCLUDES:

(a) A SOCIAL SECURITY NUMBER OR A SOCIAL SECURITY CARD ISSUED BY THE SOCIAL SECURITY ADMINISTRATION.

(b) A CERTIFIED OR OFFICIAL COPY OF A BIRTH CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH SERVICES.

(c) A DRIVER LICENSE OR A NONOPERATING IDENTIFICATION LICENSE ISSUED BY THE DEPARTMENT OF TRANSPORTATION PURSUANT TO TITLE 28, CHAPTER 8 OR ANY OTHER GOVERNMENT ISSUED IDENTIFICATION.

**Sec. 2. Effective date**

Section 44-1698.02, Arizona Revised Statutes, is effective from and after December 31, 2015.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## DEFENSIVE DRIVING SCHOOLS

### CHAPTER 281

### H. B. 2308

**AN ACT AMENDING SECTION 28-3392, ARIZONA REVISED STATUTES; RELATING TO DEFENSIVE DRIVING SCHOOLS.**

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

**Section 1.** Section 28-3392, Arizona Revised Statutes, is amended to read:

**28-3392. Defensive driving school; eligibility**

A. A court:

1. Shall allow an individual who is issued a citation for a civil traffic moving violation pursuant to chapter 3, articles 2, 3, 4 and 6 through 15 of this title or a local civil traffic ordinance relating to the same subject matter to attend a defensive driving school for the purposes provided in this article.

2. Except as prescribed in subsection C of this section, may allow an individual who is issued a citation for a violation of section 28-701.02 to attend a defensive driving school.

B. A person who attends a defensive driving school pursuant to this article is not eligible to attend a defensive driving school again within ~~twenty-four~~ TWELVE months from the day of the last violation for which the person was authorized by this article to attend a defensive driving school.

C. Notwithstanding subsection A of this section:

1. An individual who commits a civil or criminal traffic violation resulting in death or serious physical injury is not eligible to attend a defensive driving school, except that the court may order the individual to attend a defensive driving school in addition to another sentence imposed by the court on an adjudication or admission of the traffic violation.

2. If a commercial driver license holder or a driver of a commercial motor vehicle that requires a commercial driver license is found guilty or responsible for a moving violation, the court may require the violator to attend defensive driving school as an element of sentence, but may not dismiss the conviction or finding of

responsibility and shall report the conviction or finding of responsibility to the department as prescribed in section 28-1559. A commercial driver license holder or a driver of a commercial motor vehicle that requires a commercial driver license is not eligible for the defensive driving diversion program.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## DESIGN PROFESSIONAL SERVICE CONTRACTS

### CHAPTER 282

### H. B. 2336

**AN ACT AMENDING SECTIONS 28-411, 34-221, 34-227, 41-2571, 41-2577 AND 41-2583, ARIZONA REVISED STATUTES; RELATING TO CONTRACTS.**

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

**Section 1.** Section 28-411, Arizona Revised Statutes, is amended to read:

**28-411. Prompt payment; progress payment; consultants and contractors; subconsultants and subcontractors**

A. The department shall make progress payments pursuant to the terms of an agreement with a consultant or contractor on the basis of an invoice for work already performed. All progress payments shall be paid on or before the twenty-first day after the date the department receives the invoice unless the department does not approve and certify the invoice pursuant to subsection B of this section.

B. Any invoice from a consultant or contractor for progress payments shall be deemed approved and certified by the department unless within seven days from the date the department receives the invoice the department sends the consultant or contractor written notice by first class mail OR BY ELECTRONIC MEANS of those items that the department does not approve and certify under the terms of the agreement.

C. On or before the seventh day after the date the department makes a progress payment, if the consultant or contractor contracted with subconsultants or subcontractors to perform the work for which the department made the progress payment, the consultant or contractor shall pay the subconsultants or subcontractors for the work performed to the extent of each subconsultant's or subcontractor's contractual interest in the progress payment. If any subconsultant or subcontractor contests the amount paid by a consultant or contractor from a progress payment made under subsection A of this section, the subconsultant or subcontractor shall notify the department in writing within thirty days after receiving the payment from the consultant or contractor. This subsection does not apply if the contract between

the consultant or contractor and the subconsultant or subcontractor expressly provides that the prompt payment provisions of this subsection do not apply to the agreement between the consultant or contractor and the subconsultant or subcontractor.

D. If a consultant or contractor fails to pay a subconsultant or subcontractor within seven days of receiving a progress payment from the department, the consultant or contractor shall pay the subconsultant or subcontractor interest on the unpaid balance, beginning on the eighth day at the rate of one ~~per cent~~ PERCENT per month or fraction of a month. This subsection does not apply if the contract between the consultant or contractor and the subconsultant or subcontractor expressly provides that the prompt payment provisions of this subsection do not apply to the agreement between the consultant or contractor and the subconsultant or subcontractor.

E. A subconsultant or subcontractor may submit a written request to the department asking the department to notify the subconsultant or subcontractor of each subsequent progress payment made to the consultant or contractor. If the department receives a written request under this subsection, the department shall send the requesting party a written notice by first class mail of each subsequent progress payment within five days of making the progress payment.

F. Agreements with the department for consultant or contractor services do not alter the rights of any consultant or contractor to receive prompt and timely payment as provided under this section.

G. SUBJECT TO THE REQUIREMENTS OF THIS SECTION, THE DEPARTMENT SHALL PAY THE AGREED OR REASONABLE VALUE OF ALL LABOR, MATERIALS, WORK OR SERVICES FURNISHED, INSTALLED OR PERFORMED BY A DESIGN PROFESSIONAL PURSUANT TO A LIMITED NOTICE TO PROCEED FROM THE DEPARTMENT'S AUTHORIZED AGENT BEFORE THE EXECUTION OF A CONTRACT OR CONTRACT MODIFICATION APPLICABLE TO THE LABOR, MATERIALS, WORK OR SERVICES. THE UNIT PRICES, CONTRACT SUM, HOURLY RATES OR OTHER COST OR PRICING FORMULA OF THE CONTRACT OR CONTRACT MODIFICATION APPLICABLE TO THE LABOR, MATERIALS, WORK OR SERVICES IS THE FAIR AND REASONABLE COST FOR PURPOSES OF THIS SECTION UNLESS THE DEPARTMENT AND ITS DESIGN PROFESSIONAL OTHERWISE AGREE IN WRITING. IF THE PARTIES FAIL TO SUCCESSFULLY NEGOTIATE AND SIGN A CONTRACT OR CONTRACT MODIFICATION, THE DESIGN PROFESSIONAL SHALL BE PAID FOR COSTS INCURRED PURSUANT TO THE LIMITED NOTICE TO PROCEED AND SUBJECT TO THE DEPARTMENT'S COST ALLOWABILITY GUIDELINES. FOR THE PURPOSES OF THIS SUBSECTION, "DESIGN PROFESSIONAL" MEANS AN INDIVIDUAL OR FIRM REGISTERED PURSUANT TO TITLE 32, CHAPTER 1, ARTICLE 1, TO PRACTICE ARCHITECTURE, ENGINEERING, GEOLOGY, LANDSCAPE ARCHITECTURE OR LAND SURVEYING OR ANY

COMBINATION OF THOSE PROFESSIONS AND PERSONS EMPLOYED BY THE REGISTERED INDIVIDUAL OR FIRM.

~~G.~~ H. To the extent that this section conflicts with section 28-6924, section 28-6924 controls any agreement between the department and a contractor for highway construction projects.

**Sec. 2.** Section 34-221, Arizona Revised Statutes, is amended to read:

**34-221. Contract with successful bidder; payments to contractor and design professional; security; recovery of damages for delay; progress payments; definitions**

A. The agent shall enter into a contract with the lowest responsible bidder whose proposal is satisfactory, except that in determining the lowest responsible bidder under this section, the board of supervisors may consider, for no more than five projects, the time of completion proposed by the bidder, the value over time of completed services and facilities and the value over time of interrupted services if the board determines that this procedure will serve the public interest by providing a substantial fiscal benefit or that the use of the traditional awarding of contracts is not practicable for meeting desired construction standards or delivery schedules and if the formula for considering the time of completion is specifically stated in the bidding information.

B. In determining the lowest responsible bidder for a horizontal construction project using the design-bid-build project delivery method, an agent may consider the time of completion proposed by the bidder if the agent determines that this procedure will serve the public interest by providing a substantial fiscal benefit or that the use of the traditional awarding of contracts is not practicable for meeting desired construction standards or delivery schedules and if the formula for considering the time of completion is specifically stated in the bidding information.

C. The terms of a contract entered into pursuant to subsection A OF THIS SECTION shall include the following items:

1. A surety company bond or bonds as required under this article.

2. The owner by mutual agreement may make progress payments on contracts of less than ninety days and shall make monthly progress payments on all other contracts as provided for in this paragraph. Payment to the contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under such contract may include payment for material and equipment, but to ~~insure~~ ENSURE the proper performance of such contract, the owner shall retain ten ~~per cent~~ PERCENT of the amount of each estimate until final completion and acceptance of all material, equipment and work covered by the contract. An estimate of the work submitted shall be deemed approved and certified for payment after seven days from the date of submission unless before that time the owner or owner's agent prepares and issues a specific written finding setting forth those items in detail in the estimate of the work that are not approved for payment under the contract. The owner may withhold an amount from the progress payment sufficient to pay the expenses the owner reasonably expects to incur in correcting the deficiency set forth in the written finding. The progress payments shall be paid on or before fourteen days after the estimate of the work is certified and approved. The

estimate of the work shall be deemed received by the owner on submission to any person designated by the owner for the submission, review or approval of the estimate of the work.

3. When the contract is fifty ~~per cent~~ PERCENT completed, one-half of the amount retained including any securities substituted under paragraph 5 OF THIS SUBSECTION shall be paid to the contractor upon the contractor's request ~~provided~~ IF the contractor is making satisfactory progress on the contract and there is no specific cause or claim requiring a greater amount to be retained. After the contract is fifty ~~per cent~~ PERCENT completed, no more than five ~~per cent~~ PERCENT of the amount of any subsequent progress payments made under the contract may be retained ~~providing~~ IF the contractor is making satisfactory progress on the project, except that if at any time the owner determines satisfactory progress is not being made, ten ~~per cent~~ PERCENT retention shall be reinstated for all progress payments made under the contract subsequent to the determination.

4. Upon completion and acceptance of each separate building, public work or other division of the contract on which the price is stated separately in the contract, except as qualified in paragraph 5 OF THIS SUBSECTION, payment may be made in full, including retained percentages thereon, less authorized deductions. In preparing estimates, the material and equipment delivered on the site to be incorporated in the job shall be taken into consideration in determining the estimated value by the architect or engineer.

5. Ten ~~per cent~~ PERCENT of all estimates shall be retained by the agent as a guarantee for complete performance of the contract, to be paid to the contractor within sixty days after completion or filing notice of completion of the contract. Retention of payments by a purchasing agency longer than sixty days after final completion and acceptance requires a specific written finding by the purchasing agency of the reasons justifying the delay in payment. No purchasing agency may retain any monies after sixty days ~~which~~ THAT are in excess of the amount necessary to pay the expenses the purchasing agency reasonably expects to incur in order to pay or discharge the expenses determined by the purchasing agency in the finding justifying the retention of monies. In lieu of the retention provided in this section, the agent, at the option of the contractor, shall accept as a substitute an assignment of time certificates of deposit of banks licensed by this state, securities of or guaranteed by the United States of America, securities of this state, securities of counties, municipalities and school districts within this state or shares of savings and loan associations authorized to transact business in this state, in an amount equal to ten ~~per cent~~ PERCENT of all estimates, which shall be retained by the agent as a guarantee for complete performance of the contract. In the event the agent accepts substitute security as described in this paragraph for the ten ~~per cent~~ PERCENT retention, the contractor shall be entitled to receive all interest or income earned by such security as it accrues and all such security in lieu of retention shall be returned to the contractor by the agent within sixty days after final completion and acceptance of all material, equipment and work covered by the contract if the contractor has furnished the agent satisfactory receipts for all labor and material billed and waivers of liens from any and all persons holding claims against the work. In no event shall

the agent accept a time certificate of deposit of a bank or shares of a savings and loan association in lieu of the retention specified unless accompanied by a signed and acknowledged waiver of the bank or savings and loan association of any right or power to setoff against either the agent or the contractor in relationship to the certificates or shares assigned.

6. In any instance where the agent has accepted substitute security as provided in paragraph 5 OF THIS SUBSECTION, any subcontractor undertaking to perform any part of such public work shall be entitled to provide substitute security to the contractor upon terms and conditions similar to those described in paragraph 5 OF THIS SUBSECTION, and such security shall be in lieu of any retention under the subcontract.

D. No contract for construction OR DESIGN PROFESSIONAL SERVICES may materially alter the rights of any contractor, subcontractor, DESIGN PROFESSIONAL or material supplier to receive prompt and timely payment required to be included in the contract under subsection C OF THIS SECTION.

E. The contract shall be signed by the agent and the contractor.

F. A contract for the procurement of construction shall include a provision ~~which~~ THAT provides for negotiations between the agent and the contractor for the recovery of damages related to expenses incurred by the contractor for a delay for which the agent is responsible, which is unreasonable under the circumstances and which was not within the contemplation of the parties to the contract. This section shall not be construed to void any provision in the contract ~~which~~ THAT requires notice of delays~~,~~ OR provides for arbitration or other procedure for settlement or provides for liquidated damages.

G. The contractor shall pay to the contractor's subcontractors, DESIGN PROFESSIONALS or material suppliers and each subcontractor shall pay to the subcontractor's subcontractor, DESIGN PROFESSIONAL or material supplier, within seven days of receipt of each progress payment, unless otherwise agreed in writing by the parties, the respective amounts allowed the contractor, ~~or~~ subcontractor OR DESIGN PROFESSIONAL on account of the work performed by subordinate subcontractors OR DESIGN PROFESSIONALS, to the extent of each such subcontractor's OR DESIGN PROFESSIONAL'S interest therein, except that no contract for construction may materially alter the rights of any contractor, subcontractor, DESIGN PROFESSIONAL or material supplier to receive prompt and timely payment as provided under this section. Such payments to subcontractors, DESIGN PROFESSIONALS or material suppliers shall be based on payments received pursuant to this section. Any diversion by the contractor or subcontractor of payments received for work performed on a contract, or failure to reasonably account for the application or use of such payments, constitutes grounds for disciplinary action by the registrar of contractors. The subcontractor or material supplier shall notify the registrar of contractors and the purchasing agency in writing of any payment less than the amount or percentage approved for the class or item of work as set forth in this section.

H. A subcontractor OR DESIGN PROFESSIONAL may notify the purchasing agency in writing requesting that the subcontractor OR DESIGN

PROFESSIONAL be notified by the purchasing agency in writing within five days from payment of each progress payment made to the contractor. The subcontractor's OR DESIGN PROFESSIONAL'S request remains in effect for the duration of the subcontractor's OR DESIGN PROFESSIONAL'S work on the project.

I. Nothing in this chapter prevents the contractor or subcontractor, at the time of application and certification to the owner or contractor, from withholding such application and certification to the owner or contractor for payment to the subcontractor, DESIGN PROFESSIONAL or material supplier for unsatisfactory job progress, defective DESIGN PROFESSIONAL SERVICES OR construction work or materials not remedied, disputed DESIGN PROFESSIONAL SERVICES, work or materials, third-party claims filed or reasonable evidence that a claim will be filed, failure of a subcontractor OR DESIGN PROFESSIONAL to make timely payments for DESIGN PROFESSIONAL SERVICES, labor, equipment and materials, damage to the contractor or another subcontractor OR DESIGN PROFESSIONAL, reasonable evidence that the subcontract OR DESIGN PROFESSIONAL SERVICE CONTRACT cannot be completed for the unpaid balance of the subcontract OR DESIGN PROFESSIONAL SERVICE CONTRACT sum or a reasonable amount for retention that does not exceed the actual percentage retained by the owner.

J. If any payment to a contractor is delayed after the date due, interest shall be paid at the rate of one ~~per cent~~ PERCENT per month or fraction of a month on such unpaid balance as may be due.

K. If any periodic or final payment to a subcontractor OR DESIGN PROFESSIONAL is delayed by more than seven days after receipt of the periodic or final payment by the contractor or subcontractor, the contractor or subcontractor shall pay a subordinate subcontractor, DESIGN PROFESSIONAL or material supplier interest, beginning on the eighth day, at the rate of one ~~per cent~~ PERCENT per month or a fraction of a month on such unpaid balance as may be due.

L. FOR THE PURPOSES OF THIS SECTION:

1. "DESIGN PROFESSIONAL SERVICE CONTRACT" MEANS A WRITTEN AGREEMENT RELATING TO THE PLANNING, DESIGN, CONSTRUCTION ADMINISTRATION, STUDY, EVALUATION, CONSULTING, INSPECTION, SURVEYING, MAPPING, MATERIAL SAMPLING, TESTING OR OTHER PROFESSIONAL, SCIENTIFIC OR TECHNICAL SERVICES FURNISHED IN CONNECTION WITH ANY ACTUAL OR PROPOSED STUDY, PLANNING, SURVEY, ENVIRONMENTAL REMEDIATION, CONSTRUCTION, IMPROVEMENT, ALTERATION, REPAIR, MAINTENANCE, RELOCATION, MOVING, DEMOLITION OR EXCAVATION OF A STRUCTURE, STREET OR ROADWAY, APPURTENANCE, FACILITY, DEVELOPMENT OR OTHER IMPROVEMENT TO LAND.

2. "DESIGN PROFESSIONAL SERVICES" MEANS ARCHITECT SERVICES, ENGINEER SERVICES, LAND SURVEYING SERVICES, GEOLOGIST SERVICES OR LANDSCAPE ARCHITECT SERVICES OR ANY COMBINATION OF THOSE SERVICES PERFORMED BY OR UNDER THE SUPERVISION OF A DESIGN PROFESSIONAL OR AN EMPLOYEE OR SUBCONSULTANT OF THE DESIGN PROFESSIONAL.

3. "SUBCONSULTANT" MEANS ANY PERSON, FIRM, PARTNERSHIP, CORPORATION, ASSOCIATION OR OTHER ORGANIZATION, OR A COMBINATION OF ANY OF THEM, THAT HAS A DIRECT CONTRACT WITH A DESIGN PROFESSIONAL OR ANOTHER SUBCONSULTANT TO PERFORM A PORTION OF THE WORK UNDER A DESIGN PROFESSIONAL SERVICE CONTRACT.

**Sec. 3.** Section 34-227, Arizona Revised Statutes, is amended to read:

**34-227. Construction contracts; design professional service contracts; void provisions**

A provision, covenant, clause or understanding in, collateral to or affecting a construction contract OR A DESIGN PROFESSIONAL SERVICE CONTRACT, AS DEFINED IN SECTION 34-226, that makes the contract subject to the laws of another state or that requires any litigation, arbitration or other dispute resolution proceeding arising from the contract to be conducted in another state is against this state's public policy and is void and unenforceable.

**Sec. 4.** Section 41-2571, Arizona Revised Statutes, is amended to read:

**41-2571. Definitions**

~~As used~~ In this article, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "Architect services", "engineer services", "land surveying services", "assayer services", "geologist services" and "landscape architect services" means those professional services within the scope of the practice of those services as provided in title 32, chapter 1, article 1.

2. "Cost" means the aggregate cost of all materials and services, including labor performed by force account.

3. "DESIGN PROFESSIONAL SERVICE CONTRACT" MEANS A WRITTEN AGREEMENT RELATING TO THE PLANNING, DESIGN, CONSTRUCTION ADMINISTRATION, STUDY, EVALUATION, CONSULTING, INSPECTION, SURVEYING, MAPPING, MATERIAL SAMPLING, TESTING OR OTHER PROFESSIONAL, SCIENTIFIC OR TECHNICAL SERVICES FURNISHED IN CONNECTION WITH ANY ACTUAL OR PROPOSED STUDY, PLANNING, SURVEY, ENVIRONMENTAL REMEDIATION, CONSTRUCTION, IMPROVEMENT, ALTERATION, REPAIR, MAINTENANCE, RELOCATION, MOVING, DEMOLITION OR EXCAVATION OF A STRUCTURE, STREET OR ROADWAY, APPURTENANCE, FACILITY OR DEVELOPMENT OR OTHER IMPROVEMENT TO LAND.

4. "DESIGN PROFESSIONAL SERVICES" MEANS ARCHITECT SERVICES, ENGINEER SERVICES, LAND SURVEYING SERVICES, GEOLOGIST SERVICES OR LANDSCAPE ARCHITECT SERVICES OR ANY COMBINATION OF THOSE SERVICES PERFORMED BY OR UNDER THE SUPERVISION OF A DESIGN PROFESSIONAL OR EMPLOYEES OR SUBCONSULTANTS OF THE DESIGN PROFESSIONAL.

5. "SUBCONSULTANT" MEANS ANY PERSON, FIRM, PARTNERSHIP, CORPORATION, ASSOCIATION OR OTHER ORGANIZATION, OR A COMBINATION OF ANY OF THEM, THAT HAS A

DIRECT CONTRACT WITH A DESIGN PROFESSIONAL OR ANOTHER SUBCONSULTANT TO PERFORM A PORTION OF THE WORK UNDER A DESIGN PROFESSIONAL SERVICE CONTRACT.

**Sec. 5.** Section 41-2577, Arizona Revised Statutes, is amended to read:

**41-2577. Progress payments**

A. Progress payments may be made by this state to the contractor on the basis of a duly certified and approved estimate of the work performed during a preceding period of time as set by rule, except that a percentage of all estimates shall be retained as provided in section 41-2576. The progress payments shall be paid on or before fourteen days after the estimate of the work is certified and approved. The estimate of the work shall be deemed received by the owner on submission to any person designated by the owner for the submission, review or approval of the estimate of the work. An estimate of the work submitted under this section shall be deemed approved and certified after seven days from the date of submission unless before that time the owner or owner's agent prepares and issues a specific written finding detailing those items in the estimate of the work that are not approved and certified under the contract OR DESIGN PROFESSIONAL SERVICE CONTRACT. The owner may withhold an amount from the progress payment sufficient to pay the expenses the owner reasonably expects to incur in correcting the deficiency set forth in the written finding. On completion and acceptance of separate divisions of the contract OR DESIGN PROFESSIONAL SERVICE CONTRACT on which the price is stated separately in the contract OR DESIGN PROFESSIONAL SERVICE CONTRACT, payment may be made in full including retained percentages, less deductions, unless a substitute security has been provided pursuant to section 41-2576. No contract for construction OR DESIGN PROFESSIONAL SERVICES may materially alter the rights of any contractor, subcontractor, DESIGN PROFESSIONAL or material supplier to receive prompt and timely payment as provided under this section.

B. The contractor shall pay to the contractor's subcontractors, DESIGN PROFESSIONALS or material suppliers and each subcontractor shall pay to the subcontractor's subcontractor, DESIGN PROFESSIONAL or material supplier, within seven days of receipt of each progress payment, unless otherwise agreed in writing by the parties, the respective amounts allowed the contractor, ~~or~~ subcontractor OR DESIGN PROFESSIONAL on account of the work performed by the contractor's or subcontractor's subcontractors OR DESIGN PROFESSIONALS, to the extent of each such subcontractor's OR DESIGN PROFESSIONAL'S interest therein, except that no contract for construction may materially alter the rights of any contractor, subcontractor, DESIGN PROFESSIONAL or material supplier to receive prompt and timely payment as provided under this section. These payments to subcontractors, DESIGN PROFESSIONALS or material suppliers shall be based on payments received pursuant to this section. Any diversion by the contractor, ~~or~~ subcontractor OR DESIGN PROFESSIONAL of payments received for work performed on a contract, or failure to reasonably account for the application or use of such payments, constitutes grounds for disciplinary action by the registrar of contractors. The subcontractor, DESIGN PROFESSIONAL or material supplier

shall notify the registrar of contractors and the purchasing agency in writing of any payment less than the amount or percentage approved for the class or item of work OR DESIGN PROFESSIONAL SERVICES as set forth in this section.

C. A subcontractor OR DESIGN PROFESSIONAL may notify the purchasing agency in writing requesting that the subcontractor OR DESIGN PROFESSIONAL be notified by the purchasing agency in writing within five days from payment of each progress payment made to the contractor. The subcontractor's OR DESIGN PROFESSIONAL'S request remains in effect for the duration of the subcontractor's OR DESIGN PROFESSIONAL'S work on the project.

D. Nothing in this chapter prevents the contractor or subcontractor, at the time of application and certification to the owner or contractor, from withholding such application and certification to the owner or contractor for payment to the subcontractor, DESIGN PROFESSIONAL or material supplier for unsatisfactory job progress, defective construction work OR DESIGN PROFESSIONAL SERVICES or materials not remedied, disputed work or materials, third-party claims filed or reasonable evidence that a claim will be filed, failure of a subcontractor OR DESIGN PROFESSIONAL to make timely payments for labor, equipment and materials OR DESIGN PROFESSIONAL SERVICES, damage to the contractor or another subcontractor OR DESIGN PROFESSIONAL, reasonable evidence that the subcontract OR DESIGN PROFESSIONAL SERVICE CONTRACT cannot be completed for the unpaid balance of the subcontract OR DESIGN PROFESSIONAL SERVICE CONTRACT sum or a reasonable amount for retention that does not exceed the actual percentage retained by the owner.

E. If any payment to a contractor is delayed after the date due, interest shall be paid at the rate of one ~~per cent~~ PERCENT per month or a fraction of the month on such unpaid balance as may be due.

F. If any periodic or final payment to a subcontractor OR DESIGN PROFESSIONAL is delayed by more than seven days after receipt of periodic or final payment by the contractor or subcontractor, the contractor or subcontractor shall pay the contractor's or subcontractor's subcontractor, DESIGN PROFESSIONAL or material supplier interest, beginning on the eighth day, at the rate of one ~~per cent~~ PERCENT per calendar month or a fraction of a calendar month on such unpaid balance as may be due.

G. Notwithstanding anything to the contrary in this section, this section applies only to amounts payable in a construction services contract for construction AND IN A CONTRACT FOR DESIGN SERVICES and does not apply to amounts payable in a ~~construction services~~ contract for ~~design services,~~ preconstruction services, finance services, maintenance services, operations services or any other related services included in the contract.

**Sec. 6.** Section 41-2583, Arizona Revised Statutes, is amended to read:

**41-2583. Construction contracts; design professional service contracts; void provisions**

A provision, covenant, clause or understanding in, collateral to or affecting a construction contract OR DESIGN PROFESSIONAL SERVICE CONTRACT that makes the contract subject to the laws of another state or that requires any litigation,

arbitration or other dispute resolution proceeding arising from the contract to be conducted in another state is against this state's public policy and is void and unenforceable.

**Sec. 7. Applicability**

Sections 28-411, 34-221, 34-227, 41-2571, 41-2577 and 41-2583, Arizona Revised Statutes, as amended by this act, do not apply to design professional service contracts entered into before the effective date of this act.

**Sec. 8. Short title**

This act shall be known and may be cited as "The Arizona Design Professional Prompt Pay Act".

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## FLOOD CONTROL DISTRICTS—ADMINISTRATIVE ENFORCEMENT

### CHAPTER 283

### H. B. 2349

**AN ACT AMENDING SECTION 48-3615.01, ARIZONA REVISED STATUTES; RELATING TO COUNTY FLOOD CONTROL DISTRICTS.**

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

**Section 1.** Section 48-3615.01, Arizona Revised Statutes, is amended to read:

**48-3615.01. Notice of violation; hearing; final decision; civil penalty; injunctive relief**

A. If the chief engineer finds that a person has engaged or is engaging in development in the floodplain without a floodplain use permit, has engaged or is engaging in any development that is not in compliance with an active floodplain use permit or has damaged or interfered with facilities that are authorized pursuant to this chapter without written authorization of the board of directors, the chief engineer shall issue a notice of violation to the owner, occupant or manager of the real property on which the development is located or to the person who has damaged or interfered with the facilities. The notice of violation shall identify the violations observed and order the violator to cease and desist any ongoing activity that is not in compliance with the regulations adopted pursuant to this chapter or cease and desist any damage or interference that is not authorized by the board. The notice of violation shall include the date~~,~~ AND time ~~and place where the person responding to the notice of violation may appear to show cause why the notice of violation~~

~~should be vacated~~ BY WHICH THE PERSON MUST MAIL OR DELIVER A RESPONSE TO THE NOTICE OF VIOLATION.

B. On receipt of the notice of violation, the person may:

1. Admit the allegations by ~~doing either of the following:~~

~~(a) Appearing in person, by attorney or by another designated representative at a time and location given in the notice of violation.~~

~~(b)~~ mailing or delivering to the chief engineer a form provided with the notice of violation or a written statement signed by the person in which the person admits the allegations, agrees to acquire any required permit and agrees to remedy the violation, damage or interference in accordance with the terms determined by the chief engineer.

2. Deny the allegations by ~~doing either of the following:~~

~~(a) Appearing in person, by attorney or by another designated representative at the time and location given in the notice of violation.~~

~~(b)~~ mailing or delivering to the chief engineer a form provided with the notice of violation or a written statement signed by the person denying the allegations and requesting a hearing on the matter. AT THE SAME TIME AND WITH THE SAME FORM AND IF THE FORM CONTAINS THE REQUEST BY THE PERSON FOR A STAY, THE CHIEF ENGINEER SHALL ISSUE A STAY OF ANY CEASE AND DESIST ORDER UNLESS THERE IS A THREAT TO THE PUBLIC HEALTH OR SAFETY OR TO ANOTHER PERSON'S PROPERTY RIGHTS.

C. On request for a hearing, the hearing officer shall set a date, time and place for a hearing and serve a notice of hearing on the person alleged to be in violation and provide a notice of the hearing to the chief engineer. Service of notice shall be by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to effect actual notice on the alleged violator, the chief engineer and every other party to the action.

D. The hearing officer shall be appointed by the board of directors and may be an employee of the district. THE NOTICE OF VIOLATION SHALL SERVE AS THE COMPLAINT AND THE REQUEST FOR HEARING SHALL SERVE AS THE ANSWER. Decisions of the hearing officer or by the board of hearing review shall be available to any party to the hearing. The board of directors shall adopt written rules of procedure for the hearing and review of hearings. These rules shall be adopted in the same manner as floodplain ordinances.

E. At the hearing, a representative of the district shall present evidence of the violation described in the notice of hearing. The county attorney may present evidence on behalf of the district. The noticed party or attorney or other designated representative shall be given the opportunity to present evidence at the hearing. After completion of the hearing, the hearing officer shall issue a written finding and a recommendation for the appropriate measures to be taken to abate or ameliorate any harm or damage arising from the violation and for the imposition of any civil penalties attributed to the violation.

F. The hearing officer's written finding shall be submitted to the chief engineer and the noticed party within thirty days after the date of the hearing. On

receipt of the hearing officer's findings, determination and recommendation, the chief engineer shall issue a final decision and order. The chief engineer's final decision and order may be in any form as adopted by the board of directors pursuant to its authority under this chapter and may include a determination of violation, an order directing that measures be taken to abate or ameliorate any harm or damage arising from the violation and the imposition of a civil penalty. By agreement with the person in violation, the chief engineer may order a nonmonetary penalty that serves the purposes of the district.

G. IN A COUNTY WITH A POPULATION OF LESS THAN ONE HUNDRED SEVENTY-FIVE THOUSAND PERSONS, THE DISTRICT MAY ADOPT A PROCEDURE IN WHICH THE HEARING OFFICER ISSUES A WRITTEN FINDING AND A FINAL DECISION AND ORDER. THE HEARING OFFICER'S FINAL DECISION AND ORDER MAY BE IN ANY FORM AS ADOPTED BY THE BOARD OF DIRECTORS PURSUANT TO ITS AUTHORITY UNDER THIS CHAPTER AND MAY INCLUDE A DETERMINATION OF VIOLATION, AN ORDER DIRECTING THAT MEASURES BE TAKEN TO ABATE OR AMELIORATE ANY HARM OR DAMAGE ARISING FROM THE VIOLATION AND THE IMPOSITION OF A CIVIL PENALTY. ON RECOMMENDATION OF THE CHIEF ENGINEER AND WITH THE AGREEMENT OF THE PERSON IN VIOLATION, THE HEARING OFFICER MAY ORDER A NONMONETARY PENALTY THAT SERVES THE STATUTORY PURPOSES OF THE DISTRICT.

~~G.~~ H. On written request of any party who is subject to the decision and order of the chief engineer OR HEARING OFFICER pursuant to this section, the board of hearing review may review any decision and order of the chief engineer OR HEARING OFFICER. The written request for review shall be delivered to the clerk of the board of directors within fifteen days after the date of the final decision and order. The written request shall identify specifically the section or sections of the chief engineer's OR HEARING OFFICER'S final order that is requested to be reviewed by the board of hearing review.

~~H.~~ I. The board of hearing review shall set a time and date to hear the matter requested for review. The hearing shall be conducted based on the information presented to the chief engineer OR HEARING OFFICER in issuing the final decision and order or, in an appeal from a determination of a violation by a hearing officer, the record before the hearing officer. The information presented to the chief engineer OR HEARING OFFICER in issuing the final decision and order shall be made available to all parties on request. Based on the record before the board of hearing review, the board may deny, approve or modify the order of the chief engineer or the order of the hearing officer. The board shall issue a written order of its decision, including findings of fact and conclusions of law, and shall submit its final written order on the matter to the chief engineer within thirty days after completion of the hearing.

~~I.~~ J. If the person alleged to be in violation continues the violation after the chief engineer OR HEARING OFFICER has issued a final decision and order or after the board of hearing review has completed its review pursuant to this section,

the chief engineer may apply for a temporary restraining order or preliminary or permanent injunction from the superior court according to the Arizona rules of civil procedure. A decision to seek injunctive relief does not preclude other forms of relief or enforcement against the violator. The remedies prescribed by this section are cumulative and do not prevent the district from seeking injunctive relief at any time.

~~J.~~ K. The chief engineer may designate another person to carry out the chief engineer's powers and duties prescribed by this section and that designee is authorized to take all actions prescribed by this section in place of the chief engineer.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## INVALID ANNEXATION

### CHAPTER 284

### H. B. 2383

**AN ACT AMENDING TITLE 9, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-471.05; AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.34; REPEALING SECTION 9-471.05, ARIZONA REVISED STATUTES; RELATING TO INVALID ANNEXATION OF TERRITORY.**

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

**Section 1.** Title 9, chapter 4, article 7, Arizona Revised Statutes, is amended by adding section 9-471.05, to read:

**9-471.05. Invalid annexation; procedure to return territory to the county**

A. NOTWITHSTANDING ANY OTHER LAW, THE ANNEXATION OF TERRITORY BY A CITY OR TOWN IS VOID AND THE TERRITORY SHALL BE SEVERED FROM THE CITY OR TOWN AND RETURNED TO THE COUNTY IN WHICH THE LAND IS LOCATED IF THE TERRITORY IS LOCATED WITHIN A COUNTY WITH A POPULATION OF MORE THAN TWO MILLION PERSONS AND THE BOARD OF SUPERVISORS OF THE COUNTY, AFTER A PUBLIC HEARING, DETERMINES THE REQUIREMENTS OF THIS SECTION HAVE BEEN MET.

B. A TERRITORY SEEKING TO VOID ITS ANNEXATION AND BE SEVERED FROM THE CITY OR TOWN AND RETURNED TO THE COUNTY SHALL FILE THE FOLLOWING ITEMS WITH THE CLERK OF THE BOARD

OF SUPERVISORS OF THE COUNTY IN WHICH THE LAND IS LOCATED WITHIN TEN YEARS AFTER THE TERRITORY'S INITIAL ANNEXATION:

1. A PETITION SIGNED BY THE OWNERS OF ONE-HALF OR MORE IN VALUE OF THE REAL AND PERSONAL PROPERTY AND MORE THAN ONE–HALF OF THE PERSONS OWNING REAL AND PERSONAL PROPERTY OF THE TERRITORY TO BE SEVERED THAT IS SUBJECT TO TAXATION BY THE CITY OR TOWN, AS SHOWN BY THE LAST ASSESSMENT OF THE PROPERTY.

2. A LEGAL DESCRIPTION AND AN ACCURATE MAP OF THE TERRITORY TO BE SEVERED.

3. AN AFFIDAVIT STATING THAT THE CITY OR TOWN THAT INITIALLY ANNEXED THE TERRITORY FAILED TO COMPLY WITH THE PROVISIONS OF SECTION 9-471 AND ANY ORDINANCES OF THE CITY OR TOWN RELATING TO ANNEXATION OF TERRITORY.

4. AN AFFIDAVIT STATING THAT THE DEVELOPER OF THE TERRITORY DID NOT COMPLETE THE REQUIREMENTS OF THE CITY'S OR TOWN'S MUNICIPAL SUBDIVISION REGULATIONS ENACTED PURSUANT TO ARTICLE 6.2 OF THIS CHAPTER OR SECTION 9-474 OR 9-475.

C. THE BOARD OF SUPERVISORS SHALL SET A HEARING DATE OF NOT LESS THAN THIRTY DAYS AND NOT MORE THAN SIXTY DAYS AFTER THE DATE OF THE FILING OF THE DOCUMENTS PROVIDED IN SUBSECTION B OF THIS SECTION AND SHALL NOTIFY THE GOVERNING BODY OF THE CITY OR TOWN IN WHICH THE TERRITORY TO BE SEVERED IS LOCATED AND EACH OWNER OF REAL PROPERTY IN THE TERRITORY TO BE SEVERED OF THE HEARING AT LEAST THIRTY DAYS BEFORE THE HEARING DATE. THE NOTIFICATION SHALL SPECIFY THAT THE AREA IS TO BE SEVERED FROM THE CITY OR TOWN AND RETURNED TO THE COUNTY IN WHICH THE AREA IS LOCATED AND THE PROPERTY SHALL CONTINUE TO BE SUBJECT TO ANY TAX LAWFULLY ASSESSED AGAINST IT FOR THE PURPOSE OF PAYING ANY INDEBTEDNESS LAWFULLY CONTRACTED BY THE GOVERNING BODY OF THE CITY OR TOWN WHILE THE PROPERTY WAS WITHIN THE CORPORATE LIMITS. THE NOTIFICATION SHALL STATE THAT THE CITY OR TOWN OR THE PROPERTY OWNER MAY PROTEST THE ACTION BY LETTER TO THE COUNTY BOARD OF SUPERVISORS BEFORE THE HEARING OR IN PERSON AT THE HEARING.

D. IF PROPERTY OWNERS OF AT LEAST FIFTY-ONE PERCENT OF THE LAND AREA OF THE TERRITORY TO BE SEVERED PROTEST THE ACTION, THE COUNTY BOARD OF SUPERVISORS MAY NOT DECLARE THE INITIAL ANNEXATION VOID AND SEVER THE TERRITORY.

E. IF THE CITY OR TOWN DEMONSTRATES THAT THE CITY OR TOWN DID COMPLY WITH THE PROVISIONS OF SECTION 9-471 AND ANY ORDINANCES OF THE CITY OR TOWN RELATING TO ANNEXATION OF TERRITORY AND THE DEVELOPER OF THE TERRITORY COMPLETED

THE APPLICABLE REQUIREMENTS OF THE CITY'S OR TOWN'S MUNICIPAL SUBDIVISION REGULATIONS ENACTED PURSUANT TO ARTICLE 6.2 OF THIS CHAPTER OR SECTION 9-474 OR 9-475, THE COUNTY BOARD OF SUPERVISORS MAY NOT DECLARE THE INITIAL ANNEXATION VOID AND SEVER THE TERRITORY.

F. AFTER DETERMINING THAT THE REQUIREMENTS OF THIS SECTION HAVE BEEN MET, HOLDING A PUBLIC HEARING AND DETERMINING THAT THE PROTESTS FILED ARE INSUFFICIENT AS PRESCRIBED IN THIS SECTION, THE COUNTY BOARD OF SUPERVISORS SHALL ORDER THE TERRITORY TO BE SEVERED FROM THE CITY OR TOWN AND RETURNED TO THE COUNTY.

G. ON THE ISSUANCE OF THE ORDER THAT THE ANNEXATION OF THE TERRITORY BY THE CITY OR TOWN IS VOID AND THE TERRITORY IS SEVERED FROM THE CITY OR TOWN, THE COUNTY BOARD OF SUPERVISORS SHALL SET FORTH BY ORDINANCE THE LEGAL DESCRIPTION OF THE TERRITORY THAT IS PROVIDED TO THE CLERK OF THE BOARD PURSUANT TO SUBSECTION B, PARAGRAPH 2 OF THIS SECTION AND DECLARE THE RETURN OF THE TERRITORY TO THE COUNTY.

H. A COPY OF THE ORDER OF THE COUNTY BOARD OF SUPERVISORS ORDERING THE TERRITORY TO BE SEVERED FROM THE CITY OR TOWN AND RETURNED TO THE COUNTY, CERTIFIED BY THE CLERK OF THE BOARD, SHALL BE RECORDED IN THE RECORDER'S OFFICE OF THE COUNTY IN WHICH THE LAND IS LOCATED. THE RECORD, OR A COPY OF THE ORDER, CERTIFIED BY THE CLERK OF THE BOARD, IS PROOF THAT THE INITIAL ANNEXATION OF THE TERRITORY IS VOID AND THE TERRITORY WAS SEVERED FROM THE CITY OR TOWN AND RETURNED TO THE COUNTY IN WHICH THE LAND IS LOCATED.

I. THE COUNTY BOARD OF SUPERVISORS SHALL NOTIFY THE STATE REAL ESTATE DEPARTMENT IF TERRITORY IS SEVERED FROM A CITY OR TOWN PURSUANT TO THIS SECTION.

J. ANY APPLICATION FOR DEVELOPMENT OF PROPERTY LOCATED WITHIN ANY TERRITORY SEVERED FROM A CITY OR TOWN PURSUANT TO THIS SECTION SHALL BE IN COMPLIANCE WITH ALL ORDINANCES, RULES AND REGULATIONS OF THE COUNTY IN WHICH THE TERRITORY IS LOCATED AS OF THE DATE OF THE APPLICATION FOR DEVELOPMENT.

**Sec. 2.** Title 9, chapter 4, article 8, Arizona Revised Statutes, is amended by adding section 9-500.34, to read:

**9-500.34. Improvements to private property not in corporate boundaries; prohibition**

A CITY OR TOWN MAY NOT REQUIRE THE OWNER OF PROPERTY THAT IS NOT LOCATED IN THE CITY'S OR TOWN'S CORPORATE BOUNDARIES TO MAKE AN IMPROVEMENT AS A CONDITION OF PROVIDING WATER OR WASTEWATER SERVICE UNLESS THE

IMPROVEMENT HAS A SUBSTANTIAL NEXUS TO THE WATER OR WASTEWATER SERVICE THAT IS TO BE PROVIDED TO THE OWNER'S PROPERTY BY THE CITY OR TOWN.

**Sec. 3. Delayed repeal**

Section 9-471.05, Arizona Revised Statutes, is repealed from and after June 30, 2017.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## REFERENDUM AND RECALL—CONSTRUCTION—COMPLIANCE

### CHAPTER 285

### H. B. 2407

**AN ACT AMENDING TITLE 19, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 19-101.01; AMENDING SECTIONS 19-112, 19-118, 19-121, 19-121.01, 19-121.02, 19-121.04 AND 19-122, ARIZONA REVISED STATUTES; AMENDING TITLE 19, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 19-201.01; AMENDING SECTIONS 19-202.01 AND 19-203, ARIZONA REVISED STATUTES; RELATING TO INITIATIVE, REFERENDUM AND RECALL.**

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

**Section 1.** Title 19, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 19-101.01, to read:

**19-101.01. Legislative findings and intent; strict compliance**

THE LEGISLATURE RECOGNIZES THAT A REFERENDUM MAY OVERRULE THE RESULTS OF DETERMINATIONS MADE BY REPRESENTATIVES OF THE PEOPLE AND THEREFORE FINDS AND DETERMINES THAT STRICT COMPLIANCE WITH THE CONSTITUTIONAL AND STATUTORY REQUIREMENTS FOR THE REFERENDUM PROCESS AND IN THE APPLICATION AND ENFORCEMENT OF THOSE REQUIREMENTS PROVIDES THE SUREST METHOD FOR SAFEGUARDING THE INTEGRITY AND ACCURACY OF THE REFERENDUM PROCESS. THEREFORE, THE LEGISLATURE FINDS AND DECLARES ITS INTENT THAT THE CONSTITUTIONAL AND STATUTORY REQUIREMENTS FOR THE REFERENDUM BE STRICTLY CONSTRUED AND THAT PERSONS USING THE REFERENDUM PROCESS STRICTLY COMPLY WITH THOSE CONSTITUTIONAL AND STATUTORY REQUIREMENTS.

**Sec. 2.** Section 19-112, Arizona Revised Statutes, is amended to read:

**19-112. Signatures and verification; attachment**

A. Every qualified elector signing a petition shall do so in the presence of the person who is circulating the petition and who is to execute the affidavit of verification. At the time of signing, the qualified elector shall sign his first and last names in the spaces provided and the elector so signing shall print his first and last names and write, in the appropriate spaces following the signature, the signer's residence address, giving street NAME and number, and if he has no street address, a description of his residence location. The elector so signing shall write, in the appropriate spaces following the elector's address, the date on which the elector signed the petition.

B. The signature sheets shall be attached at all times during circulation to a full and correct copy of the title and text of the measure or constitutional amendment proposed or referred by the petition. The title and text shall be in at least eight-point type and shall include both the original and the amended text. The text shall indicate material deleted, if any, by printing the material with a line drawn through the center of the letters of the material and shall indicate material added or new material by printing the letters of the material in capital letters. FOR THE PURPOSES OF A REFERENDUM, THE SECRETARY OF STATE'S TIME-AND-DATE-MARKED COPY OF THE MEASURE WITH ITS PROPOSED TEXT SET OUT IN FULL OR FOR ANY LOCAL MATTER, THE COPY OF THE MEASURE SIGNED OR ENACTED INTO LAW BY THE MAYOR, OR CHAIRMAN OF THE BOARD OF SUPERVISORS, AS APPROPRIATE, WITH ITS PROPOSED TEXT SET OUT IN FULL AND INCLUDING THE ORIGINAL AND ANY AMENDED TEXT CONSTITUTES THE FULL AND CORRECT COPY OF THE TITLE AND TEXT OF THE MEASURE FOR CIRCULATION FOR SIGNATURES. FOR ANY LOCAL MATTER ENACTED WITHOUT AN ORDINANCE OR RESOLUTION, THE OFFICIAL MINUTES APPROVED BY THE GOVERNING BODY AND SIGNED BY THE CLERK OF THE GOVERNING BODY CONSTITUTE THE FULL AND CORRECT COPY OF THE TITLE AND TEXT OF THE MEASURE. REFERENDUM SIGNATURES THAT ARE COLLECTED WITH ANY COPY OF THE MEASURE THAT IS NOT A FACSIMILE OF THE TIME-AND-DATE-MARKED COPY FOR STATEWIDE MEASURES OR THE FULL AND CORRECT COPY OF A LOCAL MEASURE AS PRESCRIBED BY THIS SUBSECTION ARE INVALID.

C. The person before whom the signatures, names and addresses were written on the signature sheet, on the affidavit form pursuant to this section, shall subscribe and swear before a notary public that each of the names on the sheet was signed and the name and address were printed by the elector and the circulator on the date indicated, that in his belief each signer was a qualified elector of a certain county of the state, or, in the case of a city, town or county measure, of the city, town or county affected by the measure on the date indicated, and that at all times during circulation of the signature sheet a copy of the title and text was attached to the signature sheet. All signatures of petitioners on a signature sheet shall be those of qualified electors who are registered to vote in the same county. However, if

signatures from more than one county appear on the same signature sheet, only the valid signatures from the same county that are most numerous on the signature sheet shall be counted. ~~Signature and handwriting comparisons may be made.~~

D. The affidavit shall be in the following form printed on the reverse side of each signature sheet:

Affidavit of Circulator

State of Arizona )
) ss.:
County of _____)
(Where notarized)

I, ___(print name)___, a person who is not required to be a resident of this state but who is otherwise qualified to register to vote in the county of _____, in the state of Arizona at all times during my circulation of this petition sheet, and under the penalty of a class 1 misdemeanor, depose and say that subject to section 19-115, Arizona Revised Statutes, each individual printed the individual's own name and address and signed this sheet of the foregoing petition in my presence on the date indicated and I believe that each signer's name and residence address or post office address are correctly stated and that each signer is a qualified elector of the state of Arizona (or in the case of a city, town or county measure, of the city, town or county affected by the measure proposed to be initiated or referred to the people) and that at all times during circulation of this signature sheet a copy of the title and text was attached to the signature sheet.

(Signature of affiant) _____

(Residence address, street
and number of affiant, or
if no street address, a
description of residence
location) _____

_____

Subscribed and sworn to before me on _____.
(date)

_____
Notary Public

_____, ~~Arizona.~~

~~My commission expires on~~ _____.
~~(date)~~

(FORM SHALL INCLUDE A DESIGNATED LOCATION FOR NOTARY STAMP)

E. The eight-point type required by subsection B of this section ~~shall~~ DOES not apply to maps, charts or other graphics.

F. THE FORM OF THE AFFIDAVIT SHALL NOT BE MODIFIED. ANY PETITION THAT CONTAINS A PARTIALLY COMPLETED AFFIDAVIT OR AN AFFIDAVIT THAT HAS BEEN MODIFIED IS INVALID.

**Sec. 3.** Section 19-118, Arizona Revised Statutes, is amended to read:

**19-118. Registered circulators; requirements; definition**

A. All circulators who are not residents of this state and, for statewide ballot measures only, all paid circulators must register as circulators with the secretary of state before circulating petitions pursuant to this title. The political committee that is circulating the petition shall collect and submit the registrations to the secretary of state. The secretary of state shall establish in the instructions and procedures manual issued pursuant to section 16-452 a procedure for registering circulators and shall publish on a website maintained by the secretary of state all information regarding circulators that is required pursuant to this section. ~~For statewide ballot measures only,~~ The secretary of state shall disqualify all signatures collected by a circulator who fails to register pursuant to this subsection as provided for in section 19-121.01, subsection A.

B. The registration required by subsection A of this section shall include the following provisions:

1. The circulator consents to the jurisdiction of the courts of this state in resolving any disputes concerning the circulation of petitions by that circulator.

2. The circulator shall designate an address in this state at which the circulator will accept service of process related to disputes concerning circulation of that circulator's petitions. Service of process is effected under this section by delivering a copy of the subpoena to that person individually or by leaving a copy of the subpoena at the address designated by the circulator with a person of suitable age.

C. If a registered circulator is properly served with a subpoena to provide evidence in an action regarding circulation of petitions and fails to appear or produce documents as provided for in the subpoena, all signatures collected by that circulator are deemed invalid. The party serving the subpoena may request an order from the court directing the secretary of state to remove any signatures collected by the circulator as provided for in section 19-121.01, subsection A.

D. Any person may challenge the lawful registration of circulators in the superior court of the county in which the circulator is registered. A challenge may not be commenced more than five days after the date on which the petitions for which the circulator is required to be registered are filed with the secretary of state. The person challenging signatures may amend that complaint after the secretary of state has removed signatures and signature sheets as prescribed in section 19-121.01. An action pursuant to this section shall be advanced on the calendar and decided by the court as soon as possible. Either party may appeal to the supreme court within five calendar days after entry of judgment. The prevailing party in an action to challenge the registration of a circulator under this section is entitled to reasonable attorney fees.

E. The removal or disqualification of any one or more circulators does not invalidate the random sample of signatures made pursuant to section 19-121.01, and the secretary of state shall not be required to conduct any additional random sampling of signatures.

~~F. Notwithstanding section 19-141, this section does not apply to filing officers for counties, cities and towns and paid circulators for county, city and town measures are not required to register with the secretary of state or with the filing officer of the county, city or town. Challenges to signatures and circulators of county, city or town measures shall be as otherwise provided by law.~~

~~G.~~ F. For the purposes of this title, "paid circulator":

1. Means a natural person who receives monetary or other compensation that is based on the number of signatures obtained on a petition or on the number of petitions circulated that contain signatures.

2. Does not include a paid employee of any political committee organized pursuant to title 16, chapter 6, unless that employee's primary responsibility is circulating petitions to obtain signatures.

**Sec. 4.** Section 19-121, Arizona Revised Statutes, is amended to read:

**19-121. Signature sheets; petitions; form; procedure for filing**

A. Signature sheets filed shall:

1. Be in the form prescribed by law.

2. Have printed in ~~its~~ THEIR lower right-hand corner, on each side of such ~~sheet~~ SHEETS, the official serial number assigned to the petition by the secretary of state.

3. Be attached to a full and correct copy of the title and text of the measure, or amendment to the constitution, proposed or referred by the petition.

4. Be printed in at least eight-point type.

5. Be printed in black ink on white or recycled white pages fourteen inches in width by eight and one-half inches in length, with a margin of at least one-half inch at the top and one-fourth inch at the bottom of each page.

B. For THE purposes of this chapter, a petition is filed when the petition sheets are tendered to the secretary of state, ~~at which time~~ WHO SHALL ISSUE a receipt ~~is immediately issued by the secretary of state~~ based on an estimate made to the secretary of state of the purported number of sheets and signatures filed. After the issuance of the receipt, no additional petition sheets may be accepted for filing.

C. Petitions may be filed with the secretary of state in numbered sections for convenience in handling. Not more than fifteen signatures on one sheet shall be counted. FOR PETITIONS FILED REGARDING CITY, TOWN OR COUNTY MATTERS, THE POLITICAL COMMITTEE THAT IS THE PROPONENT OF THE PETITION AND THAT FILES THE PETITIONS SHALL ORGANIZE THE SIGNATURE SHEETS AND GROUP THEM BY CIRCULATOR AND IS SOLELY RESPONSIBLE FOR COMPLIANCE WITH THIS SUBSECTION. THE LOCAL FILING OFFICER MAY RETURN AS UNFILED ANY SIGNATURE SHEETS THAT ARE NOT SO ORGANIZED AND GROUPED.

D. Initiative petitions ~~which~~ THAT have not been filed with the secretary of state as of 5:00 p.m. on the day required by the constitution ~~prior to~~ BEFORE the ensuing general election after their issuance shall be null and void, but in no event shall the secretary of state accept an initiative petition ~~which~~ THAT was issued for circulation more than twenty-four months ~~prior to~~ BEFORE the general election at which the measure is to be included on the ballot.

E. For THE purposes of this article and article 4 OF THIS CHAPTER, the measure to be attached to the petition as enacted by the legislative body of an incorporated city, town or county means the adopted ordinance or resolution SIGNED BY THE MAYOR OR THE CHAIRMAN OF THE BOARD OF SUPERVISORS, AS APPROPRIATE, AND SIGNED BY THE CLERK OF THE BOARD OR THE CLERK OF THE MUNICIPALITY, AS APPROPRIATE, or, in the absence of a written ordinance or resolution, that portion of the minutes of the legislative body THAT ARE APPROVED BY THE GOVERNING BODY AND FILED WITH THE CLERK OF THE GOVERNING BODY AND that ~~reflects~~ REFLECT the action taken by that body when adopting the measure. In the case of zoning measures, the measure shall also include a legal description of the property and any amendments made to the ordinance by the legislative body.

**Sec. 5.** Section 19-121.01, Arizona Revised Statutes, is amended to read:

**19-121.01. Secretary of state; removal of petition and ineligible signatures; facsimile sheets; random sample**

A. Within twenty days, excluding Saturdays, Sundays and other legal holidays, of the date of filing of an initiative or referendum petition and issuance of the receipt, the secretary of state shall:

1. Remove the following:

(a) Those sheets not attached to a copy of the COMPLETE title and text of the measure AS PRESCRIBED IN THIS CHAPTER.

(b) The copy of the title and text from the remaining petition sheets.

(c) Those sheets not bearing the CORRECT petition serial number in the lower right-hand corner of each side.

(d) Those sheets containing a circulator's affidavit that is not completed or signed OR THAT HAS BEEN MODIFIED.

(e) Those sheets on which the affidavit of the circulator is not notarized, the notary's signature is missing, the notary's commission has expired or the notary's seal is not affixed.

(f) Those sheets on which the signatures of the circulator or the notary are dated earlier than the dates on which the electors signed the face of the petition sheet.

(g) Those sheets that are circulated by a circulator who is prohibited from participating in any election, initiative, referendum or recall campaign pursuant to section 19-119.01.

(h) ~~For statewide ballot measures only,~~ Those sheets on which the circulator is required to be registered with the secretary of state pursuant to section 19-118 and the circulator is not properly registered AT THE TIME THE PETITIONS WERE CIRCULATED.

2. After completing the steps in paragraph 1 of this subsection, review each sheet to determine the county of the majority of the signers and shall:

(a) Place a three or four letter abbreviation designating that county in the upper right-hand corner of the face of the petition.

(b) Remove all signatures of those not in the county of the majority on each sheet by marking an "SS" in red ink in the margin to the right of the signature line.

(c) Cause all signature sheets to be grouped together by county of registration of the majority of those signing and attach them to one or more copies of the title and text of the measure. If the sheets are too bulky for convenient grouping by the secretary of state in one volume by county, they may be bound in two or more volumes with those in each volume attached to a single printed copy of the measure. The remaining detached copies of the title and text of the measure shall be delivered to the applicant.

3. After completing the steps in paragraph 2 of this subsection, remove the following signatures that are not eligible for verification by marking an "SS" in red ink in the margin to the right of the signature line:

(a) If the signature of the qualified elector is missing.

(b) If the residence address or the description of residence location is missing.

(c) If the date on which the petitioner signed is missing, IF THE DATE ON WHICH THE PETITIONER SIGNED THE PETITION IS BEFORE THE DATE THAT THE STATEMENT OF ORGANIZATION WAS FILED FOR THE POLITICAL COMMITTEE THAT IS FILING THE PETITION OR IF THE DATE ON WHICH THE PETITIONER SIGNED THE PETITION IS AFTER THE DATE ON WHICH THE AFFIDAVIT WAS COMPLETED BY THE CIRCULATOR AND NOTARIZED.

(d) Signatures in excess of the fifteen signatures permitted per petition.

(e) Signatures withdrawn pursuant to section 19-113.

(f) Signatures for which the secretary of state determines that the petition circulator has printed the elector's first and last names or other information in violation of section 19-112.

4. After the removal of petition sheets and signatures, count the number of signatures for verification on the remaining petition sheets and note that number in the upper right-hand corner of the face of each petition sheet immediately above the county designation.

5. Number the remaining petition sheets that were not previously removed and that contain signatures eligible for verification in consecutive order on the front side of each petition sheet in the upper left-hand corner.

6. Count all remaining petition sheets and signatures not previously removed and issue a receipt to the applicant of this total number eligible for verification.

B. If the total number of signatures for verification as determined pursuant to subsection A, paragraph 6 of this section equals or exceeds the constitutional minimum, the secretary of state, during the same twenty day period provided in subsection A of this section, shall select, at random, five ~~per cent~~ PERCENT of the total signatures eligible for verification by the county recorders of the counties in which the persons signing the petition claim to be qualified electors. The random sample of signatures to be verified shall be drawn in such a manner that every signature eligible for verification has an equal chance of being included in the sample. The random sample produced shall identify each signature selected by petition page and line number. The signatures selected shall be marked according to the following procedure:

1. Using red ink, mark the selected signature by circling the line number and drawing a line from the base of the circle extending into the left margin.

2. If a signature line selected for the random sample is found to be blank or was removed from the verification process pursuant to subsection A of this section and is marked with an "SS", then the next line down, even if that requires going to the next petition sheet in sequence, on which an eligible signature appears shall be selected as a substitute if that line has not already been selected for the random sample. If the next eligible line is already being used in the random sample, the secretary of state shall proceed back up the page from the signature line originally selected for the random sample to the next previous signature line eligible for verification. If that line is already being used in the random sample, the secretary of state shall continue moving down the page or to the next page from the line originally selected for the random sample and shall select the next eligible signature as its substitute for the random sample. The secretary of state shall use this process of alternately moving forward and backward until a signature eligible for verification and not already included in the random sample can be selected and substituted.

C. After the selection of the random sample and the marking of the signatures selected on the original petition sheets pursuant to subsection B of this section, the secretary of state shall reproduce a facsimile of the front of each signature sheet on which a signature included in the random sample appears. The secretary of state shall clearly identify those signatures marked for verification by color highlighting or other similar method and shall transmit by personal delivery or certified mail to each county recorder a facsimile sheet of each signature sheet on which a signature appears of any individual who claims to be a qualified elector of that county and whose signature was selected for verification as part of the random sample.

D. THE SECRETARY OF STATE SHALL PRESUME THAT THE DATE NOTED ON THE PETITION FOR A PETITIONER'S SIGNATURE IS THE DATE ON WHICH THE PETITIONER SIGNED THE PETITION, AND ANY PERSON SEEKING TO ESTABLISH A DIFFERENT DATE FOR THE SIGNATURE BEARS THE BURDEN OF PROOF IN OVERCOMING THE PRESUMPTION.

~~D.~~ E. The secretary of state shall retain in custody all signature sheets removed pursuant to this section except as otherwise prescribed in this title.

**Sec. 6.** Section 19-121.02, Arizona Revised Statutes, is amended to read:

**19-121.02. Certification by county recorder**

A. Within fifteen days, excluding Saturdays, Sundays and other legal holidays, after receiving the facsimile signature sheets from the secretary of state pursuant to section 19-121.01, the county recorder shall determine which signatures of individuals whose names were transmitted shall be disqualified for any of the following reasons:

1. No residence address or description of residence location is provided.
2. No date of signing is provided.
3. The signature is illegible and the signer is otherwise unidentifiable.
4. The address provided is illegible or nonexistent.

5. The individual was not a qualified elector on the date of signing the petition.

6. The individual was a registered voter but was not at least eighteen years of age on the date of signing the petition or affidavit.

7. The signature was disqualified after comparison with the signature on the affidavit of registration.

8. If a petitioner signed more than once, all but one otherwise valid signature shall be disqualified.

9. IF A PETITION SIGNER'S SIGNATURE IS DETERMINED TO BE INVALID AFTER A COMPARISON IS MADE BETWEEN THE SIGNATURE AND HANDWRITING ON THE PETITION AND THE PETITION SIGNER'S VOTER REGISTRATION FILE.

10. IF THE PERSON CIRCULATING THE PETITION WAS A JUSTICE OF THE PEACE OR A COUNTY RECORDER AT THE TIME THE PERSON CIRCULATED THE PETITION.

~~9.~~ 11. For the same reasons any signatures or entire petition sheets could have been removed by the secretary of state pursuant to section 19-121.01, subsection A, paragraph 1 OR 3.

B. Within the same time period provided in subsection A of this section, the county recorder shall certify to the secretary of state the following:

1. The name of any individual whose signature was included in the random sample and disqualified by the county recorder together with the petition page and line number of the disqualified signature.

2. The total number of signatures selected for the random sample and transmitted to the county recorder for verification and the total number of random sample signatures disqualified.

C. The secretary of state shall prescribe the form of the county recorder's certification.

D. At the time of the certification, the county recorder shall:

1. Return the facsimile signature sheets to the secretary of state.

2. Send notice of the results of the certification by mail to the person or organization that submitted the initiative or referendum petitions and to the secretary of state.

**Sec. 7.** Section 19-121.04, Arizona Revised Statutes, is amended to read:

**19-121.04. Disposition of petitions by secretary of state**

A. Within seventy-two hours, excluding Saturdays, Sundays and other legal holidays, after receipt of the facsimile signature sheets and the certification of each county recorder, the secretary of state shall determine the total number of valid signatures by subtracting from the total number of eligible signatures determined pursuant to section 19-121.01, subsection A~~, paragraph 6~~ in the following order:

1. All signatures ~~on petitions containing a defective circulator's affidavit~~ THAT WERE REMOVED PURSUANT TO SECTION 19-121.01, SUBSECTION A, PARAGRAPH 1.

2. All signatures that were found ineligible by the county recorders and that were not subtracted pursuant to paragraph 1 of this subsection.

3. After determining the percentage of all signatures found to be invalid in the random sample, a like percentage from those signatures remaining after the subtractions performed pursuant to paragraphs 1 and 2 of this subsection.

B. If the actual number of signatures on the remaining sheets after any such subtraction equals or exceeds the minimum number required by the constitution or if the number of valid signatures as projected from the random sample pursuant to subsection A of this section is at least one hundred ~~per cent~~ PERCENT of the minimum number required by the constitution, the secretary of state shall issue the following receipt to the person or organization that submitted them:

> _____ signature pages bearing _____ signatures for initiative (referendum) petition serial number ____ have been refused for filing in this office ~~because the person circulating them was a county recorder or justice of the peace at the time of circulating the petition or due to defects in the circulator's affidavit~~ AS PROVIDED BY LAW. A total of _____ signatures included on the remaining petition sheets were found to be ineligible. Of the total random sample of _____ signatures, a total of _____ signatures were invalidated by the county recorders resulting in a failure rate of _____ ~~per cent~~ PERCENT. The actual number of remaining signatures for such initiative (referendum) petition number _____ are equal to or in excess of the minimum required by the constitution to place a measure on the general election ballot. The number of valid signatures filed with this petition, based on the random sample, appears to be at least one hundred ~~five per cent~~ PERCENT of the minimum required or through examination of each signature has been certified to be greater than the minimum required by the constitution.
>
> Date:_____ _____
>
> Secretary of State
>
> (Seal)

The secretary of state shall then forthwith notify the governor that a sufficient number of signatures has been filed and that the initiative or referendum shall be placed on the ballot in the manner provided by law.

C. If the number of valid signatures as projected from the random sample is less than one hundred ~~per cent~~ PERCENT of the minimum number required by the constitution or if the actual number of signatures on the remaining sheets after any such subtraction from the random sample or after certification fails to equal or exceed the minimum required by the constitution, the secretary of state shall ~~immediately return~~ RETAIN the original signature sheets~~, in the form filed by him under section 19.121, to~~ UNTIL AFTER THE CONCLUSION OF ANY LITIGATION REGARDING THE MEASURE OR UNTIL THE TIME HAS EXPIRED FOR ANY LITIGATION TO PROCEED. THE SECRETARY OF STATE SHALL PROVIDE TO the person or organization that submitted them~~, together with~~ a certified statement that, for the following reasons, the petition lacks the minimum number of signatures to place it on the general election ballot:

1. Signature sheets bearing secretary of state page numbers _____ and bearing signatures of _____ persons appeared on ~~petitions containing a defective circulator's affidavit~~ SIGNATURE PAGES THAT WERE REQUIRED TO BE REMOVED.

2. A total of ___ signatures on the remaining petition sheets were found to be ineligible.

3. A total of _____ signatures included in the random sample have been certified by the county recorders as ineligible at the time such petition was signed and a projection from such random sample has indicated that _____ more signatures are ineligible to appear on the petition.

A facsimile of the certifications of the county recorders under section 19-121.02 shall accompany the signature sheets returned to the person or organization that submitted them.

**Sec. 8.** Section 19-122, Arizona Revised Statutes, is amended to read:

**19-122. Refusal of secretary of state to file petition or transmit facsimiles of signature sheets or affidavits of circulators; writ of mandamus; venue**

A. If the secretary of state refuses to accept and file a petition for the initiative or referendum, or proposal for a constitutional amendment that has been presented within the time prescribed, or if the secretary of state refuses to transmit the facsimiles of a signature sheet or sheets or affidavits of circulators to the county recorders for certification under section 19-121.01, the secretary of state shall provide the person who submitted the petition, proposal, signature sheet or affidavit with a written statement of the reason for the refusal. Within five calendar days after the refusal any citizen may apply to the superior court for a writ of mandamus to compel the secretary of state to file the petition or proposal or transmit the facsimiles, or FOR MATTERS INVOLVING STATEWIDE INITIATIVES OR REFERENDA OR PROPOSED CONSTITUTIONAL AMENDMENTS, the citizen may file a complaint with the county attorney or attorney general. The county attorney or attorney general may apply, within five calendar days after the complaint is made, to the superior court for a writ of mandamus to compel the secretary of state to file the petition or proposal or transmit the facsimiles. The action shall be advanced on the calendar and heard and decided by the court as soon as possible. Either party may appeal to the supreme court within five calendar days after ENTRY OF judgment BY THE SUPERIOR COURT. THE DECISION OF THE SUPERIOR COURT MAY BE STAYED AS PRESCRIBED BY RULES ADOPTED BY THE SUPREME COURT. If the court finds that the petition is legally sufficient, the secretary of state shall then file it, with a certified copy of the judgment attached as of the date on which it was originally offered for filing in the secretary of state's office.

B. The most current version of the general county register statewide voter registration database at the time of filing a court action challenging an initiative or referendum petition shall constitute the official record to be used to determine on a

prima facie basis by the challenger that the signer of a petition was not registered to vote at the address given on the date of signing the petition. If the address of the signer given on the date of signing the petition is different from that on the most current version of the general county register, the county recorder shall examine the version of the general county register that was current on the date the signer signed the petition to determine the validity of the signature and to determine whether the person was eligible to sign the petition at the time of signing. This subsection does not preclude introducing into evidence a certified copy of the affidavit of registration of any signer dated ~~prior to~~ BEFORE the signing of the petition if the affidavit is in the possession of the county recorder but has not yet been filed in the general county register.

~~C. Notwithstanding section 19-121.04, if any petition filed is not legally sufficient, the court, in an action brought by any citizen, may enjoin the secretary or other officers from certifying or printing on the official ballot for the ensuing election the amendment or measure proposed or referred. The action shall be advanced on the calendar and heard and decided by the court as soon as possible. Either party may appeal to the supreme court within five days after judgment.~~

C. AN ACTION THAT CONTESTS THE VALIDITY OF AN INITIATIVE OR REFERENDUM MEASURE BASED ON THE ACTIONS OF THE SECRETARY OF STATE MAY NOT BE MAINTAINED IN ANY COURT IN THIS STATE EXCEPT AS PRESCRIBED BY THIS SECTION. A PERSON MAY NOT MAINTAIN A SEPARATE ACTION SEEKING TO ENJOIN THE SECRETARY OF STATE OR OTHER OFFICER FROM CERTIFYING OR PRINTING THE OFFICIAL BALLOT FOR THE ELECTION THAT WILL INCLUDE THE PROPOSED INITIATIVE OR REFERENDUM MEASURE AND ANY REQUEST TO ENJOIN THE CERTIFICATION OR PRINTING OF THE BALLOT SHALL BE MADE AS A PART OF AN ACTION FILED PURSUANT TO SUBSECTION A OF THIS SECTION.

D. The superior court in Maricopa county shall have jurisdiction of actions relating to measures and amendments to be submitted to the electors of the state at large. With respect to actions relating to local and special measures FOR A COUNTY, SPECIAL DISTRICT OR SCHOOL DISTRICT, THE SUPERIOR COURT IN THE COUNTY IN WHICH THE DISTRICT IS LOCATED SHALL HAVE JURISDICTION. WITH RESPECT TO ACTIONS RELATING TO LOCAL OR SPECIAL MEASURES FOR A CITY OR TOWN, the superior court in the county~~, or in one of the counties, in which the measures are to be voted on~~ IN WHICH THE MAJORITY OF THE POPULATION OF THAT CITY OR TOWN RESIDES shall have jurisdiction.

**Sec. 9.** Title 19, chapter 2, article 1, Arizona Revised Statutes, is amended by adding section 19-201.01, to read:

**19-201.01. Legislative finding and intent; strict compliance**

THE LEGISLATURE RECOGNIZES THAT RECALL OVERTURNS THE DETERMINATION OF THE QUALIFIED ELECTORS AND THEREFORE FINDS AND DETERMINES THAT STRICT COMPLIANCE WITH THE CONSTITUTIONAL AND STATUTORY REQUIREMENTS FOR RECALL AND

IN THE APPLICATION AND ENFORCEMENT OF THOSE REQUIREMENTS PROVIDES THE SUREST METHOD FOR SAFEGUARDING THE INTEGRITY AND ACCURACY OF THE RECALL PROCESS. THEREFORE, THE LEGISLATURE FINDS AND DECLARES ITS INTENT THAT THE CONSTITUTIONAL AND STATUTORY REQUIREMENTS FOR RECALL BE STRICTLY CONSTRUED AND THAT PERSONS USING THE RECALL PROCESS STRICTLY COMPLY WITH THOSE CONSTITUTIONAL AND STATUTORY REQUIREMENTS.

**Sec. 10.** Section 19-202.01, Arizona Revised Statutes, is amended to read:

**19-202.01. Application for recall petition**

A. A person or organization intending to file a recall petition ~~shall~~, before causing the petition to be printed and circulated, SHALL submit an application setting forth THE FOLLOWING:

1. ~~his~~ THE PERSON'S name AND ADDRESS or, if an organization, its name AND ADDRESS and the names and titles of its officers. ~~, address, his~~

2. THE PERSON OR ORGANIZATION'S intention to circulate and submit ~~such~~ A RECALL petition. ~~,~~

3. The text of the general statement required by section 19-203 and a request for issuance of an official number to be printed on the signature sheets of the petition.

B. ~~Such~~ THE application AND PETITION shall be submitted AS A SINGLE DOCUMENT to the office of secretary of state if for recall of a state officer, including a member of the state legislature, or a member of Congress, and with the county officer in charge of elections if for a county or district officer or superior court judge, with the city or town clerk if for a city or town officer and with the county school superintendent if for a governing board member of a school district.

~~B.~~ C. On receipt of the application AND PETITION, the receiving officer shall ~~forthwith~~ assign a number to the petition~~, which number~~ THAT shall appear in the lower right-hand corner on each side of each signature sheet, and issue that number to the applicant. A record shall be maintained by the receiving officer of each application received, of the date of its receipt and of the number assigned and issued to the applicant.

D. WHEN THE APPLICATION IS RECEIVED BY THE FILING OFFICER AND MARKED BY THE FILING OFFICER WITH AN OFFICIAL DATE AND TIME OF RECEIPT, THE TIME-AND-DATE-MARKED APPLICATION, INCLUDING THE GENERAL STATEMENT REQUIRED BY SECTION 19-203, CONSTITUTES THE OFFICIAL COPY OF THE TEXT OF THE RECALL AND SHALL BE USED IN ALL INSTANCES AS THE TEXT OF THE RECALL. FOR ANY SUBSEQUENT CHANGE IN THE TEXT OF THE RECALL BY THE APPLICANT, INCLUDING ANY CHANGE IN THE GENERAL STATEMENT REQUIRED BY SECTION 19-203, THE APPLICANT SHALL FILE A NEW APPLICATION, SHALL RECEIVE A NEW OFFICIAL SERIAL NUMBER AND SHALL USE AS THE TEXT OF THE RECALL THE TIME-AND-DATE-MARKED TEXT THAT ACCOMPANIED THE NEW

APPLICATION, AND ANY SIGNATURES THAT ARE OBTAINED ON THE PRIOR RECALL PETITION ARE INVALID FOR THE NEW RECALL PETITION.

**Sec. 11.** Section 19-203, Arizona Revised Statutes, is amended to read:

**19-203. Recall petition; contents; submission for verification; nonacceptance**

A. A recall petition shall contain a general statement of not more than two hundred words stating the grounds of the demand for the recall. The petition shall be submitted for verification of signatures to ONE OF THE FOLLOWING:

1. The office of the secretary of state if for a state officer, including a member of the legislature or a member of Congress. ~~, with~~

2. The county officer in charge of elections if for a county or district officer or superior court judge. ~~, with~~

3. The city or town clerk if for a city or town officer and with the county school superintendent if for a governing board member of a school district.

B. No recall petition is considered filed for purposes of this chapter until the verification process is complete and the petition is filed pursuant to section 19-208.03, subsection A, paragraph 1.

~~B.~~ C. A recall petition shall not be accepted for ~~such~~ verification if more than one hundred twenty days have passed since the date of submission of the application for recall petition, as prescribed by section 19-202.01.

D. THE FILING OFFICER'S TIME-AND-DATE-MARKED COPY OF THE APPLICATION, INCLUDING THE GENERAL STATEMENT OF THE GROUNDS FOR RECALL, CONSTITUTES THE FULL AND CORRECT COPY OF THE RECALL TEXT AND IS THE ONLY VALID COPY FOR CIRCULATION FOR SIGNATURES. SIGNATURES THAT ARE COLLECTED WITH ANY COPY OF THE RECALL TEXT THAT IS NOT A FACSIMILE OF THE TIME-AND-DATE-MARKED COPY WITH THE COMPLETE TEXT THAT IS IDENTICAL TO THE TIME-AND-DATE-MARKED COPY ISSUED BY THE FILING OFFICER ARE INVALID.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## CAMPAIGN CONTRIBUTION LIMITS—ELECTION CYCLE—INCREASES

### CHAPTER 286

### H. B. 2415

**AN ACT AMENDING SECTIONS 16-901, 16-902, 16-903, 16-905, 16-907 AND 41-1234.01, ARIZONA REVISED STATUTES; RELATING TO CAMPAIGN FINANCE.**

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

**Section 1.** Section 16-901, Arizona Revised Statutes, is amended to read:

**16-901. Definitions**

In this chapter, unless the context otherwise requires:

1. "Agent" means, with respect to any person other than a candidate, any person who has oral or written authority, either express or implied, to make or authorize the making of expenditures as defined in this section on behalf of a candidate, any person who has been authorized by the treasurer of a political committee to make or authorize the making of expenditures or a political consultant for a candidate or political committee.

2. "Candidate" means an individual who receives or gives consent for receipt of a contribution for his nomination for or election to any office in this state other than a federal office.

3. "Candidate's campaign committee" means a political committee designated and authorized by a candidate.

4. "Clearly identified candidate" means that the name, a photograph or a drawing of the candidate appears or the identity of the candidate is otherwise apparent by unambiguous reference.

5. "Contribution" means any gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing an election including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer and:

(a) Includes all of the following:

(i) A contribution made to retire campaign debt.

(ii) Money or the fair market value of anything directly or indirectly given or loaned to an elected official for the purpose of defraying the expense of communications with constituents, regardless of whether the elected official has declared his candidacy.

(iii) The entire amount paid to a political committee to attend a fund-raising or other political event and the entire amount paid to a political committee as the purchase price for a fund-raising meal or item, except that no contribution results if the actual cost of the meal or fund-raising item, based on the amount charged to the committee by the vendor, constitutes the entire amount paid by the purchaser for the meal or item, the meal or item is for the purchaser's personal use and not for resale and the actual cost is the entire amount paid by the purchaser in connection with the event. This exception does not apply to auction items.

(iv) Unless specifically exempted, the provision of goods or services without charge or at a charge that is less than the usual and normal charge for such goods and services. The acquisition or use of campaign assets by a committee that are paid for with the candidate's personal monies, including campaign signs and other similar promotional materials, is a contribution and is reportable by the candidate's campaign committee as a contribution to the campaign.

(b) Does not include any of the following:

(i) The value of services provided without compensation by any individual who volunteers on behalf of a candidate, a candidate's campaign committee or any other political committee.

(ii) Money or the value of anything directly or indirectly provided to defray the expense of an elected official meeting with constituents if the elected official is engaged in the performance of the duties of his office or provided by the state or a political subdivision to an elected official for communication with constituents if the elected official is engaged in the performance of the duties of his office.

(iii) The use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, that is obtained by an individual in the course of volunteering personal services to any candidate, candidate's committee or political party, and the cost of invitations, food and beverages voluntarily provided by an individual to any candidate, candidate's campaign committee or political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of the invitations, food and beverages provided by the individual on behalf of any single candidate does not exceed one hundred dollars with respect to any single election.

(iv) Any unreimbursed payment for personal travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate.

(v) The payment by a political party for party operating expenses, party staff and personnel, party newsletters and reports, voter registration and efforts to increase voter turnout, party organization building and maintenance and printing and postage expenses for slate cards, sample ballots, other written materials that substantially promote three or more nominees of the party for public office and other election activities not related to a specific candidate, except that this item does not apply to costs incurred with respect to a display of the listing of candidates made on telecommunications systems or in newspapers, magazines or similar types of general circulation advertising.

(vi) Independent expenditures.

(vii) Monies loaned by a state bank, a federally chartered depository institution or a depository institution the deposits or accounts of which are insured by the federal deposit insurance corporation or the national credit union administration, other than an overdraft made with respect to a checking or savings account, that is made in accordance with applicable law and in the ordinary course of business. In order for this exemption to apply, this loan shall be deemed a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors, the loan shall be made on a basis that assures repayment, evidenced by a written instrument, shall be subject to a due date or amortization schedule and shall bear the usual and customary interest rate of the lending institution.

(viii) A gift, subscription, loan, advance or deposit of money or anything of value to a national or a state committee of a political party specifically designated to

defray any cost for the construction or purchase of an office facility not acquired for the purpose of influencing the election of a candidate in any particular election.

(ix) Legal or accounting services rendered to or on behalf of a political committee or a candidate, if the only person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of compliance with this title.

(x) The payment by a political party of the costs of campaign materials, including pins, bumper stickers, handbills, brochures, posters, party tabloids and yard signs, used by the party in connection with volunteer activities on behalf of any nominee of the party or the payment by a state or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by the committee if the payments are not for the costs of campaign materials or activities used in connection with any telecommunication, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising.

(xi) Transfers between political committees to distribute monies raised through a joint fund-raising effort in the same proportion to each committee's share of the fund-raising expenses and payments from one political committee to another in reimbursement of a committee's proportionate share of its expenses in connection with a joint fund-raising effort.

(xii) An extension of credit for goods and services made in the ordinary course of the creditor's business if the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation and if the creditor makes a commercially reasonable attempt to collect the debt, except that any extension of credit under this item made for the purpose of influencing an election that remains unsatisfied by the candidate after six months, notwithstanding good faith collection efforts by the creditor, shall be deemed receipt of a contribution by the candidate but not a contribution by the creditor.

(xiii) Interest or dividends earned by a political committee on any bank accounts, deposits or other investments of the political committee.

6. "Earmarked" means a designation, instruction or encumbrance that results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's campaign committee.

7. "Election" means any election for any initiative, referendum or other measure or proposition or a primary, general, recall, special or runoff election for any office in this state other than the office of precinct committeeman and other than a federal office. ~~Unless otherwise provided by law~~ FOR THE PURPOSES OF SECTIONS 16-903 AND 16-905, the general election ~~does not include~~ INCLUDES the primary election.

8. "ELECTION CYCLE" MEANS THE PERIOD BEGINNING TWENTY-ONE DAYS AFTER A GENERAL ELECTION AND ENDING TWENTY DAYS AFTER THE NEXT SUCCESSIVE GENERAL ELECTION FOR A PARTICULAR ELECTED OFFICE FOR THE PURPOSES OF SECTIONS 16-903 AND 16-905.

~~8.~~ 9. "Expenditures" includes any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by a person for the

purpose of influencing an election in this state including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer and a contract, promise or agreement to make an expenditure resulting in an extension of credit and the value of any in-kind contribution received. Expenditure does not include any of the following:

(a) A news story, commentary or editorial distributed through the facilities of any telecommunications system, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by a political committee, political party or candidate.

(b) Nonpartisan activity designed to encourage individuals to vote or to register to vote.

(c) The payment by a political party of the costs of preparation, display, mailing or other distribution incurred by the party with respect to any printed slate card, sample ballot or other printed listing of three or more candidates for any public office for which an election is held, except that this subdivision does not apply to costs incurred by the party with respect to a display of any listing of candidates made on any telecommunications system or in newspapers, magazines or similar types of general public political advertising.

(d) The payment by a political party of the costs of campaign materials, including pins, bumper stickers, handbills, brochures, posters, party tabloids and yard signs, used by the party in connection with volunteer activities on behalf of any nominee of the party or the payment by a state or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by the committee if the payments are not for the costs of campaign materials or activities used in connection with any telecommunications system, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising.

(e) Any deposit or other payment filed with the secretary of state or any other similar officer to pay any portion of the cost of printing an argument in a publicity pamphlet advocating or opposing a ballot measure.

~~9.~~ 10. "Exploratory committee" means a political committee that is formed for the purpose of determining whether an individual will become a candidate and that receives contributions or makes expenditures of more than five hundred dollars in connection with that purpose.

~~10.~~ 11. "Family contribution" means any contribution that is provided to a candidate's campaign committee by a parent, grandparent, spouse, child or sibling of the candidate or a parent or spouse of any of those persons.

~~11.~~ 12. "Filing officer" means the office that is designated by section 16-916 to conduct the duties prescribed by this chapter.

~~12.~~ 13. "Identification" means:

(a) For an individual, his name and mailing address, his occupation and the name of his employer.

(b) For any other person, including a political committee, the full name and mailing address of the person. For a political committee, identification includes the

identification number issued on the filing of a statement of organization pursuant to section 16-902.01.

~~13.~~ 14. "Incomplete contribution" means any contribution received by a political committee for which the contributor's mailing address, occupation, employer or identification number has not been obtained and is not in the possession of the political committee.

~~14.~~ 15. "Independent expenditure" means an expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, that is made without cooperation or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate. Independent expenditure includes an expenditure that is subject to the requirements of section 16-917, which requires a copy of campaign literature or advertisement to be sent to a candidate named or otherwise referred to in the literature or advertisement.

~~15.~~ 16. "In-kind contribution" means a contribution of goods or services or anything of value and not a monetary contribution. The use by a candidate's campaign committee of a distinctive trade name, trademark or trade dress item, including a logo, that is owned by a business or other entity that is owned by that candidate or in which the candidate has a controlling interest is deemed to be an in-kind contribution to the candidate's campaign committee and shall be reported as otherwise prescribed by law.

~~16.~~ 17. "Itemized" means that each contribution received or expenditure made is set forth separately.

~~17.~~ 18. "Literature or advertisement" means information or materials that are mailed, distributed or placed in some medium of communication for the purpose of influencing the outcome of an election.

~~18.~~ 19. "Personal monies" means any of the following:

(a) Except as prescribed in paragraph ~~15~~ 16 of this section, assets to which the candidate has a legal right of access or control at the time he becomes a candidate and with respect to which the candidate has either legal title or an equitable interest.

(b) Salary and other earned income from bona fide employment of the candidate, dividends and proceeds from the sale of the stocks or investments of the candidate, bequests to the candidate, income to the candidate from trusts established before candidacy, income to the candidate from trusts established by bequest after candidacy of which the candidate is a beneficiary, gifts to the candidate of a personal nature that have been customarily received before the candidacy and proceeds received by the candidate from lotteries and other legal games of chance.

(c) The proceeds of loans obtained by the candidate that are not contributions and for which the collateral or security is covered by subdivision (a) or (b) of this paragraph.

(d) Family contributions.

~~19.~~ 20. "Political committee" means a candidate or any association or combination of persons that is organized, conducted or combined for the purpose of influencing the result of any election or to determine whether an individual will

become a candidate for election in this state or in any county, city, town, district or precinct in this state, that engages in political activity in behalf of or against a candidate for election or retention or in support of or opposition to an initiative, referendum or recall or any other measure or proposition and that applies for a serial number and circulates petitions and, in the case of a candidate for public office except those exempt pursuant to section 16-903, that receives contributions or makes expenditures of more than two hundred fifty dollars in connection therewith, notwithstanding that the association or combination of persons may be part of a larger association, combination of persons or sponsoring organization not primarily organized, conducted or combined for the purpose of influencing the result of any election in this state or in any county, city, town or precinct in this state. Political committee includes the following types of committees:

(a) A candidate's campaign committee.

(b) A separate, segregated fund established by a corporation or labor organization pursuant to section 16-920, subsection A, paragraph 3.

(c) A committee acting in support of or opposition to the qualification, passage or defeat of a ballot measure, question or proposition.

(d) A committee organized to circulate or oppose a recall petition or to influence the result of a recall election.

(e) A political party.

(f) A committee organized for the purpose of making independent expenditures.

(g) A committee organized in support of or opposition to one or more candidates.

(h) A political organization.

(i) An exploratory committee.

~~20.~~ 21. "Political organization" means an organization that is formally affiliated with and recognized by a political party including a district committee organized pursuant to section 16-823.

~~21.~~ 22. "Political party" means the state committee as prescribed by section 16-825 or the county committee as prescribed by section 16-821 of an organization that meets the requirements for recognition as a political party pursuant to section 16-801 or section 16-804, subsection A.

~~22.~~ 23. "Sponsoring organization" means any organization that establishes, administers or contributes financial support to the administration of, or that has common or overlapping membership or officers with, a political committee other than a candidate's campaign committee.

~~23.~~ 24. "Standing political committee" means a political committee that satisfies all of the following:

(a) Is active in more than one reporting jurisdiction in this state for more than one year.

(b) Files a statement of organization as prescribed by section 16-902.01, subsection E.

(c) Is any of the following as defined by paragraph ~~19~~ 20 of this section:

(i) A separate, segregated fund.

(ii) A political party.

(iii) A committee organized for the purpose of making independent expenditures.

(iv) A political organization.

~~24.~~ 25. "Statewide office" means the office of governor, secretary of state, state treasurer, attorney general, superintendent of public instruction, corporation commissioner or mine inspector.

~~25.~~ 26. "Surplus monies" means those monies of a political committee remaining after all of the committee's expenditures have been made and its debts have been extinguished.

**Sec. 2.** Section 16-902, Arizona Revised Statutes, is amended to read:

**16-902. Organization of political committees; accounting**

A. Each political committee shall have a chairman and treasurer. The position of chairman and treasurer of a single political committee may not be held by the same individual, except that a candidate may be chairman and treasurer of ~~his~~ THE CANDIDATE'S own campaign committee.

B. The name of each political committee shall include the name of any sponsoring organization, and, in the case of a candidate's campaign committee, the committee's name shall include the name of the candidate, or, if for an exploratory committee, the individual, who designated the committee pursuant to section 16-903.

C. Before a political committee accepts a contribution or makes an expenditure it shall designate one or more state banks, federally chartered depository institutions or depository institutions the deposits or accounts of which are insured by the federal deposit insurance corporation or the national credit union administration as its campaign depository or depositories. The political committee shall notify the filing officer of the designation of the financial institution either at the time of filing the statement of organization pursuant to section 16-902.01 or within five business days after opening an account. All withdrawals or disbursements from these accounts require the signature of the treasurer or a designated agent of the political committee.

~~D. If a committee receives contributions designated for use in the general election before the primary election, the committee must use an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. Acceptable accounting methods include designating separate accounts for each election or establishing separate books and records for each election.~~

**Sec. 3.** Section 16-903, Arizona Revised Statutes, is amended to read:

**16-903. Candidate's campaign committees; exploratory committees; designation; candidate as agent; civil penalty**

A. Each candidate who intends to receive contributions or make expenditures of more than five hundred dollars in connection with a campaign for office shall designate in the format prescribed by the filing officer a political committee for each election CYCLE to serve as the candidate's campaign committee. ~~Subject to section 16-902, subsection D, a candidate shall only designate a single~~

~~candidate campaign committee that applies to both the primary election and the general election for that designated office.~~ The candidate shall make the designation pursuant to this subsection by filing a statement of organization before making any expenditures, accepting any contributions, distributing any campaign literature or circulating any petitions. Each candidate who intends to receive contributions or make expenditures of five hundred dollars or less shall file a signed exemption statement in the format prescribed by the filing officer that states that intention before making any expenditures, accepting any contributions, distributing any campaign literature or circulating petitions. If a candidate who has filed a five hundred dollar exemption statement receives contributions or makes expenditures of more than five hundred dollars, that candidate shall file a statement of organization with the filing officer within five business days after exceeding the five hundred dollar limit.

B. An individual who receives contributions or makes expenditures of more than five hundred dollars for the purpose of determining whether the individual will become a candidate for election to an office in this state shall designate in the format prescribed by the filing officer a political committee to serve as the individual's exploratory committee. The individual shall make the designation pursuant to this subsection before making any expenditures, accepting any contributions, circulating any petitions or distributing any campaign literature. ~~If an individual's exploratory committee receives contributions designated for use in the general election before the primary election, the committee must use an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. Acceptable accounting methods include designating separate accounts for each election or establishing separate books and records for each election.~~

C. An individual may have only one exploratory committee in existence at one time. A candidate may have only one campaign committee designated for each election CYCLE, but a candidate may have more than one campaign committee simultaneously in existence.

D. A political committee that supports or has supported another candidate or more than one candidate may not be designated as a candidate's campaign committee.

E. Any candidate who receives a contribution or any loan for use in connection with the campaign of that candidate for election or who makes a disbursement in connection with that campaign shall be deemed as having received the contribution or loan or as having made the disbursement as an agent of the candidate's campaign committee for purposes of this article.

F. An elected official is not deemed to have offered himself for nomination or election to an office within the meaning of section 38-296 solely by ~~his~~ THE ELECTED OFFICIAL'S designation of a candidate campaign committee.

G. After designating an exploratory committee, a candidate may lawfully collect signatures on nomination petitions and receive contributions.

H. A person who violates this section is subject to a civil penalty imposed as prescribed in section 16-924 of up to three times the amount of money that has been

received, expended or promised in violation of this section or up to three times the value in money for an equivalent of money or other things of value that have been received, expended or promised in violation of this section.

**Sec. 4.** Section 16-905, Arizona Revised Statutes, is amended to read:

**16-905. Contribution limitations; civil penalty; complaint; reductions**

A. For an election other than for a statewide office, a contributor shall not give and an exploratory committee, a candidate or a candidate's campaign committee shall not accept contributions of more than:

1. For an election for a legislative office, ~~two~~ SIX thousand ~~five~~ TWO hundred FIFTY dollars PER ELECTION CYCLE from an individual.

2. For an election other than for a legislative office, ~~two~~ SIX thousand ~~five~~ TWO hundred FIFTY dollars PER ELECTION CYCLE from an individual.

3. For an election for a legislative office, ~~two~~ SIX thousand ~~five~~ TWO hundred FIFTY dollars PER ELECTION CYCLE from a single political committee, excluding a political party, not certified under subsection G of this section to make contributions at the higher limits prescribed by paragraph 5 of this subsection and subsection B, paragraph 3 of this section.

4. For an election other than for a legislative office, ~~two~~ SIX thousand ~~five~~ TWO hundred FIFTY dollars PER ELECTION CYCLE from a single political committee, excluding a political party, not certified under subsection G of this section to make contributions at the higher limits prescribed by subsection B, paragraph 3 of this section.

5. ~~Five~~ TWELVE thousand FIVE HUNDRED dollars PER ELECTION CYCLE from a single political committee that is certified pursuant to subsection G of this section, excluding a political party.

6. SIX THOUSAND TWO HUNDRED FIFTY DOLLARS PER ELECTION CYCLE FROM A SINGLE PARTNERSHIP. CONTRIBUTIONS FROM A PARTNERSHIP SHALL BE ALLOCATED TO THE INDIVIDUAL PARTNERS WHO ARE CONTRIBUTING, AS DESIGNATED BY THE PARTNERSHIP. PARTNERSHIP CONTRIBUTIONS FROM DESIGNATED PARTNERS SHALL BE COMBINED WITH OTHER CONTRIBUTIONS BY THAT INDIVIDUAL PARTNER TO THE SAME RECIPIENT AND ARE SUBJECT TO THE LIMITS ON AN INDIVIDUAL PRESCRIBED BY THIS SECTION. NONPARTNERSHIP MONIES THAT ARE CONTRIBUTED BY AN INDIVIDUAL SHALL NOT BE COUNTED AGAINST THE PARTNERSHIP CONTRIBUTION LIMIT FOR THAT SAME RECIPIENT.

B. For an election for a statewide office, a contributor shall not give and an exploratory committee, a candidate or a candidate's committee shall not accept contributions of more than:

1. ~~Two~~ SIX thousand ~~five~~ TWO hundred FIFTY dollars PER ELECTION CYCLE from an individual.

2. ~~Two~~ SIX thousand ~~five~~ TWO hundred FIFTY dollars PER ELECTION CYCLE from a single political committee, excluding a political party, not certified under subsection G of this section to make contributions at the higher limits

prescribed by subsection A, paragraph 5 of this section and paragraph 3 of this subsection.

3. ~~Five~~ TWELVE thousand ~~ten~~ FIVE HUNDRED dollars PER ELECTION CYCLE from a single political committee that is certified pursuant to subsection G of this section, excluding a political party.

4. SIX THOUSAND TWO HUNDRED FIFTY DOLLARS PER ELECTION CYCLE FROM A SINGLE PARTNERSHIP. CONTRIBUTIONS FROM A PARTNERSHIP SHALL BE ALLOCATED TO THE INDIVIDUAL PARTNERS WHO ARE CONTRIBUTING, AS DESIGNATED BY THE PARTNERSHIP. PARTNERSHIP CONTRIBUTIONS FROM DESIGNATED PARTNERS SHALL BE COMBINED WITH OTHER CONTRIBUTIONS BY THAT INDIVIDUAL PARTNER TO THE SAME RECIPIENT AND ARE SUBJECT TO THE LIMITS ON AN INDIVIDUAL PRESCRIBED BY THIS SECTION. NONPARTNERSHIP MONIES THAT ARE CONTRIBUTED BY AN INDIVIDUAL SHALL NOT BE COUNTED AGAINST THE PARTNERSHIP CONTRIBUTION LIMIT FOR THAT SAME RECIPIENT.

C. A candidate may accept contributions from political committees, excluding political parties, as otherwise prescribed in this section and a candidate is not restricted as to the aggregate total that a candidate may lawfully receive from all political committees, excluding political parties.

D. A nominee of a political party shall not accept contributions from all political parties or political organizations combined totaling more than ten thousand ~~twenty~~ dollars for an election for an office other than a statewide office, and one hundred thousand ~~one hundred ten~~ dollars for an election for a statewide office.

E. An individual may make contributions as otherwise prescribed by this section, and an individual is not restricted as to the aggregate total that an individual may give. AN INDIVIDUAL MAY MAKE AN OTHERWISE LAWFUL CONTRIBUTION USING PERSONAL MONIES CONTAINED IN A REVOCABLE TRUST, WHICH SHALL BE REPORTED AS AN INDIVIDUAL CONTRIBUTION AND WHICH IS SUBJECT TO THE LIMITS ON AN INDIVIDUAL CONTRIBUTION.

F. A candidate's campaign committee or an individual's exploratory committee shall not make a loan and shall not transfer or contribute money to any other campaign or exploratory committee that is designated pursuant to this chapter or ~~2~~ 52 United States Code section ~~431~~ 30101 except as follows:

1. An exploratory committee may transfer monies to a subsequent candidate's campaign committee of the individual designating the exploratory committee, subject to the limits of subsection B of this section.

2. A candidate's campaign committee may transfer or contribute monies to another campaign committee designated by the same candidate as follows:

(a) Subject to the contribution limits of this section per contributor, transfer or contribute monies in the aggregate from one committee to another if both committees have been designated for an election in the same year including to a committee for another office or in another jurisdiction.

(b) Without application of the contribution limits of this section, transfer or contribute monies from one committee to another designated for an election in a subsequent year.

G. Only political committees that received monies from five hundred or more individuals in amounts of ten dollars or more in the two year period immediately before application to the secretary of state for qualification as a political committee pursuant to this section may make contributions to candidates under subsection A, paragraph 5 of this section and subsection B, paragraph 3 of this section. The secretary of state shall obtain information necessary to make the determination that a committee meets the requirements of this subsection and shall provide written certification of the fact to the committee. A political committee certification is valid for four years. A candidate's campaign committee shall not accept a contribution pursuant to this subsection unless it is accompanied by a copy of the certification. All political committees that do not meet the requirements of this subsection are subject to the individual campaign contribution limits of subsection A, paragraphs 1 and 2 of this section and subsection B, paragraph 1 of this section.

H. The secretary of state biennially shall adjust to the nearest ten dollars the amounts in subsections A through E of this section by the percentage change in the consumer price index and publish the new amounts for distribution to election officials, candidates and campaign committees. For the purposes of this subsection, "consumer price index" means the consumer price index for all urban consumers, United States city average, that is published by the United States department of labor, bureau of labor statistics.

I. The following specific limitations and procedures apply:

1. The limits of subsections A through E of this section apply to each election CYCLE for any office or offices that the candidate seeks.

2. The limits of subsections A and B of this section apply to the total contributions from all separate segregated funds established, as provided in section 16-920, by a corporation, labor organization, trade association, cooperative or corporation without capital stock.

3. A contribution by an unemancipated minor child shall be treated as a contribution by the child's custodial parent or parents for determining compliance with subsection A, paragraphs 1 and 2, subsection B, paragraph 1 and subsection E of this section.

4. A contribution by an individual or a single political committee to two or more candidates in connection with a joint fund-raising effort shall be divided among the candidates in direct proportion to each candidate campaign committee's share of the expenses for the fund-raising effort.

5. A candidate shall sign and file with the candidate's nomination paper a statement that the candidate has read all applicable laws relating to campaign financing and reporting.

