

ARIZONA LEGISLATIVE COUNCIL
DECEMBER 2022

PROPOSITION 105
REQUIREMENTS

KEEP UNTIL NOVEMBER 2024 GENERAL ELECTION

ARIZONA LEGISLATIVE COUNCIL

FOR USE IN THE FIFTY-SIXTH LEGISLATURE, INCLUDING ANY SPECIAL
SESSIONS DURING 2023 AND 2024

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I. 1998 PROPOSITION 105 TABLE OF SECTIONS AFFECTED
(Updated through the Fifty-fifth Legislature, Second Regular Session)

(ALSO CONSULT TEXT AND AMENDMENTS THAT FOLLOW)

In this table:

1. "R" means the proposition was a referendum.
2. "I" means the proposition was an initiative.
3. "T & R" means that the section was transferred and renumbered.
4. For purposes of Article IV, part 1, section 1, paragraph 6, subsection D, Constitution of Arizona: "n/a" means that there was no initiated or referred fund established or substantively amended in that section. "\$" means that there was an initiated or referred fund established in or associated with that section, and, if it was established in only a specific portion of the section, that unit designation is listed.
5. Bold text means that the amended section was subject to the Proposition 105 requirements for enactment.

Section	Action	Election	Fund	Type	Prop. No.	Subsequent Legislative Action
1-502	Amended	2022	n/a	R	308	
5-601.01	Repealed	2002	n/a	I	202	
5-601.02	Added	2002	\$ (H)	I	202	L04, Ch. 21, sec. 2 (amended); L12, Ch.170, sec. 2 (amended)
T8, C13	Added	2006	\$	I	203	
T8, C13, A1	Added	2006	n/a	I	203	
8-1151	Added	2006	n/a	I	203	
8-1152	Added	2006	n/a	I	203	
T8, C13, A2	Added	2006	\$	I	203	
8-1161	Added	2006	\$	I	203	
8-1162	Added	2006	n/a	I	203	
8-1163	Added	2006	n/a	I	203	
8-1164	Added	2006	n/a	I	203	
T8, C13, A3	Added	2006	n/a	I	203	
8-1171	Added	2006	n/a	I	203	
8-1172	Added	2006	n/a	I	203	
8-1173	Added	2006	n/a	I	203	
8-1174	Added	2006	n/a	I	203	
T8, C13, A4	Added	2006	\$	I	203	
8-1181	Added	2006	\$	I	203	
8-1182	Added	2006	\$	I	203	
8-1183	Added	2006	\$	I	203	
8-1184	Added	2006	\$	I	203	
8-1185	Added	2006	\$	I	203	

8-1186	Added	2006	\$	I	203	
T8, C13, A5	Added	2006	\$	I	203	
8-1191	Added	2006	n/a	I	203	
8-1192	Added	2006	\$ (A, B)	I	203	
8-1193	Added	2006	n/a	I	203	
8-1194	Added	2006	n/a	I	203	
8-1195	Added	2006	\$ (F)	I	203	
9-461.13* (formerly sec. 3)	Added	1998	n/a	R	303	
T12, C8, A2.1	Added	2006	n/a	I	207	
12-1131	Added	2006	n/a	I	207	
12-1132	Added	2006	n/a	I	207	
12-1133	Added	2006	n/a	I	207	
12-1134	Added	2006	n/a	I	207	
12-1135	Added	2006	n/a	I	207	
12-1136	Added	2006	n/a	I	207	
12-1137	Added	2006	n/a	I	207	
12-1138	Added	2006	n/a	I	207	
12-1598.10	Amended	2022	n/a	I	209	
13-901.01	Amended	2002	n/a	R	302	L05, Ch. 187, sec. 15 (amended)
13-901.01	Amended	2006	n/a	R	301	L08, Ch. 301, sec. 42 (amended)
13-2910.03	Added	1998	n/a	I	201	
13-2910.03	T & R to 13-2910.05	1998	n/a	I	201	
13-2910.04	Added	1998	n/a	I	201	
13-2910.04	T & R to 13-2910.06	1998	n/a	I	201	
13-2910.05	Amended (as T & R)	1998	n/a	I	201	L21, Ch. 35, sec. 1 (amended)
13-2910.06	Amended (as T & R)	1998	n/a	I	201	
13-2910.07	Added	2006	n/a	I	204	
13-2910.08	Added	2006	\$	I	204	
13-3301	Amended	2002	n/a	I	202	L14, Ch. 49, sec. 1 (amended); L15, Ch. 111, sec. 1 (amended); L18, Ch. 338, sec. 4 (amended); L21, Ch. 234, sec. 5 (amended)