~~6. A contribution to a candidate's exploratory or campaign committee shall be applied to the primary election unless:~~

~~(a) The contributor has designated otherwise.~~

~~(b) That application would result in exceeding a contribution limit. In that event, the committee may:~~

~~(i) Apply that portion of the contribution that exceeds the limit to the general election. Any portion applied to the general election is subject to the contribution limits for that election and for that contributor.~~

~~(ii) Refund the excess amount.~~

~~(c) The contribution was received after the primary election and the contribution was not being used to retire primary election debt. In that event, the contribution shall be applied to the general election subject to the contribution limits for that election and for that contributor.~~

~~7. Contributions made to the candidate for the general election are solely for influencing the general election. If the candidate prevailed in the primary election or if the candidate filed pursuant to section 16-341, unexpended or unencumbered primary election contributions may be combined after the primary election with all of the general election contributions that were received for use in the general election.~~

6. After the general election, all contributions may be combined for use in a subsequent election CYCLE.

~~8.~~ 7. An individual or political committee shall not use economic influence to induce members of an organization to make contributions to a candidate, collect contributions from members of an organization for transmittal to a candidate, make payments to candidates for public appearances or services that are ordinarily uncompensated or use any similar device to circumvent any of the limitations of this section.

J. A person who violates this section is subject to a civil penalty imposed as prescribed in section 16-924 of three times the amount of money that has been received, expended or promised in violation of this section or three times the value in money for an equivalent of money or other things of value that have been received, expended or promised in violation of this section.

K. Any qualified elector may file a sworn complaint with the attorney general or the county attorney of the county in which a violation of this section is believed to have occurred, and the attorney general or the county attorney shall investigate the complaint for possible action.

L. If the filing officer, attorney general or county attorney fails to institute an action within forty-five working days after receiving a complaint under subsection K of this section, the individual filing the complaint may bring a civil action in the individual's own name and at the individual's own expense, with the same effect as if brought by the filing officer, attorney general or county attorney. The individual shall execute a bond payable to the defendant if the individual fails to prosecute the action successfully. The court shall award to the prevailing party costs and reasonable attorney fees.

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

N. The use of a candidate's personal monies, or the use of personal monies by an individual who designates an exploratory committee, is not subject to the limitations of this section.

O. For any statewide or legislative candidate who is not participating in the citizens clean elections act funding system established pursuant to article 2 of this chapter:

1. Complaints and investigations relating to an alleged violation of this article are subject only to the jurisdiction, penalties and procedures established pursuant to this article and the enforcement and investigative authority of the secretary of state and attorney general.

2. The citizens clean elections commission has no authority to accept, investigate or otherwise act on any complaint involving an alleged violation of this article.

**Sec. 5.** Section 16-907, Arizona Revised Statutes, is amended to read:

**16-907. Prohibited contributions; standing political committees; classification**

A. Any person who makes a contribution in the name of another person or who knowingly permits his name to be used to effect such a contribution and any person who knowingly accepts a contribution made by one person in the name of another person is guilty of a class 6 felony.

B. Except for a contribution to a candidate's campaign committee, an individual or political committee shall not give and a political party or other political committee shall not accept an earmarked contribution.

~~C. For purposes of this article, a contribution from partnership funds shall only be made in the name of the individual partners who make the contribution.~~

~~D.~~ C. A standing political committee shall not act as a campaign committee or a sponsoring organization for any candidate, initiative, referendum or recall but may contribute to other political committees as provided by law.

**Sec. 6.** Section 41-1234.01, Arizona Revised Statutes, is amended to read:

**41-1234.01. Contributions prohibited during session; exceptions**

A. While registered under this article, a principal, public body, lobbyist, designated public lobbyist or authorized public lobbyist shall not make or promise to make a campaign contribution to or solicit or promise to solicit campaign contributions for:

1. A member of the legislature when the legislature is in regular session.

2. The governor when the legislature is in regular session or when regular session legislation is pending executive approval or veto.

B. Subsection A OF THIS SECTION only prohibits campaign contributions by principals, lobbyists, designated public lobbyists or authorized public lobbyists and the solicitation of campaign contributions by principals or lobbyists during any time that the legislature is in regular session but does not prohibit principals or lobbyists from raising monies for any other purpose during the regular session of the legislature.

C. A MEMBER OF THE LEGISLATURE OR THE GOVERNOR MAY ACCEPT A CAMPAIGN CONTRIBUTION THAT IS RECEIVED BY A

MEMBER OF THE LEGISLATURE OR THE GOVERNOR WITHIN THREE CALENDAR DAYS AFTER THE FIRST DAY OF THE REGULAR SESSION OF THE LEGISLATURE IF THE CAMPAIGN CONTRIBUTION WAS MAILED AND POSTMARKED BEFORE THE FIRST DAY OF THE REGULAR LEGISLATIVE SESSION.

**Sec. 7. Retroactivity**

A. Sections 16-901, 16-902, 16-903 and 16-905, Arizona Revised Statutes, as amended by this act, apply retroactively to from and after November 4, 2014.

B. Section 16-905, Arizona Revised Statutes, as amended by this act, applies retroactively to all contributions made for an election in the 2016 election cycle or later.

**Sec. 8. Applicability to candidates with existing political committees; transfers; debt retirement**

Notwithstanding any other law, for candidates who have existing candidate campaign committees and who intend to seek elected office in the 2016 or 2018 election cycle, as applicable:

1. For candidates who have surplus monies remaining in the primary or general election accounts, or both, from the 2014 election cycle but who do not intend to dispose of those surplus monies pursuant to section 16-915.01, subsection A, paragraphs 2 through 8, Arizona Revised Statutes, the following apply:

(a) The candidate shall transfer those monies to a new candidate campaign committee established for the 2016 or 2018 election cycle, as applicable, and shall use the new candidate campaign committee instead of amending the statement of organization for an existing candidate campaign committee from the 2014 election cycle.

(b) For candidates who amended their statements of organization for their candidate campaign committees before the effective date of this act, the filing officer for that candidate shall take reasonable measures to assist those candidates and committees to come into conformance with this act.

2. Candidates who have a zero balance in both the primary and the general election accounts of their candidate campaign committees from the 2014 election cycle shall file a termination statement for that committee with the filing officer.

3. For candidates who have debt remaining in a primary or general election account, or both, from the 2014 election cycle and who do not transfer the account debt to a new political committee established for the 2016 or 2018 election cycle, as applicable, the following apply:

(a) The candidate may accept contributions to retire the account debt in accordance with the contribution limits that were in effect on November 4, 2014 for the 2014 election cycle.

(b) A candidate's acceptance of contributions to retire debt pursuant to this paragraph does not affect a candidate's contribution limits for a new candidate campaign committee established pursuant to this act for the 2016 or 2018 election cycle, as applicable.

4. For candidates who have debt remaining in a primary or general election account, or both, from the 2014 election cycle and who transfer that account debt to a

new political committee established for the 2016 or 2018 election cycle, as applicable, contributions to retire the transferred debt are counted against the contribution limits for the new political committee for that contributor and for that candidate.

**Sec. 9. Secretary of state; campaign finance reporting system**

As soon as is practicable, the office of the secretary of state shall modify the electronic campaign finance reporting system operated by that office to incorporate the amendments made to this state's campaign finance laws by this act and shall facilitate the consolidation of separate accounts created for the 2014 primary and general elections into one account for the 2016 or 2018 election cycle, as applicable.

**Sec. 10. Severability**

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

**(EMERGENCY NOT ENACTED BY THE HOUSE)**

**Sec. 11. Emergency**

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

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## PUBLIC EMPLOYEES—PRECINCT COMMITTEEMEN

### CHAPTER 287

### H. B. 2551

**AN ACT AMENDING SECTIONS 11-352 AND 41-752, ARIZONA REVISED STATUTES; RELATING TO THE STATE PERSONNEL SYSTEM.**

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

**Section 1.** Section 11-352, Arizona Revised Statutes, is amended to read:

**11-352. Adoption of limited county employee merit system by resolution; removal of certain administrative positions by resolution; precinct committeemen**

A. Any county may by resolution of the board adopt a limited county employee merit system for all county appointive officers and employees. Elected officers shall not be included in such a merit system.

B. Any county may by resolution of the board remove certain administrative positions from the county employee merit system. The positions that may be removed from the county employee merit system are:

1. County manager.
2. Deputy county manager.
3. Assistant county manager.
4. Chief deputies to elected officials.
5. Department directors.
6. Deputy directors, not to exceed three in each department.
7. One position in each department that reports directly to the director or deputy director as designated by the director and deputy director.
8. An administrative position declared exempt after August 8, 1985. The number of positions declared exempt under this paragraph shall not exceed ten ~~per cent~~ PERCENT of the total number of county appointive officers and employees.

C. Any employee who was included as a covered employee in the county employee merit system at the time the employee assumed the employee's present position and whose position becomes exempt under subsection B OF THIS SECTION may elect to remain included under the merit system, but if terminated the employee must be afforded the opportunity to accept another vacant position within the merit system for which the employee is qualified.

D. NOTWITHSTANDING ANY OTHER LAW, RULE OR ORDINANCE, A COUNTY EMPLOYEE MAY SERVE IN THE OFFICE OF PRECINCT COMMITTEEMAN.

**Sec. 2.** Section 41-752, Arizona Revised Statutes, is amended to read:

**41-752. Protections of civil or political liberties; prohibitions; civil penalty; violation; classification**

A. Except for expressing an opinion or pursuant to section 16-402, an employee shall not engage in any activities permitted by this section while on duty, while in uniform or at public expense.

B. An employee shall not:

1. Use any political endorsement in connection with any appointment to a position in the state personnel system.
2. Use or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration.

C. An employee, a member of the state personnel board or a member of the law enforcement merit system council shall not be a member of any national, state or local committee of a political party, an officer or chairperson of a committee of a partisan political club or a candidate for nomination or election to any paid public office, shall not hold any paid, elective public office or shall not take any part in the management or affairs of any political party or in the management of any partisan or nonpartisan campaign or recall effort, except that any employee may:

1. Express an opinion.
2. Attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues.
3. Cast a vote and sign nomination or recall petitions.
4. Make contributions to candidates, political parties or campaign committees contributing to candidates or advocating the election or defeat of candidates.

5. Circulate candidate nomination petitions or recall petitions.

6. Engage in activities to advocate the election or defeat of any candidate.

7. Solicit or encourage contributions to be made directly to candidates or campaign committees contributing to candidates or advocating the election or defeat of candidates.

D. A person shall not:

1. Solicit any employee, member of the state personnel board or member of the law enforcement merit system council to engage or not engage in activities permitted by this section with the direct or indirect use of any threat, intimidation or coercion, including threats of discrimination, reprisal, force or any other adverse consequence, including the loss of any benefit, reward, promotion, advancement or compensation.

2. Subject any employee, member of the state personnel board or member of the law enforcement merit system council engaging in activity permitted by this section to any direct or indirect discrimination, reprisal, force, coercion or intimidation or any other adverse consequence, including the loss of any benefit, reward, promotion, advancement or compensation.

3. Subject any employee, member of the state personnel board or member of the law enforcement merit system council who chooses not to engage in any activity permitted by this section to any direct or indirect discrimination, reprisal, force, coercion or intimidation or any other adverse consequence, including the loss of any benefit, reward, promotion, advancement or compensation.

E. Subsections B and C of this section do not apply to those employees listed in section 41-742, subsection F.

F. This section does not apply to school board elections or community college district governing board elections, and an employee may serve as a member of the governing board of a common or high school district, ~~or~~ as a member of a community college district governing board OR IN THE OFFICE OF PRECINCT COMMITTEEMAN.

G. An employee who violates any of the provisions of this section is subject to suspension of not less than thirty days or dismissal.

H. A person who violates:

1. Subsection D of this section is guilty of a class 6 felony.

2. Any other provision of this section is guilty of a class 1 misdemeanor.

I. In addition to any other penalty, any person soliciting or encouraging a contribution in a manner prohibited by this section is subject to a civil penalty of up to three times the amount of the contribution solicited or encouraged plus costs, expenses and reasonable attorney fees.

J. This section does not deny any employee or board member any civil or political liberties as guaranteed by the United States and Arizona Constitutions.

K. It is the public policy of this state, reflected in this section, that government programs be administered in an unbiased manner and without favoritism for or against any political party or group or any member in order to promote public confidence in government, governmental integrity and the efficient delivery of governmental services and to ensure that all employees are free from any express or

implied requirement or any political or other pressure of any kind to engage or not engage in any activity permitted by this section. Toward this end, any person or entity charged with the interpretation of this section shall take into account the policy of this section and shall construe any of its provisions accordingly.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## SCHOOL DISTRICT BUDGET ERRORS—REPAYMENT

### CHAPTER 288

### H. B. 2567

**AN ACT AMENDING LAWS 2007, CHAPTER 234, SECTION 5, AS AMENDED BY LAWS 2008, CHAPTER 111, SECTION 9 AND LAWS 2010, CHAPTER 332, SECTION 29; RELATING TO SCHOOL DISTRICT BUDGETS.**

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

**Section 1.** Laws 2007, chapter 234, section 5, as amended by Laws 2008, chapter 111, section 9 and Laws 2010, chapter 332, section 29, is amended to read:

**Sec. 5. Errors in school district budget calculation; correction**

A. Notwithstanding sections 15-905 and 15-915, Arizona Revised Statutes, a school district that miscalculated its fiscal year 2004-2005 budget shall be required to correct the error over a five-year period beginning in fiscal year 2007-2008 and ending in fiscal year 2011-2012 if each of the following conditions exist:

1. The school district provides evidence to the superintendent of public instruction that the school district's budget for the current year is properly calculated and will not result in any overexpenditures.

2. The total amount of the correction from the maintenance and operations fund that would otherwise be required under section 15-915, Arizona Revised Statutes, is more than two hundred twenty thousand dollars but less than two hundred forty thousand dollars.

3. The total amount of the correction from the unrestricted capital outlay fund that would otherwise be required under section 15-915, Arizona Revised Statutes, is more than three thousand dollars but less than five thousand dollars.

4. The average daily membership of the school district in fiscal year 2004-2005 was more than eight hundred eighty but less than nine hundred forty.

B. Notwithstanding sections 15-905 and 15-915, Arizona Revised Statutes, a school district that miscalculated its budgets during fiscal year 2005-2006 shall correct the error over a six-year period beginning in fiscal year 2007-2008 and ending in fiscal year 2012-2013 if both of the following conditions exist:

1. The department of education erroneously doubled the amount that should have been calculated pursuant to section 15-905, subsection O, Arizona Revised Statutes, and that erroneous action resulted in an overstated general budget limit.

2. The total amount of the correction that would otherwise be required under this section is more than four hundred thousand dollars but less than one million two hundred thousand dollars.

C. Notwithstanding sections 15-905 and 15-915, Arizona Revised Statutes, a school district that miscalculated its budgets during fiscal year 2005-2006 shall be required to correct the error over a five-year period beginning in fiscal year 2007-2008 and ending in fiscal year 2011-2012 if each of the following conditions exist:

1. The school district reported a total attending average daily membership count of more than one thousand one hundred pupils and less than one thousand two hundred pupils for the 2005-2006 school year in the annual report of the superintendent of public instruction for fiscal year 2005-2006.

2. The total amount of the correction that would otherwise be required under section 15-915, Arizona Revised Statutes, is more than four hundred thousand dollars but less than four hundred fifty thousand dollars.

D. Notwithstanding sections 15-905 and 15-915, Arizona Revised Statutes, a school district that overexpended its budgets during fiscal years 2003-2004, 2004-2005 and 2005-2006 is required to correct these overexpenditures plus any overexpenditures for fiscal year 2006-2007 in installments beginning in fiscal year 2010-2011. The annual installments, including the principal and interest, shall be five ~~per cent in the first, second, third and fourth fiscal years and ten per cent~~ PERCENT in ~~the remaining~~ EACH fiscal ~~years~~ YEAR. This subsection applies to a school district if each of the following conditions exist:

1. The total amount of the corrections for fiscal years 2003-2004, 2004-2005 and 2005-2006 that would otherwise be required under section 15-915, Arizona Revised Statutes, is more than three million dollars but less than three million four hundred thousand dollars.

2. The school district did not receive state aid for equalization assistance for education during fiscal year 2005-2006 or fiscal year 2006-2007.

3. The school district's student count calculated pursuant to section 15-902, Arizona Revised Statutes, during fiscal year 2005-2006 is more than eight hundred but less than nine hundred twenty.

E. In addition to the monies required to be repaid pursuant to subsections A, B, C and D of this section, accrued interest is required to be paid at a rate determined by the superintendent of public instruction.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# SCHOOLS—TEACHER EXPERIENCE INDEX

## CHAPTER 289

## H. B. 2569

**AN ACT PROVIDING FOR CONDITIONS UNDER WHICH A SCHOOL DISTRICT MAY SUBMIT CORRECTIONS TO TEACHER EXPERIENCE INDEX DATA.**

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

**Section 1. School districts; teacher experience index; submission of corrected data**

A. Notwithstanding sections 15-905 and 15-915 and section 15-941, subsection C, Arizona Revised Statutes, a school district for which the fiscal year 2014-2015 teacher experience index is less than or equal to 1.0000 may submit corrections to teacher experience index data that are required pursuant to section 15-941, Arizona Revised Statutes, if all of the following conditions exist:

1. The school district's average daily membership for the 2013-2014 school year was less than one hundred fifty but more than one hundred thirty-five.

2. The school district is a common school district.

3. The teacher experience index for the school district pursuant to section 15-941, Arizona Revised Statutes, for fiscal year 2013-2014 was greater than 1.1000 and the current teacher experience index for the school district for fiscal year 2014-2015 is less than or equal to 1.0000.

4. The school district received basic state aid in fiscal year 2013-2014 and is receiving basic state aid for fiscal year 2014-2015.

5. The school district has completed the submission of teacher experience index data required to be submitted on or before October 15, 2014 under section 15-941, Arizona Revised Statutes, and the resulting preliminary teacher experience index as prescribed in section 15-941, subsection C, Arizona Revised Statutes, is greater than 1.0000.

B. If all the conditions prescribed in subsection A of this section are met, the school district may submit corrections to teacher experience index data, no later than August 15, 2015, that are required pursuant to section 15-941, Arizona Revised Statutes, and the school district may use the resulting teacher experience index in the determination of its base support level for fiscal year 2014-2015.

C. Notwithstanding sections 15-905 and 15-915 and section 15-941, subsection C, Arizona Revised Statutes, a school district for which the fiscal year 2015-2016 teacher experience index is less than or equal to 1.0040 may submit corrections to teacher experience index data that are required pursuant to section 15-941, Arizona Revised Statutes, if all of the following conditions exist:

1. The school district's average daily membership, excluding average daily membership for district sponsored charter schools, for the 2014-2015 school year is less than one thousand six hundred but more than one thousand five hundred twenty-five.

2. The school district is a common school district.

3. The teacher experience index calculated for the school district pursuant to section 15-941, Arizona Revised Statutes, for fiscal year 2014-2015 is greater than 1.0280, but less than 1.0300.

4. The teacher experience index for the school district calculated as of March 15, 2015, for fiscal year 2015-2016 is less than 1.0040.

5. The school district received basic state aid in fiscal year 2013-2014 and is receiving basic state aid for fiscal year 2014-2015.

D. If all the conditions prescribed in subsection C of this section are met, the school district may submit corrections to teacher experience index data, no later than August 15, 2015, that are required pursuant to section 15-941, Arizona Revised Statutes, and the school district may use the resulting teacher experience index in the determination of its base support level for fiscal year 2015-2016.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## SCHOOLS—TEACHER CERTIFICATION

### CHAPTER 290

### H. B. 2577

### AN ACT AMENDING SECTIONS 15-203 AND 15-533, ARIZONA REVISED STATUTES; RELATING TO TEACHER CERTIFICATION.

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

**Section 1.** Section 15-203, Arizona Revised Statutes, is amended to read:

**15-203. Powers and duties**

A. The state board of education shall:

1. Exercise general supervision over and regulate the conduct of the public school system and adopt any rules and policies it deems necessary to accomplish this purpose.

2. Keep a record of its proceedings.

3. Make rules for its own government.

4. Determine the policy and work undertaken by it.

5. Subject to title 41, chapter 4, article 4, employ staff on the recommendation of the superintendent of public instruction.

6. Prescribe the duties of its employees if not prescribed by statute.

7. Delegate to the superintendent of public instruction the execution of board policies and rules.

8. Recommend to the legislature changes or additions to the statutes pertaining to schools.

9. Prepare, publish and distribute reports concerning the educational welfare of this state.

10. Prepare a budget for expenditures necessary for proper maintenance of the board and accomplishment of its purposes and present the budget to the legislature.

11. Aid in the enforcement of laws relating to schools.

12. Prescribe a minimum course of study in the common schools, minimum competency requirements for the promotion of pupils from the third grade and minimum course of study and competency requirements for the promotion of pupils from the eighth grade. The state board of education shall prepare a fiscal impact statement of any proposed changes to the minimum course of study or competency requirements and, on completion, shall send a copy to the director of the joint legislative budget committee and the executive director of the school facilities board. The state board of education shall not adopt any changes in the minimum course of study or competency requirements in effect on July 1, 1998 that will have a fiscal impact on school capital costs.

13. Prescribe minimum course of study and competency requirements for the graduation of pupils from high school. The state board of education shall prepare a fiscal impact statement of any proposed changes to the minimum course of study or competency requirements and, on completion, shall send a copy to the director of the joint legislative budget committee and the executive director of the school facilities board. The state board of education shall not adopt any changes in the minimum course of study or competency requirements in effect on July 1, 1998 that will have a fiscal impact on school capital costs.

14. Supervise and control the certification of persons engaged in instructional work directly as any classroom, laboratory or other teacher or indirectly as a supervisory teacher, speech therapist, principal or superintendent in a school district, including school district preschool programs, or any other educational institution below the community college, college or university level, and prescribe rules for certification, including rules for certification of teachers who have teaching experience and who are trained in other states, that are not unnecessarily restrictive and are substantially similar to the rules prescribed for the certification of teachers trained in this state. The rules:

(a) Shall allow a variety of alternative teacher and administrator preparation programs, with variations in program sequence and design, to apply for program approval. The state board shall adopt rules pursuant to this subdivision designed to allow for a variety of formats and shall not require a prescribed answer or design from the program provider in order to obtain approval from the state board. The state board shall evaluate each program provider based on the program's ability to prepare teachers and administrators and to recruit teachers and administrators with a variety of experiences and talents. The state board shall permit universities under the jurisdiction of the Arizona board of regents, community colleges in this state, private

postsecondary institutions licensed by this state, school districts, charter schools and professional organizations to apply for program approval and shall create application procedures and certification criteria that are less restrictive than those for traditional preparation programs. Alternative preparation program graduates shall:

(i) Hold a bachelor's degree from an accredited postsecondary education institution.

(ii) Demonstrate professional knowledge and subject knowledge proficiency pursuant to section 15-533.

(iii) Obtain a fingerprint clearance card pursuant to section 15-534.

(iv) Complete training in structured English immersion as prescribed by the state board.

(v) Complete training in research based systematic phonics instruction as prescribed in subdivision (b) of this paragraph.

(vi) Demonstrate the required proficiency in the Constitutions of the United States and Arizona as prescribed in section 15-532.

(b) Shall require applicants for all certificates for common school instruction to complete a minimum of forty-five classroom hours or three college level credit hours, or the equivalent, of training in research-based systematic phonics instruction from a public or private provider.

(c) Shall not require a teacher to obtain a master's degree or to take any additional graduate courses as a condition of certification or recertification.

(d) Shall allow a general equivalency diploma to be substituted for a high school diploma in the certification of emergency substitute teachers.

(e) Shall allow but shall not require the superintendent of a school district to obtain certification from the state board of education.

(f) Shall provide for the issuance of a specialized teaching certificate to classroom teachers with expertise in either science, technology, engineering or mathematics. Teachers who are certified pursuant to this subdivision shall complete training in structured English immersion as prescribed by the state board. Teachers who are certified pursuant to this subdivision are exempt from the professional knowledge and subject knowledge proficiency requirements prescribed in section 15-533 and from the proficiency requirements prescribed in section 15-532 on the Constitutions of the United States and Arizona. A teacher who obtains a specialized teaching certificate pursuant to this subdivision may provide instruction in the teacher's field of expertise in grades ~~seven~~ SIX through twelve at any public school in this state. This subdivision does not require a teacher who has obtained another type of teaching certificate from the state board to obtain a specialized teaching certificate pursuant to this subdivision in order to provide instruction in grades ~~seven~~ SIX through twelve in a science, technology, engineering or mathematics course. A classroom teacher is eligible for a specialized teaching certificate pursuant to this subdivision if the teacher meets all of the following requirements:

(i) Has taught science, technology, engineering or mathematics courses for the last two consecutive years and for a total of at least three years at one or more regionally or nationally accredited public or private postsecondary institutions. An applicant shall demonstrate compliance with this requirement by providing the state

board with written proof of employment for specific durations from one or more qualifying postsecondary institutions.

(ii) Has either a baccalaureate degree, a master's degree or a doctorate degree in an academic subject that is specific to science, technology, engineering or mathematics or has obtained a passing score on a statewide educator assessment in science, technology, engineering or mathematics that is recognized by the state board.

(iii) Obtains a valid fingerprint clearance card that is issued pursuant to title 41, chapter 12, article 3.1.

(g) Notwithstanding section 15-533, may exempt persons applying for a secondary education certificate from the subject knowledge portion of the proficiency examination if the state board determines that the person has work experience in science, technology, engineering or mathematics and can demonstrate adequate knowledge of a particular subject through a postsecondary education degree or twenty-four credit hours of relevant coursework.

15. Adopt a list of approved tests for determining special education assistance to gifted pupils as defined in and as provided in chapter 7, article 4.1 of this title. The adopted tests shall provide separate scores for quantitative reasoning, verbal reasoning and nonverbal reasoning and shall be capable of providing reliable and valid scores at the highest ranges of the score distribution.

16. Adopt rules governing the methods for the administration of all proficiency examinations.

17. Adopt proficiency examinations for its use. The state board of education shall determine the passing score for the proficiency examination.

18. Include within its budget the cost of contracting for the purchase, distribution and scoring of the examinations as provided in paragraphs 16 and 17 of this subsection.

19. Supervise and control the qualifications of professional nonteaching school personnel and prescribe standards relating to qualifications. The standards shall not require the business manager of a school district to obtain certification from the state board of education.

20. Impose such disciplinary action, including the issuance of a letter of censure, suspension, suspension with conditions or revocation of a certificate, upon a finding of immoral or unprofessional conduct.

21. Establish an assessment, data gathering and reporting system for pupil performance as prescribed in chapter 7, article 3 of this title.

22. Adopt a rule to promote braille literacy pursuant to section 15-214.

23. Adopt rules prescribing procedures for the investigation by the department of education of every written complaint alleging that a certificated person has engaged in immoral conduct.

24. For purposes of federal law, serve as the state board for vocational and technological education and meet at least four times each year solely to execute the powers and duties of the state board for vocational and technological education.

25. Develop and maintain a handbook for use in the schools of this state that provides guidance for the teaching of moral, civic and ethical education. The

handbook shall promote existing curriculum frameworks and shall encourage school districts to recognize moral, civic and ethical values within instructional and programmatic educational development programs for the general purpose of instilling character and ethical principles in pupils in kindergarten programs and grades one through twelve.

26. Require pupils to recite the following passage from the declaration of independence for pupils in grades four through six at the commencement of the first class of the day in the schools, except that a pupil shall not be required to participate if the pupil or the pupil's parent or guardian objects:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. . . .

27. Adopt rules that provide for ~~teacher~~ EDUCATOR certification reciprocity. The rules FOR ISSUANCE OF A COMPARABLE ~~shall provide for a one-year~~ reciprocal ~~teaching~~ EDUCATOR certificate ~~with minimum requirements,~~ SHALL INCLUDE A REQUIREMENT THAT THE APPLICANT POSSESS A COMPARABLE ~~including~~ valid ~~teacher~~ certification from ~~a~~ ANOTHER state ~~with substantially similar criminal history or teacher fingerprinting requirements and proof of the submission of an application for a fingerprint clearance card pursuant to title 41, chapter 12, article 3.1. For teachers who provide Arizona online instruction pursuant to section 15-808, the rules shall allow automatic certification reciprocity with other states that have similar programs~~.

28. Adopt rules that provide for the presentation of an honorary high school diploma to a person who has never obtained a high school diploma and who meets both of the following requirements:

(a) Currently resides in this state.

(b) Provides documented evidence from the ~~Arizona~~ department of veterans' services that the person enlisted in the armed forces of the United States and served in World War I, World War II, the Korean conflict or the Vietnam conflict.

29. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the duties of the department of education and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

30. Adopt rules to define and provide guidance to schools as to the activities that would constitute immoral or unprofessional conduct of certificated persons.

31. Adopt guidelines to encourage pupils in grades nine, ten, eleven and twelve to volunteer for twenty hours of community service before graduation from high school. A school district that complies with the guidelines adopted pursuant to this paragraph is not liable for damages resulting from a pupil's participation in

community service unless the school district is found to have demonstrated wanton or reckless disregard for the safety of the pupil and other participants in community service. For the purposes of this paragraph, "community service" may include service learning. The guidelines shall include the following:

(a) A list of the general categories in which community service may be performed.

(b) A description of the methods by which community service will be monitored.

(c) A consideration of risk assessment for community service projects.

(d) Orientation and notification procedures of community service opportunities for pupils entering grade nine, including the development of a notification form. The notification form shall be signed by the pupil and the pupil's parent or guardian, except that a pupil shall not be required to participate in community service if the parent or guardian notifies the principal of the pupil's school in writing that the parent or guardian does not wish the pupil to participate in community service.

(e) Procedures for a pupil in grade nine to prepare a written proposal that outlines the type of community service that the pupil would like to perform and the goals that the pupil hopes to achieve as a result of community service. The pupil's written proposal shall be reviewed by a faculty advisor, a guidance counselor or any other school employee who is designated as the community service program coordinator for that school. The pupil may alter the written proposal at any time before performing community service.

(f) Procedures for a faculty advisor, a guidance counselor or any other school employee who is designated as the community service program coordinator to evaluate and certify the completion of community service performed by pupils.

32. To facilitate the transfer of military personnel and their dependents to and from the public schools of this state, pursue, in cooperation with the Arizona board of regents, reciprocity agreements with other states concerning the transfer credits for military personnel and their dependents. A reciprocity agreement entered into pursuant to this paragraph shall:

(a) Address procedures for each of the following:

(i) The transfer of student records.

(ii) Awarding credit for completed coursework.

(iii) Permitting a student to satisfy the graduation requirements prescribed in section 15-701.01 through the successful performance on comparable exit-level assessment instruments administered in another state.

(b) Include appropriate criteria developed by the state board of education and the Arizona board of regents.

33. Adopt guidelines that school district governing boards shall use in identifying pupils who are eligible for gifted programs and in providing gifted education programs and services. The state board of education shall adopt any other guidelines and rules that it deems necessary in order to carry out the purposes of chapter 7, article 4.1 of this title.

34. For each of the alternative textbook formats of human-voiced audio, large-print and braille, designate alternative media producers to adapt existing standard print textbooks or to provide specialized textbooks, or both, for pupils with disabilities in this state. Each alternative media producer shall be capable of producing alternative textbooks in all relevant subjects in at least one of the alternative textbook formats. The board shall post the designated list of alternative media producers on its website.

35. Adopt a list of approved professional development training providers for use by school districts as provided in section 15-107, subsection J. The professional development training providers shall meet the training curriculum requirements determined by the state board of education in at least the areas of school finance, governance, employment, staffing, inventory and human resources, internal controls and procurement.

36. Adopt rules to prohibit a person who violates the notification requirements prescribed in section 15-183, subsection C, paragraph 8 or section 15-550, subsection C from certification pursuant to this title until the person is no longer charged or is acquitted of any offenses listed in section 41-1758.03, subsection B. The board shall also adopt rules to prohibit a person who violates the notification requirements, certification surrender requirements or fingerprint clearance card surrender requirements prescribed in section 15-183, subsection C, paragraph 9 or section 15-550, subsection D from certification pursuant to this title for at least ten years after the date of the violation.

37. Adopt rules for the alternative certification of teachers of nontraditional foreign languages that allow for the passing of a nationally accredited test to substitute for the education coursework required for certification.

38. Adopt and maintain a model framework for a teacher and principal evaluation instrument that includes quantitative data on student academic progress that accounts for between thirty-three ~~per cent~~ PERCENT and fifty ~~per cent~~ PERCENT of the evaluation outcomes. ~~On or before December 1, 2012,~~ The framework shall include four performance classifications, designated as highly effective, effective, developing and ineffective, and guidelines for school districts and charter schools to use in their evaluation instruments. The state board of education shall adopt best practices for professional development and evaluator training. The state board of education may periodically make adjustments to align the model framework for teacher and principal evaluations with assessment or data changes at the state level. School districts and charter schools shall use an instrument that meets the data requirements established by the state board of education to annually evaluate individual teachers and principals ~~beginning in school year 2012-2013~~. ~~By school year 2013-2014,~~ School districts and charter schools shall adopt definitions for the performance classifications adopted by the state board of education in a public meeting and apply the performance classifications to their evaluation instruments in a manner designed to improve principal and teacher performance. For charter holders, the principal evaluation instrument applies to each charter school's instructional leader whose primary responsibility is to oversee the academic performance of the charter school. This paragraph does not apply to an

officer, director, member or partner of the charter holder. The school district governing board shall discuss at a public meeting at least annually its aggregate performance classifications of principals and teachers.

39. Adopt rules to define competency-based educational pathways for college and career readiness that may be used by schools. The rules shall include the following components:

(a) The establishment of learning outcomes that will be expected for students in a particular subject.

(b) A process and criteria by which assessments may be identified or established to determine if students have reached the desired competencies in a particular subject.

(c) A mechanism to allow pupils in grades seven through twelve who have demonstrated competency in a subject to immediately obtain credit for the mastery of that subject. The rules shall include a list of applicable subjects, including the level of competency required for each subject.

40. In consultation with the department of health services, the department of education, medical professionals, school health professionals, school administrators and an organization that represents school nurses in this state, adopt rules on or before January 1, 2014 that prescribe the following for school districts and charter schools:

(a) Annual training in the administration of auto-injectable epinephrine, as directed on the prescription protocol, for designated medical and nonmedical school personnel. The annual training prescribed in this subdivision is optional during any fiscal year in which sufficient monies are not appropriated by the legislature during that fiscal year to provide for the purchase of two juvenile doses and two adult doses of auto-injectable epinephrine at each public school in this state and if the school does not stock two juvenile doses and two adult doses of auto-injectable epinephrine at the school during that fiscal year.

(b) Annual training for all school site personnel on the recognition of anaphylactic shock symptoms and the procedures to follow when anaphylactic shock occurs, following the national guidelines of the American academy of pediatrics. The annual training prescribed in this subdivision is optional during any fiscal year in which sufficient monies are not appropriated by the legislature during that fiscal year to provide for the purchase of two juvenile doses and two adult doses of auto-injectable epinephrine at each public school in this state and if the school does not stock two juvenile doses and two adult doses of auto-injectable epinephrine at the school during that fiscal year.

(c) Procedures for the administration of auto-injectable epinephrine in emergency situations, as directed on the prescription protocol.

(d) Procedures for annually requesting a standing order for epinephrine auto-injectors pursuant to section 15-157 from the chief medical officer of the department of health services, the chief medical officer of a county health department, a doctor of medicine licensed pursuant to title 32, chapter 13 or a doctor of osteopathy licensed pursuant to title 32, chapter 17.

(e) Procedures for reporting the use of auto-injectable epinephrine to the department of health services.

B. The state board of education may:

1. Contract.

2. Sue and be sued.

3. Distribute and score the tests prescribed in chapter 7, article 3 of this title.

4. Provide for an advisory committee to conduct hearings and screenings to determine whether grounds exist to impose disciplinary action against a certificated person, whether grounds exist to reinstate a revoked or surrendered certificate and whether grounds exist to approve or deny an initial application for certification or a request for renewal of a certificate. The board may delegate its responsibility to conduct hearings and screenings to its advisory committee. Hearings shall be conducted pursuant to title 41, chapter 6, article 6.

5. Proceed with the disposal of any complaint requesting disciplinary action or with any disciplinary action against a person holding a certificate as prescribed in subsection A, paragraph 14 of this section after the suspension or expiration of the certificate or surrender of the certificate by the holder.

6. Assess costs and reasonable attorney fees against a person who files a frivolous complaint or who files a complaint in bad faith. Costs assessed pursuant to this paragraph shall not exceed the expenses incurred by the state board in the investigation of the complaint.

**Sec. 2.** Section 15-533, Arizona Revised Statutes, is amended to read:

**15-533. Reciprocity; proficiency examination**

A. To qualify for either a basic or standard teaching certificate, or equivalent certificate later adopted by the state board of education, a person must pass each component of the proficiency examination developed and administered by the state board of education. The proficiency examination shall consist of only a professional knowledge test and a subject knowledge test. A person is not required to take the examination if the person has passed a proficiency examination adopted by a state agency in another state that is equivalent to the state board of education. A person is not required to take the professional knowledge portion of the examination if the person has been a full-time teacher for at least three years in that same area of certification in which the person is applying for certification in this state. A person is not required to take the subject knowledge portion of the examination if the person has obtained a master's degree in that subject area at an accredited institution of higher education according to an official transcript issued from the institution. A person who obtained structured English immersion training in another state that the state board of education determines is comparable to the structured English immersion training required in this state shall not be required to obtain additional structured English immersion training in this state. The state board of education may grant a basic or standard teaching certificate for ~~not to exceed~~ NOT MORE THAN ~~one year~~ THREE YEARS to a teacher ~~who is a nonresident and~~ who has not met the requirement of this section at the time of application.

B. A person is not required to pass the proficiency examination or the equivalent examination more than once. The state board of education may adopt rules to modify the requirements of subsection A OF THIS SECTION for persons who have taught, obtained certification or obtained a master's degree in another country. Notwithstanding any other law, a person who has not taught during the ten years immediately preceding the submission of the application for certification is required to repass the examination.

C. A person who is not required to pass the proficiency examination developed and administered in this state by the state board of education pursuant to subsection A or B OF THIS SECTION shall only be granted reciprocity for those proficiency examinations required in this state that pertain to the grade levels and content areas that the person is certified to teach in another state.

**Sec. 3. Emergency**

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

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## CAMPAIGN FINANCE—ELECTRONIC FILING SYSTEM

### CHAPTER 291

### H. B. 2589

**AN ACT AMENDING TITLE 16, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-916.02; RELATING TO ELECTION FILINGS.**

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

**Section 1.** Title 16, chapter 6, article 1, Arizona Revised Statutes, is amended by adding section 16-916.02, to read:

**16-916.02. Electronic filing; statements of contributions and expenditures; counties, cities, towns, school districts and special districts**

SUBJECT TO LEGISLATIVE APPROPRIATION THE SECRETARY OF STATE MAY DEVELOP AN ELECTRONIC FILING SYSTEM FOR STATEMENTS, DESIGNATIONS AND REPORTS THAT ARE REQUIRED BY THIS ARTICLE THAT ARE NOT IN CONNECTION WITH A STATEWIDE OR LEGISLATIVE ELECTION. THIS SYSTEM MAY BE USED BY ANY POLITICAL SUBDIVISION THAT CHOOSES TO OPT IN TO THE SYSTEM BY

GIVING NOTICE TO THE SECRETARY OF STATE AT LEAST THIRTY DAYS BEFORE THE FIRST REPORT IS DUE FOR A CALENDAR YEAR FOR THAT POLITICAL SUBDIVISION PURSUANT TO SECTION 16-913 AND THAT PAYS A FEE AS DETERMINED BY THE SECRETARY OF STATE. THE SYSTEM MUST COMPLY WITH SECTION 16-916.01.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## ELECTIONS—CAMPAIGN FINANCE REPORTS—LATE FILING FEES

### CHAPTER 292

### H. B. 2595

**AN ACT AMENDING SECTIONS 16-242, 16-322, 16-542, 16-558.01 AND 16-918, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS.**

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

**Section 1.** Section 16-242, Arizona Revised Statutes, is amended to read:

**16-242. Qualifications for ballot; nomination paper**

A. A person seeking nomination as a candidate for the office of president of the United States shall sign and cause to be filed with the secretary of state a nomination paper that contains the following information:

1. The name, residence address and mailing address of the candidate.

2. The name of the recognized political party from which the person seeks nomination.

3. The name and address of the chairman of the candidate's state committee.

4. The exact manner for printing the candidate's name on the presidential preference ballot pursuant to section 16-311.

B. The nomination paper shall be filed not less than ~~ninety~~ ONE HUNDRED days nor more than one hundred ~~twenty~~ THIRTY days before the presidential preference election and not later than 5:00 p.m. on the last day for filing. IF THE LAST DAY FOR FILING FALLS ON A SATURDAY, SUNDAY OR LEGAL HOLIDAY, THE NOMINATION PAPER SHALL BE FILED NOT LATER THAN 5:00 P.M. ON THE NEXT BUSINESS DAY.

C. A candidate for the office of president of the United States shall file with the secretary of state nomination petitions signed by ~~one thousand~~ AT LEAST FIVE HUNDRED qualified electors who are qualified to vote for the candidate whose nomination petition they are signing for that election or, for recognized parties with fewer than fifty thousand registered voters, nomination petitions signed by ~~one thousand~~ AT LEAST FIVE HUNDRED qualified electors of any political party

affiliation who, at the time they sign, are registered voters. THE NOMINATION PETITIONS SHALL BE FILED WITHIN THE TIME PERIOD PRESCRIBED BY SUBSECTION B OF THIS SECTION.

D. Nomination petitions shall conform to the requirements of section 16-314.

E. In lieu of the petition requirements of this section, a candidate may qualify to appear on the presidential preference ~~primary~~ ELECTION ballot of the candidate's political party by filing with the secretary of state ~~no later than the last Tuesday in January preceding a presidential preference primary,~~ DURING THE TIME PERIOD PRESCRIBED BY SUBSECTION B OF THIS SECTION a notice of candidacy signed by the candidate and ~~either of the following:~~

~~1. A certification by the federal election commission that, by the filing deadline, the candidate has qualified for matching federal campaign funds.~~

~~2.~~ evidence that by the filing deadline the candidate's name is qualified to appear on the presidential preference ~~primary~~ ELECTION ballot of the candidate's political party in at least ~~twenty~~ TWO other states.

F. Within seventy-two hours after the close of filing the secretary of state shall certify to the officer in charge of elections the names of the candidates who are qualified for the presidential preference election ballot.

**Sec. 2.** Section 16-322, Arizona Revised Statutes, is amended to read:

**16-322. Number of signatures required on nomination petitions**

A. Nomination petitions shall be signed:

1. If for a candidate for the office of United States senator or for a state office, excepting members of the legislature and superior court judges, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one ~~per cent~~ PERCENT of the voter registration of the party of the candidate in at least three counties in the state, but not less than one-half of one ~~per cent~~ PERCENT nor more than ten ~~per cent~~ PERCENT of the total voter registration of the candidate's party in the state.

2. If for a candidate for the office of representative in Congress, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the total voter registration of the party designated in the district from which such representative shall be elected except that if for a candidate for a special election to fill a vacancy in the office of representative in congress, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the total voter registration of the party designated in the district from which such representative shall be elected.

3. If for a candidate for the office of member of the legislature, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one ~~per cent~~ PERCENT but not more than three ~~per cent~~ PERCENT of the total voter registration of the party designated in the district from which the member of the legislature may be elected.

4. If for a candidate for a county office or superior court judge, by a number of qualified electors who are qualified to vote for the candidate whose nomination

petition they are signing equal to at least two ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the total voter registration of the party designated in the county or district, provided that in counties with a population of two hundred thousand persons or more, a candidate for a county office shall have nomination petitions signed by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the total voter registration of the party designated in the county or district.

5. If for a candidate for a community college district, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least:

(a) Through June 30, 2012, one-half of one ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the total voter registration in the precinct as established pursuant to section 15-1441.

(b) Beginning July 1, 2012, one-quarter of one ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the total voter registration in the precinct as established pursuant to section 15-1441. Notwithstanding the total voter registration in the community college district, the maximum number of signatures required by this subdivision is one thousand.

6. If for a candidate for county precinct committeeman, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least two ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the party voter registration in the precinct or ten signatures, whichever is less.

7. If for a candidate for justice of the peace or constable, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least two ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the party voter registration in the precinct.

8. If for a candidate for mayor or other office nominated by a city at large, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five ~~per cent~~ PERCENT and not more than ten ~~per cent~~ PERCENT of the designated party vote in the city, except that a city that chooses to hold nonpartisan elections may by ordinance provide that the minimum number of signatures required for the candidate be one thousand signatures or five ~~per cent~~ PERCENT of the vote in the city, whichever is less, but not more than ten ~~per cent~~ PERCENT of the vote in the city.

9. If for an office nominated by ward, precinct or other district of a city, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five ~~per cent~~ PERCENT and not more than ten ~~per cent~~ PERCENT of the designated party vote in the ward, precinct or other district, except that a city that chooses to hold nonpartisan elections may provide by ordinance that the minimum number of signatures required for the candidate be two hundred fifty signatures or five ~~per cent~~ PERCENT of the vote in the district, whichever is less, but not more than ten ~~per cent~~ PERCENT of the vote in the district.

10. If for a candidate for an office nominated by a town at large, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five ~~per cent~~ PERCENT and not more than ten ~~per cent~~ PERCENT of the vote in the town, except that a town that chooses to hold nonpartisan elections may provide by ordinance that the minimum number of signatures required for the candidate be one thousand signatures or five ~~per cent~~ PERCENT of the vote in the town, whichever is less, but not more than ten ~~per cent~~ PERCENT of the vote in the town.

11. If for a candidate for a governing board of a school district OR A JOINT TECHNICAL EDUCATION DISTRICT, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one ~~per cent~~ PERCENT of the total voter registration in the school district OR JOINT TECHNICAL EDUCATION DISTRICT if the ~~governing~~ board members are elected at large or one ~~per cent~~ PERCENT of the total voter registration in the single member district if governing board members ~~or joint technical education district board members~~ are elected from single member districts OR ONE-HALF OF ONE PERCENT OF THE TOTAL VOTER REGISTRATION IN THE SINGLE MEMBER DISTRICT IF JOINT TECHNICAL EDUCATION DISTRICT BOARD MEMBERS ARE ELECTED FROM SINGLE MEMBER DISTRICTS. Notwithstanding the total voter registration in the school district, JOINT TECHNICAL EDUCATION DISTRICT or single member district OF THE SCHOOL DISTRICT OR JOINT TECHNICAL EDUCATION DISTRICT, the maximum number of signatures required by this paragraph is four hundred.

12. If for a candidate for a governing body of a special district as described in title 48, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one ~~per cent~~ PERCENT of the vote in the special district but not more than two hundred fifty and not fewer than five signatures.

B. The basis of percentage in each instance referred to in subsection A of this section, except in cities, towns and school districts, shall be the number of voters registered in the designated party of the candidate as reported pursuant to section 16-168, subsection G on March 1 of the year in which the general election is held. In cities, the basis of percentage shall be the vote of the party for mayor at the last preceding election at which a mayor was elected. In towns, the basis of percentage shall be the highest vote cast for an elected official of the town at the last preceding election at which an official of the town was elected. In school districts OR JOINT TECHNICAL EDUCATION DISTRICTS, the basis of percentage shall be the total number of voters registered in the school district OR JOINT TECHNICAL EDUCATION DISTRICT or single member district, whichever applies. The total number of voters registered for school districts OR JOINT TECHNICAL EDUCATION DISTRICTS shall be calculated using the periodic reports prepared by the county recorder pursuant to section 16-168, subsection G. The count that is reported on March 1 of the year in which the general election is held shall be the basis for the calculation of total voter registration for school districts OR JOINT TECHNICAL EDUCATION DISTRICTS.

C. In primary elections the signature requirement for party nominees, other than nominees of the parties entitled to continued representation pursuant to section 16-804, is at least one-tenth of one ~~per cent~~ PERCENT of the total vote for the winning candidate or candidates for governor or presidential electors at the last general election within the district. Signatures must be obtained from qualified electors who are qualified to vote for the candidate whose nomination petition they are signing.

D. If new boundaries for congressional districts, legislative districts, supervisorial districts, justice precincts or election precincts are established and effective subsequent to March 1 of the year of a general election and prior to the date for filing of nomination petitions, the basis for determining the required number of nomination petition signatures is the number of registered voters in the designated party of the candidate in the elective office, district or precinct on the day the new districts or precincts are effective.

**Sec. 3.** Section 16-542, Arizona Revised Statutes, is amended to read:

**16-542. Request for ballot; civil penalties; violation; classification**

A. Within ninety-three days before any election called pursuant to the laws of this state, an elector may make a verbal or signed request to the county recorder, or other officer in charge of elections for the applicable political subdivision of this state in whose jurisdiction the elector is registered to vote, for an official early ballot. In addition to name and address, the requesting elector shall provide the date of birth and state or country of birth or other information that if compared to the voter registration information on file would confirm the identity of the elector. If the request indicates that the elector needs a primary election ballot and a general election ballot, the county recorder or other officer in charge of elections shall honor the request. For any partisan primary election, if the elector is not registered as a member of a political party that is entitled to continued representation on the ballot pursuant to section 16-804, the elector shall designate the ballot of only one of the political parties that is entitled to continued representation on the ballot and the elector may receive and vote the ballot of only that one political party. The county recorder may establish on-site early voting locations at the recorder's office, which shall be open and available for use beginning the same day that a county begins to send out the early ballots. The county recorder may also establish any other early voting locations in the county the recorder deems necessary.

B. Notwithstanding subsection A of this section, a request for an official early ballot from an absent uniformed services voter or overseas voter as defined in the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; ~~42~~ 52 United States Code section ~~1973ff-6~~ 20310) or a voter whose information is protected pursuant to section 16-153 that is received by the county recorder or other officer in charge of elections more than ninety-three days before the election is valid. If requested by the absent uniformed services or overseas voter, or a voter whose information is protected pursuant to section 16-153, the county recorder or other officer in charge of elections shall provide to the requesting voter early ballot materials through the next regularly scheduled general election for federal office immediately following receipt of the request unless a different period of time, which

does not exceed the next two regularly scheduled general elections for federal office, is designated by the voter.

C. The county recorder or other officer in charge of elections shall mail the early ballot and the envelope for its return postage prepaid to the address provided by the requesting elector within five days after receipt of the official early ballots from the officer charged by law with the duty of preparing ballots pursuant to section 16-545, except that early ballot distribution shall not begin more than ~~twenty-six~~ TWENTY-SEVEN days before the election. If an early ballot request is received on or before the ~~thirtieth~~ THIRTY-FIRST day before the election, the early ballot shall be distributed ~~on~~ NOT EARLIER THAN the ~~twenty-sixth~~ TWENTY-SEVENTH day before the election AND NOT LATER THAN THE TWENTY-FOURTH DAY BEFORE THE ELECTION.

D. Only the elector may be in possession of that elector's unvoted early ballot. If a complete and correct request is made by the elector within ~~twenty-six~~ TWENTY-SEVEN days before the election, the mailing must be made within forty-eight hours after receipt of the request. Saturdays, Sundays and other legal holidays are excluded from the computation of the forty-eight hour period prescribed by this subsection. If a complete and correct request is made by an absent uniformed services voter or an overseas voter before the election, the regular early ballot shall be transmitted by mail, by fax or by other electronic format approved by the secretary of state within twenty-four hours after the early ballots are delivered pursuant to section 16-545, subsection B, excluding Sundays.

E. In order to be complete and correct and to receive an early ballot by mail, an elector's request that an early ballot be mailed to the elector's residence or temporary address must include all of the information prescribed by subsection A of this section and must be received by the county recorder or other officer in charge of elections no later than 5:00 p.m. on the eleventh day preceding the election. An elector who appears personally no later than 5:00 p.m. on the Friday preceding the election at an on-site early voting location that is established by the county recorder or other officer in charge of elections shall be given a ballot and permitted to vote at the on-site location. If an elector's request to receive an early ballot is not complete and correct but complies with all other requirements of this section, the county recorder or other officer in charge of elections shall attempt to notify the elector of the deficiency of the request.

F. Unless an elector specifies that the address to which an early ballot is to be sent is a temporary address, the recorder may use the information from an early ballot request form to update voter registration records.

G. The county recorder or other officer in charge of early balloting shall provide an alphabetized list of all voters in the precinct who have requested and have been sent an early ballot to the election board of the precinct in which the voter is registered not later than the day ~~prior to~~ BEFORE the election.

H. As a result of an emergency occurring between 5:00 p.m. on the second Friday preceding the election and 5:00 p.m. on the Monday preceding the election, qualified electors may request to vote early in the manner prescribed by the county recorder of their respective county. For the purposes of this subsection, "emergency"

means any unforeseen circumstances that would prevent the elector from voting at the polls.

I. A candidate, political committee or other organization may distribute early ballot request forms to voters. If the early ballot request forms include a printed address for return, the addressee shall be the political subdivision that will conduct the election. Failure to use the political subdivision as the return addressee is punishable by a civil penalty of up to three times the cost of the production and distribution of the request.

J. All original and completed early ballot request forms that are received by a candidate, ~~or~~ political committee OR OTHER ORGANIZATION shall be submitted within six business days after receipt by a candidate, ~~or~~ political committee OR OTHER ORGANIZATION or eleven days before the election day, whichever is earlier, to the political subdivision that will conduct the election. Any person, political committee or other organization that fails to submit a completed early ballot request form within the prescribed time is subject to a civil penalty of up to twenty-five dollars per day for each completed form withheld from submittal. Any person who knowingly fails to submit a completed early ballot request form before the submission deadline for the election immediately following the completion of the form is guilty of a class 6 felony.

**Sec. 4.** Section 16-558.01, Arizona Revised Statutes, is amended to read:

**16-558.01. Mailing of ballots**

Not more than ~~twenty-six~~ TWENTY-SEVEN days before the election and not fewer than fifteen days before the election, the county recorder or other officer in charge of elections for the special district shall send by nonforwardable mail all official ballots with printed instructions and a return envelope bearing a printed ballot affidavit as described in section 16-547 to each qualified elector entitled to vote in the election. The envelope in which the ballot is mailed shall be clearly marked with the statement required by the postmaster to receive an address correction and notification. The district governing board shall determine whether the voter or the district governing board will pay for the postage for the return of electors' marked ballots. An elector who votes in a special district mail ballot election shall return the elector's marked ballot to the recorder or other officer in charge of the election or to a designated depository site as provided in section 16-411 no later than 7:00 p.m. on the day of the election.

**Sec. 5.** Section 16-918, Arizona Revised Statutes, is amended to read:

**16-918. Campaign finance reports; notice; civil penalty; prohibition on candidacy**

A. If a political committee fails to file a report in a timely manner as required by this chapter, the filing officer shall send written notice of the delinquency of the report to the political committee and the candidate, in the case of the candidate's campaign committee, or to the designating individual, in the case of an individual's exploratory committee. The notice shall be sent by certified mail within fifteen days after the filing officer determines there may be a failure to file a campaign finance report. The notice shall provide with reasonable particularity the nature of the failure and a statement of the penalties provided in this section.

B. A political committee, or in the case of a candidate's campaign committee, the candidate, or in the case of an exploratory committee, the designating individual, is liable for a late penalty of ten dollars for each business day after failure to make or file a campaign finance report that is required pursuant to this chapter up to a maximum of four hundred fifty dollars. For filings for an officeholder expense account pursuant to section 41-133, the late penalty is five dollars for each day after failure to make or file the campaign finance report, and the late penalty shall not accrue on days during which the office of the secretary of state is not open for business. A LATE PENALTY ACCRUES ONLY UNTIL THE DAY THE LATE REPORT IS FILED AND the filing officer shall not ~~accept~~ REFUSE a campaign FINANCE report ~~unless any penalties owed as a result of this section or any~~ EXCEPT IF penalties imposed pursuant to section 16-924 are ~~paid with~~ UNPAID AT THE TIME OF FILING the report. BEGINNING ON THE THIRTY-FIRST DAY AFTER THE DUE DATE, THE FILING OFFICER MAY NOTIFY THE APPROPRIATE ENFORCEMENT OFFICER UNDER SECTION 16-924 THAT A VIOLATION HAS OCCURRED AND THAT LATE FEES AND CIVIL PENALTIES ARE OWED AS PRESCRIBED IN SUBSECTION C OF THIS SECTION AND MAY BE COLLECTED IN AN ENFORCEMENT ACTION PURSUANT TO SECTION 16-924.

C. A political committee, or in the case of a candidate's campaign committee, the candidate, or in the case of an exploratory committee, the designating individual, that has failed to file within fifteen days after receiving a notice of delinquency pursuant to subsection A of this section is liable for a civil penalty of twenty-five dollars for each subsequent day that the filing is late. This penalty shall be assessed pursuant to section 16-924.

D. For the purposes of this section, there is a failure to make and file a campaign finance report by the treasurer, the designating individual, in the case of an exploratory committee, the candidate, in the case of a candidate's campaign committee, and for all other political committees, the chairman, if any of the following occurs:

1. The report is not filed in a timely manner as prescribed by section 16-913.
2. The report is not signed in accordance with section 16-913.
3. A good faith effort is not made to substantially complete the report as prescribed by section 16-915.

E. It is a defense to an enforcement action brought pursuant to this section if good cause is shown by the treasurer, the designating individual, in the case of an exploratory committee, or the candidate, in the case of a candidate's campaign committee, for the failure to make and file a campaign finance report. For the purposes of this subsection, "good cause" includes an illness or absence from this state at the time the campaign finance report was due or the written notice of delinquency was delivered if the illness or absence reasonably prevented the treasurer, designating individual or candidate from filing the report or receiving the written notice.

F. In addition to the enforcement actions prescribed by this section, a person who was a candidate for nomination or election to any local or state office and who

after written notice pursuant to this section failed to make and file a campaign finance report as required by this chapter is not eligible to be a candidate for nomination or election to any local or state office for five years after the last failure to make and file a campaign finance report occurred. This penalty shall be imposed as follows:

1. A candidate's failure to make and file a campaign finance report with a filing officer for a jurisdiction is grounds for that filing officer to refuse the candidate's nomination paper for any public office in that jurisdiction as described in this subsection.

2. A candidate's failure to make and file a campaign finance report with any filing officer is grounds for a filing officer from another jurisdiction to refuse the candidate's nomination paper for any public office on presentation of a certified copy of a final order issued pursuant to section 16-924.

G. For a standing political committee, in addition to any late penalty and civil penalty assessed pursuant to this section, if the standing political committee makes a late filing three or more times, the standing political committee is no longer eligible for consolidated filing status pursuant to section 16-913, subsection K and shall make all of its filings in each reporting jurisdiction in which it is active.

H. For any political committee that has failed to file three consecutive campaign finance reports with the filing officer as prescribed by section 16-913, the filing officer shall send the committee chairman and treasurer a written notice of intent to suspend the political committee. The notice of intent to suspend shall state that failure of the political committee to fully comply with all filing requirements for that committee, including any required payments, within thirty days of the date of the notice shall result in suspension of the political committee's authority to operate in that jurisdiction. On suspension of the political committee's authority to operate, the filing officer is no longer required to provide any further notice of delinquency to the political committee. This subsection does not reduce or eliminate the political committee's continuing obligation to make campaign finance filings and pay any fines, penalties, civil penalties or other sanctions that may continue to accrue as otherwise provided by law. This subsection does not apply to reports required pursuant to article 2 of this chapter or to a candidate's campaign committee designated by that candidate pursuant to section 16-903 during that election cycle.

**Sec. 6. Revised congressional districts; presidential preference election; tabulation not required**

Notwithstanding section 16-249, Arizona Revised Statutes, if the congressional district lines that are in effect at the 2016 presidential preference election are different from the congressional district lines used in the 2014 general election, the results of the 2016 presidential preference election are not required to be tabulated by congressional districts.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# ELECTIONS—ACTIVE REGISTERED VOTERS—QUALIFIED SIGNERS

## CHAPTER 293

## H. B. 2608

**AN ACT AMENDING TITLE 16, CHAPTER 1.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-193; AMENDING SECTIONS 16-321 AND 16-322, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS.**

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

**Section 1.** Title 16, chapter 1.1, article 1, Arizona Revised Statutes, is amended by adding section 16-193, to read:

**16-193. Active registered voters; applicability**

THE TERMS "REGISTERED VOTERS", "PERSONS WHO ARE REGISTERED TO VOTE", "REGISTERED ELECTORS" AND "VOTERS REGISTERED" AS USED IN THE FOLLOWING SECTIONS INCLUDE ONLY ACTIVE REGISTERED VOTERS FOR PURPOSES OF THE FOLLOWING:

1. CALCULATING PETITION SIGNATURE REQUIREMENTS PURSUANT TO SECTIONS 11-133, 16-322, 16-341, 45-415, 45-433, 48-4433 AND 48-4832.

2. MAILING AND DISTRIBUTING ELECTION-RELATED NOTICES, PAMPHLETS OR BALLOTS PURSUANT TO SECTIONS 11-137, 15-905.01, 16-245, 16-412, 16-461, 16-510, 19-123, 19-141, 35-454, 41-563.02, 42-6109.01, 42-17057, 42-17107, 48-620, 48-4021, 48-4236, 48-5314, 48-6432 AND 48-6433.

3. PROVIDING VOTING MACHINES PURSUANT TO SECTION 16-430.

4. FURNISHING BALLOTS PURSUANT TO SECTIONS 16-508 AND 48-685.

5. DETERMINING QUALIFICATION FOR POLITICAL PARTIES' CONTINUED REPRESENTATION ON THE BALLOT PURSUANT TO SECTIONS 16-244 AND 16-804.

6. CHOOSING POLITICAL PARTY OFFICERS PURSUANT TO SECTIONS 16-821 AND 16-823.

**Sec. 2.** Section 16-321, Arizona Revised Statutes, is amended to read:

**16-321. Signing and certification of nomination petition; definition**

A. Each signer of a nomination petition shall sign only one petition for the same office unless more than one candidate is to be elected to such office, and in that case not more than the number of nomination petitions equal to the number of candidates to be elected to the office. A signature shall not be counted on a nomination petition unless the signature is on a sheet bearing the form prescribed by section 16-314.

B. For the purposes of petitions filed pursuant to sections 16-312, 16-313, 16-314 and 16-341, each signer of a nomination petition shall be a voter who at the time of signing is a registered voter in the electoral district of the office the candidate is seeking.

C. If an elector signs more nomination petitions than permitted by subsection A of this section, the earlier signatures of the elector are deemed valid, as determined by the date of the signature as shown on the petitions. If the signatures by the elector are dated on the same day, all signatures by that elector on that day are deemed invalid. Any signature by that elector on a nomination petition on or after the date of the last otherwise valid signature is deemed invalid and shall not be counted.

D. The person before whom the signatures were written on the signature sheet is not required to be a resident of this state but otherwise shall be qualified to register to vote in this state pursuant to section 16-101 and, if not a resident of this state, shall register as a circulator with the secretary of state. A circulator shall verify that each of the names on the petition was signed in his presence on the date indicated, and that in his belief each signer was a qualified elector who resides at the address given as the signer's residence on the date indicated and, if for a partisan election, that each signer is a ~~member of the party from which the candidate is seeking nomination, or the signer is a member of a political party that is not entitled to continued representation on the ballot pursuant to section 16-804 or the signer is registered as independent or no party preferred~~ QUALIFIED SIGNER. The way the name appears on the petition shall be the name used in determining the validity of the name for any legal purpose pursuant to the election laws of this state. Signature and handwriting comparisons may be made.

E. A person who signs a nominating petition must use that person's actual residence address unless there is no actual residence address assigned by an official governmental entity or the person's actual residence is protected pursuant to section 16-153. The signature of a person who signs a nominating petition and who uses only a description of the place of residence or an Arizona post office box address is valid if the person is otherwise properly registered to vote, has not moved since registering to vote and is eligible to sign the nominating petition.

F. FOR THE PURPOSES OF THIS ARTICLE, "QUALIFIED SIGNER" MEANS ANY OF THE FOLLOWING:

1. A QUALIFIED ELECTOR WHO IS A REGISTERED MEMBER OF THE PARTY FROM WHICH THE CANDIDATE IS SEEKING NOMINATION.

2. A QUALIFIED ELECTOR WHO IS A REGISTERED MEMBER OF A POLITICAL PARTY THAT IS NOT ENTITLED TO CONTINUED REPRESENTATION ON THE BALLOT PURSUANT TO SECTION 16-804.

3. A QUALIFIED ELECTOR WHO IS REGISTERED AS INDEPENDENT OR NO PARTY PREFERRED.

**Sec. 3.** Section 16-322, Arizona Revised Statutes, is amended to read:

**16-322. Number of signatures required on nomination petitions**

A. Nomination petitions shall be signed BY A NUMBER OF QUALIFIED SIGNERS EQUAL TO:

1. If for a candidate for the office of United States senator or for a state office, excepting members of the legislature and superior court judges, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least ~~one-half of one per cent of the voter registration of the party of the candidate in at least three counties in the state, but not less than one-half~~ ONE-FOURTH of one ~~per cent nor~~ PERCENT BUT NOT more than ten ~~per cent~~ PERCENT of the total ~~voter registration of the candidate's party~~ NUMBER OF QUALIFIED SIGNERS in the state.

2. If for a candidate for the office of representative in Congress, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least ONE-HALF OF one ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the total ~~voter registration of the party designated~~ NUMBER OF QUALIFIED SIGNERS in the district from which such representative shall be elected except that if for a candidate for a special election to fill a vacancy in the office of representative in congress, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least ~~one-half~~ ONE-FOURTH of one ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the total ~~voter registration of the party designated~~ NUMBER OF QUALIFIED SIGNERS in the district from which such representative shall be elected.

3. If for a candidate for the office of member of the legislature, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least ONE-HALF OF one ~~per cent~~ PERCENT but not more than three ~~per cent~~ PERCENT of the total ~~voter registration of the party designated~~ NUMBER OF QUALIFIED SIGNERS in the district from which the member of the legislature may be elected.

4. If for a candidate for a county office or superior court judge, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least ~~two per cent~~ ONE PERCENT but not more than ten ~~per cent~~ PERCENT of the total ~~voter registration of the party designated~~ NUMBER OF QUALIFIED SIGNERS in the county or district, ~~provided that in counties~~ EXCEPT THAT IF FOR A CANDIDATE FROM A COUNTY with a population of two hundred thousand persons or more, ~~a candidate for a county office shall have nomination petitions signed by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least ~~one-half~~ ONE-FOURTH of one ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the total ~~voter registration of the party designated~~ NUMBER OF QUALIFIED SIGNERS in the county or district.

5. If for a candidate for a community college district, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least~~:~~

~~(a) Through June 30, 2012, one-half of one per cent but not more than ten per cent of the total voter registration in the precinct as established pursuant to section 15-1441.~~

~~(b) Beginning July 1, 2012,~~ one-quarter of one ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the total voter registration in the precinct as established pursuant to section 15-1441. Notwithstanding the total voter registration in the community college district, the maximum number of signatures required by this subdivision is one thousand.

6. If for a candidate for county precinct committeeman, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least two ~~per cent~~ PERCENT but not more than ten ~~per cent~~ PERCENT of the party voter registration in the precinct or ten signatures, whichever is less.

7. If for a candidate for justice of the peace or constable, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least ~~two per cent~~ ONE PERCENT but not more than ten ~~per cent~~ PERCENT of the ~~party voter registration~~ NUMBER OF QUALIFIED SIGNERS in the precinct.

8. If for a candidate for mayor or other office nominated by a city at large, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least five ~~per cent~~ PERCENT and not more than ten ~~per cent~~ PERCENT of the designated party vote in the city, except that a city that chooses to hold nonpartisan elections may by ordinance provide that the minimum number of signatures required for the candidate be one thousand signatures or five ~~per cent~~ PERCENT of the vote in the city, whichever is less, but not more than ten ~~per cent~~ PERCENT of the vote in the city.

9. If for an office nominated by ward, precinct or other district of a city, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least five ~~per cent~~ PERCENT and not more than ten ~~per cent~~ PERCENT of the designated party vote in the ward, precinct or other district, except that a city that chooses to hold nonpartisan elections may provide by ordinance that the minimum number of signatures required for the candidate be two hundred fifty signatures or five ~~per cent~~ PERCENT of the vote in the district, whichever is less, but not more than ten ~~per cent~~ PERCENT of the vote in the district.

10. If for a candidate for an office nominated by a town at large, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five ~~per cent~~ PERCENT and not more than ten ~~per cent~~ PERCENT of the vote in the town, except that a town that chooses to hold nonpartisan elections may provide by ordinance that the minimum number of signatures required for the candidate be one thousand signatures or five ~~per cent~~ PERCENT of the vote in the town, whichever is less but not more than ten ~~per cent~~ PERCENT of the vote in the town.

11. If for a candidate for a governing board of a school district, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least one-half of one ~~per cent~~ PERCENT of the total voter registration in the school district if the governing board members are elected at large or one ~~per cent~~ PERCENT of the total voter registration in the single

member district if governing board members or joint technical education district board members are elected from single member districts. Notwithstanding the total voter registration in the school district or single member district, the maximum number of signatures required by this paragraph is four hundred.

12. If for a candidate for a governing body of a special district as described in title 48, ~~by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to~~ at least one-half of one ~~per cent~~ PERCENT of the vote in the special district but not more than two hundred fifty and not fewer than five signatures.

B. The basis of percentage in each instance referred to in subsection A of this section, except in cities, towns and school districts, shall be the number of ~~voters registered in the designated party of the candidate~~ QUALIFIED SIGNERS AS DETERMINED FROM THE VOTER REGISTRATION TOTALS as reported pursuant to section 16-168, subsection G on March 1 of the year in which the general election is held. In cities, the basis of percentage shall be the vote of the party for mayor at the last preceding election at which a mayor was elected. In towns, the basis of percentage shall be the highest vote cast for an elected official of the town at the last preceding election at which an official of the town was elected. In school districts, the basis of percentage shall be the total number of ACTIVE REGISTERED voters ~~registered~~ in the school district or single member district, whichever applies. The total number of ACTIVE REGISTERED voters ~~registered~~ for school districts shall be calculated using the periodic reports prepared by the county recorder pursuant to section 16-168, subsection G. The count that is reported on March 1 of the year in which the general election is held shall be the basis for the calculation of total voter registration for school districts.

C. In primary elections the signature requirement for party nominees, other than nominees of the parties entitled to continued representation pursuant to section 16-804, is at least one-tenth of one ~~per cent~~ PERCENT of the total vote for the winning candidate or candidates for governor or presidential electors at the last general election within the district. Signatures must be obtained from qualified electors who are qualified to vote for the candidate whose nomination petition they are signing.

D. If new boundaries for congressional districts, legislative districts, supervisorial districts, justice precincts or election precincts are established and effective subsequent to March 1 of the year of a general election and prior to the date for filing of nomination petitions, the basis for determining the required number of nomination petition signatures is the ~~number of registered voters in the designated party of the candidate~~ NUMBER OF QUALIFIED SIGNERS in the elective office, district or precinct on the day the new districts or precincts are effective.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# DRIVER LICENSES

## CHAPTER 294

## H. B. 2609

**AN ACT AMENDING TITLE 28, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-413; AMENDING SECTION 28-3002, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 8, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-3175; AMENDING SECTION 28-6991, ARIZONA REVISED STATUTES; RELATING TO DRIVER LICENSES.**

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

**Section 1.** Title 28, chapter 2, article 4, Arizona Revised Statutes, is amended by adding section 28-413, to read:

**28-413. Reciprocal driver license agreement; foreign countries**

A. THE DEPARTMENT MAY WAIVE THE REQUIREMENTS FOR A WRITTEN EXAMINATION AND THE DRIVING EXAMINATION REQUIRED PURSUANT TO SECTION 28-3164 FOR AN OPERATOR OF A MOTOR VEHICLE HOLDING A VALID DRIVER LICENSE ISSUED BY A FOREIGN COUNTRY IN WHICH THE OPERATOR PREVIOUSLY RESIDED AND WHO APPLIES FOR AN INITIAL DRIVER LICENSE IN THIS STATE AS AN ORIGINAL APPLICANT, IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

1. THE DIRECTOR DETERMINES THAT THE STANDARDS OF THE FOREIGN COUNTRY FOR LICENSING OPERATORS OF MOTOR VEHICLES ARE SUBSTANTIALLY SIMILAR TO THOSE OF THIS STATE.

2. THE FOREIGN COUNTRY EXTENDS THE SAME RECIPROCAL DRIVER LICENSE APPLICATION PRIVILEGES TO PERSONS LICENSED IN THIS STATE.

3. THE DIRECTOR AND THE FOREIGN COUNTRY HAVE EXCHANGED LETTERS OR OTHER DOCUMENTATION TO CONFIRM THE RECIPROCAL EXTENSION OF PRIVILEGES TO OPERATE MOTOR VEHICLES.

4. THE ORIGINAL APPLICANT UNDER THIS SECTION COMPLIES WITH THE MANDATORY MOTOR VEHICLE INSURANCE PROVISIONS OF CHAPTER 9, ARTICLES 1 AND 4 OF THIS TITLE.

B. A PERSON WHO HOLDS A VALID DRIVER LICENSE THAT MEETS THE REQUIREMENTS OF SUBSECTION A, MAY APPLY TO THE DEPARTMENT FOR A CLASS D, G OR M LICENSE. THE PERSON APPLYING FOR THE ORIGINAL LICENSE SHALL SURRENDER THE

FOREIGN COUNTRY DRIVER LICENSE TO THE DEPARTMENT UPON SUCCESSFUL APPLICATION.

C. THE DEPARTMENT SHALL PUBLISH ON ITS PUBLIC INTERNET SITE A CURRENT LIST OF FOREIGN COUNTRIES FOR WHICH RECIPROCAL OPERATING PRIVILEGES HAVE BEEN EXTENDED AND WITHDRAWN.

D. THIS SECTION SHALL NOT APPLY TO COMMERCIAL DRIVER LICENSING.

E. THE DIRECTOR MAY ADOPT RULES TO IMPLEMENT THIS SECTION.

**Sec. 2.** Section 28-3002, Arizona Revised Statutes, is amended to read:

**28-3002. Fees; driver licenses; disposition**

A. The following fees are required:

1. For each original or initial application or renewal application, if a written examination is required, for the following:

(a) Class A driver license, twenty-five dollars.

(b) Class B driver license, twenty-five dollars.

(c) Class C driver license, twelve dollars fifty cents.

(d) Class D driver license issued pursuant to section 28-3171, ten dollars.

(e) Class M driver license issued pursuant to section 28-3171, ten dollars.

2. Except as provided in paragraph 1, for each original, renewal or reinstatement application for a class D, G or M license:

| Age | Fee |
|---|---|
| 50 or older | $10.00 |
| 45-49 | $15.00 |
| 40-44 | $20.00 |
| 39 or younger | $25.00 |

3. For each original or initial application or renewal examination, if a written application is required, for the following endorsements to a driver license:

(a) Bus endorsement, ten dollars.

(b) Hazardous materials endorsement, ten dollars.

(c) Tank vehicle endorsement, ten dollars.

(d) Double-triple trailer endorsement, ten dollars.

(e) Motorcycle endorsement, seven dollars.

4. For taking each driving test for a:

(a) Class A driver license, twenty-five dollars.

(b) Class B driver license, twenty-five dollars.

(c) Class C driver license, twelve dollars fifty cents.

(d) Bus endorsement, five dollars.

5. For each application for an instruction permit under:

(a) Section 28-3154 or 28-3156, seven dollars.

(b) Section 28-3155, three dollars.

(c) Section 28-3225, class A, twenty-five dollars.

(d) Section 28-3225, class B, twenty-five dollars.

(e) Section 28-3225, class C, twelve dollars fifty cents.

6. For each renewal application, if a written examination is not required, for a:

(a) Class A driver license and any endorsement, other than a hazardous materials endorsement, to the license, fifteen dollars.

(b) Class B driver license and any endorsement, other than a hazardous materials endorsement, to the license, fifteen dollars.

(c) Class C driver license and any endorsement, other than a hazardous materials endorsement, to the license, ten dollars.

7. For each application for a duplicate of a driver license, an amount determined by the director.

8. For each application for a duplicate of an instruction permit, two dollars.

9. In addition to the fees prescribed in paragraph 2 and except as provided in paragraph 11:

(a) For reinstatement of driving privileges after suspension or disqualification, ten dollars.

(b) For reinstatement of driving privileges after revocation, twenty dollars.

10. For each application for an extension by mail of a driver license, five dollars.

11. In addition to the fees prescribed in paragraph 2, for reinstatement of driving privileges that were suspended or denied pursuant to section 28-1385 after completion of the suspension or revocation, fifty dollars.

12. For vision screening tests of out-of-state drivers, five dollars.

13. For class D or M driver license skills tests for out-of-state drivers, fifteen dollars.

14. FOR A DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE ISSUED PURSUANT TO SECTION 28-3175, AN AMOUNT TO BE DETERMINED BY THE DIRECTOR.

B. Except as otherwise provided by statute, the director shall immediately deposit, pursuant to sections 35-146 and 35-147, fees collected under this section in the Arizona highway user revenue fund.

**Sec. 3.** Title 28, chapter 8, article 4, Arizona Revised Statutes, is amended by adding section 28-3175, to read:

**28-3175. Driver licenses; nonoperating identification licenses; use for boarding aircraft; accessing restricted areas; rules**

A. NOTWITHSTANDING ANY OTHER LAW, ON OR BEFORE APRIL 1, 2016, IF A DRIVER LICENSE APPLICANT OR NONOPERATING IDENTIFICATION LICENSE APPLICANT REQUESTS A DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE THAT ALLOWS THE APPLICANT TO BOARD A FEDERALLY REGULATED COMMERCIAL AIRCRAFT OR TO ACCESS RESTRICTED AREAS IN FEDERAL FACILITIES, NUCLEAR POWER PLANTS OR MILITARY FACILITIES, THE DEPARTMENT MUST ISSUE THE APPLICANT THE DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE.

B. A DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE ISSUED PURSUANT TO THIS SECTION:

1. SHALL BE VALID FOR A PERIOD NOT TO EXCEED EIGHT YEARS.

2. MAY NOT CONTAIN RADIO FREQUENCY IDENTIFICATION TECHNOLOGY.

C. THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT THIS SECTION.

**Sec. 4.** Section 28-6991, Arizona Revised Statutes, is amended to read:

**28-6991. State highway fund; sources**

A state highway fund is established that consists of:

1. Monies distributed from the Arizona highway user revenue fund pursuant to chapter 18 of this title.

2. Monies appropriated by the legislature.

3. Monies received from donations for the construction, improvement or maintenance of state highways or bridges. These monies shall be credited to a special account and shall be spent only for the purpose indicated by the donor.

4. Monies received from counties under cooperative agreements, including proceeds from bond issues. The state treasurer shall deposit these monies to the credit of the fund in a special account on delivery to the treasurer of a concise written agreement between the department and the county stating the purposes for which the monies are surrendered by the county, and these monies shall be spent only as stated in the agreement.

5. Monies received from the United States under an act of Congress to provide aid for the construction of rural post roads, but monies received on projects for which the monies necessary to be provided by this state are wholly derived from sources mentioned in paragraphs 2 and 3 of this section shall be allotted by the department and deposited by the state treasurer in the special account within the fund established for each project. On completion of the project, on the satisfaction and discharge in full of all obligations of any kind created and on request of the department, the treasurer shall transfer the unexpended balance in the special account for the project into the state highway fund, and the unexpended balance and any further federal aid thereafter received on account of the project may be spent under the general provisions of this title.

6. Monies in the custody of an officer or agent of this state from any source that is to be used for the construction, improvement or maintenance of state highways or bridges.

7. Monies deposited in the state general fund and arising from the disposal of state personal property belonging to the department.

8. Receipts from the sale or disposal of any or all other property held by the department and purchased with state highway monies.

9. Monies generated pursuant to section 28-410.

10. Monies distributed pursuant to section 28-5808, subsection B, paragraph 2, subdivision (d).

11. Monies deposited pursuant to sections 28-1143, 28-2353 and 28-3003.

12. Except as provided in section 28-5101, the following monies:

(a) Monies deposited pursuant to section 28-2206 and section 28-5808, subsection B, paragraph 2, subdivision (e).

(b) One dollar of each registration fee and one dollar of each title fee collected pursuant to section 28-2003.

(c) Two dollars of each late registration penalty collected by the director pursuant to section 28-2162.

(d) The air quality compliance fee collected pursuant to section 49-542.

(e) The special plate administration fees collected pursuant to sections 28-2404, 28-2412 through 28-2416, 28-2416.01, 28-2417 through 28-2451 and 28-2514.

(f) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156 if the director is the registering officer.

13. Monies deposited pursuant to chapter 5, article 5 of this title.

14. Donations received pursuant to section 28-2269.

15. Dealer and registration monies collected pursuant to section 28-4304.

16. Abandoned vehicle administration monies deposited pursuant to section 28-4804.

17. Monies deposited pursuant to section 28-710, subsection D, paragraph 2.

18. Monies deposited pursuant to section 28-2065.

19. Monies deposited pursuant to section 28-7311.

20. Monies deposited pursuant to section 28-7059.

21. Monies deposited pursuant to section 28-1105.

22. Monies deposited pursuant to section 28-2448, subsection D.

23. Monies deposited pursuant to section 28-3415.

24. MONIES DEPOSITED PURSUANT TO SECTION 28-3002, SUBSECTION A, PARAGRAPH 14.

**Sec. 5. Exemption from rulemaking**

For the purposes of section 28-3175, Arizona Revised Statutes, as added by this act, and section 28-3002, Arizona Revised Statutes, as amended by this act, the department of transportation is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of section 28-3175, Arizona Revised Statutes. The department of transportation shall provide public notice and an opportunity for public comment on proposed rules at least thirty days before a rule is adopted or amended.

**Sec. 6. Conditional enactment; notice**

A. Section 28-3175, Arizona Revised Statutes, as added by this act, and sections 28-3002 and 28-6991, Arizona Revised Statutes, as amended by this act, become effective only if by January 1, 2021 this state requests the federal government to grant this state a waiver from complying with the requirements of the REAL ID act of 2005 (P.L. 109-13, division B; 119 Stat. 302) and the federal government does not grant the waiver.

B. Section 28-3175, Arizona Revised Statutes, and section 28-3002, Arizona Revised Statutes, as amended by this act, do not become effective if by January 1, 2021:

1. This state does not request the waiver described in subsection A of this section.

2. This state requests the waiver described in subsection A of this section and receives the waiver from the federal government.

C. The department of transportation shall notify in writing the director of the Arizona legislative council within three business days of the date that the waiver is both:

1. Requested.
2. Granted or denied.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## COLLEGIATE SPECIAL PLATES

### CHAPTER 295

### H. B. 2610

**AN ACT AMENDING TITLE 15, CHAPTER 12, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1447; AMENDING SECTIONS 15-1641 AND 28-2412, ARIZONA REVISED STATUTES; RELATING TO SPECIAL LICENSE PLATES.**

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

**Section 1.** Title 15, chapter 12, article 3, Arizona Revised Statutes, is amended by adding section 15-1447, to read:

**15-1447. Community college district collegiate special plate funds; purpose**

A. A COMMUNITY COLLEGE DISTRICT WITH A FULL-TIME EQUIVALENT STUDENT ENROLLMENT PURSUANT TO SECTION 15-1466.01 OF MORE THAN FIFTY THOUSAND STUDENTS SHALL ESTABLISH A COMMUNITY COLLEGE DISTRICT COLLEGIATE SPECIAL PLATE FUND CONSISTING OF MONIES RECEIVED PURSUANT TO SECTION 28-2412. THE DISTRICT SHALL ADMINISTER THE FUND. ALL MONIES IN THE FUND SHALL BE USED ONLY FOR ACADEMIC SCHOLARSHIPS.

B. THE FUND ESTABLISHED IN THIS SECTION IS EXEMPT FROM SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. AT THE DIRECTION OF THE COMMUNITY COLLEGE DISTRICT THE STATE TREASURER MAY INVEST AND DIVEST INACTIVE MONIES IN THE FUND AS PROVIDED BY SECTION 35-313. THE STATE TREASURER SHALL CREDIT ALL INTEREST EARNED ON THE FUND MONIES TO THE FUND.

**Sec. 2.** Section 15-1641, Arizona Revised Statutes, is amended to read:

**15-1641. University collegiate special plate funds; purpose**

A. The Arizona board of regents shall establish a separate UNIVERSITY collegiate special plate fund for each university, as described in section 15-1601, consisting of monies received by the board from collegiate plate annual donations FOR UNIVERSITIES pursuant to section 28-2412.

B. The board of regents shall require each university, as described in section 15-1601, to submit a plan for approval of the expenditure of monies in the appropriate fund. All monies in the fund shall only be used for academic scholarships. Each university shall annually report to the board of regents the percentage of monies that was expended on behalf of minority applicants.

C. The board of regents may delegate to a state university foundation approved by each university, as described in section 15-1601, the right to market and promote the purchase of collegiate special plates. No dues, fees or charges except those specified in section 28-2412 may be levied or collected by a state university foundation in connection with collegiate special plates.

D. The fund established in this section is exempt from section 35-190~~,~~ relating to lapsing of appropriations. At the direction of the board the state treasurer may invest and divest inactive monies in the fund as provided by section 35-313. The state treasurer shall credit all interest earned on the fund monies to the fund.

**Sec. 3.** Section 28-2412, Arizona Revised Statutes, is amended to read:

**28-2412. Collegiate special plates**

A. The department shall issue collegiate special plates that identify each university that is described in section 15-1601 OR EACH COMMUNITY COLLEGE DISTRICT. The collegiate special plates shall have the same color and design as the collegiate license plates issued on or before December 31, 1992, except that on the request of a university as described in section 15-1601 OR A COMMUNITY COLLEGE DISTRICT, the department may revise the color and design of the plates as appropriate for the university OR COMMUNITY COLLEGE DISTRICT.

B. Of the twenty-five dollar fee required by section 28-2402 for original special plates and for renewal of special plates, eight dollars is a special plate administration fee and seventeen dollars is a collegiate plate annual donation.

C. The department shall deposit, pursuant to sections 35-146 and 35-147, all special plate administration fees in the state highway fund established by section 28-6991 and shall transmit the collegiate plate annual donations AS FOLLOWS:

1. To the board of regents for placement in the appropriate university collegiate special plate fund.

2. TO THE COMMUNITY COLLEGE DISTRICT COLLEGIATE SPECIAL PLATE FUND ESTABLISHED BY SECTION 15-1447.

D. The request for collegiate special plates may be combined with a request for personalized special plates. This request shall be on a form prescribed by the director and is subject to the fees required for the personalized special plates in addition to the fees required for collegiate special plates.

E. FOR THE PURPOSES OF THIS SECTION, "COMMUNITY COLLEGE DISTRICT" MEANS A COMMUNITY COLLEGE DISTRICT THAT INCLUDES ALL OF THE FOLLOWING:

1. IS ESTABLISHED PURSUANT TO SECTIONS 15-1402 AND 15-1403 OR SECTION 15-1402.01.

2. IS A POLITICAL SUBDIVISION OF THIS STATE.

3. HAS A FULL-TIME EQUIVALENT STUDENT ENROLLMENT PURSUANT TO SECTION 15-1466.01 OF MORE THAN FIFTY THOUSAND STUDENTS.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## POLITICAL ACTIVITY—PUBLIC RESOURCES—LIMITATION

### CHAPTER 296

### H. B. 2613

**AN ACT AMENDING SECTIONS 9-500.14, 11-410, 15-511, 15-1408 AND 16-192, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS.**

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

**Section 1.** Section 9-500.14, Arizona Revised Statutes, is amended to read:

**9-500.14. Use of city or town resources or employees to influence elections; prohibition; civil penalty; definitions**

A. A city or town shall not spend or use its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value of the city or town, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a city or town may distribute informational pamphlets on a proposed bond election as provided in section 35-454 if those informational pamphlets present factual information in a neutral manner. Nothing in this section precludes a city or town from reporting on official actions of the governing body.

B. THE PROHIBITION ON THE USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF BOND, BUDGET OVERRIDE AND OTHER TAX-RELATED ELECTIONS INCLUDES THE USE OF CITY-FOCUSED OR TOWN-FOCUSED PROMOTIONAL EXPENDITURES THAT OCCUR AFTER AN ELECTION IS CALLED AND THROUGH ELECTION DAY. THIS

PROHIBITION DOES NOT INCLUDE ROUTINE CITY OR TOWN COMMUNICATIONS.

~~B.~~ C. This section does not prohibit the use of city or town resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

~~C.~~ D. Employees of a city or town shall not use the authority of their positions to influence the vote or political activities of any subordinate employee.

~~D.~~ E. The attorney general or the county attorney of the county in which an alleged violation of this section occurred may initiate a suit in the superior court in the county in which the city or town is located for the purpose of complying with this section.

~~E.~~ F. For each violation of this section, the court may impose a civil penalty not to exceed five thousand dollars plus any amount of misused funds subtracted from the city or town budget against a person who knowingly violates or aids another person in violating this section. The person determined to be out of compliance with this section is responsible for the payment of all penalties and misused funds. City or town funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the city or town whose funds were misused.

~~F.~~ G. Nothing contained in this section shall be construed as denying the civil and political liberties of any employee as guaranteed by the United States and Arizona Constitutions.

~~G.~~ H. For the purposes of this section:

1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

3. "Misused funds" means city or town monies or resources used unlawfully as proscribed by this section.

4. "ROUTINE CITY OR TOWN COMMUNICATIONS" MEANS MESSAGES OR ADVERTISEMENTS THAT ARE GERMANE TO THE FUNCTIONS OF THE CITY OR TOWN AND THAT MAINTAIN THE FREQUENCY, SCOPE AND DISTRIBUTION CONSISTENT WITH PAST PRACTICES OR ARE NECESSARY FOR PUBLIC SAFETY.

**Sec. 2.** Section 11-410, Arizona Revised Statutes, is amended to read:

**11-410. Use of county resources or employees to influence elections; prohibition; civil penalty; definitions**

A. A county shall not spend or use its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a county may distribute informational pamphlets on a proposed bond election as provided in section 35-454 if those informational pamphlets present factual information in a neutral manner. Nothing in this section precludes a county from reporting on official actions of the county board of supervisors.

B. THE PROHIBITION ON THE USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF BOND, BUDGET OVERRIDE AND OTHER TAX-RELATED ELECTIONS INCLUDES THE USE OF COUNTY-FOCUSED PROMOTIONAL EXPENDITURES THAT OCCUR AFTER AN ELECTION IS CALLED AND THROUGH ELECTION DAY. THIS PROHIBITION DOES NOT INCLUDE ROUTINE COUNTY COMMUNICATIONS.

~~B.~~ C. This section does not prohibit the use of county resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

~~C.~~ D. Employees of a county shall not use the authority of their positions to influence the vote or political activities of any subordinate employee.

~~D.~~ E. The attorney general or the county attorney of the county in which an alleged violation of this section occurred may initiate a suit in the superior court in the county in which the alleged violation occurred for the purpose of complying with this section.

~~E.~~ F. For each violation of this section, the court may impose a civil penalty not to exceed five thousand dollars plus any amount of misused funds subtracted from the county budget against a person who knowingly violates or aids another person in violating this section. The person determined to be out of compliance with this section is responsible for the payment of all penalties and misused funds. County funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the county whose funds were misused.

~~F.~~ G. Nothing contained in this section shall be construed as denying the civil and political liberties of any employee as guaranteed by the United States and Arizona Constitutions.

~~G.~~ H. For the purposes of this section:

1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

3. "Misused funds" means county monies or resources used unlawfully as proscribed by this section.

4. "ROUTINE COUNTY COMMUNICATIONS" MEANS MESSAGES OR ADVERTISEMENTS THAT ARE GERMANE TO THE FUNCTIONS OF THE COUNTY AND THAT MAINTAIN THE FREQUENCY, SCOPE AND DISTRIBUTION CONSISTENT WITH PAST PRACTICES OR ARE NECESSARY FOR PUBLIC SAFETY.

**Sec. 3.** Section 15-511, Arizona Revised Statutes, is amended to read:

**15-511. Use of school district or charter school resources or employees to influence elections; prohibition; civil penalty; definitions**

A. A person acting on behalf of a school district or a person who aids another person acting on behalf of a school district shall not spend or use school district or charter school resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value of the school district or charter school, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a school district may distribute informational reports on a proposed budget override election as provided in section 15-481, subsections B and C or informational reports on a proposed bond election as provided in section 15-491, subsection D if those informational reports present factual information in a neutral manner, except for those arguments presented as prescribed in section 15-481, subsection B, paragraph 9. Nothing in this section precludes a school district from reporting on official actions of the governing board.

B. THE PROHIBITION ON THE USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF BOND, BUDGET OVERRIDE AND OTHER TAX-RELATED ELECTIONS INCLUDES THE USE OF SCHOOL DISTRICT-FOCUSED PROMOTIONAL EXPENDITURES THAT OCCUR AFTER AN ELECTION IS CALLED AND THROUGH ELECTION DAY. THIS PROHIBITION DOES NOT INCLUDE ROUTINE SCHOOL DISTRICT COMMUNICATIONS.

~~B.~~ C. This section does not prohibit the use of school district or charter school resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

~~C.~~ D. An employee of a school district or charter school who is acting as an agent of or working in an official capacity for the school district or charter school may not give pupils written materials to influence the outcome of an election or to advocate support for or opposition to pending or proposed legislation.

~~D.~~ E. Employees of a school district or charter school may not use the authority of their positions to influence the vote or political activities of any subordinate employee.

~~E.~~ F. Notwithstanding section 15-342, paragraph 8, a school district shall not spend monies for membership in an association that attempts to influence the outcome of an election.

~~F.~~ G. Nothing contained in this section shall be construed as denying the civil and political liberties of any person as guaranteed by the United States and Arizona Constitutions.

~~G.~~ H. The attorney general shall publish and distribute to school districts and charter schools a detailed guideline regarding activities prohibited under this section. The attorney general may distribute these guidelines through a website or electronically.

~~H.~~ I. The attorney general or the county attorney for the county in which an alleged violation of this section occurred may initiate a suit in the superior court in the county in which the school district or charter school is located for the purpose of complying with this section.

~~I.~~ J. For each violation of this section, the court may impose a civil penalty not to exceed five thousand dollars plus any amount of misused funds subtracted from the school district budget against a person who knowingly violates or a person who knowingly aids another person in violating this section. The person determined to be out of compliance with this section shall be responsible for the payment of all penalties and misused funds. School district funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the school district or charter school whose funds were misused.

~~J.~~ K. An attorney acting on behalf of a public school may request a legal opinion of the county attorney or attorney general as to whether a proposed use of school district resources would violate this section.

~~K.~~ L. All penalties collected by the court for a suit initiated in superior court by the attorney general shall be paid to the office of the attorney general for the use and reimbursement of costs of prosecution pursuant to this section. All penalties collected by the court for a suit initiated in superior court by a county attorney shall

be paid to the county treasurer of the county in which the court is held for the use and reimbursement of costs of prosecution pursuant to this section.

~~L.~~ M. For the purposes of this section:

1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

3. "Misused funds" means school district monies or resources used unlawfully pursuant to this section.

4. "ROUTINE SCHOOL DISTRICT COMMUNICATIONS" MEANS MESSAGES OR ADVERTISEMENTS THAT ARE GERMANE TO THE FUNCTIONS OF THE SCHOOL DISTRICT AND THAT MAINTAIN THE FREQUENCY, SCOPE AND DISTRIBUTION CONSISTENT WITH PAST PRACTICES OR ARE NECESSARY FOR PUBLIC SAFETY.

**Sec. 4.** Section 15-1408, Arizona Revised Statutes, is amended to read:

**15-1408. Use of community college district resources or employees to influence elections; prohibition; civil penalty; definitions**

A. A person acting on behalf of a community college district or a person who aids another person acting on behalf of a community college district shall not spend or use community college district, resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value of the community college district, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a community college district may distribute informational pamphlets on a proposed bond election as provided in section 35-454 if those informational ~~reports~~ PAMPHLETS present factual information in a neutral manner. Nothing in this section precludes a community college district from reporting on official actions of the governing board.

B. THE PROHIBITION ON THE USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF BOND, BUDGET OVERRIDE AND OTHER TAX-RELATED ELECTIONS INCLUDES THE USE OF COMMUNITY COLLEGE DISTRICT-FOCUSED PROMOTIONAL EXPENDITURES THAT OCCUR AFTER AN ELECTION IS CALLED AND THROUGH ELECTION DAY. THIS PROHIBITION DOES NOT INCLUDE ROUTINE COMMUNITY COLLEGE DISTRICT COMMUNICATIONS.

~~B.~~ C. This section does not prohibit the use of community college resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a community college district facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

~~C.~~ D. Employees of a community college district may not use the authority of their positions to influence the vote or political activities of any subordinate employee.

~~D.~~ E. This section does not prohibit community college districts from permitting student political organizations of political parties, including those that are recognized pursuant to sections 16-801, 16-802 and 16-803, to conduct lawful meetings in community college buildings or on community college grounds, except as prescribed in subsection A of this section. Each student political organization that is allowed to conduct lawful meetings on community college property shall have equal access as any other student political organization that is allowed to conduct lawful meetings on community college property.

~~E.~~ F. Nothing contained in this section shall be construed as denying the civil and political liberties of any person as guaranteed by the United States and Arizona Constitutions.

~~F.~~ G. The attorney general shall publish and distribute to community colleges a detailed guideline regarding activities prohibited under this section. The attorney general may distribute these guidelines through a web site or electronically.

~~G.~~ H. The attorney general or the county attorney for the county in which an alleged violation of this section occurred may serve on the person an order requiring compliance with this section and may assess a civil penalty of not more than five thousand dollars per violation, plus any amount of misused funds subtracted from the community college district budget against a person who violates or a person who aids another person in violating this section. The person determined to be out of compliance with this section shall be responsible for the payment of all penalties and misused funds. Community college funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the community college district whose funds were misused.

~~H.~~ I. An attorney acting on behalf of a community college district may request a legal opinion of the county attorney or attorney general as to whether a proposed use of community college resources would violate this section.

~~I.~~ J. All penalties collected by the court for a suit initiated in superior court by the attorney general shall be paid to the office of the attorney general for the use and reimbursement of costs of prosecution pursuant to this section. All penalties collected by the court for a suit initiated in superior court by a county attorney shall be paid to the county treasurer of the county in which the court is held for the use and reimbursement of costs of prosecution pursuant to this section.

~~J.~~ K For the purposes of this section:

1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

3. "Misused funds" means community college district monies or resources used unlawfully pursuant to this section.

4. "ROUTINE COMMUNITY COLLEGE DISTRICT COMMUNICATIONS" MEANS MESSAGES OR ADVERTISEMENTS THAT ARE GERMANE TO THE FUNCTIONS OF THE COMMUNITY COLLEGE DISTRICT AND THAT MAINTAIN THE FREQUENCY, SCOPE AND DISTRIBUTION CONSISTENT WITH PAST PRACTICES OR ARE NECESSARY FOR PUBLIC SAFETY.

**Sec. 5.** Section 16-192, Arizona Revised Statutes, is amended to read:

**16-192. Use of state, special taxing district resources to influence elections; prohibition; civil penalties; definitions**

A. Notwithstanding any other law, this state and special taxing districts and any public agency, department, board, commission, committee, council or authority shall not spend or use public resources to influence an election, including the use or expenditure of monies, accounts, credit, materials, equipment, buildings, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages and personnel and any other thing of value of the public entity.

B. THE PROHIBITION ON THE USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF BOND, BUDGET OVERRIDE AND OTHER TAX-RELATED ELECTIONS INCLUDES THE USE OF SPECIAL TAXING DISTRICT-FOCUSED PROMOTIONAL EXPENDITURES THAT OCCUR AFTER AN ELECTION IS CALLED AND THROUGH ELECTION DAY. THIS PROHIBITION DOES NOT INCLUDE ROUTINE SPECIAL TAXING DISTRICT COMMUNICATIONS.

~~B.~~ C. This section does not prohibit:

1. The use of public resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

2. The presentation of factual information in a neutral manner for the purposes of educating and informing voters as otherwise provided by law, including

information on a bond, budget, override, candidate or other type of election and including publications and activities otherwise prescribed by chapter 6, article 2 of this title for the citizens clean elections commission.

~~C.~~ D. The attorney general, the county attorney for the county in which an alleged violation of this section occurs or any resident of the jurisdiction that is alleged to have committed a violation of this section may file an action in the superior court to enforce this section.

~~D.~~ E. Any person or public entity that knowingly violates this section or that knowingly aids another person or public entity in violating this section is liable for a civil penalty of not more than five thousand dollars for each violation. The court also may order the person or public entity in violation to pay an additional penalty in an amount that equals the value of the public resources unlawfully used. The civil penalties shall be paid as follows:

1. For civil penalties ordered in an action filed by the attorney general, to the office of the attorney general to defray the costs of enforcement.

2. For civil penalties ordered in an action filed by the county attorney, to the office of the county treasurer for deposit into the general fund of the county.

3. For civil penalties ordered in an action filed by a resident of the jurisdiction in violation, to the resident.

~~E.~~ F. This section does not deny the civil and political liberties of any person as guaranteed by the United States and Arizona Constitutions.

~~F.~~ G. With respect to special taxing districts, this section applies only to those special taxing districts that are organized pursuant to title 48, chapters 5, 6, 8, 10, 13, 14, 15 and 16.

~~G.~~ H. For the purposes of this section:

1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. "Influence an election" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

3. "ROUTINE SPECIAL TAXING DISTRICT COMMUNICATIONS" MEANS MESSAGES OR ADVERTISEMENTS THAT ARE GERMANE TO THE FUNCTIONS OF THE SPECIAL DISTRICT AND THAT MAINTAIN THE FREQUENCY, SCOPE AND DISTRIBUTION CONSISTENT WITH PAST PRACTICES OR ARE NECESSARY FOR PUBLIC SAFETY.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# CAMPAIGN FINANCE—POLITICAL COMMITTEE—DEFINITION

## CHAPTER 297

## H. B. 2649

**AN ACT AMENDING SECTIONS 16-901, 16-902, 16-902.01, 16-904, 16-912 AND 16-916, ARIZONA REVISED STATUTES; RELATING TO CAMPAIGN CONTRIBUTIONS AND EXPENSES.**

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

**Section 1.** Section 16-901, Arizona Revised Statutes, is amended to read:

**16-901. Definitions**

In this chapter, unless the context otherwise requires:

1. "Agent" means, with respect to any person other than a candidate, any person who has oral or written authority, either express or implied, to make or authorize the making of expenditures as defined in this section on behalf of a candidate, any person who has been authorized by the treasurer of a political committee to make or authorize the making of expenditures or a political consultant for a candidate or political committee.

2. "Candidate" means an individual who receives or gives consent for receipt of a contribution for his nomination for or election to any office in this state other than a federal office.

3. "Candidate's campaign committee" means a political committee designated and authorized by a candidate.

4. "Clearly identified candidate" means that the name, a photograph or a drawing of the candidate appears or the identity of the candidate is otherwise apparent by unambiguous reference.

5. "Contribution" means any gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing an election including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer and:

(a) Includes all of the following:

(i) A contribution made to retire campaign debt.

(ii) Money or the fair market value of anything directly or indirectly given or loaned to an elected official for the purpose of defraying the expense of communications with constituents, regardless of whether the elected official has declared his candidacy.

(iii) The entire amount paid to a political committee to attend a fund-raising or other political event and the entire amount paid to a political committee as the purchase price for a fund-raising meal or item, except that no contribution results if the actual cost of the meal or fund-raising item, based on the amount charged to the

committee by the vendor, constitutes the entire amount paid by the purchaser for the meal or item, the meal or item is for the purchaser's personal use and not for resale and the actual cost is the entire amount paid by the purchaser in connection with the event. This exception does not apply to auction items.

(iv) Unless specifically exempted, the provision of goods or services without charge or at a charge that is less than the usual and normal charge for such goods and services. The acquisition or use of campaign assets by a committee that are paid for with the candidate's personal monies, including campaign signs and other similar promotional materials, is a contribution and is reportable by the candidate's campaign committee as a contribution to the campaign.

(b) Does not include any of the following:

(i) The value of services provided without compensation by any individual who volunteers on behalf of a candidate, a candidate's campaign committee or any other political committee.

(ii) Money or the value of anything directly or indirectly provided to defray the expense of an elected official meeting with constituents if the elected official is engaged in the performance of the duties of his office or provided by the state or a political subdivision to an elected official for communication with constituents if the elected official is engaged in the performance of the duties of his office.

(iii) The use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, that is obtained by an individual in the course of volunteering personal services to any candidate, candidate's committee or political party, and the cost of invitations, food and beverages voluntarily provided by an individual to any candidate, candidate's campaign committee or political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of the invitations, food and beverages provided by the individual on behalf of any single candidate does not exceed one hundred dollars with respect to any single election.

(iv) Any unreimbursed payment for personal travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate.

(v) The payment by a political party for party operating expenses, party staff and personnel, party newsletters and reports, voter registration and efforts to increase voter turnout, party organization building and maintenance and printing and postage expenses for slate cards, sample ballots, other written materials that substantially promote three or more nominees of the party for public office and other election activities not related to a specific candidate, except that this item does not apply to costs incurred with respect to a display of the listing of candidates made on telecommunications systems or in newspapers, magazines or similar types of general circulation advertising.

(vi) Independent expenditures.

(vii) Monies loaned by a state bank, a federally chartered depository institution or a depository institution the deposits or accounts of which are insured by the federal deposit insurance corporation or the national credit union administration,

other than an overdraft made with respect to a checking or savings account, that is made in accordance with applicable law and in the ordinary course of business. In order for this exemption to apply, this loan shall be deemed a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors, the loan shall be made on a basis that assures repayment, evidenced by a written instrument, shall be subject to a due date or amortization schedule and shall bear the usual and customary interest rate of the lending institution.

(viii) A gift, subscription, loan, advance or deposit of money or anything of value to a national or a state committee of a political party specifically designated to defray any cost for the construction or purchase of an office facility not acquired for the purpose of influencing the election of a candidate in any particular election.

(ix) Legal or accounting services rendered to or on behalf of a political committee or a candidate, if the only person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of compliance with this title.

(x) The payment by a political party of the costs of campaign materials, including pins, bumper stickers, handbills, brochures, posters, party tabloids and yard signs, used by the party in connection with volunteer activities on behalf of any nominee of the party or the payment by a state or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by the committee if the payments are not for the costs of campaign materials or activities used in connection with any telecommunication, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising.

(xi) Transfers between political committees to distribute monies raised through a joint fund-raising effort in the same proportion to each committee's share of the fund-raising expenses and payments from one political committee to another in reimbursement of a committee's proportionate share of its expenses in connection with a joint fund-raising effort.

(xii) An extension of credit for goods and services made in the ordinary course of the creditor's business if the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation and if the creditor makes a commercially reasonable attempt to collect the debt, except that any extension of credit under this item made for the purpose of influencing an election that remains unsatisfied by the candidate after six months, notwithstanding good faith collection efforts by the creditor, shall be deemed receipt of a contribution by the candidate but not a contribution by the creditor.

(xiii) Interest or dividends earned by a political committee on any bank accounts, deposits or other investments of the political committee.

6. "Earmarked" means a designation, instruction or encumbrance that results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's campaign committee.

7. "Election" means any election for any initiative, referendum or other BALLOT measure, QUESTION or proposition or a primary, general, recall, special or runoff election for any office in this state other than the office of precinct

committeeman and other than a federal office. Unless otherwise provided by law, the general election does not include the primary election.

8. "Expenditures" includes any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by a person for the purpose of influencing an election in this state including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer and a contract, promise or agreement to make an expenditure resulting in an extension of credit and the value of any in-kind contribution received. Expenditure does not include any of the following:

(a) A news story, commentary or editorial distributed through the facilities of any telecommunications system, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by a political committee, political party or candidate.

(b) Nonpartisan activity designed to encourage individuals to vote or to register to vote.

(c) The payment by a political party of the costs of preparation, display, mailing or other distribution incurred by the party with respect to any printed slate card, sample ballot or other printed listing of three or more candidates for any public office for which an election is held, except that this subdivision does not apply to costs incurred by the party with respect to a display of any listing of candidates made on any telecommunications system or in newspapers, magazines or similar types of general public political advertising.

(d) The payment by a political party of the costs of campaign materials, including pins, bumper stickers, handbills, brochures, posters, party tabloids and yard signs, used by the party in connection with volunteer activities on behalf of any nominee of the party or the payment by a state or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by the committee if the payments are not for the costs of campaign materials or activities used in connection with any telecommunications system, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising.

(e) Any deposit or other payment filed with the secretary of state or any other similar officer to pay any portion of the cost of printing an argument in a publicity pamphlet advocating or opposing a ballot measure.

9. "Exploratory committee" means a political committee that is formed for the purpose of determining whether an individual will become a candidate and that receives contributions or makes expenditures of more than five hundred dollars in connection with that purpose.

10. "Family contribution" means any contribution that is provided to a candidate's campaign committee by a parent, grandparent, spouse, child or sibling of the candidate or a parent or spouse of any of those persons.

11. "Filing officer" means the office that is designated by section 16-916 to conduct the duties prescribed by this chapter.

12. "Identification" means:

(a) For an individual, his name and mailing address, his occupation and the name of his employer.

(b) For any other person, including a political committee, the full name and mailing address of the person. For a political committee, identification includes the identification number issued on the filing of a statement of organization pursuant to section 16-902.01.

13. "Incomplete contribution" means any contribution received by a political committee for which the contributor's mailing address, occupation, employer or identification number has not been obtained and is not in the possession of the political committee.

14. "Independent expenditure" means an expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, that is made without cooperation or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate. Independent expenditure includes an expenditure that is subject to the requirements of section 16-917, which requires a copy of campaign literature or advertisement to be sent to a candidate named or otherwise referred to in the literature or advertisement.

15. "In-kind contribution" means a contribution of goods or services or anything of value and not a monetary contribution. The use by a candidate's campaign committee of a distinctive trade name, trademark or trade dress item, including a logo, that is owned by a business or other entity that is owned by that candidate or in which the candidate has a controlling interest is deemed to be an in-kind contribution to the candidate's campaign committee and shall be reported as otherwise prescribed by law.

16. "Itemized" means that each contribution received or expenditure made is set forth separately.

17. "Literature or advertisement" means information or materials that are mailed, distributed or placed in some medium of communication for the purpose of influencing the outcome of an election.

18. "Personal monies" means any of the following:

(a) Except as prescribed in paragraph 15 of this section, assets to which the candidate has a legal right of access or control at the time he becomes a candidate and with respect to which the candidate has either legal title or an equitable interest.

(b) Salary and other earned income from bona fide employment of the candidate, dividends and proceeds from the sale of the stocks or investments of the candidate, bequests to the candidate, income to the candidate from trusts established before candidacy, income to the candidate from trusts established by bequest after candidacy of which the candidate is a beneficiary, gifts to the candidate of a personal nature that have been customarily received before the candidacy and proceeds received by the candidate from lotteries and other legal games of chance.

(c) The proceeds of loans obtained by the candidate that are not contributions and for which the collateral or security is covered by subdivision (a) or (b) of this paragraph.

(d) Family contributions.

19. "Political committee" means ~~a candidate or any association or combination of persons that is organized, conducted or combined for the purpose of influencing the result of any election or to determine whether an individual will become a candidate for election in this state or in any county, city, town, district or precinct in this state, that engages in political activity in behalf of or against a candidate for election or retention or in support of or opposition to an initiative, referendum or recall or any other measure or proposition and that applies for a serial number and circulates petitions and, in the case of a candidate for public office except those exempt pursuant to section 16-903, that receives contributions or makes expenditures of more than two hundred fifty dollars in connection therewith, notwithstanding that the association or combination of persons may be part of a larger association, combination of persons or sponsoring organization not primarily organized, conducted or combined for the purpose of influencing the result of any election in this state or in any county, city, town or precinct in this state. Political committee includes the following types of committees~~ ANY OF THE FOLLOWING:

(a) A CANDIDATE OR A candidate's campaign committee.

(b) A separate, segregated fund established ~~by a corporation or labor organization~~ pursuant to section 16-920, subsection A, paragraph 3.

(c) ~~A committee acting~~ AN ASSOCIATION OR COMBINATION OF PERSONS THAT CIRCULATES PETITIONS in support of ~~or opposition to~~ the qualification~~, passage or defeat~~ of a ballot measure, question or proposition.

(d) ~~A committee organized to circulate or oppose a recall petition or to influence the result of~~ a AN ASSOCIATION OR COMBINATION OF PERSONS THAT CIRCULATES A PETITION TO recall ~~election~~ A PUBLIC OFFICER.

(e) A political party.

~~(f) A committee organized for the purpose of making independent expenditures.~~

~~(g) A committee organized in support of or opposition to one or more candidates.~~

(f) AN ASSOCIATION OR COMBINATION OF PERSONS THAT MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

(i) IS ORGANIZED, CONDUCTED OR COMBINED FOR THE PRIMARY PURPOSE OF INFLUENCING THE RESULT OF ANY ELECTION IN THIS STATE OR IN ANY COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION IN THIS STATE, INCLUDING A JUDICIAL RETENTION ELECTION.

(ii) KNOWINGLY RECEIVES CONTRIBUTIONS OR MAKES EXPENDITURES OF MORE THAN FIVE HUNDRED DOLLARS IN CONNECTION WITH ANY ELECTION DURING A CALENDAR YEAR, INCLUDING A JUDICIAL RETENTION ELECTION.

~~(h)~~ (g) A political organization.

~~(i)~~ (h) An exploratory committee.

20. "Political organization" means an organization that is formally affiliated with and recognized by a political party including a district committee organized pursuant to section 16-823.

21. "Political party" means the state committee as prescribed by section 16-825 or the county committee as prescribed by section 16-821 of an organization that meets the requirements for recognition as a political party pursuant to section 16-801, 16-802 or ~~section~~ 16-804~~, subsection A~~.

22. "Sponsoring organization" means any organization that establishes, administers or contributes financial support to the administration of, or that has common or overlapping membership or officers with, a political committee other than a candidate's campaign committee.

23. "Standing political committee" means a political committee that satisfies all of the following:

(a) Is active in more than one reporting jurisdiction in this state for more than one year.

(b) Files a statement of organization as prescribed by section 16-902.01, subsection ~~E~~ F.

(c) Is any of the following as defined by paragraph 19 of this section:

(i) A separate, segregated fund.

(ii) A political party.

(iii) A POLITICAL committee AS PRESCRIBED BY PARAGRAPH 19, SUBDIVISION (f) OF THIS SECTION AND THAT IS organized for the purpose of making independent expenditures.

(iv) A political organization.

24. "Statewide office" means the office of governor, secretary of state, state treasurer, attorney general, superintendent of public instruction, corporation commissioner or mine inspector.

25. "Surplus monies" means those monies of a political committee remaining after all of the committee's expenditures have been made and its debts have been extinguished.

**Sec. 2.** Section 16-902, Arizona Revised Statutes, is amended to read:

**16-902. Organization of political committees; accounting**

A. Each political committee shall have a chairman and treasurer. The position of chairman and treasurer of a single political committee may not be held by the same individual, except that a candidate may be chairman and treasurer of his own campaign committee.

B. The name of each political committee shall include the name of any sponsoring organization, and, in the case of a candidate's campaign committee, the committee's name shall include the name of the candidate, or, if for an exploratory committee, the individual, who designated the committee pursuant to section 16-903.

C. ~~Before~~ A political committee THAT accepts ~~a contribution~~ CONTRIBUTIONS or makes ~~an expenditure it~~ EXPENDITURES shall ~~designate~~ DEPOSIT CONTRIBUTIONS AND MAKE EXPENDITURES FROM one or more

state banks, federally chartered depository institutions or depository institutions the deposits or accounts of which are insured by the federal deposit insurance corporation or the national credit union administration as its campaign depository or depositories. The political committee shall notify the filing officer of the ~~designation~~ NAME of the financial institution ~~either~~ at the time of filing the statement of organization pursuant to section 16-902.01 or ~~within five business days after opening an account~~ 16-903. ON MEETING THE DEFINITION OF POLITICAL COMMITTEE PURSUANT TO SECTION 16-901, all withdrawals or disbursements from these accounts require the signature of the treasurer or a designated agent of the political committee.

D. If a POLITICAL committee receives contributions designated for use in the general election before the primary election, the committee must use an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. Acceptable accounting methods include designating separate accounts for each election or establishing separate books and records for each election.

**Sec. 3.** Section 16-902.01, Arizona Revised Statutes, is amended to read:

**16-902.01. Registration of political committees; contents; amendment**

A. EXCEPT FOR A POLITICAL COMMITTEE AS DEFINED IN SECTION 16-901, PARAGRAPH 19, SUBDIVISION (f), each political committee that intends to accept contributions or make expenditures of more than five hundred dollars shall file a statement of organization with the filing officer in the format prescribed by the filing officer before accepting contributions, making expenditures, distributing any campaign literature or circulating petitions. A POLITICAL COMMITTEE AS DEFINED IN SECTION 16-901, PARAGRAPH 19, SUBDIVISION (f) SHALL FILE A STATEMENT OF ORGANIZATION WITH THE FILING OFFICER IN THE FORMAT PRESCRIBED BY THE FILING OFFICER WITHIN FIVE BUSINESS DAYS AFTER MEETING THE DEFINITION OF POLITICAL COMMITTEE.

B. EXCEPT FOR A POLITICAL COMMITTEE AS DEFINED IN SECTION 16-901, PARAGRAPH 19, SUBDIVISION (f), each political committee that intends to accept contributions or make expenditures of five hundred dollars or less~~, and more than two hundred fifty dollars,~~ shall file a signed exemption statement in a form prescribed by the filing officer that states that intention before making any expenditures, accepting any contributions, distributing any campaign literature or circulating petitions. If a political committee that has filed a five hundred dollar threshold exemption statement receives contributions or makes expenditures of more than five hundred dollars, that political committee shall file a statement of organization with the filing officer in the format prescribed by the filing officer within five business days after exceeding the five hundred dollar limit.

~~B.~~ C. The statement of organization of a political committee shall include all of the following:

1. The name, address and type of committee.

2. The name, address, relationship and type of any sponsoring organization.

3. The names, addresses, telephone numbers, occupations and employers of the chairman and treasurer of the committee.

4. In the case of a candidate's campaign committee, the name, address, office sought and party affiliation of the candidate.

5. A listing of all banks, safety deposit boxes or other depositories used by the committee.

6. A statement that the chairman and treasurer have read all of the applicable laws relating to campaign finance and reporting.

~~C.~~ D. Except as prescribed by subsection ~~E~~ F of this section, on the filing of a statement of organization, a political committee shall be issued an identification number in the format prescribed by the filing officer.

~~D.~~ E. The political committee shall file an amended statement of organization reporting any change in the information prescribed in subsections ~~B~~ C and ~~F~~ G of this section within five business days after the change.

~~E.~~ F. A standing political committee shall file a statement of organization with the secretary of state and in each jurisdiction in which the committee is active, and only the secretary of state shall issue an identification number for the committee. The statement of organization shall include a statement with the notarized signature of the chairman or treasurer of the standing political committee that declares the committee's status as a standing political committee. The secretary of state may charge an annual fee for the filing.

~~F.~~ G. For a political committee that makes expenditures in an attempt to influence the results of a ballot proposition election, the statement of organization shall include in the name of the political committee the official serial number for the petition, if assigned, and a statement as to whether the political committee supports or opposes the passage of the ballot measure. On completion of the designation of statewide ballot propositions by number as prescribed in section 19-125, the secretary of state is authorized to and shall amend the name of the political committee by attaching to the statement of organization the ballot proposition number as a substitute for the official serial number in the name of the political committee. The secretary of state shall promptly notify the political committee of the amended political committee name and shall make that information available to the public.

**Sec. 4.** Section 16-904, Arizona Revised Statutes, is amended to read:

**16-904. Treasurer; duties; records; civil penalty**

A. No expenditure may be made for or on behalf of a political committee without the authorization of the treasurer or the treasurer's designated agent.

B. The treasurer shall maintain a record of all petty cash disbursements pursuant to subsection E, paragraph 4 of this section.

C. All receipts received by a political committee shall be deposited in an account ~~designated pursuant to~~ AS PRESCRIBED BY section 16-902, subsection C. All monies of a political committee shall be segregated from, and may not be

commingled with, the monies of any individual other than contributions by an individual.

D. A political committee shall exercise its best efforts to obtain the required information for any incomplete contribution received that is required to be itemized on a campaign finance report pursuant to section 16-915, subsection A, paragraph 3. A political committee will not be deemed to have exercised best efforts to obtain the required information unless the treasurer or the treasurer's agent has made at least one effort after the receipt of the contribution to obtain the missing information by a written request sent to the contributor or by oral contact with the contributor documented in writing and shall comply with the following:

1. The request must clearly ask for the missing information and inform the contributor that the committee is required by law to obtain the mailing address, occupation and employer of each individual contributor and the mailing address and identification number of each political committee contributor.

2. Any information required for the identification of a contributor received by the political committee after the contribution has been disclosed on a campaign finance report required pursuant to section 16-913 shall be reported on an amended report.

E. The treasurer of a political committee is the custodian of the committee's books and accounts and shall keep an account of all of the following:

1. All contributions or other monies received by or on behalf of the political committee.

2. The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into a designated account.

3. Cumulative totals contributed by each individual or political committee.

4. The name and address of every person to whom any expenditure is made, the date, amount and purpose or reason for the expenditure and, except in the case of an expenditure by a candidate's campaign committee, the name of the candidate and the office sought by the candidate if the expenditure was made on behalf of or in opposition to a candidate.

5. All periodic or other statements for each account ~~designated pursuant to~~ PRESCRIBED BY section 16-902, subsection C.

F. For any POLITICAL committee that has filed a five hundred dollar threshold exemption statement PURSUANT TO SECTION 16-902.01, SUBSECTION B:

1. The POLITICAL committee and treasurer shall maintain a record of all contributions received and expenditures made by the POLITICAL committee. If the POLITICAL committee exceeds the five hundred dollar limit, the POLITICAL committee shall amend its statement of organization, file a report of its contributions and expenditures pursuant to section 16-913 and comply with all reporting requirements.

2. For a POLITICAL committee that does not exceed its five hundred dollar threshold, the POLITICAL committee terminates at the end of the election cycle for

which it was formed, shall file a termination statement as prescribed by section 16-914 and shall dispose of any surplus monies as otherwise provided by law.

3. A POLITICAL committee that fails to file its termination statement pursuant to paragraph 2 of this subsection is terminated by operation of law ninety days after the end of the election cycle for which it was formed and shall pay a civil penalty of one hundred dollars.

G. Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to the POLITICAL committee. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.

H. All contributions other than in-kind contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the contribution records of the recipient.

I. The treasurer shall preserve all records required to be kept by this section and copies of all finance reports required to be filed by this article for three years after the filing of the finance report covering the receipts and disbursements evidenced by the records.

J. On request of the attorney general, the county, city or town attorney or the filing officer, the treasurer shall provide any of the records required to be kept pursuant to this section.

K. A person who violates this section is subject to a civil penalty imposed as prescribed in section 16-924 of three times the amount of money that has been received, expended or promised in violation of this section or three times the value in money for an equivalent of money or other things of value that has been received, expended or promised in violation of this section.

**Sec. 5.** Section 16-912, Arizona Revised Statutes, is amended to read:

**16-912. Candidates and independent expenditures; campaign literature and advertisement sponsors; identification; civil penalty**

A. A political committee that makes an expenditure for campaign literature or advertisements that expressly advocate the election or defeat of any candidate or that make any solicitation of contributions to any political committee ~~shall be registered pursuant to this chapter at the time of distribution, placement or solicitation and~~ shall include on the literature or advertisement the words "paid for by" followed by the name of the committee that appears on its statement of organization or five hundred dollar exemption statement.

B. If the expenditure for the campaign literature or advertisements by a political committee is an independent expenditure, the political committee, in addition to the disclosures required by subsection A of this section, shall include on the literature or advertisement the names and telephone numbers of the three political

committees making the largest contributions to the political committee making the independent expenditure. If an acronym is used to name any political committee outlined in this section, the name of any sponsoring organization of the political committee shall also be printed or spoken. For the purposes of determining the three contributors to be disclosed, only the contributions made during the calendar year in which the independent expenditure is made shall be considered.

C. Subsection A of this section does not apply to bumper stickers, pins, buttons, pens and similar small items on which the statements required in subsection A of this section cannot be conveniently printed or to signs paid for by a candidate with campaign monies or by a candidate's campaign committee or to a solicitation of contributions by a separate segregated fund from those persons it may solicit pursuant to sections 16-920 and 16-921.

D. The disclosures required pursuant to this section shall be printed clearly and legibly in a conspicuous manner. The disclosure statement shall include the words "paid for by" followed by the name of the entity making the expenditure and shall state that it is not authorized by any candidate or candidate's campaign committee. Disclosure statements shall also comply with the following:

1. If the communication is broadcast on radio, the disclosure shall be spoken at the end of the communication.

2. For printed material that is delivered or provided by hand or by mail, the disclosure shall be printed clearly and legibly in a conspicuous manner.

3. If the communication is broadcast on a telecommunications system, the following apply:

(a) The disclosure shall be both written and spoken at the end of the communication, except that if the written disclosure statement is displayed for at least five seconds of a thirty second communications broadcast or ten seconds of a sixty second communications broadcast, a spoken disclosure statement is not required.

(b) The written disclosure statement shall be printed in letters that are displayed in a height that is equal to or greater than four ~~per cent~~ PERCENT of the vertical picture height.

E. A person who violates this section is subject to a civil penalty of up to three times the cost of producing and distributing the literature or advertisement. This civil penalty shall be imposed as prescribed in section 16-924.

**Sec. 6.** Section 16-916, Arizona Revised Statutes, is amended to read:

**16-916. Filing statements of contributions and expenditures; public inspection**

A. Except as provided in subsection B of this section, the statements, designations and reports required to be filed pursuant to this article shall be filed as follows:

1. In the office of the secretary of state for political committees supporting or opposing the recall of a public officer elected statewide or to the legislature, supporting the circulation of petitions for ballot measures, questions and propositions appearing on a state general election ballot or recall of public officials elected statewide or to the legislature or supporting or opposing candidates for state offices

and members of the legislature, for justices of the supreme court, for judges of the court of appeals and for a statewide initiative or referendum or any measure or proposition appearing on a state general election ballot. The office of the secretary of state shall post to its website in a format that is viewable by the public the campaign finance information prescribed by this section.

2. With the county officer in charge of elections for political committees supporting or opposing the recall of public officers elected to county offices, school district governing boards, community college district governing boards or judges of the superior court, supporting the circulation of petitions for ballot measures, questions and propositions appearing on a county election ballot or for the recall of a public officer elected to county offices, school district governing boards, community college district governing boards or judges of the superior court or supporting or opposing candidates for county offices, school district governing board members or ballot questions, community college district governing board members or ballot questions, judges of the superior court seeking retention, special taxing districts and a county initiative or referendum or any measure or proposition appearing on a county election ballot. For any county with a population of more than one hundred thousand persons that operates a website, the county officer in charge of elections shall post to that website in a format that is viewable by the public the campaign finance information prescribed by this section, which shall include the names of candidates who have filed an exemption statement pursuant to section 16-902.01, subsection ~~A~~ B with that filing officer.

3. With the city or town clerk for political committees supporting or opposing the recall of public officers elected to city or town offices, supporting the circulation of petitions for ballot measures, questions and propositions appearing on a city or town election ballot or recall of public officers elected for city or town offices or supporting or opposing candidates for city or town offices and for a city or town initiative or referendum or any measure or proposition appearing on a city or town election ballot. For any city or town with a population of more than two thousand five hundred persons that operates a website, the city or town shall post to that website in a format that is viewable by the public the campaign finance information prescribed by this section, which shall include the names of candidates who have filed an exemption statement pursuant to section 16-902.01, subsection ~~A~~ B. For a city or town without a website, the information shall be posted on the website operated by an association of cities and towns in this state.

B. Campaign finance reports required pursuant to section 16-913 for the office of member of the legislature and statewide offices shall be filed with the secretary of state in the manner prescribed by the secretary of state. The secretary of state may provide through the procedures manual adopted pursuant to section 16-452 for an alternative method for providing public access to the reports prescribed by this section.

C. For all statements, designations and reports, the date of filing is the date of actual receipt by the officer with whom the document is required to be filed except as follows:

1. For documents filed by certified mail with a United States mail postmark, the date of mailing constitutes the date of filing.

2. For documents filed by commercial delivery services that provide a standardized delivery confirmation process, the date of delivery confirmation constitutes the date of filing.

3. For documents filed by commercial delivery services that provide for electronic tracking of specific delivery packages, the date of electronic confirmation of delivery constitutes the date of filing.

D. If the date for filing any statement, designation or report required by this article is a Saturday, a Sunday or another legal holiday, the filing deadline is the next day that is not a Saturday, a Sunday or another legal holiday.

Approved by the Governor April 13, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## CRIMINAL TRESPASS

### CHAPTER 298

### S. B. 1046

**AN ACT AMENDING SECTION 13-1504, ARIZONA REVISED STATUTES; RELATING TO CRIMINAL TRESPASS.**

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

**Section 1.** Section 13-1504, Arizona Revised Statutes, is amended to read:

**13-1504. Criminal trespass in the first degree; classification**

A. A person commits criminal trespass in the first degree by knowingly:

1. Entering or remaining unlawfully in or on a residential structure.

2. Entering or remaining unlawfully in a fenced residential yard.

3. Entering any residential yard and, without lawful authority, looking into the residential structure thereon in reckless disregard of infringing on the inhabitant's right of privacy.

4. Entering unlawfully on real property that is subject to a valid mineral claim or lease with the intent to hold, work, take or explore for minerals on the claim or lease.

5. Entering or remaining unlawfully on the property of another and burning, defacing, mutilating or otherwise desecrating a religious symbol or other religious property of another without the express permission of the owner of the property.

6. Entering or remaining unlawfully in or on a critical public service facility.

B. CRIMINAL TRESPASS IN THE FIRST DEGREE UNDER SUBSECTION A, PARAGRAPH 6 OF THIS SECTION IS A CLASS 5 FELONY. Criminal trespass in the first degree under subsection A, paragraph 1~~,~~ OR 5 ~~or 6~~ OF THIS SECTION is a class 6 felony. Criminal trespass in the first degree under subsection A, paragraph 2, 3 or 4 OF THIS SECTION is a class 1 misdemeanor.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## CHARTER SCHOOLS—PERFORMANCE—ANNUAL REPORT

### CHAPTER 299

### S. B. 1193

**AN ACT AMENDING SECTION 15-183, ARIZONA REVISED STATUTES; AMENDING SECTION 15-185, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 15, SECTION 1; RELATING TO CHARTER SCHOOLS.**

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

**Section 1.** Section 15-183, Arizona Revised Statutes, is amended to read:

**15-183. Charter schools; application; requirements; immunity; exemptions; renewal of application; reprisal; fee; funds; annual reports**

A. An applicant seeking to establish a charter school shall submit a written application to a proposed sponsor as prescribed in subsection C of this section. The application, application process and application time frames shall be posted on the sponsor's website and shall include the following, as specified in the application adopted by the sponsor:

1. A detailed educational plan.
2. A detailed business plan.
3. A detailed operational plan.
4. Any other materials required by the sponsor.

B. The sponsor of a charter school may contract with a public body, private person or private organization for the purpose of establishing a charter school pursuant to this article.

C. The sponsor of a charter school may be either a school district governing board, the state board of education, the state board for charter schools, a university under the jurisdiction of the Arizona board of regents, a community college district with enrollment of more than fifteen thousand full-time equivalent students or a group of community college districts with a combined enrollment of more than fifteen thousand full-time equivalent students, subject to the following requirements:

1. For charter schools that submit an application for sponsorship to a school district governing board:

(a) An applicant for a charter school may submit its application to a school district governing board, which shall either accept or reject sponsorship of the charter school within ninety days. An applicant may submit a revised application for reconsideration by the governing board. If the governing board rejects the application, the governing board shall notify the applicant in writing of the reasons for the rejection. The applicant may request, and the governing board may provide, technical assistance to improve the application.

(b) In the first year that a school district is determined to be out of compliance with the uniform system of financial records, within fifteen days of the determination of noncompliance, the school district shall notify by certified mail each charter school sponsored by the school district that the school district is out of compliance with the uniform system of financial records. The notification shall include a statement that if the school district is determined to be out of compliance for a second consecutive year, the charter school will be required to transfer sponsorship to another entity pursuant to subdivision (c) of this paragraph.

(c) In the second consecutive year that a school district is determined to be out of compliance with the uniform system of financial records, within fifteen days of the determination of noncompliance, the school district shall notify by certified mail each charter school sponsored by the school district that the school district is out of compliance with the uniform system of financial records. A charter school that receives a notification of school district noncompliance pursuant to this subdivision shall file a written sponsorship transfer application within forty-five days with the state board of education, the state board for charter schools or the school district governing board if the charter school is located within the geographic boundaries of that school district. A charter school that receives a notification of school district noncompliance may request an extension of time to file a sponsorship transfer application, and the state board of education, the state board for charter schools or a school district governing board may grant an extension of not more than an additional thirty days if good cause exists for the extension. The state board of education and the state board for charter schools shall approve a sponsorship transfer application pursuant to this paragraph.

(d) A school district governing board shall not grant a charter to a charter school that is located outside the geographic boundaries of that school district.

(e) A school district that has been determined to be out of compliance with the uniform system of financial records during either of the previous two fiscal years shall not sponsor a new or transferring charter school.

(f) Notwithstanding any other law, a school district governing board shall not grant a charter to a new charter school that begins initial operations after June 30, 2013 or convert an existing district public school to a charter school that begins initial operations after June 30, 2013.

2. The applicant may submit the application to the state board of education or the state board for charter schools. Notwithstanding any other law, neither the state board for charter schools nor the state board of education shall grant a charter to

a school district governing board for a new charter school that begins initial operations after June 30, 2013 or for the conversion of an existing district public school to a charter school that begins initial operations after June 30, 2013. The state board of education or the state board for charter schools may approve the application if the application meets the requirements of this article and may approve the charter if the proposed sponsor determines, within its sole discretion, that the applicant is sufficiently qualified to operate a charter school and that the applicant is applying to operate as a separate charter holder by considering factors such as whether:

(a) The schools have separate governing bodies, governing body membership, staff, facilities and student population.

(b) Daily operations are carried out by different administrators.

(c) The applicant intends to have an affiliation agreement for the purpose of providing enrollment preferences.

(d) The applicant's charter management organization has multiple charter holders serving varied grade configurations on one physical site or nearby sites serving one community.

(e) It is reconstituting an existing school site population at the same or new site.

(f) It is reconstituting an existing grade configuration from a prior charter holder with at least one grade remaining on the original site with the other grade or grades moving to a new site. The state board of education or the state board for charter schools may approve any charter schools transferring charters. The state board of education and the state board for charter schools shall approve any charter schools transferring charters from a school district that is determined to be out of compliance with the uniform system of financial records pursuant to this section, but may require the charter school to sign a new charter that is equivalent to the charter awarded by the former sponsor. If the state board of education or the state board for charter schools rejects the preliminary application, the state board of education or the state board for charter schools shall notify the applicant in writing of the reasons for the rejection and of suggestions for improving the application. An applicant may submit a revised application for reconsideration by the state board of education or the state board for charter schools. The applicant may request, and the state board of education or the state board for charter schools may provide, technical assistance to improve the application.

3. The applicant may submit the application to a university under the jurisdiction of the Arizona board of regents, a community college district or a group of community college districts. A university, a community college district or a group of community college districts shall not grant a charter to a school district governing board for a new charter school that begins initial operations after June 30, 2013 or for the conversion of an existing district public school to a charter school that begins initial operations after June 30, 2013. A university, a community college district or a group of community college districts may approve the application if it meets the requirements of this article and if the proposed sponsor determines, in its sole discretion, that the applicant is sufficiently qualified to operate a charter school.

4. Each applicant seeking to establish a charter school shall submit a full set of fingerprints to the approving agency for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. If an applicant will have direct contact with students, the applicant shall possess a valid fingerprint clearance card that is issued pursuant to title 41, chapter 12, article 3.1. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. The criminal records check shall be completed before the issuance of a charter.

5. All persons engaged in instructional work directly as a classroom, laboratory or other teacher or indirectly as a supervisory teacher, speech therapist or principal shall have a valid fingerprint clearance card that is issued pursuant to title 41, chapter 12, article 3.1, unless the person is a volunteer or guest speaker who is accompanied in the classroom by a person with a valid fingerprint clearance card. A charter school shall not employ a teacher whose certificate has been surrendered or revoked, unless the teacher's certificate has been subsequently reinstated by the state board of education. All other personnel shall be fingerprint checked pursuant to section 15-512, or the charter school may require those personnel to obtain a fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1. Before employment, the charter school shall make documented, good faith efforts to contact previous employers of a person to obtain information and recommendations that may be relevant to a person's fitness for employment as prescribed in section 15-512, subsection F. The charter school shall notify the department of public safety if the charter school or sponsor receives credible evidence that a person who possesses a valid fingerprint clearance card is arrested for or is charged with an offense listed in section 41-1758.03, subsection B. Charter schools may hire personnel that have not yet received a fingerprint clearance card if proof is provided of the submission of an application to the department of public safety for a fingerprint clearance card and if the charter school that is seeking to hire the applicant does all of the following:

(a) Documents in the applicant's file the necessity for hiring and placement of the applicant before receiving a fingerprint clearance card.

(b) Ensures that the department of public safety completes a statewide criminal records check on the applicant. A statewide criminal records check shall be completed by the department of public safety every one hundred twenty days until the date that the fingerprint check is completed or the fingerprint clearance card is issued or denied.

(c) Obtains references from the applicant's current employer and the two most recent previous employers except for applicants who have been employed for at least five years by the applicant's most recent employer.

(d) Provides general supervision of the applicant until the date that the fingerprint card is obtained.

(e) Completes a search of criminal records in all local jurisdictions outside of this state in which the applicant has lived in the previous five years.

(f) Verifies the fingerprint status of the applicant with the department of public safety.

6. A charter school that complies with the fingerprinting requirements of this section shall be deemed to have complied with section 15-512 and is entitled to the same rights and protections provided to school districts by section 15-512.

7. If a charter school operator is not already subject to a public meeting or hearing by the municipality in which the charter school is located, the operator of a charter school shall conduct a public meeting at least thirty days before the charter school operator opens a site or sites for the charter school. The charter school operator shall post notices of the public meeting in at least three different locations that are within three hundred feet of the proposed charter school site.

8. A person who is employed by a charter school or who is an applicant for employment with a charter school, who is arrested for or charged with a nonappealable offense listed in section 41-1758.03, subsection B and who does not immediately report the arrest or charge to the person's supervisor or potential employer is guilty of unprofessional conduct and the person shall be immediately dismissed from employment with the charter school or immediately excluded from potential employment with the charter school.

9. A person who is employed by a charter school and who is convicted of any nonappealable offense listed in section 41-1758.03, subsection B or is convicted of any nonappealable offense that amounts to unprofessional conduct under section 15-550 shall immediately do all of the following:

(a) Surrender any certificates issued by the department of education.

(b) Notify the person's employer or potential employer of the conviction.

(c) Notify the department of public safety of the conviction.

(d) Surrender the person's fingerprint clearance card.

D. An entity that is authorized to sponsor charter schools pursuant to this article has no legal authority over or responsibility for a charter school sponsored by a different entity. This subsection does not apply to the state board of education's duty to exercise general supervision over the public school system pursuant to section 15-203, subsection A, paragraph 1.

E. The charter of a charter school shall do all of the following:

1. Ensure compliance with federal, state and local rules, regulations and statutes relating to health, safety, civil rights and insurance. The department of education shall publish a list of relevant rules, regulations and statutes to notify charter schools of their responsibilities under this paragraph.

2. Ensure that it is nonsectarian in its programs, admission policies and employment practices and all other operations.

3. Ensure that it provides a comprehensive program of instruction for at least a kindergarten program or any grade between grades one and twelve, except that a school may offer this curriculum with an emphasis on a specific learning philosophy or style or certain subject areas such as mathematics, science, fine arts, performance arts or foreign language.

4. Ensure that it designs a method to measure pupil progress toward the pupil outcomes adopted by the state board of education pursuant to section 15-741.01, including participation in the Arizona instrument to measure standards test and the nationally standardized norm-referenced achievement test as designated by the state

board and the completion and distribution of an annual report card as prescribed in chapter 7, article 3 of this title.

5. Ensure that, except as provided in this article and in its charter, it is exempt from all statutes and rules relating to schools, governing boards and school districts.

6. Ensure that, except as provided in this article, it is subject to the same financial and electronic data submission requirements as a school district, including the uniform system of financial records as prescribed in chapter 2, article 4 of this title, procurement rules as prescribed in section 15-213 and audit requirements. The auditor general shall conduct a comprehensive review and revision of the uniform system of financial records to ensure that the provisions of the uniform system of financial records that relate to charter schools are in accordance with commonly accepted accounting principles used by private business. A school's charter may include exceptions to the requirements of this paragraph that are necessary as determined by the district governing board, the university, the community college district, the group of community college districts, the state board of education or the state board for charter schools. The department of education or the office of the auditor general may conduct financial, program or compliance audits.

7. Ensure compliance with all federal and state laws relating to the education of children with disabilities in the same manner as a school district.

8. Ensure that it provides for a governing body for the charter school that is responsible for the policy decisions of the charter school. Notwithstanding section 1-216, if there is a vacancy or vacancies on the governing body, a majority of the remaining members of the governing body constitute a quorum for the transaction of business, unless that quorum is prohibited by the charter school's operating agreement.

9. Ensure that it provides a minimum of one hundred eighty instructional days before June 30 of each fiscal year unless it is operating on an alternative calendar approved by its sponsor. The superintendent of public instruction shall adjust the apportionment schedule accordingly to accommodate a charter school utilizing an alternative calendar.

F. A charter school shall keep on file the resumes of all current and former employees who provide instruction to pupils at the charter school. Resumes shall include an individual's educational and teaching background and experience in a particular academic content subject area. A charter school shall inform parents and guardians of the availability of the resume information and shall make the resume information available for inspection on request of parents and guardians of pupils enrolled at the charter school. This subsection does not require any charter school to release personally identifiable information in relation to any teacher or employee, including the teacher's or employee's address, salary, social security number or telephone number.

G. The charter of a charter school may be amended at the request of the governing body of the charter school and on the approval of the sponsor.

H. Charter schools may contract, sue and be sued.

I. The charter is effective for fifteen years from the first day of the fiscal year as specified in the charter, subject to the following:

1. At least eighteen months before the expiration of the charter, the sponsor shall notify the charter school that the charter school may apply for renewal and shall make the renewal application available to the charter school. A charter school that elects to apply for renewal shall file a complete renewal application at least fifteen months before the expiration of the charter. A sponsor shall give written notice of its intent not to renew the charter school's request for renewal to the charter school at least twelve months before the expiration of the charter. The sponsor shall make data used in making renewal decisions available to the school and the public and shall provide a public report summarizing the evidence basis for each decision. The sponsor may deny the request for renewal if, in its judgment, the charter holder has failed to do any of the following:

(a) Meet or make sufficient progress toward the academic performance expectations set forth in the performance framework.

(b) Meet the operational performance expectations set forth in the performance framework or any improvement plans.

(c) Complete the obligations of the contract.

(d) Comply with this article or any provision of law from which the charter school is not exempt.

2. A charter operator may apply for early renewal. At least nine months before the charter school's intended renewal consideration, the operator of the charter school shall submit a letter of intent to the sponsor to apply for early renewal. The sponsor shall review fiscal audits and academic performance data for the charter school that are annually collected by the sponsor, review the current contract between the sponsor and the charter school and provide the qualifying charter school with a renewal application. On submission of a complete application, the sponsor shall give written notice of its consideration of the renewal application. The sponsor may deny the request for early renewal if, in the sponsor's judgment, the charter holder has failed to do any of the following:

(a) Meet or make sufficient progress toward the academic performance expectations set forth in the performance framework.

(b) Meet the operational performance expectations set forth in the performance framework or any improvement plans.

(c) Complete the obligations of the contract.

(d) Comply with this article or any provision of law from which the charter school is not exempt.

3. A sponsor shall review a charter at five-year intervals using a performance framework adopted by the sponsor and may revoke a charter at any time if the charter school breaches one or more provisions of its charter or if the sponsor determines that the charter holder has failed to do any of the following:

(a) Meet or make sufficient progress toward the academic performance expectations set forth in the performance framework.

(b) Meet the operational performance expectations set forth in the performance framework or any improvement plans.

(c) Comply with this article or any provision of law from which the charter school is not exempt.

4. IN DETERMINING WHETHER TO RENEW OR REVOKE A CHARTER HOLDER, THE SPONSOR MUST CONSIDER MAKING SUFFICIENT PROGRESS TOWARD THE ACADEMIC PERFORMANCE EXPECTATIONS SET FORTH IN THE SPONSOR'S PERFORMANCE FRAMEWORK AS ONE OF THE MOST IMPORTANT FACTORS.

~~4.~~ 5. At least sixty days before the effective date of the proposed revocation, the sponsor shall give written notice to the operator of the charter school of its intent to revoke the charter. Notice of the sponsor's intent to revoke the charter shall be delivered personally to the operator of the charter school or sent by certified mail, return receipt requested, to the address of the charter school. The notice shall incorporate a statement of reasons for the proposed revocation of the charter. The sponsor shall allow the charter school at least sixty days to correct the problems associated with the reasons for the proposed revocation of the charter. The final determination of whether to revoke the charter shall be made at a public hearing called for such purpose.

J. The charter may be renewed for successive periods of twenty years.

K. A charter school that is sponsored by the state board of education, the state board for charter schools, a university, a community college district or a group of community college districts may not be located on the property of a school district unless the district governing board grants this authority.

L. A governing board or a school district employee who has control over personnel actions shall not take unlawful reprisal against another employee of the school district because the employee is directly or indirectly involved in an application to establish a charter school. A governing board or a school district employee shall not take unlawful reprisal against an educational program of the school or the school district because an application to establish a charter school proposes the conversion of all or a portion of the educational program to a charter school. For the purposes of this subsection, "unlawful reprisal" means an action that is taken by a governing board or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to another employee or an education program and:

1. With respect to a school district employee, results in one or more of the following:

(a) Disciplinary or corrective action.

(b) Detail, transfer or reassignment.

(c) Suspension, demotion or dismissal.

(d) An unfavorable performance evaluation.

(e) A reduction in pay, benefits or awards.

(f) Elimination of the employee's position without a reduction in force by reason of lack of monies or work.

(g) Other significant changes in duties or responsibilities that are inconsistent with the employee's salary or employment classification.

2. With respect to an educational program, results in one or more of the following:

(a) Suspension or termination of the program.

(b) Transfer or reassignment of the program to a less favorable department.

(c) Relocation of the program to a less favorable site within the school or school district.

(d) Significant reduction or termination of funding for the program.

M. Charter schools shall secure insurance for liability and property loss. The governing body of a charter school that is sponsored by the state board of education or the state board for charter schools may enter into an intergovernmental agreement or otherwise contract to participate in an insurance program offered by a risk retention pool established pursuant to section 11-952.01 or 41-621.01 or the charter school may secure its own insurance coverage. The pool may charge the requesting charter school reasonable fees for any services it performs in connection with the insurance program.

N. Charter schools do not have the authority to acquire property by eminent domain.

O. A sponsor, including members, officers and employees of the sponsor, is immune from personal liability for all acts done and actions taken in good faith within the scope of its authority.

P. Charter school sponsors and this state are not liable for the debts or financial obligations of a charter school or persons who operate charter schools.

Q. The sponsor of a charter school shall establish procedures to conduct administrative hearings on determination by the sponsor that grounds exist to revoke a charter. Procedures for administrative hearings shall be similar to procedures prescribed for adjudicative proceedings in title 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, final decisions of the state board of education and the state board for charter schools from hearings conducted pursuant to this subsection are subject to judicial review pursuant to title 12, chapter 7, article 6.

R. The sponsoring entity of a charter school shall have oversight and administrative responsibility for the charter schools that it sponsors. In implementing its oversight and administrative responsibilities, the sponsor shall ground its actions in evidence of the charter holder's performance in accordance with the performance framework adopted by the sponsor. The performance framework shall be publicly available, shall be placed on the sponsoring entity's website and shall include:

1. The academic performance expectations of the charter school and the measurement of sufficient progress toward the academic performance expectations.

2. The operational expectations of the charter school, including adherence to all applicable laws and obligations of the charter contract.

3. Intervention and improvement policies.

S. Charter schools may pledge, assign or encumber their assets to be used as collateral for loans or extensions of credit.

T. All property accumulated by a charter school shall remain the property of the charter school.

U. Charter schools may not locate a school on property that is less than one-fourth mile from agricultural land regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the charter school may locate a school within the affected buffer zone. The agreement may include any stipulations regarding the charter school, including conditions for future expansion of the school and changes in the operational status of the school that will result in a breach of the agreement.

V. A transfer of a charter to another sponsor, a transfer of a charter school site to another sponsor or a transfer of a charter school site to a different charter shall be completed before the beginning of the fiscal year that the transfer is scheduled to become effective. An entity that sponsors charter schools may accept a transferring school after the beginning of the fiscal year if the transfer is approved by the superintendent of public instruction. The superintendent of public instruction shall have the discretion to consider each transfer during the fiscal year on a case by case basis. If a charter school is sponsored by a school district that is determined to be out of compliance with this title, the uniform system of financial records or any other state or federal law, the charter school may transfer to another sponsoring entity at any time during the fiscal year. A charter holder seeking to transfer sponsors shall comply with the current charter terms regarding assignment of the charter. A charter holder transferring sponsors shall notify the current sponsor that the transfer has been approved by the new sponsor.

W. Notwithstanding subsection V of this section, a charter holder on an improvement plan must notify parents or guardians of registered students of the intent to transfer the charter and the timing of the proposed transfer. On the approved transfer, the new sponsor shall enforce the improvement plan but may modify the plan based on performance.

X. Notwithstanding subsection Y of this section, the state board for charter schools shall charge a processing fee to any charter school that amends its contract to participate in Arizona online instruction pursuant to section 15-808. The charter Arizona online instruction processing fund is established consisting of fees collected and administered by the state board for charter schools. The state board for charter schools shall use monies in the fund only for the processing of contract amendments for charter schools participating in Arizona online instruction. Monies in the fund are continuously appropriated.

Y. The sponsoring entity may not charge any fees to a charter school that it sponsors unless the sponsor has provided services to the charter school and the fees represent the full value of those services provided by the sponsor. On request, the value of the services provided by the sponsor to the charter school shall be demonstrated to the department of education.

Z. Charter schools may enter into an intergovernmental agreement with a presiding judge of the juvenile court to implement a law related education program as defined in section 15-154. The presiding judge of the juvenile court may assign juvenile probation officers to participate in a law related education program in any charter school in the county. The cost of juvenile probation officers who participate in the program implemented pursuant to this subsection shall be funded by the charter school.

AA. The sponsor of a charter school shall modify previously approved curriculum requirements for a charter school that wishes to participate in the board examination system prescribed in chapter 7, article 6 of this title.

BB. If a charter school decides not to participate in the board examination system prescribed in chapter 7, article 6 of this title, pupils enrolled at that charter school may earn a Grand Canyon diploma by obtaining a passing score on the same board examinations.

CC. Notwithstanding subsection Y of this section, a sponsor of charter schools may charge a new charter application processing fee to any applicant. The application fee shall fully cover the cost of application review and any needed technical assistance. Authorizers may approve policies that allow a portion of the fee to be returned to the applicant whose charter is approved.

DD. A charter school may choose to provide a preschool program for children with disabilities pursuant to section 15-771.

EE. Pursuant to the prescribed graduation requirements adopted by the state board of education, the governing body of a charter school operating a high school may approve a rigorous computer science course that would fulfill a mathematics course required for graduation from high school. The governing body may approve a rigorous computer science course only if the rigorous computer science course includes significant mathematics content and the governing body determines the high school where the rigorous computer science course is offered has sufficient capacity, infrastructure and qualified staff, including competent teachers of computer science.

FF. A charter school may permit the use of school property, including school buildings, grounds, buses and equipment, by any person, group or organization for any lawful purpose, including A recreational, educational, political, economic, artistic, moral, scientific, social, religious or other civic or governmental purpose. The charter school may charge a reasonable fee for the use of the school property.

GG. A charter school and its employees, including the governing body, or chief administrative officer, are immune from civil liability with respect to all decisions made and actions taken to allow the use of school property, unless the charter school or its employees are guilty of gross negligence or intentional misconduct. This subsection does not limit any other immunity provisions that are prescribed by law.

HH. SPONSORS AUTHORIZED PURSUANT TO THIS SECTION SHALL SUBMIT AN ANNUAL REPORT TO THE AUDITOR GENERAL ON OR BEFORE OCTOBER 1 OF EACH YEAR. THE REPORT SHALL INCLUDE:

1. THE CURRENT NUMBER OF CHARTERS AUTHORIZED AND THE NUMBER OF SCHOOLS OPERATED BY AUTHORIZED CHARTER HOLDERS.

2. THE ACADEMIC AND OPERATIONAL PERFORMANCE OF THE SPONSOR'S CHARTER PORTFOLIO AS MEASURED BY THE SPONSOR'S ADOPTED PERFORMANCE FRAMEWORK.

3. THE NUMBER OF NEW CHARTERS APPROVED AND THE NUMBER OF CHARTER SCHOOLS CLOSED AND REASON FOR THE CLOSURE IN THE PRIOR YEAR.

4. THE SPONSOR'S APPLICATION, AMENDMENT, RENEWAL AND REVOCATION PROCESSES, CHARTER CONTRACT TEMPLATE AND CURRENT PERFORMANCE FRAMEWORK AS REQUIRED BY THIS SECTION.

II. THE AUDITOR GENERAL SHALL PRESCRIBE THE FORMAT FOR THE ANNUAL REPORT REQUIRED BY SUBSECTION HH OF THIS SECTION AND MAY REQUIRE THAT THE ANNUAL REPORT BE SUBMITTED ELECTRONICALLY. THE AUDITOR GENERAL SHALL REVIEW THE SUBMITTED ANNUAL REPORTS TO ENSURE THAT THE REPORTS INCLUDE THE REQUIRED ITEMS IN SUBSECTION HH OF THIS SECTION AND SHALL MAKE THE ANNUAL REPORTS AVAILABLE UPON REQUEST. IF THE AUDITOR GENERAL FINDS SIGNIFICANT NONCOMPLIANCE OR A SPONSOR'S FAILURE TO SUBMIT THE ANNUAL REPORT REQUIRED BY SUBSECTION HH OF THIS SECTION, ON OR BEFORE DECEMBER 31 OF EACH YEAR THE AUDITOR GENERAL SHALL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRS OF THE SENATE AND HOUSE EDUCATION COMMITTEES OR THEIR SUCCESSOR COMMITTEES, AND THE LEGISLATURE SHALL CONSIDER REVOKING THE SPONSOR'S AUTHORITY TO SPONSOR CHARTER SCHOOLS.

**Sec. 2.** Section 15-185, Arizona Revised Statutes, as amended by Laws 2015, chapter 15, section 1, is amended to read:

**15-185. Charter schools; financing; civil penalty; transportation; definition**

A. Financial provisions for a charter school that is sponsored by a school district governing board are as follows:

1. The charter school shall be included in the district's budget and financial assistance calculations pursuant to paragraph 3 of this subsection and chapter 9 of this title, except for chapter 9, article 4 of this title. The charter of the charter school shall include a description of the methods of funding the charter school by the school district. The school district shall send a copy of the charter and application, including a description of how the school district plans to fund the school, to the state board of education before the start of the first fiscal year of operation of the charter school. The charter or application shall include an estimate of the student count for the charter school for its first fiscal year of operation. This estimate shall be computed pursuant to the requirements of paragraph 3 of this subsection.

2. A school district is not financially responsible for any charter school that is sponsored by the state board of education, the state board for charter schools, a university under the jurisdiction of the Arizona board of regents, a community college district or a group of community college districts.

3. A school district that sponsors a charter school may:

(a) Increase its student count as provided in subsection B, paragraph 2 of this section during the first year of the charter school's operation to include those charter school pupils who were not previously enrolled in the school district. A charter school sponsored by a school district governing board is eligible for the charter additional assistance prescribed in subsection B, paragraph 4 of this section. The district additional assistance allocation as provided in section 15-961 for the school district sponsoring the charter school shall be increased by the amount of the charter additional assistance. The school district shall include the full amount of the charter additional assistance in the funding provided to the charter school.

(b) Compute separate weighted student counts pursuant to section 15-943, paragraph 2, subdivision (a) for its noncharter school versus charter school pupils in order to maintain eligibility for small school district support level weights authorized in section 15-943, paragraph 1 for its noncharter school pupils only. The portion of a district's student count that is attributable to charter school pupils is not eligible for small school district support level weights.

4. If a school district uses the provisions of paragraph 3 of this subsection, the school district is not eligible to include those pupils in its student count for the purposes of computing an increase in its revenue control limit and district support level as provided in section 15-948.

5. A school district that sponsors a charter school is not eligible to include the charter school pupils in its student count for the purpose of computing an increase in its district additional assistance as provided in section 15-961, subsection B, except that if the charter school was previously a school in the district, the district may include in its student count any charter school pupils who were enrolled in the school district in the prior year.

6. A school district that sponsors a charter school is not eligible to include the charter school pupils in its student count for the purpose of computing the revenue control limit which is used to determine the maximum budget increase as provided in chapter 4, article 4 of this title unless the charter school is located within the boundaries of the school district.

7. If a school district converts one or more of its district public schools to a charter school and receives assistance as prescribed in subsection B, paragraph 4 of this section, and subsequently converts the charter school back to a district public school, the school district shall repay the state the total charter additional assistance received for the charter school for all years that the charter school was in operation. The repayment shall be in one lump sum and shall be reduced from the school district's current year equalization assistance. The school district's general budget limit shall be reduced by the same lump sum amount in the current year.

B. Financial provisions for a charter school that is sponsored by the state board of education, the state board for charter schools, a university, a community college district or a group of community college districts are as follows:

1. The charter school shall calculate a base support level as prescribed in section 15-943, except that:

(a) Section 15-941 does not apply to these charter schools.

(b) The small school weights prescribed in section 15-943, paragraph 1 apply if a charter holder, as defined in section 15-101, holds one charter for one or more school sites and the average daily membership for the school sites are combined for the calculation of the small school weight. The small school weight shall not be applied individually to a charter holder if one or more of the following conditions exists and the combined average daily membership derived from the following conditions is greater than six hundred:

(i) The organizational structure or management agreement of the charter holder requires the charter holder or charter school to contract with a specific management company.

(ii) The governing body of the charter holder has identical membership to another charter holder in this state.

(iii) The charter holder is a subsidiary of a corporation that has other subsidiaries that are charter holders in this state.

(iv) The charter holder holds ~~one or~~ more ~~charters~~ THAN ONE CHARTER in this state.

(c) Notwithstanding subdivision (b) of this paragraph, for fiscal year 2015-2016 the department of education shall reduce by thirty-three percent the amount provided by the small school weight for charter schools prescribed in subdivision (b) of this paragraph.

(d) Notwithstanding subdivision (b) of this paragraph, for fiscal year 2016-2017 the department of education shall reduce by sixty-seven percent the amount provided by the small school weight for affiliated charter schools prescribed in subdivision (b) of this paragraph.

2. Notwithstanding paragraph 1 of this subsection, the student count shall be determined initially using an estimated student count based on actual registration of pupils before the beginning of the school year. Notwithstanding section 15-1042, subsection F, student level data submitted to the department may be used to determine estimated student counts. After the first forty days, one hundred days or two hundred days in session, as applicable, the charter school shall revise the student count to be equal to the actual average daily membership, as defined in section 15-901, of the charter school. Before the fortieth day, one hundredth day or two hundredth day in session, as applicable, the state board of education, the state board for charter schools, the sponsoring university, the sponsoring community college district or the sponsoring group of community college districts may require a charter school to report periodically regarding pupil enrollment and attendance, and the department of education may revise its computation of equalization assistance based on the report. A charter school shall revise its student count, base support level and charter additional assistance before May 15. A charter school that overestimated its

student count shall revise its budget before May 15. A charter school that underestimated its student count may revise its budget before May 15.

3. A charter school may utilize section 15-855 for the purposes of this section. The charter school and the department of education shall prescribe procedures for determining average daily membership.

4. Equalization assistance for the charter school shall be determined by adding the amount of the base support level and charter additional assistance. The amount of the charter additional assistance is one thousand seven hundred thirty-four dollars ninety-two cents per student count in preschool programs for children with disabilities, kindergarten programs and grades one through eight and two thousand twenty-two dollars two cents per student count in grades nine through twelve.

5. The state board of education shall apportion state aid from the appropriations made for such purposes to the state treasurer for disbursement to the charter schools in each county in an amount as determined by this paragraph. The apportionments shall be made as prescribed in section 15-973, subsection B.

6. The charter school shall not charge tuition for pupils who reside in this state, levy taxes or issue bonds. A charter school may admit pupils who are not residents of this state and shall charge tuition for those pupils in the same manner prescribed in section 15-823.

7. Not later than noon on the day preceding each apportionment date established by paragraph 5 of this subsection, the superintendent of public instruction shall furnish to the state treasurer an abstract of the apportionment and shall certify the apportionment to the department of administration, which shall draw its warrant in favor of the charter schools for the amount apportioned.

C. If a pupil is enrolled in both a charter school and a public school that is not a charter school, the sum of the daily membership, which includes enrollment as prescribed in section 15-901, subsection A, paragraph 1, subdivisions (a) and (b) and daily attendance as prescribed in section 15-901, subsection A, paragraph 5, for that pupil in the school district and the charter school shall not exceed 1.0. If a pupil is enrolled in both a charter school and a public school that is not a charter school, the department of education shall direct the average daily membership to the school with the most recent enrollment date. On validation of actual enrollment in both a charter school and a public school that is not a charter school and if the sum of the daily membership or daily attendance for that pupil is greater than 1.0, the sum shall be reduced to 1.0 and shall be apportioned between the public school and the charter school based on the percentage of total time that the pupil is enrolled or in attendance in the public school and the charter school. The uniform system of financial records shall include guidelines for the apportionment of the pupil enrollment and attendance as provided in this section.

D. Charter schools are allowed to accept grants and gifts to supplement their state funding, but it is not the intent of the charter school law to require taxpayers to pay twice to educate the same pupils. The base support level for a charter school or for a school district sponsoring a charter school shall be reduced by an amount equal to the total amount of monies received by a charter school from a federal or state agency if the federal or state monies are intended for the basic maintenance and

operations of the school. The superintendent of public instruction shall estimate the amount of the reduction for the budget year and shall revise the reduction to reflect the actual amount before May 15 of the current year. If the reduction results in a negative amount, the negative amount shall be used in computing all budget limits and equalization assistance, except that:

1. Equalization assistance shall not be less than zero.

2. For a charter school sponsored by the state board of education, the state board for charter schools, a university, a community college district or a group of community college districts, the total of the base support level and the charter additional assistance shall not be less than zero.

3. For a charter school sponsored by a school district, the base support level for the school district shall not be reduced by more than the amount that the charter school increased the district's base support level and district additional assistance allocation.

E. If a charter school was a district public school in the prior year and is now being operated for or by the same school district and sponsored by the state board of education, the state board for charter schools, a university, a community college district, a group of community college districts or a school district governing board, the reduction in subsection D of this section applies. The reduction to the base support level of the charter school or the sponsoring district of the charter school shall equal the sum of the base support level and the charter additional assistance received in the current year for those pupils who were enrolled in the traditional public school in the prior year and are now enrolled in the charter school in the current year.

F. Equalization assistance for charter schools shall be provided as a single amount based on average daily membership without categorical distinctions between maintenance and operations or capital.

G. At the request of a charter school, the county school superintendent of the county where the charter school is located may provide the same educational services to the charter school as prescribed in section 15-308, subsection A. The county school superintendent may charge a fee to recover costs for providing educational services to charter schools.

H. If the sponsor of the charter school determines at a public meeting that the charter school is not in compliance with federal law, with the laws of this state or with its charter, the sponsor of a charter school may submit a request to the department of education to withhold up to ten percent of the monthly apportionment of state aid that would otherwise be due the charter school. The department of education shall adjust the charter school's apportionment accordingly. The sponsor shall provide written notice to the charter school at least seventy-two hours before the meeting and shall allow the charter school to respond to the allegations of noncompliance at the meeting before the sponsor makes a final determination to notify the department of education of noncompliance. The charter school shall submit a corrective action plan to the sponsor on a date specified by the sponsor at the meeting. The corrective action plan shall be designed to correct deficiencies at the charter school and to ensure that the charter school promptly returns to

compliance. When the sponsor determines that the charter school is in compliance, the department of education shall restore the full amount of state aid payments to the charter school.

I. In addition to the withholding of state aid payments pursuant to subsection H of this section, the sponsor of a charter school may impose a civil penalty of one thousand dollars per occurrence if a charter school fails to comply with the fingerprinting requirements prescribed in section 15-183, subsection C or section 15-512. The sponsor of a charter school shall not impose a civil penalty if it is the first time that a charter school is out of compliance with the fingerprinting requirements and if the charter school provides proof within forty-eight hours of written notification that an application for the appropriate fingerprint check has been received by the department of public safety. The sponsor of the charter school shall obtain proof that the charter school has been notified, and the notification shall identify the date of the deadline and shall be signed by both parties. The sponsor of a charter school shall automatically impose a civil penalty of one thousand dollars per occurrence if the sponsor determines that the charter school subsequently violates the fingerprinting requirements. Civil penalties pursuant to this subsection shall be assessed by requesting the department of education to reduce the amount of state aid that the charter school would otherwise receive by an amount equal to the civil penalty. The amount of state aid withheld shall revert to the state general fund at the end of the fiscal year.

J. A charter school may receive and spend monies distributed by the department of education pursuant to section 42-5029, subsection E and section 37-521, subsection B.

K. If a school district transports or contracts to transport pupils to the Arizona state schools for the deaf and the blind during any fiscal year, the school district may transport or contract with a charter school to transport sensory impaired pupils during that same fiscal year to a charter school if requested by the parent of the pupil and if the distance from the pupil's place of actual residence within the school district to the charter school is less than the distance from the pupil's place of actual residence within the school district to the campus of the Arizona state schools for the deaf and the blind.

L. Notwithstanding any other law, a university under the jurisdiction of the Arizona board of regents, a community college district or a group of community college districts shall not include any student in the student count of the university, community college district or group of community college districts for state funding purposes if that student is enrolled in and attending a charter school sponsored by the university, community college district or group of community college districts.

M. The governing body of a charter school shall transmit a copy of its proposed budget or the summary of the proposed budget and a notice of the public hearing to the department of education for posting on the department of education's website no later than ten days before the hearing and meeting. If the charter school maintains a website, the charter school governing body shall post on its website a copy of its proposed budget or the summary of the proposed budget and a notice of the public hearing.

N. The governing body of a charter school shall collaborate with the private organization that is approved by the state board of education pursuant to section 15-792.02 to provide approved board examination systems for the charter school.

O. If permitted by federal law, a charter school may opt out of federal grant opportunities if the charter holder or the appropriate governing body of the charter school determines that the federal requirements impose unduly burdensome reporting requirements.

P. For the purposes of this section:

1. "Monies intended for the basic maintenance and operations of the school" means monies intended to provide support for the educational program of the school, except that it does not include supplemental assistance for a specific purpose or title VIII of the elementary and secondary education act of 1965 monies. The auditor general shall determine which federal or state monies meet the definition in this paragraph.

2. "Operated for or by the same school district" means the charter school is either governed by the same district governing board or operated by the district in the same manner as other traditional schools in the district or is operated by an independent party that has a contract with the school district. The auditor general and the department of education shall determine which charter schools meet the definition in this subsection.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## SCHOOLS—PUPILS—RESTRAINT—SECLUSION—REQUIREMENTS

### CHAPTER 300

### S. B. 1459

**AN ACT AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-105; RELATING TO THE RESTRAINT AND SECLUSION OF SCHOOL PUPILS.**

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

**Section 1.** Title 15, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 15-105, to read:

**15-105. Use of restraint and seclusion techniques; requirements; definitions**

A. A SCHOOL MAY PERMIT THE USE OF RESTRAINT OR SECLUSION TECHNIQUES ON ANY PUPIL IF BOTH OF THE FOLLOWING APPLY:

1. THE PUPIL'S BEHAVIOR PRESENTS AN IMMINENT DANGER OF BODILY HARM TO THE PUPIL OR OTHERS.

2. LESS RESTRICTIVE INTERVENTIONS APPEAR INSUFFICIENT TO MITIGATE THE IMMINENT DANGER OF BODILY HARM.

B. IF A RESTRAINT OR SECLUSION TECHNIQUE IS USED ON A PUPIL:

1. SCHOOL PERSONNEL SHALL MAINTAIN CONTINUOUS VISUAL OBSERVATION AND MONITORING OF THE PUPIL WHILE THE RESTRAINT OR SECLUSION TECHNIQUE IS IN USE.

2. THE RESTRAINT OR SECLUSION TECHNIQUE SHALL END WHEN THE PUPIL'S BEHAVIOR NO LONGER PRESENTS AN IMMINENT DANGER TO THE PUPIL OR OTHERS.

3. THE RESTRAINT OR SECLUSION TECHNIQUE SHALL BE USED ONLY BY SCHOOL PERSONNEL WHO ARE TRAINED IN THE SAFE AND EFFECTIVE USE OF RESTRAINT AND SECLUSION TECHNIQUES UNLESS AN EMERGENCY SITUATION DOES NOT ALLOW SUFFICIENT TIME TO SUMMON TRAINED PERSONNEL.

4. THE RESTRAINT TECHNIQUE EMPLOYED MAY NOT IMPEDE THE PUPIL'S ABILITY TO BREATHE.

5. THE RESTRAINT TECHNIQUE MAY NOT BE OUT OF PROPORTION TO THE PUPIL'S AGE OR PHYSICAL CONDITION.

C. SCHOOLS MAY ESTABLISH POLICIES AND PROCEDURES FOR THE USE OF RESTRAINT OR SECLUSION TECHNIQUES IN A SCHOOL SAFETY OR CRISIS INTERVENTION PLAN IF THE PLAN IS NOT SPECIFIC TO ANY INDIVIDUAL PUPIL.

D. SCHOOLS SHALL ESTABLISH REPORTING AND DOCUMENTATION PROCEDURES TO BE FOLLOWED WHEN A RESTRAINT OR SECLUSION TECHNIQUE HAS BEEN USED ON A PUPIL. THE PROCEDURES SHALL INCLUDE THE FOLLOWING REQUIREMENTS:

1. SCHOOL PERSONNEL SHALL PROVIDE THE PUPIL'S PARENT OR GUARDIAN WITH WRITTEN OR ORAL NOTICE ON THE SAME DAY THAT THE INCIDENT OCCURRED, UNLESS CIRCUMSTANCES PREVENT SAME-DAY NOTIFICATION. IF THE NOTICE IS NOT PROVIDED ON THE SAME DAY OF THE INCIDENT, NOTICE SHALL BE GIVEN WITHIN TWENTY-FOUR HOURS AFTER THE INCIDENT.

2. WITHIN A REASONABLE TIME FOLLOWING THE INCIDENT, SCHOOL PERSONNEL SHALL PROVIDE THE PUPIL'S PARENT OR GUARDIAN WITH WRITTEN DOCUMENTATION THAT INCLUDES INFORMATION ABOUT ANY PERSONS, LOCATIONS OR ACTIVITIES THAT MAY HAVE TRIGGERED THE BEHAVIOR, IF KNOWN, AND SPECIFIC INFORMATION ABOUT THE BEHAVIOR AND ITS PRECURSORS, THE TYPE OF RESTRAINT OR SECLUSION TECHNIQUE USED AND THE DURATION OF ITS USE.

3. SCHOOLS SHALL REVIEW STRATEGIES USED TO ADDRESS A PUPIL'S DANGEROUS BEHAVIOR IF THERE HAS BEEN REPEATED USE OF RESTRAINT OR SECLUSION TECHNIQUES FOR THE PUPIL DURING A SCHOOL YEAR. THE REVIEW SHALL INCLUDE A REVIEW OF THE INCIDENTS IN WHICH RESTRAINT OR SECLUSION TECHNIQUE WERE USED AND AN ANALYSIS OF HOW FUTURE INCIDENTS MAY BE AVOIDED, INCLUDING WHETHER THE PUPIL REQUIRES A FUNCTIONAL BEHAVIORAL ASSESSMENT.

E. IF A SCHOOL DISTRICT OR CHARTER SCHOOL SUMMONS LAW ENFORCEMENT INSTEAD OF USING A RESTRAINT OR SECLUSION TECHNIQUE ON A PUPIL, THE SCHOOL SHALL COMPLY WITH THE REPORTING, DOCUMENTATION AND REVIEW PROCEDURES ESTABLISHED UNDER SUBSECTION D OF THIS SECTION. NOTWITHSTANDING THIS SECTION, SCHOOL RESOURCE OFFICERS ARE AUTHORIZED TO RESPOND TO SITUATIONS THAT PRESENT THE IMMINENT DANGER OF BODILY HARM ACCORDING TO PROTOCOLS ESTABLISHED BY THEIR LAW ENFORCEMENT AGENCY.

F. THIS SECTION DOES NOT PROHIBIT SCHOOLS FROM ADOPTING POLICIES PURSUANT TO SECTION 15-843, SUBSECTION B, PARAGRAPH 3.

G. FOR THE PURPOSES OF THIS SECTION:

1. "RESTRAINT" MEANS ANY METHOD OR DEVICE THAT IMMOBILIZES OR REDUCES THE ABILITY OF A PUPIL TO MOVE THE PUPIL'S TORSO, ARMS, LEGS OR HEAD FREELY, INCLUDING PHYSICAL FORCE OR MECHANICAL DEVICES. RESTRAINT DOES NOT INCLUDE ANY OF THE FOLLOWING:

(a) METHODS OR DEVICES IMPLEMENTED BY TRAINED SCHOOL PERSONNEL OR USED BY A PUPIL FOR THE SPECIFIC AND APPROVED THERAPEUTIC OR SAFETY PURPOSES FOR WHICH THE METHOD OR DEVICE IS DESIGNED AND, IF APPLICABLE, PRESCRIBED.

(b) THE TEMPORARY TOUCHING OR HOLDING OF THE HAND, WRIST, ARM, SHOULDER OR BACK FOR THE PURPOSE OF INDUCING A PUPIL TO COMPLY WITH A REASONABLE REQUEST OR TO GO TO A SAFE LOCATION.

(c) THE BRIEF HOLDING OF A PUPIL BY ONE ADULT FOR THE PURPOSE OF CALMING OR COMFORTING THE PUPIL.

(d) PHYSICAL FORCE USED TO TAKE A WEAPON AWAY FROM A PUPIL OR TO SEPARATE AND REMOVE A PUPIL FROM ANOTHER PERSON WHEN THE PUPIL IS ENGAGED IN A PHYSICAL ASSAULT ON ANOTHER PERSON.

2. "SCHOOL" MEANS A SCHOOL DISTRICT, A CHARTER SCHOOL, A PUBLIC OR PRIVATE SPECIAL EDUCATION SCHOOL THAT PROVIDES SERVICES TO PUPILS PLACED BY A PUBLIC SCHOOL, THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND AND A PRIVATE SCHOOL.

3. "SECLUSION" MEANS THE INVOLUNTARY CONFINEMENT OF A PUPIL ALONE IN A ROOM FROM WHICH EGRESS IS PREVENTED. SECLUSION DOES NOT INCLUDE THE USE OF A VOLUNTARY BEHAVIOR MANAGEMENT TECHNIQUE, INCLUDING A TIMEOUT LOCATION, AS PART OF A PUPIL'S EDUCATION PLAN, INDIVIDUAL SAFETY PLAN, BEHAVIORAL PLAN OR INDIVIDUALIZED EDUCATION PROGRAM THAT INVOLVES THE PUPIL'S SEPARATION FROM A LARGER GROUP FOR PURPOSES OF CALMING.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## TAX CREDITS—STOs—S CORPORATIONS—CONTRIBUTIONS—REVIEW

### CHAPTER 301

### H. B. 2153

**AN ACT AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1089.04; AMENDING SECTIONS 43-1183, 43-1184, 43-1503 AND 43-1603, ARIZONA REVISED STATUTES; RELATING TO INCOME TAX CREDITS.**

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

**Section 1.** Section 43-222, Arizona Revised Statutes, is amended to read:

**43-222. Income tax credit review schedule**

The joint legislative income tax credit review committee shall review the following income tax credits:

1. For years ending in 0 and 5, sections 43-1079.01, 43-1087, 43-1088, 43-1089.04, 43-1167.01 and 43-1175.

2. For years ending in 1 and 6, sections 43-1074.02, 43-1083, 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1090, 43-1164, 43-1167, 43-1169, 43-1176 and 43-1181.

4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

5. For years ending in 4 and 9, sections 43-1076, 43-1076.01, 43-1081.01, 43-1083.01, 43-1083.04, 43-1084, 43-1162, 43-1162.01, 43-1164.01, 43-1164.05, 43-1170.01 and 43-1184 and, beginning in 2019, sections 43-1083.03 and 43-1164.04.

**Sec. 2.** Title 43, chapter 10, article 5, Arizona Revised Statutes, is amended by adding section 43-1089.04, to read:

**43-1089.04. Pro rata credit for business contributions by an S corporation school tuition organizations; definition**

A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE PRO RATA AMOUNT OF CONTRIBUTIONS MADE BY AN S CORPORATION PURSUANT TO SECTION 43-1183, SUBSECTION F OR SECTION 43-1184, SUBSECTION F, OR BOTH. TO QUALIFY FOR THE CREDIT:

1. THE AGGREGATE CONTRIBUTION IN THE TAXABLE YEAR MUST BE AT LEAST FIVE THOUSAND DOLLARS.

2. ALL OTHER REQUIREMENTS OF SECTION 43-1183 OR 43-1184 AND THE APPLICABLE SECTIONS OF CHAPTER 15 OF THIS TITLE MUST BE MET.

B. CO-OWNERS OF THE S CORPORATION MAY EACH CLAIM THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER SECTIONS 43-1183 AND 43-1184 BASED ON THE TAXPAYER'S OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL THE OWNERS OF THE CORPORATION MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER OF THE CORPORATION.

C. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

D. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX PURPOSES.

E. THE TAX CREDIT IS NOT ALLOWED IF THE S CORPORATION OR A SHAREHOLDER DESIGNATES THE CONTRIBUTION TO THE SCHOOL TUITION ORGANIZATION FOR THE DIRECT BENEFIT OF ANY DEPENDENT OF A SHAREHOLDER OF THE CORPORATION CLAIMING A CREDIT UNDER THIS SECTION OR IF THE CORPORATION OR A SHAREHOLDER DESIGNATES A STUDENT BENEFICIARY AS A CONDITION OF THE CONTRIBUTION TO THE SCHOOL TUITION ORGANIZATION. THE TAX CREDIT IS NOT ALLOWED IF THE CORPORATION OR A SHAREHOLDER, WITH THE INTENT TO BENEFIT A SHAREHOLDER'S DEPENDENT, AGREES WITH ONE OR MORE OTHER TAXPAYERS TO DESIGNATE RECIPROCAL CONTRIBUTIONS TO SCHOOL TUITION ORGANIZATIONS FOR THE DIRECT BENEFIT OF THE OTHER TAXPAYER'S DEPENDENT.

F. FOR THE PURPOSES OF THIS SECTION, "S CORPORATION" OR "CORPORATION" MEANS AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE.

**Sec. 3.** Section 43-1183, Arizona Revised Statutes, is amended to read:

**43-1183. Credit for contributions to school tuition organization**

A. Beginning from and after June 30, 2006, a credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization that is certified pursuant to chapter 15 of this title at the time of donation.

B. The amount of the credit is the total amount of the taxpayer's contributions for the taxable year under subsection A of this section and is preapproved by the department of revenue pursuant to subsection D of this section.

C. The department of revenue:

1. Shall not allow tax credits under this section and section 20-224.06 that exceed in the aggregate a combined total of ten million dollars in any fiscal year. Beginning in fiscal year 2007-2008, the aggregate dollar amount of the tax credit cap from the previous fiscal year shall be annually increased by twenty ~~per cent~~ PERCENT.

2. Shall preapprove tax credits under this section and section 20-224.06 subject to subsection D of this section.

3. Shall allow the tax credits under this section and section 20-224.06 on a first come, first served basis.

D. For the purposes of subsection C, paragraph 2 of this section, before making a contribution to a school tuition organization, the taxpayer under this title or title 20 must notify the school tuition organization of the total amount of contributions that the taxpayer intends to make to the school tuition organization. Before accepting the contribution, the school tuition organization shall request preapproval from the department of revenue for the taxpayer's intended contribution amount. The department of revenue shall preapprove or deny the requested amount within twenty days after receiving the request from the school tuition organization. If the department of revenue preapproves the request, the school tuition organization shall immediately notify the taxpayer, and the department of insurance in the case of a credit under section 20-224.06, that the requested amount was preapproved by the department of revenue. In order to receive a tax credit under this subsection, the taxpayer shall make the contribution to the school tuition organization within twenty days after receiving notice from the school tuition organization that the requested amount was preapproved. If the school tuition organization does not receive the preapproved contribution from the taxpayer within the required twenty days, the school tuition organization shall immediately notify the department of revenue, and the department of insurance in the case of a credit under section 20-224.06, and the department of revenue shall no longer include this preapproved contribution amount when calculating the limit prescribed in subsection C, paragraph 1 of this section.

E. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer

may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

F. Co-owners of a business, including corporate partners in a partnership AND STOCKHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed a sole owner.

G. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

H. A taxpayer shall not claim a credit under this section and also under section 43-1184 with respect to the same contribution.

I. The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any specific student.

J. The department of revenue, with the cooperation of the department of insurance, shall adopt rules and publish and prescribe forms and procedures necessary for the administration of this section.

**Sec. 4.** Section 43-1184, Arizona Revised Statutes, is amended to read:

**43-1184. Credit for contributions to school tuition organization; displaced students; students with disabilities**

A. Beginning from and after June 30, 2009, a credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization that is certified pursuant to chapter 15 of this title at the time of donation.

B. The amount of the credit is the total amount of the taxpayer's contributions for the taxable year under subsection A of this section and is preapproved by the department of revenue pursuant to subsection D of this section.

C. The department of revenue:

1. Shall not allow tax credits under this section and section 20-224.07 that exceed in the aggregate a combined total of five million dollars in any fiscal year.

2. Shall preapprove tax credits under this section and section 20-224.07 subject to subsection D of this section.

3. Shall allow the tax credits under this section and section 20-224.07 on a first come, first served basis.

D. For the purposes of subsection C, paragraph 2 of this section, before making a contribution to a school tuition organization, the taxpayer under this title or title 20 must notify the school tuition organization of the total amount of contributions that the taxpayer intends to make to the school tuition organization. Before accepting the contribution, the school tuition organization shall request preapproval from the department of revenue for the taxpayer's intended contribution amount. The department of revenue shall preapprove or deny the requested amount within twenty days after receiving the request from the school tuition organization. If the department of revenue preapproves the request, the school tuition organization shall immediately notify the taxpayer that the requested amount was preapproved by

the department of revenue. In order to receive a tax credit under this subsection, the taxpayer shall make the contribution to the school tuition organization within twenty days after receiving notice from the school tuition organization that the requested amount was preapproved. If the school tuition organization does not receive the preapproved contribution from the taxpayer within the required twenty days, the school tuition organization shall immediately notify the department of revenue and the department shall no longer include this preapproved contribution amount when calculating the limit prescribed in subsection C, paragraph 1 of this section.

E. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

F. Co-owners of a business, including corporate partners in a partnership AND STOCKHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed a sole owner.

G. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

H. A taxpayer shall not claim a credit under this section and also under section 43-1183 with respect to the same contribution.

I. The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any specific student.

J. The department of revenue shall adopt rules necessary for the administration of this section.

**Sec. 5.** Section 43-1503, Arizona Revised Statutes, is amended to read:

**43-1503. Operational requirements for school tuition organizations**

A. A certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under sections 43-1183 and 43-1184 and insurance premium tax credits under sections 20-224.06 and 20-224.07 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' or custodians' choice.

B. To be eligible for certification and retain certification, the school tuition organization:

1. Must allocate at least ninety ~~per cent~~ PERCENT of its annual revenue from contributions made for the purposes of sections 20-224.06, 20-224.07, 43-1183 and 43-1184 for educational scholarships or tuition grants.

2. Shall not limit the availability of educational scholarships or tuition grants to only students of one school.

3. Must allow the department of revenue to verify that the educational scholarships and tuition grants that are issued are awarded to students who attend a qualified school.

4. Must not knowingly collude with any other school tuition organization to circumvent the limits of section 43-1504, subsection C.

5. MUST NOT AWARD EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO STUDENTS WHO ARE SIMULTANEOUSLY ENROLLED IN A DISTRICT SCHOOL OR CHARTER SCHOOL AND A QUALIFIED SCHOOL.

**Sec. 6.** Section 43-1603, Arizona Revised Statutes, is amended to read:

**43-1603. Operational requirements for school tuition organizations; notice; qualified schools**

A. A certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under sections 43-1089 and 43-1089.03 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' choice.

B. To be eligible for certification and retain certification, the school tuition organization:

1. Must allocate at least ninety ~~per cent~~ PERCENT of its annual revenue from contributions made for the purposes of sections 43-1089 and 43-1089.03 for educational scholarships or tuition grants.

2. Shall not limit the availability of educational scholarships or tuition grants to only students of one school.

3. May allow donors to recommend student beneficiaries, but shall not award, designate or reserve scholarships solely on the basis of donor recommendations.

4. Shall not allow donors to designate student beneficiaries as a condition of any contribution to the organization, or facilitate, encourage or knowingly permit the exchange of beneficiary student designations in violation of section 43-1089, subsection F.

5. MUST NOT AWARD EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO STUDENTS WHO ARE SIMULTANEOUSLY ENROLLED IN A DISTRICT SCHOOL OR CHARTER SCHOOL AND A QUALIFIED SCHOOL.

C. A school tuition organization shall include the following notice in any printed materials soliciting donations, in applications for scholarships and on its website:

Notice

A school tuition organization cannot award, restrict or reserve scholarships solely on the basis of a donor's recommendation.

A taxpayer may not claim a tax credit if the taxpayer agrees to swap donations with another taxpayer to benefit either taxpayer's own dependent.

D. In evaluating applications and awarding, designating or reserving scholarships, a school tuition organization:

1. Shall not award, designate or reserve a scholarship solely on the recommendation of any person contributing money to the organization, but may consider the recommendation among other factors.

2. Shall consider the financial need of applicants.

E. A taxpayer's contribution to a school tuition organization that exceeds the amount of the credit allowed by section 43-1089 but does not exceed the amount of the credit allowed by section 43-1089.03 is considered a contribution pursuant to section 43-1089.03. A school tuition organization must use at least ninety ~~per cent~~ PERCENT of contributions made pursuant to section 43-1089.03 for educational scholarships or tuition grants for students to whom any of the following applies:

1. Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 or attended a preschool program that offers services to students with disabilities at a governmental school for at least ninety days of the prior fiscal year and transferred from a governmental school to a qualified school.

2. Enrolls in a qualified school in a kindergarten program or a preschool program that offers services to students with disabilities.

3. Is the dependent of a member of the armed forces of the United States who is stationed in this state pursuant to military orders.

4. Received an educational scholarship or tuition grant under paragraph 1, 2 or 3 of this subsection or under chapter 15 of this title if the student continues to attend a qualified school in a subsequent year.

F. In awarding educational scholarships or tuition grants from contributions made pursuant to section 43-1089.03, a school tuition organization shall give priority to students and siblings of students on a waiting list for scholarships if the school tuition organization maintains a waiting list.

G. If an individual educational scholarship or tuition grant exceeds the school's tuition, the amount in excess shall be returned to the school tuition organization that made the award or grant. The school tuition organization may allocate the returned monies as a multiyear award for that student and report the award pursuant to section 43-1604, paragraph 5, subdivision (b) or may allocate the returned monies for educational scholarships or tuition grants for other students.

**Sec. 7. Purpose**

Pursuant to section 43-223, Arizona Revised Statutes, the legislature enacts section 43-1089.04, Arizona Revised Statutes, to provide an individual credit for contributions made by, or on behalf of, shareholders of an S corporation to school tuition organizations.

**Sec. 8. Retroactivity**

This act is effective and applies retroactively to taxable years from and after December 31, 2014.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# NOTICE OF CLAIM—PUBLIC SCHOOLS

## CHAPTER 302

## H. B. 2208

**AN ACT AMENDING SECTION 12-821.01, ARIZONA REVISED STATUTES; RELATING TO NOTICE OF CLAIM.**

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

**Section 1.** Section 12-821.01, Arizona Revised Statutes, is amended to read:

**12-821.01. Authorization of claim against public entity, public school or public employee**

A. Persons who have claims against a public entity, PUBLIC SCHOOL or a public employee shall file claims with the person or persons authorized to accept service for the public entity, PUBLIC SCHOOL or public employee as set forth in the Arizona rules of civil procedure within one hundred eighty days after the cause of action accrues. The claim shall contain facts sufficient to permit the public entity, PUBLIC SCHOOL or public employee to understand the basis on which liability is claimed. The claim shall also contain a specific amount for which the claim can be settled and the facts supporting that amount. Any claim that is not filed within one hundred eighty days after the cause of action accrues is barred and no action may be maintained thereon.

B. For the purposes of this section, a cause of action accrues when the damaged party realizes he or she has been damaged and knows or reasonably should know the cause, source, act, event, instrumentality or condition that caused or contributed to the damage.

C. Notwithstanding subsection A, any claim that must be submitted to a binding or nonbinding dispute resolution process or an administrative claims process or review process pursuant to a statute, ordinance, resolution, administrative or governmental rule or regulation, or contractual term shall not accrue for the purposes of this section until all such procedures, processes or remedies have been exhausted. The time in which to give notice of a potential claim and to sue on the claim shall run from the date on which a final decision or notice of disposition is issued in an alternative dispute resolution procedure, administrative claim process or review process. This subsection does not prevent the parties to any contract from agreeing to extend the time for filing such notice of claim.

D. Notwithstanding subsection A, a minor or an insane or incompetent person may file a claim within one hundred eighty days after the disability ceases.

E. A claim against a public entity or public employee filed pursuant to this section is deemed denied sixty days after the filing of the claim unless the claimant is advised of the denial in writing before the expiration of sixty days.

F. This section applies to all causes of action that accrue on or after July 17, 1994.

G. If a genuine issue of material fact exists as to whether the requirements of this section have been complied with, the issue shall be resolved before a trial on the merits and at the earliest possible time.

H. This section does not apply to any claim for just compensation pursuant to chapter 8, article 2.1 of this title.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## POLICE REPORTS—VICTIMS—ATTORNEYS

### CHAPTER 303

### H. B. 2239

**AN ACT AMENDING SECTION 39-127, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RECORDS.**

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

**Section 1.** Section 39-127, Arizona Revised Statutes, is amended to read:

**39-127. Free copies of police reports and transcripts for crime victims; definition**

A. A victim of a criminal offense that is a part I crime under the statewide uniform crime reporting program, THE VICTIM'S ATTORNEY ON BEHALF OF THE VICTIM or an immediate family member of the victim if the victim is killed or incapacitated has the right to receive one copy of the police report from the investigating law enforcement agency at no charge and, on request of the victim, the court or the clerk of the court shall provide, at no charge, the minute entry or portion of the record of any proceeding in the case that arises out of the offense committed against the victim and that is reasonably necessary for the purpose of pursuing a claimed victim's right. For the purposes of this subsection, "criminal offense", "immediate family" and "victim" have the same meanings prescribed in section 13-4401.

B. A victim of a delinquent act that is a part I crime under the statewide uniform crime reporting program, THE VICTIM'S ATTORNEY ON BEHALF OF THE VICTIM or an immediate family member of the victim if the victim is killed or incapacitated has the right to receive one copy of the police report from the investigating law enforcement agency at no charge and, on request of the victim, the court or the clerk of the court shall provide, at no charge, the minute entry or portion of the record of any proceeding in the case that arises out of the offense committed against the victim and that is reasonably necessary for the purpose of pursuing a claimed victim's right. For the purposes of this subsection, "delinquent act",

"immediate family" and "victim" have the same meanings prescribed in section 8-382.

C. FOR THE PURPOSES OF THIS SECTION, "ATTORNEY" MEANS ANY PERSON WHO IS A MEMBER IN GOOD STANDING OF THE BAR OF THE HIGHEST COURT OF ANY STATE, POSSESSION, TERRITORY, COMMONWEALTH OR DISTRICT OF THE UNITED STATES AND WHO IS NOT UNDER ANY ORDER OF ANY COURT SUSPENDING, ENJOINING, RESTRAINING, DISBARRING OR OTHERWISE RESTRICTING THE PERSON IN THE PRACTICE OF LAW.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## TUITION WAIVER—ARIZONA NATIONAL GUARD MEMBERS

### CHAPTER 304

### H. B. 2240

**AN ACT REPEALING SECTION 26-179, ARIZONA REVISED STATUTES; AMENDING TITLE 26, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 26-179; RELATING TO THE NATIONAL GUARD.**

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

**Section 1. Repeal**

Section 26-179, Arizona Revised Statutes, is repealed.

**Sec. 2.** Title 26, chapter 1, article 3, Arizona Revised Statutes, is amended by adding a new section 26-179, to read:

**26-179. Tuition waiver; eligibility; reimbursement for failed courses**

A. ANY MEMBER OF THE ARIZONA NATIONAL GUARD MAY ATTEND REGULARLY SCHEDULED COURSES AT ANY PUBLIC INSTITUTION OF HIGHER EDUCATION IN THIS STATE TOWARD THE COMPLETION OF A BACHELOR'S DEGREE OR A MASTER'S DEGREE AND RECEIVE UP TO SIXTEEN CREDITS PER SEMESTER TUITION-FREE, WITH A MAXIMUM OF ONE HUNDRED TWENTY CREDITS TOTAL FOR A BACHELOR'S DEGREE AND THIRTY-THREE CREDITS TOTAL FOR A MASTER'S DEGREE, IF THE MEMBER MEETS ALL OF THE FOLLOWING CONDITIONS:

1. HAS COMPLETED INITIAL ACTIVE DUTY TRAINING AND, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION B OF THIS SECTION, IS IN GOOD STANDING AS AN ACTIVE MEMBER OF THE ARIZONA NATIONAL GUARD.

2. HAS BEEN ACCEPTED TO PURSUE A COURSE OF UNDERGRADUATE STUDY AND IS ENROLLED AS AN UNDERGRADUATE STUDENT IN GOOD STANDING AT THAT INSTITUTION OR HAS BEEN ACCEPTED TO PURSUE A COURSE OF GRADUATE STUDY AND IS ENROLLED AS A GRADUATE STUDENT IN GOOD STANDING AT THAT INSTITUTION.

3. HAS APPLIED FOR TUITION BENEFITS THAT ARE AVAILABLE THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS AND THE UNITED STATES DEPARTMENT OF DEFENSE AND FOR WHICH THE MEMBER IS ELIGIBLE.

4. WHEN BEGINNING ACTIVE DUTY STATUS IN THE UNITED STATES ARMED FORCES, EITHER:

(a) IS A RESIDENT OF THIS STATE.

(b) ENTERED THE UNITED STATES ARMED FORCES IN THIS STATE.

(c) DESIGNATED THIS STATE AS THE MEMBER'S HOME OF RECORD.

5. IS NOT ENTITLED TO FULL BENEFITS UNDER 38 UNITED STATES CODE SECTIONS 3100 THROUGH 3122 OR SECTIONS 3301 THROUGH 3325.

6. IS IN COMPLIANCE WITH THE GRADE POINT REQUIREMENTS AND EXCESSIVE CREDIT HOUR REQUIREMENTS FOR A DEGREE OR CERTIFICATE PROGRAM AS DETERMINED BY THE INSTITUTION OF HIGHER EDUCATION'S ACADEMIC PROGRESS POLICY AND FINANCIAL AID POLICY.

B. ANY MEMBER OF THE ARIZONA NATIONAL GUARD WHOSE ENROLLMENT IN A PUBLIC INSTITUTION OF HIGHER EDUCATION ON A TUITION-FREE BASIS PURSUANT TO SUBSECTION A OF THIS SECTION IS INTERRUPTED BY A DEPLOYMENT TO ACTIVE DUTY MAY RECEIVE THE TUITION BENEFIT AFTER DISCHARGE FROM SERVICE UNDER CONDITIONS OTHER THAN DISHONORABLE. IN THE EVENT OF A NONMEDICAL DISCHARGE OR A MEDICAL DISCHARGE THAT IS NOT CAUSED BY AN ILLNESS OR INJURY RELATED TO THE PERFORMANCE OF DUTIES FOR THE NATIONAL GUARD, THE MEMBER'S ELIGIBILITY FOR THE TUITION BENEFIT BEGINS FROM THE DATE OF DISCHARGE AND CONTINUES FOR ONE SEMESTER OR A PERIOD OF TIME EQUAL TO THE LENGTH OF THE DEPLOYMENT, WHICHEVER IS LONGER. IN THE EVENT OF MEDICAL DISCHARGE OR MEDICAL RETIREMENT AS A RESULT OF ILLNESS OR INJURY INCURRED WHILE ON FEDERAL ORDERS AND DEPLOYED IN SUPPORT OF OVERSEAS CONTINGENCY OPERATIONS, AS A RESULT OF TERRORIST ACTION OR IN RESPONSE TO

A NATURAL DISASTER, THE MEMBER'S ELIGIBILITY FOR THE TUITION BENEFIT BEGINS FROM THE DATE OF DISCHARGE OR RETIREMENT AND CONTINUES UNTIL COMPLETION OF THE DEGREE PROGRAM IN WHICH THE MEMBER IS ENROLLED OR FOR FIVE YEARS, WHICHEVER OCCURS FIRST.

C. ANY MEMBER OF THE ARIZONA NATIONAL GUARD WHOSE ENROLLMENT IN A PUBLIC INSTITUTION OF HIGHER EDUCATION ON A TUITION-FREE BASIS PURSUANT TO SUBSECTION A OF THIS SECTION WHO FAILS ANY COURSE FOR WHICH TUITION WAS WAIVED SHALL PAY FOR THOSE CREDITS IN FULL.

D. A MEMBER OF THE ARIZONA NATIONAL GUARD MAY ATTEND A COURSE TUITION-FREE PURSUANT TO THIS SECTION ONLY IF MONIES ARE AVAILABLE THAT OFFSET THE ENTIRETY OF THE COSTS INCURRED BY THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION AS A RESULT OF THE TUITION WAIVERS DESCRIBED IN THIS SECTION. THE MONIES USED TO OFFSET THE COSTS OF THE TUITION WAIVERS MAY BE PRIVATE DONATIONS, GRANTS, BEQUESTS AND ANY OTHER MONIES RECEIVED FOR THAT SPECIFIC PURPOSE AND SHALL NOT BE THE BASIC OPERATING MONIES OF THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION DESCRIBED IN THIS SECTION.

**Sec. 3. Effective date**

This act is effective beginning with the 2017-2018 academic year.

**Sec. 4. Conditional enactment; notice**

A. This act does not become effective unless monies are available in fiscal year 2017-2018 that are sufficient to reimburse the public institutions of higher education in this state for the cost of tuition for the credits taken pursuant to section 26-179, Arizona Revised Statutes.

B. The president of the Arizona board of regents shall notify in writing the director of the Arizona legislative council of the date on which the condition is met or if the condition is not met.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## OFF-HIGHWAY VEHICLES

### CHAPTER 305

### H. B. 2365

### AN ACT AMENDING SECTIONS 28-1171, 28-1173 AND 33-1551, ARIZONA REVISED STATUTES; RELATING TO OFF-HIGHWAY VEHICLES.

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

**Section 1.** Section 28-1171, Arizona Revised Statutes, is amended to read:

**28-1171. Definitions**

In this article, unless the context otherwise requires:

1. "Access road" means a multiple use corridor that meets all of the following criteria:

(a) Is maintained for travel by two-wheel vehicles.

(b) Allows entry to staging areas, recreational facilities, trail heads and parking.

(c) Is determined to be an access road by the appropriate land managing authority.

2. "Closed course" means a maintained facility that uses department approved dust abatement and fire abatement measures.

3. "Highway" means the entire width between the boundary lines of every way publicly maintained by the federal government, the department, a city, a town or a county if any part of the way is generally open to the use of the public for purposes of conventional two-wheel drive vehicular travel. Highway does not include routes designated for off-highway vehicle use.

4. "Mitigation" means the rectification or reduction of existing damage to natural resources, including flora, fauna and land or cultural resources, including prehistoric or historic archaeological sites, if the damage is caused by off-highway vehicles.

5. "Off-highway recreation facility" includes off-highway vehicle use areas and trails designated for use by off-highway vehicles.

6. "Off-highway vehicle":

(a) Means a motorized vehicle when operated primarily off of highways on land, water, snow, ice or other natural terrain or on a combination of land, water, snow, ice or other natural terrain.

(b) Includes a two-wheel, three-wheel or four-wheel vehicle, motorcycle, four-wheel drive vehicle, dune buggy, amphibious vehicle, ground effects or air cushion vehicle and any other means of land transportation deriving motive power from a source other than muscle or wind.

(c) Does not include a vehicle that is either:

(i) Designed primarily for travel on, over or in the water.

(ii) Used in installation, inspection, maintenance, repair or related activities involving facilities for the provision of utility or railroad service OR USED IN THE EXPLORATION OR MINING OF MINERALS OR AGGREGATES AS DEFINED IN TITLE 27.

7. "Off-highway vehicle special event" means an event that is endorsed, authorized, permitted or sponsored by a federal, state, county or municipal agency and in which the event participants operate off-highway vehicles on specific routes or areas designated by a local authority pursuant to section 28-627.

8. "Off-highway vehicle trail" means a multiple use corridor that is both of the following:

(a) Open to recreational travel by an off-highway vehicle.