*Renumbered

15-191.01	Amended	2006	n/a	R	300	L98, Ch. 295, sec. 10, as amended by L03, Ch. 264, sec. 46 (repealed)
15-232	Amended	2006	n/a	R	300	L07, Ch. 184, sec. 1 (amended); L13, Ch. 11, sec. 1 (amended)
T15 C7 A3.1	Repealed	2000	n/a	I	203	
T15 C7 A3.1	Added	2000	n/a	I	203	
15-751	Added	2000	n/a	I	203	
15-752	Added	2000	n/a	I	203	
15-753	Added	2000	n/a	I	203	
15-754	Added	2000	n/a	I	203	
15-755	Added	2000	n/a	I	203	L06, Ch. 265, sec. 2 (amended)
15-901.01	Added	2000	\$	R	301	
15-910	Amended	2000	\$	R	301	L02, Ch. 68, sec. 1 (amended); L05, Ch. 159, sec. 1 (amended); L06, Ch. 4, sec. 5 (amended); L09, 3SS, Ch. 12, sec. 29 (amended); L13, 1SS, Ch. 3, sec. 21 (amended); L16, Ch. 124, sec. 16 (amended); L18, Ch. 283, sec. 2 (amended); L22, Ch. 285, sec. 3 (amended); L22, Ch. 317, sec. 6 (amended)
15-979* (formerly 15-978)	Added	2002	\$	I	202	L03, Ch. 176, sec. 2 (renumbered)
T15, C10.1	Added	2020	\$	I	208	
15-1281	Added	2020	\$	I	208	
15-1282	Added	2020	\$	I	208	
15-1283	Added	2020	n/a	I	208	
15-1284	Added	2020	n/a	I	208	
15-1285	Added	2020	n/a	I	208	
15-1655	Amended	2020	\$	I	208	L21, Ch. 43, sec. 1 (amended)

15-1803	Amended	2006	n/a	R	300	2022 Prop. 308, sec. 2 (amended)
15-1803	Amended	2022	n/a	R	308	
15-1825	Added	2006	n/a	R	300	2022 Prop. 308, sec. 3 (repealed)
15-1825	Repealed	2022	n/a	R	308	
16-152	Amended	2004	n/a	I	200	L05, Ch. 98, sec. 3 (amended); L11, Ch. 339, sec. 1 (amended); L22, Ch. 370, sec. 1 (amended)
16-166	Amended	2004	n/a	I	200	L08, Ch. 273, sec. 5 (amended); L10, Ch. 209, sec. 3 (amended); L19, Ch. 242, sec.1 (amended); L22, Ch. 277, sec. 3 (amended)
16-579	Amended	2004	n/a	I	200	L09, Ch. 173, sec. 2 (amended); L11, Ch. 331, sec. 7 (amended); L21, Ch. 420, sec. 1 (amended); L22, Ch. 277, sec. 12 (amended)
16-901.01	Added	1998	n/a	I	200	L12, Ch. 257, sec. 1 (amended)
T16 C6 A2	Added	1998	\$	I	200	
16-940	Added	1998	n/a	I	200	
16-941	Added	1998	n/a	I	200	L07, Ch. 277, sec. 2 (amended); L09, Ch. 114, sec. 8 (amended); L12, Ch. 257, sec. 3 (amended); L12, Ch. 290, sec. 2 (amended)
16-942	Added	1998	n/a	I	200	
16-943	Added	1998	n/a	I	200	
16-944	Added	1998	n/a	I	200	L07, Ch. 277, sec. 3 (repealed)

16-945	Added	1998	n/a	I	200	L12, Ch. 257, sec. 4 (amended); L12, Ch. 290, sec. 3 (amended)
16-946	Added	1998	n/a	I	200	L12, Ch. 257, sec. 5 (amended)
16-947	Added	1998	n/a	I	200	L12, Ch. 257, sec. 6 (amended)
16-948	Added	1998	n/a	I	200	L13, Ch. 254, sec. 12 (amended); 2018 Prop. 306, sec. 1 (amended)
16-948	Amended	2018	n/a	R	306	
16-949	Added	1998	\$	I	200	L02, Ch. 212, sec. 1 (amended); L12, Ch. 257, sec. 7 (amended)
16-950	Added	1998	n/a	I	200	L06, Ch. 154, sec. 1 (amended); L07, Ch. 277, sec. 4 (amended); L12, Ch. 257, sec. 8 (amended); L13, Ch. 254, sec. 13 (amended)
16-951	Added	1998	n/a	I	200	L12, Ch. 257, sec. 9 (amended)
16-952	Added	1998	n/a	I	200	L07, Ch. 277, sec. 5 (amended); L12, Ch. 257, sec. 10 (amended)
16-953	Added	1998	n/a	I	200	L07, Ch. 277, sec. 6 (amended)
16-954	Added	1998	n/a	I	200	L12, Ch. 257, sec. 11 (amended)
16-955	Added	1998	n/a	I	200	L07, Ch. 277, sec. 7 (amended)
16-956	Added	1998	n/a	I	200	L02, Ch. 212, sec. 2 (amended); L07, Ch. 277, sec. 8 (amended); L12, Ch. 257, sec. 12 (amended); 2018 Prop. 306, sec. 2 (amended)