(b) Designated or managed by or for the managing authority of the property that the trail traverses for off-highway vehicle use.

9. "Off-highway vehicle use area" means the entire area of a parcel of land, except for approved buffer areas, that is managed or designated for off-highway vehicle use.

**Sec. 2.** Section 28-1173, Arizona Revised Statutes, is amended to read:

**28-1173. Enforcement**

All peace officers of this state and counties or municipalities of this state and other duly authorized state employees ~~shall only~~ MAY enforce this article. ~~on land that is either of the following:~~

~~1. Solely under the jurisdiction of this state or a county or municipality of this state.~~

~~2. Open as indicated by federal law.~~

**Sec. 3.** Section 33-1551, Arizona Revised Statutes, is amended to read:

**33-1551. Duty of owner, lessee or occupant of premises to recreational or educational users; liability; definitions**

A. A public or private owner, easement holder, lessee, tenant, manager or occupant of premises is not liable to a recreational or educational user except on a showing that the owner, easement holder, lessee, tenant, manager or occupant was guilty of wilful, malicious or grossly negligent conduct that was a direct cause of the injury to the recreational or educational user.

B. This section does not limit the liability that otherwise exists for maintaining an attractive nuisance, except with respect to dams, channels, canals and lateral ditches used for flood control, agricultural, industrial, metallurgical or municipal purposes.

C. For the purposes of this section:

1. "Educational user" means a person to whom permission has been granted or implied without the payment of an admission fee or any other consideration to enter premises to participate in an educational program, including the viewing of historical, natural, archaeological or scientific sites. A nominal fee that is charged by a public entity or a nonprofit corporation to offset the cost of providing the educational or recreational premises and associated services does not constitute an admission fee or any other consideration as prescribed by this section.

2. "Grossly negligent" means a knowing or reckless indifference to the health and safety of others.

3. "Park" includes outdoor school grounds that are open to recreational users, excluding swimming pools and other aquatic features.

4. "Premises" means agricultural, range, open space, park, flood control, mining, forest, water delivery, water drainage or railroad lands, and any other similar lands, wherever located, that are available to a recreational or educational user, including paved or unpaved multiuse trails and special purpose roads or trails not open to automotive use by the public and any building, improvement, fixture, water conveyance system, body of water, channel, canal or lateral, road, trail or structure on such lands.

5. "Recreational user" means a person to whom permission has been granted or implied without the payment of an admission fee or any other consideration to travel across or to enter premises to hunt, fish, trap, camp, hike, ride, engage in off-highway vehicle, off-road recreational motor vehicle or all-terrain vehicle activity, operate aircraft, exercise, swim or engage in other outdoor recreational pursuits. The purchase of a state hunting, trapping or fishing license, an off-highway vehicle user indicia or a state trust land recreational permit OR PAYMENT BY AN AGENCY OF THIS STATE TO AN OWNER, EASEMENT HOLDER OR LESSEE FOR PUBLIC RECREATIONAL ACCESS TO THE PREMISES is not the payment of an admission fee or any other consideration as provided in this section. A nominal fee that is charged by a public entity or a nonprofit corporation to offset the cost of providing the educational or recreational premises and associated services does not constitute an admission fee or any other consideration as prescribed by this section. Recreational user does not include a student who is registered at a school during designated times that the student is allowed to be on the school grounds as determined by district personnel or who is participating in a school-sanctioned activity.

6. "School" has the same meaning prescribed in section 15-101.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## COMMUNITY COLLEGE TUITION FINANCING DISTRICTS

### CHAPTER 306

### H. B. 2414

**AN ACT AMENDING SECTIONS 15-784, 15-1401, 15-1402.01, 15-1409, 15-1468, 15-1472, 15-1481, 42-5029 AND 42-17056, ARIZONA REVISED STATUTES; RELATING TO COMMUNITY COLLEGES.**

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

**Section 1.** Section 15-784, Arizona Revised Statutes, is amended to read:

**15-784. Vocational education; acceptance of congressional acts; appropriation; distribution of federal monies**

A. The state assents to the provisions and accepts the benefits of the vocational education act of 1917, as amended, and the Carl D. Perkins vocational education act of 1984, as amended by the Carl D. Perkins vocational and applied technological education act amendments of 1990, as amended by the Carl D. Perkins vocational and applied technology act of 1998.

B. The state board of education is the state board of vocational education for the purposes of the acts. The state treasurer is designated custodian for vocational education for the purposes of the acts. The state treasurer shall receive and provide for the custody and disbursement of all monies paid to the state for the purposes of vocational education.

C. There is appropriated from the general fund of the state sufficient monies to meet the requirements of the acts of Congress.

D. The state board of education may distribute the monies it receives as provided in subsection A OF THIS SECTION to any eligible recipient of the monies under the federal law.

E. The state board of education shall distribute to the community college districts in this state at least fifteen ~~per cent~~ PERCENT of the monies received as provided in subsection A OF THIS SECTION. ~~Provisional~~ Community college TUITION FINANCING districts are not eligible to receive monies pursuant to this section.

**Sec. 2.** Section 15-1401, Arizona Revised Statutes, is amended to read:

**15-1401. Definitions**

In this chapter, unless the context otherwise requires:

1. "Accredited" means accredited by a regional accrediting agency recognized by the United States department of education or by the council on postsecondary accreditation.

2. "Additional short-term classes" means those classes that are not in session on the forty-fifth day of the fall or spring semester, that commence at various times during the fiscal year and that are offered over a period of less than sixteen weeks.

3. "Budget year" means the fiscal year for which the community college district is budgeting and that immediately follows the current year.

4. "Community college" means an educational institution that is operated by a district board and that provides a program not exceeding two years' training in the arts, sciences and humanities beyond the twelfth grade of the public or private high school course of study or vocational education, including terminal courses of a technical and vocational nature and basic adult education courses.

5. "COMMUNITY COLLEGE TUITION FINANCING DISTRICT" MEANS A DISTRICT THAT IS ORGANIZED PURSUANT TO SECTION 15-1409.

~~5.~~ 6. "Current year" means the fiscal year in which the community college district is operating.

~~6.~~ 7. "District" means a community college district that is established pursuant to sections 15-1402 and 15-1403 or section 15-1402.01 and that is a political subdivision of this state and, unless otherwise specified, includes ~~provisional~~ community college TUITION FINANCING districts established pursuant to section 15-1409.

~~7.~~ 8. "District board" means the community college district governing board.

~~8.~~ 9. "Full-time equivalent student" means student enrollment for fifteen community college semester credit units per semester.

~~9.~~ 10. "Open entry, open exit classes" means those classes in which students enter or exit based on mastery of specified competencies and that commence at various times during the fiscal year.

~~10.~~ 11. "Operational expense budget" means the budget as adopted by the district board pursuant to section 15-1461.

~~11.~~ 12. "Operational expenses" means the administration, instruction, operation of community college plant, maintenance of community college plant, fixed charges and contingencies incurred in the operation of a district exclusive of all capital outlay items, special levies, auxiliary enterprise funds, restricted funds and bond service items.

~~12.~~ 13. "Provisional community college district" means a community college district organized pursuant to section 15-1409.

**Sec. 3.** Section 15-1402.01, Arizona Revised Statutes, is amended to read:

**15-1402.01. Alternative organization for community college districts**

A. A county that does not meet the requirements prescribed in section 15-1402 may organize a community college district under this chapter if all of the following requirements have been met:

1. A provisional community college district THAT BEGAN OPERATIONS BEFORE JANUARY 1, 2015 has been in operation in that county for at least five years immediately before the formation of the proposed community college district pursuant to this section.

2. The most recent number of full-time equivalent student enrollment calculated pursuant to section 15-1466.01 for the provisional community college district is at least nine hundred.

3. The proposed community college district is actively seeking accreditation from a regional accrediting agency recognized by the United States department of education or by the council on postsecondary accreditation.

4. A member of the public requests, or the governing board schedules, public meetings to discuss and hear testimony on the conversion of the provisional community college district to an independent community college district.

5. At the next regularly scheduled meeting after the meeting prescribed in paragraph 4 of this ~~section~~ SUBSECTION, the governing board of the provisional COMMUNITY college district adopts a resolution to form a community college district pursuant to this section.

6. Notwithstanding section 42-17056, after the governing board of the provisional community college district adopts a resolution pursuant to paragraph 5 of this ~~section~~ SUBSECTION, the governing board may call an election on a general election date of the board's choice to seek voter approval to increase the primary property tax levy for the provisional community college district. If a majority of the qualified electors voting:

(a) Approve the proposed levy amount, the levy applicable for the district for the next tax year shall not exceed the approved amount and the governing board shall not seek voter approval to increase the primary property tax levy in any subsequent year.

(b) Disapprove the proposed levy amount, the district shall levy a primary property tax based on the previously authorized levy.

7. The provisional community college district has maintained a regional accreditation and oversight relationship with another community college district until the conversion of the provisional community college district to an independent community college district.

B. A community college district established pursuant to this section shall maintain a regional accreditation and oversight relationship with another community college district until the district has achieved initial candidacy status from a regional accrediting agency recognized by the United States department of education or by the council on postsecondary accreditation.

**Sec. 4.** Section 15-1409, Arizona Revised Statutes, is amended to read:

**15-1409. Community college tuition financing districts; formation; powers and duties; issuance and sale of bonds for capital outlay**

A. A ~~provisional~~ community college TUITION FINANCING district shall contract with an existing community college district to provide instructional and student services within the ~~provisional~~ community college TUITION FINANCING district.

B. The minimum assessed valuation and population requirements prescribed in section 15-1402 do not apply to ~~provisional~~ community college TUITION FINANCING districts.

C. A ~~provisional~~ community college TUITION FINANCING district shall be formed ~~and a provisional community college district governing board shall be elected~~ in the same manner prescribed in sections 15-1403~~,~~ AND 15-1404 ~~and 15-1441~~, except that THE COUNTY BOARD OF SUPERVISORS SHALL SERVE AS THE GOVERNING BOARD OF THE COMMUNITY COLLEGE TUITION FINANCING DISTRICT AND the county board of supervisors by majority vote may adopt a resolution to submit the question of the formation of a ~~provisional~~ community college TUITION FINANCING district and the approval of a proposed tax rate to fund the ~~provisional~~ community college TUITION FINANCING district directly to the qualified electors of the county at a special or general election called for that purpose as prescribed in section 16-204 and title 35, chapter 3, article 3. The resolution adopted by the county board of supervisors shall include a statement that the primary property tax levy limit for the ~~provisional~~ community college TUITION FINANCING district shall be no less than the levy limit of the most recently formed community college district in this state.

D. Except as provided in this section, a ~~provisional community college district governing board~~ COUNTY BOARD OF SUPERVISORS has the same powers and duties specified in section 15-1444 for community college districts.

E. A ~~provisional~~ community college TUITION FINANCING district shall not award degrees, certificates or diplomas.

F. A ~~provisional~~ community college TUITION FINANCING district is not eligible to receive equalization aid pursuant to section 15-1468 or state contribution for capital outlay for initial or additional campuses pursuant to section 15-1463.

G. The state aid eligibility requirements prescribed in section 15-1466, subsection E, paragraphs 1 and 2 do not apply to ~~provisional~~ community college TUITION FINANCING districts.

H. Notwithstanding any other law, the same student shall not be counted twice as a full-time equivalent student in both a ~~provisional~~ community college TUITION FINANCING district and a community college district. Notwithstanding any other law, beginning with the fiscal year after the year in which the ~~provisional~~ community college TUITION FINANCING district is formed and has established its primary tax rate, a district that provides services in a ~~provisional~~ COMMUNITY COLLEGE TUITION FINANCING district pursuant to section 15-1470 shall no longer count these students in the district's full-time equivalent student count.

I. If a ~~provisional~~ community college TUITION FINANCING district is converted into a community college district by the formation of a community college district pursuant to section 15-1402 or 15-1402.01, the ~~provisional~~ community college TUITION FINANCING district is dissolved and any equipment, property, personnel, liabilities and assets are transferred to the community college district.

J. If a ~~provisional~~ community college TUITION FINANCING district is formed in a county that provides reimbursement for the attendance of nonresident state students pursuant to section 15-1469, that county shall continue to provide reimbursement payments to community college districts as set forth in section 15-1469 until the fiscal year in which a qualifying levy is adopted and budgeted in support of the ~~provisional~~ community college TUITION FINANCING district by the ~~governing board of the provisional community college district~~ COUNTY BOARD OF SUPERVISORS. The total reimbursement payments due to other community college districts in any fiscal year pursuant to section 15-1469 shall be reduced by the amount of any nonqualifying levy expended in the prior fiscal year. This reduction shall be shared by each community college district that receives a reimbursement payment from the county based on that community college district's proportionate number of full-time equivalent students from the county where the ~~provisional~~ community college TUITION FINANCING district is located. For the purposes of this subsection:

1. "Nonqualifying levy" means a levy that is adopted to support the ~~provisional~~ community college TUITION FINANCING district and that is less than the amount of a qualifying levy.

2. "Qualifying levy" means a levy that is at least equal to the sum of the reimbursement payments and the amount of the community college services provided in the fiscal year immediately before the year that a levy was first adopted to support the operations of the ~~provisional~~ community college TUITION FINANCING district.

K. The board of supervisors of a county that has formed a ~~provisional~~ community college TUITION FINANCING district by majority vote may enter into an intergovernmental agreement to loan monies to the ~~governing board of the provisional~~ community college TUITION FINANCING district in an amount that does not exceed two hundred thousand dollars. Any loan pursuant to this subsection shall be repaid from the next scheduled collection of property taxes to fund the

~~provisional~~ community college TUITION FINANCING district. The annual interest charges on any loan pursuant to this subsection shall not exceed five ~~per cent~~ PERCENT.

L. A ~~provisional~~ community college TUITION FINANCING district may issue bonds for capital outlay purposes in the same manner prescribed in section 15-1465 for community college districts. The ~~governing board of the provisional community college district~~ COUNTY BOARD OF SUPERVISORS is solely responsible for determining the encumbrance and approval of the expenditure of the proceeds of the bonds issued pursuant to this subsection and shall not delegate or transfer this authority to any other entity.

M. NOTWITHSTANDING ANY OTHER LAW, A PROVISIONAL COMMUNITY COLLEGE DISTRICT THAT BEGAN OPERATIONS BEFORE JANUARY 1, 2015:

1. MAY CONTINUE TO OPERATE AS A PROVISIONAL COMMUNITY COLLEGE DISTRICT. THE GOVERNING BOARD OF A PROVISIONAL COMMUNITY COLLEGE DISTRICT THAT BEGAN OPERATIONS BEFORE JANUARY 1, 2015 SHALL CONTINUE TO BE ELECTED IN THE SAME MANNER PRESCRIBED IN SECTION 15-1441.

2. IS NOT ELIGIBLE TO RECEIVE MONIES PURSUANT TO SECTION 15-784 OR SECTION 15-1472, SUBSECTION D, PARAGRAPH 2, SUBDIVISION (a).

3. IS NOT ELIGIBLE FOR EQUALIZATION AID PURSUANT TO SECTION 15-1468.

4. IS NOT A BOARD AS DEFINED IN SECTION 15-1481.

5. UNLESS OTHERWISE SPECIFIED, IS A COMMUNITY COLLEGE DISTRICT FOR PURPOSES OF SECTION 42-5029.

6. IS NOT SUBJECT TO SECTION 42-17056.

**Sec. 5.** Section 15-1468, Arizona Revised Statutes, is amended to read:

**15-1468. Equalization aid for community college districts**

A. Subject to legislative appropriation, any district that is organized pursuant to section 15-1402 AND that has less than the amount of primary assessed valuation prescribed in section 15-1402 shall be paid by this state an amount equal to the following:

1. The difference between the prior year's actual primary assessed valuation of the district and the amount of primary assessed valuation prescribed in section 15-1402.

2. The actual prior year's primary property tax rate for the district.

3. The difference determined in paragraph 1 multiplied by the lesser of the tax rate determined in paragraph 2 or one dollar ~~and~~ thirty-seven cents.

B. The equalization aid provided for in subsection A of this section shall be used for the same purposes specified in section 15-1462 and shall be apportioned to any qualifying district pursuant to section 15-1467.

C. This section does not apply to community college districts organized pursuant to section 15-1402.01 or to ~~provisional~~ community college TUITION FINANCING districts as prescribed in section 15-1409.

**Sec. 6.** Section 15-1472, Arizona Revised Statutes, is amended to read:

**15-1472. Community college district workforce development accounts; reports**

A. Each community college district shall establish a separate workforce development account to receive only tax revenues authorized pursuant to section 42-5029, subsection E, paragraph 3. Each community college district board shall approve the expenditure of these monies in accordance with section 15-1461 and consistent with subsection B of this section.

B. Monies received pursuant to subsection A of this section shall be expended for workforce development and job training purposes. These expenditures may include:

1. Partnerships with businesses and educational institutions.

2. Additional faculty for improved and expanded classroom instruction and course offerings.

3. Technology, equipment and technology infrastructure for advanced teaching and learning in classrooms or laboratories.

4. Student services such as assessment, advisement and counseling for new and expanded job opportunities.

5. The purchase, lease or lease-purchase of real property, for new construction, remodeling or repair of buildings or facilities on real property.

C. The state treasurer shall transfer monies under this section into each district's workforce development account by the fifteenth day of each month. The state treasurer shall also allocate and distribute any pooled interest earnings earned from revenues authorized in section 42-5029, subsection E, paragraph 3 to each district in accordance with the method prescribed in subsection D, paragraph 2 of this section.

D. Revenues authorized for community college districts in section 42-5029, subsection E, paragraph 3 shall be distributed by the state in the following manner:

1. For thirteen fiscal years beginning in fiscal year 2001-2002 the state treasurer shall allocate one million dollars per fiscal year for the purpose of bringing this state into compliance with the matching capital requirements prescribed in section 15-1463. The state treasurer shall distribute the monies authorized in this subsection to each district in the order in which each campus qualified for funding pursuant to section 15-1463.

2. After the monies have been paid each year to the eligible districts pursuant to paragraph 1 of this subsection, the state treasurer shall distribute monies from the workforce development fund to each community college district in the following manner:

(a) Each district shall receive the sum of two hundred thousand dollars. This subdivision does not apply to a ~~provisional~~ community college TUITION FINANCING district established pursuant to section 15-1409.

(b) After each district has received the payments prescribed in subdivision (a) of this paragraph, the remainder of monies in the fund shall be distributed to each district according to each district's full-time equivalent student enrollment percentage of the total statewide audited full-time equivalent student enrollment in the preceding

fiscal year prescribed in section 15-1466.01. The percentage distribution under this subdivision shall be adjusted annually on October 1 of each year.

E. Revenues received by community college districts shall not be used by the legislature to supplant or reduce any state aid authorized in this chapter or supplant any proceeds from the sale of bonds authorized in this article and article 5 of this chapter.

F. Monies received under this section shall not be considered to be local revenues for purposes of article IX, section 21, Constitution of Arizona.

G. Each community college district or community college that is owned, operated or chartered by a qualifying Indian tribe on its own Indian reservation shall submit a report once every two years of its workforce development plan activities and the expenditures authorized in this section to the governor, president of the senate, speaker of the house of representatives, joint legislative budget committee and Arizona commerce authority by December 1 of every even-numbered year. The report shall include the purpose and goals for which the workforce development monies were expended by each district or community college together with a general accounting of the expenditures authorized in subsection B of this section. A copy of the final report shall also be provided to the secretary of state. For the purposes of this subsection, "qualifying Indian tribe" has the same meaning prescribed in section 42-5031.01.

**Sec. 7.** Section 15-1481, Arizona Revised Statutes, is amended to read:

**15-1481. Definitions**

In this article, unless the context otherwise requires:

1. "Acquire" includes purchase, erect, build, construct, reconstruct, repair, replace, extend, better, furnish, equip, develop, improve and embellish.

2. "Board" means the governing board of a community college district or its successors, but does not include ~~provisional~~ community college TUITION FINANCING districts as prescribed in section 15-1409.

3. "Bonds" means any bonds issued pursuant to this article.

4. "Federal agency" means the housing and home finance agency, the United States of America or any of its officers or agencies designated or created to make grants or loans of monies for public construction work.

5. "Institution" means any community college district that is organized in this state pursuant to section 15-1402 or 15-1402.01, but does not include ~~provisional~~ community college TUITION FINANCING districts as prescribed in section 15-1409.

6. "Project" means one or more classrooms, student or faculty residence halls, dormitories, dining halls, student union buildings, field houses, stadia and other revenue producing buildings located at the institution, together with sites for the buildings, and includes equipment, furnishings, heating, lighting and other service facilities in connection with the buildings.

**Sec. 8.** Section 42-5029, Arizona Revised Statutes, is amended to read:

**42-5029. Remission and distribution of monies; definition**

A. The department shall deposit, pursuant to sections 35-146 and 35-147, all revenues collected under this article and articles 4, 5 and 8 of this chapter pursuant to section 42-1116, separately accounting for:

1. Payments of estimated tax under section 42-5014, subsection D.

2. Revenues collected pursuant to section 42-5070.

3. Revenues collected under this article and article 5 of this chapter from and after June 30, 2000 from sources located on Indian reservations in this state.

4. Revenues collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D.

B. The department shall credit payments of estimated tax to an estimated tax clearing account and each month shall transfer all monies in the estimated tax clearing account to a fund designated as the transaction privilege and severance tax clearing account. The department shall credit all other payments to the transaction privilege and severance tax clearing account, separately accounting for the monies designated as distribution base under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the department shall report to the state treasurer the amount of monies collected pursuant to this article and articles 4, 5 and 8 of this chapter.

C. On notification by the department, the state treasurer shall distribute the monies deposited in the transaction privilege and severance tax clearing account in the manner prescribed by this section and by sections 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the account pursuant to sections 42-1118 and 42-1254.

D. Of the monies designated as distribution base the department shall:

1. Pay twenty-five per cent to the various incorporated municipalities in this state in proportion to their population to be used by the municipalities for any municipal purpose.

2. Pay 38.08 per cent to the counties in this state by averaging the following proportions:

(a) The proportion that the population of each county bears to the total state population.

(b) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.

3. Pay an additional 2.43 per cent to the counties in this state as follows:

(a) Average the following proportions:

(i) The proportion that the assessed valuation used to determine secondary property taxes of each county, after deducting that part of the assessed valuation that is exempt from taxation at the beginning of the month for which the amount is to be paid, bears to the total assessed valuations used to determine secondary property taxes of all the counties after deducting that portion of the assessed valuations that is exempt from taxation at the beginning of the month for which the amount is to be

paid. Property of a city or town that is not within or contiguous to the municipal corporate boundaries and from which water is or may be withdrawn or diverted and transported for use on other property is considered to be taxable property in the county for purposes of determining assessed valuation in the county under this item.

(ii) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.

(b) If the proportion computed under subdivision (a) of this paragraph for any county is greater than the proportion computed under paragraph 2 of this subsection, the department shall compute the difference between the amount distributed to that county under paragraph 2 of this subsection and the amount that would have been distributed under paragraph 2 of this subsection using the proportion computed under subdivision (a) of this paragraph and shall pay that difference to the county from the amount available for distribution under this paragraph. Any monies remaining after all payments under this subdivision shall be distributed among the counties according to the proportions computed under paragraph 2 of this subsection.

4. After any distributions required by sections 42-5030, 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to the water quality assurance revolving fund as required by section 49-282, subsection B, credit the remainder of the monies designated as distribution base to the state general fund. From this amount the legislature shall annually appropriate to:

(a) The department of revenue sufficient monies to administer and enforce this article and articles 5 and 8 of this chapter.

(b) The department of economic security monies to be used for the purposes stated in title 46, chapter 1.

(c) The firearms safety and ranges fund established by section 17-273, fifty thousand dollars derived from the taxes collected from the retail classification pursuant to section 42-5061 for the current fiscal year.

E. If approved by the qualified electors voting at a statewide general election, all monies collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D shall be distributed each fiscal year pursuant to this subsection. The monies distributed pursuant to this subsection are in addition to any other appropriation, transfer or other allocation of public or private monies from any other source and shall not supplant, replace or cause a reduction in other school district, charter school, university or community college funding sources. The monies shall be distributed as follows:

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 7, each month one-twelfth of the amount that is necessary to pay the fiscal year's debt service on outstanding state school improvement revenue bonds for the current fiscal year shall be transferred each month to the school improvement revenue bond debt service fund established by section 15-2084. The total amount of bonds for which these monies may be allocated for the payment of

debt service shall not exceed a principal amount of eight hundred million dollars exclusive of refunding bonds and other refinancing obligations.

2. After any transfer of monies pursuant to paragraph 1 of this subsection, twelve per cent of the remaining monies collected during the preceding month shall be transferred to the technology and research initiative fund established by section 15-1648 to be distributed among the universities for the purpose of investment in technology and research-based initiatives.

3. After the transfer of monies pursuant to paragraph 1 of this subsection, three per cent of the remaining monies collected during the preceding month shall be transferred to the workforce development account established in each community college district pursuant to section 15-1472 for the purpose of investment in workforce development programs.

4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the amount a community college that is owned, operated or chartered by a qualifying Indian tribe on its own Indian reservation would receive pursuant to section 15-1472, subsection D, paragraph 2 if it were a community college district shall be distributed each month to the treasurer or other designated depository of a qualifying Indian tribe. Monies distributed pursuant to this paragraph are for the exclusive purpose of providing support to one or more community colleges owned, operated or chartered by a qualifying Indian tribe and shall be used in a manner consistent with section 15-1472, subsection B. For the purposes of this paragraph, "qualifying Indian tribe" has the same meaning as defined in section 42-5031.01, subsection D.

5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the following amounts shall be transferred each month to the department of education for the increased cost of basic state aid under section 15-971 due to added school days and associated teacher salary increases enacted in 2000:

(a) In fiscal year 2001-2002, $15,305,900.

(b) In fiscal year 2002-2003, $31,530,100.

(c) In fiscal year 2003-2004, $48,727,700.

(d) In fiscal year 2004-2005, $66,957,200.

(e) In fiscal year 2005-2006 and each fiscal year thereafter, $86,280,500.

6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, seven million eight hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the department of education to be used for school safety as provided in section 15-154 and two hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments to the department of education to be used for the character education matching grant program as provided in section 15-154.01.

7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, no more than seven million dollars may be appropriated by the legislature each fiscal year to the department of education to be used for accountability purposes as described in section 15-241 and title 15, chapter 9, article 8.

8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one million five hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the failing schools tutoring fund established by section 15-241.

9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, twenty-five million dollars shall be transferred each fiscal year to the state general fund to reimburse the general fund for the cost of the income tax credit allowed by section 43-1072.01.

10. After the payment of monies pursuant to paragraphs 1 through 9 of this subsection, the remaining monies collected during the preceding month shall be transferred to the classroom site fund established by section 15-977. The monies shall be allocated as follows in the manner prescribed by section 15-977:

(a) Forty per cent shall be allocated for teacher compensation based on performance.

(b) Twenty per cent shall be allocated for increases in teacher base compensation and employee related expenses.

(c) Forty per cent shall be allocated for maintenance and operation purposes.

F. The department shall credit the remainder of the monies in the transaction privilege and severance tax clearing account to the state general fund, subject to any distribution required by section 42-5030.01.

G. Notwithstanding subsection D of this section, if a court of competent jurisdiction finally determines that tax monies distributed under this section were illegally collected under this article or articles 5 and 8 of this chapter and orders the monies to be refunded to the taxpayer, the department shall compute the amount of such monies that was distributed to each city, town and county under this section. Each city's, town's and county's proportionate share of the costs shall be based on the amount of the original tax payment each municipality and county received. Each month the state treasurer shall reduce the amount otherwise distributable to the city, town and county under this section by one thirty-sixth of the total amount to be recovered from the city, town or county until the total amount has been recovered, but the monthly reduction for any city, town or county shall not exceed ten per cent of the full monthly distribution to that entity. The reduction shall begin for the first calendar month after the final disposition of the case and shall continue until the total amount, including interest and costs, has been recovered.

H. On receiving a certificate of default from the greater Arizona development authority pursuant to section 41-2257 or 41-2258 and to the extent not otherwise expressly prohibited by law, the state treasurer shall withhold from the next succeeding distribution of monies pursuant to this section due to the defaulting political subdivision the amount specified in the certificate of default and immediately deposit the amount withheld in the greater Arizona development authority revolving fund. The state treasurer shall continue to withhold and deposit the monies until the greater Arizona development authority certifies to the state treasurer that the default has been cured. In no event may the state treasurer withhold any amount that the defaulting political subdivision certifies to the state treasurer and the authority as being necessary to make any required deposits then due

for the payment of principal and interest on bonds of the political subdivision that were issued before the date of the loan repayment agreement or bonds and that have been secured by a pledge of distributions made pursuant to this section.

I. Except as provided by sections 42-5033 and 42-5033.01, the population of a county, city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to subsection D of this section.

J. Except as otherwise provided by this subsection, on notice from the department of revenue pursuant to section 42-6010, subsection B, the state treasurer shall withhold from the distribution of monies pursuant to this section to the affected city or town the amount of the penalty for business location municipal tax incentives provided by the city or town to a business entity that locates a retail business facility in the city or town. The state treasurer shall continue to withhold monies pursuant to this subsection until the entire amount of the penalty has been withheld. The state treasurer shall credit any monies withheld pursuant to this subsection to the state general fund as provided by subsection D, paragraph 4 of this section. The state treasurer shall not withhold any amount that the city or town certifies to the department of revenue and the state treasurer as being necessary to make any required deposits or payments for debt service on bonds or other long-term obligations of the city or town that were issued or incurred before the location incentives provided by the city or town.

K. On notice from the auditor general pursuant to section 9-626, subsection D, the state treasurer shall withhold from the distribution of monies pursuant to this section to the affected city the amount computed pursuant to section 9-626, subsection D. The state treasurer shall continue to withhold monies pursuant to this subsection until the entire amount specified in the notice has been withheld. The state treasurer shall credit any monies withheld pursuant to this subsection to the state general fund as provided by subsection D, paragraph 4 of this section.

L. For the purposes of this section, "community college district" means a community college district that is established pursuant to sections 15-1402 and 15-1403 and that is a political subdivision of this state and, unless otherwise specified, includes a ~~community college district established pursuant to section 15-1402.01 and a provisional~~ community college TUITION FINANCING district established pursuant to section 15-1409.

**Sec. 9.** Section 42-17056, Arizona Revised Statutes, is amended to read:

**42-17056. Initial base levy limit if no primary property taxes were levied in the preceding tax year**

A. If a county, city, town or community college district did not levy primary property taxes in the preceding tax year, the governing body shall submit a proposed amount to be raised by primary property taxes for approval of the voters.

B. The election shall be held on the third Tuesday in May before the beginning of the fiscal year in as nearly as practicable the same manner as prescribed by title 35, chapter 3, article 3. The ballot shall state that if the amount is approved

by the voters, it will be the base for determining levy limitations for the county, city, town or district for subsequent fiscal years.

C. If a majority of the qualified electors voting approve the proposed levy amount for primary property taxes, the levy applicable for the county, city, town or district for the next fiscal year shall be an amount not exceeding the approved amount.

D. On acceptance by the voters, the governing body shall send a copy of the approved resolution to the property tax oversight commission.

E. If the proposed levy amount is not approved, the county, city, town or community college district shall not levy a primary property tax for that year.

F. This section does not apply to ~~provisional~~ community college TUITION FINANCING districts formed pursuant to section 15-1409, except that the property tax oversight commission shall set a property tax levy limit that is not less than the amount required pursuant to section 15-1409, subsection C.

**Sec. 10. Study committee on community college finance and expenditure limits; membership; duties; report; delayed repeal**

A. The study committee on community college finance and expenditure limits is established consisting of the following members:

1. Three members of the senate who are appointed by the president of the senate, not more than two of whom are members of the same political party. The president of the senate shall designate one of these members to serve as co-chairperson of the committee.

2. Three members of the house of representatives who are appointed by the speaker of the house of representatives, not more than two of whom are members of the same political party. The speaker of the house of representatives shall designate one of these members to serve as co-chairperson of the committee.

3. One member who is affiliated with a major taxpayer organization and who is appointed by the president of the senate.

4. One member who is affiliated with a statewide community college organization and who is appointed by the speaker of the house of representatives.

5. A president or chancellor of a community college district with less than ten thousand full time equivalent students and who is appointed by the speaker of the house of representatives.

6. A president or chancellor of a community college district with more than ten thousand full time equivalent students and who is appointed by the president of the senate.

7. One member who is a chief business officer of a community college district with more than ten thousand full time equivalent students and who is appointed by the speaker of the house of representatives.

8. One member who is a chief business officer of a community college district with less than ten thousand full time equivalent students and who is appointed by the president of the senate.

9. A taxpayer of a community college district that is located in a county with a population of more than seven hundred thousand persons and who is appointed by the president of the senate.

10. A taxpayer of a community college district that is located in a county with a population of less than seven hundred thousand persons and who is appointed by the speaker of the house of representatives.

11. The auditor general or the auditor general's designee.

B. Committee members are not eligible to receive compensation but are eligible to receive reimbursement of expenses pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

C. The study committee on community college finance and expenditure limits shall:

1. Examine the community college district constitutional expenditure limits prescribed in article 9, section 21 of the Arizona Constitution.

2. Review the impact of expenditure limits on community college districts, including the impact on financing modern and competitive workforce programs.

3. Establish methods to move closer to actual full time student equivalent calculations for funding.

4. Study any other relevant topic or issue that may be pertinent to the finances of community college districts.

5. Make recommendations for proposed statutory changes.

D. The study committee on community college finance and expenditure limits shall submit a report of the committee's activities, findings and recommendations on or before December 31, 2015 to the governor, president of the senate and speaker of the house of representatives and provide a copy of this report to the secretary of state.

E. This section is repealed from and after December 31, 2015.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## VEHICLE TOWING

### CHAPTER 307

### H. B. 2422

**AN ACT AMENDING SECTION 28-1108, ARIZONA REVISED STATUTES; RELATING TO VEHICLE TOWING.**

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

**Section 1.** Section 28-1108, Arizona Revised Statutes, is amended to read:

**28-1108. Vehicle towing; rules; contractual agreement for towing services; weight exemption**

A. If a vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all weight towed by the vehicle and the drawbar or other connection shall not exceed fifteen feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery or other objects of a structural nature that cannot readily be dismembered. For the purposes of this subsection, "drawbar" means a rigid structure that connects a trailer and a towing vehicle and that articulates at the point of connection with the trailer and articulates at the point of connection with the towing vehicle.

B. If a vehicle is towing another vehicle and the connection consists of a chain, rope or cable, a white flag or cloth at least twelve inches square shall be displayed on the connection.

C. The director of the department of public safety shall adopt and enforce rules that are not inconsistent with this chapter to govern the design and operation of all tow trucks.

D. A person may not operate a tow truck for the purpose of towing vehicles without first registering with the director of the department of public safety, ~~obtaining a bond~~ and obtaining a permit pursuant to the rules that govern tow trucks and that are adopted by the department of public safety.

E. The director of the department of public safety or a county, city or town may enter into a contractual agreement with a towing firm or firms for towing or storage services, or both. At the time of application for a contractual agreement, a towing firm must disclose in writing the owners of the towing firm and, if the owners own other towing firms that are also applying for the same contractual agreement, the names of those towing firms. The contractual agreement shall comply with this section and all rules adopted under this section. Contracts shall be awarded on the basis of competitive bidding. The director of the department of public safety or a county, city or town shall reserve the right to reject all bids. If only one bid is received, the director of the department of public safety or a county, city or town may reject the bid and negotiate a contract without bidding if the negotiated contract is at a price lower than the bid price under the terms and conditions specified in the call for bids.

F. Except as provided in subsection G of this section, a towing firm may only have one contractual agreement per geographic towing area with the department of public safety or a county, city or town for towing or storage services, or both. If an owner of a towing firm has a common ownership interest in another towing firm or the assets of another towing firm, the owner may not participate in any other application for a contractual agreement within the same geographic towing area.

G. If a towing firm that has a contractual agreement pursuant to this section acquires another towing firm that has a contractual agreement pursuant to this section, both contractual agreements remain valid for one year after the date of the acquisition OR UNTIL THE END OF THE CONTRACTUAL AGREEMENT, WHICHEVER IS SHORTER.

H. Notwithstanding subsection F of this section, an agency may allow a towing firm to use resources from another towing firm if an agency deems the use of those resources is necessary for traffic incident management.

I. The total weight of a tow truck and the towed vehicle is exempt from the maximum total gross weight load allowed under section 28-1100 if a damaged, disabled or abandoned vehicle or vehicle combination is towed.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## STUDY COMMITTEE—POST-TRAUMATIC STRESS DISORDER

### CHAPTER 308

### H. B. 2438

### AN ACT ESTABLISHING THE POST-TRAUMATIC STRESS DISORDER IN PUBLIC SAFETY STUDY COMMITTEE.

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

**Section 1. Post-traumatic stress disorder in public safety study committee; membership; duties; report; delayed repeal**

A. The post-traumatic stress disorder in public safety study committee is established consisting of the following members:

1. One member of the house of representatives who is appointed by the speaker of the house of representatives.
2. One member of the senate who is appointed by the president of the senate.
3. The director of the department of public safety or the director's designee.
4. The director of the state department of corrections or the director's designee.
5. Three members who represent the law enforcement community, one of whom represents an Arizona county sheriffs association who is appointed by the speaker of the house of representatives, one of whom represents an Arizona association of chiefs of police who is appointed by the president of the senate and one of whom represents an Arizona law enforcement association who is appointed by the governor.

6. Three members who represent the firefighter community, one of whom represents an Arizona fire district association who is appointed by the speaker of the house of representatives, one of whom represents an Arizona professional firefighters association who is appointed by the president of the senate and one of whom represents a city with a population of more than one million persons who is appointed by the governor.

7. Two psychologists who have current experience in law enforcement psychology or a specialty in post-traumatic stress disorder, one of whom is appointed by the speaker of the house of representatives and one of whom is appointed by the president of the senate.

8. Two members representing universities in this state who are faculty members with expertise in law, criminology or psychology or another relevant field, one of whom is appointed by the speaker of the house of representatives and one of whom is appointed by the president of the senate.

9. One member with workers' compensation claim and adjudication expertise who represents workers' compensation insurers or self-insurers and who is appointed by the governor.

B. The members of the study committee shall elect a chairperson from among the members.

C. The study committee shall research and report on the effects of post-traumatic stress disorder on state and local law enforcement officers.

D. The post-traumatic stress disorder in public safety study committee may request published information, data and reports from any county or state agency or political subdivision of this state. If possible, information shall be provided electronically.

E. This section does not violate employee privacy rights.

F. The legislature shall provide staff and support services to the study committee.

G. The study committee shall meet at the state capitol or at other places as the chairperson deems necessary or convenient, and all meetings shall be open to the public.

H. Members of the study committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

I. On or before September 1, 2016, the study committee shall submit a report regarding its findings and recommendations to the governor, the speaker of the house of representatives and the president of the senate and provide a copy of its report to the secretary of state.

J. This section is repealed from and after December 31, 2016.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# JTEDs—SATELLITE COURSES-CHARTER SCHOOLS

## CHAPTER 309

## H. B. 2478

## AN ACT AMENDING SECTION 15-393, ARIZONA REVISED STATUTES; RELATING TO JOINT TECHNICAL EDUCATION DISTRICTS.

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

**Section 1.** Section 15-393, Arizona Revised Statutes, is amended to read:

**15-393. Joint technical education district governing board; report; definitions**

A. The management and control of the joint district are vested in the joint technical education district governing board, including the content and quality of the courses offered by the district, the quality of teachers who provide instruction on behalf of the district, the salaries of teachers who provide instruction on behalf of the district and the reimbursement of other entities for the facilities used by the district. Unless the governing boards of the school districts participating in the formation of the joint district vote to implement an alternative election system as provided in subsection B of this section, the joint board shall consist of five members elected from five single member districts formed within the joint district. The single member district election system shall be submitted as part of the plan for the joint district pursuant to section 15-392 and shall be established in the plan as follows:

1. The governing boards of the school districts participating in the formation of the joint district shall define the boundaries of the single member districts so that the single member districts are as nearly equal in population as is practicable, except that if the joint district lies in part in each of two or more counties, at least one single member district may be entirely within each of the counties comprising the joint district if this district design is consistent with the obligation to equalize the population among single member districts.

2. The boundaries of each single member district shall follow election precinct boundary lines, as far as practicable, in order to avoid further segmentation of the precincts.

3. A person who is a registered voter of this state and who is a resident of the single member district is eligible for election to the office of joint board member from the single member district. The terms of office of the members of the joint board shall be as prescribed in section 15-427, subsection B. An employee of a joint technical education district or the spouse of an employee shall not hold membership on a governing board of a joint technical education district by which the employee is employed. A member of one school district governing board or joint technical education district governing board is ineligible to be a candidate for nomination or election to or serve simultaneously as a member of any other governing board, except that a member of a governing board may be a candidate for nomination or

election for any other governing board if the member is serving in the last year of a term of office. A member of a governing board shall resign the member's seat on the governing board before becoming a candidate for nomination or election to the governing board of any other school district or joint technical education district, unless the member of the governing board is serving in the last year of a term of office.

4. Nominating petitions shall be signed by the number of qualified electors of the single member district as provided in section 16-322.

B. The governing boards of the school districts participating in the formation of the joint district may vote to implement any other alternative election system for the election of joint district board members. If an alternative election system is selected, it shall be submitted as part of the plan for the joint district pursuant to section 15-392, and the implementation of the system shall be as approved by the United States justice department.

C. The joint technical education district shall be subject to the following provisions of this title:

1. Chapter 1, articles 1 through 6.
2. Sections 15-208, 15-210, 15-213 and 15-234.
3. Articles 2, 3 and 5 of this chapter.
4. Section 15-361.
5. Chapter 4, articles 1, 2 and 5.
6. Chapter 5, articles 1, 2 and 3.
7. Sections 15-701.01, 15-722, 15-723, 15-724, 15-727, 15-728, 15-729 and 15-730.
8. Chapter 7, article 5.
9. Chapter 8, articles 1, 3 and 4.
10. Sections 15-828 and 15-829.
11. Chapter 9, article 1, article 6, except for section 15-995, and article 7.
12. Sections 15-941, 15-943.01, 15-948, 15-952, 15-953 and 15-973.
13. Sections 15-1101 and 15-1104.
14. Chapter 10, articles 2, 3, 4 and 8.

D. Notwithstanding subsection C of this section, the following apply to a joint technical education district:

1. A joint district may issue bonds for the purposes specified in section 15-1021 and in chapter 4, article 5 of this title to an amount in the aggregate, including the existing indebtedness, not exceeding one ~~per cent~~ PERCENT of the taxable property used for secondary tax purposes, as determined pursuant to title 42, chapter 15, article 1, within the joint technical education district as ascertained by the last property tax assessment previous to issuing the bonds.

2. The number of governing board members for a joint district shall be as prescribed in subsection A of this section.

3. The student count for the first year of operation of a joint technical education district as provided in this article shall be determined as follows:

(a) Determine the estimated student count for joint district classes that will operate in the first year of operation. This estimate shall be based on actual

registration of pupils as of March 30 scheduled to attend classes that will be operated by the joint district. The student count for the district of residence of the pupils registered at the joint district shall be adjusted. The adjustment shall cause the district of residence to reduce the student count for the pupil to reflect the courses to be taken at the joint district. The district of residence shall review and approve the adjustment of its own student count as provided in this subdivision before the pupils from the school district can be added to the student count of the joint district.

(b) The student count for the new joint district shall be the student count as determined in subdivision (a) of this paragraph.

(c) For the first year of operation, the joint district shall revise the student count to the actual average daily membership as prescribed in section 15-901, subsection A, paragraph 1 for students attending classes in the joint district. A joint district shall revise its student count, the base support level as provided in section 15-943.02, the revenue control limit as provided in section 15-944.01 and the district additional assistance as provided in section 15-962.01 prior to May 15. A joint district that overestimated its student count shall revise its budget prior to May 15. A joint district that underestimated its student count may revise its budget prior to May 15.

(d) After March 15 of the first year of operation, the district of residence shall adjust its student count by reducing it to reflect the courses actually taken at the joint district. The district of residence shall revise its student count, the base support level as provided in section 15-943, the revenue control limit as provided in section 15-944 and the district additional assistance as provided in section 15-962.01 prior to May 15. A district that underestimated the student count for students attending the joint district shall revise its budget prior to May 15. A district that overestimated the student count for students attending the joint district may revise its budget prior to May 15.

(e) A joint district for the first year of operation shall not be eligible for adjustment pursuant to section 15-948.

(f) The procedures for implementing this paragraph shall be as prescribed in the uniform system of financial records.

(g) Pupils in an approved joint technical education district centralized program may generate an average daily membership of 1.0 during any day of the week and at any time between July 1 and June 30 of each fiscal year.

For the purposes of this paragraph, "district of residence" means the district that included the pupil in its average daily membership for the year before the first year of operation of the joint district and that would have included the pupil in its student count for the purposes of computing its base support level for the fiscal year of the first year of operation of the joint district if the pupil had not enrolled in the joint district.

4. A student includes any person enrolled in the joint district without regard to the person's age or high school graduation status, except that:

(a) A student in a kindergarten program or in grades one through nine who enrolls in courses offered by the joint technical education district shall not be included in the joint district's student count or average daily membership.

(b) A student in a kindergarten program or in grades one through nine who is enrolled in career and technical education courses shall not be funded in whole or in part with monies provided by a joint technical education district, except that a pupil in grade eight or nine may be funded with monies generated by the five cent qualifying tax rate authorized in subsection F of this section.

(c) A student who is over twenty-one years of age shall not be included in the student count of the joint district for the purposes of chapter 9, articles 3, 4 and 5 of this title.

5. A joint district may operate for more than one hundred eighty days per year, with expanded hours of service.

6. A joint district may use the carryforward provisions of section 15-943.01.

7. A school district that is part of a joint district shall use any monies received pursuant to this article to supplement and not supplant base year career and technical education courses, and directly related equipment and facilities, except that a school district that is part of a joint technical education district and that has used monies received pursuant to this article to supplant career and technical education courses that were offered before the first year that the school district participated in the joint district or the first year that the school district used monies received pursuant to this article or that used the monies for purposes other than for career and technical education courses shall use one hundred ~~per cent~~ PERCENT of the monies received pursuant to this article to supplement and not supplant base year career and technical education courses.

8. A joint technical education district shall use any monies received pursuant to this article to enhance and not supplant career and technical education courses and directly related equipment and facilities.

9. A joint technical education district or a school district that is part of a joint district OR A CHARTER SCHOOL shall only include pupils in grades ten through twelve in the calculation of student count or average daily membership if the pupils are enrolled in courses that are approved jointly by the governing board of the joint technical education district and each participating school district OR CHARTER SCHOOL for satellite courses taught within the participating school district OR CHARTER SCHOOL, or approved solely by the joint technical education district for centrally located courses. Student count and average daily membership from courses that are not part of an approved program for career and technical education shall not be included in student count and average daily membership of a joint technical education district.

E. The joint board shall appoint a superintendent as the executive officer of the joint district.

F. Taxes may be levied for the support of the joint district as prescribed in chapter 9, article 6 of this title, except that a joint technical education district shall not levy a property tax pursuant to law that exceeds five cents per one hundred dollars assessed valuation except for bond monies pursuant to subsection D, paragraph 1 of this section. Except for the taxes levied pursuant to section 15-994, such taxes shall be obtained from a levy of taxes on the taxable property used for secondary tax purposes.

G. The schools in the joint district are available to all persons who reside in the joint district and to pupils whose district of residence within this state is paying tuition on behalf of the pupils to a district of attendance that is a member of the joint technical education district, subject to the rules for admission prescribed by the joint board.

H. The joint board may collect tuition for adult students and the attendance of pupils who are residents of school districts that are not participating in the joint district pursuant to arrangements made between the governing board of the district and the joint board.

I. The joint board may accept gifts, grants, federal monies, tuition and other allocations of monies to erect, repair and equip buildings and for the cost of operation of the schools of the joint district.

J. One member of the joint board shall be selected chairman. The chairman shall be selected annually on a rotation basis from among the participating school districts. The chairman of the joint board shall be a voting member.

K. A joint board and a community college district may enter into agreements for the provision of administrative, operational and educational services and facilities.

L. Any agreement between the governing board of a joint technical education district and another joint technical education district, a school district, a charter school or a community college district shall be in the form of an intergovernmental agreement or other written contract. The auditor general shall modify the uniform system of financial records and budget forms in accordance with this subsection. The intergovernmental agreement or other written contract shall completely and accurately specify each of the following:

1. The financial provisions of the intergovernmental agreement or other written contract and the format for the billing of all services.

2. The accountability provisions of the intergovernmental agreement or other written contract.

3. The responsibilities of each joint technical education district, each school district, each charter school and each community college district that is a party to the intergovernmental agreement or other written contract.

4. The type of instruction that will be provided under the intergovernmental agreement or other written contract, including individualized education programs pursuant to section 15-763.

5. The quality of the instruction that will be provided under the intergovernmental agreement or other written contract.

6. The transportation services that will be provided under the intergovernmental agreement or other written contract and the manner in which transportation costs will be paid.

7. The amount that the joint technical education district will contribute to a course and the amount of support required by the school district or the community college.

8. That the services provided by the joint technical education district, the school district, the charter school or the community college district be proportionally calculated in the cost of delivering the service.

9. That the payment for services shall not exceed the cost of the services provided.

M. On or before December 31 of each year, each joint technical education district shall submit a detailed report to the career and technical education division of the department of education. The career and technical education division of the department of education shall collect, summarize and analyze the data submitted by the joint districts, shall submit an annual report that summarizes the data submitted by the joint districts to the governor, the speaker of the house of representatives, the president of the senate and the state board of education and shall submit a copy of this report to the secretary of state. The data submitted by each joint technical education district shall include the following:

1. The average daily membership of the joint district.

2. The program listings and program descriptions of programs offered by the joint district, including the course sequences for each program.

3. The costs associated with each program offered by the joint district.

4. The completion rate for each program offered by the joint district. For the purposes of this paragraph, "completion rate" means the completion rate for students who are designated as concentrators in that program by the department of education under the career and technology approved plan.

5. The graduation rate from the school district of residence of students who have completed a program in the joint district.

6. A detailed description of the career opportunities available to students after completion of the program offered by the joint district.

7. A detailed description of the career placement of students who have completed the program offered by the joint district.

8. Any other data deemed necessary by the department of education to carry out its duties under this subsection.

N. If the career and technical education division of the department of education determines that a course does not meet the criteria for approval as a joint technical education course, the governing board of the joint technical education district may appeal this decision to the state board of education acting as the state board of vocational education.

O. Notwithstanding any other law, the average daily membership for a pupil who is enrolled in a joint technical education course defined in section 15-391 and who does not meet the criteria specified in subsection Q or R of this section shall be 0.25 for each course, except the sum of the average daily membership shall not exceed the limits prescribed by subsection D, Q or R of this section, as applicable.

P. If a career and technical education course or program is provided on a satellite campus, the sum of the average daily membership, as provided in section 15-901, subsection A, paragraph 1, for that pupil in ~~both~~ the school district OR CHARTER SCHOOL and joint technical education district shall not exceed 1.25. The school district OR CHARTER SCHOOL and the joint district shall determine

the apportionment of the average daily membership for that pupil between the school district OR CHARTER SCHOOL and the joint district. A pupil who attends a course or program at a satellite campus and who is not enrolled in the school district OR CHARTER SCHOOL where the satellite campus is located may generate the average daily membership pursuant to this subsection if the pupil is enrolled in a school district that is a member district in the same joint technical education district.

Q. The sum of the average daily membership of a pupil who is enrolled in both the school district and joint technical education district course or program provided at a community college pursuant to subsection K of this section or at a centralized campus shall not exceed 1.75. The member school district and the joint district shall determine the apportionment of the average daily membership and student enrollment for that pupil between the member school district and the joint district, except that the amount apportioned shall not exceed 1.0 for either entity. Notwithstanding any other law, the average daily membership for a pupil in grade ten, eleven or twelve who is enrolled in a course that meets for at least one hundred fifty minutes per class period at a centralized campus shall be 0.75. To qualify for funding pursuant to this subsection, a centralized campus shall offer programs and courses to all eligible students in each member district of the joint technical education district.

R. The average daily membership for a pupil in grade ten, eleven or twelve who is enrolled in a course that meets for at least one hundred fifty minutes per class period at a leased centralized campus shall not exceed 0.75. The sum of the average daily membership, as provided in section 15-901, subsection A, paragraph 1, of a pupil who is enrolled in both the school district and in joint technical education district courses provided at a leased centralized campus shall not exceed 1.75 if all of the following conditions are met:

1. The course qualifies as a joint technical education course as defined in section 15-391.

2. The course is offered to all eligible students in each member district of the joint technical education district and enrolls students from multiple high schools.

3. The joint technical education district program in which the course is included addresses a specific industry need and has been developed in cooperation with that industry, or the leased facility is a state or federal asset that would otherwise be unused or underutilized.

4. The lease is established at fair market value if the lease is executed for a facility located on the site of a member district and was approved by the joint committee on capital review, except that a lease that was executed or renewed before December 31, 2012 is not subject to approval by the joint committee on capital review. The requirement prescribed in this paragraph does not apply from and after December 31, 2016.

S. A student who is enrolled in an accommodation school as defined in section 15-101 may be treated as a student of the school district in which the student physically resides for the purposes of enrollment in a joint technical education district and shall be included in the calculation of average daily membership for either the joint technical education district or the accommodation school, or both.

T. Notwithstanding any other law, ~~beginning in fiscal year 2011-2012,~~ the student count for a joint technical education district shall be equivalent to the joint technical education district's average daily membership.

U. THE GOVERNING BOARD OF THE JOINT TECHNICAL EDUCATION DISTRICT MAY CONTRACT WITH ANY CHARTER SCHOOL THAT IS LOCATED WITHIN THE BOUNDARIES OF THE JOINT TECHNICAL EDUCATION DISTRICT TO ALLOW THAT CHARTER SCHOOL TO OFFER CAREER AND TECHNICAL EDUCATION COURSES OR PROGRAMS AS A SATELLITE CAMPUS.

~~U.~~ V. For the purposes of this section:

1. "Base year" means the complete school year in which voters of a school district elected to join a joint technical education district.

2. "Centralized campus" means a facility that is owned and operated by a joint technical education district for the purpose of offering joint technical education programs or joint technical education courses as defined in section 15-391.

3. "Lease" means a written agreement in which the right of occupancy or use of real property is conveyed from one person or entity to another person or entity for a specified period of time.

4. "Leased centralized campus" means a facility that is leased and operated by a joint technical education district for the purpose of offering joint technical education programs or joint technical education courses as defined in section 15-391.

5. "Satellite campus" means a facility that is owned or operated by a school district OR CHARTER SCHOOL for the purpose of offering joint technical education programs or joint technical education courses as defined in section 15-391.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## SCHOOLS—FINANCIAL REVISIONS

### CHAPTER 310

### H. B. 2479

**AN ACT AMENDING SECTIONS 15-304, 15-823, 15-905, 15-1021, 15-1103, 15-1122 AND 15-1126, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO SCHOOL MONIES.**

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

**Section 1.** Section 15-304, Arizona Revised Statutes, is amended to read:

**15-304. Warrants; limitations; definition**

A. The county school superintendent, on the voucher of the governing board of a school district, shall draw the county school superintendent's warrant on the

county treasurer for all necessary expenses against the school fund of the district. The warrants shall be drawn in the order in which the vouchers are filed in the county school superintendent's office. IN LIEU OF DRAWING WARRANTS, THE COUNTY SCHOOL SUPERINTENDENT MAY ISSUE AN ELECTRONIC TRANSFER PURSUANT TO SECTION 11-493 FOR EXPENDITURES AUTHORIZED BY THIS SECTION. Unless notified by the department of education pursuant to section 15-107, a warrant shall not be drawn for an expenditure from the maintenance and operation, capital outlay, adjacent ways and federal and state grant funds for a purpose not included in the budget of the school district or for an expenditure in excess of the amount budgeted and not previously expended, except for expenditures authorized by the board of supervisors as provided in section 15-907. The county school superintendent shall not draw a warrant for an expenditure from any school district fund except the maintenance and operation, capital outlay or adjacent ways fund or federal and state grant funds unless sufficient cash is available in the fund according to the records of the county school superintendent. The county school superintendent may only draw a warrant for an expenditure from a federal or state grant fund when sufficient cash is not available in the grant fund if the county treasurer maintains the two accounts as provided in section 15-996, paragraph 1 and if the county school superintendent determines that the expenditures are included in the budget section of the approved grant application. Warrants may be processed through an electronic payment system.

B. A county school superintendent, within two business days, shall provide written notice to the department of education, if, in the county school superintendent's judgment, a school district has committed an overexpenditure as defined in section 15-107.

C. The state board of education shall require a county school superintendent who fails to comply with the notification requirements of subsection B of this section to complete professional development training. The state board of education may also require the employees of a county school superintendent who are involved in school district finances and budgeting to complete professional development training. The professional development training shall be selected from a list approved by the state board of education, and the cost of the professional development training shall be paid by the county school superintendent. County school superintendents and employees of the county school superintendent who are involved in district finances and budgeting shall complete at least twelve hours of professional development training within one hundred twenty days after the decision of the state board of education to require professional development training of the county school superintendent and the employees of the county school superintendent who are involved in district finances and budgeting.

D. A county school superintendent who fails to complete the professional development training within the time prescribed in subsection C of this section is guilty of nonfeasance in office, and the state board of education shall forward a complaint to the attorney general. The attorney general may bring an action in superior court against a county school superintendent for failure to comply with the professional development training requirements prescribed in subsection C of this

section. If a court determines that a county school superintendent failed to comply with the professional development training requirements prescribed in subsection C of this section, the court shall issue an order removing the county school superintendent from office.

E. A county school superintendent who fails to comply with the notification requirements of subsection B of this section more than once is guilty of unprofessional conduct. The attorney general may commence an action in superior court to enforce this subsection against any county school superintendent who violates the notification requirements of subsection B of this section more than once. If the court determines that a county school superintendent is guilty of unprofessional conduct, the court shall issue an order directing the removal of the county school superintendent from office.

F. Any vacancy in the office of county school superintendent shall be filled in the manner prescribed by section 11-251.

G. For the purposes of this section, "voucher" means a summary cover sheet and either copies of the invoices of the expenditure or a listing of the invoice detail.

**Sec. 2.** Section 15-823, Arizona Revised Statutes, is amended to read:

**15-823. Admission; residents of other school districts; nonresidents of this state; tuition**

A. Except as provided in subsections B, C, D, E, ~~and~~ F AND G of this section, children of nonresidents of this state may be admitted upon payment of a reasonable tuition fixed by the governing board.

B. The governing board shall admit children of nonresident teaching and research faculty of community college districts and state universities and children of nonresident graduate or undergraduate students of community college districts and state universities whose parent's presence at the district or university is of international, national, state or local benefit without payment of tuition.

C. The governing board shall admit children who are residents of the United States but who are nonresidents of this state without payment of tuition if evidence indicates that the child's physical, mental, moral or emotional health is best served by placement with a grandparent, brother, sister, stepbrother, stepsister, aunt or uncle who is a resident within the school district, unless the governing board determines that the placement is solely for the purpose of obtaining an education in this state without payment of tuition.

D. The governing board may admit nonresident foreign students who are in exchange programs without payment of tuition or as it may otherwise prescribe.

E. The governing board may admit children who are residents of the United States without payment of tuition if evidence indicates that because the parents are homeless or the child is abandoned, as defined in section 8-201, the child's physical, mental, moral or emotional health is best served by placement with a person who does not have legal custody of the child and who is a resident within the school district, unless the governing board determines that the placement is solely for the purpose of obtaining an education in this state without payment of tuition.

F. The governing board may admit children who are residents of the United States, but who are nonresidents of this state, without payment of tuition if all of the following conditions exist:

1. The child is a member of a federally recognized Indian tribe.

2. The child resides on Indian lands that are under the jurisdiction of the tribe of which the child is a member.

3. The area in the boundaries of the reservation where the child resides is located both in this state and in another state of the United States.

4. The governing board enters into an intergovernmental agreement with the governing board of the school district in another state in which the nonresident child resides. The intergovernmental agreement shall specify the number of nonresident children admitted in this state and the number of resident children that are admitted by the governing board in another state.

G. THE GOVERNING BOARD MAY ADMIT CHILDREN WHO ARE RESIDENTS OF THE UNITED STATES, BUT WHO ARE NONRESIDENTS OF THIS STATE, WITHOUT PAYMENT OF TUITION IF ALL OF THE FOLLOWING CONDITIONS EXIST:

1. THE CHILD IS ENROLLED IN A YEAR-ROUND RESIDENTIAL BOARDING ACADEMY LOCATED IN THIS STATE SPECIALIZING IN INTENSIVE INSTRUCTION AND SKILL DEVELOPMENT IN SPORTS, MUSIC OR ACTING.

2. THE CHILD'S PARENTS HAVE EXECUTED A CURRENT NOTARIZED GUARDIANSHIP AGREEMENT COVERING THE CHILD WHILE ENROLLED AT THE ACADEMY, WHICH IS A CONDITION OF ENROLLMENT AT THE ACADEMY AND AUTHORIZES ACADEMY REPRESENTATIVES TO ACT ON THE CHILD'S PARENT'S OR LEGAL GUARDIAN'S BEHALF IN MAKING ALL DECISIONS ON A DAILY BASIS AS TO THE CHILD'S ACTIVITIES AND NEEDS FOR MEDICAL, EDUCATIONAL AND OTHER PERSONAL ISSUES.

~~G.~~ H. The governing board shall charge reasonable tuition for the number of nonresident pupils who reside in another state and who are admitted by a governing board in this state pursuant to subsection F of this section that ~~exceed~~ EXCEEDS the number of resident pupils from this state who are admitted into a school district by the other state.

~~H.~~ I. The governing board of a school district shall pay reasonable tuition for the number of resident pupils who reside in that school district and who are admitted by a school district in another state pursuant to subsection F of this section that ~~exceed~~ EXCEEDS the number of nonresident pupils from that other state who are admitted by the governing board into that school district in this state.

~~I.~~ J. Children admitted under this section shall be counted or not counted as resident pupils as prescribed in section 15-824, subsection D.

~~J.~~ K. Except as provided in subsection I of this section, a school district or a charter school shall not include pupils who are not residents of this state in the district's or charter school's student count and shall not obtain state funding for those pupils.

**Sec. 3.** Section 15-905, Arizona Revised Statutes, is amended to read:

**15-905. School district budgets; notice; adoption; aggregate budget limit; summary; adjustments; impact aid fund; definition**

A. Not later than July 5 of each year or no later than the publication of notice of the public hearing and board meeting as required by this section, the governing board of each school district shall prepare and furnish to the superintendent of public instruction and the county school superintendent, unless waived by the county school superintendent, a proposed budget in electronic format for the budget year, which shall contain the information and be in the form as provided by the department of education. The proposed budget shall include the following:

1. The total amount of revenues from all sources that was necessary to meet the school district's budget for the current year.

2. The total amount of revenues by source that will be necessary to meet the proposed budget of the school district, excluding property taxes. The governing board shall prepare the proposed budget and a summary of the proposed budget. Both documents shall be kept on file at the school district office and shall be made available to the public on request. Not later than July 5 of each year or not later than the publication of notice of the public hearing and board meeting required by this subsection, the governing board shall submit the proposed budget to the department of education, which shall prominently display this information about that school district on the website maintained by the department. If the school district maintains a website, the school district shall post a link to the website of the department of education where this information about the school district is posted. The auditor general in conjunction with the department of education shall prescribe the form of the summary of the proposed budget for use by governing boards. School district governing boards may include in the proposed budget any items or amounts that are authorized by legislation filed with the secretary of state and that will become effective during the budget year. If subsequent events prevent the legislation from becoming effective, school district governing boards must reduce their budgets by the amounts budgeted pursuant to the legislation that did not become effective.

B. The governing board of each school district shall prepare a notice fixing a time not later than July 15 and designating a public place within each school district at which a public hearing and board meeting shall be held. The governing board shall present the proposed budget for consideration of the residents and the taxpayers of the school district at that hearing and meeting.

C. The governing board of each school district shall publish or mail, before the hearing and meeting, a copy of the proposed budget or the summary of the proposed budget and a notice of the public hearing and board meeting no later than ten days before the meeting. The proposed budget and the summary of the proposed budget shall contain the percentage of increase or decrease in each budget category of the proposed budget as compared to each category of the budget for the current year. Notification shall be either by publication in a newspaper of general circulation within the school district in which the size of the newspaper print shall be at least eight-point type, by electronic transmission of the information to the

department of education for posting on the department's website or by mailing the information to each household in the school district. The cost of publication, website posting or mailing shall be a charge against the school district. The publisher's affidavit of publication shall be filed by the governing board with the superintendent of public instruction within thirty days after publication. If the budget or proposed budget and notice are posted on a website maintained by the department of education or mailed, the board shall file an affidavit with the superintendent of public instruction within thirty days after the mailing or the date that the information is posted on the website. If a truth in taxation notice and hearing is required under section 15-905.01, the governing board may combine the notice and hearing under this section with the truth in taxation notice and hearing.

D. At the time and place fixed in the notice, the governing board shall hold the public hearing and present the proposed budget to the persons attending the hearing. On request of any person, the governing board shall explain the budget, and any resident or taxpayer of the school district may protest the inclusion of any item. A governing board member who has a substantial interest, as defined in section 38-502, in a specific item in the school district budget shall refrain from voting on the specific item. A governing board member may participate without creating a conflict of interest in adoption of a final budget even though the member may have substantial interest in specific items included in the budget.

E. Immediately following the public hearing the president shall call to order the governing board meeting for the purpose of adopting the budget. The governing board shall adopt the budget, which shall not exceed the general budget limit or the unrestricted capital budget limit, making such deductions as it sees fit but making no additions to the proposed budget total for maintenance and operations or capital outlay, and shall enter the budget as adopted in its minutes. Not later than July 18, the budget as finally adopted shall be filed by the governing board with the county school superintendent who shall immediately transmit a copy to the board of supervisors. Not later than July 18, the budget as finally adopted shall be submitted electronically to the superintendent of public instruction. Not later than July 18, the governing board shall submit the budget as finally adopted to the department of education, which shall prominently display this information about that school district on the website maintained by the department. If the school district maintains a website, the school district shall post a link to the website of the department of education where this information about the school district is posted. On or before October 30, the superintendent of public instruction shall review the budget and notify the governing board if the budget is in excess of the general budget limit or the unrestricted capital budget limit. The governing board shall revise the budget as follows:

1. If the governing board receives notification that the budget exceeds the general budget limit or the unrestricted capital budget limit by one ~~per cent~~ PERCENT of the general budget limit ~~or one hundred thousand dollars, whichever is less~~, it shall adopt on or before December 15, after it gives notice and holds a public meeting in a similar manner as provided in subsections C and D of this section, a

revised budget for the current year, which shall not exceed the general budget limit or the unrestricted capital budget limit.

2. If the governing board receives notification that the budget exceeds the general budget limit or the unrestricted capital budget limit by less than the amount prescribed in paragraph 1 of this subsection, the governing board shall adjust the budget and expenditures so as not to exceed the general budget limit or the unrestricted capital budget limit for the current year.

3. On or before December 18, the governing board shall file the revised budget it adopts with the county school superintendent who shall immediately transmit a copy to the board of supervisors. Not later than December 18, the budget as revised shall be submitted electronically to the superintendent of public instruction. School districts that are subject to section 15-914.01 are not required to send a copy of revised budgets to the county school superintendent. Procedures for adjusting expenditures or revising the budget shall be as prescribed in the uniform system of financial records.

F. The governing board of each school district may budget for expenditures within the school district budget as follows:

1. Amounts within the general budget limit, as provided in section 15-947, subsection C, may only be budgeted in the following sections of the budget:

(a) The maintenance and operation section.

(b) The capital outlay section.

2. Amounts within the unrestricted capital budget limit, as provided in section 15-947, subsection D, may only be budgeted in the unrestricted capital outlay subsection of the budget. Monies received pursuant to the unrestricted capital budget limit shall be placed in the unrestricted capital outlay fund. The monies in the fund are not subject to reversion.

G. The governing board may authorize the expenditure of monies budgeted within the maintenance and operation section of the budget for any subsection within the section in excess of amounts specified in the adopted budget only by action taken at a public meeting of the governing board and if the expenditures for all subsections of the section do not exceed the amount budgeted as provided in this section.

H. The aggregate budget limit is the sum of the following:

1. The general budget limit as determined in section 15-947 for the budget year.

2. The unrestricted capital budget limit as determined in section 15-947 for the budget year.

3. Federal assistance, excluding title VIII of the elementary and secondary education act of 1965 monies.

I. School districts that overestimated tuition revenues as provided in section 15-947, subsection C, paragraph 2 shall adjust the general budget limit and expenditures based on tuition revenues for attendance of nonresident pupils during the current fiscal year. School districts that underestimated tuition revenues may adjust their budgets before May 15 based on tuition revenues for attendance of nonresident pupils during the current fiscal year. School districts that overestimated revenues as provided in section 15-947, subsection C, paragraph 2, subdivision (a),

items (iii), (iv) and (v) and subdivision (c) shall adjust the general budget limit and expenditures based on actual revenues during the current fiscal year. School districts that underestimated such revenues may adjust their budgets before May 15 based on actual revenues during the current fiscal year. Procedures for completing adjustments shall be as prescribed in the uniform system of financial records. Not later than May 18, the budget as adjusted shall be submitted electronically to the superintendent of public instruction.

J. A common school district not within a high school district whose estimated tuition charge for high school pupils exceeds the actual tuition charge for high school pupils shall adjust the general budget limit and expenditures based on the actual tuition charge. Not later than May 18, the budget as adjusted shall be submitted electronically to the superintendent of public instruction. A common school district not within a high school district whose estimated tuition charge for high school pupils is less than the actual tuition charge for high school pupils may adjust its budget before May 15 based on the actual tuition charge. Procedures for completing adjustments shall be as prescribed in the uniform system of financial records. If the adjusted general budget limit requires an adjustment of state aid and if the adjustment to state aid is not made in the current year, the superintendent of public instruction shall adjust by August 15 of the succeeding fiscal year the apportionment of state aid to the school district to correct any overpayment or underpayment of state aid received during the current year.

K. The governing board may include title VIII of the elementary and secondary education act of 1965 assistance allocated for children with disabilities, children with specific learning disabilities, children residing on Indian lands and children residing within the boundaries of an accommodation school that is located on a military reservation and that is classified as a heavily impacted local educational agency pursuant to 20 United States Code section 7703, which is in addition to basic assistance when determining the general budget limit as prescribed in section 15-947, subsection C. The increase in the general budget limit for children residing within the boundaries of an accommodation school that is located on a military reservation and that is classified as a heavily impacted local education agency shall equal the dollar amount calculated pursuant to 20 United States Code section 7703(b)(2). The governing board may adjust before May 15 the budget for the current year based on any adjustments that result in increases over the amount estimated by the superintendent of public instruction for title VIII of the elementary and secondary education act of 1965 assistance for such pupils for the fiscal year preceding the current year. The governing board shall adjust before May 15 the budget for the current year based on any adjustments that result in decreases in the amount estimated by the superintendent of public instruction for title VIII of the elementary and secondary education act of 1965 assistance for such pupils for the fiscal year preceding the current year. Not later than May 18, the budget as adjusted shall be submitted electronically to the superintendent of public instruction. Procedures for complying with this subsection shall be as prescribed in the uniform system of financial records.

L. The department of education shall notify the state board of education if expenditures by any school district exceed the general budget limit prescribed in section 15-947, subsection C, the unrestricted capital budget limit, the school plant fund limits prescribed in section 15-1102, subsection B, the maintenance and operation section of the budget or the capital outlay section of the budget. If the expenditures of any school district exceed these limits or sections of the budget without authorization as provided in section 15-907, and if the state board of education determines that the equalization assistance for education received by the school district as provided in section 15-971 does not conform with statutory requirements, the state board of education shall reduce the state aid for equalization assistance for education for the school district computed as provided in section 15-971 during the fiscal year subsequent to the fiscal year in which the excess equalization assistance for education was received by an amount equal to the excess equalization assistance for education, except that in case of hardship to the school district, the superintendent of public instruction may approve reductions partly in the first subsequent year and partly in the second subsequent year. If the state board of education determines that the equalization assistance for education received by the school district conforms with statutory requirements, the state board of education shall not reduce the district's equalization assistance for education pursuant to this subsection but the district shall reduce the budget limits as required in subsection M of this section. A school district that disagrees with the department of education's determination regarding an excess expenditure under this subsection may request a hearing before the state board of education.

M. The governing board of a school district shall reduce the general budget limit or the unrestricted capital budget limit for the year subsequent to the year in which the expenditures were in excess of the applicable limit or section of the budget by the amount determined in subsection L of this section, except that in case of hardship to the school district, the superintendent of public instruction may approve reductions partly in the first subsequent year and partly in the second subsequent year. The reduction in the limit is applicable to each school district that has exceeded the general budget limit, the unrestricted capital budget limit or a section of the budget even if the reduction exceeds the state aid for equalization assistance for education for the school district.

N. Except as provided in section 15-916, no expenditure shall be made by any school district for a purpose not included in the budget or in excess of the aggregate budget limit prescribed in this section, except that if no budget has been adopted, from July 1 to July 15 the governing board may make expenditures if the total of the expenditures does not exceed ten ~~per cent~~ PERCENT of the prior year's aggregate budget limit. Any expenditures made from July 1 to July 15 and before the adoption of the budget shall be included in the total expenditures for the current year. No expenditure shall be made and no debt, obligation or liability shall be incurred or created in any year for any purpose itemized in the budget in excess of the amount specified for the item irrespective of whether the school 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 the budget except

expenditures from cash controlled funds as defined by the uniform system of financial records and except as provided in section 15-907 and subsection G of this section. This subsection does not prohibit any school district from prepaying insurance premiums, magazine subscriptions or officiating services, or from prepaying any item that is normally prepaid in order to procure the service or to receive a discounted price for the service, as prescribed by the uniform system of financial records.

O. The governing board of a school district that is classified as a heavily impacted school district having twenty ~~per cent~~ PERCENT or more pupils pursuant to 20 United States Code section 238(d)1(A) may determine its eligibility to increase the amount that may be included in determining the general budget limit as provided in subsection K of this section and may increase the amount as follows:

1. For fiscal year 1988-1989:

(a) Multiply one thousand ninety-four dollars by the number of children with disabilities or children with specific learning disabilities, excluding children who also reside on Indian lands, reported to the division of impact aid, United States department of education in the district's application for fiscal year 1987-1988.

(b) Multiply five hundred forty-seven dollars by the number of children residing on Indian lands, excluding children who have disabilities or also have specific learning disabilities, reported to the division of impact aid, United States department of education in the district's application for fiscal year 1987-1988.

(c) Multiply one thousand nine hundred fourteen dollars by the number of children residing on Indian lands who have disabilities or also have specific learning disabilities reported to the division of impact aid, United States department of education in the district's application for fiscal year 1987-1988.

(d) Add the amounts determined in subdivisions (a) through (c) of this paragraph.

(e) If the amount of title VIII of the elementary and secondary education act of 1965 assistance as provided in subsection K of this section is less than the sum determined in subdivision (d) of this paragraph, the district is eligible to use the provisions of this subsection.

2. For budget years after 1988-1989, use the provisions of paragraph 1 of this subsection, but increase each dollar amount by the growth rate for that year as prescribed by law, subject to appropriation and use the number of children reported in the appropriate category for the current fiscal year.

3. If the district is eligible to use the provisions of this subsection, subtract the amount of title VIII of the elementary and secondary education act of 1965 assistance determined in subsection K of this section from the sum determined in paragraph 1, subdivision (d) of this subsection. The difference is the increase in the amount that may be included in determining the general budget limit as provided in subsection K of this section, if including this amount does not increase the district's primary tax rate for the budget year. If the amount of title VIII of the elementary and secondary education act of 1965 assistance determined in subsection K of this section is adjusted for the current year, the increase determined in this paragraph shall be recomputed using the adjusted amount and the recomputed increase shall be

reported to the department of education by May 15 on a form prescribed by the department of education.

4. If a district uses the provisions of this subsection, the district is not required to adjust its budget for the current year based on adjustments in the estimated amount of title VIII of the elementary and secondary education act of 1965 assistance as provided in subsection K of this section.

P. A school district, except for an accommodation school, that applies for title VIII of the elementary and secondary education act of 1965 assistance during the current year may budget an amount for title VIII of the elementary and secondary education act of 1965 administrative costs for the budget year. The amount budgeted for title VIII of the elementary and secondary education act of 1965 administrative costs is exempt from the revenue control limit and may not exceed an amount determined for the budgeted year as follows:

1. Determine the minimum cost. The minimum cost for fiscal year 1990-1991 is two thousand three hundred forty-three dollars. For fiscal year 1991-1992 and thereafter, the minimum cost is the minimum cost for the prior year increased by the growth rate as prescribed by law, subject to appropriation.

2. Determine the hourly rate. The hourly rate for fiscal year 1990-1991 is nine dollars thirty-eight cents. For fiscal year 1991-1992 and thereafter, the hourly rate is the hourly rate for the prior year increased by the growth rate as prescribed by law, subject to appropriation.

3. Determine the title VIII of the elementary and secondary education act of 1965 revenues available by subtracting the amount of title VIII of the elementary and secondary education act of 1965 assistance used to increase the general budget limit as provided in subsections K and O of this section for the current fiscal year from the total amount of title VIII of the elementary and secondary education act of 1965 revenues received in the current fiscal year.

4. Determine the total number of administrative hours as follows:

(a) Determine the sum of the following:

(i) 1.00 hours for each high impact pupil who is not a person with a disability or does not have specific learning disabilities.

(ii) 1.25 hours for each high impact pupil who is a person with a disability or has specific learning disabilities.

(iii) 0.25 hours for each low impact pupil who is not a person with a disability or does not have specific learning disabilities.

(iv) 0.31 hours for each low impact pupil who is a person with a disability or has specific learning disabilities.

(b) For the purposes of this paragraph:

(i) "High impact pupil" means a pupil who resides on Indian lands or a pupil who resides on federal property or in low rent housing and whose parent is employed on federal property or low rent housing property or is on active duty in uniformed service, as provided in title VIII of the elementary and secondary education act of 1965, section 8003(a) (20 United States Code section 7703) and as reported in the application for title VIII of the elementary and secondary education act of 1965 assistance in the current year.

(ii) "Low impact pupil" means a pupil who resides on nonfederal property and has a parent who is employed on federal property or low rent housing property or is on active duty in a uniformed service or a pupil who resides on federal property or in low rent housing and who does not have a parent who is employed on federal property or low rent housing property or is on active duty in uniformed service, as provided in title VIII of the elementary and secondary education act of 1965, section 8003(a) (20 United States Code section 7703) and as reported in the application for title VIII of the elementary and secondary education act of 1965 assistance in the current year.

5. Multiply the total number of administrative hours determined in paragraph 4 of this subsection by the hourly rate determined in paragraph 2 of this subsection.

6. Determine the greater of the minimum cost determined in paragraph 1 of this subsection or the product determined in paragraph 5 of this subsection.

7. Add to the amount determined in paragraph 6 of this subsection the amount, if any, to be expended by the school district in the budget year through an intergovernmental agreement with other school districts or the department of education to provide title VIII of the elementary and secondary education act of 1965 technical assistance to participating districts.

8. Determine the lesser of the amount determined in paragraph 7 of this subsection or the revenues available as determined in paragraph 3 of this subsection.

9. The amount determined in paragraph 8 of this subsection is the maximum amount that may be budgeted for title VIII of the elementary and secondary education act of 1965 administrative costs for the budget year as provided in this subsection.

10. If the governing board underestimated the amount that may be budgeted for title VIII of the elementary and secondary education act of 1965, section 8007 administrative costs for the current year, the board may adjust the general budget limit and the budget before May 15. If the governing board overestimated the amount that may be budgeted for title VIII of the elementary and secondary education act of 1965 administrative costs for the current year, the board shall adjust the general budget limit and the budget before May 15.

Q. If a school district governing board has adopted a budget for a fiscal year based on forms and instructions provided by the auditor general and the department of education for that fiscal year and if, as a result of the enactment or nonenactment of proposed legislation after May 1 of the previous fiscal year, the budget is based on incorrect limits, does not include items authorized by law or does not otherwise conform with law, the governing board may revise its budget at a public hearing on or before September 15 to conform with the law. Not later than September 18, the budget as adjusted shall be submitted electronically to the superintendent of public instruction. If the governing board does not revise the budget on or before September 15 and if the budget includes any items not authorized by law or if the budget exceeds any limits, the governing board shall adjust or revise the budget as provided in subsection E of this section.

R. Notwithstanding any other law, if a school district receives assistance pursuant to title VIII of the elementary and secondary education act of 1965, the

school district shall establish a local level fund designated as the impact aid fund and deposit the impact aid monies received in the fund. The school district shall separately account for monies in the fund and shall not combine monies in the fund with any other source of local, state or federal assistance. Monies in the fund shall be expended pursuant to federal law only for the purposes allowed by this title. The school district shall account for monies in the fund according to the uniform system of financial records as prescribed by the auditor general. The superintendent of public instruction shall separately account for monies in each school district's impact aid fund, if an impact aid fund is established, in the annual report required by section 15-255. Monies in the fund are considered federal monies and are not subject to legislative appropriation.

S. For the purposes of this section, "title VIII of the elementary and secondary education act of 1965 assistance" means, for the current year, an amount equal to the final determination of title VIII of the elementary and secondary education act of 1965 assistance for the fiscal year preceding the current year as confirmed by the division of impact aid, United States department of education or, if a final determination has not been made, the amount estimated by the superintendent of public instruction as confirmed by the division of impact aid, United States department of education and, for the budget year, an amount equal to the determination of title VIII of the elementary and secondary education act of 1965 assistance for the fiscal year preceding the budget year as estimated by the superintendent of public instruction.

**Sec. 4.** Section 15-1021, Arizona Revised Statutes, is amended to read:

**15-1021. Limitation on bonded indebtedness; limitation on authorization and issuance of bonds**

A. Until December 31, 1999, a school district may issue class A bonds for the purposes specified in this section and chapter 4, article 5 of this title to an amount in the aggregate, including the existing indebtedness, not exceeding fifteen ~~per cent~~ PERCENT of the taxable property used for secondary property tax purposes, as determined pursuant to title 42, chapter 15, article 1, within a school district as ascertained by the last property tax assessment previous to issuing the bonds.

B. From and after December 31, 1998, a school district may issue class B bonds for the purposes specified in this section and chapter 4, article 5 of this title to an amount in the aggregate, including the existing class B indebtedness, not exceeding ten ~~per cent~~ PERCENT of the VALUE OF THE taxable property ~~used for secondary property tax purposes, as determined pursuant to title 42, chapter 15, article 1, within a school district as ascertained by the last assessment of state and county taxes previous to issuing the bonds~~ IN THAT SCHOOL DISTRICT, or one thousand five hundred dollars per student count pursuant to section 15-901, subsection A, paragraph 13, whichever amount is greater. THE VALUE OF THE TAXABLE PROPERTY SHALL BE ASCERTAINED AS PROVIDED BY ARTICLE IX, SECTION 8, CONSTITUTION OF ARIZONA. A school district shall not issue class B bonds until the proceeds of any class A bonds issued by the school district have been obligated in contract. The total amount of class A and class

B bonds issued by a school district sha ll not exceed the debt limitations prescribed in article IX, section 8, Constitution of Arizona.

C. Until December 31, 1999, a unified school district, as defined under article IX, section 8.1, Constitution of Arizona, may issue class A bonds for the purposes sp ecified in this section and chapter 4, article 5 of this title to an amount in the aggregate, including the existing indebtedness, not exceeding thirty ~~per cent~~ PERCENT of the taxable property used for secondary property tax purposes, as determined pursuant to title 42, chapter 15, article 1, within a unified school district as ascertained by the last property tax assessment previous to issuing the bonds.

D. From and after December 31, 1998, a unified school district, as defined under article IX, section 8.1, Constitution of Arizona, may issue class B bonds for the purposes specified in this section and chapter 4, article 5 of this title to an amount in the aggregate, including the existing class B indebtedness, not exceeding twenty ~~per cent~~ PERCENT of the VALUE OF THE taxable property ~~used for secondary tax purposes, as determined pursuant to title 42, chapter 15, article 1, within a school district as ascertained by the last assessment of state and county taxes previous to issuing the bonds~~ IN THAT SCHOOL DISTRICT, or one thousand five hundred dollars per student count pursuant to section 15-901, subsection A, paragraph 13, whichever amount is greater. THE VALUE OF THE TAXABLE PROPERTY SHALL BE ASCERTAINED AS PROVIDED BY ARTICLE IX, SECTION 8, CONSTITUTION OF ARIZONA. A unified school district shall not issue class B bonds until the proceeds of any class A bonds issued by the unified school district have been obligated in contract. The total amount of class A and class B bonds issued by a unified school district shall not exceed the debt limitations prescribed in article IX, section 8.1, Constitution of Arizona.

E. No bonds authorized to be issued by an election held after July 1, 1980 and before November 24, 2009 may be issued more than six years after the date of the election, except that the time period may be extended to ten years pursuant to an election conducted pursuant to section 15-491, subsection A, paragraph 6 and except that class A bonds shall not be issued after December 31, 1999. No bonds authorized to be issued by an election held after November 24, 2009 may be issued more than ten years after the date of the election.

F. Except as provided in section 15-491, subsection A, paragraph 3, bond proceeds shall not be expended for items whose useful life is less than the average life of the bonds issued, except that bond proceeds shall not be expended for items whose useful life is less than five years.

G. A joint technical education district shall not spend class B bond proceeds to construct or renovate a facility located on the campus of a school in a school district that participates in the joint district unless the facility is only used to provide career and technical education and is available to all pupils who live within the joint technical education district. If the facility is not owned by the joint technical education district, an intergovernmental agreement or a written contract shall be executed for ten years or the duration of the bonded indebtedness, whichever is greater. The intergovernmental agreement or written contract shall include provisions:

1. That preserve the usage of the facility renovated or constructed, or both, only for career and technology programs operated by the joint technical education district.

2. That include the process to be used by the participating district to compensate the joint technical education district in the event that the facility is no longer used only for career and technical education programs offered by the joint technical education district during the life of the bond.

H. A school district shall not authorize, issue or sell bonds pursuant to this section if the school district has any existing indebtedness from impact aid revenue bonds pursuant to chapter 16, article 8 of this title, except for bonds issued to refund any bonds issued by the governing board.

**Sec. 5.** Section 15-1103, Arizona Revised Statutes, is amended to read:

**15-1103. Insurance proceeds fund; disposition of proceeds**

A. Monies received for and derived from insurance losses shall be deposited with the county treasurer who shall credit the deposits to the insurance proceeds fund of the respective school district. The insurance proceeds fund of a school district is a continuing fund not subject to reversion.

B. The governing board, or the superintendent or chief administrative officer with the approval of the governing board, may apply the proceeds from insurance recoveries to the payment of any outstanding bonded indebtedness of the school district ~~which~~ THAT is payable from the levy of taxes ~~upon~~ ON property within the school district.

C. The governing board, or the superintendent or chief administrative officer with the approval of the governing board, may apply the proceeds of insurance recoveries to construct, acquire, improve, repair or furnish school ~~buildings~~ PROPERTY after notice and a hearing.

**Sec. 6.** Section 15-1122, Arizona Revised Statutes, is amended to read:

**15-1122. Student activities treasurer; assistant student activities treasurer; administration of student activities monies**

A. The governing board of any school district having student activities monies shall establish a student activities fund and appoint a student activities treasurer. The student activities treasurer shall deposit the student activities monies in a bank account designated the student activities account OR IN AN ACCOUNT WITH THE COUNTY TREASURER PURSUANT TO SECTION 15-996 THAT IS DESIGNATED AS OTHER MONIES. In school districts ~~which~~ THAT have multiple schools the governing board may designate an assistant student activities treasurer for each school. Each assistant student activities treasurer shall deposit student activities monies in the school district's student activities bank account, IN THE ACCOUNT WITH THE COUNTY TREASURER or in student activities bank accounts established separately for each school. Disbursements from the student activities accounts shall be by check, signed by two persons, one of whom shall be either the student activities treasurer or an assistant student activities treasurer and one of whom shall be any other person authorized to sign by the governing board. FOR SCHOOL DISTRICTS THAT DO NOT ASSUME ACCOUNTING

RESPONSIBILITY PURSUANT TO SECTION 15-914.01, DISBURSEMENTS MAY BE MADE BY COUNTY WARRANTS ISSUED PURSUANT TO SECTION 15-304 AND DESIGNATED AS OTHER MONIES. The governing board may appoint more than one person to act as cosigner with the student activities treasurer or assistant student activities treasurer. Any disbursement shall be authorized by or on behalf of the student members of the particular club or organization as provided in the uniform system of financial records. The student activities treasurer and assistant student activities treasurers shall give bonds in an amount determined by the governing board, and the cost of bond premiums shall be a charge against the school district.

B. Accounts showing the balances due the respective student organizations as provided in section 15-1121 shall be kept by the student activities treasurer and assistant student activities treasurers and shall be open to inspection by officers of the student bodies concerned.

**Sec. 7.** Section 15-1126, Arizona Revised Statutes, is amended to read:

**15-1126. Accounting; deposit; disposition of monies**

A. Auxiliary operations fund monies shall be accounted for in accordance with the requirements of the uniform system of financial records.

B. Auxiliary operations fund monies shall be deposited after authorization by the governing board in a bank account designated as the auxiliary operations fund OR IN AN ACCOUNT WITH THE COUNTY TREASURER PURSUANT TO SECTION 15-996 THAT IS DESIGNATED AS OTHER MONIES. Disbursements from the fund shall be authorized by the governing board. Disbursements shall be made by check signed by two employees of the school district designated by the governing board. FOR SCHOOL DISTRICTS THAT DO NOT ASSUME ACCOUNTING RESPONSIBILITY PURSUANT TO SECTION 15-914.01, DISBURSEMENTS MAY BE MADE BY COUNTY WARRANTS ISSUED PURSUANT TO SECTION 15-304 AND DESIGNATED AS OTHER MONIES. Persons authorized by the governing board to sign checks shall give a bond in an amount determined by the governing board, and the cost of bond premiums may be a charge against the fund.

C. Auxiliary operations fund monies may be invested and reinvested by the governing board of a school district. All monies earned by investment shall be credited to the auxiliary operations fund of the school district.

D. The governing board may establish an imprest petty cash fund at each school within the school district for activities ~~which~~ THAT require immediate cash outlays for postage, freight, express, parcel post, travel or other minor disbursements, but not including salaries or wages, ~~which~~ AND THAT are proper as ultimate expenditures from the school district auxiliary operations fund. Imprest petty cash funds established by the governing board shall be funded from the school district auxiliary operations fund in an amount to be determined by the governing board.

E. The governing board may establish a revolving fund bank account for each school within the school district for necessary current expenditures in connection with school bookstore and athletic activities. The revolving funds shall be funded from the auxiliary operations fund in an amount to be determined by the

governing board. The school shall return the monies in the revolving fund bank account at the end of each fiscal year to the credit of the school district auxiliary operations fund.

**Sec. 8. Retroactivity**

Section 15-823, Arizona Revised Statutes, as amended by this act, is effective retroactively to from and after June 30, 2014.

**Sec. 9. K-3 reading; administrative costs**

Notwithstanding any other law, in fiscal year 2015-2016 the department of education may use up to $500,000 of the amount appropriated for K-3 reading by Laws 2015, chapter 8, section 34 for technical assistance and state level administration of the K-3 reading program. Prior to the expenditure of any monies for technical assistance and state level administration of the K-3 reading program under this section the department of education shall submit the expenditure plan for those monies to the joint legislative budget committee for review.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## STUDENT LOAN BONDS—APPROVAL CRITERIA

### CHAPTER 311

### H. B. 2482

**AN ACT AMENDING SECTIONS 35-771, 35-772 AND 35-773, ARIZONA REVISED STATUTES; RELATING TO STUDENT LOAN BOND PROGRAMS.**

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

**Section 1.** Section 35-771, Arizona Revised Statutes, is amended to read:

**35-771. Definitions**

In this article, unless the context otherwise requires:

1. "Educational institution" means a university under the jurisdiction of the Arizona board of regents, a community college in this state, an accredited private postsecondary institution eligible under title IV of the higher education act of 1965 licensed by this state and any other accredited institution eligible under title IV of the higher education act of 1965 offering postsecondary education or courses, whether located within or outside of the boundaries of this state, that awards any eligible degree.

2. "Eligible degree" means any postsecondary degree or program.

3. "Eligible lender" means an entity affiliated or contracting with a corporation or a qualified educational institution that may make student loans to eligible students or to the parents of eligible students or a nonprofit entity that is

exempt from taxation under section 501(c)(3) of the internal revenue code and that makes student loans.

4. "Eligible student" means any student attending any qualified educational institution and any resident of this state attending any educational institution.

5. "Parent" means a student's mother, father, adoptive parent, grandparent or guardian or any person with the duty and authority to make important decisions in matters having a permanent effect on the life and development of a student and to be concerned about the student's general welfare.

6. "Qualified educational institution" means an educational institution, as defined in paragraph 1 of this section, with a campus and facilities located in this state that offers one or more eligible degrees.

7. "State program representative" means the ~~governor~~ STATE TREASURER or the ~~governor's~~ STATE TREASURER'S designee.

8. "Student loan" means a loan to or for the benefit of an eligible student for the purpose of financing all or a part of the eligible student's cost of attending an educational institution in pursuit of an eligible degree or refinancing any such loan previously made.

**Sec. 2.** Section 35-772, Arizona Revised Statutes, is amended to read:

**35-772. Student loan bonds**

A. In addition to any powers granted under this chapter, a corporation is authorized to issue bonds in order to finance student loans made in a student loan program established pursuant to this article and to issue refunding bonds to refund bonds previously issued under this article as provided in this chapter.

B. A corporation, in furtherance of a student loan program, shall have the power to:

1. Determine the nature of student loan programs for eligible students or their parents for which the corporation will issue bonds.

2. Enter into contracts for any or all student loan program purposes.

3. Enter into contracts for the origination, administration or servicing of student loans.

4. Designate a particular qualified educational institution or institutions, or eligible lender or lenders, as its agent for accomplishing its purposes.

5. Make loans with proceeds of the sale of its bonds to any eligible student, any parent of an eligible student, any educational institution or any eligible lender in accordance with an agreement between the corporation and other parties. The agreements may provide that the proceeds of any loan made to an educational institution or eligible lender shall be used by the educational institution or eligible lender to purchase, originate or make loans only to or for the benefit of eligible students attending designated qualified educational institutions, or to the parents of those students.

6. Acquire, purchase and make commitments to purchase student loans with proceeds of the sale of its bonds from any educational institution or eligible lender in accordance with an agreement between the corporation and other parties. The agreement may provide that the student loans be made only to or for the benefit of

eligible students attending designated educational institutions, or to the parents of those students.

7. Receive and accept from any public agency or any other source loans, grants, guarantees or insurance with respect to student loans and student loan programs.

8. Establish guidelines governing the actions of qualified educational institutions and eligible lenders participating in the corporation's student loan program.

9. Perform any acts incidental to and that it deems necessary to execute the powers listed in this article.

C. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, a corporation shall not issue bonds to finance student loans pursuant to this article unless the corporation has approved a plan for the student loan program to be financed by the bonds and has submitted the plan for review and approval by the state program representative pursuant to section 35-773. A corporation shall follow the plan as submitted and approved except for insubstantial deviations determined by the corporation's board of directors to be necessary for the successful issuance of the bonds and establishment and operation of the program. The plan submitted to the state program representative must establish at least the following:

1. The criteria for participation in the program by educational institutions, eligible lenders and eligible students.

2. The general terms of the student loans and the program.

3. Any other information reasonably requested by the state program representative.

D. A CORPORATION MAY ISSUE BONDS WITHOUT APPROVING A PLAN OR SUBMITTING A PLAN FOR REVIEW AND APPROVAL TO THE STATE PROGRAM REPRESENTATIVE IF THE ISSUANCE IS FOR EITHER:

1. REFUNDING BONDS, THE PROCEEDS OF WHICH ARE EXCLUSIVELY USED TO REFUND BONDS PREVIOUSLY ISSUED PURSUANT TO THIS ARTICLE.

2. ADDITIONAL BONDS ISSUED UNDER THE SAME GOVERNING DOCUMENTS AND SECURED ON THE SAME BASIS AS BONDS DESCRIBED IN A PLAN PREVIOUSLY APPROVED BY THE CORPORATION AND REVIEWED AND APPROVED BY THE STATE PROGRAM REPRESENTATIVE IF THE ADDITIONAL BONDS ARE RATED IN THE "A" CATEGORY OR BETTER, WITHOUT REGARD TO MODIFIERS WITHIN THE "A" CATEGORY, BY A NATIONALLY RECOGNIZED BOND RATING AGENCY.

E. A CORPORATION SHALL NOTIFY THE STATE PROGRAM REPRESENTATIVE IN WRITING AT LEAST SIXTY DAYS BEFORE ISSUING BONDS PURSUANT TO SUBSECTION D OF THIS SECTION. THE WRITTEN NOTIFICATION MUST SET FORTH THE BASIS UNDER SUBSECTION D OF THIS SECTION FOR THE ISSUANCE.

~~D.~~ F. A corporation that has approved a plan for issuing student loan bonds and a student loan program to be financed by the bonds under this article is a student loan corporation for the purposes of chapter 7 of this title.

**Sec. 3.** Section 35-773, Arizona Revised Statutes, is amended to read:

**35-773. State program; representative; plan approval; bond rating**

A. All industrial development authorities are authorized to exercise powers and issue revenue bonds to finance student loans in accordance with this chapter so that the state's student loan program is available for eligible students at educational institutions as a student loan program of general application in this state and approved by this state.

B. The state program representative shall approve or disapprove a plan submitted under section 35-772, with or without a hearing, not later than thirty days after receipt of the plan and shall promptly notify the corporation that submitted the plan of the approval or disapproval. If the state program representative does not notify the corporation that submitted the plan of the approval or disapproval within forty-five days after receiving the plan, the plan is deemed approved. Approval of a plan constitutes a finding by the state program representative that:

1. The origination or acquisition of student loans by the corporation or its agent or agents, a qualified educational institution or an eligible lender to eligible students or their parents will assist the students in attending an educational institution and financing the student's education.

2. Adequate provision has been or will be made for the payment of the principal of or interest on any bonds issued by the corporation to finance the loan program~~.~~

~~3. Adequate provision has been made~~ AND for ~~the payment of~~ the reasonable expenses of the administration of the loan program.

~~4.~~ 3. The proposed procedures for application of the bond proceeds, the collection of payments, interest charges and any other matters concerning the administration of the loan program are in conformance with the ~~law~~ LAWS OF THIS STATE.

C. IF THE BONDS ARE RATED IN THE "A" CATEGORY OR BETTER, WITHOUT REGARD TO MODIFIERS WITHIN THE "A" CATEGORY, BY A NATIONALLY RECOGNIZED BOND RATING AGENCY, THAT RATING IS CONCLUSIVE PROOF THAT ADEQUATE PROVISION FOR PAYMENT HAS BEEN MADE PURSUANT TO SUBSECTION B, PARAGRAPH 2 OF THIS SECTION.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# RENTAL ASSISTANCE FOR SERIOUSLY MENTALLY ILL PERSONS

## CHAPTER 312

## H. B. 2488

**AN ACT AMENDING SECTION 41-3955.01, ARIZONA REVISED STATUTES; AMENDING SECTION 41-3955.01, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; RELATING TO HOUSING ASSISTANCE.**

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

**Section 1.** Section 41-3955.01, Arizona Revised Statutes, is amended to read:

**41-3955.01. Seriously mentally ill housing trust fund; purpose; report**

A. The seriously mentally ill housing trust fund is established. The director of the department of health services shall administer the fund. The fund consists of monies received pursuant to section 44-313 and investment earnings.

B. On notice from the department of health services, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

C. Fund monies shall be spent on approval of the department of health services solely for housing projects AND RENTAL ASSISTANCE for ~~the~~ seriously mentally ill PERSONS.

D. The director of the department of health services shall report annually to the legislature on the status of the seriously mentally ill housing trust fund. The report shall include a summary of facilities for which funding was provided during the preceding fiscal year and shall show the cost and geographic location of each facility and the number of individuals benefiting from the operation, construction or renovation of the facility. The report shall be submitted to the president of the senate and the speaker of the house of representatives no later than September 1 of each year.

E. Monies in the seriously mentally ill housing trust fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

F. An amount not to exceed ten ~~per cent~~ PERCENT of the seriously mentally ill housing trust fund monies may be appropriated annually by the legislature to the department of health services for administrative costs in providing services relating to the seriously mentally ill housing trust fund.