16-956	Amended	2018	n/a	R	306	
16-957	Added	1998	n/a	I	200	
16-958	Added	1998	n/a	I	200	L07, Ch. 277, sec. 9 (amended); L12, Ch. 257, sec. 13 (amended); L12, Ch. 290, sec. 4 (amended)
16-959	Added	1998	n/a	I	200	L07, Ch. 277, sec. 10 (amended); L09, Ch. 114, sec. 9 (amended); L12, Ch. 257, sec. 14 (amended)
16-960	Added	1998	n/a	I	200	
16-961	Added	1998	n/a	I	200	L07, Ch. 277, sec. 11 (amended); L12, Ch. 257, sec. 15 (amended)
T16, C6.1	Added	2022	\$	I	211	
T16, C6.1, A1	Added	2022	\$	I	211	
16-971	Added	2022	n/a	I	211	
16-972	Added	2022	n/a	I	211	
16-973	Added	2022	n/a	I	211	
16-974	Added	2022	n/a	I	211	
16-975	Added	2022	n/a	I	211	
16-976	Added	2022	\$(B)	I	211	
16-977	Added	2022	n/a	I	211	
16-978	Added	2022	n/a	I	211	
16-979	Added	2022	n/a	I	211	
17-299	Added	2002	\$	I	202	
T23, C2, A8	Added	2006	n/a	I	202	
Article heading of T23, C2, A8	Changed	2016	n/a	I	206	
23-362	Repealed	2006	n/a	I	202	
23-362	Added	2006	n/a	I	202	
23-363	Added	2006	n/a	I	202	2016 Prop. 206, sec. 3 (amended)
23-363	Amended	2016	n/a	I	206	
23-364	Added	2006	n/a	I	202	2016 Prop. 206, sec. 4 (amended)
23-364	Amended	2016	n/a	I	206	
T23, C2, A8.1	Added	2016	n/a	I	206	
23-371	Added	2016	n/a	I	206	
23-372	Added	2016	n/a	I	206	

23-373	Added	2016	n/a	I	206	
23-374	Added	2016	n/a	I	206	
23-375	Added	2016	n/a	I	206	
23-376	Added	2016	n/a	I	206	
23-377	Added	2016	n/a	I	206	
23-378	Added	2016	n/a	I	206	
23-379	Added	2016	n/a	I	206	
23-380	Added	2016	n/a	I	206	
23-381	Added	2016	n/a	I	206	
33-1101	Amended	2022	n/a	I	209	
33-1123	Amended	2022	n/a	I	209	
33-1125	Amended	2022	n/a	I	209	
33-1126	Amended	2022	n/a	I	209	
33-1131	Amended	2022	n/a	I	209	
36-601.01	Repealed	2006	n/a	I	201	
36-601.01	Added	2006	\$ (L)	I	201	
36-601.02	Repealed	2006	n/a	I	201	
Article heading of T36, C6, A8	Changed	2002	n/a	R	303	
36-770	Added	2002	\$	R	303	
36-772	Repealed	2002	\$	R	303	
36-772	Added	2002	\$	R	303	
36-776	Added	2002	\$	R	303	
36-777	Added	2002	\$	R	303	
36-778	Added	2002	\$	R	303	
T36, C11.1	Added	2014	n/a	R	303	
T36, C11.1, A1	Added	2014	n/a	R	303	
36-1311	Added	2014	n/a	R	303	
36-1312	Added	2014	n/a	R	303	
36-1313	Added	2014	n/a	R	303	
36-1314	Added	2014	n/a	R	303	
T36, C28.1	Added	2010	\$	I	203	
36-2801	Added	2010	n/a	I	203	L19, Ch. 318, sec. 1 (amended)
36-2801.01	Added	2010	n/a	I	203	
36-2802	Added	2010	n/a	I	203	
36-2803	Added	2010	n/a	I	203	L16, Ch. 92, sec. 1 (amended); L19, Ch. 318, sec. 2 (amended); L21, Ch. 386, sec. 1 (amended); L21, Ch. 398, sec. 1 (amended); L21, Ch. 439, sec. 1 (amended)