G. For any construction project financed by the department of health services pursuant to this section, the department of health services shall notify a city, town, county or tribal government that a project is planned for its jurisdiction and, before proceeding, shall seek comment from the governing body of the city, town, county or

tribal government or an official authorized by the governing body of the city, town, county or tribal government. The department of health services shall not interfere with or attempt to override the local jurisdiction's planning, zoning or land use regulations.

**Sec. 2.** Section 41-3955.01, Arizona Revised Statutes, as amended by section 1 of this act, is amended to read:

**41-3955.01. Seriously mentally ill housing trust fund; purpose; report**

A. The seriously mentally ill housing trust fund is established. The director of the department of health services shall administer the fund. The fund consists of monies received pursuant to section 44-313 and investment earnings.

B. On notice from the department of health services, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

C. Fund monies shall be spent on approval of the department of health services solely for housing projects ~~and rental assistance~~ for seriously mentally ill persons.

D. The director of the department of health services shall report annually to the legislature on the status of the seriously mentally ill housing trust fund. The report shall include a summary of facilities for which funding was provided during the preceding fiscal year and shall show the cost and geographic location of each facility and the number of individuals benefiting from the operation, construction or renovation of the facility. The report shall be submitted to the president of the senate and the speaker of the house of representatives no later than September 1 of each year.

E. Monies in the seriously mentally ill housing trust fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

F. An amount not to exceed ten percent of the seriously mentally ill housing trust fund monies may be appropriated annually by the legislature to the department of health services for administrative costs in providing services relating to the seriously mentally ill housing trust fund.

G. For any construction project financed by the department of health services pursuant to this section, the department of health services shall notify a city, town, county or tribal government that a project is planned for its jurisdiction and, before proceeding, shall seek comment from the governing body of the city, town, county or tribal government or an official authorized by the governing body of the city, town, county or tribal government. The department of health services shall not interfere with or attempt to override the local jurisdiction's planning, zoning or land use regulations.

**Sec. 3. Effective date**

Section 41-3955.01, Arizona Revised Statutes, as amended by section 2 of this act, is effective from and after December 31, 2017.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

# ADMINISTRATION OF OPIATE ANTAGONISTS— STANDING ORDERS

## CHAPTER 313

## H. B. 2489

**AN ACT AMENDING SECTIONS 32-1401, 32-1854 AND 32-1901.01, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 21.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2228; RELATING TO THE ADMINISTRATION OF OPIATE ANTAGONISTS.**

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

**Section 1.** Section 32-1401, Arizona Revised Statutes, is amended to read:

**32-1401. Definitions**

In this chapter, unless the context otherwise requires:

1. "Active license" means a valid and existing license to practice medicine.

2. "Adequate records" means legible medical records, produced by hand or electronically, containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment.

3. "Advisory letter" means a nondisciplinary letter to notify a licensee that either:

(a) While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

(b) The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

(c) While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.

4. "Approved hospital internship, residency or clinical fellowship program" means a program at a hospital that at the time the training occurred was legally incorporated and that had a program that was approved for internship, fellowship or residency training by the accreditation council for graduate medical education, the association of American medical colleges, the royal college of physicians and surgeons of Canada or any similar body in the United States or Canada approved by the board whose function is that of approving hospitals for internship, fellowship or residency training.

5. "Approved school of medicine" means any school or college offering a course of study that, on successful completion, results in the degree of doctor of medicine and whose course of study has been approved or accredited by an educational or professional association, recognized by the board, including the association of American medical colleges, the association of Canadian medical colleges or the American medical association.

6. "Board" means the Arizona medical board.

7. "Completed application" means that the applicant has supplied all required fees, information and correspondence requested by the board on forms and in a manner acceptable to the board.

8. "Direct supervision" means that a physician, physician assistant licensed pursuant to chapter 25 of this title or nurse practitioner certified pursuant to chapter 15 of this title is within the same room or office suite as the medical assistant in order to be available for consultation regarding those tasks the medical assistant performs pursuant to section 32-1456.

9. "Dispense" means the delivery by a doctor of medicine of a prescription drug or device to a patient, except for samples packaged for individual use by licensed manufacturers or repackagers of drugs, and includes the prescribing, administering, packaging, labeling and security necessary to prepare and safeguard the drug or device for delivery.

10. "Doctor of medicine" means a natural person holding a license, registration or permit to practice medicine pursuant to this chapter.

11. "Full-time faculty member" means a physician employed full time as a faculty member while holding the academic position of assistant professor or a higher position at an approved school of medicine.

12. "Health care institution" means any facility as defined in section 36-401, any person authorized to transact disability insurance, as defined in title 20, chapter 6, article 4 or 5, any person who is issued a certificate of authority pursuant to title 20, chapter 4, article 9 or any other partnership, association or corporation that provides health care to consumers.

13. "Immediate family" means the spouse, natural or adopted children, father, mother, brothers and sisters of the doctor and the natural or adopted children, father, mother, brothers and sisters of the doctor's spouse.

14. "Letter of reprimand" means a disciplinary letter that is issued by the board and that informs the physician that the physician's conduct violates state or federal law and may require the board to monitor the physician.

15. "Limit" means taking a nondisciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be mentally or physically unable to safely engage in the practice of medicine.

16. "Medical assistant" means an unlicensed person who meets the requirements of section 32-1456, has completed an education program approved by the board, assists in a medical practice under the supervision of a doctor of medicine, physician assistant or nurse practitioner and performs delegated procedures commensurate with the assistant's education and training but does not diagnose,

interpret, design or modify established treatment programs or perform any functions that would violate any statute applicable to the practice of medicine.

17. "Medical peer review" means:

(a) The participation by a doctor of medicine in the review and evaluation of the medical management of a patient and the use of resources for patient care.

(b) Activities relating to a health care institution's decision to grant or continue privileges to practice at that institution.

18. "Medically incompetent" means a person who the board determines is incompetent based on a variety of factors, including:

(a) A lack of sufficient medical knowledge or skills, or both, to a degree likely to endanger the health of patients.

(b) When considered with other indications of medical incompetence, failing to obtain a scaled score of at least seventy-five ~~per cent~~ PERCENT on the written special purpose licensing examination.

19. "Medicine" means allopathic medicine as practiced by the recipient of a degree of doctor of medicine.

20. "Office based surgery" means a medical procedure conducted in a physician's office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center.

21. "Physician" means a doctor of medicine licensed pursuant to this chapter.

22. "Practice of medicine" means the diagnosis, the treatment or the correction of or the attempt or the claim to be able to diagnose, treat or correct any and all human diseases, injuries, ailments, infirmities, deformities, physical or mental, real or imaginary, by any means, methods, devices or instrumentalities, except as the same may be among the acts or persons not affected by this chapter. The practice of medicine includes the practice of medicine alone or the practice of surgery alone, or both.

23. "Restrict" means taking a disciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be medically incompetent or guilty of unprofessional conduct.

24. "Special purpose licensing examination" means an examination developed by the national board of medical examiners on behalf of the federation of state medical boards for use by state licensing boards to test the basic medical competence of physicians who are applying for licensure and who have been in practice for a considerable period of time in another jurisdiction and to determine the competence of a physician under investigation by a state licensing board.

25. "Teaching hospital's accredited graduate medical education program" means that the hospital is incorporated and has an internship, fellowship or residency training program that is accredited by the accreditation council for graduate medical education, the American medical association, the association of American medical colleges, the royal college of physicians and surgeons of Canada or a similar body in the United States or Canada approved by the board whose function is that of approving hospitals for internship, fellowship or residency training.

26. "Teaching license" means a valid license to practice medicine as a full-time faculty member of an approved school of medicine or a teaching hospital's accredited graduate medical education program.

27. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:

(a) Violating any federal or state laws, rules or regulations applicable to the practice of medicine.

(b) Intentionally disclosing a professional secret or intentionally disclosing a privileged communication except as either act may otherwise be required by law.

(c) False, fraudulent, deceptive or misleading advertising by a doctor of medicine or the doctor's staff, employer or representative.

(d) Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

(e) Failing or refusing to maintain adequate records on a patient.

(f) Habitual intemperance in the use of alcohol or habitual substance abuse.

(g) Using controlled substances except if prescribed by another physician for use during a prescribed course of treatment.

(h) Prescribing or dispensing controlled substances to members of the physician's immediate family.

(i) Prescribing, dispensing or administering schedule II controlled substances as defined in section 36-2513 including amphetamines and similar schedule II sympathomimetic drugs in the treatment of exogenous obesity for a period in excess of thirty days in any one year, or the ~~non-therapeutic~~ NONTHERAPEUTIC use of injectable amphetamines.

(j) Prescribing, dispensing or administering any controlled substance or prescription-only drug for other than accepted therapeutic purposes.

(k) Signing a blank, undated or predated prescription form.

(l) Conduct that the board determines is gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient.

(m) Representing that a manifestly incurable disease or infirmity can be permanently cured, or that any disease, ailment or infirmity can be cured by a secret method, procedure, treatment, medicine or device, if this is not true.

(n) Refusing to divulge to the board on demand the means, method, procedure, modality of treatment or medicine used in the treatment of a disease, injury, ailment or infirmity.

(o) Action that is taken against a doctor of medicine by another licensing or regulatory jurisdiction due to that doctor's mental or physical inability to engage safely in the practice of medicine or the doctor's medical incompetence or for unprofessional conduct as defined by that jurisdiction and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken may include refusing, denying, revoking or suspending a license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise limiting,

restricting or monitoring a licensee by that jurisdiction or placing a licensee on probation by that jurisdiction.

(p) Sanctions imposed by an agency of the federal government, including restricting, suspending, limiting or removing a person from the practice of medicine or restricting that person's ability to obtain financial remuneration.

(q) Any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.

(r) Violating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter.

(s) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision of this chapter.

(t) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or if applying for privileges or renewing an application for privileges at a health care institution.

(u) Charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement that has the same effect. This subdivision does not apply to payments from a medical researcher to a physician in connection with identifying and monitoring patients for a clinical trial regulated by the United States food and drug administration.

(v) Obtaining a fee by fraud, deceit or misrepresentation.

(w) Charging or collecting a clearly excessive fee. In determining if a fee is clearly excessive, the board shall consider the fee or range of fees customarily charged in the state for similar services in light of modifying factors such as the time required, the complexity of the service and the skill requisite to perform the service properly. This subdivision does not apply if there is a clear written contract for a fixed fee between the physician and the patient that has been entered into before the provision of service.

(x) Fetal experiments conducted in violation of section 36-2302.

(y) The use of experimental forms of diagnosis and treatment without adequate informed patient consent, and without conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee as approved by the federal food and drug administration or its successor agency.

(z) Engaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee. For the purposes of this subdivision, "sexual conduct" includes:

(i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual.

(ii) Making sexual advances, requesting sexual favors or engaging in any other verbal conduct or physical contact of a sexual nature.

(iii) Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under current practice standards.

(aa) Procuring or attempting to procure a license to practice medicine or a license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

(bb) Representing or claiming to be a medical specialist if this is not true.

(cc) Maintaining a professional connection with or lending one's name to enhance or continue the activities of an illegal practitioner of medicine.

(dd) Failing to furnish information in a timely manner to the board or the board's investigators or representatives if legally requested by the board.

(ee) Failing to allow properly authorized board personnel on demand to examine and have access to documents, reports and records maintained by the physician that relate to the physician's medical practice or medically related activities.

(ff) Knowingly failing to disclose to a patient on a form that is prescribed by the board and that is dated and signed by the patient or guardian acknowledging that the patient or guardian has read and understands that the doctor has a direct financial interest in a separate diagnostic or treatment agency or in nonroutine goods or services that the patient is being prescribed and if the prescribed treatment, goods or services are available on a competitive basis. This subdivision does not apply to a referral by one doctor of medicine to another doctor of medicine within a group of doctors of medicine practicing together.

(gg) Using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy, with the exception of treatment of heavy metal poisoning, without:

(i) Adequate informed patient consent.

(ii) Conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee.

(iii) Approval by the federal food and drug administration or its successor agency.

(hh) Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes.

(ii) Lack of or inappropriate direction, collaboration or direct supervision of a medical assistant or a licensed, certified or registered health care provider employed by, supervised by or assigned to the physician.

(jj) Knowingly making a false or misleading statement to the board or on a form required by the board or in a written correspondence, including attachments, with the board.

(kk) Failing to dispense drugs and devices in compliance with article 6 of this chapter.

(ll) Conduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient.

(mm) The representation by a doctor of medicine or the doctor's staff, employer or representative that the doctor is boarded or board certified if this is not true or the standing is not current or without supplying the full name of the specific agency, organization or entity granting this standing.

(nn) Refusing to submit to a body fluid examination or any other examination known to detect the presence of alcohol or other drugs as required by the board pursuant to section 32-1452 or pursuant to a board investigation into a doctor of medicine's alleged substance abuse.

(oo) Failing to report in writing to the Arizona medical board or the Arizona regulatory board of physician assistants any evidence that a doctor of medicine or a physician assistant is or may be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to safely practice medicine or to perform as a physician assistant.

(pp) The failure of a physician who is the chief executive officer, the medical director or the medical chief of staff of a health care institution to report in writing to the board that the hospital privileges of a doctor of medicine have been denied, revoked, suspended, supervised or limited because of actions by the doctor that appear to show that the doctor is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be unable to engage safely in the practice of medicine.

(qq) Claiming to be a current member of the board, its staff or a board medical consultant if this is not true.

(rr) Failing to make patient medical records in the physician's possession promptly available to a physician assistant, a nurse practitioner, a person licensed pursuant to this chapter or a podiatrist, chiropractor, naturopathic physician, osteopathic physician or homeopathic physician licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper authorization to do so from the patient, a minor patient's parent, the patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.

(ss) Prescribing, dispensing or furnishing a prescription medication or a prescription-only device as defined in section 32-1901 to a person unless the licensee first conducts a physical or mental health status examination of that person or has previously established a doctor-patient relationship. The physical or mental health status examination may be conducted during a real-time telemedicine encounter with audio and video capability if the telemedicine audio and video capability meets the elements required by the centers for medicare and medicaid services, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This subdivision does not apply to:

(i) A physician who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.

(ii) Emergency medical situations as defined in section 41-1831.

(iii) Prescriptions written to prepare a patient for a medical examination.

(iv) Prescriptions written or prescription medications issued for use by a county or tribal public health department for immunization programs or emergency

treatment or in response to an infectious disease investigation, public health emergency, infectious disease outbreak or act of bioterrorism. For the purposes of this item, "bioterrorism" has the same meaning prescribed in section 36-781.

(v) Prescriptions written or antimicrobials dispensed to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661 by the prescribing or dispensing physician.

(vi) Prescriptions written or prescription medications issued for administration of immunizations or vaccines listed in the United States centers for disease control and prevention's recommended immunization schedule to a household member of a patient.

(vii) Prescriptions for epinephrine auto-injectors written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-157.

(viii) Prescriptions written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

(ix) PRESCRIPTIONS FOR NALOXONE HYDROCHLORIDE OR ANY OTHER OPIATE ANTAGONIST APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION THAT ARE WRITTEN OR DISPENSED FOR USE PURSUANT TO SECTION 36-2228.

(tt) Performing office based surgery using sedation in violation of board rules.

(uu) Practicing medicine under a false or assumed name in this state.

**Sec. 2.** Section 32-1854, Arizona Revised Statutes, is amended to read:

**32-1854. Definition of unprofessional conduct**

For the purposes of this chapter, "unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:

1. Wilfully betraying a professional secret or wilfully violating a privileged communication except as either of these may otherwise be required by law. This paragraph does not prevent members of the board from exchanging information with the licensing and disciplinary boards of other states, territories or districts of the United States or with foreign countries or with osteopathic medical organizations located in this state or in any state, district or territory of this country or in any foreign country.

2. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case conviction by any court of competent jurisdiction is conclusive evidence of the commission.

3. Practicing medicine while under the influence of alcohol, narcotic or hypnotic drugs or any substance that impairs or may impair the licensee's ability to safely and skillfully practice medicine.

4. Being diagnosed by a physician licensed under this chapter or chapter 13 of this title or a psychologist licensed under chapter 19.1 of this title as excessively or illegally using alcohol or a controlled substance.

5. Prescribing, dispensing or administering controlled substances or prescription-only drugs for other than accepted therapeutic purposes.

6. Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard.

7. Impersonating another physician.

8. Acting or assuming to act as a member of the board if this is not true.

9. Procuring, renewing or attempting to procure or renew a license to practice osteopathic medicine by fraud or misrepresentation.

10. Having professional connection with or lending one's name to an illegal practitioner of osteopathic medicine or any of the other healing arts.

11. Representing that a manifestly incurable disease, injury, ailment or infirmity can be permanently cured or that a curable disease, injury, ailment or infirmity can be cured within a stated time, if this is not true.

12. Failing to reasonably disclose and inform the patient or the patient's representative of the method, device or instrumentality the licensee uses to treat the patient's disease, injury, ailment or infirmity.

13. Refusing to divulge to the board on demand the means, method, device or instrumentality used in the treatment of a disease, injury, ailment or infirmity.

14. Charging a fee for services not rendered or dividing a professional fee for patient referrals. This paragraph does not apply to payments from a medical researcher to a physician in connection with identifying and monitoring patients for clinical trial regulated by the United States food and drug administration.

15. Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or when applying for or renewing privileges at a health care institution or a health care program.

16. Advertising in a false, deceptive or misleading manner.

17. Representing or claiming to be an osteopathic medical specialist if the physician has not satisfied the applicable requirements of this chapter or board rules.

18. The denial of or disciplinary action against a license by any other state, territory, district or country, unless it can be shown that this occurred for reasons that did not relate to the person's ability to safely and skillfully practice osteopathic medicine or to any act of unprofessional conduct as provided in this section.

19. Any conduct or practice contrary to recognized standards of ethics of the osteopathic medical profession.

20. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any of the provisions of this chapter.

21. Failing or refusing to establish and maintain adequate records on a patient as follows:

(a) If the patient is an adult, for at least seven years after the last date the licensee provided the patient with medical or health care services.

(b) If the patient is a child, either for at least three years after the child's eighteenth birthday or for at least seven years after the last date the licensee provided that patient with medical or health care services, whichever date occurs first.

(c) If the patient dies before the expiration of the dates prescribed in subdivision (a) or (b) of this paragraph, for at least three years after the patient's death.

22. Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment.

23. Prescribing controlled substances to members of one's immediate family unless there is no other physician available within fifty miles to treat a member of the family and an emergency exists.

24. Nontherapeutic use of injectable amphetamines.

25. Violating a formal order, probation or a stipulation issued by the board under this chapter.

26. Charging or collecting an inappropriate fee. This paragraph does not apply to a fee that is fixed in a written contract between the physician and the patient and entered into before treatment begins.

27. Using experimental forms of therapy without adequate informed patient consent or without conforming to generally accepted criteria and complying with federal and state statutes and regulations governing experimental therapies.

28. Failing to make patient medical records in the physician's possession promptly available to a physician assistant, a nurse practitioner, a person licensed pursuant to this chapter or a podiatrist, chiropractor, naturopathic physician, physician or homeopathic physician licensed under chapter 7, 8, 13, 14 or 29 of this title on receipt of proper authorization to do so from the patient, a minor patient's parent, the patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.

29. Failing to allow properly authorized board personnel to have, on presentation of a subpoena, access to any documents, reports or records that are maintained by the physician and that relate to the physician's medical practice or medically related activities pursuant to section 32-1855.01.

30. Signing a blank, undated or predated prescription form.

31. Obtaining a fee by fraud, deceit or misrepresentation.

32. Failing to report to the board an osteopathic physician and surgeon who is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine.

33. Referring a patient to a diagnostic or treatment facility or prescribing goods and services without disclosing that the physician has a direct pecuniary interest in the facility, goods or services to which the patient has been referred or prescribed. This paragraph does not apply to a referral by one physician to another physician within a group of physicians practicing together.

34. Lack of or inappropriate direction, collaboration or supervision of a licensed, certified or registered health care provider or office personnel employed by or assigned to the physician in the medical care of patients.

35. Violating a federal law, a state law or a rule applicable to the practice of medicine.

36. Prescribing or dispensing controlled substances or prescription-only medications without establishing and maintaining adequate patient records.

37. Failing to dispense drugs and devices in compliance with article 4 of this chapter.

38. Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

39. Any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so.

40. With the exception of heavy metal poisoning, using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy without adequate informed patient consent and without conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee.

41. Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes.

42. Engaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee. For the purposes of this paragraph, "sexual conduct" includes:

(a) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual.

(b) Making sexual advances, requesting sexual favors or engaging in any other verbal conduct or physical conduct of a sexual nature.

43. Fetal experiments conducted in violation of section 36-2302.

44. Conduct that the board determines constitutes gross negligence, repeated negligence or negligence that results in harm or death of a patient.

45. Conduct in the practice of medicine that evidences moral unfitness to practice medicine.

46. Engaging in disruptive or abusive behavior in a professional setting.

47. Failing to disclose to a patient that the licensee has a direct financial interest in a prescribed treatment, good or service if the treatment, good or service is available on a competitive basis. This paragraph does not apply to a referral by one licensee to another licensee within a group of licensees who practice together. A licensee meets the disclosure requirements of this paragraph if all of the following are true:

(a) The licensee makes the disclosure on a form prescribed by the board.

(b) The patient or the patient's guardian or parent acknowledges by signing the form that the licensee has disclosed the licensee's direct financial interest.

48. Prescribing, dispensing or furnishing a prescription medication or a prescription-only device to a person if the licensee has not conducted a physical or mental health status examination of that person or has not previously established a physician-patient relationship. The physical or mental health status examination may be conducted during a real-time telemedicine encounter with audio and video capability if the telemedicine audio and video capability meets the elements required

by the centers for medicare and medicaid services, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This paragraph does not apply to:

(a) Emergencies.

(b) A licensee who provides patient care on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.

(c) Prescriptions written or antimicrobials dispensed to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661 by the prescribing or dispensing physician.

(d) Prescriptions for epinephrine auto-injectors written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-157.

(e) Prescriptions written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

(f) PRESCRIPTIONS FOR NALOXONE HYDROCHLORIDE OR ANY OTHER OPIATE ANTAGONIST APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION THAT ARE WRITTEN OR DISPENSED FOR USE PURSUANT TO SECTION 36-2228.

49. If a licensee provides medical care by computer, failing to disclose the licensee's license number and the board's address and telephone number.

**Sec. 3.** Section 32-1901.01, Arizona Revised Statutes, is amended to read:

**32-1901.01. Definition of unethical and unprofessional conduct; permittees; licensees**

A. In this chapter, unless the context otherwise requires, for the purposes of disciplining a permittee, "unethical conduct" means the following, whether occurring in this state or elsewhere:

1. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

2. Committing an act that is substantially related to the qualifications, functions or duties of a permittee and that demonstrates either a lack of good moral character or an actual or potential unfitness to hold a permit in light of the public's safety.

3. Working under the influence of alcohol or other drugs.

4. Addiction to the use of alcohol or other drugs to such a degree as to render the permittee unfit to perform the permittee's employment duties.

5. Violating a federal or state law or administrative rule relating to the manufacture, sale or distribution of drugs, devices, poisons, hazardous substances or precursor chemicals.

6. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals.

7. Violating state or federal reporting or ~~record keeping~~ RECORDKEEPING requirements on transactions relating to precursor chemicals.

8. Failing to report in writing to the board any evidence that a pharmacist, pharmacy intern or graduate intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of pharmacy.

9. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.

10. Failing to report in writing to the board any evidence that appears to show that a permittee or permittee's employee is or may be guilty of unethical conduct, is or may be mentally or physically unable safely to engage in employment duties related to manufacturing, selling, distributing or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals or is or may be in violation of this chapter or a rule adopted under this chapter.

11. Intending to sell, transfer or distribute, or to offer for sale, transfer or distribution, or selling, transferring, distributing or dispensing or offering for sale, transfer or distribution an imitation controlled substance, imitation over-the-counter drug or imitation prescription-only drug as defined in section 13-3451.

12. Denial or discipline of a permittee's permit to manufacture, sell, distribute or dispense drugs, devices, poisons, hazardous substances or precursor chemicals in another jurisdiction and the permit was not reinstated.

13. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.

14. Obtaining or attempting to obtain a permit or a permit renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

15. Wilfully making a false report or record required by this chapter, required by federal or state laws pertaining to drugs, devices, poisons, hazardous substances or precursor chemicals or required for the payment for drugs, devices, poisons or hazardous substances or precursor chemicals or for services pertaining to such drugs or substances.

16. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.

17. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.

18. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, this chapter.

19. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.

20. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.

21. Failing to provide the board, its employees or agents or an authorized federal or state official conducting a site investigation, inspection or audit with access to any place for which a permit has been issued or for which an application for a permit has been submitted.

22. Failing to notify the board of a change of ownership, management or pharmacist in charge.

23. Failing to promptly produce on the request of the official conducting a site investigation, inspection or audit any book, record or document.

24. Overruling or attempting to overrule a pharmacist in matters of pharmacy ethics or interpreting laws pertaining to the practice of pharmacy or the distribution of drugs or devices.

25. Distributing premiums or rebates of any kind in connection with the sale of prescription medication, other than to the prescription medication recipient.

26. Failing to maintain effective controls against the diversion of precursor chemicals to unauthorized persons or entities.

27. Fraudulently claiming to have performed a service.

28. Fraudulently charging a fee for a service.

29. Advertising drugs or devices, or services pertaining to drugs or devices, in a manner that is untrue or misleading in any particular, and that is known, or that by the exercise of reasonable care should be known, to be untrue or misleading.

B. In this chapter, unless the context otherwise requires, for the purposes of disciplining a pharmacist, pharmacy intern or graduate intern, "unprofessional conduct" means the following, whether occurring in this state or elsewhere:

1. Addiction to the use of alcohol or other drugs to such a degree as to render the licensee unfit to practice the profession of pharmacy.

2. Violating any federal or state law, rule or regulation relating to the manufacture or distribution of drugs and devices or the practice of pharmacy.

3. Dispensing a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the express permission in each case of the orderer, or in the case of a prescription order, the medical practitioner. The conduct prohibited by this paragraph does not apply to substitutions authorized pursuant to section 32-1963.01.

4. Obtaining or attempting to obtain a license to practice pharmacy or a license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

5. Denial or discipline of a licensee's license to practice pharmacy in another jurisdiction and the license was not reinstated.

6. Claiming professional superiority in compounding or dispensing prescription orders.

7. Failing to comply with the mandatory continuing professional pharmacy education requirements of sections 32-1936 and 32-1937 and rules adopted by the board.

8. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

9. Working under the influence of alcohol or other drugs.

10. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when determined by the board or by conviction in a federal or state court.

11. Knowingly dispensing a drug without a valid prescription order as required pursuant to section 32-1968, subsection A.

12. Knowingly dispensing a drug on a prescription order that was issued in the course of the conduct of business of dispensing drugs pursuant to diagnosis by mail or the internet, unless the order was any of the following:

(a) Made by a physician who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.

(b) Made in an emergency medical situation as defined in section 41-1831.

(c) Written to prepare a patient for a medical examination.

(d) Written or the prescription medications were issued for use by a county or tribal public health department for immunization programs or emergency treatment or in response to an infectious disease investigation, a public health emergency, an infectious disease outbreak or an act of bioterrorism. For the purposes of this subdivision, "bioterrorism" has the same meaning prescribed in section 36-781.

(e) Written or antimicrobials were dispensed by the prescribing or dispensing physician to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661.

(f) Written or the prescription medications were issued for administration of immunizations or vaccines listed in the United States centers for disease control and prevention's recommended immunization schedule to a household member of a patient.

(g) For epinephrine auto-injectors that are written or dispensed for a school district or charter school and that are to be stocked for emergency use pursuant to section 15-157.

(h) Written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

(i) Written pursuant to a physical or mental health status examination that was conducted during a real-time telemedicine encounter with audio and video

capability that meets the elements required by the centers for medicare and medicaid services.

(j) FOR NALOXONE HYDROCHLORIDE OR ANY OTHER OPIATE ANTAGONIST APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION AND WRITTEN OR DISPENSED FOR USE PURSUANT TO SECTION 36-2228.

13. Failing to report in writing to the board any evidence that a pharmacist, pharmacy intern or graduate intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of pharmacy.

14. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.

15. Failing to report in writing to the board any evidence that a permittee or a permittee's employee is or may be guilty of unethical conduct or is or may be in violation of this chapter or a rule adopted under this chapter.

16. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.

17. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.

18. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.

19. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate, this chapter.

20. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.

21. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.

22. Refusing without just cause to allow authorized agents of the board to examine documents that are required to be kept pursuant to this chapter or title 36.

23. Participating in an arrangement or agreement to allow a prescription order or a prescription medication to be left at, picked up from, accepted by or delivered to a place that is not licensed as a pharmacy. This paragraph does not prohibit a pharmacist or a pharmacy from using an employee or a common carrier to pick up prescription orders at or deliver prescription medications to the office or home of a medical practitioner, the residence of a patient or a patient's hospital.

24. Paying rebates or entering into an agreement for the payment of rebates to a medical practitioner or any other person in the health care field.

25. Providing or causing to be provided to a medical practitioner prescription order blanks or forms bearing the pharmacist's or pharmacy's name, address or other means of identification.

26. Fraudulently claiming to have performed a professional service.

27. Fraudulently charging a fee for a professional service.

28. Failing to report a change of the licensee's home address or employer as required pursuant to section 32-1926.

29. Failing to report a change in the licensee's residency status as required pursuant to section 32-1926.01.

C. In this chapter, unless the context otherwise requires, for the purposes of disciplining a pharmacy technician or pharmacy technician trainee, "unprofessional conduct" means the following, whether occurring in this state or elsewhere:

1. Addiction to the use of alcohol or other drugs to such a degree as to render the licensee unfit to perform the licensee's employment duties.

2. Violating a federal or state law or administrative rule relating to the manufacture or distribution of drugs or devices.

3. Obtaining or attempting to obtain a pharmacy technician or pharmacy technician trainee license or a pharmacy technician license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

4. Denial or discipline of a licensee's license to practice as a pharmacy technician in another jurisdiction and the license was not reinstated.

5. Failing to comply with the mandatory continuing professional education requirements of section 32-1925, subsection I and rules adopted by the board.

6. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

7. Working under the influence of alcohol or other drugs.

8. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when determined by the board or by conviction in a federal or state court.

9. Failing to report in writing to the board any evidence that a pharmacist, pharmacy intern or graduate intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of pharmacy.

10. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.

11. Failing to report in writing to the board any evidence that a permittee or a permittee's employee is or may be guilty of unethical conduct or is or may be in violation of this chapter or a rule adopted under this chapter.

12. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.

13. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.

14. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.

15. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate, this chapter.

16. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.

17. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.

18. Failing to report a change of the licensee's home address or employer as required pursuant to section 32-1926.

19. Failing to report a change in the licensee's residency status as required pursuant to section 32-1926.01.

**Sec. 4.** Title 36, chapter 21.1, article 1, Arizona Revised Statutes, is amended by adding section 36-2228, to read:

**36-2228. Administration of opiate antagonists; training; immunity; designation by director**

A. PURSUANT TO A STANDING ORDER ISSUED BY A PHYSICIAN LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 OR A NURSE PRACTITIONER LICENSED PURSUANT TO TITLE 32, CHAPTER 15 AND AUTHORIZED BY LAW TO PRESCRIBE DRUGS, AN EMERGENCY MEDICAL CARE TECHNICIAN OR A PEACE OFFICER WHO IS TRAINED IN THE ADMINISTRATION OF NALOXONE HYDROCHLORIDE OR ANY OTHER OPIATE ANTAGONIST THAT IS APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION AND DESIGNATED BY THE DIRECTOR MAY ADMINISTER NALOXONE HYDROCHLORIDE OR ANOTHER OPIATE ANTAGONIST TO A PERSON WHO THE EMERGENCY MEDICAL CARE TECHNICIAN OR PEACE OFFICER BELIEVES IS SUFFERING FROM AN OPIATE-RELATED DRUG OVERDOSE.

B. THE DEPARTMENT, IN COORDINATION WITH THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD, SHALL DEVELOP A TRAINING MODULE FOR EMERGENCY MEDICAL CARE TECHNICIANS AND PEACE OFFICERS THAT PROVIDES TRAINING REGARDING THE IDENTIFICATION OF A PERSON SUFFERING FROM AN OPIATE-RELATED DRUG OVERDOSE AND THE USE OF NALOXONE HYDROCHLORIDE OR OTHER OPIATE ANTAGONISTS.

C. PHYSICIANS WHO ARE LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 AND WHO ISSUE A STANDING ORDER, NURSE PRACTITIONERS WHO ARE LICENSED PURSUANT TO TITLE 32, CHAPTER 15 AND AUTHORIZED BY LAW TO PRESCRIBE DRUGS AND WHO ISSUE A STANDING ORDER AND EMERGENCY MEDICAL CARE TECHNICIANS AND PEACE OFFICERS WHO ADMINISTER NALOXONE

HYDROCHLORIDE OR ANY OTHER OPIATE ANTAGONIST PURSUANT TO THIS SECTION ARE IMMUNE FROM PROFESSIONAL LIABILITY AND CRIMINAL PROSECUTION FOR ANY DECISION MADE, ACT OR OMISSION OR INJURY THAT RESULTS FROM THAT ACT IF THOSE PERSONS ACT WITH REASONABLE CARE AND IN GOOD FAITH, EXCEPT IN CASES OF WANTON OR WILFUL NEGLECT. THIS SECTION DOES NOT CREATE A DUTY TO ACT OR STANDARD OF CARE FOR PEACE OFFICERS TO ADMINISTER AN OPIATE ANTAGONIST.

D. THE DIRECTOR SHALL DESIGNATE OPIATE ANTAGONISTS THAT MAY BE USED PURSUANT TO THIS SECTION BASED ON AN EVALUATION OF THE OPIATE ANTAGONIST'S SAFETY AND EFFICACY.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## NONPROFIT HEALTH CARE ENTITIES—TRANSACTIONS—NOTIFICATION

### CHAPTER 314

### H. B. 2491

**AN ACT AMENDING SECTION 10-11253, ARIZONA REVISED STATUTES; RELATING TO HOSPITAL AND COMMUNITY HEALTH CENTER TRANSACTIONS.**

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

**Section 1.** Section 10-11253, Arizona Revised Statutes, is amended to read:

**10-11253. Public hearing; notice; requirements; summary report**

A. No later than ninety days before the anticipated closing of the intended transaction, any nonprofit health care entity that intends to engage in any of the transactions described in section 10-11252, subsection A shall give written notice to ~~the chairman of the corporation commission,~~ the director of the department of health services and the attorney general. The written notice shall include all of the following information:

1. The names, addresses and telephone numbers of the parties to the intended transaction.

2. The names, addresses and telephone numbers of the attorneys or other persons who represent the parties in connection with the intended transaction.

3. A general summary of the intended transaction.

4. A general description of the assets involved in the intended transaction and the intended use of the assets after the closing of the intended transaction.

5. A general summary of all collateral transactions that relate to the intended transaction, including the names, addresses and telephone numbers of the parties involved in the collateral transactions.

6. The anticipated date of completion of the intended transaction.

B. The notice and information required pursuant to subsection A of this section and information submitted pursuant to subsection H of this section are public records.

C. Within thirty days after the nonprofit health care entity sends the written notice prescribed in subsection A of this section, the parties to the intended transaction shall:

1. Select a hearing officer to conduct the public hearing required by this section and determine a time and place within this state for the public hearing with the agreement of ~~both the chairman of the corporation commission and~~ the director of the department of health services.

2. Publish a notice of the time and place for the public hearing at least three consecutive times in at least one newspaper of general circulation in the county in which the nonprofit health care entity has its principal place of business.

D. The hearing officer shall hold the public hearing within ten days after the last publication of the public notice.

E. The purpose of the public hearing is to provide the information described in subsection F of this section and to receive comments from the public and other interested parties.

F. The parties shall present written summary information at the public hearing that sets forth all of the following:

1. The extent to which the intended transaction impacts community benefit activities and is consistent with community benefit purposes, including a description of the resources that will be committed to community benefit purposes following the intended transaction.

2. Whether the intended transaction creates or has the likelihood of creating an adverse effect on the access to or availability or cost of health care services.

3. Whether any director, officer, agent or employee of the entity will receive any community benefit asset or will benefit directly or indirectly from the intended transaction, except for the receipt of compensation for professional services relating to the intended transaction for normal compensation for services rendered.

4. The extent to which the nonprofit health care entity used due diligence in the selection of the entity that will receive any community benefit asset and in the negotiation of the price and other terms and conditions of the transaction.

5. The extent to which the parties will continue to use the nonprofit health care entity's community benefit assets for community benefit purposes following the intended transaction, or, if applicable, the proceeds of the disposition of the assets will be deposited in a community benefit organization for community benefit purposes.

6. Whether any initial board of directors members of any entity changed or created by the intended transaction will reside in or near the communities affected by the intended transaction.

7. That any community benefit organization established to hold the proceeds of the disposition of assets is organized for community benefit purposes as required under federal and state law.

G. The attorney general may present information at the public hearing.

H. The hearing officer conducting the public hearing shall compile a summary report of the public hearing proceedings and shall transmit the summary report, a notice of completion and copies of all written information presented at the hearing to the ~~chairman of the corporation commission, with copies to the~~ director of the department of health services and the attorney general.

I. The parties to the intended transaction shall pay for all costs associated with the hearing officer, notice, publication of notice, public hearing and summary report.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## DENTAL BOARD—REGULATION—FINGERPRINTING

### CHAPTER 315

### H. B. 2496

**AN ACT AMENDING SECTIONS 32-1205, 32-1207, 32-1232, 32-1236, 32-1240, 32-1263.01, 32-1264, 32-1284, 32-1287, 32-1292.01, 32-1297.01, 32-1297.06, 32-1299, 41-619.51, 41-1758 AND 41-1758.01, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3015.03, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3023.02; RELATING TO THE STATE BOARD OF DENTAL EXAMINERS.**

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

**Section 1.** Section 32-1205, Arizona Revised Statutes, is amended to read:

**32-1205. Organization; meetings; quorum; staff**

A. The board shall elect from its membership a president and a vice-president who shall act also as secretary-treasurer.

B. Board meetings shall be conducted pursuant to title 38, chapter 3, article 3.1. A majority of the board constitutes a quorum. BEGINNING SEPTEMBER 1, 2015, MEETINGS HELD PURSUANT TO THIS SUBSECTION SHALL BE AUDIO RECORDED AND THE AUDIO RECORDING SHALL BE POSTED TO THE BOARD'S WEBSITE WITHIN FIVE BUSINESS DAYS AFTER THE MEETING.

C. The board may employ an executive director, subject to title 41, chapter 4, article 4 and legislative appropriation.

D. The board or the executive director may employ personnel, as necessary, subject to title 41, chapter 4, article 4 and legislative appropriation.

**Sec. 2.** Section 32-1207, Arizona Revised Statutes, is amended to read:

**32-1207. Powers and duties; executive director; immunity; fees; definition**

A. The board shall:

1. Adopt rules not inconsistent with this chapter for the regulation of its own conduct, for holding examinations and for regulating the practice of dentists and supervised personnel and registered business entities, provided:

(a) Regulation of supervised personnel is based on the degree of education and training of the supervised personnel, the state of scientific technology available and the necessary degree of supervision of the supervised personnel by dentists.

(b) Except as provided pursuant to section 32-1281, only licensed dentists may perform diagnosis and treatment planning, prescribe medication and perform surgical procedures on hard and soft tissues.

(c) Only a licensed dentist, or dental hygienist in consultation with a dentist, may perform examinations, oral health assessments and treatment sequencing for dental hygiene procedures.

2. Adopt a seal.

3. Maintain a record that shall remain available to the board at all times of its acts and proceedings, including the issuance, denial, renewal, suspension or revocation of licenses and the disposition of complaints. The existence of a pending complaint or investigation shall not be disclosed to the public. Records of complaints shall be available to the public, except only as follows:

(a) If the board dismisses or terminates a complaint, the record of the complaint shall not be available to the public.

(b) If the board has issued a nondisciplinary letter of concern, the record of the complaint shall be available to the public only for a period of five years after the date the board issued the letter of concern.

(c) If the board has required additional nondisciplinary continuing education pursuant to section 32-1263.01 but has not taken further action, the record of the complaint shall be available to the public only for a period of five years after the licensee satisfies this requirement.

(d) If the board has assessed a nondisciplinary civil penalty pursuant to section 32-1208 but has not taken further action, the record of the complaint shall be available to the public only for a period of five years after the licensee satisfies this requirement.

4. Establish a uniform and reasonable standard of minimum educational requirements consistent with the accreditation standards of the American dental association commission on dental accreditation to be observed by dental schools and dental hygiene schools in order to be classified as recognized dental schools or dental hygiene schools.

5. Establish a uniform and reasonable standard of minimum educational requirements that are consistent with the accreditation standards of the United States department of education or the council on higher education accreditation and that must be observed by denture technology schools in order to be classified as recognized denture technology schools.

6. Determine the reputability and classification of dental schools, dental hygiene schools and denture technology schools in accordance with their compliance with the standard set forth in paragraph 4 or 5 of this subsection, whichever is applicable.

7. Issue licenses to those it determines are eligible for licensure pursuant to this chapter.

8. Determine the eligibility of applicants for restricted permits and issue restricted permits to those found eligible.

9. Pursuant to section 32-1263.02, investigate charges of misconduct on the part of licensees and persons to whom restricted permits have been issued.

10. Issue a letter of concern, which is not a disciplinary action~~,~~ but refers to practices that may lead to a violation and to disciplinary action.

11. Issue decrees of censure, fix periods and terms of probation, suspend or revoke licenses, certificates and restricted permits, as the facts may warrant, and reinstate licenses, certificates and restricted permits in proper cases.

12. Collect and disburse monies.

13. Perform all other duties that are necessary to enforce this chapter and that are not specifically or by necessary implication delegated to another person.

14. Establish criteria for the renewal of permits issued pursuant to board rules relating to general anesthesia and sedation.

B. The board may:

1. Sue and be sued.

2. Issue subpoenas, including subpoenas to the custodian of patient records, compel attendance of witnesses, administer oaths and take testimony concerning all matters within its jurisdiction. If a person refuses to obey a subpoena issued by the board, the refusal shall be certified to the superior court and proceedings shall be instituted for contempt of court.

3. Adopt rules:

(a) Prescribing requirements for continuing education for renewal of all licenses issued pursuant to this chapter.

(b) Prescribing educational and experience prerequisites for the administration of intravenous or intramuscular drugs for the purpose of sedation or for use of general anesthetics in conjunction with a dental treatment procedure.

(c) Prescribing requirements for obtaining licenses for disabled or retired licensees, including the triennial license renewal fee.

4. Hire consultants to assist the board in the performance of its duties and employ persons to provide investigative, professional and clerical assistance as it deems necessary.

5. Contract with other state or federal agencies as required to carry out the purposes of this chapter.

6. If ~~it determines necessary~~ DETERMINED BY THE BOARD, order physical, psychological, psychiatric and competency evaluations of licensed dentists and dental hygienists, certified denturists and applicants for licensure and certification AT THE EXPENSE OF THOSE INDIVIDUALS.

C. The executive director or the executive director's designee may:

1. Issue and renew licenses, certificates and permits to applicants who meet the requirements of this chapter.

2. Initiate an investigation if evidence appears to demonstrate that a dentist, dental hygienist, denturist or restricted permit holder may be engaged in unprofessional conduct or may be unable to safely practice dentistry.

3. Initiate an investigation if evidence appears to demonstrate that a business entity may be engaged in unethical conduct.

4. Subject to board approval, enter into a consent agreement with a dentist, denturist, dental hygienist or restricted permit holder if there is evidence of unprofessional conduct.

5. Subject to board approval, enter into a consent agreement with a business entity if there is evidence of unethical conduct.

6. Refer cases to the board for a formal interview.

7. If delegated by the board, enter into a stipulation agreement with a person under the board's jurisdiction for the treatment, rehabilitation and monitoring of chemical substance abuse or misuse.

D. Members of the board are personally immune from liability with respect to all acts done and actions taken in good faith and within the scope of their authority.

E. The board by rule shall require that a licensee obtain a permit for the application of general anesthesia, semiconscious sedation or conscious sedation, shall establish and collect a fee of not more than three hundred dollars to cover administrative costs connected with issuing the permit and shall conduct inspections to assure compliance.

F. The board by rule may establish and collect fees for license verification, board meeting agendas and minutes, published lists and mailing labels.

G. This section does not prohibit the board from conducting its authorized duties in a public meeting.

H. For the purposes of this section, "record of complaint" means the document reflecting the final disposition of a complaint or investigation.

**Sec. 3.** Section 32-1232, Arizona Revised Statutes, is amended to read:

**32-1232. Qualifications of applicant; application; fee; fingerprint clearance card**

A. An applicant for licensure shall be of good moral character, shall meet the requirements of section 32-1233 and shall hold a diploma conferring a degree of doctor of dental medicine or doctor of dental surgery from a recognized dental school.

B. Each candidate shall submit a written application to the board accompanied by a nonrefundable Arizona dental jurisprudence examination fee of three hundred dollars. The board shall waive this fee for candidates who are holders

of valid restricted permits. EACH CANDIDATE SHALL ALSO OBTAIN A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03.

C. The board may deny an application for a license, for license renewal or for a restricted permit if the applicant:

1. Has committed any act that would be cause for censure, probation or suspension or revocation of a license under this chapter.

2. While unlicensed, committed or aided and abetted the commission of any act for which a license is required by this chapter.

3. Knowingly made any false statement in the application.

4. Has had a license to practice dentistry revoked by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

5. Is currently under suspension or restriction by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

6. Has surrendered, relinquished or given up a license to practice dentistry in lieu of disciplinary action by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

D. The board shall suspend an application for a license, for license renewal or for a restricted permit if the applicant is currently under investigation by a dental regulatory board in another jurisdiction. The board shall not issue or deny a license to the applicant until the investigation is resolved.

**Sec. 4.** Section 32-1236, Arizona Revised Statutes, is amended to read:

**32-1236. Dentist triennial licensure; continuing education; license reinstatement; license for each place of practice; notice of change of address or place of practice; retired and disabled licensees; penalties**

A. Except as provided in section 32-4301, a license expires on June 30 of every third year. On or before June 30 of every third year, every licensed dentist shall submit to the board a complete renewal application and pay a license renewal fee of not more than six hundred fifty dollars, established by a formal vote of the board. At least once every three years, before establishing the fee ~~for the subsequent three fiscal years~~, the board shall review the amount of the fee in a public meeting. Any change in the amount of the fee shall be applied prospectively to a licensee at the time of licensure renewal ~~for the subsequent three fiscal years~~. The fee prescribed by this subsection does not apply to a licensee in disabled or retired status.

B. A licensee shall include a written affidavit with the renewal application that affirms that the licensee complies with board rules relating to continuing education requirements. A licensee is not required to complete the written affidavit if the licensee received an initial license within the year immediately preceding the expiration date of the license or the licensee is in disabled status. If the licensee is not in compliance with board rules relating to continuing education, the board may grant an extension of time to complete these requirements if the licensee includes a

written request for an extension with the renewal application instead of the written affidavit and the renewal application is received on or before June 30 of the expiration year. The board shall consider the extension request based on criteria prescribed by the board by rule. If the board denies an extension request, the license expires on August 30.

C. A person applying for licensure for the first time in this state shall pay a prorated fee for the period remaining until the next June 30. This fee shall not exceed one-third of the fee established pursuant to subsection A of this section. Subsequent licensure renewal shall be conducted pursuant to this section.

D. An expired license may be reinstated by submitting a complete renewal application within the twenty-four-month period immediately following the expiration of the license with payment of the renewal fee and a one hundred dollar penalty. Whenever issued, reinstatement is as of the date of application and entitles the applicant to licensure only for the remainder of the applicable three-year period. If a person does not reinstate a license pursuant to this subsection, the person must reapply for licensure pursuant to this chapter.

E. Each licensee must provide to the board in writing both of the following:

1. A primary mailing address.

2. The address for each place of practice.

F. A licensee maintaining more than one place of practice shall obtain from the board a duplicate license for each office. A fee set by the board shall be charged for each duplicate license. The licensee shall notify the board in writing within ten days of opening the additional place or places of practice. The board shall impose a penalty of fifty dollars for failure to notify the board.

G. A licensee who is fully retired and a licensee who is permanently disabled may contribute services to a recognized charitable institution and still retain that classification for triennial registration purposes on payment of a reduced renewal fee as prescribed by the board by rule.

H. A licensee applying for retired or disabled status shall:

1. Relinquish any prescribing privileges and shall attest by affidavit that the licensee has surrendered to the United States drug enforcement administration any registration issued pursuant to the federal controlled substances act and has surrendered to the board any registration issued pursuant to section 36-2606.

2. If the licensee holds a permit to dispense drugs and devices pursuant to section 32-1298, ~~the licensee shall~~ surrender that permit to the board.

3. Attest by affidavit that the licensee is not currently engaged in the practice of dentistry.

I. A licensee who changes the licensee's primary mailing address or place of practice address shall notify the board of that change in writing within ten days. The board shall impose a penalty of fifty dollars if a licensee fails to notify the board of the change within that time. The board shall increase the penalty imposed to one hundred dollars if a licensee fails to notify it of the change within thirty days.

**Sec. 5.** Section 32-1240, Arizona Revised Statutes, is amended to read:

**32-1240. Licensure by credential; examinations; waiver; fee**

A. The board by rule may waive the examination requirements of this article on receipt of evidence satisfactory to the board that the applicant has passed the clinical examination of another state or testing agency and either:

1. The other state or testing agency maintains a standard of licensure that is substantially equivalent to that of this state as determined by the board. THE BOARD BY RULE SHALL REQUIRE:

(a) A MINIMUM NUMBER OF ACTIVE PRACTICE HOURS WITHIN A SPECIFIC TIME PERIOD BEFORE THE APPLICANT SUBMITS THE APPLICATION. THE BOARD SHALL DEFINE WHAT CONSTITUTES ACTIVE PRACTICE.

(b) AN AFFIRMATION THAT THE APPLICANT HAS COMPLETED THE CONTINUING EDUCATION REQUIREMENTS OF THE JURISDICTION WHERE THE APPLICANT IS LICENSED.

2. The applicant has acquired a certificate or other evidence of successful completion of a board approved examination not more than five years before submitting an application for licensure pursuant to this chapter.

B. The applicant shall pay a licensure by credential fee of two thousand dollars.

**Sec. 6.** Section 32-1263.01, Arizona Revised Statutes, is amended to read:

**32-1263.01. Types of disciplinary action; letter of concern; judicial review; notice; removal of notice; violation; classification**

A. The board may take any one or a combination of the following disciplinary actions against any person licensed under this chapter:

1. Revocation of license to practice.
2. Suspension of license to practice.
3. Entering a decree of censure, which may require that restitution be made to an aggrieved party.
4. Issuance of an order fixing a period and terms of probation best adapted to protect the public health and safety and to rehabilitate the licensed person. The order fixing a period and terms of probation may require that restitution be made to the aggrieved party.
5. Imposition of an administrative penalty in an amount not to exceed two thousand dollars for each violation of this chapter or rules adopted under this chapter.
6. Imposition of a requirement for restitution of fees to the aggrieved party.
7. Imposition of restrictions on the scope of practice.
8. Imposition of peer review and professional education requirements.
9. Imposition of community service.

B. The board may issue a letter of concern if a licensee's continuing practices may cause the board to take disciplinary action. The board may also issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide

the licensee with the necessary understanding of current developments, skills, procedures or treatment.

C. Failure to comply with any ~~final~~ order of the board, including an order of censure or probation, is cause for suspension or revocation of a license.

D. NOTWITHSTANDING SECTION 32-3214, SUBSECTION B, BEGINNING SEPTEMBER 1, 2015, ALL DISCIPLINARY AND NONDISCIPLINARY ACTIONS OR ORDERS ISSUED BY THE BOARD AGAINST A LICENSEE OR CERTIFICATE HOLDER SHALL BE POSTED TO THAT LICENSEE OR CERTIFICATE HOLDER'S PROFILE ON THE BOARD'S WEBSITE.

~~D.~~ E. Except as provided in section 41-1092.08, subsection H, final decisions of the board are subject to judicial review pursuant to title 12, chapter 7, article 6.

~~E.~~ F. If the board acts to modify any dentist's prescription writing privileges, it shall immediately notify the state board of pharmacy of the modification.

~~F.~~ G. The board may post a notice of its suspension or revocation of a license at the licensee's place of business. This notice shall remain posted for sixty days. A person who removes this notice without board or court authority before that time is guilty of a class 3 misdemeanor.

~~G.~~ H. A licensee or certificate holder shall respond in writing to the board within twenty days after notice of hearing is served. A licensee who fails to answer the charges in a complaint and notice of hearing issued pursuant to this article and title 41, chapter 6, article 10 is deemed to admit the acts charged in the complaint and the board may revoke or suspend the license without a hearing.

**Sec. 7.** Section 32-1264, Arizona Revised Statutes, is amended to read:

**32-1264. Maintenance of records**

A. A person WHO IS licensed or certified pursuant to this chapter shall make and maintain legible written records concerning all diagnosis, evaluation and treatment of each patient of record. A licensee or certificate holder shall maintain records stored or produced electronically in retrievable paper form. These records shall include:

1. All treatment notes, including current health history and clinical examinations.

2. Prescription and dispensing information, including all drugs, medicaments and dental materials used for patient care.

3. Diagnosis and treatment planning.

4. Dental and periodontal charting. Specialist charting must include areas of requested care and notation of visual oral examination describing any areas of potential pathology or radiographic irregularities.

5. All radiographs.

B. Records are available for review and for treatment purposes to the dentist, dental hygienist or denturist providing care.

C. On request, the licensee or certificate holder shall allow properly authorized board personnel to have access to the licensee's or certificate holder's place of practice to conduct an inspection and must make the licensee's or certificate

holder's records, books and documents available to the board as part of an investigation process.

D. Within fifteen business days of a patient's written request, that patient's dentist, dental hygienist or denturist or a registered business entity shall transfer legible and diagnostic quality copies of that patient's records to another licensee or certificate holder or that patient. The patient may be charged for the reasonable costs of copying and forwarding these records. ~~The board by rule shall prescribe the reasonable costs of reproduction.~~ A dentist, dental hygienist, denturist or registered business entity may require that payment of reproduction costs be made in advance, unless the records are necessary for continuity of care, in which case the records shall not be withheld. Copies of records shall not be withheld because of an unpaid balance for dental services.

E. Unless otherwise required by law, a person WHO IS licensed or certified pursuant to this chapter or a business entity THAT IS registered pursuant to this chapter must retain the original or a copy of a patient's dental records as follows:

1. If the patient is an adult, for at least six years after the last date the adult patient received dental services from that provider.

2. If the patient is a child, for at least three years after the child's eighteenth birthday or for at least six years after the last date the child received dental services from the provider, whichever occurs later.

**Sec. 8.** Section 32-1284, Arizona Revised Statutes, is amended to read:

**32-1284. Qualifications of applicant; application; fee; fingerprint clearance card; rules; denial or suspension of application**

A. An applicant for licensure as a dental hygienist shall be at least eighteen years of age, shall be of good moral character, shall meet the requirements of section 32-1285 and shall present to the board evidence of graduation or a certificate of satisfactory completion in a course or curriculum in dental hygiene from a recognized dental hygiene school. A candidate shall make written application to the board accompanied by a nonrefundable Arizona dental jurisprudence examination fee of one hundred dollars. The board shall waive this fee for candidates who are holders of valid restricted permits. EACH CANDIDATE SHALL ALSO OBTAIN A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03.

B. The board shall adopt rules that govern the practice of dental hygienists and that are not inconsistent with this chapter.

C. The board may deny an application for licensure or an application for license renewal if the applicant:

1. Has committed an act that would be cause for censure, probation or suspension or revocation of a license under this chapter.

2. While unlicensed, committed or aided and abetted the commission of an act for which a license is required by this chapter.

3. Knowingly made any false statement in the application.

4. Has had a license to practice dental hygiene revoked by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

5. Is currently under suspension or restriction by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

6. Has surrendered, relinquished or given up a license to practice dental hygiene instead of disciplinary action by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

D. The board shall suspend an application for a license if the applicant is currently under investigation by a dental regulatory board in another jurisdiction. The board shall not issue or deny a license to the applicant until the investigation is resolved.

**Sec. 9.** Section 32-1287, Arizona Revised Statutes, is amended to read:

**32-1287. Dental hygienist triennial licensure; continuing education; license reinstatement; notice of change of address; penalties; retired and disabled licensees**

A. Except as provided in section 32-4301, a license expires on June 30 of every third year. On or before June 30 of every third year, every licensed dental hygienist shall submit to the board a complete renewal application and pay a license renewal fee of not more than three hundred twenty-five dollars, established by a formal vote of the board. At least once every three years, before establishing the fee ~~for the subsequent three fiscal years~~, the board shall review the amount of the fee in a public meeting. Any change in the amount of the fee shall be applied prospectively to a licensee at the time of licensure renewal ~~for the subsequent three fiscal years~~. The fee prescribed by this section does not apply to a retired or disabled hygienist.

B. A licensee shall include a written affidavit with the renewal application that affirms that the licensee complies with board rules relating to continuing education requirements. A licensee is not required to complete the written affidavit if the licensee received an initial license within the year immediately preceding the expiration date of the license or the licensee is in disabled status. If the licensee is not in compliance with board rules relating to continuing education, the board may grant an extension of time to complete these requirements if the licensee includes a written request for an extension with the renewal application instead of the written affidavit and the renewal application is received on or before June 30 of the expiration year. The board shall consider the extension request based on criteria prescribed by the board by rule. If the board denies an extension request, the license expires on August 30 of the expiration year.

C. A person applying for a license for the first time in this state shall pay a prorated fee for the period remaining until the next June 30. This fee shall not exceed one-third of the fee established pursuant to subsection A. Subsequent registrations shall be conducted pursuant to this section.

D. An expired license may be reinstated by submitting a complete renewal application within the twenty-four-month period immediately following the

expiration of the license with payment of the renewal fee and a one hundred dollar penalty. Whenever issued, reinstatement is as of the date of application and entitles the applicant to licensure only for the remainder of the applicable three-year period. If a person does not reinstate a license pursuant to this subsection, the person must reapply for licensure pursuant to this chapter.

E. A licensee shall notify the board in writing within ten days after the licensee changes the primary mailing address listed with the board. The board shall impose a penalty of fifty dollars if a licensee fails to notify the board of the change within that time. The board shall increase the penalty imposed to one hundred dollars if a licensee fails to notify it of the change within thirty days.

F. A licensee who is over sixty-five years of age and who is fully retired and a licensee who is permanently disabled may contribute services to a recognized charitable institution and still retain that classification for triennial registration purposes on payment of a reduced renewal fee as prescribed by the board by rule.

**Sec. 10.** Section 32-1292.01, Arizona Revised Statutes, is amended to read:

**32-1292.01. Licensure by credential; examinations; waiver; fee**

A. The board by rule may waive the examination requirements of this article on receipt of evidence satisfactory to the board that the applicant has passed the clinical examination of another state or testing agency and either:

1. The other state or testing agency maintains a standard of licensure that is substantially equivalent to that of this state as determined by the board. THE BOARD BY RULE SHALL REQUIRE:

(a) A MINIMUM NUMBER OF ACTIVE PRACTICE HOURS WITHIN A SPECIFIC TIME PERIOD BEFORE THE APPLICANT SUBMITS THE APPLICATION. THE BOARD SHALL DEFINE WHAT CONSTITUTES ACTIVE PRACTICE.

(b) AN AFFIRMATION THAT THE APPLICANT HAS COMPLETED THE CONTINUING EDUCATION REQUIREMENTS OF THE JURISDICTION WHERE THE APPLICANT IS LICENSED.

2. The applicant has acquired a certificate or other evidence of successful completion of a board-approved examination not more than five years before submitting an application for licensure pursuant to this chapter.

B. The applicant shall pay a licensure by credential fee of one thousand dollars.

**Sec. 11.** Section 32-1297.01, Arizona Revised Statutes, is amended to read:

**32-1297.01. Application for certification; fingerprint clearance card; denial; suspension**

A. Each applicant for certification shall submit a written application to the board accompanied by a nonrefundable jurisprudence examination fee AND OBTAIN A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03.

B. The board may deny an application for certification or for certification renewal if the applicant:

1. Has committed any act that would be cause for censure, probation, suspension or revocation of a certificate under this chapter.

2. Has knowingly made any false statement in the application.

3. While uncertified, has committed or aided and abetted the commission of any act for which a certificate is required under this chapter.

4. Has had a certificate to practice denture technology revoked by a regulatory board in another jurisdiction in the United States or Canada for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

5. Is currently under investigation, suspension or restriction by a regulatory board in another jurisdiction in the United States or Canada for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

6. Has surrendered, relinquished or given up a certificate to practice denture technology in lieu of disciplinary action by a regulatory board in another jurisdiction in the United States or Canada for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

C. The board shall suspend an application for certification if the applicant is currently under investigation by a denturist regulatory board in another jurisdiction. The board shall not issue or deny certification to the applicant until the investigation is resolved.

**Sec. 12.** Section 32-1297.06, Arizona Revised Statutes, is amended to read:

**32-1297.06. Denturist certification; continuing education; certificate reinstatement; certificate for each place of practice; notice of change of address or place of practice; penalties**

A. Except as provided in section 32-4301, a certification expires on June 30 of every third year. On or before June 30 of every third year, every certified denturist shall submit to the board a complete renewal application and shall pay a certificate renewal fee of not more than three hundred dollars, established by a formal vote of the board. At least once every three years, before establishing the fee ~~for the subsequent three fiscal years~~, the board shall review the amount of the fee in a public meeting. Any change in the amount of the fee shall be applied prospectively to a ~~licensee~~ CERTIFICATE HOLDER at the time of ~~licensure~~ CERTIFICATION renewal ~~for the subsequent three fiscal years~~. This requirement does not apply to a disabled or retired status.

B. A certificate holder shall include a written affidavit with the renewal application that affirms that the certificate holder complies with board rules relating to continuing education requirements. A certificate holder is not required to complete the written affidavit if the certificate holder received an initial certification within the year immediately preceding the expiration date of the certificate or the certificate holder is in disabled status. If the certificate holder is not in compliance with board rules relating to continuing education, the board may grant an extension of time to complete these requirements if the certificate holder includes a written request for an extension with the renewal application instead of the written affidavit and the renewal application is received on or before June 30 of the expiration year. The board shall consider the extension request based on criteria prescribed by the

board by rule. If the board denies an extension request, the certificate expires on August 30 of the expiration year.

C. A person applying for a certificate for the first time in this state shall pay a prorated fee for the period remaining until the next June 30. This fee shall not exceed one-third of the fee established pursuant to subsection A. Subsequent certifications shall be conducted pursuant to this section.

D. An expired certificate may be reinstated by submitting a complete renewal application within the twenty-four-month period immediately following the expiration of the certificate with payment of the renewal fee and a one hundred dollar penalty. Whenever issued, reinstatement is as of the date of application and entitles the applicant to certification only for the remainder of the applicable three-year period. If a person does not reinstate a certificate pursuant to this subsection, the person must reapply for certification pursuant to this chapter.

E. Each certificate holder must provide to the board in writing both of the following:

1. A primary mailing address.

2. The address for each place of practice.

F. A certificate holder maintaining more than one place of practice shall obtain from the board a duplicate certificate for each office. The board shall set and charge a fee for each duplicate certificate. A certificate holder shall notify the board in writing within ten days of opening an additional place of practice.

G. A certificate holder shall notify the board in writing within ten days after changing a primary mailing address or place of practice address listed with the board. The board shall impose a fifty dollar penalty if a certificate holder fails to notify the board of the change within that time. The board shall increase the penalty imposed to one hundred dollars if a certificate holder fails to notify it of the change within thirty days.

**Sec. 13.** Section 32-1299, Arizona Revised Statutes, is amended to read:

**32-1299. Substance abuse treatment and rehabilitation program; private contract; funding; confidential stipulation agreement**

A. The board may establish a confidential program for the treatment and rehabilitation of dentists, denturists and dental hygienists who are impaired by alcohol or drug abuse. This program shall include education, intervention, therapeutic treatment and posttreatment monitoring and support.

B. The board may contract with other organizations to operate the program established pursuant to this section. A contract with a private organization shall include the following requirements:

1. Periodic reports to the board regarding treatment program activity.

2. Release to the board on demand of all treatment records.

3. Periodic reports to the board regarding each dentist's, denturist's or dental hygienist's diagnosis and prognosis and recommendations for continuing care, treatment and supervision.

4. Immediate reporting to the board of the name of an impaired practitioner whom the treating organization believes to be a danger to self or others.

5. Immediate reporting to the board of the name of a practitioner who refuses to submit to treatment or whose impairment is not substantially alleviated through treatment.

C. The board may allocate an amount of not more than twenty dollars annually or sixty dollars triennially from each fee it collects from the renewal of active licenses for the operation of the program established by this section.

D. A dentist, denturist or hygienist who, in the opinion of the board, is impaired by alcohol or drug abuse shall agree to enter into a confidential nondisciplinary stipulation agreement with the board. The board shall place a licensee or certificate holder on probation if the licensee or certificate holder refuses to enter into a stipulation agreement with the board and may take other action as provided by law. The board may also refuse to issue a license or certificate to an applicant if the applicant refuses to enter into a stipulation agreement with the board.

E. IN THE CASE OF A LICENSEE OR CERTIFICATE HOLDER WHO IS IMPAIRED BY ALCOHOL OR DRUG ABUSE AFTER COMPLETING A SECOND MONITORING PROGRAM PURSUANT TO A STIPULATION AGREEMENT UNDER SUBSECTION D OF THIS SECTION, THE BOARD SHALL DETERMINE WHETHER:

1. TO REFER THE MATTER FOR A FORMAL HEARING FOR THE PURPOSE OF SUSPENDING OR REVOKING THE LICENSE OR CERTIFICATE.

2. THE LICENSEE OR CERTIFICATE HOLDER SHOULD BE PLACED ON PROBATION FOR A MINIMUM OF ONE YEAR WITH RESTRICTIONS NECESSARY TO ENSURE PUBLIC SAFETY.

3. TO ENTER INTO ANOTHER STIPULATION AGREEMENT UNDER SUBSECTION D OF THIS SECTION WITH THE LICENSEE OR CERTIFICATE HOLDER.

**Sec. 14.** Section 41-619.51, Arizona Revised Statutes, is amended to read:

**41-619.51. Definitions**

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department, the state board of appraisal or the board of examiners of nursing care institution administrators and assisted living facility managers.

2. "Board" means the board of fingerprinting.

3. "Central registry exception" means notification to the department of economic security or the department of health services, as appropriate, pursuant to section 41-619.57 that the person is not disqualified because of a central registry check conducted pursuant to section 8-804.

4. "Expedited review" means an examination, in accordance with board rule, of the documents an applicant submits by the board or its hearing officer without the applicant being present.

5. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

6. "Person" means a person who is required to be fingerprinted pursuant to this article or who is subject to a central registry check and any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-509.
(d) Section 8-802.
(e) Section 8-804.
(f) Section 8-804.01.
(g) Section 15-183.
(h) Section 15-534.
(i) Section 15-782.02.
(j) Section 15-1330.
(k) Section 15-1881.
(l) Section 17-215.
(m) Section 26-103.
(n) Section 28-3413.
(o) SECTION 32-1232.
~~(o)~~ (p) Section 32-2108.01.
~~(p)~~ (q) Section 32-2123.
~~(q)~~ (r) Section 32-2371.
~~(r)~~ (s) Section 32-2372.
~~(s)~~ (t) Section 32-3620.
~~(t)~~ (u) Section 32-3668.
~~(u)~~ (v) Section 32-3669.
~~(v)~~ (w) Section 36-207.
~~(w)~~ (x) Section 36-411.
~~(x)~~ (y) Section 36-425.03.
~~(y)~~ (z) Section 36-446.04.
~~(z)~~ (aa) Section 36-594.01.
~~(aa)~~ (bb) Section 36-594.02.
~~(bb)~~ (cc) Section 36-882.
~~(cc)~~ (dd) Section 36-883.02.
~~(dd)~~ (ee) Section 36-897.01.
~~(ee)~~ (ff) Section 36-897.03.
~~(ff)~~ (gg) Section 36-3008.
~~(gg)~~ (hh) Section 41-619.53.
~~(hh)~~ (ii) Section 41-1964.
~~(ii)~~ (jj) Section 41-1967.01.
~~(jj)~~ (kk) Section 41-1968.
~~(kk)~~ (ll) Section 41-1969.
~~(ll)~~ (mm) Section 41-2814.
~~(mm)~~ (nn) Section 46-141, subsection A.
~~(nn)~~ (oo) Section 46-321.

**Sec. 15.** Section 41-1758, Arizona Revised Statutes, is amended to read:

**41-1758. Definitions**

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department, the state board of appraisal, the board of fingerprinting or the board of examiners of nursing care institution administrators and assisted living facility managers.

2. "Division" means the fingerprinting division in the department of public safety.

3. "Electronic or internet-based fingerprinting services" means a secure system for digitizing applicant fingerprints and transmitting the applicant data and fingerprints of a person or entity submitting fingerprints to the department of public safety for any authorized purpose under this title. For the purposes of this paragraph, "secure system" means a system that complies with the information technology security policy approved by the department of public safety.

4. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

5. "Person" means a person who is required to be fingerprinted pursuant to any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-509.
(d) Section 8-802.
(e) Section 15-183.
(f) Section 15-503.
(g) Section 15-512.
(h) Section 15-534.
(i) Section 15-782.02.
(j) Section 15-1330.
(k) Section 15-1881.
(l) Section 17-215.
(m) Section 26-103.
(n) Section 28-3413.
(o) SECTION 32-1232.
~~(o)~~ (p) Section 32-2108.01.
~~(p)~~ (q) Section 32-2123.
~~(q)~~ (r) Section 32-2371.
~~(r)~~ (s) Section 32-2372.
~~(s)~~ (t) Section 32-3620.
~~(t)~~ (u) Section 32-3668.
~~(u)~~ (v) Section 32-3669.
~~(v)~~ (w) Section 36-207.
~~(w)~~ (x) Section 36-411.

~~(x)~~ (y) Section 36-425.03.
~~(y)~~ (z) Section 36-446.04.
~~(z)~~ (aa) Section 36-594.01.
~~(aa)~~ (bb) Section 36-594.02.
~~(bb)~~ (cc) Section 36-882.
~~(cc)~~ (dd) Section 36-883.02.
~~(dd)~~ (ee) Section 36-897.01.
~~(ee)~~ (ff) Section 36-897.03.
~~(ff)~~ (gg) Section 36-3008.
~~(gg)~~ (hh) Section 41-619.52.
~~(hh)~~ (ii) Section 41-619.53.
~~(ii)~~ (jj) Section 41-1964.
~~(jj)~~ (kk) Section 41-1967.01.
~~(kk)~~ (ll) Section 41-1968.
~~(ll)~~ (mm) Section 41-1969.
~~(mm)~~ (nn) Section 41-2814.
~~(nn)~~ (oo) Section 46-141, subsection A.
~~(oo)~~ (pp) Section 46-321.

6. "Vulnerable adult" has the same meaning prescribed in section 13-3623.

**Sec. 16.** Section 41-1758.01, Arizona Revised Statutes, is amended to read:

**41-1758.01. Fingerprinting division; powers and duties**

A. The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-782.02, 15-1330, 15-1881, 17-215, 26-103, 28-3413, 32-1232, 32-2108.01, 32-2123, 32-2371, 32-2372, 32-3620, 32-3668, 32-3669, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.

3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies collected in the board of fingerprinting fund.

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the person's right to petition the board of fingerprinting for a good cause exception pursuant to sections 41-1758.03 and 41-1758.07.

5. Administer and enforce this article.

B. The fingerprinting division may contract for electronic or internet-based fingerprinting services through an entity or entities for the acquisition and transmission of applicant fingerprint and data submissions to the department, including identity verified fingerprints pursuant to section 15-106. The entity or entities contracted by the department of public safety may charge the applicant a fee for services provided pursuant to this article. The entity or entities contracted by the department of public safety shall comply with:

1. All information privacy and security measures and submission standards established by the department of public safety.

2. The information technology security policy approved by the department of public safety.

**Sec. 17. Repeal**

Section 41-3015.03, Arizona Revised Statutes, is repealed.

**Sec. 18.** Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3023.02, to read:

**41-3023.02. State board of dental examiners; termination July 1, 2023**

A. THE STATE BOARD OF DENTAL EXAMINERS TERMINATES ON JULY 1, 2023.

B. TITLE 32, CHAPTER 11, IS REPEALED ON JANUARY 1, 2024.

**Sec. 19. Purpose**

Pursuant to section 41-2955, subsection B, Arizona Revised Statutes, the legislature continues the state board of dental examiners to promote the safe and professional practice of dentistry in this state.

**Sec. 20. Retroactivity**

Sections 17 and 18 of this act are effective retroactively to July 1, 2015.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## TEACHERS—ABUSE PREVENTION—CONTINUING EDUCATION

### CHAPTER 316

### H. B. 2516

**AN ACT AMENDING SECTION 15-218, ARIZONA REVISED STATUTES; RELATING TO THE STATE BOARD OF EDUCATION.**

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

**Section 1.** Section 15-218, Arizona Revised Statutes, is amended to read:

**15-218. Suicide awareness and prevention training; child abuse and sexual abuse prevention and training; continuing education**

A. The state board of education shall adopt rules to allow certificated teachers and administrators to count suicide awareness and prevention training programs as continuing education credits.

B. THE STATE BOARD OF EDUCATION SHALL ADOPT RULES TO ALLOW CERTIFICATED TEACHERS AND ADMINISTRATORS TO COUNT AWARENESS AND PREVENTION TRAINING ON ISSUES CONCERNING CHILD ABUSE AND THE SEXUAL ABUSE OF CHILDREN, INCLUDING WARNING SIGNS THAT A CHILD MAY BE A VICTIM OF CHILD ABUSE OR SEXUAL ABUSE, AS CONTINUING EDUCATION CREDITS.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## RELOCATION OF CHILD—PARENTING PLANS

### CHAPTER 317

### H. B. 2519

**AN ACT AMENDING SECTIONS 25-403.02 AND 25-408, ARIZONA REVISED STATUTES; RELATING TO LEGAL DECISION-MAKING AND PARENTING TIME.**

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

**Section 1.** Section 25-403.02, Arizona Revised Statutes, is amended to read:

**25-403.02. Parenting plans**

A. If the child's parents cannot agree on a plan for legal decision-making or parenting time, each parent must submit a proposed parenting plan.

B. Consistent with the child's best interests in section 25-403 and sections 25-403.03, 25-403.04 and 25-403.05, the court shall adopt a parenting plan that provides for both parents to share legal decision-making regarding their child and that maximizes their respective parenting time. The court shall not prefer a parent's proposed plan because of the parent's or child's gender.

C. Parenting plans shall include at least the following:

1. A designation of the legal decision-making as joint or sole as defined in section 25-401.

2. Each parent's rights and responsibilities for the personal care of the child and for decisions in areas such as education, health care and religious training.

3. A practical schedule of parenting time for the child, including holidays and school vacations.

4. A procedure for the exchanges of the child, including location and responsibility for transportation.

5. A procedure by which proposed changes, RELOCATION OF WHERE A CHILD RESIDES WITH EITHER PARENT PURSUANT TO SECTION 25-408, disputes and alleged breaches may be mediated or resolved, which may include the use of conciliation services or private counseling.

6. A procedure for periodic review of the plan's terms by the parents.

7. A procedure for communicating with each other about the child, including methods and frequency.

8. A statement that each party has read, understands and will abide by the notification requirements of section 25-403.05, subsection B.

D. If the parents are unable to agree on any element to be included in a parenting plan, the court shall determine that element. The court may determine other factors that are necessary to promote and protect the emotional and physical health of the child.

E. Shared legal decision-making does not necessarily mean equal parenting time.

**Sec. 2.** Section 25-408, Arizona Revised Statutes, is amended to read:

**25-408. Rights of each parent; parenting time; relocation of child; exception; enforcement; access to prescription medication and records**

A. If by written agreement or court order both parents are entitled to joint legal decision-making or ~~unsupervised~~ parenting time and both parents reside in the state, at least ~~sixty~~ FORTY-FIVE days' advance written notice shall be provided to the other parent before a parent may do either of the following:

1. Relocate the child outside the state.

2. Relocate the child more than one hundred miles within the state.

B. The notice required by this section shall be made by certified mail, return receipt requested, or pursuant to the Arizona rules of family law procedure. The court shall sanction a parent who, without good cause, does not comply with the notification requirements of this subsection. The court may impose a sanction that will affect legal decision-making or parenting time only in accordance with the child's best interests.

C. Within thirty days after notice is made the nonmoving parent may petition the court to prevent relocation of the child. After expiration of this time any petition or other application to prevent relocation of the child may be granted only on a showing of good cause. This subsection does not prohibit a parent who is seeking to relocate the child from petitioning the court for a hearing, on notice to the other parent, to determine the appropriateness of a relocation that may adversely affect the other parent's legal decision-making or parenting time rights.

D. Subsection A of this section does not apply if provision for relocation of a child has been made by a court order or a written agreement of the parties that is dated within one year of the proposed relocation of the child.

E. IF A CHILD IS RELOCATED PURSUANT TO THIS SECTION, UNLESS OTHERWISE ORDERED BY THE COURT, ALL PARTIES MUST CONTINUE TO COMPLY WITH CURRENT COURT ORDERS, REGARDLESS OF DISTANCE MOVED OR NOTICE REQUIRED.

~~E.~~ F. Pending the determination by the court of a petition or application to prevent relocation of the child:

1. A parent with sole legal decision-making or a parent with joint legal decision-making and primary residence of a child who is required by circumstances of health ~~or~~, safety ~~or~~, employment OR EVICTION of that parent or that parent's spouse to relocate in less than ~~sixty~~ FORTY-FIVE days after written notice has been given to the other parent may temporarily relocate with the child.

2. A parent who shares joint legal decision-making and substantially equal parenting time and who is required by circumstances of health ~~or~~, safety ~~or~~, employment OR EVICTION of that parent or that parent's spouse to relocate in less than ~~sixty~~ FORTY-FIVE days after written notice has been given to the other parent may temporarily relocate with the child only if both parents execute a written agreement to permit relocation of the child.

~~F.~~ G. The court shall determine whether to allow the parent to relocate the child in accordance with the child's best interests. The burden of proving what is in the child's best interests is on the parent who is seeking to relocate the child. To the extent practicable the court shall also make appropriate arrangements to ensure the continuation of a meaningful relationship between the child and both parents.

~~G.~~ H. The court shall not deviate from a provision of any parenting plan or other written agreement by which the parents specifically have agreed to allow or prohibit relocation of the child unless the court finds that the provision is no longer in the child's best interests. There is a rebuttable presumption that a provision from any parenting plan or other written agreement is in the child's best interests.

~~H.~~ I. In determining the child's best interests the court shall consider all relevant factors including:

1. The factors prescribed under section 25-403.

2. Whether the relocation is being made or opposed in good faith and not to interfere with or to frustrate the relationship between the child and the other parent or the other parent's right of access to the child.

3. The prospective advantage of the move for improving the general quality of life for the custodial parent or for the child.

4. The likelihood that the parent with whom the child will reside after the relocation will comply with parenting time orders.

5. Whether the relocation will allow a realistic opportunity for parenting time with each parent.

6. The extent to which moving or not moving will affect the emotional, physical or developmental needs of the child.

7. The motives of the parents and the validity of the reasons given for moving or opposing the move including the extent to which either parent may intend to gain a financial advantage regarding continuing child support obligations.

8. The potential effect of relocation on the child's stability.

~~I.~~ J. The court shall assess attorney fees and court costs against either parent if the court finds that the parent has unreasonably denied, restricted or interfered with court-ordered parenting time.

~~J.~~ K. Pursuant to section 25-403.06, each parent is entitled to have access to prescription medication, documents and other information about the child unless the court finds that access would endanger seriously the child's or a parent's physical, mental, moral or emotional health.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# PREHOSPITAL MEDICAL CARE DIRECTIVES

## CHAPTER 318

## H. B. 2545

## AN ACT AMENDING SECTION 36-3251, ARIZONA REVISED STATUTES; RELATING TO PREHOSPITAL MEDICAL CARE DIRECTIVES.

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

**Section 1.** Section 36-3251, Arizona Revised Statutes, is amended to read:

**36-3251. Prehospital medical care directives; form; effect; immunity; definitions**

A. Notwithstanding any law or a health care directive to the contrary, a person may execute a prehospital medical care directive that, in the event of cardiac or respiratory arrest, directs the withholding of cardiopulmonary resuscitation by emergency medical system ~~and~~ PERSONNEL, hospital emergency department personnel AND, AS PROVIDED IN SUBSECTION L OF THIS SECTION, DIRECT CARE STAFF PERSONS. For the purposes of this article, "cardiopulmonary resuscitation" includes cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of advanced cardiac life support drugs and related emergency medical procedures. Authorization for the withholding of cardiopulmonary resuscitation does not include the withholding of other medical interventions, such as intravenous fluids, oxygen or other therapies deemed necessary to provide comfort care or to alleviate pain.

B. A prehospital medical care directive shall be printed on an orange background and may be used in either letter or wallet size. The directive shall be in the following form:

Prehospital Medical Care Directive

(side one)

In the event of cardiac or respiratory arrest, I refuse any resuscitation measures, including cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of advanced cardiac life support drugs and related emergency medical procedures.

Patient: _____ date: _____

(Signature or mark)

Attach recent photograph here or provide all of the following information below:

Date of birth _____ sex ____

Eye color _____ hair color _____ race _____

Hospice program (if any) _____

Name and telephone number of patient's physician

_____

(side two)

I have explained this form and its consequences to the signer and obtained assurance that the signer understands that death may result from any refused care listed above.

_____ date _____

(Licensed health care provider)

I was present when this was signed (or marked). The patient then appeared to be of sound mind and free from duress.

_____ date _____

(Witness)

C. A person who has a valid prehospital medical care directive pursuant to this section may wear an identifying bracelet on either the wrist or the ankle. The bracelet shall be substantially similar to identification bracelets worn in hospitals. The bracelet shall be on an orange background and state the following in bold type:

Do Not Resuscitate

Patient: _____

Patient's physician: _____

D. If the person has designated an agent to make health care decisions under section 36-3221 or has been appointed a guardian for health care decisions pursuant to title 14, that agent or guardian shall sign if the person is no longer competent to do so.

E. A prehospital medical care directive is effective until it is revoked or superseded by a new document.

F. Emergency medical system ~~and~~ PERSONNEL, hospital emergency department personnel AND DIRECT CARE STAFF PERSONS who make a good faith effort to identify the patient and who rely on an apparently genuine directive or a photocopy of a directive on orange paper are immune from liability to the same extent and under the same conditions as prescribed in section 36-3205. If a person has any doubt as to the validity of a directive or the medical situation, that person shall proceed with resuscitative efforts as otherwise required by law. Emergency medical system personnel AND DIRECT CARE STAFF PERSONS are not required to accept or interpret medical care directives that do not meet the requirements of this section.

G. In the absence of a physician, a person without vital signs who is not resuscitated pursuant to a prehospital medical care directive may be pronounced dead by any peace officer of this state, a professional nurse licensed pursuant to title 32, chapter 15 or an emergency medical technician certified pursuant to this title.

H. This section does not apply to situations involving mass casualties or to medical emergencies involving children and adults with disabilities in public or private schools that are not licensed health care institutions as defined in section 36-401.

I. After being notified of a death by emergency medical system personnel, the person's physician or the county medical examiner is then responsible for signing the death certificate.

J. The office of emergency medical services in the department of health services shall print prehospital medical care directive forms and make them available to the public. The department may charge a fee that covers the department's costs to prepare the form. The department and its employees are immune from civil liability for issuing prehospital medical care directive forms that meet the requirements of this section. A person may use a form that is not prepared by the department of health services if that form meets the requirements of this section. If an organization distributes a prehospital medical care directive form that meets the requirements of this section, that organization and its employees are also immune from civil liability.

K. Any prehospital medical care directive prepared before April 24, 1994 is valid if it was valid at the time it was prepared.

L. A DIRECT CARE STAFF PERSON MAY COMPLY WITH A PREHOSPITAL MEDICAL CARE DIRECTIVE PURSUANT TO THIS SECTION IF THE PHYSICIAN OF THE PERSON WHO HAS THE VALID PREHOSPITAL MEDICAL CARE DIRECTIVE HAS ORDERED A HOSPICE PLAN OF CARE.

M. THE DEPARTMENT OF ECONOMIC SECURITY OR THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION MAY PRESCRIBE GUIDANCE FOR TRAINING AND EDUCATION OF DIRECT CARE STAFF PERSONS REGARDING THE REQUIREMENTS OF THIS SECTION.

~~L.~~ N. For the purposes of this section: ~~,~~

1. "DIRECT CARE STAFF PERSON" MEANS A PERSON WHO IS EMPLOYED OR CONTRACTED TO PROVIDE DIRECT SERVICES PURSUANT TO TITLE 36, CHAPTER 5.1.

2. "Emergency medical system personnel" includes emergency medical technicians at all levels who are certified by the department of health services and medical personnel who are licensed by this state and who are operating outside of an acute care hospital under the direction of an emergency medical system agency recognized by the department of health services.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# HEALTH CARE ENTITY QUALITY ASSURANCE ACTIVITIES

## CHAPTER 319

## H. B. 2556

**AN ACT AMENDING SECTIONS 36-2204, 36-2401, 36-2402 AND 36-2403, ARIZONA REVISED STATUTES; REPEALING SECTION 36-2404, ARIZONA REVISED STATUTES; RELATING TO HEALTH CARE ENTITY QUALITY ASSURANCE ACTIVITIES.**

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

**Section 1.** Section 36-2204, Arizona Revised Statutes, is amended to read:

**36-2204. Medical control**

The medical director of the STATEWIDE emergency medical services and trauma system, the emergency medical services council and the medical direction commission shall recommend to the director the following standards and criteria that pertain to the quality of emergency patient care:

1. Statewide standardized training, certification and recertification standards for all classifications of emergency medical care technicians.

2. A standardized and validated testing procedure for all classifications of emergency medical care technicians.

3. Medical standards for certification and recertification of training programs for all classifications of emergency medical care technicians.

4. Standardized continuing education criteria for all classifications of emergency medical care technicians.

5. Medical standards for certification and recertification of certified emergency receiving facilities and advanced life support base hospitals and approval of physicians providing medical control or medical direction for any classification of emergency medical care technicians who are required to be under medical control or medical direction.

6. Standards and mechanisms for monitoring and ongoing evaluation of performance levels of all classifications of emergency medical care technicians, emergency receiving facilities and advanced life support base hospitals and approval

of physicians providing medical control or medical direction for any classification of emergency medical care technicians who are required to be under medical control or medical direction.

7. Objective criteria and mechanisms for decertification of all classifications of emergency medical care technicians, emergency receiving facilities and advanced life support base hospitals and for disapproval of physicians providing medical control or medical direction for any classification of emergency care technicians who are required to be under medical control or medical direction.

8. Medical standards for nonphysician prehospital treatment and prehospital triage of patients requiring emergency medical services.

9. Standards for emergency medical dispatcher training, including prearrival instructions. For the purposes of this paragraph, "emergency medical dispatch" means the receipt of calls requesting emergency medical services and the response of appropriate resources to the appropriate location.

10. Standards for a quality assurance process for components of the STATEWIDE emergency medical services AND TRAUMA system, including standards for maintaining the confidentiality of the information considered in the course of quality assurance and the records of the ~~activities of~~ quality assurance ~~process~~ ACTIVITIES pursuant to section ~~36-2401~~ 36-2403.

11. Standards for ambulance service and medical transportation that give consideration to the differences between urban, rural and wilderness areas.

12. Standards to allow an ambulance to transport a patient to a health care institution that is licensed as a special hospital and that is physically connected to an emergency receiving facility.

**Sec. 2. Heading change**

The article heading of title 36, chapter 25, article 1, Arizona Revised Statutes, is changed from "HEALTH CARE ENTITY QUALITY ASSURANCE PROCESS" to "HEALTH CARE ENTITY QUALITY ASSURANCE ACTIVITIES".

**Sec. 3.** Section 36-2401, Arizona Revised Statutes, is amended to read:

**36-2401. Definitions**

In this article, unless the context otherwise requires:

1. "Health care entity" means any of the following:

(a) A licensed health care provider.

(b) An entity that provides ~~or contracts to provide~~ health care services ~~other than a hospital or outpatient surgical center~~ THROUGH ONE OR MORE LICENSED HEALTH CARE PROVIDERS.

(c) AN ENTITY THAT CONTRACTS TO PROVIDE OR PAYS FOR HEALTH CARE SERVICES.

~~(c)~~ (d) A professional organization of licensed health care providers.

~~(d)~~ (e) A utilization or quality control peer review organization.

~~(e)~~ (f) A state health care provider.

~~(f)~~ (g) A component of the statewide EMERGENCY MEDICAL SERVICES AND trauma system.

~~(g)~~ (h) A qualifying community health center as defined in section 36-2907.06.

(i) A COMMITTEE OR OTHER ORGANIZATIONAL STRUCTURE OF A HEALTH CARE ENTITY.

2. "Licensed health care provider" means a person or institution THAT IS licensed or certified~~, or a corporation, all of whose members or shareholders are licensed or certified,~~ by this state to provide health care, medical services, nursing services or other health-related services ~~other than a licensed hospital and outpatient surgical center~~.

~~3. "Malice" means evil intent and outrageous, oppressive or intolerable conduct that creates a substantial risk of tremendous harm to others.~~

~~4. "Quality assurance process" means a process that is adopted by a health care entity and that follows written standards and criteria. The process includes the activities of a health care entity or any of its committees that investigate the quality of health care through the review of professional practices, training and experience, patient cases or conduct of licensed health care providers, or encourage proper utilization of health care services and facilities.~~

3. "QUALITY ASSURANCE ACTIVITIES" MEANS ACTIVITIES OR PROCEEDINGS OF A HEALTH CARE ENTITY:

(a) THAT ARE ESTABLISHED FOR THE PURPOSES OF REDUCING MORBIDITY AND MORTALITY AND FOR IMPROVING THE QUALITY OF HEALTH CARE OR ENCOURAGING PROPER UTILIZATION OF HEALTH CARE SERVICES AND FACILITIES THROUGH THE REVIEW OF THE QUALIFICATIONS, PROFESSIONAL PRACTICES, TRAINING, EXPERIENCE, PATIENT CARE, CONDUCT, PROCESSES OR DATA OF LICENSED HEALTH CARE PROVIDERS.

(b) THAT FOLLOW A PROCESS ADOPTED BY THE HEALTH CARE ENTITY THAT INCLUDES WRITTEN STANDARDS AND CRITERIA.

4. "QUALITY ASSURANCE INFORMATION" MEANS INFORMATION IN ORAL, WRITTEN OR DIGITAL FORM THAT IS SUBMITTED TO, PREPARED FOR OR BY OR CONSIDERED BY A HEALTH CARE ENTITY FOR OR IN THE COURSE OF QUALITY ASSURANCE ACTIVITIES, INCLUDING THE RECORD OF THE HEALTH CARE ENTITY'S ACTIONS AND PROCEEDINGS.

5. "State health care provider" means a department, agency, board or commission of the state and its officers, agents and employees that is a health care provider to clients, wards, patients or other persons in the control or custody of a department, agency, board or commission of the state and a health care provider rendering health care services on behalf of the state that is covered by insurance or self-insurance pursuant to section 41-621, 41-622 or 41-623.

**Sec. 4.** Section 36-2402, Arizona Revised Statutes, is amended to read:

**36-2402. Quality assurance activities; sharing of quality assurance information; immunity**

~~A. The written standards and criteria for a quality assurance process must be available to all licensed health care providers that conduct or are subject to a quality assurance process.~~

A. STATE HEALTH CARE PROVIDERS, HOSPITALS AND OUTPATIENT SURGICAL CENTERS SHALL, AND OTHER HEALTH CARE ENTITIES MAY, CONDUCT QUALITY ASSURANCE ACTIVITIES.

B. A HEALTH CARE ENTITY MAY SHARE QUALITY ASSURANCE INFORMATION WITH APPROPRIATE STATE LICENSING OR CERTIFYING AGENCIES AND WITH LICENSED HEALTH CARE PROVIDERS WHO ARE THE SUBJECT OF QUALITY ASSURANCE ACTIVITIES. A HOSPITAL MAY SHARE QUALITY ASSURANCE INFORMATION WITH OTHER HEALTH CARE ENTITIES ONLY WITH THE APPROVAL OF THE HOSPITAL'S MEDICAL EXECUTIVE COMMITTEE OR AN EQUIVALENT COMMITTEE.

C. A HEALTH CARE ENTITY MAY SHARE QUALITY ASSURANCE INFORMATION WITH OTHER HEALTH CARE ENTITIES ONLY FOR THE PURPOSE OF CONDUCTING QUALITY ASSURANCE ACTIVITIES.

~~B.~~ D. A health care entity or person that~~, without malice,~~ provides OR RECEIVES information, THAT PARTICIPATES, takes any action or makes any decision or recommendation in the course of ~~a~~ quality assurance ~~process~~ ACTIVITIES or that furnishes any records, information or assistance to a health care entity FOR OR in the course of ~~a~~ quality assurance ~~process shall not be~~ ACTIVITIES IS NOT subject to liability for civil damages or any legal action in consequence of such action EXCEPT AS PROVIDED IN SECTION 36-445.02. ~~Malice shall be determined by the court and must be based on a finding from clear and convincing evidence. This section shall not be construed to relieve any person of liability arising from treatment of a patient.~~

~~C.~~ E. ~~Health care~~ Quality assurance ~~review~~ activities conducted by state, county or local medical, pharmacy and dental associations and societies on behalf of a health care entity~~, licensed hospital, outpatient surgical center, state or federal health program or other health maintenance organization~~ are immune from civil liability to the same degree as the facility for which the review activities are conducted.

~~D. This section applies to a committee consisting of two or more qualifying community health centers as defined in section 36-2907.06 to review quality assurance information.~~

F. HEALTH CARE ENTITIES MAY JOINTLY CONDUCT QUALITY ASSURANCE ACTIVITIES.

G. THIS SECTION DOES NOT RELIEVE ANY HEALTH CARE ENTITY FROM LIABILITY ARISING FROM THE TREATMENT OF A PATIENT OR FROM NEGLIGENT CREDENTIALING DECISIONS.

**Sec. 5.** Section 36-2403, Arizona Revised Statutes, is amended to read:

**36-2403. Confidentiality; protection from discovery proceedings and subpoena; exceptions**

A. ~~The information considered by any entity or organization acting pursuant to section 36-2402, subsection C in the course of a quality assurance process and the records of its actions and proceedings~~ QUALITY ASSURANCE INFORMATION shall be confidential and ~~are~~ IS not subject to subpoena or order to produce except ~~as provided in subsection B of this section and~~ in proceedings before the appropriate

state licensing or certifying agency, or in actions by ~~an aggrieved~~ A licensed health care provider against a health care entity ARISING FROM THE DISCIPLINE OF THE LICENSED HEALTH CARE PROVIDER OR THE REFUSAL, TERMINATION, SUSPENSION OR LIMITATION OF PRIVILEGES. ~~No member of~~ A health care entity~~, its staff~~ or ~~any~~ A person ~~assisting or furnishing~~ WHO PROVIDES OR RECEIVES information ~~to it or participating~~ OR WHO PARTICIPATES IN, TAKES ANY ACTION IN OR MAKES ANY DECISION OR RECOMMENDATION FOR OR in the course of ~~the~~ quality assurance ~~process~~ ACTIVITIES may NOT be subpoenaed to testify in any judicial or quasi-judicial proceeding ~~if such subpoena is based solely on activities relating to~~ RELATING TO THE SUBJECT MATTER OF the quality assurance ~~process~~ ACTIVITIES.

B. This article shall not be construed to affect any patient's claim to privilege or privacy or to prevent the subpoena of a patient's health care records if they are otherwise subject to discovery. IN ANY LEGAL ACTION BROUGHT PURSUANT TO SECTION 36-2402 IN WHICH IT IS ALLEGED THAT QUALITY ASSURANCE ACTIVITIES WERE INADEQUATE OR WERE NEGLIGENTLY CONDUCTED, REPRESENTATIVES OF A HEALTH CARE ENTITY ARE PERMITTED TO TESTIFY ONLY AS TO WHETHER THERE WERE QUALITY ASSURANCE ACTIVITIES RELATING TO THE SUBJECT MATTER BEING LITIGATED AND THE DATE OR DATES OF THE QUALITY ASSURANCE ACTIVITIES.

~~C. Information considered by a health care entity and the records of its actions and proceedings which are used pursuant to subsection A of this section by a state licensing or certifying agency or in an appeal shall be kept confidential and shall be subject to the same provisions concerning discovery and use in legal actions as are the original information and records in the possession and control of a health care entity.~~

~~D. This section applies to a committee consisting of two or more qualifying community health centers as defined in section 36-2907.06 to review quality assurance information.~~

C. SHARING OF INFORMATION ABOUT QUALITY ASSURANCE ACTIVITIES IN ACCORDANCE WITH SECTION 36-2402 DOES NOT WAIVE OR OTHERWISE IMPAIR THE CONFIDENTIALITY OF THE INFORMATION SHARED. GOVERNING BODIES AND ADMINISTRATIVE AND OTHER PERSONNEL OF A HEALTH CARE ENTITY MAY PARTICIPATE IN QUALITY ASSURANCE ACTIVITIES WITHOUT WAIVING CONFIDENTIALITY. ALL INDIVIDUALS OR ENTITIES SHARING OR RECEIVING QUALITY ASSURANCE INFORMATION SHALL MAINTAIN THE INFORMATION CONFIDENTIALLY IN ACCORDANCE WITH THIS SECTION.

D. A STATE AGENCY OR THE AFFECTED LICENSED HEALTH CARE PROVIDER RECEIVING OR REVIEWING QUALITY ASSURANCE INFORMATION PURSUANT TO SECTION 36-2402 SHALL MAINTAIN THE INFORMATION CONFIDENTIALLY, AND SUCH ENTITIES AND INDIVIDUALS ARE SUBJECT TO THE SAME PROVISIONS CONCERNING

DISCOVERY AND USE IN LEGAL ACTIONS AS ARE HEALTH CARE ENTITIES.

E. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, INFORMATION THAT IS OTHERWISE DISCOVERABLE DOES NOT BECOME CONFIDENTIAL BASED SOLELY ON ITS SUBMISSION TO OR CONSIDERATION BY A HEALTH CARE ENTITY CONDUCTING CONFIDENTIAL QUALITY ASSURANCE ACTIVITIES. A HEALTH CARE ENTITY CONDUCTING QUALITY ASSURANCE ACTIVITIES MAY NOT PRODUCE SUCH INFORMATION IF DISCOVERY OF SUCH INFORMATION MIGHT REVEAL THE DELIBERATIVE PROCESS ENGAGED IN DURING SUCH QUALITY ASSURANCE ACTIVITIES.

F. THIS SECTION DOES NOT APPLY TO INFORMATION CONSIDERED CONFIDENTIAL UNDER SECTION 36-2917.

**Sec. 6. Repeal**

Section 36-2404, Arizona Revised Statutes, is repealed.

**Sec. 7. Intent**

The intent of this act is to allow more health care entities to conduct quality assurance activities and to specifically allow the sharing of quality assurance information between entities without a waiver of privilege. It is not the intent of this act to broaden the definitions of quality assurance activities or quality assurance information.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## DEPARTMENT OF CHILD SAFETY—LEGISLATOR DISCUSSION—CONFIDENTIALITY FORM

### CHAPTER 320

### H. B. 2571

**AN ACT AMENDING SECTION 8-807, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF CHILD SAFETY INFORMATION.**

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

**Section 1.** Section 8-807, Arizona Revised Statutes, is amended to read:

**8-807. DCS information; public record; use; confidentiality; violation; classification; definitions**

A. DCS information shall be maintained by the department as required by federal law as a condition of the allocation of federal monies to this state. All exceptions for the public release of DCS information shall be construed as openly as possible under federal law.

B. The department, or a person who receives DCS information pursuant to this subsection, shall provide DCS information to a federal agency, a state agency, a tribal agency, a county or municipal agency, a law enforcement agency, a prosecutor, an attorney or a guardian ad litem representing a child victim of crime pursuant to article II, section 2.1, Constitution of Arizona, a school, a community service provider, a contract service provider or any other person that is providing services pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter:

1. To meet its duties to provide for the safety, permanency and well-being of a child, provide services to a parent, guardian or custodian or provide services to family members to strengthen the family pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter.

2. To enforce or prosecute any violation involving child abuse or neglect.

3. To provide information to a defendant after a criminal charge has been filed as required by an order of the criminal court.

4. To help investigate and prosecute any violation involving domestic violence as defined in section 13-3601 or violent sexual assault as prescribed in section 13-1423.

C. The department shall disclose DCS information to a court, a party in a dependency or termination of parental rights proceeding or the party's attorney, the foster care review board or a court appointed special advocate for the purposes of and as prescribed in this title.