36-2804	Added	2010	n/a	I	203	
36-2804.01	Added	2010	n/a	I	203	L19, Ch. 318, sec. 4 (amended); L21, Ch. 439, sec. 2 (amended)
36-2804.02	Added	2010	n/a	I	203	
36-2804.03	Added	2010	n/a	I	203	
36-2804.04	Added	2010	n/a	I	203	L16, Ch. 92, sec. 2 (amended)
36-2804.05	Added	2010	n/a	I	203	L19, Ch. 318, sec. 5 (amended)
36-2804.06	Added	2010	n/a	I	203	L19, Ch. 318, sec. 6 (amended)
36-2805	Added	2010	n/a	I	203	
36-2806	Added	2010	n/a	I	203	L19, Ch. 318, sec. 8 (amended); L21, Ch. 387, sec. 1 (amended); L21, Ch. 398, sec. 3 (amended)
36-2806.01	Added	2010	n/a	I	203	
36-2806.02	Added	2010	n/a	I	203	
36-2807	Added	2010	n/a	I	203	L11, Ch. 336, sec. 4 (amended)
36-2808	Added	2010	n/a	I	203	
36-2809	Added	2010	n/a	I	203	
36-2810	Added	2010	n/a	I	203	L12, Ch. 112, sec. 2 (amended); L19, Ch. 318, sec. 9 (amended)
36-2811	Added	2010	n/a	I	203	
36-2812	Added	2010	n/a	I	203	2010 Prop. 203, sec. 5 (repealed)
36-2813	Added	2010	n/a	I	203	
36-2814	Added	2010	n/a	I	203	L15, Ch. 210, sec. 1 (amended)
36-2815	Added	2010	n/a	I	203	
36-2816	Added	2010	n/a	I	203	L19, Ch. 318, sec. 10 (amended); L21, Ch. 439, sec. 3 (amended)
36-2817	Added	2010	\$	I	203	
36-2817	Amended	2020	\$	I	207	L21, Ch. 386, sec. 2 (amended); L21, Ch. 398, sec. 5 (amended); L21, Ch. 419, sec. 2 (amended)

36-2818	Added	2010	n/a	I	203	
36-2819	Added	2010	n/a	I	203	L19, Ch. 318, sec. 11 (amended); L21, Ch. 439, sec. 4 (amended)
T36, C28.2	Added	2020	\$	I	207	
36-2850	Added	2020	n/a	I	207	L21, Ch. 394, sec. 1 (amended)
36-2851	Added	2020	n/a	I	207	
36-2852	Added	2020	n/a	I	207	
36-2853	Added	2020	n/a	I	207	
36-2854	Added	2020	n/a	I	207	L21, Ch. 387, sec. 2 (amended); L21, Ch. 394, sec. 2 (amended); L21, Ch. 439, sec. 6 (amended)
36-2855	Added	2020	n/a	I	207	
36-2856	Added	2020	\$	I	207	
36-2857	Added	2020	n/a	I	207	
36-2858	Added	2020	n/a	I	207	L21, Ch. 394, sec. 4 (amended)
36-2859	Added	2020	n/a	I	207	
36-2860	Added	2020	n/a	I	207	
36-2861	Added	2020	n/a	I	207	
36-2862	Added	2020	n/a	I	207	
36-2863	Added	2020	\$	I	207	
36-2864	Added	2020	n/a	I	207	
36-2865	Added	2020	n/a	I	207	
36-2901.01	Repealed	2000	\$	I	204	
36-2901.01	Added	2000	\$(B)	I	204	
36-2901.02	Added	2000	\$	I	204	
36-2903.07	Added	2002	\$	I	202	
37-521	Amended	2002	\$	R	300	L03, Ch. 176, sec. 3 (amended); L03, Ch. 264, sec. 11 (amended); L09, 3SS, Ch. 5, sec. 4 (amended); L21, Ch. 404, sec. 53 (amended); L22, Ch. 317, sec. 18 (amended)

41-511.23	Amended	1998	\$ (D)(2)	R	303	L99, Ch. 270, sec. 7 (amended); L00, Ch. 96, sec. 1 (amended); L00, Ch. 127, sec. 2 (amended); L03, Ch. 252, sec. 1 (amended); L07, Ch. 262, sec. 2 (amended); L09, 3SS, Ch. 5, sec. 10 (amended)
41-1276	Amended	2000	\$(H)	R	301	L05, Ch. 302, sec. 2 (amended); L06, Ch. 354, sec. 23 (amended); L07, Ch. 264, sec. 11 (amended); L08, Ch. 287, sec. 30 (amended); L13, Ch. 66, sec. 6 (amended); L17, Ch. 198, sec. 3 (amended); L19, Ch. 265, sec. 18 (amended); L20, Ch. 49, sec. 4 (amended); L21, Ch. 404, sec. 55 (amended); L22 Ch. 171, sec. 1 (amended); L22, Ch. 171, sec. 1, as amended by L22, Ch. 317, sec. 19 (amended)
41-1505.12	Added	2002	\$	I	202	L12, Ch. 170, sec. 32 (amended)
41-2306 (as amended by L00, Ch. 372, sec. 3)	Repealed	2002	\$	I	202	

41-2306 (as amended by L02, Ch. 375, sec. 3)	Amended	2002	\$	I	202	L03, Ch. 176, sec. 5 (amended); L10, 7SS, Ch. 12, sec. 17 (amended); L10, Ch. 128, sec. 1 (amended); L12, Ch. 297, sec. 15 (amended)
41-2999.14	Repealed	1998	n/a	R	304	
41-3003.11* (formerly 41-3003.10)	Added	1998	n/a	R	304	
41-3003.11	Repealed	2002	n/a	R	301	
41-3012.16* (formerly 41-3012.01)	Added	2002	n/a	R	301	L03, Ch. 176, sec. 7 (renumbered)
42-3251	Added	2000	n/a	I	200	
42-3251.01	Added	2002	\$	R	303	
42-3251.02	Added	2006	\$	I	201	
42-3302	Amended	2002	\$	R	303	
T42, C3, A9	Added	2006	\$	I	203	
42-3371	Added	2006	\$	I	203	
42-3372	Added	2006	\$	I	203	
42-5010	Amended	2000	\$ (G)	R	301	L03, Ch. 3, sec. 1 (amended); L04, Ch. 234, sec. 1 (amended); L06, Ch. 354, sec. 26 (amended); L12, Ch. 328, sec. 3 (amended); L13, Ch. 255, sec. 6 (amended); L14, Ch. 245, sec. 5 (amended); L15, Ch. 4, sec. 9 (amended); L16, Ch. 208, sec. 7 (amended)

42-5029	Amended	2000	\$ (E)	R	301	L00, 7SS, Ch. 1, sec. 9 (amended); L01, Ch. 117, sec. 30 (amended); L01, 2SS, Ch. 2, sec. 9 (amended); L02, 3SS, Ch. 1, sec. 5 (amended); L02, Ch. 288, sec. 15 (amended); L03, Ch. 119, sec. 3 (amended); L03, Ch. 253, sec. 45 (amended) ; L03, Ch. 266, sec. 3 (amended); L06, Ch. 351, sec. 7 (amended); L06, Ch. 354, sec. 27 (amended); L07, Ch. 276, sec. 1 (amended); L08, Ch. 243, sec. 4 (amended) ; L10, 7SS, Ch. 12, sec. 31 (amended); L10, Ch. 128, sec. 2 (amended); L11, 2SS, Ch. 1, sec. 74 (amended); L11, Ch. 248, sec. 12 (amended); L11, Ch. 249, sec. 2 (amended); L12, Ch. 297, sec. 16 (amended); L12, Ch. 301, sec. 5 (amended); L12, Ch. 328, sec. 4 (amended); L13, Ch. 255, sec. 9 (amended); L15, Ch. 10, sec. 5 (amended); L15, Ch. 306, sec. 8 (amended); L16,
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42-5029 (cont.)	Amended	2000	\$ (E)	R	301	Ch. 35, sec. 2 (amended); L17, Ch. 312, sec. 4 (amended); L18, Ch. 74, sec. 12 (amended); L21, Ch. 411, sec. 2 (amended)
42-5155	Amended	2000	\$ (D)	R	301	L06, Ch. 230, sec. 2 (amended); L18, Ch. 74, sec. 15 (amended)
T42, C5, A10	Added	2020	n/a	I	207	
42-5451	Added	2020	n/a	I	207	
42-5452	Added	2020	n/a	I	207	
42-5453	Added	2020	n/a	I	207	
43-108	Added	2020	n/a	I	207	
43-1013	Added	2020	n/a	I	208	
43-1072.01	Added	2000	\$	R	301	L02, Ch. 280, sec. 1 (amended); L14, Ch. 68, sec. 1 (amended)
43-1201	Amended	2010	n/a	I	203	L18, Ch. 338, sec. 50 (amended)
44-1201	Amended	2022	n/a	I	209	
46-140.01	Added	2004	n/a	I	200	
46-801	Amended	2006	n/a	R	300	
46-803	Amended	2006	n/a	R	300	L11, Ch. 83, sec. 44 (amended); L14, 2SS, Ch. 1, sec. 153 (amended); L16, Ch. 187, sec. 1 (amended); L19, Ch. 271, sec. 5 (amended); L21, Ch. 287, sec. 1 (amended)

II. 1998 PROPOSITION 105 BILL FORMAT INSTRUCTIONS

To amend a statutory section that appears on the 1998 Proposition 105 Table of Sections Affected list and that has a database edit note to that effect, use the following language:

For the section lead in:

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

Plus, the requirements for enactment language at the end of the bill:

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

Pursuant to article IV, part 1, section 1, Constitution of Arizona, section x-xxx, 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.

If the bill or amendment contains multiple statute sections subject to Proposition 105's requirements, adjust the requirements for enactment language as appropriate:

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

Pursuant to article IV, part 1, section 1, Constitution of Arizona, sections x-xxx, x-xxxx, xx-xxx and xx-xxxx, Arizona Revised Statutes, as amended by this act, are effective only on the affirmative vote of at least three-fourths of the members of each house of the legislature.

It is possible that a bill may have both an "Emergency" clause and a "Requirements for enactment; three-fourths vote" clause. It is also possible that a bill may have both a "Requirements for enactment; two-thirds vote" clause (Prop. 108) and a "Requirements for enactments; three-fourths vote" clause.

Nothing need appear in the bill's title relating to these requirements.