D. The department shall disclose DCS information to a domestic relations, family or conciliation court if the DCS information is necessary to promote the safety and well-being of children. The court shall notify the parties that it has received the DCS information.

E. A person or agent of a person who is the subject of DCS information shall have access to DCS information concerning that person.

F. The department:

1. May provide DCS information to confirm, clarify or correct information concerning an allegation or actual instance of child abuse or neglect that has been made public by sources outside the department.

2. Shall promptly provide DCS information to the public regarding a case of child abuse, abandonment or neglect that has resulted in a fatality or near fatality as follows:

(a) The department shall provide preliminary information including at a minimum:

(i) The name, age and city, town or general location of residence of the child who has suffered a near fatality or fatality.

(ii) The fact that a child suffered a near fatality or fatality as the result of abuse, abandonment or neglect.

(iii) The name, age and city, town or general location of residence of the alleged perpetrator, if available.

(iv) Whether there have been reports, or any current or past cases, of abuse, abandonment or neglect involving the child and the current alleged abusive or neglectful parent, guardian or custodian.

(v) Actions taken by the department in response to the fatality or near fatality of the child.

(vi) A detailed synopsis of prior reports or cases of abuse, abandonment or neglect involving the child and the current alleged abusive or neglectful parent, guardian or custodian and of the actions taken or determinations made by the department in response to these reports or cases.

(b) On request by any person, the department shall promptly provide additional DCS information to the requestor. Before releasing additional DCS information, the department shall promptly notify the county attorney of any decision to release that information, and the county attorney shall promptly inform the department if it believes the release would cause a specific, material harm to a criminal investigation. After consulting with the county attorney, pursuant to subdivision (c) of this paragraph, the department shall produce to the requestor as much additional DCS information as promptly as possible about a case of child abuse, abandonment or neglect that resulted in a fatality or near fatality.

(c) On request, the department shall continue to provide DCS information promptly to the public about a fatality or near fatality unless:

(i) After consultation with the county attorney, the county attorney demonstrates that release of particular DCS information would cause a specific, material harm to a criminal investigation.

(ii) The release would violate subsection A or L of this section or the privacy of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

(d) If any person believes that the county attorney has failed to demonstrate that release would cause a specific, material harm to a criminal investigation, that person may file an action in superior court pursuant to title 39, chapter 1, article 2 and subsection J of this section and request the court to review the DCS information in camera and order disclosure.

3. May provide DCS information to a person who is conducting bona fide research, the results of which might provide DCS information that is beneficial in improving the department.

4. May provide access to DCS information to the parent, guardian or custodian of a child if the DCS information is reasonably necessary to promote the safety, permanency and well-being of the child.

G. The department shall disclose DCS information to a county medical examiner or an alternate medical examiner directing an investigation into the circumstances surrounding a death pursuant to section 11-593.

H. Access to DCS information in the central registry shall be provided as prescribed in section 8-804.

I. To provide oversight of the department, the department shall provide access to DCS information to the following persons, if the DCS information is reasonably necessary for the person to perform the person's official duties:

1. Federal or state auditors.

2. Persons conducting any accreditation deemed necessary by the department.

3. A standing committee of the legislature or a committee appointed by the president of the senate or the speaker of the house of representatives for purposes of conducting investigations related to the legislative oversight of the department. This information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding.

4. A legislator who requests DCS information in the regular course of the legislator's duties. A LEGISLATOR MAY DISCUSS THIS INFORMATION WITH ANOTHER LEGISLATOR IF THE OTHER LEGISLATOR HAS SIGNED THE FORM PRESCRIBED IN SUBDIVISION (d) OF THIS PARAGRAPH IN REGARD TO THE SPECIFIC FILE THAT WILL BE DISCUSSED. This information shall not be further disclosed unless a court has ordered the disclosure of this information, the information has been disclosed in a public or court record, or the information has been disclosed in the course of a public meeting or court proceeding. To request a file pursuant to this paragraph:

(a) The legislator shall submit a written request for DCS information to the presiding officer of the body of which the state legislator is a member. The request shall state the name of the person whose case file is to be reviewed and any other information that will assist the department in locating the file.

(b) The presiding officer shall forward the request to the department within five working days of the receipt of the request.

(c) The department shall make the necessary arrangements for the legislator to review the file at an office of the department, chosen by the legislator, within ten working days.

(d) The legislator shall sign a form, consistent with the requirements of this paragraph and paragraph 3 of this subsection, before reviewing the file, that outlines the confidentiality laws governing department files and penalties for further release of the information.

5. A citizen review panel as prescribed by federal law, a child fatality review team as provided in title 36, chapter 35 and the office of ombudsman-citizens aide.

J. A person who has been denied DCS information regarding a fatality or near fatality caused by abuse, abandonment or neglect pursuant to subsection F, paragraph 2 or subsection L of this section may bring a special action pursuant to section 39-121.02 in the superior court to order the department to release that DCS information. A legislator has standing to bring or to join a special action regarding the release of DCS information or to challenge the redaction of released DCS information. The plaintiff shall provide notice to the county attorney, who has standing and may participate in the action. The court shall review the requested records in camera and order disclosure consistent with subsection A, subsection F, paragraph 2 and subsection L of this section. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

K. The department or a person who is not specifically authorized by this section to obtain DCS information may petition a judge of the superior court to order the department to release DCS information. The plaintiff shall provide notice to the county attorney, who has standing and may participate in the action. The court shall review the requested records in camera and shall balance the rights of the parties who are entitled to confidentiality pursuant to this section against the rights of the parties who are seeking the release of the DCS information. The court may release otherwise confidential DCS information only if the rights of the parties seeking the DCS information and any benefits from releasing the DCS information outweigh the rights of the parties who are entitled to confidentiality and any harm that may result from releasing the DCS information. The court shall take reasonable steps to prevent any clearly unwarranted invasions of privacy and protect the privacy and dignity of victims of crime pursuant to article II, section 2.1, subsection C, Constitution of Arizona.

L. Except as provided in subsection M of this section, before it releases records under this section, the department shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of a person who reports child abuse or neglect and to protect any other person if the department believes that disclosure of the DCS information would be likely to endanger the life or safety of any person. The department is not required by this section to disclose DCS information if the department demonstrates that disclosure would cause a specific, material harm to a department investigation. The department is not required by this section to disclose DCS information if, in consultation with the county attorney, the county attorney demonstrates that disclosure would cause a specific, material harm to a criminal investigation.

M. A person who is the subject of an unfounded report or complaint made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this chapter and who believes that the report or complaint was made in bad faith or with malicious intent may petition a judge of the superior court to order the department to release the DCS information. The petition shall specifically set forth reasons supporting the person's belief that the report or complaint was made in bad faith or with malicious intent. The court shall review the DCS information in camera and the person filing the petition shall be allowed to present evidence in support of the petition. If the court determines that there is a reasonable question of fact as to whether the report or complaint was made in bad faith or with malicious intent and that disclosure of the identity of the person making the report or complaint would not be likely to endanger the life or safety of the person making the report or complaint, it shall provide a copy of the DCS information to the person filing the petition and the original DCS information is subject to discovery in a subsequent civil action regarding the making of the report or complaint.

N. The department shall provide the person who conducts a forensic medical evaluation with any records the person requests, including social history and family history regarding the child, the child's siblings and the child's parents or guardians.

O. The department shall provide DCS information on request to a prospective adoptive parent, foster parent or guardian, if the information concerns a

child the prospective adoptive parent, foster parent or guardian seeks to adopt or provide care for.

P. If the department receives information that is confidential by law, the department shall maintain the confidentiality of the information as prescribed in the applicable law.

Q. A person may authorize the release of DCS information about the person but may not waive the confidentiality of DCS information concerning any other person.

R. The department may provide a summary of the outcome of a department investigation to the person who reported the suspected child abuse or neglect.

S. The department shall adopt rules to facilitate the accessibility of DCS information.

T. The department may charge a fee for copying costs required to prepare DCS information for release pursuant to this section.

U. A person who violates this section is guilty of a class 2 misdemeanor.

V. For the purposes of this section:

1. "DCS information" includes all information the department gathers during the course of an investigation conducted under this chapter from the time a file is opened and until it is closed. DCS information does not include information that is contained in child welfare agency licensing records.

2. "Near fatality" means an act that, as certified by a physician, including the child's treating physician, places a child in serious or critical condition.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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## AFFORDABLE CARE ACT—USE OF PERSONNEL AND RESOURCES—PROHIBITION

### CHAPTER 321

### H. B. 2643

**AN ACT AMENDING TITLE 1, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; RELATING TO SOVEREIGN AUTHORITY.**

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

**Section 1.** Title 1, chapter 2, Arizona Revised Statutes, is amended by adding article 4, to read:

ARTICLE 4. SOVEREIGN AUTHORITY

**1-271. Sovereign authority; affordable care act; definition**

A. PURSUANT TO THE SOVEREIGN AUTHORITY OF THIS STATE AND ARTICLE II, SECTION 3, CONSTITUTION OF ARIZONA, THIS STATE

AND ALL POLITICAL SUBDIVISIONS OF THIS STATE ARE PROHIBITED FROM USING ANY PERSONNEL OR FINANCIAL RESOURCES TO ENFORCE, ADMINISTER OR COOPERATE WITH THE AFFORDABLE CARE ACT BY:

1. FUNDING OR IMPLEMENTING A STATE-BASED HEALTH CARE EXCHANGE OR MARKETPLACE.

2. LIMITING THE AVAILABILITY OF SELF-FUNDED HEALTH INSURANCE PROGRAMS OR THE REINSURANCE OR OTHER PRODUCTS THAT ARE TRADITIONALLY USED WITH SELF-FUNDED HEALTH INSURANCE PROGRAMS.

3. FUNDING OR AIDING IN THE PROSECUTION OF ANY ENTITY FOR A VIOLATION OF THE ACT, EXCEPT AS NECESSARY TO MAINTAIN THE PROGRAM INTEGRITY OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

4. FUNDING OR ADMINISTERING ANY PROGRAM OR PROVISION OF THE ACT EXCEPT FOR REGULATORY ACTIVITIES THAT:

(a) ARE ASSOCIATED WITH SECTION 20-238 AND TITLE 20, CHAPTER 2, ARTICLE 3.4.

(b) ARE ADMINISTERED UNDER SECTIONS 36-2901.08 AND 36-2901.09.

(c) INVOLVE THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

(d) ARE ASSOCIATED WITH INITIATIVES, GRANTS OR OTHER FUNDING RELATED TO PUBLIC HEALTH TREATMENT, PREPAREDNESS, EDUCATION OR PREVENTION PROGRAMS AUTHORIZED BY THE AFFORDABLE CARE ACT, PROVIDED THAT THE FUNDING DOES NOT IMPOSE UNRELATED REQUIREMENTS ON THIS STATE OR ITS POLITICAL SUBDIVISIONS THAT ARE OUTSIDE THE SCOPE OF THE SPECIFIC PROGRAM.

B. THIS STATE AND ALL POLITICAL SUBDIVISIONS OF THIS STATE MAY USE PERSONNEL OR FINANCIAL RESOURCES TO PROVIDE EMPLOYEE HEALTH INSURANCE BENEFITS, AND SUCH EMPLOYEE HEALTH INSURANCE BENEFITS MAY BE IN COMPLIANCE WITH ALL PROVISIONS OF THE ACT.

C. FOR THE PURPOSES OF THIS SECTION, "ACT" OR "AFFORDABLE CARE ACT" MEANS THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (P.L. 111-148) AS AMENDED BY THE HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010 (P.L. 111-152) AND ANY RULES ADOPTED PURSUANT TO THOSE ACTS.

Approved by the Governor April 10, 2015.
Filed in the Office of the Secretary of State April 14, 2015.

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# TAX LIENS—DELINQUENCY—PARTIAL PAYMENTS

## CHAPTER 322

## S. B. 1135

**AN ACT AMENDING SECTIONS 42-18056, 42-18121, 42-18152, 42-18154, 42-18201 AND 42-18202, ARIZONA REVISED STATUTES; RELATING TO TAX LIENS.**

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

**Section 1.** Section 42-18056, Arizona Revised Statutes, is amended to read:

**42-18056. Partial payment of taxes; certificates of purchase; delinquent taxes**

A. At any time before either installment of the tax becomes delinquent, the county treasurer shall accept a partial payment or payments of the tax in an amount of at least ten ~~per cent~~ PERCENT of the installment and in an amount of at least ten dollars. The treasurer shall credit the taxpayer with the payment, and if any part of the tax or any installment remains unpaid at the date of delinquency, the delinquency relates only to the amount remaining unpaid.

B. In accepting payments under subsection A of this section, the county treasurer shall issue a receipt to the taxpayer, subject to section 42-18055, subsection C, stating that it covers a partial payment of taxes.

C. FOR ALL CERTIFICATES OF PURCHASE SOLD DURING CALENDAR YEAR 2016 AND AFTERWARDS FOR TAX YEAR 2014 AND AFTERWARDS IN A COUNTY WITH A POPULATION OF MORE THAN THREE MILLION PERSONS IF NO PRIOR YEAR CERTIFICATES OF PURCHASE ARE OUTSTANDING, THE COUNTY TREASURER SHALL ACCEPT A PARTIAL PAYMENT IN AN AMOUNT EQUAL TO AT LEAST TWENTY-FIVE PERCENT OF THE PRINCIPAL AMOUNT SHOWN ON THE OLDEST REMAINING YEAR OF THE DELINQUENCY PLUS ANY ACCRUED INTEREST AND FEES DUE ON THE PRINCIPAL PAYMENT AMOUNT.

D. IN ACCEPTING PAYMENTS UNDER SUBSECTION C OF THIS SECTION, THE COUNTY TREASURER SHALL ISSUE A PARTIAL PAYMENT STATEMENT TO THE TAXPAYER AS PROVIDED BY SECTION 42-18154, SUBSECTION C.

E. PARTIAL PAYMENTS ON DELINQUENT TAXES SHALL BE IMPOUNDED AND DISBURSED BY THE COUNTY TREASURER AS PRESCRIBED BY SECTION 42-18152, SUBSECTION C, WHEN THE IMPOUNDED MONIES ARE SUFFICIENT TO FULLY REDEEM THE OLDEST OUTSTANDING CERTIFICATE OF PURCHASE.

F. IF NO CERTIFICATE OF PURCHASE IS OUTSTANDING, THE COUNTY TREASURER SHALL CREDIT THE TAXPAYER WITH THE PAYMENT, AND IF ANY PART OF THE TAX OR ANY INSTALLMENT

REMAINS UNPAID AT THE DATE OF DELINQUENCY, THE DELINQUENCY RELATES ONLY TO THE AMOUNT REMAINING UNPAID.

**Sec. 2.** Section 42-18121, Arizona Revised Statutes, is amended to read:

**42-18121. Payment of subsequent taxes by certificate holder; separate certificate of purchase by assignment; fee**

A. On or after June 1, if a person who holds a certificate of purchase desires to pay subsequent taxes, accrued interest and related fees due on the property, the person shall exhibit the certificate or receipt of registered certificate to the county treasurer. The treasurer shall enter the amount of the payment on the certificate and on the record of tax lien sales. The amount of subsequent taxes bears interest at the rate stated in the certificate of purchase from the first day of the month following the purchase of the subsequent tax lien.

~~B.~~ The county treasurer shall collect a fee of five dollars from the holder of the certificate for making the entries.

B. BEGINNING IN CALENDAR YEAR 2016, ON OR AFTER JUNE 1 IN A COUNTY WITH A POPULATION OF MORE THAN THREE MILLION PERSONS IF NO PRIOR YEAR CERTIFICATES OF PURCHASE ARE OUTSTANDING, IF A PERSON WHO HOLDS A CERTIFICATE OF PURCHASE FOR TAX YEAR 2014 AND AFTERWARDS DESIRES TO PAY SUBSEQUENT TAXES, THE COUNTY TREASURER SHALL ISSUE A SEPARATE CERTIFICATE OF PURCHASE BY ASSIGNMENT FOR EACH SUBSEQUENT YEAR'S TAXES, ACCRUED INTEREST AND RELATED FEES DUE ON THE PROPERTY. THE PRINCIPAL AMOUNT OF EACH SUBSEQUENT YEAR'S CERTIFICATE OF PURCHASE BEARS INTEREST AT THE RATE STATED IN THE ORIGINAL CERTIFICATE OF PURCHASE EXHIBITED BY THE PERSON FROM THE FIRST DAY OF THE MONTH FOLLOWING THE PURCHASE OF THE SUBSEQUENT CERTIFICATE. THE TREASURER SHALL COLLECT A FEE OF FIVE DOLLARS FOR ASSIGNMENT OF A CERTIFICATE OF PURCHASE FOR EACH SUBSEQUENT YEAR. EXCEPT AS PROVIDED BY SECTION 42-18201, SUBSECTION B, SUBSEQUENT CERTIFICATES OF PURCHASE BY ASSIGNMENT CARRY THE SAME FORECLOSURE RIGHT AS THE ORIGINAL CERTIFICATE OF PURCHASE, AND PARTIAL PAYMENTS SHALL BE ACCEPTED BY THE TREASURER AS PRESCRIBED BY SECTION 42-18056, SUBSECTION C, BY ANY PARTY WITH A VESTED INTEREST IN THE PROPERTY.

**Sec. 3.** Section 42-18152, Arizona Revised Statutes, is amended to read:

**42-18152. When lien may be fully redeemed**

A. A real property tax lien may be FULLY redeemed at any time:

1. Within three years after the date of sale.

2. After three years but before the delivery of a treasurer's deed to the purchaser or the purchaser's heirs or assigns.

B. A LIEN THAT HAS BEEN PARTIALLY REDEEMED UNDER SECTION 42-18056, SUBSECTION C MUST BE FULLY REDEEMED BEFORE THE DELIVERY OF A TREASURER'S DEED TO THE PURCHASER.

C. THE COUNTY TREASURER SHALL REFUND ALL PARTIAL PAYMENT AMOUNTS IMPOUNDED UNDER SECTION 42-18056, SUBSECTION E, TO THE PERSON OR PERSONS OR THEIR HEIRS OR ASSIGNS WITHIN THIRTY DAYS AFTER DELIVERING THE TREASURER'S DEED TO THE PURCHASER.

**Sec. 4.** Section 42-18154, Arizona Revised Statutes, is amended to read:

**42-18154. Certificate of redemption; issuance; contents; fee**

A. If a person requests to redeem a real property tax lien that was sold under article 3 of this chapter, and if the county treasurer is satisfied that the person has the right to redeem the tax lien, and if the person pays the amount due, the county treasurer shall issue to the person a certificate of redemption.

B. The certificate shall:

1. Describe the parcels on which the tax lien is redeemed.

2. State:

(a) The date of redemption.

(b) The amount paid.

(c) By whom redeemed.

C. IF A PERSON REQUESTS TO MAKE A PARTIAL PAYMENT ON A CERTIFICATE OF PURCHASE IN A COUNTY WITH A POPULATION OF MORE THAN THREE MILLION PERSONS AND IF THE COUNTY TREASURER IS SATISFIED THAT THE PERSON HAS THE RIGHT TO MAKE A PARTIAL PAYMENT AND IF THE PERSON PAYS THE AMOUNT DUE PURSUANT TO SECTION 42-18056, SUBSECTION C, THE TREASURER SHALL ISSUE TO THE PERSON A STATEMENT OF PARTIAL PAYMENT. THE PARTIAL PAYMENT STATEMENT SHALL:

1. IDENTIFY THE PERSON OR ENTITY MAKING THE PARTIAL PAYMENT.

2. DESCRIBE THE PARCELS ON WHICH THE PARTIAL PAYMENT IS MADE.

3. STATE:

(a) THE DATE OF THE PARTIAL PAYMENT.

(b) THE AMOUNT PAID.

(c) THE AMOUNT REMAINING DUE TO FULLY REDEEM THE LIEN ON THE DATE OF THE PARTIAL PAYMENT.

~~C.~~ D. For each certificate of redemption AND STATEMENT OF PARTIAL PAYMENT, the county treasurer shall:

1. Make the proper entries in the treasurer's record of tax lien sales.

2. Collect a fee of FIVE DOLLARS FOR THE FIRST AND LAST PARTIAL PAYMENT AND ten dollars FOR A FULL REDEMPTION IF NO PARTIAL PAYMENTS WERE MADE.

~~D.~~ E. A holder of a certificate of redemption may record the certificate in the office of the county recorder.

**Sec. 5.** Section 42-18201, Arizona Revised Statutes, is amended to read:

**42-18201. Action to foreclose right to redeem; subsequent certificates of purchase by assignment**

A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, at any time beginning three years after the sale of a tax lien but not later than ten years after the last day of the month in which the lien was acquired pursuant to section 42-18114, if the lien is not redeemed, the purchaser or the purchaser's heirs or assigns, or the state if it is the assignee, may bring an action to foreclose the right to redeem. The action to foreclose the right to redeem shall be filed in the superior court in the county in which the real property is located and shall name the county treasurer as a party to the action. If any applicable law or court order prohibits bringing an action to foreclose the right to redeem, the limitation provided herein shall be extended twelve months following the termination of such prohibition.

B. FOR A SUBSEQUENT YEAR CERTIFICATE OF PURCHASE BY ASSIGNMENT ISSUED UNDER SECTION 42-18121, SUBSECTION B, AT ANY TIME BEGINNING THREE YEARS AFTER THE DATE THE SUBSEQUENT YEAR CERTIFICATE OF PURCHASE WAS ASSIGNED BUT NOT LATER THAN TEN YEARS AFTER THE LAST DAY OF THE MONTH IN WHICH THE TAX LIEN WAS ASSIGNED UNDER SECTION 42-18121, IF THE LIEN IS NOT REDEEMED, THE PURCHASER OR THE PURCHASER'S HEIRS OR ASSIGNS, OR THE STATE IF IT IS THE ASSIGNEE, MAY BRING AN ACTION TO FORECLOSE THE RIGHT TO REDEEM THE LIEN REPRESENTED BY CERTIFICATES OF PURCHASE ACQUIRED BY ASSIGNMENT AND HELD BY THE PARTY THAT FILED THE ACTION TO FORECLOSE. ALL CERTIFICATES OF PURCHASE HELD BY OTHER PARTIES REMAIN IN PLACE. THE ACTION TO FORECLOSE THE RIGHT TO REDEEM SHALL BE FILED IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED AND SHALL NAME THE COUNTY TREASURER AS A PARTY TO THE ACTION. IF ANY APPLICABLE LAW OR COURT ORDER PROHIBITS BRINGING AN ACTION TO FORECLOSE THE RIGHT TO REDEEM, THE LIMITATION PROVIDED IN THIS SUBSECTION SHALL BE EXTENDED TWELVE MONTHS FOLLOWING THE TERMINATION OF THE PROHIBITION.

**Sec. 6.** Section 42-18202, Arizona Revised Statutes, is amended to read:

**42-18202. Notice**

A. At least thirty days before filing an action to foreclose the right to redeem under this article, but not more than one hundred eighty days before such an action is commenced or may be commenced under section 42-18101 the purchaser shall send notice of intent to file the foreclosure action by certified mail to:

1. The property owner of record according to the records of the county recorder in the county in which the property is located or to all of the following:

(a) The property owner according to the records of the county assessor in the county in which the property is located as determined by section 42-13051.

(b) The situs address of the property, if shown on the tax roll and if different from the owner's address under subdivision (a) OF THIS PARAGRAPH.

(c) The tax bill mailing address according to the records of the county treasurer in the county in which the property is located, if that address is different from the addresses under subdivisions (a) and (b) OF THIS PARAGRAPH.

2. The treasurer of the county in which the real property is located. THE COUNTY TREASURER MAY NOT ACCEPT PARTIAL PAYMENTS UNDER SECTION 42-18056, SUBSECTION C AFTER THE DATE THE TREASURER RECEIVES A NOTICE OF ACTION TO FORECLOSE THE RIGHT TO REDEEM.

B. The notice shall include:

1. The property owner's name.
2. The real property tax parcel identification number.
3. The legal description of the real property.
4. The certificate of purchase number.
5. The proposed date of filing the action.

C. If the purchaser fails to send the notice required by this section, the purchaser is considered to have substantially failed to comply with this section. A court shall not enter any action to foreclose the right to redeem under this article until the purchaser sends the notice required by this section.

Approved by the Governor April 14, 2015.
Filed in the Office of the Secretary of State April 15, 2015.

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## POLITICAL SUBDIVISIONS—FINANCIAL REPORTING

### CHAPTER 323

### H. B. 2617

**AN ACT AMENDING SECTION 9-481, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-661; AMENDING SECTIONS 15-1473 AND 41-1279.07, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5041, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2015, CHAPTER 10, SECTION 7; AMENDING SECTION 42-17103, ARIZONA REVISED STATUTES; AMENDING LAWS 2015, CHAPTER 10, SECTIONS 18 AND 21; RELATING TO COUNTY AND MUNICIPAL BUDGETS.**

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

**Section 1.** Section 9-481, Arizona Revised Statutes, is amended to read:

**9-481. Audits of cities and towns; posting; budget**

A. The governing body of each incorporated city or town shall cause an audit to be made by a certified public accountant or public accountant who is currently

licensed by the Arizona state board of accountancy and who is not an employee of the city or town. Audits shall be made for each fiscal year for all incorporated cities. Audits shall be made at least once for every two fiscal years for all incorporated towns, and the audit shall include financial transactions during both fiscal years.

B. The audit and the audit report shall include all of the accounts and funds of the city or town, including operating, special, utility, debt, trust~~,~~ AND pension, and all other money or property for which the city or town, or any department or officer of the city or town, is responsible either directly or indirectly. The audits shall be made in accordance with generally accepted auditing standards. The consequent audit report shall contain financial statements that are in conformity with generally accepted municipal accounting principles and shall set forth the financial position and results of the operations for each fund and account of the city or town. The audit report shall also include the following:

1. The professional opinion of the accountant or accountants with respect to the financial statements or, if an opinion cannot be expressed, a declaration of the reasons an opinion cannot be expressed.

2. ~~Beginning with fiscal year 2003-2004,~~ A determination as to whether highway user revenue fund monies received by the city or town pursuant to title 28, chapter 18, article 2 and any other dedicated state transportation revenues received by the city or town are being used solely for the authorized transportation purposes.

C. The audit shall begin as soon as possible after the close of the fiscal year, although interim auditing may be performed during the year or years under audit. The audit shall be completed and the final audit report shall be submitted within six months after the close of the fiscal year or years audited.

D. ~~Not less than three~~ AT LEAST FOUR copies of the audit report shall be signed by the auditor and filed with the city or town. The city or town shall immediately DO THE FOLLOWING:

1. Make one copy of the report a public record ~~which shall be~~ THAT IS open to the public for inspection. ~~and~~

2. FILE ONE COPY OF THE REPORT WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07, SUBSECTION C.

3. SUBMIT one copy ~~shall be deposited with the Arizona state library, archives and public records~~ OF THE REPORT TO THE SECRETARY OF STATE.

E. THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07, INCLUDING THE AUDIT REPORT, MUST BE POSTED IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE OF THE CITY OR TOWN NO LATER THAN SEVEN BUSINESS DAYS AFTER THE DATE OF FILING THE FINANCIAL STATEMENTS WITH THE AUDITOR GENERAL. THE FINANCIAL STATEMENTS MUST BE RETAINED AND ACCESSIBLE IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE FOR AT LEAST SIXTY MONTHS. IF THE FINANCIAL STATEMENTS ARE NOT FILED PURSUANT TO SECTION 41-1279.07, THE FORM AS PRESCRIBED BY SUBSECTION F OF THIS SECTION SHALL BE POSTED ON THE WEBSITE OF THE CITY OR TOWN IN PLACE OF THE FINANCIAL STATEMENTS UNTIL THE FINANCIAL STATEMENTS ARE FILED.

F. IF THE FINANCIAL STATEMENTS FOR A CITY OR TOWN ARE NOT COMPLETED AND FILED AS PRESCRIBED BY SECTION 41-1279.07 ON OR BEFORE THE ADOPTION OF THE CITY OR TOWN BUDGET IN THE SUBSEQUENT FISCAL YEAR, THE GOVERNING BODY SHALL INCLUDE A FORM, AS PRESCRIBED BY THE AUDITOR GENERAL, IN THE PUBLISHED BUDGET IN THE SUBSEQUENT FISCAL YEAR PURSUANT TO SECTIONS 42-17103 AND 42-17105 STATING THAT THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07 ARE PENDING, THE REASONS FOR THE DELAY AND THE ESTIMATED DATE OF COMPLETION.

G. IF THE GOVERNING BODY OF A CITY OR TOWN IS REQUIRED TO COMPLETE THE FORM AS PRESCRIBED BY SUBSECTION F OF THIS SECTION, THE GOVERNING BODY SHALL SEND A COPY OF THE FORM TO THE AUDITOR GENERAL, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE.

**Sec. 2.** Title 11, chapter 4, article 3, Arizona Revised Statutes, is amended by adding section 11-661, to read:

**11-661. Posting of financial statements; budget**

A. THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07 MUST BE POSTED IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE OF THE COUNTY NO LATER THAN SEVEN BUSINESS DAYS AFTER THE DATE OF FILING THE FINANCIAL STATEMENTS WITH THE AUDITOR GENERAL. THE FINANCIAL STATEMENTS MUST BE RETAINED AND ACCESSIBLE IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE FOR AT LEAST SIXTY MONTHS. IF THE FINANCIAL STATEMENTS ARE NOT FILED PURSUANT TO SECTION 41-1279.07, THE FORM AS PRESCRIBED BY SUBSECTION B OF THIS SECTION SHALL BE POSTED ON THE WEBSITE OF THE COUNTY IN PLACE OF THE FINANCIAL STATEMENTS UNTIL THE FINANCIAL STATEMENTS ARE FILED.

B. IF THE FINANCIAL STATEMENTS FOR A COUNTY ARE NOT COMPLETED AND FILED AS PRESCRIBED BY SECTION 41-1279.07 ON OR BEFORE THE ADOPTION OF THE COUNTY BUDGET IN THE SUBSEQUENT FISCAL YEAR, THE BOARD OF SUPERVISORS MUST INCLUDE A FORM, PRESCRIBED BY THE AUDITOR GENERAL, IN THE PUBLISHED BUDGET IN THE SUBSEQUENT FISCAL YEAR PURSUANT TO SECTIONS 42-17103 AND 42-17105 STATING THAT THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07 ARE PENDING, THE REASONS FOR THE DELAY AND THE ESTIMATED DATE OF COMPLETION.

C. IF THE BOARD OF SUPERVISORS OF A COUNTY IS REQUIRED TO COMPLETE THE FORM AS PRESCRIBED BY SUBSECTION B OF THIS SECTION, THE BOARD OF SUPERVISORS SHALL SEND A COPY OF THE FORM TO THE AUDITOR GENERAL, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE.

**Sec. 3.** Section 15-1473, Arizona Revised Statutes, is amended to read:

**15-1473. Uniform system of accounting for community college districts; duties of auditor general; posting; budget**

A. The auditor general shall determine the accounting systems, accounting methods and accounting procedures for use by the community college districts.

B. The auditor general, in conjunction with the community college districts, shall prescribe a uniform system of accounting as provided in section 41-1279.21 for use by all community college districts.

C. THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07 MUST BE POSTED IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE OF THE COMMUNITY COLLEGE DISTRICT NO LATER THAN SEVEN BUSINESS DAYS AFTER THE DATE OF FILING THE FINANCIAL STATEMENTS WITH THE AUDITOR GENERAL. THE FINANCIAL STATEMENTS MUST BE RETAINED AND ACCESSIBLE IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE FOR AT LEAST SIXTY MONTHS. IF THE FINANCIAL STATEMENTS ARE NOT FILED PURSUANT TO SECTION 41-1279.07, THE FORM AS PRESCRIBED BY SUBSECTION D OF THIS SECTION SHALL BE POSTED ON THE WEBSITE OF THE COMMUNITY COLLEGE DISTRICT IN PLACE OF THE FINANCIAL STATEMENTS UNTIL THE FINANCIAL STATEMENTS ARE FILED.

D. IF THE FINANCIAL STATEMENTS FOR A COMMUNITY COLLEGE DISTRICT ARE NOT COMPLETED AND FILED AS PRESCRIBED BY SECTION 41-1279.07 ON OR BEFORE THE ADOPTION OF THE COMMUNITY COLLEGE DISTRICT BUDGET IN THE SUBSEQUENT FISCAL YEAR, THE BOARD OF DIRECTORS MUST INCLUDE A FORM, PRESCRIBED BY THE AUDITOR GENERAL, IN THE PUBLISHED BUDGET IN THE SUBSEQUENT FISCAL YEAR PURSUANT TO SECTION 15-1461 STATING THAT THE FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE AUDITOR GENERAL PURSUANT TO SECTION 41-1279.07 ARE PENDING, THE REASONS FOR THE DELAY AND THE ESTIMATED DATE OF COMPLETION.

E. IF THE COMMUNITY COLLEGE DISTRICT BOARD OF DIRECTORS IS REQUIRED TO COMPLETE THE FORM AS PRESCRIBED BY SUBSECTION D OF THIS SECTION, THE BOARD OF DIRECTORS SHALL SEND A COPY OF THE FORM TO THE AUDITOR GENERAL, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE.

**Sec. 4.** Section 41-1279.07, Arizona Revised Statutes, is amended to read:

**41-1279.07. Uniform expenditure reporting system; reports by counties, community college districts, cities and towns; certification and attestation; assistance by auditor general; violation; classification**

A. The auditor general shall prescribe a uniform expenditure reporting system for all political subdivisions subject to the constitutional expenditure

limitations prescribed by article IX, sections 20 and 21, Constitution of Arizona. The system shall include:

1. For counties:

(a) An annual expenditure limitation report that includes at least the following information:

(i) The expenditure limitation established for the reporting fiscal year by the economic estimates commission.

(ii) Total expenditures, by fund, for the reporting fiscal year.

(iii) Total exclusions from local revenues, as defined by article IX, section 20, Constitution of Arizona, by fund, for the reporting fiscal year.

(iv) Total amounts, by fund, of expenditures subject to the expenditure limitation for the reporting fiscal year.

(b) Annual financial statements prepared in accordance with generally accepted accounting principles.

(c) A reconciliation of the total expenditures reported within the financial statements to the total expenditures stated within the expenditure limitation report.

2. For community college districts:

(a) An annual budgeted expenditure limitation report that includes at least the following information:

(i) The expenditure limitation established for the reporting fiscal year by the economic estimates commission.

(ii) Total budgeted expenditures, by fund, for the reporting fiscal year.

(iii) Total exclusions from local revenues, as defined by article IX, section 21, Constitution of Arizona, by fund, for the reporting fiscal year.

(iv) Total amounts, by fund, of budgeted expenditures subject to the expenditure limitation for the reporting fiscal year.

(b) Annual financial statements prepared in accordance with generally accepted accounting principles.

(c) A reconciliation of the total expenditures reported within the financial statements to the total expenditures reported within the expenditure limitation report.

3. For cities and towns:

(a) An annual expenditure limitation report that includes at least the following information:

(i) The expenditure limitation established for the reporting fiscal year by the economic estimates commission and, if applicable, the voter approved alternative expenditure limitation.

(ii) Total expenditures, by fund, for the reporting fiscal year.

(iii) Total exclusions from local revenues, as defined by article IX, section 20, Constitution of Arizona, by fund, for the reporting fiscal year or, if applicable, the total exclusions from the voter approved alternative expenditure limitation.

(iv) Total amounts, by fund, of expenditures subject to the expenditure limitation for the reporting fiscal year.

(b) Financial statements prepared in accordance with generally accepted accounting principles.

(c) A reconciliation of the total expenditures reported within the financial statements to the total expenditures reported within the expenditure limitation report.

B. The auditor general shall provide detailed instructions for completion and submission of the reports described in subsection A of this section. The auditor general shall prescribe definitions for terms utilized in and the form of the reports described in subsection A of this section. The reports described in subsection A of this section are required of counties and community college districts beginning with fiscal year 1981-1982. The reports described in subsection A of this section are required of cities and towns beginning with the fiscal year the political subdivision is subject to the expenditure limitation. The annual reporting requirements also apply to political subdivisions subject to an alternative expenditure limitation enacted pursuant to article IX, section 20, subsection (9), Constitution of Arizona.

C. The reports described in subsection A of this section must be filed with the auditor general within ~~four~~ NINE months after the close of each fiscal year. ~~Upon written request, the auditor general may grant up to a one hundred twenty day extension, if extenuating circumstances exist that prevent submission of the reports within the required four month period.~~

D. The auditor general or a certified public accountant or public accountant performing the annual audit required pursuant to sections 41-1279.21 and 9-481 shall attest to the expenditure limitation reports and financial statements for counties, community college districts and cities. The certified public accountant or public accountant performing the annual or biennial audit required pursuant to section 9-481 shall attest to the expenditure limitation reports and financial statements for towns.

E. Each political subdivision shall provide to the auditor general by July 31 each year the name of the chief fiscal officer designated by the governing board of the political subdivision to submit the current fiscal year's expenditure limitation report. The political subdivision shall notify the auditor general of any changes of individuals designated to file the required reports. The designated chief fiscal officer shall certify to the accuracy of the annual expenditure limitation report.

F. The auditor general shall prescribe forms for the uniform reporting system and may provide assistance to individuals, certified public accountants or public accountants responsible for attesting to the expenditure limitation reports and financial statements.

G. A chief fiscal officer, designated pursuant to subsection E of this section, who subsequent to July 1, 1983 refuses to file the reports required by this section within the prescribed time periods or who intentionally files erroneous reports is guilty of a class 1 misdemeanor. A city or town exceeding the expenditure limitation prescribed or authorized pursuant to article IX, section 20, Constitution of Arizona, for any fiscal year, without authorization pursuant to such section, shall have the amount specified in subsection H of this section of its allocations of the state income tax, distributed pursuant to section 43-206, withheld and redistributed to other cities and towns in the same manner as determined pursuant to that section, except that the population of the city or town exceeding the expenditure limitation shall not be included in the computation, and the city or town exceeding the expenditure

limitation shall not be entitled to share in the redistribution. A community college district exceeding the expenditure limitation prescribed pursuant to article IX, section 21, Constitution of Arizona, for any fiscal year, without authorization pursuant to such section or section 15-1471, shall have the amount specified in subsection H of this section of its allocations of state aid, distributed pursuant to section 15-1466, withheld.

H. The auditor general shall hold a hearing to determine if any political subdivision has exceeded the expenditure limitations prescribed pursuant to article IX, sections 20 and 21, Constitution of Arizona. If a county has exceeded the expenditure limitations prescribed pursuant to article IX, section 20, Constitution of Arizona, without authorization pursuant to that section, the auditor general shall notify the board of supervisors of the county to reduce the allowable levy of primary property taxes of the county pursuant to section 42-17051, subsection C. If any political subdivision other than a county has exceeded the expenditure limitations prescribed pursuant to article IX, sections 20 and 21, Constitution of Arizona, without authorization, the auditor general shall notify the state treasurer to withhold a portion of the political subdivision's allocations of the revenues described in subsection G of this section for the fiscal year subsequent to the auditor general's hearing as follows:

1. If the excess expenditures are less than five ~~per cent~~ PERCENT of the limitation, an amount equal to the excess expenditures.

2. If the excess expenditures are equal to or greater than five ~~per cent~~ PERCENT but less than ten ~~per cent~~ PERCENT of the limitation, or are less than five ~~per cent~~ PERCENT of the limitation but it is at least the second consecutive instance of excess expenditures, an amount equal to triple the excess expenditures.

3. If the excess expenditures are equal to or greater than ten ~~per cent~~ PERCENT of the limitation, an amount equal to five times the excess expenditures or one-third of the allocation of the revenues described in subsection G of this section, whichever is less.

I. A county, city or town is not deemed to have exceeded the expenditure limitation if the county, city or town makes expenditures for capital improvements from utility revenues pursuant to title 9, chapter 5, article 3 or from excise taxes levied by the county, city or town for a specific purpose and the county, city or town repays the expenditure from the proceeds of bonds or other lawful long-term obligations before the hearing required by subsection H of this section.

**Sec. 5.** Section 42-5041, Arizona Revised Statutes, as added by Laws 2015, chapter 10, section 7, is amended to read:

**42-5041. Partial assessment of costs to local governments, councils and authorities**

A. From and after June 30, 2015, the department shall assess and collect fees from cities, towns, ~~and~~ counties, COUNCILS OF GOVERNMENTS AND REGIONAL TRANSPORTATION AUTHORITIES as determined by the director and as provided by this section to recover a portion of administrative, program and other operating costs incurred in providing administrative and collection services to local governments.

B. From and after June 30, 2015, a fee is assessed to each county, city and town that receives state shared revenues pursuant to ~~sections~~ SECTION 42-5029 ~~and~~ OR 43-206, TO EACH COUNCIL OF GOVERNMENTS THAT RECEIVES REVENUES PURSUANT TO SECTION 42-6105 AND TO EACH REGIONAL TRANSPORTATION AUTHORITY LOCATED IN A COUNTY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND PERSONS THAT RECEIVES REVENUES PURSUANT TO SECTION 42-6106.

C. In fiscal year 2015-2016, a fee is assessed to each city and town for which the department does not administer and collect transaction privilege taxes pursuant to chapter 6, article 1 of this title.

D. The department shall assess the fees under this section not later than July 31 each year, and the fees are payable immediately on assessment. If a county, city, ~~or~~ town, COUNCIL OF GOVERNMENTS OR REGIONAL TRANSPORTATION AUTHORITY fails to pay the assessment in full on or before September 30, the department shall notify the state treasurer who shall withhold the delinquent amount from the distribution of monies to the affected county, city or town pursuant to section 42-5029, FROM THE DISTRIBUTION OF MONIES TO THE AFFECTED COUNCIL OF GOVERNMENTS PURSUANT TO SECTION 42-6105 AND FROM THE DISTRIBUTION OF MONIES TO THE AFFECTED REGIONAL TRANSPORTATION AUTHORITY PURSUANT TO SECTION 42-6106, and continue to withhold monies until the entire amount of the assessment has been satisfied.

E. All monies paid to the department or withheld by the state treasurer for the ~~purposes prescribed in subsections A and B of this section~~ FEES ASSESSED PURSUANT TO SUBSECTION B OF THIS SECTION shall be credited to the department of revenue administrative fund established by section 42-1116.01.

F. All monies paid to the department or withheld by the state treasurer for the ~~purposes prescribed in subsection C of this section~~ FEES ASSESSED PURSUANT TO SUBSECTION C OF THIS SECTION shall be credited to the department of revenue IGA and ISA fund established pursuant to section 35-142.

G. Counties, cities and towns may meet their cost sharing obligation from any source of county, city or town revenue designated by the appropriate county, city or town. The county sources may include monies of any countywide special taxing jurisdiction in which the board of supervisors serves as the board of directors.

H. County, city and town contributions made pursuant to this section are excluded from the applicable expenditure limitations.

**Sec. 6.** Section 42-17103, Arizona Revised Statutes, is amended to read:

**42-17103. Public access to estimates of revenues and expenses; notice of public hearing; access to adopted budget**

A. The governing body of each county, city or town shall publish the estimates of revenues and expenses, or a summary of the estimates of revenues and expenses, and a notice of a public hearing of the governing body to hear taxpayers and make tax levies at designated times and places. The summary shall set forth the total estimated revenues and expenditures by fund type, truth in taxation calculations and primary and secondary property tax levies for all districts. A complete copy of

the estimates of revenues and expenses shall be made available at the city, town or county libraries and city, town or county administrative offices and shall be posted in a prominent location on the official ~~websites, or on a website of an association of cities and towns for cities and towns that do not have official websites,~~ WEBSITE OF THE CITY, TOWN OR COUNTY no later than seven business days after the estimates of revenues and expenses are initially presented before the governing body. A complete copy of the budget finally adopted under section 42-17105 shall be posted in a prominent location on the official websites no later than seven business days after final adoption.

B. Beginning with fiscal year 2011-2012, both the estimates of revenues and expenses initially presented before the governing body and the budget finally adopted under section 42-17105 shall be retained and accessible in a prominent location on the official ~~websites, or on a website of an association of cities and towns for cities and towns that do not have official websites,~~ WEBSITE OF THE CITY, TOWN OR COUNTY for at least sixty months.

C. The summary of estimates and notice, together with the library addresses and websites where the complete copy of estimates may be found, shall be published once a week for at least two consecutive weeks after the estimates are tentatively adopted in the official newspaper of the county, city or town, if there is one, and, if not, in a newspaper of general circulation in the county, city or town.

D. If a truth in taxation notice and hearing is required under section 42-17107, the governing body may combine the notice under this section with the truth in taxation notice.

**Sec. 7.** Laws 2015, chapter 10, section 18 is amended to read:

**Sec. 18. County fiscal obligations; report**

A. Notwithstanding any other law, for fiscal year 2015-2016, a county with a population of less than two hundred thousand persons according to the 2010 United States decennial census may meet any county fiscal obligation from any source of county revenue designated by the county, including monies of any countywide special taxing jurisdiction in which the board of supervisors serves as the board of directors.

B. On or before October 1, 2015, all counties with a population of less than two hundred thousand persons according to the 2010 United States decennial census shall report to the director of the joint legislative budget committee ~~whether~~ IF the county used a revenue source FOR PURPOSES OTHER THAN THE PURPOSES OF THE REVENUE SOURCE to meet a county fiscal obligation pursuant to subsection A of this section and, if so, the specific source and amount of revenues that the county intends to use in fiscal year 2015-2016.

C. NOTWITHSTANDING ANY OTHER LAW, FOR FISCAL YEAR 2015-2016, A COUNTY WITH A POPULATION OF MORE THAN TWO HUNDRED THOUSAND PERSONS BUT LESS THAN NINE HUNDRED THOUSAND PERSONS ACCORDING TO THE 2010 UNITED STATES DECENNIAL CENSUS MAY MEET ANY COUNTY FISCAL OBLIGATION FROM ANY SOURCE OF COUNTY REVENUE DESIGNATED BY THE COUNTY, INCLUDING MONIES OF ANY COUNTYWIDE SPECIAL TAXING

JURISDICTION IN WHICH THE BOARD OF SUPERVISORS SERVES AS THE BOARD OF DIRECTORS. UNDER THE AUTHORITY PROVIDED IN THIS SUBSECTION, A COUNTY MAY NOT USE MORE THAN $1,000,000 FOR PURPOSES OTHER THAN THE PURPOSES OF THE REVENUE SOURCE.

D. ON OR BEFORE OCTOBER 1, 2015, ALL COUNTIES WITH A POPULATION OF MORE THAN TWO HUNDRED THOUSAND PERSONS BUT LESS THAN NINE HUNDRED THOUSAND PERSONS ACCORDING TO THE 2010 UNITED STATES DECENNIAL CENSUS SHALL REPORT TO THE DIRECTOR OF THE JOINT LEGISLATIVE BUDGET COMMITTEE IF THE COUNTY USED A REVENUE SOURCE FOR PURPOSES OTHER THAN THE PURPOSES OF THE REVENUE SOURCE TO MEET A COUNTY FISCAL OBLIGATION PURSUANT TO SUBSECTION C OF THIS SECTION AND, IF SO, THE SPECIFIC SOURCE AND AMOUNT OF REVENUES THAT THE COUNTY INTENDS TO USE IN FISCAL YEAR 2015-2016.

**Sec. 8.** Laws 2015, chapter 10, section 21 is amended to read:

**Sec. 21. Legislative intent**

A. It is the intent of the legislature that the fees prescribed in section 42-5041, subsection B, Arizona Revised Statutes, be assessed and collected pursuant to the following guidelines:

1. The total fees for all counties, cities, ~~and~~ towns, COUNCILS OF GOVERNMENTS AND REGIONAL TRANSPORTATION AUTHORITIES may not exceed $20,755,835 in any fiscal year.

2. The share of fees assessed to all counties pursuant to paragraph 1 of this subsection shall be in proportion to the aggregate amount of monies distributed to counties ~~in~~ FOR the FISCAL YEAR TWO YEARS preceding ~~two~~ THE CURRENT fiscal ~~years~~ YEAR pursuant to ~~title 42, chapter 6, article 3, Arizona Revised Statutes, and section~~ SECTIONS 42-5029, 42-6103, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111 AND 42-6112, Arizona Revised Statutes, as a percentage of aggregate distributions to all counties, cities, ~~and~~ towns, COUNCILS OF GOVERNMENTS AND REGIONAL TRANSPORTATION AUTHORITIES LOCATED IN A COUNTY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND PERSONS ~~in~~ FOR the FISCAL YEAR TWO YEARS preceding ~~two~~ THE CURRENT fiscal ~~years~~ YEAR pursuant to ~~title 42, chapter 6, article 3, Arizona Revised Statutes, and~~ sections 42-5029, 42-6001, 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised Statutes.

3. The share of fees assessed to all cities and towns pursuant to paragraph 1 of this subsection shall be in proportion to the aggregate amount of monies distributed to cities and towns ~~in~~ FOR the FISCAL YEAR TWO YEARS preceding ~~two~~ THE CURRENT fiscal ~~years~~ YEAR pursuant to ~~title 42, chapter 6, article 3, Arizona Revised Statutes, and section~~ SECTIONS 42-5029, 42-6001 AND 43-206, Arizona Revised Statutes, as a percentage of aggregate distributions to all counties, cities, ~~and~~ towns, COUNCILS OF GOVERNMENTS AND REGIONAL TRANSPORTATION AUTHORITIES LOCATED IN A COUNTY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND PERSONS ~~in~~

FOR the FISCAL YEAR TWO YEARS preceding ~~two~~ THE CURRENT fiscal ~~years~~ YEAR pursuant to ~~title 42, chapter 6, article 3, Arizona Revised Statutes, and~~ sections 42-5029, 42-6001, 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised Statutes.

4. THE SHARE OF FEES ASSESSED TO ALL COUNCILS OF GOVERNMENTS PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION SHALL BE IN PROPORTION TO THE AGGREGATE AMOUNT OF MONIES DISTRIBUTED TO ALL COUNCILS OF GOVERNMENTS FOR THE FISCAL YEAR TWO YEARS PRECEDING THE CURRENT FISCAL YEAR PURSUANT TO SECTION 42-6105, ARIZONA REVISED STATUTES, AS A PERCENTAGE OF AGGREGATE DISTRIBUTIONS TO ALL COUNTIES, CITIES, TOWNS, COUNCILS OF GOVERNMENTS AND REGIONAL TRANSPORTATION AUTHORITIES LOCATED IN A COUNTY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND PERSONS FOR THE FISCAL YEAR TWO YEARS PRECEDING THE CURRENT FISCAL YEAR PURSUANT TO SECTIONS 42-5029, 42-6001, 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112 AND 43-206, ARIZONA REVISED STATUTES.

5. THE SHARE OF FEES ASSESSED TO ALL REGIONAL TRANSPORTATION AUTHORITIES LOCATED IN A COUNTY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND PERSONS PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION SHALL BE IN PROPORTION TO THE AGGREGATE AMOUNT OF MONIES DISTRIBUTED TO ALL REGIONAL TRANSPORTATION AUTHORITIES LOCATED IN A COUNTY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND PERSONS FOR THE FISCAL YEAR TWO YEARS PRECEDING THE CURRENT FISCAL YEAR PURSUANT TO SECTION 42-6106, ARIZONA REVISED STATUTES, AS A PERCENTAGE OF AGGREGATE DISTRIBUTIONS TO ALL COUNTIES, CITIES, TOWNS, COUNCILS OF GOVERNMENTS AND REGIONAL TRANSPORTATION AUTHORITIES LOCATED IN A COUNTY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND PERSONS FOR THE FISCAL YEAR TWO YEARS PRECEDING THE CURRENT FISCAL YEAR PURSUANT TO SECTIONS 42-5029, 42-6001, 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112 AND 43-206, ARIZONA REVISED STATUTES.

~~4.~~ 6. Except as provided by sections 42-5033 and 42-5033.01, Arizona Revised Statutes, the population of a county as determined by the most recent United States decennial census plus any revision to the decennial census certified by the United States census bureau shall be used as the basis for apportioning monies pursuant to paragraph 2 of this subsection.

~~5.~~ 7. Except as provided by sections 42-5033 and 42-5033.01, Arizona Revised Statutes, the population of a city or town as determined by the most recent United States decennial census plus any revision to the decennial census certified by

the United States census bureau shall be used as the basis for apportioning monies pursuant to paragraph 3 of this subsection.

B. It is the intent of the legislature that the fees prescribed in section 42-5041, subsection C, Arizona Revised Statutes, be payable in an amount equal to seventy-six cents multiplied by the population of the city or town used for the purposes of computing state ~~share~~ SHARED revenues pursuant to sections 42-5029 and 43-206, Arizona Revised Statutes.

Approved by the Governor April 14, 2015.
Filed in the Office of the Secretary of State April 15, 2015.

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## TAXES LIENS—REDEMPTION—DELINQUENT TAX PAYMENTS

### CHAPTER 324

### H. B. 2653

**AN ACT AMENDING SECTION 42-18153, ARIZONA REVISED STATUTES; RELATING TO TAX LIENS.**

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

**Section 1.** Section 42-18153, Arizona Revised Statutes, is amended to read:

**42-18153. Amount required for redemption**

~~A.~~ To redeem a real property tax lien, a person must pay to the county treasurer:

1. The amount for which the real property tax lien was sold, with interest at the rate stated in the certificate of purchase.

2. The amount of all taxes accruing on the real property after the sale and paid by the purchaser and endorsed on the certificate of purchase, with interest on the subsequent taxes at the same rate as stated in the certificate of purchase.

3. Any statutory fees paid by the purchaser or the purchaser's assigns in connection with the certificate, except the processing fee imposed by section 42-18116, subsection C, with interest at the rate stated in the certificate of purchase except as otherwise provided by this chapter.

~~B. To redeem a real property tax lien in a county that has established an elderly assistance fund, a person shall pay to the county treasurer:~~

~~1. The amount for which the real property tax lien was sold, with interest at the rate prescribed by section 42-18053.~~

~~2. The amount of all taxes accruing on the real property after the sale and paid by the purchaser and endorsed on the certificate of purchase, with interest on the subsequent taxes at the same rate prescribed by section 42-18053.~~

~~3. Any statutory fees paid by the purchaser or the purchaser's assigns in connection with the certificate, except the processing fee imposed by section 42-18116, subsection C, with interest at the rate prescribed by section 42-18053 except as otherwise provided by this chapter.~~

~~C. After a real property tax lien is redeemed under subsection B of this section, and if an elderly assistance fund is established in the county pursuant to section 42-17401, the county treasurer shall deposit an amount in the elderly assistance fund that is equal to the difference in the amount of interest prescribed by section 42-18053 and the amount of interest stated in the certificate of purchase.~~

**Sec. 2. Legislative intent**

It is the intent of the legislature that the elderly assistance program established pursuant to section 42-17401, Arizona Revised Statutes, will continue using the monies currently in the fund.

Approved by the Governor April 14, 2015.
Filed in the Office of the Secretary of State April 15, 2015.

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# MEMORIALS AND RESOLUTIONS

## INCREASE UNITED STATES CUSTOMS FIELD OFFICE PERSONNEL

### HOUSE CONCURRENT MEMORIAL 2003

**A CONCURRENT MEMORIAL URGING THE CONGRESS OF THE UNITED STATES TO ACT TO INCREASE THE UNITED STATES CUSTOMS FIELD OFFICE PERSONNEL AT THE PORTS OF ENTRY IN NOGALES, DOUGLAS AND SAN LUIS, ARIZONA.**

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, the United States and Mexico are important trading partners, and commerce between the two countries is a critical source of jobs, income and exchange; and

Whereas, according to the United States Department of Commerce, more than $500 billion in bilateral trade and over $100 billion occurs in cross-border investment annually; and

Whereas, in Arizona, $28 billion in two-way trade is processed annually through Arizona's ports of entry; and

Whereas, according to the United States Census Bureau, Arizona exports to Mexico totaled $7.1 billion in 2013; and

Whereas, the prime conduits for cross-border trade are through the ports of entry in Nogales, Douglas and San Luis, Arizona; and

Whereas, the Customs Field Office personnel within the United States Custom and Border Protection service of the United States Department of Homeland Security serve a vital function in promoting security and economic stability; and

Whereas, the lack of capacity and staffing for customs inspections at these primary entry points create congestion for incoming and outgoing goods, hampers commercial activity and potentially compromises border security; and

Whereas, these impediments ultimately translate into perished agricultural produce and lost business opportunities and income; and

Whereas, the rapid delivery of goods and commerce enhances business activity and strengthens economic integration; and

Whereas, greater inspection capacity at the United States border at the ports of entry in Nogales, Douglas and San Luis, Arizona will enhance the safety and swiftness of goods moving across the border, benefiting the economies of both nations; and

Whereas, increasing the number of Customs Field Office personnel at these ports will facilitate commercial traffic and will result in increased economic growth and stability for Arizona; and

Whereas, the letter signed by every member of the Arizona Congressional delegation and sent to the United States Department of Homeland Security dated October 14, 2014 expressed the need for greater staffing and allocation of personnel to Arizona's ports of entry.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the United States Congress act expediently to increase and maintain staffing for Customs Field Office personnel at the ports of entry in Nogales, Douglas and San Luis, Arizona in order to prudently speed the flow of goods and commerce.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

Passed by the House March 4, 2015.
Passed by the Senate March 11, 2015.
Filed in the Office of the Secretary of State March 12, 2015.

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## MOHAVE COUNTY RADIATION COMPENSATION ACT

### HOUSE CONCURRENT MEMORIAL 2004

### A CONCURRENT MEMORIAL URGING THE UNITED STATES CONGRESS TO ENACT LEGISLATION SIMILAR TO THE MOHAVE COUNTY RADIATION COMPENSATION ACT OF 2013.

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, the United States conducted nearly 200 atmospheric nuclear weapons development tests from 1945 to 1962; and

Whereas, essential to the nation's nuclear weapons development was uranium mining and processing, which was carried out by tens of thousands of workers; and

Whereas, following cessation of the tests in 1962, many of these workers filed class action lawsuits alleging exposure to known radiation hazards; and

Whereas, these suits were dismissed by the appellate courts, but the United States Congress responded with the Radiation Exposure Compensation Act (RECA), which devised a program allowing partial restitution to individuals who developed serious illnesses after exposure to radiation released during the atmospheric nuclear tests or after employment in the uranium industry; and

Whereas, RECA presents an apology and monetary compensation to individuals who contracted certain cancers and other serious diseases following exposure to radiation released during the atmospheric nuclear weapons tests or following occupational exposure to radiation while employed in the uranium industry during the Cold War arsenal buildup; and

Whereas, RECA was designed to serve as an expeditious, low-cost alternative to litigation; and

Whereas, Mohave County was not included as an affected area for purposes of making claims under RECA based on exposure to atmospheric nuclear testing; and

Whereas, in 2013, United States Representative Paul Gosar introduced H.R. 424, known as the Mohave County Radiation Compensation Act of 2013, which sought to include Mohave County as an affected area for purposes of making claims under RECA; and

Whereas, H.R. 424 was not enacted.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the Members of the United States Congress enact legislation similar to United States Representative Paul Gosar's Mohave County Radiation Compensation Act of 2013 that adds Mohave County as an affected area for purposes of making claims under RECA.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

Passed by the House February 25, 2015.
Passed by the Senate March 30, 2015.
Filed in the Office of the Secretary of State March 31, 2015.

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## DEVOLUTION OF FEDERAL LANDS TO ARIZONA

### HOUSE CONCURRENT MEMORIAL 2005

**A CONCURRENT MEMORIAL URGING THE UNITED STATES GOVERNMENT TO IMMEDIATELY DISPOSE OF THE PUBLIC LANDS WITHIN ARIZONA'S BORDERS DIRECTLY TO THE STATE OF ARIZONA.**

To the United States Congress and the Secretary of the United States Department of the Interior:

Your memorialist respectfully represents:

Whereas, at the time of Arizona's Enabling Act, the course and practice of the United States Congress with all prior states admitted to the Union had been to fully dispose, within a reasonable time, of all lands within the boundaries of such states, except for those Indian lands, or lands otherwise expressly reserved to the exclusive jurisdiction of the United States; and

Whereas, the State of Arizona did not contemplate, and could not have contemplated, the United States failing or refusing to dispose of all lands within its defined boundaries within a reasonable time such that the State of Arizona and its permanent fund for its public schools could never realize the anticipated benefit of the deployment, taxation and economic benefit of all the lands within its defined boundaries; and

Whereas, Arizona's Enabling Act contemplates that Arizona's temporary suspension of its sovereign right to tax the public lands within its borders for the benefit of its public schools and the common good of the state ends the very moment that the national

government discharges of its trust obligation to immediately dispose of Arizona's public lands within its borders; and

Whereas, under Article I, section 8, clause 17 of the United States Constitution, the national government is constitutionally authorized to exercise right, title and jurisdiction only over lands that are "purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings"; and

Whereas, the United States Congress never purchased land designated as national parks nor did it ever seek or obtain the consent of the Arizona Legislature as required under Article I, section 8, clause 17 of the United States Constitution; and

Whereas, because of the failure of the national government to immediately dispose of land within the borders of Arizona, this state bears the burden of the inestimable entanglements and expectations over the multiple use of these public lands that were required to be disposed of that have accumulated for more than one hundred years; and

Whereas, Arizona should have had total control over its public lands from 1912, plus a reasonable time for disposition of the lands; and

Whereas, Arizona has been substantially damaged in its ability to provide funding for education because the national government has unduly retained control of much of the land lying within Arizona's borders; and

Whereas, had the national government sold the land in or about 1912, much of the net proceeds should have been applied to paying down the national public debt, and some should have gone to the state of Arizona's permanent fund for the support of the public schools; and

Whereas, Arizona consistently ranks high among all states in class size and low in per pupil funding for education; and

Whereas, had the national government disposed of the land in or about 1912, Arizona would have generated, from that point forward, substantial tax revenues to the benefit of its public schools and to the common good of the state; and

Whereas, the national government gives Arizona less than half of the proceeds of mineral lease revenues and severance taxes generated from the lands within this state's borders; and

Whereas, Arizona has been substantially damaged in mineral lease revenues and severance taxes in that, had the national government disposed of land in or about 1912, Arizona would realize 100% of the mineral lease revenues and severance taxes from the lands; and

Whereas, Arizona has been damaged by the inordinate cost and substantial uncertainty regarding the national government's infringement on Arizona's sovereign control of public lands within its borders; and

Whereas, *County of Shoshone v. United States* (unpublished), which confirmed that state law controls in determining what constitutes sufficient public use, *Shelby County v. Holder*, which clarified that "the fundamental principle of equal sovereignty remains highly pertinent in assessing [post-admission] disparate treatment of states" and *People for the Ethical Treatment of Property Owners v. United States Fish and Wildlife Service*, which confirmed the federal government's abuse of the Commerce Clause authority, all lend support to the notion that the public lands within Arizona's borders should be transferred to Arizona; and

Whereas, because of the breach of Arizona's Enabling Act, and the damages resulting from it, the United States Congress should immediately dispose of the public lands lying within the State of Arizona directly to the State of Arizona; and

Whereas, the national government has an obligation to present and future generations to pay the public debt, yet it has demonstrated a reckless disregard for the growing national debt even as it continues to worsen at an exponential rate.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the United States government immediately and not later than December 31, 2019 dispose of the public lands within Arizona's borders directly to the State of Arizona.

2. That the United States Congress engage in good faith communication, cooperation, coordination and consultation with the State of Arizona regarding the immediate disposal of the public lands directly to this state.

3. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Department of the Interior, the Chief of the United States Forest Service, the Chairperson of the United States House Committee on Natural Resources, the Chairperson of the United States Senate Committee on Energy and Natural Resources and each Member of Congress from the State of Arizona.

Passed by the House March 11, 2015.
Passed by the Senate March 31, 2015.
Filed in the Office of the Secretary of State April 1, 2015.

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## LLOYD L. HOUSE

### HOUSE CONCURRENT RESOLUTION 2011

### A CONCURRENT RESOLUTION ON THE DEATH OF FORMER REPRESENTATIVE DR. LLOYD L. HOUSE.

Former Representative Dr. Lloyd L. House passed away on January 2, 2015 at the age of eighty-three.

Born in Winslow, Arizona on October 24, 1931, Dr. House graduated from college in 1958 with a degree in education. In 1971, he returned to school and earned a master's degree and a doctorate in philosophy in Higher Education and Business Administration. He studied to be a college president and worked as Dean of Instruction for Navajo Community College (Diné College), the subject of his dissertation.

Dr. House was the first Native American to run for and be elected to the Arizona State Legislature. He won his election in 1966, and for two years he ably served his constituents as a Representative advocating on behalf of the Navajo Nation and all American Indians. During his short but distinguished service in the Legislature, he earned the respect and admiration of his peers on both sides of the political aisle.

Dedicated to his country, Dr. House served in the United States Marine Corps from 1950 to 1954 during the Korean conflict. While serving in the Marines, he won the title of Welter Weight All Service Boxing Champion. He also served in the United States Air

Force Reserves. After retiring from military service, he was named National Deputy Chief of Staff of the Veterans of Foreign Wars on October 18, 1962 and was a commander for many years in Window Rock, Arizona.

Dr. House was a Code Talker, and he tirelessly advocated for his fellow Navajo Code Talkers throughout his lifetime. He was instrumental in having the Navajo Code Talkers honored at the Fourth Marine Division Association's annual convention in Chicago in 1969 and in designing and creating a medal to commemorate their service to the United States in 1983.

Dr. House served as a field representative for the Social Security Administration's district office in Prescott. In this capacity, he served the American Indian people in ninety-two different chapter houses throughout the Navajo and Hopi reservations by helping individuals in these regions apply for social security cards and benefits. Many of those whom he assisted were widows whose husbands passed away during their service in the military. Dr. House also wrote and illustrated a Social Security Administration pamphlet for Navajos with pertinent information concerning social security and its benefits entitled "Hosteen Nez Gets a Social Security Card," which was the first federal publication to be translated into an American Indian language.

Despite the demands of his work, Dr. House gave selflessly of his time, energy and abilities to various civic and professional organizations. He served as a consulting reference on Native American tribes, customs and cultures for the Smithsonian Institution, he was a lifetime member of both the National Congress of American Indians and the Veterans of Foreign Wars, he was a member of the American Indian Educational Association and he was named Chairman of the Navajo Service Chapter of the American Red Cross in 1967. Dr. House was also listed as an authority on Native American Tribes, Customs & Cultures by the Thomas Jefferson Forum, named Who's Who in American Politics, recognized for his outstanding service during Operation Navajo in 1967, named in Community Leaders and Noteworthy Americans, Indians of Today and the Encyclopedia of American Indians, and made an honorary member of the Alabama State Militia by Alabama Governor Brewer in 1970.

In all of Dr. Lloyd L. House's endeavors, he distinguished himself as a tireless, hardworking and conscientious public servant. His record of unwavering service to our nation, state and community is an example for all to follow.

Dedicated to his family, Dr. House is survived by his wife of 62 years, Victoria M. House of Surprise, Arizona, three daughters Josephine Obermayr of Santa Rosa, California, Electa Goldtooth of Winslow, Arizona and Margaret Lynch of Window Rock, Arizona, son Lloyd L. House, II of Orange, California, five grandchildren and seven great grandchildren.

Therefore

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

That the Members of the Legislature sincerely regret the passing of the first Native American legislator in the State of Arizona, Dr. Lloyd L. House, and extend their deepest sympathies to his family and friends.

Unanimously Adopted by the House January 14, 2015.
Unanimously Adopted by the Senate January 14, 2015.
Filed in the Office of the Secretary of State January 15, 2015.

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# SUPPORTING THE EMPLOYMENT OF PERSONS WITH DISABILITIES

## HOUSE CONCURRENT RESOLUTION 2029

**A CONCURRENT RESOLUTION SUPPORTING THE EMPLOYMENT OF PERSONS WITH DISABILITIES AND ENCOURAGING ARIZONA BUSINESSES TO HIRE PERSONS WITH DISABILITIES.**

Whereas, every day, Americans with disabilities enrich our communities and businesses as leaders, entrepreneurs and innovators with unique talents to contribute and points of view to express; and

Whereas, currently, only 20.3% of Americans with disabilities, including veterans who develop disabilities while serving our country, participate in the labor force; and

Whereas, the unemployment rate among persons with disabilities is 11.2%, which is more than double the unemployment rate among persons without disabilities; and

Whereas, the Americans with Disabilities Act (ADA) prohibits discrimination in employment against qualified individuals on the basis of disability, which the ADA defines as a physical or mental impairment that substantially limits a major life activity, such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning or working; and

Whereas, an employer is required to provide a reasonable accommodation to an employee with a disability unless the accommodation would be an undue hardship that would require significant difficultly or expense; and

Whereas, twenty-five years after the passage of the ADA, the employment rate of people with disabilities remains unacceptably low; and

Whereas, employment opportunity means economic self-sufficiency, independence and a chance at the American dream; and

Whereas, many unemployed individuals with disabilities are ready, able and willing to work.

Therefore

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

That the Members of the Legislature support the employment of persons with disabilities and encourage Arizona businesses to hire persons with disabilities.

Passed by the House February 19, 2015.
Passed by the Senate March 30, 2015.
Filed in the Office of the Secretary of State March 31, 2015.

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# FINANCIAL LITERACY MONTH

## HOUSE CONCURRENT RESOLUTION 2034

**A CONCURRENT RESOLUTION PROCLAIMING APRIL 2015 AS FINANCIAL LITERACY MONTH IN ARIZONA.**

Whereas, according to the Federal Deposit Insurance Corporation, in 2011 approximately 30 percent of banks reported that consumers lacked understanding of the financial products and services banks offered; and

Whereas, according to the 2013 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, approximately 40 percent of adults in the United States gave themselves a grade of C, D or F on their knowledge of personal finance, and 78 percent of adults acknowledged that they could benefit from additional advice and answers to everyday financial questions from a professional; and

Whereas, according to a 2014 "Flow of Funds" report by the Board of Governors of the Federal Reserve System, outstanding household debt in the United States was $13,100,000,000,000 at the end of the fourth quarter of 2013; and

Whereas, during the twelve-month period ending on September 30, 2014, there were 20,907 total bankruptcy filings in the State of Arizona; and

Whereas, Arizona holds the second-highest automobile repossession rate in the country, falling just behind Nevada; and

Whereas, the Urban Institute has concluded that nearly 29% of Arizona households wield debt that has been reported to collection agencies, a figure that is 4% higher than the national average; and

Whereas, in 2012, Bankrate.com reported that 28% of American families have no savings and another 20% do not have enough saved to cover even three months' worth of living expenses, while just 43% have enough in savings to cover three months of expenses; and

Whereas, a December 2011 report by USA Today revealed that half of all United States retirees have less than $25,000 in savings of any kind; and

Whereas, expanding access to the safe, mainstream financial system will provide individuals with less expensive and more secure options for managing finances and building wealth; and

Whereas, quality personal financial education is essential to ensure that individuals are prepared to manage money, credit and debt and to become responsible workers, heads of household, investors, entrepreneurs, business leaders and citizens; and

Whereas, increased financial literacy empowers individuals to make wise financial decisions and reduces the confusion caused by an increasingly complex economy; and

Whereas, the Office of the Arizona State Treasurer offers ample financial literacy resources on its website; and

Whereas, many financial institutions and colleges provide financial literacy resources; and

Whereas, a greater understanding of, and familiarity with, financial markets and institutions will lead to increased economic activity and growth.

Therefore

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. That the Members of the Legislature proclaim April 2015 as Financial Literacy Month in the State of Arizona.

2. That the Members of the Legislature support increased public awareness about the importance of personal financial education in the State of Arizona and the serious consequences that may result from a lack of understanding about personal finances.

3. That the Members of the Legislature call on all localities, schools, nonprofit organizations, businesses and residents of the State of Arizona to observe Financial Literacy Month with appropriate programs and activities.

4. That the Members of the Legislature support the Office of the Arizona State Treasurer in its efforts to increase awareness of and access to financial literacy resources and are committed to assisting in these efforts by raising awareness about the resources on the Treasurer's website and other resources in the private and public sectors.

Passed by the House February 19, 2015.
Passed by the Senate March 31, 2015.
Filed in the Office of the Secretary of State April 1, 2015.

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# RECOGNIZING THE ARIZONA STATE FAIR FOUNDATION

## HOUSE CONCURRENT RESOLUTION 2035

**A CONCURRENT RESOLUTION RECOGNIZING AND SUPPORTING THE EFFORTS OF THE ARIZONA STATE FAIR FOUNDATION.**

Whereas, the Arizona State Fairgrounds serves as an important gathering place that is symbolic and representative of this state; and

Whereas, there is great value in maintaining the Arizona State Fairgrounds in the best condition possible; and

Whereas, in 2012, the Arizona State Fair Foundation, Inc., an Arizona nonprofit 501(c)(3) corporation, was formed to raise private funds for the purposes of maintaining and making capital improvements to the Arizona State Fairgrounds; and

Whereas, this effort has provided leadership in augmenting and saving hard-earned taxpayer dollars in this state's general fund through the ongoing work to raise private funds to maintain and improve a precious and prideful Arizona resource; and

Whereas, the founders and board members of the Arizona State Fair Foundation are deserving of the highest praise for their efforts to raise private dollars, which have been especially helpful to this state through the prolonged period of national and global difficult economic times.

Therefore

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. That the Members of the Legislature recognize and express their appreciation to the following Arizona State Fair Foundation founders and board members who have provided great leadership and who have given and continue to give their time and effort to improve and maintain this precious state resource:

Don West, Former Arizona State Fair Director
Wanell Costello, Current Arizona State Fair Director
Chris Lopez, Arizona State Fair Foundation Chairman
Dave Pratt, Secretary
Luis Gonzalez, Treasurer
Chad Devries, Board Member

2. That the Members of the Legislature acknowledge the exceptional support and contribution of personnel and other resources to the fund-raising efforts of the Arizona State Fair Foundation by Ray Cammack Shows.

Unanimously adopted by the House March 30, 2015.
Unanimously Adopted by the Senate April 2, 2015.
Filed in the Office of the Secretary of State April 2, 2015.

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## COLONEL BILL BADGER

### HOUSE CONCURRENT RESOLUTION 2039

### A CONCURRENT RESOLUTION ON THE DEATH OF COLONEL BILL BADGER.

Colonel Bill Badger passed away on March 11, 2015 at the age of seventy-eight.

Originally from South Dakota, Colonel Badger joined the National Guard as a high school junior and went on to enjoy a long, distinguished career as a United States Army and Guard aviator for thirty-seven years. A true patriot who served his country with honor and dignity, he served as Chief of the National Guard Bureau's Aviation Division at the Pentagon. Among his many professional accomplishments, he established the only two United States-based attack helicopter training sites: the Eastern Army Aviation Training Site in Pennsylvania and the Western Army Aviation Training Site in Marana, Arizona. Colonel Badger and his wife, Sallie, moved to Arizona in 1985 when Colonel Badger established the Marana site.

On the morning of January 8, 2011, Colonel Badger attended a Congress on your Corner event at a shopping center north of Tucson to meet then-Congresswoman Gabrielle Giffords. That fateful morning a gunman opened fire on the innocent attendees, brutally murdering six and seriously wounding thirteen, including Colonel Badger and Congresswoman Giffords. As the gunman was reloading his weapon, Colonel Badger, who was injured and bleeding from the head, ran toward the gunman and put him into a chokehold until the authorities arrived, thus stopping the deadly rampage. But for the valiant actions of Colonel Badger, the toll of those killed and wounded would have been much higher. "I don't consider myself a hero," he would later say, "I did what anybody would do." Colonel Badger was a beloved friend to the January 8, 2011 survivors. After this devastating event, this humble hero focused his efforts on keeping guns out of the hands of people like the January 8, 2011 gunman so as to prevent future similar tragedies. Colonel Badger and his wife embarked on a three-year journey across the country to promote his mission.

Colonel Badger was a hero to many long before he became one in the eyes of our nation on January 8, 2011. He was a caring and devoted husband to his wife, Sallie, a nurturing and loving father to his son, Christian, the beloved Scoutmaster of Troop 007, a guide and counselor to numerous young people, many of whom attribute their current success to Colonel Badger's mentoring, and a friend to countless others, including the members of the Southern Arizona Jaguar Car Club, which he served as President for a time.

On March 11, 2015, the citizens of Arizona lost a friend who placed the safety and well-being of others above his own and who truly represented the best traits of humanity, heroism and sacrifice and the spirit of service to others. The citizens of Arizona owe Colonel Badger an extraordinary debt of gratitude for his tremendous service to our country and state.

Dedicated to his family, Colonel Badger will be greatly missed by his beloved wife, Sallie Badger, and his son, Christian Badger.

Therefore

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

That the Members of the Legislature express sincere regret at the passing of Colonel Bill Badger and extend their deepest sympathies to his family and many friends.

Unanimously adopted by the House March 18, 2015.
Unanimously Adopted by the Senate March 18, 2015.
Filed in the Office of the Secretary of State March 18, 2015.

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## HISTORIC PLACE DESIGNATION FOR THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND

### HOUSE MEMORIAL 2001

**A MEMORIAL URGING THE ARIZONA STATE PARKS BOARD TO DESIGNATE THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND IN TUCSON AS A HISTORIC PLACE.**

To the Arizona State Parks Board:

Your memorialist respectfully represents:

Whereas, in 1912, Arizona's first state legislature enacted legislation that created the Arizona Schools for the Deaf and Blind (ASDB); and

Whereas, the ASDB was established in 1912 as a department within the University of Arizona; and

Whereas, the ASDB opened its doors in October of 1912 with a total student body of 19 children who were deaf or hard of hearing; and

Whereas, the first ASDB classes were held in a converted residence that was located on the University of Arizona campus; and

Whereas, a growing population soon made the original facility inadequate, prompting the ASDB to seek out a larger campus; and

Whereas, in 1918, the City of Tucson donated fifty acres on West Speedway to ASDB, and in 1919 ASDB purchased eighteen additional acres; and

Whereas, classes began on the West Speedway campus in October of 1922; and

Whereas, two of the original West Speedway ASDB buildings are still in existence; and

Whereas, for over 100 years, ASDB has provided a well-rounded quality education to students who are deaf, hard of hearing, blind, visually impaired or deaf and blind through a variety of classes, sports, extracurricular activities, events and other programs; and

Whereas, ASDB is a rich and significant part of the history of the State of Arizona. Wherefore your memorialist, the House of Representatives of the State of Arizona, prays:

1. That the Arizona State Parks Board designate the Arizona State Schools for the Deaf and the Blind in Tucson as a historic place.

2. That the Secretary of State transmit copies of this Memorial to each Member of the Arizona State Parks Board, the Executive Director of the Arizona State Parks Board and the State Historic Preservation Officer.

Passed by the House February 25, 2015.
Filed in the Office of the Secretary of State February 26, 2015.

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## SUPPORTING THE ARIZONA DEPARTMENT OF THE AMERICAN LEGION

### HOUSE RESOLUTION 2001

**A RESOLUTION SUPPORTING THE ARIZONA DEPARTMENT OF THE AMERICAN LEGION IN ITS MISSION TO IMPROVE THE TECHNOLOGY INFRASTRUCTURE OF THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS.**

Whereas, Arizona continues to be recognized as ground zero for the systemic veteran health care crisis; and

Whereas, the existing state of the United States Department of Veterans Affairs is inhibiting Congress and veterans service organizations from arriving at an effective remedy for the national systemic veteran health care and benefits crisis; and

Whereas, during the 95th National Convention of the American Legion, the American Legion approved Resolution Number 75: Automatic Enrollment, which urged Congress to address the national systemic veteran health care and benefits crisis by enacting legislation that provides for the automatic enrollment of military service members who are discharged under other than dishonorable conditions into the United States Department of Veterans Affairs patient and benefits enrollment system under 38 United States Code section 1705; and

Whereas, under the American Legion's proposal, on discharge, the United States Department of Defense provides the United States Department of Veterans Affairs with the contact information of transitioning veterans, at which time the veterans are deemed preenrolled in the patient and benefits enrollment system. The veterans maintain their preenrollment status until they contact the United States Department of Veterans Affairs to activate the enrollment in the United States Department of Veterans Affairs patient and benefits enrollment system; and

Whereas, under the American Legion's proposal, if a service member does not desire to enroll in the United States Department of Veterans Affairs patient and benefits

enrollment system, the service member may opt out of enrollment by furnishing the Secretary of Veterans Affairs with a notice of the service member's decision to decline enrollment; and

Whereas, Resolution Number 75: Automatic Enrollment was never executed following the 95th National Convention of the American Legion; and

Whereas, processes and procedures need to be employed within the United States Department of Veterans Affairs to allow for the automatic addition of service members' information to the patient and benefits enrollment system and the implementation of an electronic workflow to ensure that medical records are scanned into the system; and

Whereas, the creation of an automatic enrollment system and the implementation of an electronic workflow would result in streamlined and audited service request process, which would greatly help to remedy the national systemic veteran health care and benefits crisis; and

Whereas, the use of new and existing hardware would allow for the integration of intelligent capture software into new or existing document management systems.

Therefore

Be it resolved by the House of Representatives of the State of Arizona:

1. That the Members of the House of Representatives support the mission of the Arizona Department of the American Legion to form an ad hoc committee composed of veterans service organization experts and independent document management and software experts to study and assess the United States Department of Veterans Affairs Phoenix hospital and benefits facilities to find inefficiencies in the technology infrastructure and processes utilized to care for veterans.

2. That the Members of the Arizona House of Representatives support the mission of the Arizona Department of the American Legion to advance to the American Legion National headquarters to create a process that automatically enrolls service members in the United States Department of Veterans Affairs patient and benefits enrollment system at the point of separation.

Unanimously adopted by the House March 9, 2015.
Filed in the Office of the Secretary of State March 10, 2015.

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## RECOGNIZING ARIZONA BUSINESS OPERATORS

### HOUSE RESOLUTION 2003

### A RESOLUTION RECOGNIZING ARIZONA BUSINESS OPERATORS.

Whereas, the Arizona House of Representatives wishes to express its appreciation for all those doing business in Arizona whose tremendous efforts help to create jobs, economic activity and prosperity in this great state; and

Whereas, the Arizona House of Representatives further wishes to express its appreciation for Arizona business operators of all sizes and in all industries and acknowledge their contribution to the high quality of life in Arizona; and

Whereas, the Arizona House of Representatives wishes to further encourage businesses of all sizes and industries from around the country to come to Arizona; and

Whereas, the Arizona House of Representatives wishes to further specifically acknowledge and express appreciation to the multistate and multinational companies that have taken steps to locate their national headquarters in Arizona and that employ more than 1,000 Arizonans.

Therefore

Be it resolved by the House of Representatives of the State of Arizona:

1. That the Members of the House of Representatives recognize and express their deep appreciation to all Arizona business operators for their tremendous and critical contributions to this state.

2. That the Members of the House of Representatives express appreciation for and specifically acknowledge the multistate and multinational companies that provide many jobs in Arizona while having made the substantial and public commitment to locate their national headquarters in this great state. A listing of these companies is attached to this Resolution for the record.

| Name | City | Industry |
|---|---|---|
| Amkor Technology | Chandler, Arizona | Semiconductors |
| Apollo Group | Phoenix, Arizona | Education |
| Arizona Federal Credit Union | Tempe, Arizona | Financial Services |
| Arizona Public Service | Phoenix, Arizona | Utility |
| Avnet | Phoenix, Arizona | Electronics |
| Banner Health | Phoenix, Arizona | Health Care |
| Bashas' Supermarkets | Chandler, Arizona | Grocery Stores |
| Best Western | Phoenix, Arizona | Hotels |
| Cold Stone Creamery | Scottsdale, Arizona | Restaurant |
| CyraCom | Tucson, Arizona | Telephone Interpreting |
| Desert Schools Federal Credit Union | Phoenix, Arizona | Financial Services |
| Dial Corporation | Scottsdale, Arizona | Consumer Brands |
| Discount Tire Company | Scottsdale, Arizona | Tire Retailer |
| DriveTime | Phoenix, Arizona | Auto Dealer |
| Fender Musical Instruments | Scottsdale, Arizona | Musical Instruments |
| First Solar | Tempe, Arizona | Manufacturer |
| Freeport-McMoran | Phoenix, Arizona | Metals and Mining |
| Fulton Homes | Tempe, Arizona | Home Construction |
| Go Daddy | Scottsdale, Arizona | Domain Registrar and Web Hosting |
| Grand Canyon University | Phoenix, Arizona | Education |
| Harkins Theatres | Scottsdale, Arizona | Movie Theaters |
| Insight Enterprises | Tempe, Arizona | IT Solutions |
| JDA Software | Scottsdale, Arizona | Software |
| Jobing.com | Phoenix, Arizona | Job Search Engine |
| Knight Transportation | Phoenix, Arizona | Transportation |
| Leslie's Poolmart | Phoenix, Arizona | Retail |
| Meritage Homes | Scottsdale, Arizona | Home Construction |
| Microchip Technology | Chandler, Arizona | Semiconductors |
| Mobile Mini | Tempe, Arizona | Portable Storage |
| ON Semiconductor | Phoenix, Arizona | Semiconductors |
| OnTrac | Chandler, Arizona | Package Delivery |

| | | |
|---|---|---|
| PetSmart | Phoenix, Arizona | Retail |
| P.F. Chang's China Bistro | Phoenix, Arizona | Restaurant |
| Republic Services | Phoenix, Arizona | Waste hauling and disposal |
| Salt River Project | Phoenix, Arizona | Utility |
| Shamrock Farms | Phoenix, Arizona | Food |
| Sprouts Farmers Market | Phoenix, Arizona | Grocery Store |
| Swift Transportation | Phoenix, Arizona | Transportation |
| Taser International | Scottsdale, Arizona | Manufacturer |
| Universal Technical Institute | Scottsdale, Arizona | Education |

Unanimously Adopted by the House March 16, 2015.
Filed in the Office of the Secretary of State March 16, 2015.

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## FIBROMYALGIA AWARENESS DAY

### HOUSE RESOLUTION 2004

**A RESOLUTION PROCLAIMING MAY 12, 2015 AS FIBROMYALGIA AWARENESS DAY IN ARIZONA.**

Whereas, fibromyalgia is a chronic pain disorder that affects over ten million people in the United States as a primary illness, and millions more as a secondary illness; and

Whereas, fibromyalgia is a condition that affects the central nervous system and causes debilitating pain in women, men and children of all ethnicities; and

Whereas, there is currently no cure for fibromyalgia; and

Whereas, patients with fibromyalgia live with widespread pain, sleep disorders, extreme fatigue, stiffness, weakness, numbness and tingling, headaches, and impairment of memory and concentration; and

Whereas, patients with fibromyalgia often have coexisting conditions, which may include chronic myofascial pain, migraines, environmental sensitivities, anxiety and depression; and

Whereas, it may take years to receive a diagnosis of fibromyalgia, and medical professionals frequently are inadequately educated on the current research, diagnosis and treatment of fibromyalgia, resulting in many undiagnosed cases; and

Whereas, increased awareness and expanded knowledge of the realities of living with fibromyalgia will allow the community at large to better support people who struggle with the challenges of this chronic and painful disorder.

Therefore

Be it resolved by the House of Representatives of the State of Arizona:

That the Members of the House of Representatives proclaim May 12, 2015 as Fibromyalgia Awareness Day in the State of Arizona.

Passed by the House February 25, 2015.
Filed in the Office of the Secretary of State February 26, 2015.

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# OFFICER TYLER STEWART

## HOUSE RESOLUTION 2005

**A RESOLUTION ON THE DEATH OF OFFICER TYLER JACOB STEWART.**

Flagstaff Police Officer Tyler Jacob Stewart was tragically killed in the line of duty on December 27, 2014 at the age of twenty-four.

Officer Stewart was born on October 27, 1990. After graduating from Boulder Creek High School in Anthem, Arizona in 2008, he went on to receive a Bachelor's degree in 2012 at Concordia University in Irvine, California. His desire to serve others led him to pursue a career in law enforcement. He was hired by the Flagstaff Police Department in December 2013, and he graduated from the Northern Arizona Regional Training Academy in May 2014.

Officer Stewart was a man of many talents and interests. He was a gifted and enthusiastic musician, playing both the guitar and the piano, which he had recently taken up thanks to the love of his life, Johnna Martorana. He loved to fish, but only with his dad. He also enjoyed riding motorcycles, playing video games, snowboarding and hanging out with his beloved dogs, Sadie and Dakota.

Officer Stewart was proud to be a police officer and was deeply rooted in law enforcement. His grandfather, Jeff Raynor, is a Colonel with the Arizona Department of Public Safety, his father, Frank Stewart, is a Sergeant with the Arizona Department of Public Safety, his uncle, Tim Stewart, is an Officer with the Phoenix Police Department, his brother, Travis Williams, is an Officer with the Gilbert Police Department and his brother, Matt Hayek, is an Officer with the Phoenix Police Department. Officer Stewart often proclaimed that he loved working for the Flagstaff Police Department, and he will forever be remembered and honored.

Dedicated to his family, Officer Stewart will be missed by his father, Frank Stewart, mother, Becky Hayek, sisters, Deanna D'Arcangelo, Amanda D'Arcangelo and Tara Williams, and brothers, Matt Hayek, Justin Hayek, Jeraemy Hayek, Travis Williams and Steven Larson, as well as his numerous aunts, uncles, cousins, nieces, brothers-in-law, sisters-in-law and friends.

Therefore

Be it resolved by the House of Representatives of the State of Arizona:

That the Members of the House of Representatives sincerely regret the passing of Officer Tyler Jacob Stewart and extend their deepest sympathies and condolences to his family and many friends.

Unanimously Adopted by the House March 31, 2015.
Filed in the Office of the Secretary of State March 31, 2015.

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# OPPOSE THE PROPOSED GRAND CANYON WATERSHED NATIONAL MONUMENT

## SENATE CONCURRENT MEMORIAL 1001

## A CONCURRENT MEMORIAL URGING THE CONGRESS OF THE UNITED STATES TO OPPOSE THE DESIGNATION OF THE GRAND CANYON WATERSHED NATIONAL MONUMENT IN NORTHERN ARIZONA.

To the President and the Congress of the United States:

Your memorialist respectfully represents:

Whereas, Arizonans value the Grand Canyon as a national and world treasure and as an economic engine; and

Whereas, there is no threat to the Grand Canyon National Park and its surrounding lands; and

Whereas, existing laws and regulations, including the National Environmental Policy Act, the Federal Land Policy and Management Act, the Archaeological Resources Protection Act and many others, ensure the protection and responsible use of the Grand Canyon National Park and its surrounding lands; and

Whereas, as of 2012, Arizona had the third highest total designated wilderness acreage in the United States with 4.5 million acres. Additionally, another 5.8 million acres were affected by special land use designations, including national monuments; and

Whereas, only three members of the eleven-member Arizona congressional delegation and others have requested that the President of the United States use his authority under the Antiquities Act to designate an estimated 1.7 million acres in northern Arizona as the Grand Canyon Watershed National Monument; and

Whereas, this proposed designation would almost double the amount of acreage designated as national monuments in Arizona and would be the nation's second largest national monument after the neighboring Grand Staircase-Escalante National Monument in southern Utah, which is over 1.8 million acres; and

Whereas, the federal government granted lands at statehood to the State of Arizona to be held in trust to provide a source of income for schools and other beneficiaries; and

Whereas, the proposed monument designation would severely impact thousands of acres of state trust lands locked up within its boundaries and deny their beneficial use to the trust; and

Whereas, this taking of state trust lands within the proposed national monument without just compensation would be a breach of the sacred trust between the State of Arizona and the federal government that was agreed on in this state's enabling act and harms Arizona's school children; and

Whereas, withdrawal of this vast amount of lands from multiple-use management eliminates or restricts reasonable and thoughtful use of these natural resources for multiple purposes, such as recreation, grazing, mining, energy development and forestry; and

Whereas, multiple-use management of these lands by the United States Bureau of Land Management and the United States Forest Service is based on resource management plans that were developed with public input and have framed the use of these lands since the passage of the Federal Land Policy and Management Act in 1976; and

Whereas, responsible use of natural resources provides a substantial economic benefit to northern Arizona and there is no reason to eliminate this benefit for a nonexistent threat; and

Whereas, the conservation of wildlife resources across Arizona is the trust responsibility of the Arizona Game and Fish Commission; and

Whereas, the Arizona Game and Fish Commission voted to oppose the proposed Grand Canyon Watershed National Monument on May 11, 2012 and its analysis found that monument designation can lead to restrictions on proactive wildlife management, including hunting and fishing access; and

Whereas, national monument designation requires a very narrow management regime and could severely restrict forest management activities, such as scientifically established fire management, erosion control and invasive species treatments; and

Whereas, in addition, Arizona's proper management of state forest lands, which includes selective logging, has made for a healthy and prolific environment for naturally occurring habitat and has proven effective in preventing habitat loss, as has occurred on federally managed forest lands, through wildfire; and

Whereas, consideration of the effects on the customs, cultures and economic well-being of our local communities as well as important historic and cultural aspects of our local heritage; and

Whereas, the cost benefit of this proposal must be considered; and

Whereas, while a minority caucus of three of the eleven-member Arizona congressional delegation and a small, yet vocal, group of others advocate to transfer state resources to the federal government, the State of Arizona desires to uphold the congressional designation of the multiple-use policy as per the Federal Land Management Policy Act as being best for our citizens and Arizona's economy.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the President of the United States does not designate the Grand Canyon Watershed National Monument in northern Arizona.

2. That the United States Congress oppose the designation of the Grand Canyon Watershed National Monument in northern Arizona.

3. That any new monuments, including the proposed Grand Canyon Watershed National Monument, have express state and congressional approval before they are so designated by the President.

4. That the Governor and the Attorney General of the State of Arizona take appropriate actions to implement this Memorial.

5. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, each Member of Congress from the State of Arizona, the Secretary of the Interior, the Governor of the State of Arizona and the Attorney General of the State of Arizona.

Passed by the House March 25, 2015.
Passed by the Senate March 3, 2015.
Filed in the Office of the Secretary of State March 30, 2015.

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# DETERMINE SCOPE OF R.S. 2477 RIGHTS-OF-WAY USING STATE LAW

## SENATE CONCURRENT MEMORIAL 1002

**A CONCURRENT MEMORIAL URGING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION THAT CONFIRMS THAT STATE LAW DETERMINES THE ENTIRE SCOPE OF R.S. 2477 RIGHT-OF-WAY.**

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, in order to promote settlement of the American West in the 1800s and provide access to mining deposits located under federal lands, the United States Congress granted rights-of-way across public lands for the construction of highways by a provision of the Mining Law of 1866, now known as Revised Statute (R.S.) 2477; and

Whereas, the United States Congress repealed R.S. 2477 in 1976 as part of its enactment of the Federal Land Policy and Management Act, along with the repeal of other federal statutory rights-of-way, but it expressly preserved R.S. 2477 rights-of-way that already had been established; and

Whereas, in its entirety, R.S. 2477 provided that "the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted"; and

Whereas, R.S. 2477 was self-executing and did not require government approval or public recording of title, which resulted in uncertainty regarding whether particular rights-of-way had in fact been established; and

Whereas, in April 2014, the Tenth Circuit Court of Appeals issued a decision in *San Juan County v. United States* in which the court rejected the notion that state law should determine the entire scope of R.S. 2477 rights-of-way, holding that state law has provided "convenient and appropriate principles" for determining the scope and validity of an R.S. 2477 right-of-way, but it can be dismissed when it "contravenes congressional intent"; and

Whereas, in October 2014, the Ninth Circuit Court of Appeals issued a decision in *County of Shoshone v. United States* in which it confirmed that state law controls, or is "borrowed," in determining what constitutes sufficient public use, reflecting a rejection of the approach taken by the Tenth Circuit Court of Appeals in *San Juan County v. United States*; and

Whereas, outdoor recreation is an essential industry in Arizona, generating $10.6 billion in consumer spending, 104,000 direct Arizona jobs, $3.3 billion in wages and salaries and $787 million in state and local tax revenue; and

Whereas, the reduction of public roads in this state would diminish access to and enjoyment of outdoor recreation opportunities on public lands, detrimentally impacting Arizona's economy.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the Members of the United States Congress enact legislation that is consistent with the decision of the Ninth Circuit Court of Appeals in *County of Shoshone v. United States* and that confirms that state law determines the entire scope of R.S. 2477 rights-of-way.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

Passed by the House March 25, 2015.
Passed by the Senate March 5, 2015.
Filed in the Office of the Secretary of State March 30, 2015.

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## MEXICAN WOLVES

### SENATE CONCURRENT MEMORIAL 1003

**A CONCURRENT MEMORIAL URGING THE UNITED STATES FISH AND WILDLIFE SERVICE TO FOCUS FUTURE MEXICAN WOLF INTRODUCTION EFFORTS ON REMOTE AREAS WITHIN THE NORTHERN SIERRA MADRE OCCIDENTAL MOUNTAIN RANGE, TO HALT ADDITIONAL INTRODUCTIONS OF MEXICAN WOLVES IN ARIZONA AND TO SHIFT THE RESPONSIBILITY FOR THE MEXICAN WOLF INTRODUCTION TO THE ARIZONA GAME AND FISH DEPARTMENT.**

To the Director of the United States Fish and Wildlife Service:

Your memorialist respectfully represents:

Whereas, on January 16, 2015, United States Fish and Wildlife Service (USFWS) issued a revised experimental population rule under section 10(j) of the Endangered Species Act (ESA) that provides for a population objective of 300 to 325 wolves in Arizona and New Mexico and expands the areas within which Mexican wolves can occupy and disperse with the goal of phasing the releases westward over a period of twelve years; and

Whereas, the revised experimental population rule raises concerns regarding the creation of an unmanageable Mexican wolf population, fails to consider state and local interests and remains silent on Mexican wolf recovery; and

Whereas, Congress enacted section 10(j) of the ESA to mitigate fears that reestablishing populations of endangered species would negatively impact landowners and other private parties, recognizing that flexible rules, developed in consultation with local governments and private citizens, could encourage recovery partners to actively assist in the establishment and hosting of endangered populations on their lands; and

Whereas, to the maximum extent practicable, section 10(j) rules are intended to represent an agreement between the USFWS, affected state and federal agencies and persons holding any interest in land that may be affected by the establishment of an experimental population; and

Whereas, the objective of 1982 Mexican Wolf Recovery Plan is the establishment of a viable, self-sustaining population of at least 100 Mexican wolves in the wild; and

Whereas, at the end of 2014, there were a minimum of 109 wolves in the wild in Arizona and New Mexico, all of which were conceived and born in the wild as a direct result of previous wolf introduction efforts; and

Whereas, the costs to date of this program have exceeded $7.3 million; and

Whereas, the implementation of the revised experimental population rule will allow additional wolves to be introduced within Arizona and New Mexico; and

Whereas, the introduction of wolves into Arizona and New Mexico has resulted in significant adverse impacts on private landowners and resource users, as well as hunting and other recreational activities, which are vital to our local and regional economy; and

Whereas, under its regulations, the USFWS must consult with appropriate state fish and wildlife agencies, local governmental entities, affected federal agencies and affected private landowners in developing and implementing experimental population rules; and

Whereas, in developing its experimental population rules for the Mexican wolf, the USFWS has failed to meaningfully consult with local governmental entities, whose citizens will be adversely affected by the introduction of wolves, and with private land and resource users who will be adversely impacted by the introduction of wolves; and

Whereas, the adopted experimental population rule for the Mexican wolf will create even greater conflicts with private landowners and resource users; and

Whereas, the Arizona Game and Fish Department provided the USFWS and the United States Department of the Interior with a notice of intent to bring a civil action pursuant to section 11(g)(1)(C) of the ESA for the Secretary of the Interior's failure to develop a recovery plan for the Mexican gray wolf that meets the legal requirements in section 4(f) of the ESA; and

Whereas, the federal government has failed to take into consideration the customs, cultures, historic heritage and local and state economic well-being of areas that have been identified as habitats for this species; and

Whereas, the Secretary of the Interior has a nondiscretionary duty under section 4(f) to develop a recovery plan that incorporates "objective, measurable criteria which when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list."

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the USFWS focus future Mexican wolf introduction efforts on remote areas within the northern Sierra Madre Occidental mountain range, which contains substantial habitat suitable for Mexican wolves and, in many places, is largely uninhabited.

2. That the USFWS halt additional introductions of Mexican wolves in Arizona.

3. That the USFWS shift the primary responsibility for the administration of the Mexican wolf introduction program in Arizona to the Arizona Game and Fish Department.

4. That the Secretary of the Interior comply with the Secretary of the Interior's duty under section 4(f) of the ESA to develop a recovery plan that incorporates "objective, measureable criteria which when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list."

5. That the Governor and the Attorney General of the State of Arizona take appropriate actions to uphold this state's responsibilities with respect to the recovery plan and defend this state against overreaching federal regulations.

6. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the Director of the United States Fish and Wildlife Service, the Secretary of the United States Department of the Interior, the Attorney General of the State of Arizona, the Governor of the State of Arizona, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

Passed by the House March 25, 2015.
Passed by the Senate March 3, 2015.
Filed in the Office of the Secretary of State March 30, 2015.