III. 1998 PROPOSITION 105 TEXT

PROPOSITION 105

OFFICIAL TITLE

AN INITIATIVE MEASURE

PROPOSING AMENDMENTS TO THE CONSTITUTION OF ARIZONA: AMENDING ARTICLE IV, PART 1, SECTION 1, SUBSECTION 6, CONSTITUTION OF ARIZONA, RELATING TO ATTEMPTS TO VETO, AMEND AND REPEAL MEASURES ENACTED BY INITIATIVE OR REFERENDUM AND TO APPROPRIATE OR DIVERT FUNDS CREATED OR ALLOCATED TO A SPECIFIC PURPOSE BY AN INITIATIVE OR REFERENDUM; AMENDING ARTICLE IV, PART 1, SECTION 1, SUBSECTION 14, CONSTITUTION OF ARIZONA, RELATING TO RESERVATION OF LEGISLATIVE POWER TO ADOPT MEASURES THAT SUPERSEDE MEASURES ADOPTED BY INITIATIVE OR REFERENDUM; AND AMENDING ARTICLE IV, PART 1, SECTION 1, SUBSECTION 15, CONSTITUTION OF ARIZONA, RELATING TO THE LEGISLATURE'S RIGHT TO REFER MEASURES TO THE PEOPLE AND RENUMBERING TO CONFORM.

TEXT OF PROPOSED AMENDMENTS

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

The Constitution of Arizona is proposed to be amended as follows, by amending Article IV, Part 1, Section 1, subsections 6 and 14, and adding new subsection 15 and renumbering to conform, if approved by a majority of the votes cast thereon and on proclamation of the Governor:

Section 1. Article IV, Part 1, Section 1, Constitution of Arizona, is amended to read:

Part 1. INITIATIVE AND REFERENDUM

§ 1. **Legislative authority; initiative and referendum**

Section 2. (1) **Senate; house of representatives; reservation of power to people.** The legislative authority of the State shall be vested in the Legislature, consisting of a Senate and a House of Representatives, but the people reserve the power to propose laws and amendments to the Constitution and to enact or reject such laws and amendments at the polls, independently of the Legislature; and they also reserve, for use at their own option, the power to approve or reject at the polls any Act, or item, section, or part of any Act, of the Legislature.

(2) **Initiative power.** The first of these reserved powers is the Initiative. Under this power ten per centum of the qualified electors shall have the right to propose any measure, and fifteen per centum shall have the right to proposed any amendment to the Constitution.

(3) **Referendum power; emergency measures; effective date of acts** The second of these reserved powers is the Referendum. Under this power the Legislature, or five per centum of the qualified electors, may order the submission to the people at the polls of any measure, or item, section, or part of any measure, enacted by the Legislature, except laws immediately necessary for the preservation of the public peace, health, or

safety, or for the support and maintenance of the departments of the State Government and State institutions; but to allow opportunity for Referendum Petitions, no Act passed by the Legislature shall be operative for ninety days after the close of the session of the Legislature enacting such measure, except such as require earlier operation to preserve the public peace, health, or safety, or to provide appropriations for the support and maintenance of the Departments of the State and of State institutions; provided, that no such emergency measure shall be considered passed by the Legislature unless it shall state in a separate section why it is necessary that it shall become immediately operative, and shall be approved by the affirmative votes of two-thirds of the members elected to each House of the Legislature, taken by roll call of ayes and nays, and also approved by the Governor; and should such measure be vetoed by the Governor, it shall not become a law unless it shall be approved by the votes of three-fourths of the members elected to each House of the Legislature, taken by roll call of ayes and nays.

(4) **Initiative and referendum petitions; filing.** All petitions submitted under the power of the Initiative shall be known as Initiative Petitions, and shall be filed with the Secretary of State not less than four months preceding the date of the election at which the measures so proposed are to be voted upon. All petitions submitted under the power of the Referendum shall be known as Referendum Petitions, and shall be filed with the Secretary of State not more than ninety days after the final adjournment of the session of the Legislature which shall have passed the measure to which the Referendum is applied. The filing of a Referendum Petition against any item, section, or part of any measure shall not prevent the remainder of such measure from becoming operative.

(5) **Effective date of initiative and referendum measures.** Any measure or amendment to the Constitution proposed under the Initiative, and any measure to which the Referendum is applied, shall be referred to a vote of the qualified electors, and shall become law when approved by a majority of the votes cast thereon and upon proclamation of the Governor, and not otherwise.

~~(6) Veto and repealing power~~ (6)(A) **VETO OF INITIATIVE OR REFERENDUM.** ~~The veto power of the Governor, or the power of the Legislature, to repeal or amend, shall not extend to initiative or referendum measures approved by a majority vote of the qualified electors.~~ THE VETO POWER OF THE GOVERNOR SHALL NOT EXTEND TO AN INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES CAST THEREON OR TO A REFERENDUM MEASURE DECIDED BY A MAJORITY OF THE VOTES CAST THEREON.

(6) (B) **LEGISLATURE'S POWER TO REPEAL INITIATIVE OR REFERENDUM.** THE LEGISLATURE SHALL NOT HAVE THE POWER TO REPEAL AN INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES CAST THEREON OR

TO REPEAL A REFERENDUM MEASURE DECIDED BY A MAJORITY OF THE VOTES CAST THEREON.