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## PROHIBIT ENFORCEMENT OF PROPOSED RULE DEFINING "WATERS OF THE UNITED STATES" UNDER THE CLEAN WATER ACT

### SENATE CONCURRENT MEMORIAL 1004

**A CONCURRENT MEMORIAL URGING THE CONGRESS OF THE UNITED STATES TO PASS H.R. 594.**

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, on April 21, 2014, the United States Environmental Protection Agency and the United States Army Corps of Engineers published a proposed rule in the Federal Register that defines "Waters of the United States" under the Clean Water Act; and

Whereas, the final rule is projected to be published in the Federal Register by August 31, 2015; and

Whereas, the rule purports to clarify issues raised in two United States Supreme Court decisions, *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* and *Rapanos v. United States*, that created uncertainty over the Clean Water Act's scope and application; and

Whereas, the rule will expand the scope of the Clean Water Act, resulting in greater impacts to this state, as well as on local governments, their citizens and their businesses; and

Whereas, the rule will subject almost all physical areas with a connection, or a "significant nexus," to downstream navigable waters, including features such as ditches, natural or manmade ponds and floodplains, to the jurisdiction of the Clean Water Act; and

Whereas, the rule will apply to all programs under the Clean Water Act; and

Whereas, the rule change will cause significant harm to local farmers, stall the development of businesses and strip local providers of their control of land use for sustainable food production; and

Whereas, the cost to our municipalities and taxpayers will be enormous; and

Whereas, the rule is contrary to the ruling of the United States Supreme Court in *Rapanos* as it appears to rely heavily on the minority opinion's concept of "significant nexus," which was rejected by the Court's prevailing opinion; and

Whereas, the term "significant nexus" does not appear in the Clean Water Act; and

Whereas, under the rule, groundwater may be used in making determinations of a "significant nexus," which is an overreach of the federal agencies as groundwater systems are under the jurisdiction of the states and should not be broadly used in justifying a determination of jurisdictional water of the United States; and

Whereas, in *Solid Waste Agency of Northern Cook County*, the United States Supreme Court stated that the use of "case by case" determinations should be the exception, not the rule, and the rule allows for broad use of case by case determinations, which inserts needless uncertainty into the development process; and

Whereas, the rule grants the United States Environmental Protection Agency and the United States Army Corps of Engineers authorities not specifically granted to them by the Clean Water Act; and

Whereas, the proposed rule, should it become effective, will hamper beneficial development, increase costs of infrastructure construction and maintenance and result in an unacceptable level of uncertainty in the permitting process; and

Whereas, the Constitution of the United States was meant to reserve to the states exclusive jurisdiction over their respective nonnavigable, intrastate waters and waterways within their boundaries except as expressly delegated to the federal government by the Constitution or prohibited by it to the states, and the federal government's power to regulate navigable waters cannot constitutionally reach nonnavigable, intrastate waters and waterways that have no significant connection to navigable waters; and

Whereas, it is impractical for the federal government to regulate every ditch, pond and rain puddle that may have some tenuous connection, miles away, to a body of water that is currently defined as "navigable."

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the United States Congress pass H.R. 594, which prohibits the United States Environmental Protection Agency and the United States Army Corps of Engineers from developing, finalizing, adopting, implementing, applying, administering or enforcing the proposed federal rule that defines "Waters of the United States" under the Clean Water Act.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, each Member of Congress from the State of Arizona, the Administrator of the United States Environmental Protection Agency and the Commanding General and Chief of Engineers of the United States Army Corps of Engineers.

Passed by the House March 25, 2015.
Passed by the Senate March 3, 2015.
Filed in the Office of the Secretary of State March 30, 2015.

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# KEYSTONE XL OIL PIPELINE

## SENATE CONCURRENT MEMORIAL 1006

## A CONCURRENT MEMORIAL URGING THE UNITED STATES CONGRESS TO VOTE TO APPROVE THE KEYSTONE XL OIL PIPELINE.

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, the United States relies, and will continue to rely for many years, on gasoline, diesel and jet fuel for sources of energy; and

Whereas, in order to fuel our economy, the United States will need more oil and natural gas in addition to alternative energy sources; and

Whereas, the United States currently depends on foreign imports for more than half of its petroleum usage and is the largest consumer of petroleum in the world; and

Whereas, United States dependence on overseas oil has created difficult geopolitical relationships with potentially damaging consequences for our national security; and

Whereas, oil deposits in the Bakken Reserves of Montana, North Dakota and South Dakota are an increasingly important crude oil resource; and

Whereas, there is not enough pipeline capacity to deliver crude oil supplies from Montana, North Dakota, South Dakota, Oklahoma and Texas to American refineries; and

Whereas, Canadian oil reserves total 174 billion barrels, of which 169 billion barrels can be recovered from the oil sands using today's technology; and

Whereas, Canada is the single largest supplier of crude oil to the United States at 3.05 million barrels per day and has the capacity to significantly increase that rate; and

Whereas, the southern leg of the Keystone XL pipeline ties into the existing Keystone pipeline that already runs to Canada, bringing up to 700,000 barrels of oil a day to refineries in Texas. At peak capacity, the pipeline will deliver 830,000 barrels of oil per day; and

Whereas, according to the United States State Department's fifth Final Supplemental Environmental Impact Statement (Final SEIS), which was issued on January 31, 2014, the Keystone XL pipeline will be the safest pipeline ever constructed on American soil, will have minimal impact on the environment, will create thousands of much-needed jobs and bolster the United States' energy security; and

Whereas, according to the Final SEIS, the Keystone XL pipeline will support approximately 42,100 direct, indirect and induced jobs and result in approximately $2 billion in earnings throughout the United States; and

Whereas, the Final SEIS predicts that the Keystone XL pipeline will contribute approximately $3.4 billion to the United States gross domestic product and provide a substantial increase in tax revenues for local counties along the pipeline route, with 17 to 27 counties expected to see tax revenues increase by 10% or more; and

Whereas, the Oklahoma-Texas leg of the Keystone pipeline system, also referred to as the Gulf Coast segment, went into service in late January 2014; and

Whereas, according to a recent economic analysis report conducted by noted economist Bud Weinstein at Southern Methodist University Cox School of Business, the Gulf Coast segment injected $2.14 billion into the Oklahoma economy and more than $3.6 billion into the Texas economy; and

Whereas, a recent study by the United States Department of Energy found that increasing delivery of crude oil from Montana, North Dakota, South Dakota and Alberta, as well as Texas and Oklahoma, to American refineries has the potential to substantially reduce our country's dependency on sources outside of North America; and

Whereas, Canada sends more than 99% of its oil exports to the United States, the bulk of which goes to Midwestern refineries; and

Whereas, oil companies are investing huge sums to expand and upgrade refineries in the Midwest and elsewhere to make gasoline and other refined products from Canadian oil derived from oil sands, and the expansion and upgrade projects will create many new construction jobs over the next five years; and

Whereas, 90% of the money used to buy Canadian oil will likely later be spent directly on United States goods and services; and

Whereas, since 2011, nearly 30 public opinion polls have repeatedly confirmed that building the Keystone XL pipeline is in the best interest of the vast majority of Americans; and

Whereas, supporting the continued shift towards reliable and secure sources of North American oil is of vital interest to the United States and the State of Arizona.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the United States Congress vote to approve the Keystone XL oil pipeline.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

Passed by the House March 24, 2015.
Passed by the Senate February 16, 2015.
Filed in the Office of the Secretary of State March 27, 2015.

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# UNITED STATES DEPARTMENT OF VETERANS AFFAIRS DISABILITY RATING PROCESS REVIEW

## SENATE CONCURRENT MEMORIAL 1008

**A CONCURRENT MEMORIAL URGING THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS TO REVIEW THE DISABILITY RATING PROCESS.**

To the Secretary of the United States Department of Veterans Affairs:

Your memorialist respectfully represents:

Whereas, military veterans with similar disabilities are receiving disparate disability ratings because of different standards, policies and procedures used by the physical evaluation boards operated by the military departments; and

Whereas, achieving consistent disability ratings regardless of service is an important objective that will ensure service members are treated equitably; and

Whereas, disability significantly increases the veteran poverty rate; the rate of increase is nearly twice that of the nonveteran disabled population; and

Whereas, even those veterans who receive Social Security Disability or Supplemental Security Income benefits have incomes under $9,000 per year; and

Whereas, 60% of hiring organizations polled in a June 2010 Society for Human Resource Management survey said that translating military skills to a civilian job experience could pose a challenge in hiring veterans and 46% said the same about hiring those who suffer from posttraumatic stress disorder and other mental health issues; and

Whereas, while service members are often promised saleable skills and job opportunities they would not have access to otherwise, the reality is that veterans often feel discriminated against and overlooked in the workplace; and

Whereas, veterans who are granted a Total Disability Rating Based on Individual Unemployability are subject to earning restrictions.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the United States Department of Veterans Affairs review the disability rating process to ensure that similar disabilities are rated similarly.

2. That the United States Department of Veterans Affairs review the limitations on employment of veterans with disabilities and the ways in which veteran benefits are impacted if a veteran with a disability becomes employed to ensure that veterans with disabilities are not hindered from joining the workforce.

3. That the United States Department of Veterans Affairs remove the earning restriction associated with the Total Disability Rating Based on Individual Unemployability.

4. That the United States Department of Veterans Affairs develop programs and incentives to encourage employers to hire veterans with disabilities.

5. That the United States Congress enact legislation that codifies into the United States Code the text of 38 Code of Federal Regulations section 4.16, which provides that employment in a protected environment is not considered substantially gainful employment for the purposes of a Total Disability Rating Based on Individual Unemployability.

6. That the United States Congress define "protected environment" to include businesses that make special accommodations for veterans with disabilities.

7. That the United States Congress enact legislation that prevents the United States Department of Veterans Affairs from decreasing a Total Disability Rating Based on Individual Unemployability if the veteran is marginally employed in a protected environment.

8. That the Secretary of State of the State of Arizona transmit a copy of this Memorial to the Secretary of the United States Department of Veterans Affairs, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

Passed by the House March 15, 2015.
Passed by the Senate February 9, 2015.
Filed in the Office of the Secretary of State March 23, 2015.

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# EXEMPT MILITARY BASES FROM ENDANGERED SPECIES ACT

## SENATE CONCURRENT MEMORIAL 1009

**A CONCURRENT MEMORIAL URGING CONGRESS TO ENACT LEGISLATION EXEMPTING UNITED STATES MILITARY BASES FROM THE REGULATIONS AND RESTRICTIONS OF THE ENDANGERED SPECIES ACT.**

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, the mission of the United States Department of Defense is "to provide the military forces needed to deter war and to protect the security of our country"; and

Whereas, according to the Department of Defense and the Government Accountability Office (GAO), a fundamental principle of military readiness is that the military must train as it intends to fight; and

Whereas, the Department of Defense has established military training facilities in Arizona, including Fort Huachuca, Davis-Monthan Air Force Base, Luke Air Force Base and the Barry M. Goldwater range, among others, to accomplish this goal; and

Whereas, Department of Defense officials indicate that heightened focus on the application of environmental statutes has affected the use of its training areas; and

Whereas, compliance with environmental regulations, especially the Endangered Species Act (ESA), has caused some training activities to be canceled, postponed or modified; and

Whereas, compliance with environmental regulations, particularly the ESA, has forced military officials to make adjustments to training regimens, including requiring units in training to avoid areas with ESA restrictions; and

Whereas, since 2003, the Department of Defense has obtained exemptions from three environmental laws and sought exemptions from three others; and

Whereas, these exemptions allow the military to maintain its high state of readiness and help to ensure its ability to meet unexpected threats; and

Whereas, these exemptions are under increased scrutiny by environmental groups and federal officials who would rather protect wildlife than allow the military to maintain its readiness; and

Whereas, a GAO report found no instances in which the Department of Defense's use of exemptions from the ESA or the Migratory Bird Treaty Act has adversely affected the environment; and

Whereas, the United States military has proven itself to be a responsible and effective steward of the land and environment.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the United States Congress enact legislation exempting United States military bases and training facilities from the regulations and restrictions of the Endangered Species Act.

2. That the Secretary of State of the State of Arizona transmit a copy of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

Passed by the House March 18, 2015.
Passed by the Senate February 16, 2015.
Filed in the Office of the Secretary of State March 19, 2015.

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## PAYMENT IN LIEU OF TAXES PROGRAM AND SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT FUNDING

### SENATE CONCURRENT MEMORIAL 1010

**A CONCURRENT MEMORIAL URGING THE UNITED STATES CONGRESS TO PROVIDE FULL LONG-TERM FUNDING FOR THE PAYMENT IN LIEU OF TAXES PROGRAM AND TO REAUTHORIZE SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT FUNDING.**

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, the State of Arizona is composed of 113,417 square miles of land, of which 17% is managed by the Bureau of Land Management, 15% is managed by the United States Forest Service, 2% is managed by the United States Fish and Wildlife Service, 4% is managed by the National Park Service, 4% is military land and 28% is tribal land. Thus, much of the land in Arizona is unavailable for economic development and is not part of the property tax base; and

Whereas, counties are required to provide law enforcement, search and rescue, emergency services, road building and maintenance, and other community services on, or associated with, tax-exempt federally managed public lands; and

Whereas, the Payment in Lieu of Taxes (PILT) program was established in 1976 to offset costs incurred by counties for services provided to the federal government and to the users of federally managed lands located within a county; and

Whereas, the national average PILT payment in fiscal year 2014 was $0.72 per acre, which is far below the amount that federally managed lands would return through both value-based taxation and economic development; and

Whereas, Congress has been unable to pass a long-term funding solution for the PILT program since 2008 and has instead passed last-minute one-year extensions, causing great uncertainty about county finances and services as well as rural school funding; and

Whereas, funding for fiscal year 2015 PILT was included in the Consolidated and Further Continuing Appropriations Act and the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act, totaling $442 million, but the fate of fiscal year 2016 and future years is still unknown; and

Whereas, a lack of certainty for PILT funding places the large, unsustainable burden of providing services on federally managed lands squarely on the backs of local county taxpayers, while the presence of that federally managed land creates barriers to economic opportunities; and

Whereas, rural communities and schools in and around national forests have historically relied on a share of receipts from timber harvests to support education services and roads; and

Whereas, in the 1980s, federal restrictions substantially diminished the revenue-generating timber harvests permitted in these forests; and

Whereas, the Secure Rural Schools and Community Self-Determination Act (SRS) was passed in 2000 to stabilize and transition payments to counties and schools away from the declining and unreliable share of timber sales; and

Whereas, the failure of Congress to honor the more than 100-year-old contract between the federal government and heavily forested communities by not reauthorizing SRS funding for fiscal years 2014 and 2015 will create budgetary shortfalls for rural counties and school districts; and

Whereas, failure to immediately secure SRS funding for fiscal years 2014 and 2015 and PILT funding for fiscal year 2016 and into the future for Arizona counties will critically impact the local budget process and structural solvency of counties and the public school systems and will substantially compromise their ability to provide essential services, such as health, safety and welfare; and

Whereas, the federal government has the duty to reimburse local jurisdictions for the presence of federally managed public lands in a reliable and consistent manner.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the United States Congress provide full long-term funding for the PILT program to help create financial stability within Arizona's counties.

2. That the United States Congress immediately reauthorize SRS funding for fiscal years 2014 and 2015 and work toward a long-term solution.

3. That the United States Congress work with the State of Arizona and county governments to identify and implement policies to promote economic development on, or associated with, federally managed lands.

4. That the Secretary of State of the State of Arizona transmit a copy of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

Passed by the House March 17, 2015.
Passed by the Senate February 16, 2015.
Filed in the Office of the Secretary of State March 18, 2015.

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# 21ST CENTURY ENDANGERED SPECIES TRANSPARENCY ACT

## SENATE CONCURRENT MEMORIAL 1012

## A CONCURRENT MEMORIAL URGING THE CONGRESS OF THE UNITED STATES TO ENACT THE 21ST CENTURY ENDANGERED SPECIES TRANSPARENCY ACT.

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, when the Endangered Species Act (ESA) was originally enacted in 1973, the framers and supporters of the ESA envisioned a law that would protect species believed to be on the brink of extinction; and

Whereas, at that time, 109 species were listed for protection; and

Whereas, today, over 1,500 species in the United States are designated as threatened or endangered under the ESA; and

Whereas, as a result of a 2011 mega-settlement between the United States Fish and Wildlife Service and environmental litigants, hundreds more species could be added within the next two years; and

Whereas, the ESA is failing to achieve its primary purpose of species recovery as it has only a 2% recovery rate; and

Whereas, the ESA was last amended in 1988, which means 27 years have passed since any improvements have been made; and

Whereas, the 21st Century Endangered Species Transparency Act would require that data used by federal agencies for ESA listing decisions be made publicly available and accessible through the Internet, while respecting state data privacy laws and private property; and

Whereas, the 21st Century Endangered Species Transparency Act would require the federal government to disclose to affected states data used prior to an ESA listing decision and require the "best available scientific and commercial data" used by the federal government to incorporate data provided by states, tribes and local county governments; and

Whereas, the 21st Century Endangered Species Transparency Act would require the United States Fish and Wildlife Service to track, report to Congress and make available online the federal taxpayer funds used to respond to ESA lawsuits, the number of employees dedicated to ESA litigation and the amount of attorney fees awarded in the course of ESA litigation and settlement agreements; and

Whereas, the 21st Century Endangered Species Transparency Act would prioritize species protection and protect taxpayer dollars by placing reasonable caps on attorney fees to make the ESA consistent with existing federal law; and

Whereas, the customs, cultures and economic well-being of our local communities, as well as important historic and cultural aspects of our local heritage, are being ignored, which adversely affects the lives and jobs of the people of the United States and devastates local and state economies; and

Whereas, a cost-benefit analysis should be required on any ESA action; and

Whereas, the United States Chamber of Commerce, the American Farm Bureau Federation, the National Rural Electric Cooperative Association and many others support the 21st Century Endangered Species Transparency Act.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representative concurring, prays:

1. That the Congress of the United States enact the 21st Century Endangered Species Transparency Act.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

Passed by the House March 18, 2015.
Passed by the Senate February 16, 2015.
Filed in the Office of the Secretary of State March 19, 2015.

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## OPPOSE IMPLEMENTATION OF BURDENSOME FEDERAL RULES FOR ELECTRIC GENERATING UNITS

### SENATE CONCURRENT MEMORIAL 1013

**A CONCURRENT MEMORIAL URGING THE UNITED STATES CONGRESS TO OPPOSE THE IMPLEMENTATION OF CERTAIN TECHNOLOGY AND EMISSIONS REDUCTION RULES FOR NEW AND EXISTING ELECTRIC GENERATING UNITS.**

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, the Clean Air Act (CAA) is a federal law designed to protect air quality nationwide; and

Whereas, jurisdiction to implement the CAA lies primarily with the states; and

Whereas, in 1970, Congress enacted the CAA, mandating comprehensive state and federal regulations for both stationary and nonstationary sources of pollution; and

Whereas, while Americans support efforts to improve air quality, such efforts should be carefully balanced to ensure that the costs of new regulations to the economy do not exceed potential benefits; and

Whereas, on June 2, 2014, the United States Environmental Protection Agency (EPA) proposed rules in the Federal Register that will require Arizona to reduce carbon emissions at existing generating facilities by 51.7% by 2030; and

Whereas, the carbon reduction targets for Arizona are the second highest in the nation; and

Whereas, the interim goal proposed for Arizona would require nearly 90% of the final goal to be achieved by the year 2020; and

Whereas, concentrations of greenhouse gases are the result of global emissions and do not pose an immediate risk to public health and safety as do other criteria pollutants; and

Whereas, the EPA's proposed rules exceed its legal authority to require reductions in carbon dioxide emissions from fossil fuel-fired electric generating units under Section 111(d) of the CAA and interfere with the electric system of Arizona; and

Whereas, addressing greenhouse gas emissions under Section 111(d) is a discretionary duty of the EPA as outlined in the CAA; and

Whereas, devoting resources to discretionary duties such as regulating greenhouse gas emissions takes away resources from nondiscretionary duties that are better suited to protect the public health in the near term; and

Whereas, it is important to Arizona's economy to have a diverse energy portfolio that provides reliable and affordable electric service to Arizona residents and businesses while protecting the public health and welfare; and

Whereas, fossil fuels, including coal and natural gas, provide an abundant, domestic and affordable energy source that is important to Arizona's economy and the availability and reliability of electric service; and

Whereas, the EPA ignores the customs, cultures and economic well-being of our local communities as well as important historic and cultural aspects of our local heritage; and

Whereas, the EPA's proposed Clean Power Plan will cause significant disruptions in Arizona's electricity supply and transmission system, causing reliability in the system to decrease.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the United States Congress oppose the implementation of rules for existing electric generating units that exceed the EPA's legal authority under Section 111 of the CAA and interfere with the prerogative of Arizona to regulate electricity and ensure an affordable and reliable supply of electricity for its citizens.

2. That the United States Congress oppose the implementation of rules for new or existing electric generating units that do not recognize the primary role of states in establishing and implementing plans to achieve emissions reductions for existing units under Section 111 of the CAA.

3. That the United States Congress exercise oversight over the EPA to ensure that the primary role of states in establishing and implementing rules under Section 111 of the CAA is respected.

4. That the Governor and the Attorney General of the State of Arizona take appropriate actions to uphold this state's responsibilities with respect to the CAA and defend the state against overreaching regulations.

5. That the Secretary of State of the State of Arizona transmit a copy of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, each Member of Congress from the State of Arizona, the Administrator of the United States Environmental Protection Agency, the Governor of the State of Arizona and the Attorney General of the State of Arizona.

Passed by the House March 18, 2015.
Passed by the Senate February 16, 2015.
Filed in the Office of the Secretary of State March 19, 2015.

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# REDUCTION OF OZONE CONCENTRATION STANDARD

## SENATE CONCURRENT MEMORIAL 1014

**A CONCURRENT MEMORIAL URGING THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO REFRAIN FROM REDUCING THE OZONE CONCENTRATION STANDARD.**

To the Administrator of the United States Environmental Protection Agency:

Your memorialist respectfully represents:

Whereas, the United States Environmental Protection Agency (EPA) is proposing to reduce the national ambient air quality standard for ozone from 75 parts per billion to 65 to 70 parts per billion, while taking comment on a level as low as 60 parts per billion; and

Whereas, the Clean Air Act requires the EPA to review the ozone concentration standard every five years, and the EPA last updated this standard in 2008, setting it at 75 parts per billion; and

Whereas, if the EPA reduced the standard to 70 parts per billion, nine out of 11 counties monitored for ozone levels in Arizona would be out of compliance; and

Whereas, if the EPA reduced the standard to 65 parts per billion, all 11 counties monitored for ozone levels in Arizona would be out of compliance, and the four rural counties that are not currently monitored might also be out of compliance; and

Whereas, a revised ozone standard of 65 to 70 parts per billion would result in widespread nonattainment designations in areas of the nation that already meet the current ozone standards; and

Whereas, based on 2011 through 2013 monitoring data, the EPA reports that 358 counties in the nation would violate a standard of 70 parts per billion and that an additional 200 counties would violate a standard of 65 parts per billion; and

Whereas, nonattainment area designations would limit economic and job growth by restricting new and expanded industrial and manufacturing facilities, imposing emission "offset" requirements on new sources of nitrogen oxides and volatile organic compounds emissions, constraining oil and gas extraction and raising electricity prices for industries and consumers; and

Whereas, low-income and fixed-income citizens would bear the brunt of higher energy costs and utility bills; and

Whereas, according to the National Association of manufacturers, the EPA's proposal could be the most expensive regulation ever issued on the American public, costing the nation $270 billion to $360 billion annually; and

Whereas, according to the National Association of Manufacturers, the proposed ozone regulations could cost Arizona $28 billion in gross state product loss from 2017 to 2040, 19,982 lost jobs or job equivalents per year, $639 million in total compliance costs and a $520 drop in average household consumption per year; and

Whereas, the National Association of Manufacturers predicts that the EPA's proposed standards could result in a 15% increase in residential electricity prices, a 32% increase in residential natural gas prices and an 8% reduction in Arizona's coal-fired generating capacity; and

Whereas, the EPA has identified only 46% of the controls needed to meet the proposed standards, and the remaining 54% would have to be met with unknown controls that the EPA has not yet identified but that would likely have to include early shutdowns and scrappage of existing facilities, equipment and vehicles; and

Whereas, early retirement and scrappage of power plants, industrial facilities, heavy-duty trucks and equipment and automobiles would be much more costly ways to remove each additional ton of emissions than the controls the EPA has identified; and

Whereas, air quality continues to improve, and nitrogen oxide emissions are already down to 60% nationwide since 1980, which, after adjusting for economic growth, implies a 90% reduction in emission rates from the relatively uncontrolled 1990 rates for nitrogen oxide-emitting sources; and

Whereas, average ozone concentrations have decreased significantly in both urban and rural areas over the past two decades in response to state and federal emission control programs; and

Whereas, states are on track to be fully in attainment with the current standards, but some have not yet reached full attainment; and

Whereas, instead of giving states enough time to meet the current standards through ongoing emission reduction programs, the EPA now wants to move the goalpost by imposing a lower standard; and

Whereas, retaining the current ozone standards would provide for continued air quality improvement throughout the nation as emission reduction programs under existing EPA regulations are implemented.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the EPA refrain from reducing the ozone concentration standard from 75 parts per billion to 65 to 70 parts per billion.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the Administrator of the United States Environmental Protection Agency, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

Passed by the House March 25, 2015.
Passed by the Senate February 19, 2015.
Filed in the Office of the Secretary of State March 30, 2015.

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## REAPPOINTMENT OF AUDITOR GENERAL

### SENATE CONCURRENT RESOLUTION 1004

**A CONCURRENT RESOLUTION APPROVING THE REAPPOINTMENT OF DEBRA K. DAVENPORT AS AUDITOR GENERAL OF THE STATE OF ARIZONA.**

Whereas, the joint legislative audit committee of the legislature of this state has reappointed Debra K. Davenport as auditor general of the State of Arizona subject to approval by concurrent resolution of the legislature pursuant to section 41-1279.01, Arizona Revised Statutes; and

Whereas, Ms. Davenport is a certified public accountant certified to practice in this state and is subject to the standards and ethics of the accounting profession as regulated by the state board of accountancy; and

Whereas, Ms. Davenport is eligible for reappointment as auditor general.

Therefore

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

That the Members of the Legislature approve the reappointment of Debra K. Davenport as auditor general of the State of Arizona.

Passed by the House March 18, 2015.
Passed by the Senate February 16, 2015.
Filed in the Office of the Secretary of State March 19, 2015.

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## FIFTIETH ANNIVERSARY OF COCHISE COLLEGE

### SENATE CONCURRENT RESOLUTION 1006

### A CONCURRENT RESOLUTION COMMENDING COCHISE COLLEGE ON ITS FIFTIETH ANNIVERSARY.

Whereas, it is with great honor that the State of Arizona celebrates Cochise College's fiftieth anniversary; and

Whereas, Cochise College was established in 1961 by a vote of Cochise County citizens and opened its doors to students on September 21, 1964 as one of the first community colleges in Arizona; and

Whereas, with the opening of Cochise College, higher education became accessible and brought new hope and opportunity to the people of Cochise County during a time of profound social change; and

Whereas, over the course of half a century, Cochise College has served as a resource for local employers and a catalyst for economic mobility by awarding thousands of degrees and certificates to students in Cochise County and beyond and by helping individuals improve their skills or prepare for advanced degrees; and

Whereas, the level of education of Cochise County citizens is reflected in its quality of life; and

Whereas, through the unwavering commitment of its governing board, administration, faculty and staff, Cochise College has maintained the student-centered focus so often identified by alumni as the quality that most memorably defined their community college experience; and

Whereas, with campuses in Douglas and Sierra Vista, a virtual campus, and centers in Benson, Willcox, Nogales and Fort Huachuca, Cochise College is committed to making education accessible to citizens throughout Southern Arizona; and

Whereas, Cochise College provides high-quality associate-level education, professional development and workforce training to about 14,000 students each year; and

Whereas, in 2014, Cochise College celebrated five decades of providing accessible educational opportunities that are responsive to a diverse population and that lead to constructive citizenship, meaningful careers and lifelong learning.

Therefore

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

That the Members of the Legislature commend Cochise College for remaining both a top local employer and a center of knowledge and ideas where student success and completion are top priorities and proudly join in celebrating its fiftieth anniversary.

Unanimously Adopted by the House February 5, 2015.
Unanimously Adopted by the Senate February 5, 2015.
Filed in the Office of the Secretary of State February 9, 2015.

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## GENERAL AVIATION APPRECIATION MONTH

### SENATE CONCURRENT RESOLUTION 1007

### A CONCURRENT RESOLUTION PROCLAIMING SEPTEMBER 2015 AS GENERAL AVIATION APPRECIATION MONTH IN ARIZONA.

Whereas, general aviation airports play a vital role in Arizona's economy, serving as key economic assets and important links within the national air transportation system; and

Whereas, Arizona has a significant interest in the continued vitality and health of general aviation, aviation organizations and airport operators; and

Whereas, Arizona is home to 83 airports, which serve 17,986 licensed pilots in the state and about 6,561 general aviation aircraft; and

Whereas, Arizona ranks fifth in the United States in active aircraft and twelfth in the number of aircraft per capita according to Federal Aviation Administration data; and

Whereas, Arizona's general aviation airports contribute nearly $609 million in economic impact and create 6,900 jobs; and

Whereas, many communities in Arizona depend on general aviation airports for the continued flow of commerce, tourists and visitors to the state; and

Whereas, general aviation contributes significantly to Arizona's economy and is a key link for Arizona to the global marketplace, facilitating local, national and international commerce as well as supporting the state's tourism industry.

Therefore
Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

That the Members of the Legislature acknowledge the vital role aviation plays in this state and proclaim the month of September 2015 as General Aviation Appreciation Month in Arizona.

Unanimously adopted by the House March 30, 2015.
Unanimously Adopted by the Senate February 26, 2015.
Filed in the Office of the Secretary of State March 31, 2015.

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## SENATOR CHESTER J. CRANDELL

### SENATE CONCURRENT RESOLUTION 1010

### A CONCURRENT RESOLUTION ON THE DEATH OF THE HONORABLE CHESTER J. CRANDELL.

Senator Chester J. Crandell passed away on August 4, 2014 at the age of sixty-eight.

Chester Crandell was born to Harold Jay and Charlotte Ann Crandell in Holbrook, Arizona on June 19, 1946. Raised in Heber, Arizona, he was a fifth-generation native of rural Arizona.

A man of deep faith, Chester Crandell was a lifelong member of The Church of Jesus Christ of Latter-day Saints and served in North Carolina as a missionary for the church in the Central Atlantic States Mission from 1965 to 1967. During his time in North Carolina, he met the love of his life, Alice Day Harrison, and they were married in the Mesa Arizona Temple when he returned to Arizona following his mission. Throughout his life, he served in various church callings and always did so with a willing spirit.

Passionate about education, Chester Crandell earned both a bachelor's degree in agricultural education from the University of Arizona and a master's degree in educational leadership from Northern Arizona University. He served as an educator for thirty years. For many of these years, he worked as a high school instructor and volunteered as a coach for numerous school sports programs and for the Future Farmers of America. He spent the last ten years of his educational career serving as the Superintendent of the Northern Arizona Vocational Institute of Technology.

Following a long line of successful Arizona cattle ranchers, Chester Crandell was known by many to be a true "gentleman cowboy." Ranching was a large and treasured part of his life. He was a longtime member of the Arizona Cattle Growers Association and was well respected within the ranching community.

From 2011 to 2012, Chester Crandell served in the Arizona House of Representatives. In 2012, he was elected to the Arizona Senate where he served as the Chairman of the Public Safety Committee and the Vice Chairman of the Education Committee. He also served on the Appropriations Committee, the Government and Environment Committee and the Natural Resources and Rural Affairs Committee. During his legislative career, Senator Crandell earned the respect and admiration of his peers on

both sides of the political aisle. He was known among his colleagues as a man of integrity and honor who was passionate about serving the people of Arizona.

Dedicated to his family, Chester Crandell will be deeply missed by his beloved wife of forty-seven years, Alice, his nine children and their spouses, his many grandchildren, his parents and his four siblings and their spouses. He was preceded in death by his brother, Bobby Crandell, in 2004 and his brother-in-law, Roger Cochran, in 2001. Senator Chester Crandell was a patriot, a rancher, a trusted friend, a devoted family man and a respected legislator.

Therefore

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

That the Members of the Legislature sincerely regret the passing of Senator Chester J. Crandell and extend their deepest sympathies to his family and friends.

Unanimously adopted by the House March 25, 2015.
Unanimously Adopted by the Senate March 25, 2015.
Filed in the Office of the Secretary of State March 27, 2015.

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## PRIMARY FREIGHT NETWORK MODIFICATION

### SENATE CONCURRENT RESOLUTION 1012

**A CONCURRENT RESOLUTION SUPPORTING THE ARIZONA DEPARTMENT OF TRANSPORTATION'S COMMENTS TO THE FEDERAL DEPARTMENT OF TRANSPORTATION IN RESPONSE TO THE PROPOSED DESIGNATION OF THE PRIMARY FREIGHT NETWORK.**

Whereas, the Arizona Department of Transportation (ADOT) submitted comments to the federal Department of Transportation (DOT) in response to the proposed designation of the Primary Freight Network (PFN) that highlighted problems with the proposal and provided recommendations for improvement; and

Whereas, the federal legislation "Moving Ahead for Progress in the 21st Century Act" (MAP-21) calls for the United States Secretary of Transportation to designate up to 27,000 miles on existing interstate and other roadways, with a possible addition of 3,000 miles in the future, as a PFN to help states strategically direct resources toward improving freight movement; and

Whereas, the Federal Register notice identifies more than 41,000 miles of comprehensive, connected roadway that a Federal Highway Administration (FHWA) analysis shows would be necessary to transport goods efficiently on highways throughout the nation to make up the PFN; and

Whereas, the PFN proposal is based on the origins and destination of freight movement, shipment tonnage and values, truck traffic volumes and population; and

Whereas, under MAP-21, the PFN will become part of a larger highway National Freight Network that includes all interstates and other rural highway routes designated by states that make up critical highway portions of the nation's multimodal freight system; and

Whereas, Arizona shares the FHWA's goal of strategically directing resources toward improved system performance for the movement of freight to national and international markets; and

Whereas, the 27,000-mile cap for the PFN set in MAP-21 is limited; and

Whereas, Arizona appreciates FHWA recognizing a potential need for a Comprehensive PFN (CPFN) of 41,000 miles; and

Whereas, ADOT made the following recommendations in its comments to the federal DOT:

1. The entire Interstate Highway System should be regarded as our nation's PFN despite the mileage limitations set in MAP-21.

2. Increasing the mileage cap for the PFN to a level needed to create a more complete network should be a goal for future federal legislation.

3. Because the draft 27,000-mile PFN is fragmented in nature, the FHWA should modify the draft to focus on creating a continuous and connected network of key freight routes.

4. Because two sections of Interstate 10 (I-10) within Arizona are not proposed for inclusion in the PFN, creating a fragmented designation, all portions of I-10 in Arizona should be included in the 27,000-mile PFN to create a continuous freight corridor for Arizona and the nation. I-10 is an important transcontinental freight corridor for the entire country and is critical to Arizona's economic vitality.

5. Because the entire length of Interstate 17 (I-17) is the only north-south interstate Arizona corridor that connects the critical east-west freight corridor of Interstate 40, Arizona's urban centers and I-10, I-17 should be included in the 27,000-mile PFN. Freight users use this connection to move products to and from markets in the Midwest and the Phoenix/Tucson urban areas.

6. The entire Arizona section of Interstate 15 (I-15) should be removed from the 27,000-mile PFN and added to the CPFN to conform to the designation of the I-15 in adjacent states. The portion of I-15 that crosses the northwest corner of Arizona is approximately 29 miles, and the vast majority of this section is proposed to be within the 27,000-mile PFN. However, the sections of I-15 in our adjacent states, Nevada and Utah, are included in the expanded 41,000-mile CPFN. Freight moving along the I-15 corridor is not primarily bound for locations in Arizona but is typically destined for locations in our adjacent states.

7. The Interstate 19 (I-19) corridor from I-10 to Arizona State Route (SR) 189, which is approximately 60 miles, and the segment of Arizona SR 189 from the international border to I-19 should be included in the 27,000-mile PFN. I-19 provides a critical national freight connection with Mexico. The connection that I-19 creates with the international ports of entries at Nogales, Arizona is important to international trade movements throughout the western United States. The Commercial International Port of Entry at Mariposa is connected to I-19 by Arizona SR 189, and therefore creates a strategic connection between the Interstate Highway System and a primary trade corridor within Mexico.

8. The U.S. Route 93 corridor between Las Vegas, Nevada and the Phoenix Metropolitan Area, which has been designated as future Interstate 11 (I-11) by MAP-21, should be a future component of the PFN. Furthermore, all of future I-11 should be designated as part of the PFN.

9. Because Arizona is encouraged by the progress MAP-21 has achieved in simplifying federal funding by reducing and consolidating the number of federal programs, the existing federal funding categories should not be further complicated by creating a separate funding program exclusive to the PFN unless additional funding is provided for this network above the current levels. Instead, the concept of applying funding based on a performance management system that encourages the states to achieve certain freight mobility targets is recommended.

10. The FHWA should not establish specific urban freight corridors. FHWA should encourage the states to provide freight users with real time system management information as specified in 23 C.F.R. 511. Freight users should be encouraged to choose the most appropriate route based on both real time travel information and notifications of routes with certain prohibitions; and

Whereas, ADOT intends to conduct a corridor competitiveness study of Arizona extending into central Mexico touching on six Mexican states, which will look at current situations, impacts of scheduled investments and remaining deficiencies; and

Whereas, included in the ADOT study will be the identification of opportunities for cluster developments at strategic locations along the corridor, including the feasibility of a multimodal facility near Nogales to offer multimodal logistics alternatives along the corridor.

Therefore

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. That the Members of the Legislature support ADOT's comments to the federal DOT in response to the proposed designation of the PFN and agree with ADOT's alternative proposals and suggestions.

2. That the Members of the Legislature support the modification of the federal DOT's draft PFN to conform with ADOT's comments and this resolution.

3. That the Members of the Legislature support the conducting of a corridor competitiveness study by ADOT.

Passed by the House April 3, 2015.
Passed by the Senate March 5, 2015.
Filed in the Office of the Secretary of State April 6, 2015.

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## SUPPORTING ARIZONA'S MILITARY FACILITIES

### SENATE CONCURRENT RESOLUTION 1014

### A CONCURRENT RESOLUTION EXPRESSING SUPPORT FOR ARIZONA'S MILITARY FACILITIES.

Whereas, our nation's highly trained and capable military requires flexible and diverse training in an environment that is conducive to the wide range of missions encountered throughout the world; and

Whereas, the State of Arizona maintains some of this nation's most valuable military training facilities, including Fort Huachuca, Davis-Monthan Air Force Base, Luke Air Force Base and the Barry M. Goldwater range; and

Whereas, established in February 1877 and located in Cochise County about 15 miles north of the Mexican border, Fort Huachuca is Arizona's oldest active military installation; and

Whereas, Fort Huachuca is home of the United States Army Intelligence Center of Excellence, the Army's premier military intelligence training center, and the United States Army Network Enterprise Technology Command, headquarters for the Army's worldwide network operations and defense mission; and

Whereas, Fort Huachuca is also the headquarters of the Defense Information Systems Agency Joint Interoperability Test Command and the United States Army Electronic Proving Ground and operates in the Army's premier open air testing range, the Buffalo Soldier Electronic Test Range; and

Whereas, Fort Huachuca is home to the largest joint unmanned aircraft system training and operations base supporting Army, Marine, Homeland Security and Arizona Air National Guard platforms out of Libby Army Airfield; and

Whereas, Fort Huachuca was declared a national landmark in 1976; and

Whereas, in 2010, a study by Cochise College estimated the total economic impact of Fort Huachuca on Cochise County to be $2.4 billion; and

Whereas, established in 1925 as Davis-Monthan Landing Field near Tucson, Davis-Monthan Air Force Base is the headquarters of the Twelfth Air Force, responsible for the combat readiness of ten active-duty wings and three direct reporting units in the western United States; and

Whereas, the fighter and bomber wings of Davis-Monthan Air Force Base possess 430 aircraft and more than 33,000 active-duty military and civilian personnel. The 3rd Combat Communications Squadron, 820th Redhorse Squadron and 1st Air Support Operations Group direct reporting units comprise more than 1,200 people and provide unrivaled expertise in expeditionary communication, engineering and air liaison. They also ensure the operational readiness of 12th Air Force, four Air Force Reserve wings and thirteen Air National Guard wings, featuring an additional 18,800 people and more than 260 aircraft; and

Whereas, including the effect of local military retirees, Davis-Monthan officials say the base pumped $1.47 billion into the Tucson-area economy in fiscal year 2013; and

Whereas, established in 1941, Luke Air Force Base is named after the first aviator to be awarded the Medal of Honor, 2d Lt. Frank Luke Jr., who was born in Phoenix in 1897; and

Whereas, Luke Air Force Base houses the largest fighter wing in the United States Air Force with 138 F-16s assigned; and

Whereas, the host command at Luke Air Force Base is the 56th Fighter Wing, which is under Air Education and Training Command. The wing is composed of five groups and the Range Management Office and twenty-eight squadrons, including seven fighter squadrons; and

Whereas, the 54th Fighter Group is located at Holloman Air Force Base in New Mexico, but it is under the operational control of the 56th Fighter Wing commander at Luke Air Force Base; and

Whereas, approximately 300 pilots train at Luke Air Force Base annually and proceed to combat assignments throughout the world. The 56th Fighter Wing also trains more than 350 maintenance technicians each year; and

Whereas, Luke Air Force Base provides approximately two billion dollars annually to the local economy; and

Whereas, the Barry M. Goldwater Air Force Range, formerly known as Luke Air Force Range, consists of 1.9 million acres of relatively undisturbed Sonoran Desert lands southwest of Luke Air Force Base between Yuma and Tucson, south of Interstate 8; and

Whereas, overhead the Barry M. Goldwater Air Force Range are 57,000 cubic miles of airspace where pilots practice air-to-air maneuvers and engage simulated battlefield targets on the ground; and

Whereas, roughly the size of Connecticut, the immense size of the Barry M. Goldwater Air Force Range complex allows for simultaneous training activities on nine air-to-ground and two air-to-air ranges. The Luke Air Force Base Range Management Office manages the eastern range activities and Marine Corps Air Station Yuma oversees operations on the western portion.

Therefore

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

That the Members of the Legislature express their continued support for and acknowledge the extreme importance of Arizona's military facilities.

Passed by the House March 17, 2015.
Passed by the Senate February 19, 2015.
Filed in the Office of the Secretary of State March 18, 2015.

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## TRUST LAND MANAGEMENT—BUDGET RECONCILIATION

### SENATE CONCURRENT RESOLUTION 1018

**A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE X, SECTION 7, CONSTITUTION OF ARIZONA; RELATING TO ADMINISTRATION AND DISPOSITION OF STATE TRUST LANDS.**

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Article X, section 7, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

**7. Establishment of permanent funds; segregation, investment and distribution of monies**

Section 7. A. A separate permanent fund shall be established for each of the several objects for which the said grants are made and confirmed by the enabling act to the state, INCLUDING ADMINISTRATION AND DISPOSITION OF THE LANDS, and

whenever any monies shall be in any manner derived from any of said lands, the same shall be deposited by the state treasurer in the TRUST LAND ADMINISTRATION FUND AS PROVIDED BY LAW OR THE permanent fund corresponding to the grant under which the particular land producing such monies was, by the enabling act, conveyed or confirmed.

B. No monies shall ever be taken from one permanent fund for deposit in any other, or for any object other than that for which the land producing the same was granted or confirmed, EXCEPT, TO INCREASE THE VALUE OF STATE TRUST LANDS, NOT MORE THAN TEN PERCENT OF THE ANNUAL PROCEEDS FROM THE LANDS AND THE NATURAL PRODUCTS AND MONEY PROCEEDS OF THE LANDS SHALL BE USED EXCLUSIVELY FOR ADMINISTRATION AND DISPOSITION OF THE LANDS AS PROVIDED BY LAW.

C. All such monies shall be invested in safe interest-bearing securities and prudent equity securities consistent with the requirements of this section.

D. The legislature shall establish a board of investment to serve as trustees of the permanent funds. The board shall provide for the management of the assets of the funds consistent with the following conditions:

1. Not more than sixty ~~per cent~~ PERCENT of a fund at cost may be invested in equities at any time.

2. Equities that are eligible for purchase are restricted to stocks listed on any national stock exchange or eligible for trading through the United States national association of securities dealers automated quotation system, or successor institutions, except as may be prohibited by general criteria or by a restriction on investment in a specific security adopted pursuant to this subsection.

3. Not more than five ~~per cent~~ PERCENT of all of the funds combined at cost may be invested in equity securities issued by the same institution, agency or corporation, other than securities issued as direct obligations of and fully guaranteed by the United States government.

E. In making investments under this section the state treasurer and trustees shall exercise the judgment and care under the prevailing circumstances that an institutional investor of ordinary prudence, discretion and intelligence exercises in managing large investments entrusted to it, not in regard to speculation, but in regard to the permanent disposition of monies, considering the probable safety of capital as well as the probable total rate of return over extended periods of time.

F. The earnings, interest, dividends and realized capital gains and losses from investment of a permanent fund, shall be credited to that fund.

G. The board of investment shall determine the amount of the annual distributions required by this section and allocate distributions pursuant to law. Beginning July 1, 2000 and except as otherwise provided in this section, the amount of the annual distribution from a permanent fund established pursuant to this section is the amount determined by multiplying the following factors:

1. The average of the annual total rate of return for the immediately preceding five complete fiscal years less the average of the annual percentage change in the GDP price deflator, or a successor index, for the immediately preceding five complete fiscal years. For the purposes of this paragraph:

(a) "Annual total rate of return" means the quotient obtained by dividing the amount credited to a fund pursuant to subsection F for a complete fiscal year, plus unrealized capital gains and losses, by the average monthly market value of the fund for that year.

(b) "GDP price deflator" means the gross domestic price deflator reported by the United States department of commerce, bureau of economic analysis, or its successor agency.

2. The average of the monthly market values of the fund for the immediately preceding five complete fiscal years.

H. Notwithstanding any other provision of this section, the annual distribution from the permanent funds for fiscal years 2012-2013 through 2020-2021 shall be two and one-half ~~per cent~~ PERCENT of the average monthly market values of the fund for the immediately preceding five calendar years.

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article XXI, Constitution of Arizona.

Passed by the House March 7, 2015.
Passed by the Senate March 7, 2015.
Filed in the Office of the Secretary of State March 9, 2015.

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## COMMENDING ISRAEL

### SENATE CONCURRENT RESOLUTION 1019

### A CONCURRENT RESOLUTION COMMENDING THE NATION OF ISRAEL FOR ITS CORDIAL AND MUTUALLY BENEFICIAL RELATIONSHIP WITH THE UNITED STATES AND WITH THE STATE OF ARIZONA.

Whereas, Israel has been granted her land under and through the oldest recorded deed, as recorded in the Old Testament, scripture that is held sacred and revered by Jews and Christians alike, the acts and words of God; and

Whereas, the claim and presence of the Jewish people in Israel has remained constant throughout the past 4,000 years of history; and

Whereas, the legal basis for the establishment of the modern State of Israel was a binding act of international law established in the San Remo Resolution, which was unanimously adopted by the League of Nations in 1922 and subsequently affirmed by both houses of the United States Congress; and

Whereas, this resolution affirmed the establishment of a national home for the Jewish people in the historical region of the Land of Israel, including the areas of Judea, Samaria and Jerusalem; and

Whereas, Article 80 of the United Nations Charter recognized the continued validity of the rights granted to states or peoples that already existed under international instruments, and, therefore, the 1922 League of Nations resolution remains valid and the 650,000 Jews currently residing in the areas of Judea, Samaria and eastern Jerusalem reside there legitimately; and

Whereas, Israel declared its independence and self-governance on May 14, 1948, with the goal of reestablishing its God-given and legally recognized land as a homeland for the Jewish people; and

Whereas, the United States, as the first country to recognize Israel as an independent nation and as Israel's principal ally, has enjoyed a close and mutually beneficial relationship with Israel and her people; and

Whereas, Israel is the greatest friend and ally of the United States in the Middle East, and the values of our two nations are so intertwined that it is impossible to separate one from the other; and

Whereas, there are those in the Middle East who have continually sought to destroy Israel from the time of its inception as a state, and those same enemies of Israel also hate and seek to destroy the United States; and

Whereas, the State of Arizona and Israel have enjoyed cordial and mutually beneficial relations since 1948, a friendship that continues to strengthen with each passing year; and

Whereas, Israeli Prime Minister Benjamin Netanyahu spoke before a joint session of Congress on March 3, 2015 and urged the United States to stand with Israel to "stop Iran's march of conquest, subjugation and terror" and warned the United States that an emerging nuclear agreement with Iran "paves Iran's path to the bomb."

Therefore

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. That the Members of the Legislature commend Israel for its cordial and mutually beneficial relationship with the United States and with the State of Arizona and support Israel as a Jewish state in its legal, historical, moral and God-given right of self-governance and self-defense on the entirety of its own lands, recognizing that Israel is not an occupier of the lands of others and that peace can be afforded in the region only through a whole and united Israel.

2. That the Secretary of State transmit copies of this Resolution to the President of the United States, each member of Congress from the State of Arizona and the Governor of the State of Arizona.

Adopted by the House March 23, 2015.
Unanimously Adopted by the Senate March 17, 2015.
Filed in the Office of the Secretary of State March 27, 2015.

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# MAYOR JOHN DOUGLAS DRIGGS

## SENATE CONCURRENT RESOLUTION 1020

## A CONCURRENT RESOLUTION ON THE DEATH OF MAYOR JOHN DOUGLAS DRIGGS.

Former Phoenix Mayor John Douglas Driggs passed away on December 11, 2014 at the age of eighty-seven. An *Arizona Republic* editorial that was released on that date pronounced him "the absolutely essential mayor."

A native of Arizona, Mayor Driggs was born in Douglas on June 16, 1927 and moved to Phoenix at the age of six months. Active in the Boy Scouts during his youth, Mayor Driggs was an Eagle Scout. Later, as an adult he was awarded the Silver Beaver award from the Boy Scouts of America. Following his graduation from North Phoenix High School in 1945, he ably served our country in the United States Navy during World War II. Mayor Driggs then served a mission for the LDS church in the New England States Mission. After earning his B.A. and M.B.A. from Stanford University, he returned to Phoenix and worked as an executive at Western Savings and Loan for thirty-five years, where he retired as Chairman of the Board in 1989. Mayor Driggs also served as a founding member of the Board of Directors for America West Airlines. During his successful business career, Mayor Driggs lived by his conviction that "a basic obligation of any business is to be a good citizen."

Mayor Driggs distinguished himself as an outstanding public servant throughout his lifetime. He served two terms as Mayor of Phoenix from 1970 to 1974, in which capacity he demonstrated an enduring commitment to preserving the city's rich history. Among his many noble accomplishments as mayor, he helped establish the Phoenix Mountain Preserve and the Echo Canyon Trail, as well as expand the city's park system and revitalize Papago Park.

During his tenure as mayor of Phoenix, Mayor Driggs held several high profile national positions in the United States Conference of Mayors and the National League of Cities. The outstanding leadership he exhibited in these positions earned him appointments by President Richard Nixon to the Advisory Commission on Intergovernmental Relations and the President's Council on Intergovernmental Personnel Policy.

In 1974, Mayor Driggs facilitated the City of Phoenix's purchase of the Rosson House, which had been targeted to be razed. In 1975, after leaving office, Mayor Driggs was asked to chair the Rosson House's restoration committee, which was funded solely through community support. The Rosson House restoration was a crucial catalyst in the current revitalization of downtown Phoenix.

Despite the demands of his political and business endeavors, Mayor Driggs gave generously of his time, energy and abilities to numerous worthwhile civic organizations. In 1979, he became the founding chairman of America's Second Harvest, a national food bank network that has grown to become our nation's third largest charitable organization and is now known as Feeding America. Under his leadership, the national food industry donated 280 million pounds of food products. In 1983, Mayor Driggs was appointed by President Ronald Reagan as a member of the President's Task Force on Food Assistance to examine the extent of America's hunger problem, to determine its causes and to

recommend specific solutions. As a result of those efforts, Mayor Driggs organized an outreach effort in 1986 for the food stamp program that garnered a prestigious Effie Award as the year's outstanding public service announcement. He also raised the funding and organized the construction effort for six houses for Habitat for Humanity.

Over the last fifteen years, Mayor Driggs served as chairman of the Tovrea Castle restoration project and as the founder, chairman and chief visionary behind the Arizona Second Century Initiative. Mayor Driggs devoted considerable time, energy and skill to the effort to increase synergy in the Governmental Mall, with a special emphasis on restoring the territorial Arizona Capitol to a working historical edifice.

An avid and accomplished skier, Mayor Driggs would often counsel his five sons while skiing in inclement weather that one must learn to ski "in varying conditions." That counsel became a metaphor for how he lived his entire life. Indefatigable in spirit, visionary in thinking and, most importantly, gracious to all he encountered, Mayor Driggs persevered even when one of his business, government or charitable projects experienced seemingly insurmountable obstacles. That perseverance was the genesis for a lasting legacy of accomplishments realized in a lifetime of varying conditions.

Dedicated to his family, Mayor Driggs will be greatly missed by his wife, Gail, five sons, Douglas, Andrew, Thomas, Adam and Peter, nineteen grandchildren and seven great-grandchildren.

Therefore

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

That the Members of the Senate express regret at the passing of Mayor John Douglas Driggs and extend their deepest sympathies to his family and many friends.

Unanimously Adopted by the House April 1, 2015.
Unanimously Adopted by the Senate April 1, 2015.
Filed in the Office of the Secretary of State April 2, 2015.

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## BRAIN TUMOR AWARENESS MONTH

### SENATE RESOLUTION 1001

### A RESOLUTION PROCLAIMING MAY 2015 AS BRAIN TUMOR AWARENESS MONTH IN THE STATE OF ARIZONA.

Whereas, each year, more than 100,000 Americans will be diagnosed with a primary or metastatic brain tumor; and

Whereas, brain tumors are the second leading cause of cancer death for children under age 19 and the third leading cause of cancer death for young adults ages 20 to 39; and

Whereas, the number of cases continues to increase, especially among the elderly, and the reasons remain unknown to medical researchers, scientists and physicians; and

Whereas, according to medical statistics, there are more than 100 different types of brain tumors; and

Whereas, because brain tumors are located at the control center for thought, emotion and movement, treatments are complicated and the effects of tumors on patients can be devastating; and

Whereas, enhancing the quality of life of people with brain tumors requires access to quality specialty care and readily available follow-up care and rehabilitative services; and

Whereas, improving the outlook for adults and children with brain tumors requires research into the causes of and better treatments for brain tumors; and

Whereas, symptoms of brain tumors may include headaches, nausea and vomiting, difficulty with memory, loss of movement, coordination or sensation, and visual disturbance; and

Whereas, children may experience morning nausea and vomiting, growth and development irregularities and the apparent onset of emotional problems; and

Whereas, currently, brain tumors are treated by surgery, radiation and chemotherapy, used separately or together; and

Whereas, only 37% of males and 52% of females survive five years following the diagnosis of primary benign or malignant brain tumors; and

Whereas, although as many as 60% of children with brain tumors will survive, they are often left with long-term side effects.

Therefore

Be it resolved by the Senate of the State of Arizona:

That the Members of the Senate proclaim May 2015 as Brain Tumor Awareness Month in the State of Arizona.

Unanimously Adopted by the Senate March 23, 2015.
Filed in the Office of the Secretary of State March 23, 2015.

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## FUND-RAISER FOR CHARITY ON SEVENTIETH BIRTHDAY

### SENATE RESOLUTION 1002

### A RESOLUTION ENCOURAGING THE RESIDENTS OF ARIZONA TO CELEBRATE THEIR SEVENTIETH BIRTHDAYS WITH FUND-RAISERS IN SUPPORT OF THEIR FAVORITE CHARITIES.

Whereas, according to the National Center for Charitable Statistics, there are approximately 967,600 public charities, 96,600 private foundations and 366,600 other types of nonprofit organizations in the United States; and

Whereas, giving and philanthropy are acts of goodwill that transcend party lines; and

Whereas, the United States is a country with a great and generous philanthropic history; and

Whereas, the people of Arizona have developed a long tradition of philanthropy, giving back to their communities and providing critical resources to improve the quality of life in Arizona; and

Whereas, the people of Arizona are committed to instilling deeply held philanthropic values in future generations by leading by example; and

Whereas, Linda Rushton of Nogales, Arizona is giving back to her community by sponsoring a celebration for her seventieth birthday for the benefit of the Nogales Senior Center.

Therefore

Be it resolved by the Senate of the State of Arizona:

That the Members of the Senate encourage all residents of Arizona to follow the example of Linda Rushton of Nogales, Arizona by making their seventieth birthdays count by celebrating with fund-raisers in support of their favorite charities.

Unanimously Adopted by the Senate January 29, 2015.
Filed in the Office of the Secretary of State January 30, 2015.

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## NATIONAL EATING DISORDERS AWARENESS WEEK

### SENATE RESOLUTION 1003

### A RESOLUTION PROCLAIMING THE WEEK OF FEBRUARY 22, 2015 AS NATIONAL EATING DISORDERS AWARENESS WEEK IN ARIZONA.

Whereas, 30 million Americans will suffer from anorexia, bulimia or binge eating disorder at some time during their lives; and

Whereas, anorexia, bulimia and compulsive overeating are problems that are misunderstood, stigmatized, underfunded and undertreated; and

Whereas, anorexia is linked to an eighteen-fold increase in the risk of death, with up to 20% of sufferers dying of malnutrition and suicide; and

Whereas, anorexia is the psychiatric disorder with the highest mortality rate; and

Whereas, eating disorders are associated with substantial psychological problems, including depression, substance abuse and suicide, and can lead to major medical complications, including cardiac arrhythmia, cognitive impairment, certain cancers, osteoporosis, infertility, kidney failure and death; and

Whereas, eating disorders cut across race, color, gender and socioeconomic categories; and

Whereas, eating disorders are becoming more prevalent among youth, with children as young as seven years of age suffering from these disorders; and

Whereas, genetic, social and familial factors and media pressures are all known to be related to eating disorders; and

Whereas, many insurance companies disallow or limit reimbursements for eating disorders, forcing doctors to discharge patients suffering from these disorders too early and placing patients in life-threatening situations; and

Whereas, eating disorders are treatable when diagnosed and treated early and sufficiently; and

Whereas, eating disorders should be taken as seriously as the obesity epidemic and treated as the public health crisis that they have become. It is vital that treatment be provided for those suffering from eating disorders and that steps be taken to educate the public regarding all forms of eating disorders, including binge eating and extreme dieting.
Therefore
Be it resolved by the Senate of the State of Arizona:

That the Members of the Senate proclaim the week of February 22, 2015 as National Eating Disorders Awareness Week in Arizona.

Unanimously Adopted by the Senate February 26, 2015.
Filed in the Office of the Secretary of State February 26, 2015.

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# GOVERNOR'S MESSAGES

State of Arizona
**EXECUTIVE OFFICE**
March 27, 2015

Dear Secretary Reagan:

I signed S.B. 1289.

As we improve the A-F accountability system, I urge the State Board of Education to set the bar high. Our "A" schools should be an accurate representation of Arizona's best public schools. The accountability measures in the letter grades should provide parents with a better picture of the quality of the school. The Arizona Board of Education should look to best practices in other states, like Florida, Massachusetts and Indiana, and replicate what works in these states here in Arizona. The State Board of Education, along with the Department of Education, should use the transition period wisely for public engagement and stakeholder input. During this transition, parents must continue to have access to school performance indicators as they make important decisions about their children's education. Once complete, the A-F system should be simple for parents to understand and have clear expectations of quality for schools to follow.

As the State Board of Education considers the future of the A-F accountability system, I call upon the State Board of Education to report to me and the Legislature on the feasibility of including a menu of local and/or statewide assessments in the improved accountability system. Local control, and the flexibility to use the curriculum and assessment tools that works best in each individual school and classroom, furthers accountability and gives freedom to the teacher to teach and the student to learn.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable David Gowan
The Honorable Kelli Ward

State of Arizona
**EXECUTIVE OFFICE**
March 30, 2015

Dear Speaker Gowan:

Today I issued my first veto – House Bill 2150.

I know we all agree that animal cruelty is inexcusable, unacceptable and absolutely will not be tolerated in the state of Arizona. No animal should be the victim of abuse. Moreover, perpetrators must be held to account and properly penalized to the fullest extent of the law.

While the sponsors and supporters of this bill are well-intentioned, when changing state laws relating to the safety and well-being of animals, we must ensure that all animals are protected, and mindful that increasing protections for one class of animals does not inadvertently undercut protections for another.

I am open to working with the sponsors on this issue moving forward, while ensuring the protection of animals in our state.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Brenda Barton

State of Arizona
**EXECUTIVE OFFICE**
March 30, 2015

Dear Speaker Gowan:

While quotas for traffic complaints don't currently appear to be happening in Arizona law enforcement entities, none of us want to see such policies implemented. Therefore, I understand the intent of House Bill 2410.

However, in its current form, I worry that police chiefs and local entities will be prevented from objectively gauging performance in their departments – a concern for officers themselves, the public and overall public safety.

Therefore, I am vetoing this legislation at this time but am open to working to find ways to ensure quotas don't become a practice in Arizona.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable David Stevens

State of Arizona
**EXECUTIVE OFFICE**
March 30, 2015

Dear Secretary Reagan:

Today I signed H.B. 2530. While I am supportive of the underlying policy of the bill – that every child and their parent should have immediate and unhindered access to their educational records – this bill has some ambiguities that I believe should be addressed by the Arizona Department of Education as they implement this bill. For example, the bill is silent on how and to whom the alleged violation would be reported, who would investigate the allegation and which entity would make a final ruling and whether either party could appeal a decision. I would encourage all parties involved in this legislation to work with the Department to clarify these implementation issues.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable David Gowan
The Honorable Andy Biggs
The Honorable Vince Leach

State of Arizona
**EXECUTIVE OFFICE**
March 30, 2015

Dear President Biggs:

This afternoon I vetoed Senate Bill 1145. While I understand the sponsor's concern about the strain the cost of one individual's treatment at the Arizona State Hospital was placing on a small county's budget, the issue was already being addressed by the Arizona Department of Health Services. On the same day that this bill was passed, the court ordered the individual transferred to a different unit within the State Hospital. In doing so, it ended the financial liability on Santa Cruz County as well as negated the need for this legislation.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Gail Griffin

State of Arizona
**EXECUTIVE OFFICE**
March 30, 2015

Dear President Biggs:

Just weeks ago, Arizonans saw the courage of our police officers and first responders on full display, as men and women who wear the badge rushed into harm's way to stop a mass shooting in Mesa and hunt down the perpetrator. If not for their valor, this incident would have likely been even more horrific for our state and for the Mesa community. We continue to pray for the victims and pay gratitude to the officers who selflessly did their job to protect others and save lives.

It's easy to forget that these heroes do this every day, all across our state and nation. We take it for granted, but the families and loved ones of police officers don't have that luxury. They know that these brave men and women walk into dangerous and unpredictable circumstances all the time. As the son of a cop, I know this first-hand. Watching my dad put on the badge and serve, I learned to respect law enforcement and understand the trust society places in those who protect us. I'm committed to respecting them and honoring their work in my administration.

Arizona has lost 246 officers in the line of duty over the years, a testament to the dangers of the job that officers knowingly and heroically accept. But sadly, there is sometimes a troubling tone in the treatment towards our police officers. Too often of late, there is a rush to judgement when a police officer is left with no choice in the protection of innocent civilians. In an era of social media and 24-hour news commentary, these officers and their families have been subjected to public scorn, harassment and vicious attacks.

That's not the treatment upstanding officers deserve. Our officers are on the front lines – the first to show up on the scene of a crime. They should be respected; not ridiculed. They and their families protected; not put at risk.

Therefore, I am more than sympathetic to the aim of Senate Bill 1445, and I respect the supporters of this legislation for seeking to address these issues. I know that the goal of this legislation is to protect officers and their families, and it's a goal I share.

In determining how to act on this bill my number one consideration was this: *What will best protect our officers and their families?*

I've heard from many voices on this bill – from all sides – and have weighed all the arguments carefully and with great consideration. Unfortunately, I don't believe this bill in its current form best achieves the objectives we share, and I worry it could result in unforeseen problems. Among the arguments most impactful to me in this decision were concerns raised by the chiefs of police.

Under current law and in practice, chiefs have the authority to make decisions in the best interests of their officers and departments. Their concern, and mine, is that setting an arbitrary 60-day benchmark for release of names would limit their ability to best manage these often tenuous situations and result in unintended consequences.

As the chiefs have demonstrated, Arizona's Public Records Act already gives police departments the authority to withhold the names of police officers who are involved in shootings – longer than 60 days, if necessary. Under the Act, a department may withhold the name where confidentiality, privacy, or the best interests of the State outweigh the public's right to know the name. The law also permits the department to consider whether releasing a name "might lead to substantial and irreparable private or public harm." *Carlson v. Pima County,* 141 Ariz. 487, 491 (1984).

There are many examples of our police departments exercising this authority in a manner that protects the officer's identity while ultimately providing disclosure after the situation has cooled. Recently, the City of Phoenix Police Department waited for seven days after a shooting before releasing the officer's name.

There are other considerations for not limiting the authority of police chiefs to make these decisions. With the proliferation of social media, rumors regularly run wild and unfiltered. An officer's name could very easily come to light. The wrong officer's name could circulate. Speculation replaces fact. It's very easy to see news outlets running with information that is unconfirmed or erroneous, and under this proposed law, police chiefs' hands would be tied and they would have no way to respond or set the record straight. The result could be the exact opposite of what this bill aims to do, escalating – rather than deescalating – the situation and potentially putting completely innocent officers' reputations and safety on the line.

For all these reasons, it makes sense to allow departments to make informed decisions based on the facts at hand. I believe that is the best way to protect our officers.

Additionally, some provisions of Senate Bill 1445 contain ambiguities that seem to stretch outside the scope of protecting officers and their families from unjustified retaliation by creating new and expansive exceptions to the Public Records Act. Subsection (B) would require a police officer's name to be redacted on all disciplinary records. Although ambiguous, subsection (B) could be applied to any police officer's disciplinary record, regardless of whether that officer was involved in a death. In addition, subsection (B) has no time limitation and it will likely impose practical challenges when a department attempts to redact names and other identifying information.

Again, the treatment and safety of our officers and their families is on the top of my mind. My office is more than willing to discuss ways that we can address this moving forward. I look forward to working together and to finding ways to protect our heroes who wear the badge.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable David Gowan
The Honorable Steve Smith

State of Arizona
**EXECUTIVE OFFICE**
April 1, 2015

Dear Speaker Gowan:

Today, I vetoed House Bill 2173. After reviewing this bill in detail, I do not believe this policy is appropriate at this time.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Mark Finchem

State of Arizona
**EXECUTIVE OFFICE**
April 1, 2015

Dear President Biggs:

This afternoon, I vetoed Senate Bill 1171. While I understand the sponsor's desire to provide greater information to those receiving a notice of failure to file a campaign finance report in a timely manner, I believe that the Secretary of State can address this issue administratively, rendering this bill unnecessary.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable David Gowan
The Honorable Kimberly Yee

State of Arizona
**EXECUTIVE OFFICE**
April 9, 2015

Dear Speaker Gowan:

Today, I vetoed House Bill 2566. While I agree with the intent of the bill to properly secure the state's data, my administration has already addressed and developed IT security policies governing passwords, encryption, and other security concerns. Moving forward, I look forward to working with our new Chief Information Officer to expand our security coverage.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Bob Thorpe
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 9, 2015

Dear President Biggs:

Today, I vetoed Senate Bill 1200. Although I commend the work of the bill's sponsor, we must evaluate the use of state buildings holistically, rather than individually. At this point, there is not a plan or organizational structure in place to ensure the successful transition of the mining and mineral museum. While I appreciate the desire to preserve and celebrate the unique characteristics of Arizona's past, it would be premature to sign this legislation at this time.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable David Gowan
The Honorable Gail Griffin
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 9, 2015

Dear President Biggs:

This afternoon, I vetoed Senate Bill 1450. While I understand the sponsor's intent of the bill, I am concerned that the language in its current form is not consistent with existing federal law.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable David Gowan
The Honorable David Farnsworth
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 10, 2015

Dear President Biggs:

Today, I vetoed Senate Bill 1285. Given that the budget that was recently passed by the Legislature and signed by me repealed the Job Training Employer Tax, I do not feel that it would be appropriate to add another funding requirement to a fund whose revenue source is being repealed.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable David Gowan
The Honorable Kimberly Yee
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 13, 2015

Dear Speaker Gowan:

Today, I vetoed House Bill 2176. I share your concerns about the amount of federal lands in Arizona, which is why I was happy to sign (HB2658 - federal lands; transfer; study committee). I look forward to reviewing recommendations set forth by this planning committee prior to making decisions about how to proceed.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Bob Thorpe
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 13, 2015

Dear Speaker Gowan:

Today, I vetoed House Bill 2296. While I understand the stress currently on county budgets, my concern is that this law could potentially reduce the number of adoptions. I encourage the counties to look for other cost savings and efficiencies.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Edwin Farnsworth
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 13, 2015

Dear Speaker Gowan:

Today, I vetoed House Bill 2318. I share your concerns about the amount of federal lands in Arizona, which is why I was happy to sign (HB2658 - federal lands; transfer; study committee). I look forward to reviewing recommendations set forth by this planning committee prior to making decisions about how to proceed.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Brenda Barton
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 13, 2015

Dear Speaker Gowan:

Today, I vetoed House Bill 2327. I understand the desire to embrace innovation and new technologies, so I am sympathetic to the goal of the sponsor. Fortunately, current law does not prohibit automobile insurance companies from voluntarily utilizing encrypted barcodes on their insurance cards. Since a statutory change is not needed, I think it is best that we let the insurance industry self-regulate and determine when and how to best introduce this feature into Arizona.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Bob Robson
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 13, 2015

Dear Speaker Gowan:

Today, I vetoed House Bill 2540. I appreciate the intent of this legislation; however, the petition process is inherently a power reserved to the voting public and therefore it is contingent upon them to ensure proper compliance with all applicable laws. Additionally, I fear that inserting state and local employees deeper into the signature gathering process exposes them to unnecessary liability. If a county or municipality decides that this is a good policy, the local governing body or their voters can adopt it as part of their local election code.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Mark Finchem
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 13, 2015

Dear Speaker Gowan:

Today, I vetoed House Bill 2587. Currently my Administration is undertaking savings and efficiency efforts with our vendors. While I appreciate the Sponsor's intent to create savings for the State, this is a matter that can be handled administratively at this time.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Mark Finchem
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 13, 2015

Dear President Biggs:

Today, I vetoed Senate Bill 1293. I share the Legislature's concern about border security and I am committed to working with you to look for ways to ensure that we are maximizing resources on the border, as part of a broader budget discussion. Earlier this year, I directed the Department of Public Safety to begin conversations with border county sheriffs and local law enforcement to identify their needs and determine the best way for the state to supplement those needs. I look forward to a discussion over the interim with interested parties to ensure that we are maximizing our resources for crimes relating to drug and human trafficking.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable David Gowan
The Honorable Steve Smith
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 13, 2015

Dear Secretary Reagan:

I signed S.B. 1459.

This bill establishes consistent and uniform policies for the standard of care for all children, including children with special needs, in our public schools. While I support this measure, I believe it would benefit by considering protections to well-intentioned individuals acting in good faith in emergency situations. I recommend that the parties involved in this legislation consider this issue in the next legislative session.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable David Gowan
The Honorable Kelli Ward

State of Arizona
**EXECUTIVE OFFICE**
April 14, 2015

Dear Speaker Gowan:

Today, I vetoed House Bill 2178. As with any new product, it makes sense to monitor its impact on public health and safety. At this time, there does not appear to be evidence that this bill is necessary. I have instructed the Director of the Department of Liquor Licenses and Control to review administrative rules to ensure that powdered alcohol is regulated to the same extent as other spirituous beverages.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Bob Thorpe
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 14, 2015

Dear Speaker Gowan:

Today, I vetoed House Bill 2358. While I agree and support tax policies that treat both the charter and commercial airline industry the same, and provide tax relief for purchases of aircraft for agricultural use, I have a concern regarding the unknown financial impact of making the former policy retroactive back to 1998. I encourage the sponsor to make necessary changes that allow for the charter industry to compete and thrive in Arizona, while also mitigating any unintended financial consequences to the State. I look forward to reviewing an amended version of this bill next session.

Additionally, I am requesting that the Arizona Department of Revenue stay any future and ongoing enforcement efforts of taxation on the leasing and purchasing of aircraft by charter operators, and the purchasing of aircraft built for agricultural use.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Thomas Shope
The Honorable Michele Reagan

State of Arizona
**EXECUTIVE OFFICE**
April 14, 2015

Dear Speaker Gowan:

Today, I vetoed House Bill 2592. I do not believe it is appropriate to create a separate residency standard for one specific elected office.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable Andy Biggs
The Honorable Heather Carter
The Honorable Michele Reagan

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| member land; termination | 2325 | 242 | 1449 |
| flood control districts; administrative enforcement | 2349 | 283 | 1824 |
| **The Environment** (Title 49) | | | |
| state plans; carbon dioxide emissions | 1007 | 78 | 572 |
| solid waste collection; multifamily housing | 1079 | 142 | 881 |
| emergency and military affairs omnibus | 2274 | 208 | 1245 |
| small water systems fund | 2316 | 241 | 1448 |
| air quality; agricultural management practices | 2394 | 243 | 1451 |
| underground storage tanks | 2636 | 247 | 1515 |
| water infrastructure finance authority; prepayment | 2142 | 260 | 1694 |
| **Chapters not associated to a specific title:** | | | |
| graduation; passing test score; moratorium | 1191 | 5 | 81 |
| general appropriations; 2015-2016. | 1469 | 8 | 113 |
| capital outlay; 2015-2016 | 1470 | 9 | 183 |
| digital teaching; learning study committee | 1037 | 32 | 355 |
| appropriations; named claimants | 1053 | 34 | 364 |
| fallen correctional employees memorial | 1186 | 42 | 390 |
| schools; letter classification; transition process | 1289 | 76 | 570 |
| judgment liens; recordation; real property | 2311 | 110 | 748 |
| DHS; stroke care protocols | 2605 | 130 | 826 |
| nuclear emergency appropriations; assessments | 1001 | 132 | 830 |
| water banking fund | 1147 | 149 | 916 |
| law enforcement officers; body cameras | 1300 | 161 | 988 |
| private land acquisition; study committee | 1345 | 188 | 1081 |
| performance bond waiver; eligibility | 2095 | 203 | 1208 |
| federal lands; transfer; study committee | 2658 | 248 | 1551 |
| child safety oversight committee; continuation | 2024 | 254 | 1601 |
| schools; teacher experience index; understatement | 1259 | 272 | 1774 |
| school district budget errors; repayment | 2567 | 288 | 1861 |
| teacher experience index; schools | 2569 | 289 | 1863 |
| post-traumatic stress disorders: public safety | 2438 | 308 | 1968 |

# 2014 ELECTION RESULTS

## PROCLAMATION
## GENERAL ELECTION 2014
## PROPOSITION 122

**WHEREAS,** the returns for the General Election held on the first Tuesday after the first Monday in November, 2014, have been canvassed and certified on the 1st day of December, 2014, in accordance with Article IV, Part 1 of the Constitution of the State of Arizona, and Sections 16-648 and 19-126 of the Arizona Revised Statutes; and

**WHEREAS,** Proposition 122 is an amendment to the Arizona Constitution referred by the Legislature to a vote of the qualified electors; and

**WHEREAS,** the whole number of votes cast for and against Proposition 122 was as follows:

**PROPOSITION 122** A concurrent resolution proposing an amendment to the Constitution of Arizona; amending Article II, Section 3, Constitution of Arizona; relating to the rejection of unconstitutional federal actions.

| | |
|---|---|
| YES | 707,451 |
| NO | 673,337 |

**NOW, THEREFORE**, I, Janice K. Brewer, Governor of the State of Arizona, do hereby proclaim that the constitutional amendment proposed to the voters in the form of Proposition 122, which was approved by a majority of those voting thereon at said General Election of the State of Arizona, to be law.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

s/s JANICE K. BREWER
**Governor**

**DONE** at the Capitol in Phoenix, on this Eleventh day of December in the Year Two Thousand and Fourteen and of the Independence of the United States of America the Two Hundred and Thirty-Ninth.

***ATTEST*:**

s/s KEN BENNETT
**Secretary of State**

**PROCLAMATION**
**GENERAL ELECTION 2014**
**PROPOSITION 303**

**WHEREAS,** the returns for the General Election held on the first Tuesday after the first Monday in November, 2014, have been canvassed and certified on the 1st day of December, 2014, in accordance with Article IV, Part 1 of the Constitution of the State of Arizona, and Sections 16-648 and 19-126 of the Arizona Revised Statutes; and

**WHEREAS,** Proposition 303 is a measure referred by the Legislature to a vote of the qualified electors; and

**WHEREAS,** the whole number of votes cast for and against Proposition 303 was as follows:

**PROPOSITION 303** A concurrent resolution proposing amendments to Arizona Revised Statutes; amending Title 36, Arizona Revised Statutes, by adding Chapter 11.1 relating to the use of investigational drugs, biological products or devices.

| | |
|---|---|
| YES | 1,111,850 |
| NO | 304,971 |

**NOW, THEREFORE,** I, Janice K. Brewer, Governor of the State of Arizona, do hereby proclaim that the measure proposed to the voters in the form of Proposition 303, which was approved by a majority of those voting thereon at said General Election of the State of Arizona, to be law.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

s/s JANICE K. BREWER
**Governor**

**DONE** at the Capitol in Phoenix, on this Eleventh day of December in the Year Two Thousand and Fourteen and of the Independence of the United States of America the Two Hundred and Thirty-Ninth.

*ATTEST:*

s/s KEN BENNETT
**Secretary of State**

**PROCLAMATION**
**GENERAL ELECTION 2014**
**PROPOSITION 304**

**WHEREAS,** the returns for the General Election held on the first Tuesday after the first Monday in November, 2014, have been canvassed and certified on the 1st day of December, 2014, in accordance with Article IV, Part 1 of the Constitution of the State of Arizona, and Sections 16-648 and 19-126 of the Arizona Revised Statutes; and

**WHEREAS,** Proposition 304 is a recommendation of the Commission on Salaries for Elective State Officers as to legislative salaries submitted for a vote of the qualified electors; and

**WHEREAS,** the whole number of votes cast for and against Proposition 303 was as follows:

**PROPOSITION 304**

Recommendation of the Commission of the Salaries for Elective State Officers as to Legislative Salaries has been certified to the Secretary of State and is hereby submitted to the qualified electors of their approval or rejection. Provides for an increase in the salaries of state legislators from $24,000 to $35,000 per year.

"Shall the recommendation of the Commission on Salaries for Elective State officers concerning legislative salaries be accepted?"

| | |
|---|---|
| YES | 457,216 |
| NO | 966,605 |

**NOW, THEREFORE,** I, Janice K. Brewer, Governor of the State of Arizona, do hereby proclaim that the whole number of votes against Proposition 304 exceeded the whole number of votes cast for Proposition 304.

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

s/s JANICE K. BREWER
**Governor**

**DONE** at the Capitol in Phoenix, on this Eleventh day of December in the Year Two Thousand and Fourteen and of the Independence of the United States of America the Two Hundred and Thirty-Ninth.

*ATTEST:*

s/s KEN BENNETT
**Secretary of State**

## PROPOSITION 122

### OFFICIAL TITLE

SENATE CONCURRENT RESOLUTION 1016

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE II, SECTION 3, CONSTITUTION OF ARIZONA; RELATING TO THE REJECTION OF UNCONSTITUTIONAL FEDERAL ACTIONS.

### TEXT OF PROPOSED AMENDMENT

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:
1. Article II, section 3, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:
2. Supreme law of the land; authority to exercise sovereign authority against federal action; use of government personnel and financial resources
Section 3. A. The Constitution of the United States is the supreme law of the land TO WHICH ALL GOVERNMENT, STATE AND FEDERAL, IS SUBJECT.
B. TO PROTECT THE PEOPLE'S FREEDOM AND TO PRESERVE THE CHECKS AND BALANCES OF THE UNITED STATES CONSTITUTION, THIS STATE MAY EXERCISE ITS SOVEREIGN AUTHORITY TO RESTRICT THE ACTIONS OF ITS PERSONNEL AND THE USE OF ITS FINANCIAL RESOURCES TO PURPOSES THAT ARE CONSISTENT WITH THE CONSTITUTION BY DOING ANY OF THE FOLLOWING:
1. PASSING AN INITIATIVE OR REFERENDUM PURSUANT TO ARTICLE IV, PART 1, SECTION 1.
2. PASSING A BILL PURSUANT TO ARTICLE IV, PART 2 AND ARTICLE V, SECTION 7.
3. PURSUING ANY OTHER AVAILABLE LEGAL REMEDY.
C. IF THE PEOPLE OR THEIR REPRESENTATIVES EXERCISE THEIR AUTHORITY PURSUANT TO THIS SECTION, THIS STATE AND ALL POLITICAL SUBDIVISIONS OF THIS STATE ARE PROHIBITED FROM USING ANY PERSONNEL OR FINANCIAL RESOURCES TO ENFORCE, ADMINISTER OR COOPERATE WITH THE DESIGNATED FEDERAL ACTION OR PROGRAM.
2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article XXI, Constitution of Arizona.

## FINAL VOTE CAST BY THE LEGISLATURE ON SCR 1016

| House | Ayes, | 36 | Senate | Ayes, | 16 |
|---|---|---|---|---|---|
| | Nays, | 23 | | Nays, | 12 |
| | Not Voting, | 1 | | Not Voting, | 2 |
| | | | | | |
| Election Results | | | | | |
| | Yes | 707,451 | No | 673,337 | |

## PROPOSITION 303

## OFFICIAL TITLE

HOUSE CONCURRENT RESOLUTION 2005

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO THE USE OF INVESTIGATIONAL DRUGS, BIOLOGICAL PRODUCTS AND DEVICES.

## TEXT OF PROPOSED AMENDMENT

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:
1. Under the power of the referendum, as vested in the legislature, the following measure, relating to the use of investigational drugs, biological products or devices, is enacted to become valid as a law if approved by the voters and on proclamation of the Governor:
AN ACT
AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 11.1; RELATING TO THE USE OF INVESTIGATIONAL DRUGS, BIOLOGICAL PRODUCTS OR DEVICES.
Be it enacted by the Legislature of the State of Arizona:
Section 1. Title 36, Arizona Revised Statutes, is amended by adding chapter 11.1, to read:
CHAPTER 11.1
TERMINAL PATIENTS' RIGHT TO TRY ACT
ARTICLE 1. GENERAL PROVISIONS
36-1311. Definitions
IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "ELIGIBLE PATIENT" MEANS A PERSON TO WHOM ALL OF THE FOLLOWING APPLY:
(a) THE PERSON HAS A TERMINAL ILLNESS AS DETERMINED BY THE PERSON'S PHYSICIAN AND A CONSULTING PHYSICIAN.
(b) THE PERSON'S PHYSICIAN HAS DETERMINED THAT THE PERSON HAS NO COMPARABLE OR SATISFACTORY UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVED TREATMENT OPTIONS AVAILABLE TO DIAGNOSE, MONITOR OR TREAT THE DISEASE OR CONDITION INVOLVED AND THAT THE PROBABLE RISK TO THE PERSON FROM THE INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE IS NOT GREATER THAN THE PROBABLE RISK FROM THE DISEASE OR CONDITION.
(c) THE PERSON HAS RECEIVED A PRESCRIPTION OR RECOMMENDATION FROM THE PERSON'S PHYSICIAN FOR AN INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE.
(d) THE PERSON HAS GIVEN WRITTEN INFORMED CONSENT FOR THE USE OF THE INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE OR, IF THE PATIENT IS A MINOR OR LACKS THE MENTAL CAPACITY TO PROVIDE INFORMED CONSENT, A PARENT OR LEGAL GUARDIAN HAS GIVEN WRITTEN INFORMED CONSENT ON THE PATIENT'S BEHALF.
(e) THE PERSON HAS DOCUMENTATION FROM THE PERSON'S PHYSICIAN THAT THE PERSON HAS MET THE REQUIREMENTS OF THIS PARAGRAPH.
2. "INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE" MEANS A DRUG, BIOLOGICAL PRODUCT OR DEVICE THAT HAS SUCCESSFULLY COMPLETED PHASE ONE OF A CLINICAL TRIAL, BUT HAS NOT BEEN APPROVED FOR GENERAL USE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION AND REMAINS UNDER INVESTIGATION IN A CLINICAL TRIAL.
3. "PHYSICIAN" MEANS THE PHYSICIAN WHO IS PROVIDING MEDICAL CARE OR TREATMENT TO THE ELIGIBLE PATIENT FOR THE TERMINAL ILLNESS BUT DOES NOT INCLUDE A PRIMARY CARE PHYSICIAN.
4. "TERMINAL ILLNESS" MEANS A DISEASE THAT, WITHOUT LIFE-SUSTAINING PROCEDURES, WILL RESULT IN DEATH IN THE NEAR FUTURE OR A STATE OF PERMANENT UNCONSCIOUSNESS FROM WHICH RECOVERY IS UNLIKELY.
36-1312. Availability of investigational drugs, biological products or devices; costs; insurance coverage

A. A MANUFACTURER OF AN INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE MAY MAKE AVAILABLE THE MANUFACTURER'S INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE TO ELIGIBLE PATIENTS PURSUANT TO THIS ARTICLE. THIS ARTICLE DOES NOT REQUIRE THAT A MANUFACTURER MAKE AVAILABLE AN INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE TO AN ELIGIBLE PATIENT.
B. A MANUFACTURER MAY:
1. PROVIDE AN INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE TO AN ELIGIBLE PATIENT WITHOUT RECEIVING COMPENSATION.
2. REQUIRE AN ELIGIBLE PATIENT TO PAY THE COSTS OF OR ASSOCIATED WITH THE MANUFACTURE OF THE INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE.
3. REQUIRE AN ELIGIBLE PATIENT TO PARTICIPATE IN DATA COLLECTION RELATING TO THE USE OF THE INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE.
C. THIS ARTICLE DOES NOT REQUIRE A HEALTH CARE INSURER OR ANY STATE AGENCY TO PROVIDE COVERAGE FOR THE COST OF ANY INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE. A HEALTH CARE INSURER MAY PROVIDE COVERAGE FOR AN INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE.
36-1313. Action against physician license or health care institution license; prohibition
A. NOTWITHSTANDING ANY OTHER LAW, A STATE REGULATORY BOARD MAY NOT REVOKE, FAIL TO RENEW OR TAKE ANY OTHER ACTION AGAINST A PHYSICIAN'S LICENSE ISSUED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 BASED SOLELY ON A PHYSICIAN'S RECOMMENDATION TO AN ELIGIBLE PATIENT REGARDING OR PRESCRIPTION FOR OR TREATMENT WITH AN INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE.
B. NOTWITHSTANDING ANY OTHER LAW, A STATE AGENCY MAY NOT TAKE ANY ACTION AGAINST A HEALTH CARE INSTITUTION'S LICENSE BASED SOLELY ON THE INSTITUTION'S PARTICIPATION IN THE TREATMENT OR USE OF AN INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE UNDER THIS CHAPTER.
36-1314. Violation; classification
AN OFFICIAL, EMPLOYEE OR AGENT OF THIS STATE WHO BLOCKS OR ATTEMPTS TO BLOCK ACCESS OF AN ELIGIBLE PATIENT TO AN INVESTIGATIONAL DRUG, BIOLOGICAL PRODUCT OR DEVICE IS GUILTY OF A CLASS 1 MISDEMEANOR.
Sec. 2. Findings; intent
A. The legislature finds and declares that:
1. The process of approval for investigational drugs, biological products and devices in the United States often takes many years.
2. Patients who have a terminal illness do not have the luxury of waiting until an investigational drug, biological product or device receives final approval from the United States food and drug administration.
3. The standards of the United States food and drug administration for the use of investigational drugs, biological products and devices may deny the benefits of potentially life-saving treatments to terminally ill patients.
4. Patients who have a terminal illness have a fundamental right to attempt to pursue the preservation of their own lives by accessing available investigational drugs, biological products and devices.
5. The use of available investigational drugs, biological products and devices is a decision that should be made by the patient with a terminal illness in consultation with the patient's physician and is not a decision to be made by the government.
B. It is the intent of the legislature that allowing for the terminal patients' right to try act to apply to patients with nonterminal illnesses furthers the purpose of this act.
Sec. 3. Severability
If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article IV, part 1, section 1, Constitution of Arizona.

**FINAL VOTE CAST BY THE LEGISLATURE ON HCR 2005**

| House | Ayes, | 31 | Senate | Ayes, | 23 |
|---|---|---|---|---|---|
| | Nays, | 23 | | Nays, | 6 |
| | Not Voting, | 6 | | Not Voting, | 1 |
| | | | | | |
| Election Results | | | | | |
| | Yes | 1,111,850 | No | 304,971 | |

**PROPOSITION 304**

RECOMMENDATION OF THE COMMISSION ON SALARIES FOR ELECTIVE STATE OFFICERS AS TO LEGISLATIVE SALARIES HAS BEEN CERTIFIED TO THE SECRETARY OF STATE AND IS HEREBY SUBMITTED TO THE QUALIFIED ELECTORS FOR THEIR APPROVAL OR REJECTION.

PROVIDES FOR AN INCREASE IN THE SALARIES OF STATE LEGISLATORS FROM $24,000 TO $35,000 PER YEAR.

"SHALL THE RECOMMENDATION OF THE COMMISSION ON SALARIES FOR ELECTIVE STATE OFFICERS CONCERNING LEGISLATIVE SALARIES BE ACCEPTED?" ☐ YES ☐ NO
RECOMMENDATIONS, IF APPROVED BY THE ELECTORS, SHALL BECOME EFFECTIVE AT THE BEGINNING OF THE NEXT REGULAR LEGISLATIVE SESSION WITHOUT ANY OTHER AUTHORIZING LEGISLATION.

CURRENT SALARY..... $24,000
PROPOSED SALARY..... $35,000

| Election Results | | | | | |
|---|---|---|---|---|---|
| | Yes | 457,216 | | No | 966,605 |

Report Date/Time: 12/01/2014 07:31 AM

# STATE OF ARIZONA OFFICIAL CANVASS

2014 General Election - November 4, 2014
Compiled and Issued by the Arizona Secretary of State



| | Apache | Cochise | Coconino | Gila | Graham | Greenlee | La Paz | Maricopa | Mohave | Navajo | Pima | Pinal | Santa Cruz | Yavapai | Yuma | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Total Eligible Registration | 46,181 | 68,612 | 70,719 | 20,472 | 17,641 | 4,302 | 9,061 | 1,935,729 | 117,597 | 56,725 | 498,657 | 158,340 | 22,669 | 123,301 | 76,877 | 3,236,963 |
| Total Ballots Cast | 21,324 | 37,218 | 37,734 | 16,161 | 7,395 | 1,996 | 3,575 | 877,187 | 47,756 | 27,943 | 274,449 | 72,628 | 9,674 | 75,326 | 27,305 | 1,537,671 |
| Total Voter Turnout Percent | 46.17 | 54.24 | 53.35 | 54.84 | 42.16 | 46.55 | 39.45 | 45.32 | 40.61 | 49.26 | 55.04 | 45.87 | 42.68 | 61.09 | 35.47 | 47.52 |
| PRECINCTS | 45 | 49 | 71 | 39 | 22 | 8 | 11 | 724 | 73 | 61 | 248 | 102 | 24 | 45 | 44 | 1,566 |
| **U.S. REPRESENTATIVE IN CONGRESS - DISTRICT NO. 1** | | | | | | | | | | | | | | | | |
| (DEM) Ann Kirkpatrick * | 15,539 | --- | 23,035 | 3,165 | 2,367 | 925 | --- | 121 | 93 | 13,989 | 15,330 | 17,959 | --- | 4,068 | --- | 97,391 |
| (REP) Andy Tobin | 5,242 | --- | 13,561 | 2,367 | 4,748 | 960 | --- | 28 | 51 | 13,041 | 20,837 | 21,390 | --- | 5,508 | --- | 87,723 |
| **U.S. REPRESENTATIVE IN CONGRESS - DISTRICT NO. 2** | | | | | | | | | | | | | | | | |
| (DEM) Ron Barber | --- | 14,682 | --- | --- | --- | --- | --- | --- | --- | --- | 94,861 | --- | --- | --- | --- | 109,543 |
| (NONE) Sampson U. Ramirez (Write-In) | --- | 2 | --- | --- | --- | --- | --- | --- | --- | --- | 54 | --- | --- | --- | --- | 56 |
| (REP) Sydney Dudikoff (Write-In) | --- | 5 | --- | --- | --- | --- | --- | --- | --- | --- | 43 | --- | --- | --- | --- | 48 |
| (REP) Martha McSally * | --- | 21,732 | --- | --- | --- | --- | --- | --- | --- | --- | 87,972 | --- | --- | --- | --- | 109,704 |
| **U.S. REPRESENTATIVE IN CONGRESS - DISTRICT NO. 3** | | | | | | | | | | | | | | | | |
| (DEM) Raul Grijalva * | --- | --- | --- | --- | --- | --- | --- | 14,052 | --- | --- | 30,980 | 61 | 5,841 | --- | 7,258 | 58,192 |
| (IND) F. Sanchez (Write-In) | --- | --- | --- | --- | --- | --- | --- | 3 | --- | --- | 32 | 0 | 0 | --- | 8 | 43 |
| (REP) Gabby Saucedo Mercer | --- | --- | --- | --- | --- | --- | --- | 16,010 | --- | --- | 19,611 | 5 | 3,652 | --- | 7,007 | 46,185 |
| (MRK) Lee Thompson (Write-In) | --- | --- | --- | --- | --- | --- | --- | 2 | --- | --- | 6 | 0 | 0 | --- | 0 | 8 |
| **U.S. REPRESENTATIVE IN CONGRESS - DISTRICT NO. 4** | | | | | | | | | | | | | | | | |
| (DEM) Mike Weiser | --- | --- | --- | 2,222 | --- | --- | 799 | 2,566 | 10,280 | --- | --- | 9,347 | --- | 16,946 | 3,019 | 45,179 |
| (LBT) Chris Rike | --- | --- | --- | 437 | --- | --- | 167 | 479 | 1,934 | --- | --- | 1,479 | --- | 2,531 | 413 | 7,440 |
| (REP) Paul Gosar * | --- | --- | --- | 7,306 | --- | --- | 2,447 | 7,657 | 33,472 | --- | --- | 20,035 | --- | 42,948 | 8,695 | 122,660 |
| **U.S. REPRESENTATIVE IN CONGRESS - DISTRICT NO. 5** | | | | | | | | | | | | | | | | |
| (DEM) James Woods | --- | --- | --- | --- | --- | --- | --- | 54,506 | --- | --- | --- | --- | --- | --- | --- | 54,506 |
| (REP) Matt Salmon * | --- | --- | --- | --- | --- | --- | --- | 124,867 | --- | --- | --- | --- | --- | --- | --- | 124,867 |
| **U.S. REPRESENTATIVE IN CONGRESS - DISTRICT NO. 6** | | | | | | | | | | | | | | | | |
| (DEM) W. John Williamson | --- | --- | --- | --- | --- | --- | --- | 70,198 | --- | --- | --- | --- | --- | --- | --- | 70,198 |
| (REP) David Schweikert * | --- | --- | --- | --- | --- | --- | --- | 129,576 | --- | --- | --- | --- | --- | --- | --- | 129,576 |

* Elected

# STATE OF ARIZONA OFFICIAL CANVASS

2014 General Election - November 4, 2014
Compiled and issued by the Arizona Secretary of State



| | Apache | Cochise | Coconino | Gila | Graham | Greenlee | La Paz | Maricopa | Mohave | Navajo | Pima | Pinal | Santa Cruz | Yavapai | Yuma | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **U.S. REPRESENTATIVE IN CONGRESS - DISTRICT NO. 7** | | | | | | | | | | | | | | | | |
| (AEL) Rebecca DeWitt | — | — | — | — | — | — | — | 3,658 | — | — | — | — | — | — | — | 3,658 |
| (DEM) Ruben Gallego * | — | — | — | — | — | — | — | 54,235 | — | — | — | — | — | — | — | 54,235 |
| (DEM) Gustavo Ortega (Write-In) | — | — | — | — | — | — | — | 17 | — | — | — | — | — | — | — | 17 |
| (IND) Samuel Esquivel (Write-In) | — | — | — | — | — | — | — | 4 | — | — | — | — | — | — | — | 4 |
| (JOS) José Peñalosa | — | — | — | — | — | — | — | 3,496 | — | — | — | — | — | — | — | 3,496 |
| (LBT) Joe Cobb | — | — | — | — | — | — | — | 10,715 | — | — | — | — | — | — | — | 10,715 |
| (REP) Gary Dunn (Write-In) | — | — | — | — | — | — | — | 129 | — | — | — | — | — | — | — | 129 |
| **U.S. REPRESENTATIVE IN CONGRESS - DISTRICT NO. 8** | | | | | | | | | | | | | | | | |
| (AEL) Stephen Dolgos | — | — | — | — | — | — | — | 41,068 | — | — | — | — | — | — | — | 41,068 |
| (REP) Trent Franks * | — | — | — | — | — | — | — | 128,710 | — | — | — | — | — | — | — | 128,710 |
| **U.S. REPRESENTATIVE IN CONGRESS - DISTRICT NO. 9** | | | | | | | | | | | | | | | | |
| (DEM) Kyrsten Sinema * | — | — | — | — | — | — | — | 88,609 | — | — | — | — | — | — | — | 88,609 |
| (LBT) Powell Gammill | — | — | — | — | — | — | — | 5,612 | — | — | — | — | — | — | — | 5,612 |
| (REP) Wendy Rogers | — | — | — | — | — | — | — | 67,841 | — | — | — | — | — | — | — | 67,841 |
| **GOVERNOR** | | | | | | | | | | | | | | | | |
| (AEL) John Lewis Mealer | 458 | 457 | 498 | 202 | 90 | 29 | 63 | 8,167 | 604 | 553 | 2,312 | 832 | 90 | 820 | 269 | 15,432 |
| (DEM) Fred DuVal | 13,562 | 12,700 | 20,212 | 5,253 | 1,919 | 782 | 646 | 346,879 | 10,662 | 12,128 | 136,302 | 26,131 | 5,819 | 23,210 | 10,497 | 626,921 |
| (IND) Brian Bailey (Write-In) | 2 | 0 | 12 | 0 | 0 | 0 | 1 | 21 | 2 | 3 | 6 | 0 | 0 | 3 | 0 | 50 |
| (IND) Cary Delego (Write-In) | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 20 | 0 | 1 | 6 | 0 | 0 | 0 | 0 | 29 |
| (IND) Diana-Elizabeth R.R. Kennedy (Write-In) | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 3 | 0 | 0 | 1 | 0 | 7 |
| (LBT) Barry J. Hess | 664 | 1,611 | 1,650 | 769 | 269 | 104 | 195 | 32,468 | 2,242 | 1,080 | 6,899 | 2,966 | 239 | 3,287 | 876 | 57,337 |
| (NONE) J Johnson (Write-In) | 5 | 12 | 36 | 5 | 3 | 1 | 1 | 998 | 11 | 13 | 164 | 231 | 1 | 26 | 13 | 1,520 |
| (NONE) Curtis Woolsey (Write-In) | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 8 | 0 | 0 | 4 | 0 | 0 | 0 | 0 | 15 |
| (REP) Doug Ducey * | 5,071 | 21,662 | 14,528 | 9,610 | 4,085 | 995 | 2,360 | 409,200 | 33,150 | 13,589 | 122,966 | 41,313 | 3,175 | 46,806 | 14,844 | 805,062 |
| (REP) Alice Novoa (Write-In) | 1 | 6 | 2 | 0 | 0 | 0 | 0 | 18 | 4 | 1 | 8 | 0 | 0 | 1 | 0 | 43 |
| **STATE SENATOR - DISTRICT NO. 1** | | | | | | | | | | | | | | | | |
| (IND) Tarl Frost (Write-In) | — | — | — | — | — | — | — | 39 | — | — | — | — | — | 100 | — | 139 |
| (REP) Steve Pierce * | — | — | — | — | — | — | — | 15,021 | — | — | — | — | — | 40,252 | — | 55,273 |

* Elected

Report Date/Time: 12/01/2014 07:31 AM

# STATE OF ARIZONA OFFICIAL CANVASS

2014 General Election - November 4, 2014
Compiled and Issued by the Arizona Secretary of State



| | Apache | Cochise | Coconino | Gila | Graham | Greenlee | La Paz | Maricopa | Mohave | Navajo | Pima | Pinal | Santa Cruz | Yavapai | Yuma | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **STATE SENATOR - DISTRICT NO. 2** | | | | | | | | | | | | | | | | |
| (DEM) Andrea Dalessandro * | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 16,897 | --- | 6,004 | --- | --- | 22,901 |
| (REP) Daniel Estrella | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 15,543 | --- | 3,164 | --- | --- | 18,707 |
| **STATE SENATOR - DISTRICT NO. 3** | | | | | | | | | | | | | | | | |
| (DEM) Olivia Cajero Bedford * | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 27,034 | --- | --- | --- | --- | 27,034 |
| **STATE SENATOR - DISTRICT NO. 4** | | | | | | | | | | | | | | | | |
| (DEM) Lynne Pancrazi * | --- | --- | --- | --- | --- | --- | --- | 4,011 | --- | --- | 3,310 | 62 | --- | --- | 7,081 | 14,464 |
| (REP) Connie Uribe | --- | --- | --- | --- | --- | --- | --- | 5,823 | --- | --- | 1,850 | 3 | --- | --- | 4,747 | 12,423 |
| **STATE SENATOR - DISTRICT NO. 5** | | | | | | | | | | | | | | | | |
| (REP) Kelli Ward * | --- | --- | --- | --- | --- | --- | 2,675 | --- | 35,832 | --- | --- | --- | --- | --- | --- | 38,507 |
| **STATE SENATOR - DISTRICT NO. 6** | | | | | | | | | | | | | | | | |
| (IND) Tom O'Halleran | --- | --- | 14,943 | 3,276 | --- | --- | --- | --- | --- | 1,964 | --- | --- | --- | 10,024 | --- | 30,207 |
| (REP) Sylvia Tenney Allen * | --- | --- | 10,170 | 6,606 | --- | --- | --- | --- | --- | 5,704 | --- | --- | --- | 9,275 | --- | 31,845 |
| **STATE SENATOR - DISTRICT NO. 7** | | | | | | | | | | | | | | | | |
| (AEL) Kelly Gnelling | 2,759 | --- | 1,384 | 28 | 14 | --- | --- | --- | 19 | 3,290 | --- | 0 | --- | --- | --- | 7,494 |
| (DEM) Carlyle W. Begay * | 16,254 | --- | 7,688 | 766 | 404 | --- | --- | --- | 113 | 13,288 | --- | 0 | --- | --- | --- | 38,513 |
| **STATE SENATOR - DISTRICT NO. 8** | | | | | | | | | | | | | | | | |
| (DEM) Barbara McGuire * | --- | --- | --- | 2,723 | --- | --- | --- | --- | --- | --- | --- | 14,931 | --- | --- | --- | 17,654 |
| (REP) Irene Littleton | --- | --- | --- | 1,901 | --- | --- | --- | --- | --- | --- | --- | 15,256 | --- | --- | --- | 17,157 |
| **STATE SENATOR - DISTRICT NO. 9** | | | | | | | | | | | | | | | | |
| (DEM) Steve Farley * | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 45,890 | --- | --- | --- | --- | 45,890 |
| **STATE SENATOR - DISTRICT NO. 10** | | | | | | | | | | | | | | | | |
| (DEM) David Bradley * | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 34,334 | --- | --- | --- | --- | 34,334 |
| (REP) Mark Morrison | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 31,307 | --- | --- | --- | --- | 31,307 |

* Elected

# STATE OF ARIZONA OFFICIAL CANVASS

2014 General Election - November 4, 2014
Compiled and Issued by the Arizona Secretary of State



| | Apache | Cochise | Coconino | Gila | Graham | Greenlee | La Paz | Maricopa | Mohave | Navajo | Pima | Pinal | Santa Cruz | Yavapai | Yuma | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **STATE SENATOR - DISTRICT NO. 11** | | | | | | | | | | | | | | | | |
| (DEM) Jo Holt | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 18,089 | 8,539 | --- | --- | --- | 26,628 |
| (REP) Steve Smith * | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 25,430 | 12,967 | --- | --- | --- | 38,397 |
| **STATE SENATOR - DISTRICT NO. 12** | | | | | | | | | | | | | | | | |
| (DEM) Scott Glover | --- | --- | --- | --- | --- | --- | --- | 18,959 | --- | --- | --- | 158 | --- | --- | --- | 19,117 |
| (REP) Andy Biggs * | --- | --- | --- | --- | --- | --- | --- | 35,471 | --- | --- | --- | 349 | --- | --- | --- | 35,820 |
| **STATE SENATOR - DISTRICT NO. 13** | | | | | | | | | | | | | | | | |
| (DEM) Terri Woodmansee | --- | --- | --- | --- | --- | --- | --- | 10,523 | --- | --- | --- | --- | --- | 0 | 5,351 | 15,874 |
| (REP) Don Shooter * | --- | --- | --- | --- | --- | --- | --- | 19,542 | --- | --- | --- | --- | --- | 0 | 9,103 | 28,645 |
| **STATE SENATOR - DISTRICT NO. 14** | | | | | | | | | | | | | | | | |
| (REP) Gail Griffin * | --- | 27,547 | --- | --- | 5,638 | 1,269 | --- | --- | --- | --- | 12,090 | --- | --- | --- | --- | 46,564 |
| **STATE SENATOR - DISTRICT NO. 15** | | | | | | | | | | | | | | | | |
| (REP) Nancy Barto * | --- | --- | --- | --- | --- | --- | --- | 43,363 | --- | --- | --- | --- | --- | --- | --- | 43,363 |
| **STATE SENATOR - DISTRICT NO. 16** | | | | | | | | | | | | | | | | |
| (DEM) Scott Prior | --- | --- | --- | --- | --- | --- | --- | 10,114 | --- | --- | --- | 6,268 | --- | --- | --- | 16,382 |
| (REP) David Christian Farnsworth * | --- | --- | --- | --- | --- | --- | --- | 19,780 | --- | --- | --- | 11,879 | --- | --- | --- | 31,659 |
| **STATE SENATOR - DISTRICT NO. 17** | | | | | | | | | | | | | | | | |
| (DEM) Kristie O'Brien | --- | --- | --- | --- | --- | --- | --- | 21,619 | --- | --- | --- | --- | --- | --- | --- | 21,619 |
| (REP) Steve Yarbrough * | --- | --- | --- | --- | --- | --- | --- | 32,598 | --- | --- | --- | --- | --- | --- | --- | 32,598 |
| **STATE SENATOR - DISTRICT NO. 18** | | | | | | | | | | | | | | | | |
| (DEM) Janie Hydrick | --- | --- | --- | --- | --- | --- | --- | 29,723 | --- | --- | --- | --- | --- | --- | --- | 29,723 |
| (REP) Jeff Dial * | --- | --- | --- | --- | --- | --- | --- | 34,522 | --- | --- | --- | --- | --- | --- | --- | 34,522 |
| **STATE SENATOR - DISTRICT NO. 19** | | | | | | | | | | | | | | | | |
| (DEM) Lupe Chavira Contreras * | --- | --- | --- | --- | --- | --- | --- | 12,811 | --- | --- | --- | --- | --- | --- | --- | 12,811 |
| (REP) Joseph "Joe" Hobbs | --- | --- | --- | --- | --- | --- | --- | 7,747 | --- | --- | --- | --- | --- | --- | --- | 7,747 |

* Elected

# STATE OF ARIZONA OFFICIAL CANVASS

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| | Apache | Cochise | Coconino | Gila | Graham | Greenlee | La Paz | Maricopa | Mohave | Navajo | Pima | Pinal | Santa Cruz | Yavapai | Yuma | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **STATE SENATOR - DISTRICT NO. 20** | | | | | | | | | | | | | | | | |
| (DEM) Patty Kennedy | --- | --- | --- | --- | --- | --- | --- | 16,613 | --- | --- | --- | --- | --- | --- | --- | 16,613 |
| (IND) Doug "Q" Quelland | --- | --- | --- | --- | --- | --- | --- | 5,438 | --- | --- | --- | --- | --- | --- | --- | 5,438 |
| (REP) Kimberly Yee * | --- | --- | --- | --- | --- | --- | --- | 25,103 | --- | --- | --- | --- | --- | --- | --- | 25,103 |
| **STATE SENATOR - DISTRICT NO. 21** | | | | | | | | | | | | | | | | |
| (DEM) Carolyn Vusko | --- | --- | --- | --- | --- | --- | --- | 18,687 | --- | --- | --- | --- | --- | --- | --- | 18,687 |
| (REP) Debbie Lesko * | --- | --- | --- | --- | --- | --- | --- | 32,119 | --- | --- | --- | --- | --- | --- | --- | 32,119 |
| **STATE SENATOR - DISTRICT NO. 22** | | | | | | | | | | | | | | | | |
| (DEM) Archangel "Arky" Muscato | --- | --- | --- | --- | --- | --- | --- | 21,079 | --- | --- | --- | --- | --- | --- | --- | 21,079 |
| (REP) Judy M. Burges * | --- | --- | --- | --- | --- | --- | --- | 48,046 | --- | --- | --- | --- | --- | --- | --- | 48,046 |
| **STATE SENATOR - DISTRICT NO. 23** | | | | | | | | | | | | | | | | |
| (DEM) Paula Pennypacker | --- | --- | --- | --- | --- | --- | --- | 29,810 | --- | --- | --- | --- | --- | --- | --- | 29,810 |
| (REP) John Kavanagh * | --- | --- | --- | --- | --- | --- | --- | 49,640 | --- | --- | --- | --- | --- | --- | --- | 49,640 |
| **STATE SENATOR - DISTRICT NO. 24** | | | | | | | | | | | | | | | | |
| (DEM) Kalle Hobbs * | --- | --- | --- | --- | --- | --- | --- | 25,130 | --- | --- | --- | --- | --- | --- | --- | 25,130 |
| (REP) Bill Follette | --- | --- | --- | --- | --- | --- | --- | 12,867 | --- | --- | --- | --- | --- | --- | --- | 12,867 |
| **STATE SENATOR - DISTRICT NO. 25** | | | | | | | | | | | | | | | | |
| (DEM) Steven Zachary | --- | --- | --- | --- | --- | --- | --- | 16,140 | --- | --- | --- | --- | --- | --- | --- | 16,140 |
| (REP) Bob Worsley * | --- | --- | --- | --- | --- | --- | --- | 38,505 | --- | --- | --- | --- | --- | --- | --- | 38,505 |
| **STATE SENATOR - DISTRICT NO. 26** | | | | | | | | | | | | | | | | |
| (DEM) Ed Ableser * | --- | --- | --- | --- | --- | --- | --- | 14,846 | --- | --- | --- | --- | --- | --- | --- | 14,846 |
| (IND) Dale Eames | --- | --- | --- | --- | --- | --- | --- | 10,563 | --- | --- | --- | --- | --- | --- | --- | 10,563 |
| **STATE SENATOR - DISTRICT NO. 27** | | | | | | | | | | | | | | | | |
| (DEM) Catherine Miranda * | --- | --- | --- | --- | --- | --- | --- | 17,917 | --- | --- | --- | --- | --- | --- | --- | 17,917 |
| (REP) Natalie Taswell | --- | --- | --- | --- | --- | --- | --- | 6,198 | --- | --- | --- | --- | --- | --- | --- | 6,198 |

* Elected

# STATE OF ARIZONA OFFICIAL CANVASS

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| | Apache | Cochise | Coconino | Gila | Graham | Greenlee | La Paz | Maricopa | Mohave | Navajo | Pima | Pinal | Santa Cruz | Yavapai | Yuma | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **STATE SENATOR - DISTRICT NO. 28** | | | | | | | | | | | | | | | | |
| (DEM) Kelli Butler | — | — | — | — | — | — | — | 27,902 | — | — | — | — | — | — | — | 27,902 |
| (LBT) Jim Iannuzo | — | — | — | — | — | — | — | 2,392 | — | — | — | — | — | — | — | 2,392 |
| (REP) Adam Driggs * | — | — | — | — | — | — | — | 34,465 | — | — | — | — | — | — | — | 34,465 |
| **STATE SENATOR - DISTRICT NO. 29** | | | | | | | | | | | | | | | | |
| (DEM) Martin J. Quezada * | — | — | — | — | — | — | — | 12,133 | — | — | — | — | — | — | — | 12,133 |
| (REP) Crystal Nuttle | — | — | — | — | — | — | — | 8,002 | — | — | — | — | — | — | — | 8,002 |
| **STATE SENATOR - DISTRICT NO. 30** | | | | | | | | | | | | | | | | |
| (DEM) Robert Meza * | — | — | — | — | — | — | — | 12,802 | — | — | — | — | — | — | — | 12,802 |
| (REP) Gary Cox | — | — | — | — | — | — | — | 9,276 | — | — | — | — | — | — | — | 9,276 |
| **STATE REPRESENTATIVE - DISTRICT NO. 1** | | | | | | | | | | | | | | | | |
| (DEM) Frank Cuccia | — | — | — | — | — | — | — | 5,626 | — | — | — | — | — | 16,597 | — | 22,223 |
| (REP) Noel Campbell * | — | — | — | — | — | — | — | 12,071 | — | — | — | — | — | 31,793 | — | 43,864 |
| (REP) Karen Fann * | — | — | — | — | — | — | — | 12,457 | — | — | — | — | — | 34,140 | — | 46,597 |
| **STATE REPRESENTATIVE - DISTRICT NO. 2** | | | | | | | | | | | | | | | | |
| (DEM) Damion Clinco | — | — | — | — | — | — | — | — | — | — | 12,726 | — | 4,354 | — | — | 17,080 |
| (DEM) Rosanna Gabaldón * | — | — | — | — | — | — | — | — | — | — | 15,689 | — | 5,511 | — | — | 21,200 |
| (REP) John Christopher Ackerley * | — | — | — | — | — | — | — | — | — | — | 16,471 | — | 3,185 | — | — | 19,656 |
| **STATE REPRESENTATIVE - DISTRICT NO. 3** | | | | | | | | | | | | | | | | |
| (DEM) Sally Ann Gonzales * | — | — | — | — | — | — | — | — | — | — | 22,883 | — | — | — | — | 22,883 |
| (DEM) Macario Saldate * | — | — | — | — | — | — | — | — | — | — | 20,148 | — | — | — | — | 20,148 |
| **STATE REPRESENTATIVE - DISTRICT NO. 4** | | | | | | | | | | | | | | | | |
| (DEM) Charlene Fernandez * | — | — | — | — | — | — | — | 3,434 | — | — | 2,773 | 51 | — | — | 5,993 | 12,251 |
| (DEM) Lisa Otondo * | — | — | — | — | — | — | — | 3,706 | — | — | 2,916 | 46 | — | — | 6,576 | 13,324 |
| (REP) Richard Hopkins | — | — | — | — | — | — | — | 6,852 | — | — | 1,751 | 6 | — | — | 4,354 | 12,963 |

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| | Apache | Cochise | Coconino | Gila | Graham | Greenlee | La Paz | Maricopa | Mohave | Navajo | Pima | Pinal | Santa Cruz | Yavapai | Yuma | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **STATE REPRESENTATIVE - DISTRICT NO. 5** | | | | | | | | | | | | | | | | |
| (DEM) Joseph "Joe" Longorie | --- | --- | --- | --- | --- | --- | 805 | --- | 9,808 | --- | --- | --- | --- | --- | --- | 10,613 |
| (DEM) Beth Weisser | --- | --- | --- | --- | --- | --- | 806 | --- | 9,655 | --- | --- | --- | --- | --- | --- | 10,461 |
| (REP) Sonny Borrelli * | --- | --- | --- | --- | --- | --- | 2,139 | --- | 29,138 | --- | --- | --- | --- | --- | --- | 31,277 |
| (REP) Regina Cobb * | --- | --- | --- | --- | --- | --- | 1,960 | --- | 28,200 | --- | --- | --- | --- | --- | --- | 30,160 |
| **STATE REPRESENTATIVE - DISTRICT NO. 6** | | | | | | | | | | | | | | | | |
| (DEM) Lanny Morrison | --- | --- | 14,551 | 2,869 | --- | --- | --- | --- | --- | 1,687 | --- | --- | --- | 8,383 | --- | 27,520 |
| (REP) Brenda Barton * | --- | --- | 10,814 | 6,270 | --- | --- | --- | --- | --- | 5,416 | --- | --- | --- | 10,448 | --- | 32,948 |
| (REP) Bob Thorpe * | --- | --- | 10,969 | 6,455 | --- | --- | --- | --- | --- | 5,396 | --- | --- | --- | 10,046 | --- | 32,866 |
| **STATE REPRESENTATIVE - DISTRICT NO. 7** | | | | | | | | | | | | | | | | |
| (DEM) Jennifer D. Benally * | 10,270 | --- | 6,324 | 685 | 338 | --- | --- | --- | 88 | 10,020 | --- | 0 | --- | --- | --- | 27,625 |
| (DEM) Albert Hale * | 11,434 | --- | 4,606 | 395 | 183 | --- | --- | --- | 55 | 9,398 | --- | 0 | --- | --- | --- | 26,071 |
| **STATE REPRESENTATIVE - DISTRICT NO. 8** | | | | | | | | | | | | | | | | |
| (DEM) Carmen Casillas | --- | --- | --- | 2,186 | --- | --- | --- | --- | --- | --- | --- | 12,661 | --- | --- | --- | 14,847 |
| (REP) Frank Pratt * | --- | --- | --- | 2,506 | --- | --- | --- | --- | --- | --- | --- | 16,952 | --- | --- | --- | 19,458 |
| (REP) Thomas "T.J." Shope * | --- | --- | --- | 2,258 | --- | --- | --- | --- | --- | --- | --- | 16,940 | --- | --- | --- | 19,198 |
| **STATE REPRESENTATIVE - DISTRICT NO. 9** | | | | | | | | | | | | | | | | |
| (DEM) Randall "Randy" Friese * | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 33,059 | --- | --- | --- | --- | 33,059 |
| (DEM) Victoria Steele * | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 33,425 | --- | --- | --- | --- | 33,425 |
| (REP) Ethan Orr | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 32,928 | --- | --- | --- | --- | 32,928 |
| **STATE REPRESENTATIVE - DISTRICT NO. 10** | | | | | | | | | | | | | | | | |
| (DEM) Stefanie Mach * | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 31,163 | --- | --- | --- | --- | 31,163 |
| (DEM) Bruce Wheeler * | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 32,731 | --- | --- | --- | --- | 32,731 |
| (REP) Todd Clodfelter | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 29,940 | --- | --- | --- | --- | 29,940 |
| (REP) William Wildish | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 25,240 | --- | --- | --- | --- | 25,240 |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **STATE REPRESENTATIVE - DISTRICT NO. 11** | | | | | | | | | | | | | | | | |
| (DEM) Holly Lyon | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 18,387 | 9,005 | --- | --- | --- | 27,392 |
| (DEM) Barry McCain (Write-In) | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 32 | 17 | --- | --- | --- | 49 |
| (REP) Mark Finchem * | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 25,020 | 11,712 | --- | --- | --- | 36,732 |
| (REP) Vince Leach * | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 22,792 | 11,482 | --- | --- | --- | 34,274 |
| **STATE REPRESENTATIVE - DISTRICT NO. 12** | | | | | | | | | | | | | | | | |
| (DEM) DJ Rothans | --- | --- | --- | --- | --- | --- | --- | 18,297 | --- | --- | --- | 149 | --- | --- | --- | 18,446 |
| (REP) Eddie Farnsworth * | --- | --- | --- | --- | --- | --- | --- | 32,530 | --- | --- | --- | 313 | --- | --- | --- | 32,843 |
| (REP) Warren Petersen * | --- | --- | --- | --- | --- | --- | --- | 34,493 | --- | --- | --- | 291 | --- | --- | --- | 34,784 |
| **STATE REPRESENTATIVE - DISTRICT NO. 13** | | | | | | | | | | | | | | | | |
| (DEM) Steve Hansen | --- | --- | --- | --- | --- | --- | --- | 10,307 | --- | --- | --- | --- | --- | 0 | 4,202 | 14,509 |
| (REP) Darin Mitchell * | --- | --- | --- | --- | --- | --- | --- | 18,237 | --- | --- | --- | --- | --- | 0 | 9,313 | 27,550 |
| (REP) Steve Montenegro * | --- | --- | --- | --- | --- | --- | --- | 18,802 | --- | --- | --- | --- | --- | 0 | 9,226 | 28,028 |
| **STATE REPRESENTATIVE - DISTRICT NO. 14** | | | | | | | | | | | | | | | | |
| (DEM) James C. Burton | --- | 14,528 | --- | --- | 1,016 | 880 | --- | --- | --- | --- | 5,389 | --- | --- | --- | --- | 22,713 |
| (REP) David Gowan * | --- | 20,220 | --- | --- | 4,504 | 892 | --- | --- | --- | --- | 9,330 | --- | --- | --- | --- | 34,948 |
| (REP) David Stevens * | --- | 20,339 | --- | --- | 4,658 | 027 | --- | --- | --- | --- | 9,926 | --- | --- | --- | --- | 34,850 |
| **STATE REPRESENTATIVE - DISTRICT NO. 15** | | | | | | | | | | | | | | | | |
| (REP) John Allen * | --- | --- | --- | --- | --- | --- | --- | 33,785 | --- | --- | --- | --- | --- | --- | --- | 33,785 |
| (REP) Heather Carter * | --- | --- | --- | --- | --- | --- | --- | 38,664 | --- | --- | --- | --- | --- | --- | --- | 38,664 |
| **STATE REPRESENTATIVE - DISTRICT NO. 16** | | | | | | | | | | | | | | | | |
| (DEM) Cara Prior | --- | --- | --- | --- | --- | --- | --- | 9,978 | --- | --- | --- | 5,814 | --- | --- | --- | 15,792 |
| (REP) Doug Coleman * | --- | --- | --- | --- | --- | --- | --- | 17,989 | --- | --- | --- | 10,919 | --- | --- | --- | 28,908 |
| (REP) Kelly Townsend * | --- | --- | --- | --- | --- | --- | --- | 18,117 | --- | --- | --- | 10,183 | --- | --- | --- | 28,300 |
| **STATE REPRESENTATIVE - DISTRICT NO. 17** | | | | | | | | | | | | | | | | |
| (DEM) Daniella Lee | --- | --- | --- | --- | --- | --- | --- | 21,304 | --- | --- | --- | --- | --- | --- | --- | 21,304 |
| (REP) J.D. Mesnard * | --- | --- | --- | --- | --- | --- | --- | 30,018 | --- | --- | --- | --- | --- | --- | --- | 30,018 |
| (REP) Jeff Weninger * | --- | --- | --- | --- | --- | --- | --- | 32,297 | --- | --- | --- | --- | --- | --- | --- | 32,297 |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **STATE REPRESENTATIVE - DISTRICT NO. 18** | | | | | | | | | | | | | | | | |
| (DEM) Denise "Mitzi" Epstein | --- | --- | --- | --- | --- | --- | --- | 30,480 | --- | --- | --- | --- | --- | --- | --- | 30,480 |
| (REP) Jill Norgaard * | --- | --- | --- | --- | --- | --- | --- | 32,863 | --- | --- | --- | --- | --- | --- | --- | 32,863 |
| (REP) Bob Robson * | --- | --- | --- | --- | --- | --- | --- | 31,587 | --- | --- | --- | --- | --- | --- | --- | 31,587 |
| **STATE REPRESENTATIVE - DISTRICT NO. 19** | | | | | | | | | | | | | | | | |
| (DEM) Mark Cardenas * | --- | --- | --- | --- | --- | --- | --- | 10,999 | --- | --- | --- | --- | --- | --- | --- | 10,999 |
| (DEM) Diego Espinoza * | --- | --- | --- | --- | --- | --- | --- | 10,076 | --- | --- | --- | --- | --- | --- | --- | 10,076 |
| (REP) Sophia E. Johnson | --- | --- | --- | --- | --- | --- | --- | 8,029 | --- | --- | --- | --- | --- | --- | --- | 8,029 |
| **STATE REPRESENTATIVE - DISTRICT NO. 20** | | | | | | | | | | | | | | | | |
| (DEM) Amy Schwabenlender | --- | --- | --- | --- | --- | --- | --- | 19,779 | --- | --- | --- | --- | --- | --- | --- | 19,779 |
| (REP) Paul Boyer * | --- | --- | --- | --- | --- | --- | --- | 25,610 | --- | --- | --- | --- | --- | --- | --- | 25,610 |
| (REP) Anthony Kern * | --- | --- | --- | --- | --- | --- | --- | 23,799 | --- | --- | --- | --- | --- | --- | --- | 23,799 |
| **STATE REPRESENTATIVE - DISTRICT NO. 21** | | | | | | | | | | | | | | | | |
| (DEM) Esther Duran Lumin | --- | --- | --- | --- | --- | --- | --- | 19,629 | --- | --- | --- | --- | --- | --- | --- | 19,629 |
| (REP) Rick Gray * | --- | --- | --- | --- | --- | --- | --- | 29,580 | --- | --- | --- | --- | --- | --- | --- | 29,580 |
| (REP) Tony Rivero * | --- | --- | --- | --- | --- | --- | --- | 27,826 | --- | --- | --- | --- | --- | --- | --- | 27,826 |
| **STATE REPRESENTATIVE - DISTRICT NO. 22** | | | | | | | | | | | | | | | | |
| (AEL) Suzie Easter | --- | --- | --- | --- | --- | --- | --- | 2,487 | --- | --- | --- | --- | --- | --- | --- | 2,487 |
| (DEM) Bonnie Boyce-Wilson | --- | --- | --- | --- | --- | --- | --- | 20,173 | --- | --- | --- | --- | --- | --- | --- | 20,173 |
| (DEM) Larry Woods | --- | --- | --- | --- | --- | --- | --- | 18,547 | --- | --- | --- | --- | --- | --- | --- | 18,547 |
| (NDI) Fred Botha | --- | --- | --- | --- | --- | --- | --- | 4,093 | --- | --- | --- | --- | --- | --- | --- | 4,093 |
| (REP) David Livingston * | --- | --- | --- | --- | --- | --- | --- | 41,832 | --- | --- | --- | --- | --- | --- | --- | 41,832 |
| (REP) Phil Lovas * | --- | --- | --- | --- | --- | --- | --- | 42,409 | --- | --- | --- | --- | --- | --- | --- | 42,409 |
| **STATE REPRESENTATIVE - DISTRICT NO. 23** | | | | | | | | | | | | | | | | |
| (REP) Jay Lawrence * | --- | --- | --- | --- | --- | --- | --- | 44,453 | --- | --- | --- | --- | --- | --- | --- | 44,453 |
| (REP) Michelle Ugenti * | --- | --- | --- | --- | --- | --- | --- | 51,124 | --- | --- | --- | --- | --- | --- | --- | 51,124 |

* Elected

# STATE OF ARIZONA OFFICIAL CANVASS

2014 General Election - November 4, 2014
Compiled and Issued by the Arizona Secretary of State



| | Apache | Cochise | Coconino | Gila | Graham | Greenlee | La Paz | Maricopa | Mohave | Navajo | Pima | Pinal | Santa Cruz | Yavapai | Yuma | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **STATE REPRESENTATIVE - DISTRICT NO. 24** | | | | | | | | | | | | | | | | |
| (DEM) Lela Alston * | — | — | — | — | — | — | — | 21,740 | — | — | — | — | — | — | — | 21,740 |
| (DEM) Ken Clark * | — | — | — | — | — | — | — | 21,186 | — | — | — | — | — | — | — | 21,186 |
| (REP) Lel Lani Cortez | — | — | — | — | — | — | — | 13,183 | — | — | — | — | — | — | — | 13,183 |
| **STATE REPRESENTATIVE - DISTRICT NO. 25** | | | | | | | | | | | | | | | | |
| (DEM) David Butler | — | — | — | — | — | — | — | 15,145 | — | — | — | — | — | — | — | 15,145 |
| (DEM) Sheila Ogea | — | — | — | — | — | — | — | 14,866 | — | — | — | — | — | — | — | 14,866 |
| (LBT) Michael Kielsky | — | — | — | — | — | — | — | 3,661 | — | — | — | — | — | — | — | 3,661 |
| (REP) Russell "Rusty" Bowers * | — | — | — | — | — | — | — | 33,220 | — | — | — | — | — | — | — | 33,220 |
| (REP) Justin Olson * | — | — | — | — | — | — | — | 34,451 | — | — | — | — | — | — | — | 34,451 |
| **STATE REPRESENTATIVE - DISTRICT NO. 26** | | | | | | | | | | | | | | | | |
| (DEM) Juan Jose Mendez * | — | — | — | — | — | — | — | 13,413 | — | — | — | — | — | — | — | 13,413 |
| (DEM) Andrew Sherwood * | — | — | — | — | — | — | — | 13,584 | — | — | — | — | — | — | — | 13,584 |
| (LBT) Chris Will | — | — | — | — | — | — | — | 5,395 | — | — | — | — | — | — | — | 5,395 |
| (REP) James Roy | — | — | — | — | — | — | — | 11,098 | — | — | — | — | — | — | — | 11,098 |
| **STATE REPRESENTATIVE - DISTRICT NO. 27** | | | | | | | | | | | | | | | | |
| (DEM) Reginald Bolding * | — | — | — | — | — | — | — | 13,950 | — | — | — | — | — | — | — | 13,950 |
| (DEM) Rebecca Rios * | — | — | — | — | — | — | — | 16,576 | — | — | — | — | — | — | — | 16,576 |
| (REP) Myron L. Jackson, Sr. | — | — | — | — | — | — | — | 5,261 | — | — | — | — | — | — | — | 5,261 |
| (REP) Jose Tello | — | — | — | — | — | — | — | 5,261 | — | — | — | — | — | — | — | 5,261 |
| **STATE REPRESENTATIVE - DISTRICT NO. 28** | | | | | | | | | | | | | | | | |
| (DEM) Eric Meyer * | — | — | — | — | — | — | — | 31,646 | — | — | — | — | — | — | — | 31,646 |
| (LBT) Zhani Doko | — | — | — | — | — | — | — | 5,306 | — | — | — | — | — | — | — | 5,306 |
| (REP) Shawnna Bolick | — | — | — | — | — | — | — | 29,061 | — | — | — | — | — | — | — | 29,061 |
| (REP) Kate Brophy McGee * | — | — | — | — | — | — | — | 37,054 | — | — | — | — | — | — | — | 37,054 |
| **STATE REPRESENTATIVE - DISTRICT NO. 29** | | | | | | | | | | | | | | | | |
| (DEM) Richard C. Andrade * | — | — | — | — | — | — | — | 10,127 | — | — | — | — | — | — | — | 10,127 |
| (DEM) Ceci Velásquez * | — | — | — | — | — | — | — | 9,556 | — | — | — | — | — | — | — | 9,556 |
| (REP) Aaron Borders | — | — | — | — | — | — | — | 8,320 | — | — | — | — | — | — | — | 8,320 |

* Elected

# STATE OF ARIZONA OFFICIAL CANVASS

2014 General Election - November 4, 2014
Compiled and Issued by the Arizona Secretary of State



| | Apache | Cochise | Coconino | Gila | Graham | Greenlee | La Paz | Maricopa | Mohave | Navajo | Pima | Pinal | Santa Cruz | Yavapai | Yuma | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **STATE REPRESENTATIVE - DISTRICT NO. 30** | | | | | | | | | | | | | | | | |
| (DEM) Jonathan Larkin * | --- | --- | --- | --- | --- | --- | --- | 11,262 | --- | --- | --- | --- | --- | --- | --- | 11,262 |
| (DEM) Debbie McCune-Davis * | --- | --- | --- | --- | --- | --- | --- | 11,980 | --- | --- | --- | --- | --- | --- | --- | 11,980 |
| (IND) Angel Garcia (Write-In) | --- | --- | --- | --- | --- | --- | --- | 11 | --- | --- | --- | --- | --- | --- | --- | 11 |
| (REP) Michael Aaron Gidwani | --- | --- | --- | --- | --- | --- | --- | 7,445 | --- | --- | --- | --- | --- | --- | --- | 7,445 |
| (REP) John Lyon | --- | --- | --- | --- | --- | --- | --- | 8,158 | --- | --- | --- | --- | --- | --- | --- | 8,158 |
| **SECRETARY OF STATE** | | | | | | | | | | | | | | | | |
| (DEM) Terry Goddard | 14,400 | 15,178 | 22,432 | 6,493 | 2,578 | 970 | 1,097 | 399,151 | 13,241 | 13,624 | 146,568 | 30,039 | 6,297 | 27,337 | 11,504 | 712,918 |
| (REP) Michele Reagan * | 6,249 | 20,755 | 14,220 | 9,209 | 4,619 | 937 | 2,369 | 461,209 | 32,655 | 13,602 | 119,267 | 40,153 | 3,017 | 46,142 | 14,823 | 770,226 |
| **ATTORNEY GENERAL** | | | | | | | | | | | | | | | | |
| (DEM) Felecia Rotellini | 14,549 | 15,546 | 21,733 | 6,241 | 2,403 | 916 | 1,075 | 386,096 | 13,234 | 13,463 | 146,243 | 29,887 | 6,149 | 26,123 | 11,394 | 696,054 |
| (NONE) Anthony Camboni (Write-In) | 11 | 3 | 17 | 13 | 0 | 1 | 0 | 127 | 5 | 1 | 51 | 16 | 0 | 14 | 6 | 265 |
| (REP) Mark Brnovich * | 5,901 | 20,066 | 14,360 | 9,203 | 4,731 | 985 | 2,327 | 457,695 | 31,900 | 13,483 | 117,418 | 40,245 | 3,042 | 46,371 | 14,652 | 782,361 |
| **STATE TREASURER** | | | | | | | | | | | | | | | | |
| (REP) Jeff DeWit * | 13,063 | 27,086 | 23,831 | 11,846 | 5,705 | 1,201 | 2,769 | 608,158 | 36,603 | 19,914 | 180,654 | 53,619 | 5,892 | 53,453 | 19,488 | 1,063,472 |
| **SUPERINTENDENT OF PUBLIC INSTRUCTION** | | | | | | | | | | | | | | | | |
| (DEM) David Garcia | 14,523 | 13,942 | 22,784 | 6,873 | 2,892 | 1,062 | 1,185 | 417,504 | 13,079 | 14,467 | 137,859 | 31,033 | 6,102 | 27,934 | 11,200 | 724,238 |
| (REP) Diane M. Douglas * | 5,057 | 21,603 | 13,251 | 8,623 | 4,206 | 833 | 2,183 | 416,261 | 31,095 | 12,313 | 124,720 | 37,869 | 3,005 | 43,365 | 14,870 | 740,273 |
| **STATE MINE INSPECTOR** | | | | | | | | | | | | | | | | |
| (REP) Joe Hart * | 12,619 | 27,033 | 23,371 | 11,560 | 5,506 | 1,314 | 2,686 | 598,798 | 36,067 | 19,498 | 181,080 | 53,744 | 5,672 | 52,697 | 18,773 | 1,050,509 |
| **CORPORATION COMMISSIONER** | | | | | | | | | | | | | | | | |
| (DEM) Jim Holway | 8,366 | 11,337 | 17,104 | 5,183 | 1,868 | 730 | 794 | 316,808 | 9,552 | 9,178 | 119,120 | 23,742 | 4,405 | 21,725 | 7,861 | 557,963 |
| (DEM) Sandra Kennedy | 12,466 | 12,292 | 18,035 | 5,303 | 1,954 | 773 | 902 | 314,447 | 10,798 | 11,125 | 123,122 | 25,194 | 5,495 | 22,636 | 10,840 | 576,482 |
| (IND) Joe Hui (Write-In) | 13 | 4 | 23 | 20 | 0 | 1 | 3 | 310 | 7 | 4 | 81 | 23 | 0 | 32 | 8 | 529 |
| (REP) Tom Forese * | 4,956 | 19,501 | 13,069 | 8,477 | 4,615 | 846 | 2,134 | 453,907 | 29,551 | 12,740 | 115,090 | 37,782 | 2,719 | 43,313 | 13,223 | 761,915 |
| (REP) Doug Little * | 5,085 | 19,066 | 13,623 | 8,895 | 4,658 | 806 | 2,167 | 450,096 | 30,375 | 12,854 | 118,760 | 38,975 | 2,878 | 43,583 | 13,304 | 766,864 |

* Elected

# STATE OF ARIZONA OFFICIAL CANVASS

2014 General Election - November 4, 2014
Compiled and issued by the Arizona Secretary of State

| | Apache | Cochise | Coconino | Gila | Graham | Greenlee | La Paz | Maricopa | Mohave | Navajo | Pima | Pinal | Santa Cruz | Yavapai | Yuma | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Justice of the Arizona Supreme Court** | | | | | | | | | | | | | | | | |
| SCOTT BALES | | | | | | | | | | | | | | | | |
| Be retained YES * | 12,309 | 23,204 | 20,167 | 8,078 | 4,214 | 1,121 | 1,798 | 367,007 | 27,043 | 13,993 | 155,882 | 42,847 | 5,873 | 43,267 | 16,930 | 743,691 |
| Be retained NO | 5,366 | 6,819 | 6,062 | 3,235 | 1,678 | 301 | 760 | 151,841 | 7,730 | 5,807 | 45,656 | 14,872 | 1,906 | 9,569 | 4,313 | 266,695 |
| ROBERT BRUTINEL | | | | | | | | | | | | | | | | |
| Be retained YES * | 11,829 | 23,016 | 19,520 | 7,992 | 4,142 | 1,134 | 1,776 | 355,791 | 25,062 | 13,707 | 150,246 | 42,794 | 5,313 | 46,183 | 16,728 | 726,153 |
| Be retained NO | 5,600 | 8,470 | 7,370 | 3,164 | 1,896 | 370 | 742 | 146,344 | 7,643 | 5,824 | 47,040 | 15,102 | 1,945 | 9,231 | 4,177 | 262,037 |
| **Judge of the Court of Appeals, Division I** | | | | | | | | | | | | | | | | |
| RANDALL HOWE | | | | | | | | | | | | | | | | |
| Be retained YES * | --- | --- | --- | --- | --- | --- | --- | 351,826 | --- | --- | --- | --- | --- | --- | --- | 351,826 |
| Be retained NO | --- | --- | --- | --- | --- | --- | --- | 136,608 | --- | --- | --- | --- | --- | --- | --- | 136,608 |
| DIANE JOHNSEN | | | | | | | | | | | | | | | | |
| Be retained YES * | --- | --- | --- | --- | --- | --- | --- | 330,862 | --- | --- | --- | --- | --- | --- | --- | 330,862 |
| Be retained NO | --- | --- | --- | --- | --- | --- | --- | 164,936 | --- | --- | --- | --- | --- | --- | --- | 164,936 |
| SAMUEL THUMMA | | | | | | | | | | | | | | | | |
| Be retained YES * | --- | --- | --- | --- | --- | --- | --- | 331,319 | --- | --- | --- | --- | --- | --- | --- | 331,319 |
| Be retained NO | --- | --- | --- | --- | --- | --- | --- | 155,530 | --- | --- | --- | --- | --- | --- | --- | 155,530 |
| **Judge of the Court of Appeals, Division I** | | | | | | | | | | | | | | | | |
| ANDREW GOULD | | | | | | | | | | | | | | | | |
| Be retained YES * | 11,943 | --- | 18,806 | --- | --- | --- | 1,782 | --- | 26,324 | 13,850 | --- | --- | --- | 42,531 | 17,983 | 134,218 |
| Be retained NO | 5,366 | --- | 7,033 | --- | --- | --- | 725 | --- | 7,362 | 5,561 | --- | --- | --- | 9,119 | 3,799 | 38,965 |
| PATRICIA OROZCO | | | | | | | | | | | | | | | | |
| Be retained YES * | 11,897 | --- | 20,204 | --- | --- | --- | 1,714 | --- | 24,609 | 13,420 | --- | --- | --- | 41,266 | 17,133 | 130,243 |
| Be retained NO | 5,355 | --- | 6,028 | --- | --- | --- | 817 | --- | 8,905 | 5,983 | --- | --- | --- | 10,647 | 4,601 | 43,246 |
| **Judge of the Court of Appeals, Division II** | | | | | | | | | | | | | | | | |
| GARYE L. VASQUEZ | | | | | | | | | | | | | | | | |
| Be retained YES * | --- | 21,840 | --- | 7,325 | 4,008 | 1,140 | --- | --- | --- | --- | --- | 40,142 | 5,569 | --- | --- | 79,824 |
| Be retained NO | --- | 8,020 | --- | 3,810 | 1,875 | 360 | --- | --- | --- | --- | --- | 17,663 | 1,783 | --- | --- | 33,549 |

* Retained

# STATE OF ARIZONA OFFICIAL CANVASS

2014 General Election - November 4, 2014
Compiled and Issued by the Arizona Secretary of State



| | Apache | Cochise | Coconino | Gila | Graham | Greenlee | La Paz | Maricopa | Mohave | Navajo | Pima | Pinal | Santa Cruz | Yavapai | Yuma | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PROPOSITION 122 | PROPOSED AMENDMENT TO THE CONSTITUTION BY THE LEGISLATURE<br>SENATE CONCURRENT RESOLUTION 1016<br>PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE II, SECTION 3, CONSTITUTION OF ARIZONA; RELATING TO THE REJECTION OF UNCONSTITUTIONAL FEDERAL ACTIONS. | | | | | | | | | | | | | | | |
| YES * | 10,178 | 21,144 | 15,117 | 8,551 | 4,557 | 950 | 2,152 | 367,680 | 26,678 | 15,091 | 119,937 | 35,497 | 3,925 | 39,977 | 14,017 | 707,451 |
| NO | 6,607 | 13,767 | 20,009 | 5,875 | 2,401 | 659 | 1,000 | 395,766 | 14,785 | 9,287 | 130,117 | 29,785 | 4,221 | 29,272 | 9,686 | 673,337 |
| PROPOSITION 303 | REFERRED TO THE PEOPLE BY THE LEGISLATURE<br>HOUSE CONCURRENT RESOLUTION 2005<br>ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO THE USE OF INVESTIGATIONAL DRUGS, BIOLOGICAL PRODUCTS AND DEVICES. | | | | | | | | | | | | | | | |
| YES * | 10,097 | 27,510 | 26,054 | 11,437 | 5,102 | 1,127 | 2,610 | 643,397 | 35,189 | 17,898 | 200,781 | 51,062 | 5,762 | 56,869 | 17,046 | 1,111,850 |
| NO | 6,663 | 7,536 | 9,601 | 3,009 | 1,894 | 490 | 570 | 171,305 | 8,603 | 6,713 | 51,976 | 14,670 | 2,436 | 12,914 | 6,681 | 304,071 |
| PROPOSITION 304 | RECOMMENDATION OF THE COMMISSION ON SALARIES FOR ELECTIVE STATE OFFICERS AS TO LEGISLATIVE SALARIES HAS BEEN CERTIFIED TO THE SECRETARY OF STATE AND IS HEREBY SUBMITTED TO THE QUALIFIED ELECTORS FOR THEIR APPROVAL OR REJECTION.<br>"SHALL THE RECOMMENDATION OF THE COMMISSION ON SALARIES FOR ELECTIVE STATE OFFICERS CONCERNING LEGISLATIVE SALARIES BE ACCEPTED?"<br>_____YES _____NO | | | | | | | | | | | | | | | |
| YES | 6,355 | 9,608 | 11,630 | 3,911 | 1,578 | 300 | 730 | 277,042 | 10,191 | 7,649 | 82,082 | 17,671 | 2,469 | 19,337 | 6,273 | 457,216 |
| NO * | 10,539 | 25,780 | 24,148 | 10,823 | 5,483 | 1,237 | 2,484 | 541,919 | 33,812 | 16,805 | 170,577 | 48,277 | 5,827 | 61,003 | 17,891 | 966,605 |

## 2014 GENERAL ELECTION OFFICIAL CANVASS CERTIFICATION

I, Ken Bennett, Arizona Secretary of State, do hereby certify that the foregoing table is a true, correct and complete tabulation of the votes cast at the 2014 General Election held in the State of Arizona on the 4th day of November 2014. This table displays the name of each person who appeared on the ballot for a federal and state office in the election, and the number of votes received by each person in the election, as shown by the 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 1st day of December 2014, at the Capitol in Phoenix.

KEN BENNETT
Secretary of State

A.R.S. § 16-648 requires that this canvass be conducted in the presence of the Governor and Attorney General whose affirming signatures follow.

JAN BREWER
Governor

THOMAS C. HORNE
Attorney General

## 2014 GENERAL ELECTION OFFICIAL CANVASS CERTIFICATION

I, Ken Bennett, Arizona Secretary of State, do hereby certify that the foregoing table is a true, correct and complete tabulation of the votes cast for and against the three propositions which appeared on the ballot at the 2014 General Election held in the State of Arizona on the 4th day of November, 2014.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Arizona, this 1st day of December 2014, at the Capitol in Phoenix.

KEN BENNETT
Secretary of State

A.R.S. § 16-648 requires that this canvass be conducted in the presence of the Governor and Chief Justice of the Supreme Court whose affirming signatures follow.

JAN BREWER
Governor

SCOTT BALES
Chief Justice
Arizona Supreme Court

# SESSION LAWS

# STATE OF ARIZONA

---

**Fifty-second Legislature**

**FIRST SPECIAL SESSION**

**Chapters 1 and 2**

Convened – October 28, 2015

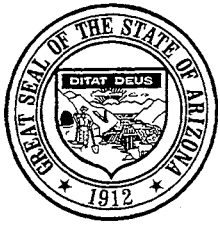
Sine Die – October 30, 2015

**2015**

AUTHENTICATION

STATE OF ARIZONA )
) ss.
OFFICE OF SECRETARY OF STATE )

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 Fifty-second Legislature of the State of Arizona, as they appear on file in the Office of the Secretary of State of Arizona. The First Special Session of the Fifty-second Legislature of the State of Arizona convened at the Capitol in the City of Phoenix, October 28, 2015 and was adjourned sine die on October 30, 2015. The House adjourned on the 2nd legislative day and the Senate adjourned on the 3rd legislative day.




IN TESTIMONY WHEREOF, I have hereunto set my hand as Secretary of State of the State of Arizona this 9th day of November, 2015.

Michele Reagan

MICHELE REAGAN
Secretary of State

# ORDER OF ACTS

## FIFTY-SECOND LEGISLATURE
## FIRST SPECIAL SESSION

Effective date for nonemergency legislation January 29, 2016.

"E" indicates emergency measure. "LIVS" indicates line item veto.


| Bill No. | Chapter | Short Title | Page |
|---|---|---|---|
| HB 2001 | 1 | schools; base level; appropriations | 2177 |
| HB 2002 | 2 | statewide special election | 2190 |


MEMORIALS AND RESOLUTIONS
FILED WITH THE SECRETARY OF STATE


HCR 2001 ..... education finance; trust land distributions ..... 2195

GOVERNOR DOUGLAS A. DUCEY

# STATE OF ARIZONA

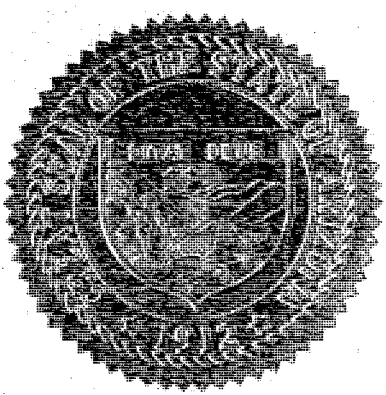
# PROCLAMATION

**Governor of the State of Arizona**
**Calling a First Special Session**
**of the Fifty-Second Legislature of the State of Arizona**

By the power vested in me by the Arizona Constitution, Article IV, Part 2, Section 3, and Article V, Section 4, I, Douglas A. Ducey, Governor of the State of Arizona, call the Fifty-Second Legislature to meet in a first special session at the Capitol on the 28th Day of October, 2015 at 8:00 p.m.

The subject to be considered at the Special Session shall be proposed amendments to the Constitution of the State of Arizona and legislation relating to resolving the litigation styled *Cave Creek Unified School District, et al. v. DeWit, et al.* including:

1. Adjusting the annual distribution from the Permanent Land Endowment Trust Fund,
2. Resetting the base level defined by Arizona Revised Statutes, 15-901(B)(2),
3. Supplemental appropriations to the Fiscal Year 2015-2016 budget and appropriations to the Fiscal Years 2016-2017 through 2024-2025 state budgets,
4. Economic protections related to the General Fund and the Permanent Land Endowment Trust Fund, and
5. Authorizing a special election for the May 2016 consolidated election date.



**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

Douglas A. Ducey
GOVERNOR

**DONE** at the Capitol in Phoenix on this twenty-eighth day of October in the Year Two Thousand and Fifteen and of the Independence of the United States of America the Two Hundred and Fortieth.

ATTEST: Michele Reagan

Secretary of State

# 2015

# ARIZONA

# SESSION LAWS

## Fifty-second Legislature
## First Special Session

---

### EDUCATION FINANCE—BASE LEVEL ADJUSTMENT—APPROPRIATIONS

### CHAPTER 1

### H. B. 2001

**AN ACT AMENDING SECTION 15-901, ARIZONA REVISED STATUTES; AMENDING LAWS 2015, CHAPTER 8, SECTION 34; APPROPRIATING MONIES; RELATING TO EDUCATION FINANCE.**

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

**Section 1.** Section 15-901, Arizona Revised Statutes, is amended to read:

**15-901. Definitions**

A. In this title, unless the context otherwise requires:

1. "Average daily membership" means the total enrollment of fractional students and full-time students, minus withdrawals, of each school day through the first one hundred days or two hundred days in session, as applicable, for the current year. Withdrawals include students formally withdrawn from schools and students absent for ten consecutive school days, except for excused absences identified by the department of education. For the purposes of this section, school districts and charter schools shall report student absence data to the department of education at least once every sixty days in session. For computation purposes, the effective date of withdrawal shall be retroactive to the last day of actual attendance of the student or excused absence.

(a) "Fractional student" means:

(i) For common schools, a preschool child who is enrolled in a program for preschool children with disabilities of at least three hundred sixty minutes each week that meets at least two hundred sixteen hours over the minimum number of days or a kindergarten student who is at least five years of age before January 1 of the school

year and enrolled in a school kindergarten program that meets at least three hundred fifty-six hours for a one hundred eighty day school year, or the instructional hours prescribed in this section. Lunch periods and recess periods may not be included as part of the instructional hours unless the child's individualized education program requires instruction during those periods and the specific reasons for such instruction are fully documented. In computing the average daily membership, preschool children with disabilities and kindergarten students shall be counted as one-half of a full-time student. For common schools, a part-time student is a student enrolled for less than the total time for a full-time student as defined in this section. A part-time common school student shall be counted as one-fourth, one-half or three-fourths of a full-time student if the student is enrolled in an instructional program that is at least one-fourth, one-half or three-fourths of the time a full-time student is enrolled as defined in subdivision (b) of this paragraph.

(ii) For high schools, a part-time student who is enrolled in less than four subjects that count toward graduation as defined by the state board of education, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, in a recognized high school. The average daily membership of a part-time high school student shall be 0.75 if the student is enrolled in an instructional program of three subjects that meet at least five hundred forty hours for a one hundred eighty day school year, or the instructional hours prescribed in this section. The average daily membership of a part-time high school student shall be 0.5 if the student is enrolled in an instructional program of two subjects that meet at least three hundred sixty hours for a one hundred eighty day school year, or the instructional hours prescribed in this section. The average daily membership of a part-time high school student shall be 0.25 if the student is enrolled in an instructional program of one subject that meets at least one hundred eighty hours for a one hundred eighty day school year, or the instructional hours prescribed in this section.

(b) "Full-time student" means:

(i) For common schools, a student who is at least six years of age before January 1 of a school year, who has not graduated from the highest grade taught in the school district and who is regularly enrolled in a course of study required by the state board of education. First, second and third grade students or ungraded group B children with disabilities who are at least five, but under six, years of age by September 1 must be enrolled in an instructional program that meets for a total of at least seven hundred twelve hours for a one hundred eighty day school year, or the instructional hours prescribed in this section. Fourth, fifth and sixth grade students must be enrolled in an instructional program that meets for a total of at least eight hundred ninety hours for a one hundred eighty day school year, or the instructional hours prescribed in this section. Seventh and eighth grade students must be enrolled in an instructional program that meets for at least one thousand hours. Lunch periods and recess periods may not be included as part of the instructional hours unless the student is a child with a disability and the child's individualized education program

requires instruction during those periods and the specific reasons for such instruction are fully documented.

(ii) For high schools, a student not graduated from the highest grade taught in the school district and enrolled in at least an instructional program of four or more subjects that count toward graduation as defined by the state board of education, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, that meets for a total of at least seven hundred twenty hours for a one hundred eighty day school year, or the instructional hours prescribed in this section in a recognized high school. A full-time student shall not be counted more than once for computation of average daily membership. The average daily membership of a full-time high school student shall be 1.0 if the student is enrolled in at least four subjects that meet at least seven hundred twenty hours for a one hundred eighty day school year, or the equivalent instructional hours prescribed in this section.

(iii) If a child who has not reached five years of age before September 1 of the current school year is admitted to kindergarten and repeats kindergarten in the following school year, a school district or charter school is not eligible to receive basic state aid on behalf of that child during the child's second year of kindergarten. If a child who has not reached five years of age before September 1 of the current school year is admitted to kindergarten but does not remain enrolled, a school district or charter school may receive a portion of basic state aid on behalf of that child in the subsequent year. A school district or charter school may charge tuition for any child who is ineligible for basic state aid pursuant to this item.

(iv) Except as otherwise provided by law, for a full-time high school student who is concurrently enrolled in two school districts or two charter schools, the average daily membership shall not exceed 1.0.

(v) Except as otherwise provided by law, for any student who is concurrently enrolled in a school district and a charter school, the average daily membership shall be apportioned between the school district and the charter school and shall not exceed 1.0. The apportionment shall be based on the percentage of total time that the student is enrolled in or in attendance at the school district and the charter school.

(vi) Except as otherwise provided by law, for any student who is concurrently enrolled, pursuant to section 15-808, in a school district and Arizona online instruction or a charter school and Arizona online instruction, the average daily membership shall be apportioned between the school district and Arizona online instruction or the charter school and Arizona online instruction and shall not exceed 1.0. The apportionment shall be based on the percentage of total time that the student is enrolled in or in attendance at the school district and Arizona online instruction or the charter school and Arizona online instruction.

(vii) For homebound or hospitalized, a student receiving at least four hours of instruction per week.

2. "Budget year" means the fiscal year for which the school district is budgeting and that immediately follows the current year.

3. "Common school district" means a political subdivision of this state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and either:

(a) Grades one through eight.

(b) Grades one through nine pursuant to section 15-447.01.

4. "Current year" means the fiscal year in which a school district is operating.

5. "Daily attendance" means:

(a) For common schools, days in which a pupil:

(i) Of a kindergarten program or ungraded, but not group B children with disabilities, and at least five, but under six, years of age by September 1 attends at least three-quarters of the instructional time scheduled for the day. If the total instruction time scheduled for the year is at least three hundred fifty-six hours but is less than seven hundred twelve hours, such attendance shall be counted as one-half day of attendance. If the instructional time scheduled for the year is at least six hundred ninety-two hours, "daily attendance" means days in which a pupil attends at least one-half of the instructional time scheduled for the day. Such attendance shall be counted as one-half day of attendance.

(ii) Of the first, second or third grades attends more than three-quarters of the instructional time scheduled for the day.

(iii) Of the fourth, fifth or sixth grades attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.

(iv) Of the seventh or eighth grades attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.

(b) For common schools, the attendance of a pupil at three-quarters or less of the instructional time scheduled for the day shall be counted as follows, except as provided in section 15-797 and except that attendance for a fractional student shall not exceed the pupil's fractional membership:

(i) If attendance for all pupils in the school is based on quarter days, the attendance of a pupil shall be counted as one-fourth of a day's attendance for each one-fourth of full-time instructional time attended.

(ii) If attendance for all pupils in the school is based on half days, the attendance of at least three-quarters of the instructional time scheduled for the day shall be counted as a full day's attendance and attendance at a minimum of one-half but less than three-quarters of the instructional time scheduled for the day equals one-half day of attendance.

(c) For common schools, the attendance of a preschool child with disabilities shall be counted as one-fourth day's attendance for each thirty-six minutes of attendance not including lunch periods and recess periods, except as provided in paragraph 1, subdivision (a), item (i) of this subsection for children with disabilities up to a maximum of three hundred sixty minutes each week.

(d) For high schools, the attendance of a pupil shall not be counted as a full day unless the pupil is actually and physically in attendance and enrolled in and carrying four subjects, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred

twenty-three hours a year, or the equivalent, that count toward graduation in a recognized high school except as provided in section 15-797 and subdivision (e) of this paragraph. Attendance of a pupil carrying less than the load prescribed shall be prorated.

(e) For high schools, the attendance of a pupil may be counted as one-fourth of a day's attendance for each sixty minutes of instructional time in a subject that counts toward graduation, except that attendance for a pupil shall not exceed the pupil's full or fractional membership.

(f) For homebound or hospitalized, a full day of attendance may be counted for each day during a week in which the student receives at least four hours of instruction.

(g) For school districts that maintain school for an approved year-round school year operation, attendance shall be based on a computation, as prescribed by the superintendent of public instruction, of the one hundred eighty days' equivalency or two hundred days' equivalency, as applicable, of instructional time as approved by the superintendent of public instruction during which each pupil is enrolled.

6. "Daily route mileage" means the sum of:

(a) The total number of miles driven daily by all buses of a school district while transporting eligible students from their residence to the school of attendance and from the school of attendance to their residence on scheduled routes approved by the superintendent of public instruction.

(b) The total number of miles driven daily on routes approved by the superintendent of public instruction for which a private party, a political subdivision or a common or a contract carrier is reimbursed for bringing an eligible student from the place of his residence to a school transportation pickup point or to the school of attendance and from the school transportation scheduled return point or from the school of attendance to his residence. Daily route mileage includes the total number of miles necessary to drive to transport eligible students from and to their residence as provided in this paragraph.

7. "District support level" means the base support level plus the transportation support level.

8. "Eligible students" means:

(a) Students who are transported by or for a school district and who qualify as full-time students or fractional students, except students for whom transportation is paid by another school district or a county school superintendent, and:

(i) For common school students, whose place of actual residence within the school district is more than one mile from the school facility of attendance or students who are admitted pursuant to section 15-816.01 and who meet the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches and whose actual place of residence outside the school district boundaries is more than one mile from the school facility of attendance.

(ii) For high school students, whose place of actual residence within the school district is more than one and one-half miles from the school facility of attendance or students who are admitted pursuant to section 15-816.01 and who meet

the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches and whose actual place of residence outside the school district boundaries is more than one and one-half miles from the school facility of attendance.

(b) Kindergarten students, for purposes of computing the number of eligible students under subdivision (a), item (i) of this paragraph, shall be counted as full-time students, notwithstanding any other provision of law.

(c) Children with disabilities, as defined by section 15-761, who are transported by or for the school district or who are admitted pursuant to chapter 8, article 1.1 of this title and who qualify as full-time students or fractional students regardless of location or residence within the school district or children with disabilities whose transportation is required by the pupil's individualized education program.

(d) Students whose residence is outside the school district and who are transported within the school district on the same basis as students who reside in the school district.

9. "Enrolled" or "enrollment" means when a pupil is currently registered in the school district.

10. "GDP price deflator" means the average of the four implicit price deflators for the gross domestic product reported by the United States department of commerce for the four quarters of the calendar year.

11. "High school district" means a political subdivision of this state offering instruction to students for grades nine through twelve or that portion of the budget of a common school district that is allocated to teaching high school subjects with permission of the state board of education.

12. "Revenue control limit" means the base revenue control limit plus the transportation revenue control limit.

13. "Student count" means:

(a) Through June 30, 2016, average daily membership as prescribed in this subsection for the fiscal year before the current year, except that for the purpose of budget preparation student count means average daily membership as prescribed in this subsection for the current year.

(b) Beginning July 1, 2016, average daily membership as prescribed in this subsection for the current year.

14. "Submit electronically" means submitted in a format and in a manner prescribed by the department of education.

15. "Total bus mileage" means the total number of miles driven by all buses of a school district during the school year.

16. "Total students transported" means all eligible students transported from their place of residence to a school transportation pickup point or to the school of attendance and from the school of attendance or from the school transportation scheduled return point to their place of residence.

17. "Unified school district" means a political subdivision of the state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and grades one through twelve.

B. In this title, unless the context otherwise requires:

1. "Base" means the revenue level per student count specified by the legislature.

2. "Base level" means the following amounts plus the percentage increases to the base level as provided in sections 15-902.04~~, 15-918.04, 15-919.04~~ and 15-952, except that if a school district or charter school is eligible for an increase in the base level as provided in two or more of these sections, the base level amount shall be calculated by compounding rather than adding the sum of one plus the percentage of the increase from those different sections:

(a) For fiscal year 2007-2008, three thousand two hundred twenty-six dollars eighty-eight cents.

(b) For fiscal year 2008-2009, three thousand two hundred ninety-one dollars forty-two cents.

(c) For fiscal years 2009-2010, 2010-2011, 2011-2012 and 2012-2013, three thousand two hundred sixty-seven dollars seventy-two cents.

(d) For fiscal year 2013-2014, three thousand three hundred twenty-six dollars fifty-four cents.

(e) For fiscal year 2014-2015, three thousand three hundred seventy-three dollars eleven cents.

(f) For fiscal year 2015-2016, ~~three thousand four hundred twenty-six dollars seventy-four cents~~ THREE THOUSAND SIX HUNDRED DOLLARS ZERO CENTS.

3. "Base revenue control limit" means the base revenue control limit computed as provided in section 15-944.

4. "Base support level" means the base support level as provided in section 15-943.

5. "Certified teacher" means a person who is certified as a teacher pursuant to the rules adopted by the state board of education, who renders direct and personal services to school children in the form of instruction related to the school district's educational course of study and who is paid from the maintenance and operation section of the budget.

6. "DD" means programs for children with developmental delays who are at least three years of age but under ten years of age. A preschool child who is categorized under this paragraph is not eligible to receive funding pursuant to section 15-943, paragraph 2, subdivision (b).

7. "ED, MIID, SLD, SLI and OHI" means programs for children with emotional disabilities, mild intellectual disabilities, a specific learning disability, a speech/language impairment and other health impairments. A preschool child who is categorized as SLI under this paragraph is not eligible to receive funding pursuant to section 15-943, paragraph 2, subdivision (b).

8. "ED-P" means programs for children with emotional disabilities who are enrolled in private special education programs as prescribed in section 15-765, subsection D, paragraph 1 or in an intensive school district program as provided in section 15-765, subsection D, paragraph 2.

9. "ELL" means English learners who do not speak English or whose native language is not English, who are not currently able to perform ordinary classroom work in English and who are enrolled in an English language education program pursuant to sections 15-751, 15-752 and 15-753.

10. "Full-time equivalent certified teacher" or "FTE certified teacher" means for a certified teacher the following:

(a) If employed full time as defined in section 15-501, 1.00.

(b) If employed less than full time, multiply 1.00 by the percentage of a full school day, or its equivalent, or a full class load, or its equivalent, for which the teacher is employed as determined by the governing board.

11. "Group A" means educational programs for career exploration, a specific learning disability, an emotional disability, a mild intellectual disability, remedial education, a speech/language impairment, developmental delay, homebound, bilingual, other health impairments and gifted pupils.

12. "Group B" means educational improvements for pupils in kindergarten programs and grades one through three, educational programs for autism, a hearing impairment, a moderate intellectual disability, multiple disabilities, multiple disabilities with severe sensory impairment, orthopedic impairments, preschool severe delay, a severe intellectual disability and emotional disabilities for school age pupils enrolled in private special education programs or in school district programs for children with severe disabilities or visual impairment and English learners enrolled in a program to promote English language proficiency pursuant to section 15-752.

13. "HI" means programs for pupils with hearing impairment.

14. "Homebound" or "hospitalized" means a pupil who is capable of profiting from academic instruction but is unable to attend school due to illness, disease, accident or other health conditions, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for a period of not less than three school months or a pupil who is capable of profiting from academic instruction but is unable to attend school regularly due to chronic or acute health problems, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for intermittent periods of time totaling three school months during a school year. The medical certification shall state the general medical condition, such as illness, disease or chronic health condition, that is the reason that the pupil is unable to attend school. Homebound or hospitalized includes a student who is unable to attend school for a period of less than three months due to a pregnancy if a competent medical doctor, after an examination, certifies that the student is unable to attend regular classes due to risk to the pregnancy or to the student's health.

15. "K-3" means kindergarten programs and grades one through three.

16. "K-3 reading" means reading programs for pupils in kindergarten programs and grades one, two and three.

17. "MD-R, A-R and SID-R" means resource programs for pupils with multiple disabilities, autism and severe intellectual disability.

18. "MD-SC, A-SC and SID-SC" means self-contained programs for pupils with multiple disabilities, autism and severe intellectual disability.

19. "MD-SSI" means a program for pupils with multiple disabilities with severe sensory impairment.

20. "MOID" means programs for pupils with moderate intellectual disability.

21. "OI-R" means a resource program for pupils with orthopedic impairments.

22. "OI-SC" means a self-contained program for pupils with orthopedic impairments.

23. "PSD" means preschool programs for children with disabilities as provided in section 15-771.

24. "P-SD" means programs for children who meet the definition of preschool severe delay as provided in section 15-771.

25. "Qualifying tax rate" means the qualifying tax rate specified in section 15-971 applied to the assessed valuation used for primary property taxes.

26. "Small isolated school district" means a school district that meets all of the following:

(a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.

(b) Contains no school that is fewer than thirty miles by the most reasonable route from another school, or, if road conditions and terrain make the driving slow or hazardous, fifteen miles from another school that teaches one or more of the same grades and is operated by another school district in this state.

(c) Is designated as a small isolated school district by the superintendent of public instruction.

27. "Small school district" means a school district that meets all of the following:

(a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.

(b) Contains at least one school that is fewer than thirty miles by the most reasonable route from another school that teaches one or more of the same grades and is operated by another school district in this state.

(c) Is designated as a small school district by the superintendent of public instruction.

28. "Transportation revenue control limit" means the transportation revenue control limit computed as prescribed in section 15-946.

29. "Transportation support level" means the support level for pupil transportation operating expenses as provided in section 15-945.

30. "VI" means programs for pupils with visual impairments.

31. "Voc. Ed." means career and technical education and vocational education programs, as defined in section 15-781.

**Sec. 2.** Laws 2015, chapter 8, section 34 is amended to read:

**Sec. 34.** SUPERINTENDENT OF PUBLIC INSTRUCTION

| | 2015-16 |
|---|---|
| FTE positions | 164.9 |
| Operating lump sum appropriation | $ 8,802,100 |
| Fund sources: | |
| State general fund | $ 8,263,800 |
| Teacher certification fund | 138,200 |
| Department of education empowerment scholarship account fund | 400,100 |

The operating lump sum appropriation includes $683,900 and 8.5 FTE positions for average daily membership auditing and $200,000 and 2 FTE positions for information technology security services.

The appropriation from the department of education empowerment scholarship account fund includes $100,000 in funding for one-time information technology changes.

| | | |
|---|---|---|
| Basic state aid | ~~$2,441,592,500~~ | $2,690,421,900 |
| Fund sources: | | |
| State general fund | ~~$2,394,233,000~~ | $2,470,981,400 |
| Permanent state school fund | ~~47,359,500~~ | 219,440,500 |

The above appropriation provides basic state support to school districts for maintenance and operations funding as provided by section 15-973, Arizona Revised Statutes, and includes an estimated ~~$47,359,500~~ $219,440,500 in expendable income derived from the permanent state school fund and from state trust lands pursuant to section 37-521, subsection B, Arizona Revised Statutes, for fiscal year 2015-2016.

Receipts derived from the permanent state school fund and any other nonstate general fund revenue source that is dedicated to fund basic state aid shall be expended, whenever possible, before expenditure of state general fund monies.

Except as required by section 37-521, Arizona Revised Statutes, all monies received during the fiscal year from national forests, 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 of Arizona and all monies received by the superintendent of public instruction from whatever source, except monies received pursuant to sections 15-237 and 15-531, Arizona Revised Statutes, when paid into the state treasury are appropriated for apportionment to the various counties in accordance with law. An expenditure may not be made except as specifically authorized above.

~~Additional inflation 74,394,000~~

~~The department of education shall allocate the $74,394,000 amount appropriated through this line item to school districts and charter schools in fiscal year 2015-2016 in the same manner that it would allocate the monies if the monies were for an additional increase of $54.31 in the base level defined for fiscal year 2015-2016 in section 15-901, subsection B, paragraph 2, Arizona Revised Statutes, and increase budget limits accordingly. The department shall also increase the budget limits of a school district that is not eligible to receive basic state aid funding~~

~~for fiscal year 2015-2016 by the amount that the district's budget limits would be increased under this line item if the school district was eligible to receive basic state aid funding for fiscal year 2015-2016. The additional inflation amount is not for an increase in the base level as defined in section 15-901, Arizona Revised Statutes.~~

| | |
|---|---|
| K-3 reading | 39,917,300 |

The appropriated amount is for funding costs of the K-3 reading weight established in section 15-943, Arizona Revised Statutes.

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| ADDITIONAL FUNDING | 50,000,000 |

THE DEPARTMENT OF EDUCATION SHALL ALLOCATE THE APPROPRIATED AMOUNT TO SCHOOL DISTRICTS AND CHARTER SCHOOLS ON A PRO RATA BASIS USING THE WEIGHTED STUDENT COUNT FOR THE SCHOOL DISTRICT OR CHARTER SCHOOL FOR THE FISCAL YEAR PURSUANT TO SECTION 15-943, PARAGRAPH 2, SUBDIVISION (a), ARIZONA REVISED STATUTES, AND INCREASE THE BUDGET LIMITS PURSUANT TO SECTION 15-947, ARIZONA REVISED STATUTES, ACCORDINGLY. FOR THE PURPOSES OF THIS PARAGRAPH, THE WEIGHTED STUDENT COUNT FOR A SCHOOL DISTRICT THAT SERVES AS THE DISTRICT OF ATTENDANCE FOR NONRESIDENT PUPILS SHALL BE INCREASED TO INCLUDE NONRESIDENT PUPILS WHO ATTEND SCHOOL IN THE SCHOOL DISTRICT. A SCHOOL DISTRICT MAY BUDGET THE ALLOCATION THAT THE SCHOOL DISTRICT RECEIVES PURSUANT TO THIS PARAGRAPH IN EITHER THE SCHOOL DISTRICT'S MAINTENANCE AND OPERATION FUND OR UNRESTRICTED CAPITAL OUTLAY FUND.

| | |
|---|---|
| Additional state aid – homeowner's rebate | 359,303,700 |
| Additional state aid – 1 percent cap | 7,380,300 |
| Special education fund | 32,242,100 |
| Other state aid to districts | 983,900 |
| Accountability and achievement testing | $ 16,423,600 |
| Fund sources: | |
| State general fund | $ 9,423,600 |
| Proposition 301 fund | 7,000,000 |

Before making any changes to the achievement testing program that will increase program costs, the state board of education shall submit the estimated fiscal impact of those changes to the joint legislative budget committee for review.

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|---|---|
| Adult education | 4,500,000 |
| Alternative teacher development program | 500,000 |
| Arizona structured English immersion fund | 4,960,400 |
| English learner administration | 6,516,800 |

The department of education shall use the appropriated amount to provide English language acquisition services for the purposes of section 15-756.07, Arizona Revised Statutes, and for the costs of providing English language proficiency

assessments, scoring and ancillary materials as prescribed by the department of education to school districts and charter schools for the purposes of title 15, chapter 7, article 3.1, Arizona Revised Statutes. The department of education may use a portion of the appropriated amount to hire staff or contract with a third party to carry out the purposes of section 15-756.07, Arizona Revised Statutes. Notwithstanding section 41-192, Arizona Revised Statutes, the superintendent of public instruction also may use a portion of the appropriated amount to contract with one or more private attorneys to provide legal services in connection with the case of Flores v. State of Arizona, No. CIV 92-596-TUC-RCC.

| | | |
|---|---|---|
| JTED soft capital and equipment | | $ 1,000,000 |

The department of education shall distribute the appropriated amount to joint technical education districts with fewer than two thousand average daily membership pupils for soft capital and equipment expenses. The appropriated amount shall be allocated on a pro rata basis based on the average daily membership of eligible joint technical education districts.

| | | |
|---|---|---|
| School safety program | | 3,646,500 |
| State block grant for vocational education | | 11,576,300 |
| Teacher certification | | $ 1,842,500 |
| Fund sources: | | |
| Teacher certification fund | | $ 1,842,500 |
| Total appropriation - superintendent of public instruction | ~~$3,015,582,000~~ | $3,240,017,400 |
| Fund sources: | | |
| State general fund | ~~$2,958,841,700~~ | $3,011,196,100 |
| Proposition 301 fund | | 7,000,000 |
| Permanent state school fund | ~~47,359,500~~ | 219,440,500 |
| Teacher certification fund | | 1,980,700 |
| Department of education empowerment scholarship account fund | | 400,100 |

The department shall provide an updated report on its budget status every three months for the first half of each fiscal year and every month thereafter to the president of the senate, the speaker of the house of representatives, the chairpersons of the senate and house of representatives appropriations committees, the director of the joint legislative budget committee and the director of the governor's office of strategic planning and budgeting. Each report shall include, at a minimum, the department's current funding surplus or shortfall projections for basic state aid and other major formula-based programs and is due thirty days after the end of the applicable reporting period.

Within fifteen days after each apportionment of state aid that occurs pursuant to section 15-973, subsection B, Arizona Revised Statutes, the department shall post on its website the amount of state aid apportioned to each recipient and the underlying data.

**Sec. 3. Budget balance carryforward from fiscal year 2015-2016 into fiscal year 2016-2017**

In addition to any budget balance carryforward authorized by section 15-943.01, Arizona Revised Statutes, a school district or other entity that receives additional funding or budget capacity in fiscal year 2015-2016 as a result of this act may carry forward any portion of that funding or budget capacity into fiscal year 2016-2017. The amount budgeted as the budget balance carryforward is specifically exempt from the revenue control limit.

**Sec. 4. Employee compensation increases in fiscal years 2015-2016 and 2016-2017**

A school district or other entity that receives additional funding or budget capacity in fiscal years 2015-2016 and 2016-2017 as a result of this act may use the additional monies for increased employee compensation in fiscal years 2015-2016 and 2016-2017.

**Sec. 5. School district budget deadlines for fiscal year 2015-2016**

Notwithstanding section 15-905, Arizona Revised Statutes, for fiscal year 2015-2016, any deadline that is currently specified by law as May 15 for the adoption or adjustment of school district budgets shall be extended to June 30.

**Sec. 6. Appropriations; department of education; additional funding for school districts and charter schools**

A. The sum of $50,000,000 is appropriated annually from the state general fund to the department of education in fiscal years 2016-2017 through 2019-2020 for additional funding for school districts and charter schools. A school district may budget the monies that it receives pursuant to this subsection in either the school district's maintenance and operation fund or unrestricted capital outlay fund.

B. The sum of $75,000,000 is appropriated annually from the state general fund to the department of education in fiscal years 2020-2021 through 2024-2025 for additional funding for school districts and charter schools. A school district may budget the monies that it receives pursuant to this subsection in either the school district's maintenance and operation fund or unrestricted capital outlay fund.

C. The department of education shall allocate the appropriated amount in subsections A and B of this section to school districts and charter schools on a pro rata basis using the weighted student count for the school district or charter school for the fiscal year pursuant to section 15-943, paragraph 2, subdivision (a), Arizona Revised Statutes, and increase the budget limits pursuant to section 15-947, Arizona Revised Statutes, accordingly. For the purposes of this subsection, the weighted student count for a school district that serves as the district of attendance for nonresident pupils shall be increased to include nonresident pupils who attend school in the school district.

**Sec. 7. Intent**

This act and the terms of House concurrent resolution 2001, fifty-second legislature, first special session, are intended to fully satisfy the requirements of section 15-901.01, Arizona Revised Statutes.

**Sec. 8. Retroactivity**

This act applies retroactively to from and after June 30, 2015.

**Sec. 9. Legislative findings**

The legislature finds that:

1. It is in the best interests of the State of Arizona to finally resolve the litigation in Cave Creek Unified School District, et al. v. Jeff DeWit, et al., Maricopa County Superior Court Case No. CV2010-017113, and all appellate proceedings related thereto.

2. None of the parties to the litigation have acted in bad faith, nor concede nor admit legal error, wrongdoing or illegal action in connection with the litigation.

3. Including the final judgment in the litigation, this act and the terms of House Concurrent Resolution 2001, fifty-second legislature, first special session, fully and finally resolve, satisfy and conclude all claims, causes of action, findings, rulings and judgments in the litigation.

**Sec. 10. Conditional enactment**

This act does not become effective unless the Constitution of Arizona is amended as prescribed in House concurrent resolution 2001, fifty-second legislature, first special session, by vote of the people at the special election conducted on May 17, 2016.

Passed by the House October 29, 2015.
Passed by the Senate October 30, 2015.
Approved by the Governor October 30, 2015.
Filed in the Office of the Secretary of State October 30, 2015.

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## EDUCATION FINANCE—STATEWIDE SPECIAL ELECTION

### CHAPTER 2

### H. B. 2002

**AN ACT PROVIDING FOR A SPECIAL ELECTION FOR THE PURPOSE OF VOTING ON AMENDMENTS TO THE CONSTITUTION OF ARIZONA RELATING TO EDUCATION FINANCE; APPROPRIATING MONIES.**

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

**Section 1. Special election**

Under the authority of and in accordance with article XXI, section 1, Constitution of Arizona, a special election is called to be held May 17, 2016 and to be conducted by the officers conducting regular elections.

**Sec. 2. Purpose of election**

The purpose of the special election called by this act is to submit to a vote of the people certain amendments to the Constitution of Arizona that are proposed by House concurrent resolution 2001, fifty-second legislature, first special session, that

are approved by a majority of the members of each house of the legislature and that amend the Constitution of Arizona to provide for education finance.

**Sec. 3. Publicity pamphlet; secretary of state**

A. The secretary of state shall cause to be printed in pamphlet form a sample ballot and a true copy of the official title and text of each proposed amendment, with the number and form in which the descriptive title will be printed on the official ballot as prescribed by section 19-125, Arizona Revised Statutes. In addition, the publicity pamphlet shall contain a legislative council analysis, a joint legislative budget committee staff fiscal impact statement summary and any arguments submitted in support of or opposition to the proposed amendments as prescribed by section 19-124, Arizona Revised Statutes. The legislative council analysis and joint legislative budget committee fiscal impact statement summary shall be submitted to the secretary of state no later than December 4, 2015, and any arguments shall be submitted to the secretary of state no later than December 4, 2015. A person submitting an argument in support of or opposition to the proposed amendments shall make the payment prescribed pursuant to section 19-124, subsection D, Arizona Revised Statutes.

B. Notwithstanding section 19-123, Arizona Revised Statutes, the secretary of state is not required to conduct public meetings on the proposed amendments.

C. At least ten days before the special election called by this act, the secretary of state shall cause each proposed amendment to be published for a period of at least three days in a daily newspaper in every county in the state in which a newspaper is published or, if there is not such a newspaper, at least one time in a weekly newspaper.

D. The secretary of state shall mail one copy of the publicity pamphlet to every household that contains a registered voter. The mailings may be made over a period of days but shall be mailed in order to be delivered to households before the earliest date for the receipt by registered voters of any requested early ballots for the election.

E. The secretary of state shall distribute the publicity pamphlet in other forms and methods deemed advisable by the secretary of state.

**Sec. 4. Form of ballot**

A. The officer in charge of elections shall comply with section 19-125, subsections E and F, Arizona Revised Statutes, with respect to printing the full text of each measure on the ballot.

B. If a political subdivision contracts with a county for election services and that political subdivision chooses to hold a local election on May 17, 2016, the political subdivision shall only use a ballot and format of the election where the questions presented pursuant to article XXI, section 1, Constitution of Arizona, appear, and the constitutional amendments shall appear first before the other matters of the political subdivision.

**Sec. 5. Applicability of general election laws; exceptions**

A. The secretary of state and county officers in charge of elections are exempt from compliance with competitive bidding processes to the extent that those processes will conflict with the timely printing and distribution of publicity

pamphlets, ballots and other election materials or the timely conduct of the special election required by this act.

B. The special election called by this act shall be governed and administered under the general laws of this state regarding elections to the greatest extent practicable and shall be administered in a manner consistent with a presidential preference election with consolidated precincts. The county boards of supervisors shall deliver the canvass to the secretary of state within ten days after the special election, and the canvass shall be completed by the secretary of state on or before the second Monday after the special election.

**Sec. 6. Campaign finance; reporting of contributions and expenditures by committees acting on special ballot measures; civil penalty; applicability**

A. Any political committee that acts in support of or opposition to the qualification, passage or defeat of any ballot measure, question or proposition that is the subject of the special election called by this act shall organize and register as a special election political committee and shall file reports of contributions and expenditures pursuant to title 16, chapter 6, article 1, Arizona Revised Statutes.

B. Notwithstanding the reporting schedule prescribed by section 16-913, Arizona Revised Statutes, a political committee that is subject to subsection A of this section shall file campaign finance reports pursuant to section 16-915, Arizona Revised Statutes, as follows:

1. A preelection report, which shall be filed at least sixty days before the special election and which shall be complete through the eighty-fourth day before the election.

2. A preelection report, which shall be filed at least four days before the special election and which shall be complete through the tenth day before the election.

3. A postelection report, which shall be filed not more than thirty days after the special election and which shall be complete through the twenty-first day after the election.

4. A postelection report, which shall cover the period beginning twenty-two days after the date of the special election through the ninetieth day after the special election, and another report of contributions and expenditures every ninety days thereafter or until the committee terminates.

C. A political committee that is subject to subsection A of this section shall notify the secretary of state of the following:

1. Any contribution or group of contributions to the committee that is made from a single source less than twenty days before the day of the election if it exceeds a cumulative total of ten thousand dollars for a ballot measure.

2. Each time any of the following occurs:

(a) The committee receives contributions totaling ten thousand dollars or more.

(b) The committee makes expenditures totaling ten thousand dollars or more.

(c) The committee receives contributions totaling ten thousand dollars or more from a single source.

(d) The committee receives contributions totaling ten thousand dollars or more from different additional single sources.

D. The notices prescribed by subsection C of this section shall be filed within twenty-four hours, excluding Saturdays, Sundays and other legal holidays, after the ten thousand dollar amount has been reached and shall include the identification of the contributors, the dates of receipt and the amounts of the contributions or the amount, recipient and purpose of the expenditures. Contributions that are subject to the notification requirements of subsection C of this section shall be included in the next report filed pursuant to subsection B of this section.

E. A political committee that violates this section or a person who knowingly violates this section is liable in a civil action for a civil penalty of up to three times the amount improperly reported as prescribed by section 16-924, Arizona Revised Statutes.

F. For the purposes of this section:

1. The definitions prescribed in sections 16-901 and 16-914.01, Arizona Revised Statutes, apply.

2. Title 16, chapter 6, article 1, Arizona Revised Statutes, applies to the special election called by this act to the greatest extent practicable.

**Sec. 7. Reimbursement of county expenses**

A. The secretary of state shall reimburse counties for the cost of printing ballots and other election materials for the special election and shall reimburse counties for compensation paid to election board and tally board officers serving during the special election, as well as other costs of administering the election. The secretary of state may advance a portion of estimated expenses to each county. A county that receives an advance shall provide subsequent documentation to the secretary of state pursuant to subsection B of this section.

B. The clerk of the board of supervisors of each county shall submit to the secretary of state for approval an itemized claim, together with documentation, verified by the clerk for expenses incurred or to be incurred by the county as prescribed by subsection A of this section. On approval of the claim by the secretary of state, the claim shall be submitted to the department of administration for payment to the county from the monies appropriated for this purpose in fiscal year 2015-2016.

**Sec. 8. Appropriation; secretary of state; exemption**

A. The sum of $9,300,000 is appropriated from the state general fund in fiscal year 2015-2016 to the secretary of state for the purposes provided in this act.

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

Passed by the House October 29, 2015.
Passed by the Senate October 30, 2015.
Approved by the Governor October 30, 2015.
Filed in the Office of the Secretary of State October 30, 2015.

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# MEMORIALS AND RESOLUTIONS

## EDUCATION FINANCE—TRUST LAND DISTRIBUTIONS—EDUCATION INFLATION ADJUSTMENTS

### HOUSE CONCURRENT RESOLUTION 2001

**A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE X, SECTION 7, CONSTITUTION OF ARIZONA; AMENDING ARTICLE XI, CONSTITUTION OF ARIZONA, BY ADDING SECTION 11; RELATING TO EDUCATION FINANCE.**

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. Article X, section 7, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

**7. Establishment of permanent funds; segregation, investment and distribution of monies; exception; resolution of litigation**

Section 7. A. A separate permanent fund shall be established for each of the several objects for which the said grants are made and confirmed by the enabling act to the state, and whenever any monies shall be in any manner derived from any of said lands, the same shall be deposited by the state treasurer in the permanent fund corresponding to the grant under which the particular land producing such monies was, by the enabling act, conveyed or confirmed.

B. No monies shall ever be taken from one permanent fund for deposit in any other, or for any object other than that for which the land producing the same was granted or confirmed.

C. All such monies shall be invested in safe interest-bearing securities and prudent equity securities consistent with the requirements of this section.

D. The legislature shall establish a board of investment to serve as trustees of the permanent funds. The board shall provide for the management of the assets of the funds consistent with the following conditions:

1. Not more than sixty ~~per cent~~ PERCENT of a fund at cost may be invested in equities at any time.

2. Equities that are eligible for purchase are restricted to stocks listed on any national stock exchange or eligible for trading through the United States national association of securities dealers automated quotation system, or successor institutions, except as may be prohibited by general criteria or by a restriction on investment in a specific security adopted pursuant to this subsection.

3. Not more than five ~~per cent~~ PERCENT of all of the funds combined at cost may be invested in equity securities issued by the same institution, agency or corporation, other than securities issued as direct obligations of and fully guaranteed by the United States government.

E. In making investments under this section the state treasurer and trustees shall exercise the judgment and care under the prevailing circumstances that an institutional investor of ordinary prudence, discretion and intelligence exercises in managing large investments entrusted to it, not in regard to speculation, but in regard to the permanent disposition of monies, considering the probable safety of capital as well as the probable total rate of return over extended periods of time.

F. The earnings, interest, dividends and realized capital gains and losses from investment of a permanent fund, shall be credited to that fund.

G. The board of investment shall determine the amount of the annual distributions required by this section and allocate distributions pursuant to law. ~~Beginning July 1, 2000 and except as otherwise provided in this section, the amount of the annual distribution from a permanent fund established pursuant to this section is the amount determined by multiplying the following factors:~~

~~1. The average of the annual total rate of return for the immediately preceding five complete fiscal years less the average of the annual percentage change in the GDP price deflator, or a successor index, for the immediately preceding five complete fiscal years. For the purposes of this paragraph:~~

~~(a) "Annual total rate of return" means the quotient obtained by dividing the amount credited to a fund pursuant to subsection F for a complete fiscal year, plus unrealized capital gains and losses, by the average monthly market value of the fund for that year.~~

~~(b) "GDP price deflator" means the gross domestic price deflator reported by the United States department of commerce, bureau of economic analysis, or its successor agency.~~

~~2. The average of the monthly market values of the fund for the immediately preceding five complete fiscal years.~~

~~H. Notwithstanding any other provision of this section,~~ The annual distribution from the permanent funds:

1. For fiscal years 2012-2013 through ~~2020-2021~~ 2014-2015, shall be two and one-half ~~per cent~~ PERCENT of the average monthly market values of the fund for the immediately preceding five calendar years.

2. FOR FISCAL YEARS 2015-2016 THROUGH 2024-2025, SHALL BE SIX AND NINE-TENTHS PERCENT OF THE AVERAGE MONTHLY MARKET VALUES OF THE FUND FOR THE IMMEDIATELY PRECEDING FIVE CALENDAR YEARS, EXCEPT THAT IN FISCAL YEAR 2015-2016, THE DISTRIBUTION MADE FROM THE PERMANENT STATE SCHOOL FUND SHALL BE $259,266,200.

3. BEGINNING WITH FISCAL YEAR 2025-2026, SHALL BE TWO AND ONE-HALF PERCENT OF THE AVERAGE MONTHLY MARKET VALUES OF THE FUND FOR THE IMMEDIATELY PRECEDING FIVE CALENDAR YEARS.

H. FOR FISCAL YEARS 2015-2016 THROUGH 2024-2025, ANY INCREASE IN EXPENDABLE EARNINGS UNDER SECTION 37-521, SUBSECTION B, PARAGRAPH 4, ARIZONA REVISED STATUTES, THAT RESULTS FROM A DISTRIBUTION OF MORE THAN TWO AND ONE-HALF PERCENT OF THE AVERAGE MONTHLY MARKET VALUES OF THE FUND FOR THE IMMEDIATELY PRECEDING FIVE CALENDAR YEARS PURSUANT TO SUBSECTION G, PARAGRAPH 2 OF THIS SECTION SHALL BE APPROPRIATED FOR BASIC STATE AID, INCLUDING INFLATION ADJUSTMENTS REQUIRED BY SECTION 15-901.01, ARIZONA REVISED STATUTES.

I. ON OR BEFORE FEBRUARY 1 OF EACH YEAR, IF THE AVERAGE MONTHLY MARKET VALUES OF THE FUND FOR THE IMMEDIATELY PRECEDING FIVE CALENDAR YEARS HAVE DECREASED COMPARED TO THE AVERAGE MONTHLY MARKET VALUES OF THE FUND FOR THE FIVE-CALENDAR-YEAR PERIOD THAT IMMEDIATELY PRECEDES THE PRECEDING FIVE CALENDAR YEARS, THE DIRECTOR OF THE OFFICE OF STRATEGIC PLANNING AND BUDGETING, OR ITS SUCCESSOR AGENCY, AND THE DIRECTOR OF THE JOINT LEGISLATIVE BUDGET COMMITTEE, OR ITS SUCCESSOR AGENCY, SHALL JOINTLY NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES THAT A REDUCTION TO THE DISTRIBUTION PRESCRIBED IN SUBSECTION G, PARAGRAPH 2 OF THIS SECTION IS NECESSARY TO PRESERVE THE SAFETY OF THE CAPITAL IN THE FUND. ON RECEIPT OF THAT NOTIFICATION, THE LEGISLATURE MAY ENACT LEGISLATION, WITH THE APPROVAL OF THE GOVERNOR, THAT REDUCES THE DISTRIBUTION IN SUBSECTION G, PARAGRAPH 2 OF THIS SECTION FOR THE NEXT FISCAL YEAR TO AT LEAST TWO AND ONE-HALF PERCENT BUT LESS THAN SIX AND NINE-TENTHS PERCENT OF THE AVERAGE MONTHLY MARKET VALUES OF THE FUND FOR THE IMMEDIATELY PRECEDING FIVE CALENDAR YEARS.

J. ANY AMOUNT REDUCED PURSUANT TO SUBSECTION I OF THIS SECTION IS NOT REQUIRED TO BE PAID OR DISTRIBUTED:

1. FROM ANY OTHER SOURCE OF PUBLIC MONIES.

2. IN ANY SUBSEQUENT FISCAL YEAR.

K. IF THE LEGISLATURE ENACTS LEGISLATION, WITH THE APPROVAL OF THE GOVERNOR, THAT REDUCES THE DISTRIBUTION PURSUANT TO SUBSECTION I OF THIS SECTION:

1. THE LEGISLATURE MAY REDUCE THE BASE LEVEL FOR THE NEXT FISCAL YEAR BY AN AMOUNT COMMENSURATE WITH THE REDUCTION IN THE DISTRIBUTION FROM THE PERMANENT STATE SCHOOL FUND FOR THE NEXT FISCAL YEAR.

2. THE AMOUNTS FROM THE BASE LEVEL REDUCTION ARE NOT REQUIRED TO BE PAID OR DISTRIBUTED IN ANY SUBSEQUENT FISCAL YEAR.

3. THE BASE LEVEL REDUCTION IS NOT PART OF THE CALCULATION OF THE BASE LEVEL FOR SUBSEQUENT FISCAL YEARS.

L. THIS SECTION PRESERVES THE AUTHORITY VESTED IN THE LEGISLATURE PURSUANT TO THIS CONSTITUTION.

M. THIS SECTION AND ARTICLE XI, SECTION 11 OF THIS CONSTITUTION AND THE TERMS AND APPROPRIATIONS OF HOUSE BILL 2001, FIFTY SECOND LEGISLATURE, FIRST SPECIAL SESSION, FULLY SATISFY THE REQUIREMENTS OF SECTION 15-901.01, ARIZONA REVISED STATUTES.

2. Article XI, Constitution of Arizona, is proposed to be amended by adding section 11 as follows if approved by the voters and on proclamation of the Governor:

**11. Schools; inflation adjustments; exceptions; definitions**

SECTION 11. A. ON OR BEFORE FEBRUARY 1 OF EACH YEAR, IF THE STATE TRANSACTION PRIVILEGE TAX GROWTH RATE AND THE TOTAL NONFARM EMPLOYMENT GROWTH RATE ARE EACH AT LEAST ONE PERCENT, BUT LESS THAN TWO PERCENT, THE DIRECTOR OF THE OFFICE OF STRATEGIC PLANNING AND BUDGETING, OR ITS SUCCESSOR AGENCY, AND THE DIRECTOR OF THE JOINT LEGISLATIVE BUDGET COMMITTEE, OR ITS SUCCESSOR AGENCY, SHALL JOINTLY NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. ON RECEIPT OF THE NOTIFICATION, THE LEGISLATURE IS NOT REQUIRED TO MAKE THE INFLATION ADJUSTMENTS REQUIRED BY SECTION 15-901.01, ARIZONA REVISED STATUTES, FOR THE NEXT FISCAL YEAR.

B. ON OR BEFORE FEBRUARY 1 OF EACH YEAR, IF THE STATE TRANSACTION PRIVILEGE TAX GROWTH RATE AND THE TOTAL NONFARM EMPLOYMENT GROWTH RATE ARE EACH LESS THAN ONE PERCENT, THE DIRECTOR OF THE OFFICE OF STRATEGIC PLANNING AND BUDGETING, OR ITS SUCCESSOR AGENCY, AND THE DIRECTOR OF THE JOINT LEGISLATIVE BUDGET COMMITTEE, OR ITS SUCCESSOR AGENCY, SHALL JOINTLY NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. ON RECEIPT OF THE NOTIFICATION, THE LEGISLATURE SHALL NOT MAKE THE INFLATION ADJUSTMENTS REQUIRED BY SECTION 15-901.01, ARIZONA REVISED STATUTES, FOR THE NEXT FISCAL YEAR.

C. BEGINNING IN FISCAL YEAR 2024-2025, ON OR BEFORE FEBRUARY 1 OF EACH YEAR, IF THE TOTAL AMOUNT OF GENERAL FUND APPROPRIATIONS FOR THE ARIZONA DEPARTMENT OF EDUCATION, OR ITS SUCCESSOR AGENCY, IS AT LEAST FORTY-NINE PERCENT BUT LESS THAN FIFTY PERCENT OF THE TOTAL GENERAL FUND APPROPRIATION FOR THE CURRENT FISCAL YEAR, THE DIRECTOR OF THE OFFICE OF STRATEGIC PLANNING AND BUDGETING, OR ITS SUCCESSOR AGENCY, AND THE DIRECTOR OF THE JOINT LEGISLATIVE BUDGET COMMITTEE, OR ITS SUCCESSOR AGENCY, SHALL JOINTLY NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. ON RECEIPT OF THE NOTIFICATION, THE LEGISLATURE:

1. IS NOT REQUIRED TO MAKE THE INFLATION ADJUSTMENTS REQUIRED BY SECTION 15-901.01, ARIZONA REVISED STATUTES, FOR THE NEXT FISCAL YEAR.

2. MAY REDUCE THE BASE LEVEL FOR THE NEXT FISCAL YEAR BY THE AMOUNT OF THE INFLATION ADJUSTMENTS REQUIRED BY SECTION 15-901.01, ARIZONA REVISED STATUTES, MADE FOR THE CURRENT FISCAL YEAR.

D. BEGINNING IN FISCAL YEAR 2024-2025, ON OR BEFORE FEBRUARY 1 OF EACH YEAR, IF THE TOTAL AMOUNT OF GENERAL FUND APPROPRIATIONS FOR THE ARIZONA DEPARTMENT OF EDUCATION, OR ITS SUCCESSOR AGENCY, IS AT LEAST FIFTY PERCENT OF THE TOTAL GENERAL FUND APPROPRIATION FOR THE CURRENT FISCAL YEAR, THE DIRECTOR OF THE OFFICE OF STRATEGIC PLANNING AND BUDGETING, OR ITS SUCCESSOR AGENCY, AND THE DIRECTOR OF THE JOINT LEGISLATIVE BUDGET COMMITTEE, OR ITS SUCCESSOR AGENCY, SHALL JOINTLY NOTIFY THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. ON RECEIPT OF THE NOTIFICATION, THE LEGISLATURE:

1. IS NOT REQUIRED TO MAKE THE INFLATION ADJUSTMENTS REQUIRED BY SECTION 15-901.01, ARIZONA REVISED STATUTES, FOR THE NEXT FISCAL YEAR.

2. MAY REDUCE THE BASE LEVEL FOR THE NEXT FISCAL YEAR BY TWO TIMES THE AMOUNT OF THE INFLATION ADJUSTMENTS REQUIRED BY SECTION 15-901.01, ARIZONA REVISED STATUTES, MADE FOR THE CURRENT FISCAL YEAR.

E. IF THE INFLATION ADJUSTMENTS REQUIRED BY SECTION 15-901.01, ARIZONA REVISED STATUTES, ARE NOT REQUIRED TO BE MADE OR ARE PROHIBITED FROM BEING MADE PURSUANT TO THIS SECTION FOR A FISCAL YEAR, THE OMITTED INFLATION ADJUSTMENT AMOUNTS:

1. ARE NOT REQUIRED TO BE PAID OR DISTRIBUTED IN ANY SUBSEQUENT FISCAL YEAR.

2. BECOME A PART OF THE CALCULATION OF THE BASE LEVEL FOR SUBSEQUENT FISCAL YEARS.

F. IF BASE LEVEL REDUCTIONS ARE MADE PURSUANT TO SUBSECTION C OR D OF THIS SECTION FOR A FISCAL YEAR, THE REDUCED AMOUNTS:

1. ARE NOT REQUIRED TO BE PAID OR DISTRIBUTED IN ANY SUBSEQUENT FISCAL YEAR.

2. DO NOT BECOME PART OF THE CALCULATION OF THE BASE LEVEL FOR SUBSEQUENT FISCAL YEARS.

G. THIS SECTION PRESERVES THE AUTHORITY VESTED IN THE LEGISLATURE PURSUANT TO THIS CONSTITUTION.

H. FOR THE PURPOSES OF THIS SECTION:

1. "TOTAL NONFARM EMPLOYMENT GROWTH RATE" MEANS THE PERCENTAGE CHANGE IN THE SEASONALLY ADJUSTED TOTAL NONFARM EMPLOYMENT IN THIS STATE FROM THE FINAL MONTH OF THE MOST RECENT CALENDAR YEAR TO THE FINAL MONTH OF THE IMMEDIATELY PRECEDING CALENDAR YEAR, AS REPORTED BY THE ARIZONA DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR AGENCY.

2. "STATE TRANSACTION PRIVILEGE TAX GROWTH RATE" MEANS THE PERCENTAGE CHANGE IN THE REVENUES DERIVED FROM THE STATE TRANSACTION PRIVILEGE TAX THAT ARE DISTRIBUTED TO THE STATE GENERAL FUND FROM THE MOST RECENT CALENDAR YEAR TO THE IMMEDIATELY PRECEDING CALENDAR YEAR, AS REPORTED BY THE ARIZONA DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY.

**3. Nonseverability**

If any portion of this proposition is finally adjudicated invalid, the entire proposition is void.

4. The Secretary of State shall submit this proposition to the voters at a special election called to be held for that purpose on May 17, 2016 as provided by article XXI, Constitution of Arizona.

Passed by the House October 29, 2015.
Passed by the Senate October 30, 2015.
Filed in the Office of the Secretary of State October 30, 2015.

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# GOVERNOR'S MESSAGES

State of Arizona
**EXECUTIVE OFFICE**
October 30, 2015

Dear Secretary Reagan:

Today I signed HB 2001, enacted by the Fifty-Second Legislature in its First Special Session, which authorizes a permanent infusion of dollars into our education funding system.

Over a 10-year period, and upon voter approval of HCR 2001, HB 2001 will provide nearly $3.5 billion for education. This represents $2.9 billion in basic state aid and $625 million in additional appropriated funds that schools can spend according to their needs.

I thank the members of the Arizona Legislature and the education community for their commitment to resolve the years-long inflation funding lawsuit. With this bill, educators will finally have the resources they have been asking for, and our students will have greater opportunities to succeed.

Sincerely,
/s/Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable David Gowan
The Honorable Andy Biggs