(6) (C) LEGISLATURE'S POWER TO AMEND INITIATIVE OR REFERENDUM. THE LEGISLATURE SHALL NOT HAVE THE POWER TO AMEND AN INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES CAST THEREON, OR TO AMEND A REFERENDUM MEASURE DECIDED BY A MAJORITY OF THE VOTES CAST THEREON, UNLESS THE AMENDING LEGISLATION FURTHERS THE PURPOSES OF SUCH MEASURE AND AT LEAST THREE-FOURTHS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE, BY A ROLL CALL OF AYES AND NAYS, VOTE TO AMEND SUCH MEASURE.

(6) (D) LEGISLATURE'S POWER TO APPROPRIATE OR DIVERT FUNDS CREATED BY INITIATIVE OR REFERENDUM. THE LEGISLATURE SHALL NOT HAVE THE POWER TO APPROPRIATE OR DIVERT FUNDS CREATED OR ALLOCATED TO A SPECIFIC PURPOSE BY AN INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES CAST THEREON, OR BY A REFERENDUM MEASURE DECIDED BY A MAJORITY OF THE VOTES CAST THEREON, UNLESS THE APPROPRIATION OR DIVERSION OF FUNDS FURTHERS THE PURPOSES OF SUCH MEASURE AND AT LEAST THREE-FOURTHS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE, BY A ROLL CALL OF AYES AND NAYS, VOTE TO APPROPRIATE OR DIVERT SUCH FUNDS.

(7) Number of qualified electors. The whole number of votes cast for all candidates for Governor at the general election last preceding the filing of any Initiative or Referendum petition on a State or county measure shall be the basis on which the number of qualified electors required to sign such petition shall be computed.

(8) Local, city, town or county matters. The powers of the Initiative and the Referendum are hereby further reserved to the qualified electors of every incorporated city, town, and county as to all local, city, town, or county matters on which such incorporated cities, towns, and counties are or shall be empowered by general laws to legislate. Such incorporated cities, towns, and counties may prescribe the manner of exercising said powers within the restrictions of general laws. Under the power of the Initiative fifteen per centum of the qualified electors may propose measures on such local, city, town, or county matters, and ten per centum of the electors may propose the Referendum on legislation enacted within and by such city, town, or county. Until provided by general law, said cities and towns may prescribe the basis on which said percentages shall be computed.

(9) Form and contents of initiative and of referendum petitions; verification. Every Initiative or Referendum petition shall be addressed to the Secretary of State in the case of petitions for or on State

measures, and to the clerk of the Board of Supervisors, city clerk, or corresponding officer in the case of petitions for or on county, city, or town measures; and shall contain the declaration of each petitioner, for himself, that he is a qualified elector of the State (and in the case of petitions for or on city, town, or county measures, of the city, town, or county affected), his post office address, the street and number, if any, of his residence, and the date on which he signed such petition. Each sheet containing petitioners' signatures shall be attached to a full and correct copy of the title and text of the measure so proposed to be initiated or referred to the people, and every sheet of every such petition containing signatures shall be verified by the affidavit of the person who circulated said sheet or petition, setting forth that each of the names on said sheet was signed in the presence of the affiant and that in the belief of the affiant each signer was a qualified elector of the State, or in the case of a city, town, or county measure, of the city, town, or county affected by the measure so proposed to be initiated or referred to the people.

(10) **Official ballot.** When any Initiative or Referendum petition or any measure referred to the people by the Legislature shall be filed, in accordance with this section, with the Secretary of State, he shall cause to be printed on the official ballot at the next regular general election the title and number of said measure, together with the words "Yes" and "No" in such manner that the electors may express at the polls their approval or disapproval of the measure.

(11) **Publication of measures.** The text of all measures to be submitted shall be published as proposed amendments to the Constitution are published, and in submitting such measures and proposed amendments the Secretary of State and all other officers shall be guided by the general law until legislation shall be especially provided therefor.

(12) **Conflicting measures or constitutional amendments.** If two or more conflicting measures or amendments to the Constitution shall be approved by the people at the same election, the measure or amendment receiving the greatest number of affirmative votes shall prevail in all particulars as to which there is conflict.

(13) **Canvass of votes; proclamation.** It shall be the duty of the Secretary of State, in the presence of the Governor and the Chief Justice of the Supreme Court, to canvass the votes for and against each such measure or proposed amendment to the Constitution within thirty days after the election, and upon the completion of the canvass the Governor shall forthwith issue a proclamation, giving the whole number of votes cast for and against each measure or proposed amendment, and declaring such measures or amendments as are approved by a majority of those voting thereon to be law.

(14) **Reservation of legislative power.** This section shall not be construed to deprive the Legislature of the right to enact any measure. EXCEPT THAT THE LEGISLATURE SHALL NOT HAVE THE POWER TO ADOPT ANY MEASURE THAT SUPERSEDES, IN

WHOLE OR IN PART, ANY INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES CAST THEREON OR ANY REFERENDUM MEASURE DECIDED BY A MAJORITY OF THE VOTES CAST THEREON UNLESS THE SUPERSEDING MEASURE FURTHERS THE PURPOSES OF THE INITIATIVE OR REFERENDUM MEASURE AND AT LEAST THREE-FOURTHS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE, BY A ROLL CALL OF AYES AND NAYS, VOTE TO SUPERSEDE SUCH INITIATIVE OR REFERENDUM MEASURE.

(15) LEGISLATURE'S RIGHT TO REFER MEASURE TO THE PEOPLE. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO DEPRIVE OR LIMIT THE LEGISLATURE OF THE RIGHT TO ORDER THE SUBMISSION TO THE PEOPLE AT THE POLLS OF ANY MEASURE, ITEM, SECTION, OR PART OF ANY MEASURE.

~~(15)~~ **(16) Self-executing.** This section of the Constitution shall be, in all respects, self-executing.

SECTION 2. SECTION 1 HEREOF SHALL APPLY RETROACTIVELY TO ALL INITIATIVE AND REFERENDUM MEASURES DECIDED BY THE VOTERS AT AND AFTER THE NOVEMBER 1998 GENERAL ELECTION.

IV. 1998 BALLOT MEASURES

PROPOSITION 200

OFFICIAL TITLE

AN INITIATIVE MEASURE

CITIZENS CLEAN ELECTIONS ACT

TEXT OF THE PROPOSED AMENDMENT

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

Section 1. In title 16, chapter 6, add the following article:

ARTICLE 2. CITIZENS CLEAN ELECTIONS ACT

16-940. FINDINGS AND DECLARATIONS.

A. THE PEOPLE OF ARIZONA DECLARE OUR INTENT TO CREATE A CLEAN ELECTIONS SYSTEM THAT WILL IMPROVE THE INTEGRITY OF ARIZONA STATE GOVERNMENT BY DIMINISHING THE INFLUENCE OF SPECIAL-INTEREST MONEY, WILL ENCOURAGE CITIZEN PARTICIPATION IN THE POLITICAL PROCESS, AND WILL PROMOTE FREEDOM OF SPEECH UNDER THE U.S. AND ARIZONA CONSTITUTIONS. CAMPAIGNS WILL BECOME MORE ISSUE-ORIENTED AND LESS NEGATIVE BECAUSE THERE WILL BE NO NEED TO CHALLENGE THE SOURCES OF CAMPAIGN MONEY.

B. THE PEOPLE OF ARIZONA FIND THAT OUR CURRENT ELECTION-FINANCING SYSTEM:

1. ALLOWS ARIZONA ELECTED OFFICIALS TO ACCEPT LARGE CAMPAIGN CONTRIBUTIONS FROM PRIVATE INTERESTS OVER WHICH THEY HAVE GOVERNMENTAL JURISDICTION;

2. GIVES INCUMBENTS AN UNHEALTHY ADVANTAGE OVER CHALLENGERS;

3. HINDERS COMMUNICATION TO VOTERS BY MANY QUALIFIED CANDIDATES;

4. EFFECTIVELY SUPPRESSES THE VOICES AND INFLUENCE OF THE VAST MAJORITY OF ARIZONA CITIZENS IN FAVOR OF A SMALL NUMBER OF WEALTHY SPECIAL INTERESTS;

5. UNDERMINES PUBLIC CONFIDENCE IN THE INTEGRITY OF PUBLIC OFFICIALS;

6. COSTS AVERAGE TAXPAYERS MILLIONS OF DOLLARS IN THE FORM OF SUBSIDIES AND SPECIAL PRIVILEGES FOR CAMPAIGN CONTRIBUTORS;

7. DRIVES UP THE COST OF RUNNING FOR STATE OFFICE, DISCOURAGING OTHERWISE QUALIFIED CANDIDATES WHO LACK PERSONAL WEALTH OR ACCESS TO SPECIAL-INTEREST FUNDING; AND

8. REQUIRES THAT ELECTED OFFICIALS SPEND TOO MUCH OF THEIR TIME RAISING FUNDS RATHER THAN REPRESENTING THE PUBLIC.

16-941. LIMITS ON SPENDING AND CONTRIBUTIONS FOR POLITICAL CAMPAIGNS.

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY, A PARTICIPATING CANDIDATE:

1. SHALL NOT ACCEPT ANY CONTRIBUTIONS, OTHER THAN A LIMITED NUMBER OF FIVE-DOLLAR QUALIFYING CONTRIBUTIONS AS SPECIFIED IN SECTION 16-946 AND EARLY CONTRIBUTIONS AS SPECIFIED IN SECTION 16-945, EXCEPT IN THE EMERGENCY SITUATION SPECIFIED IN SECTION 16-954, SUBSECTION F.

2. SHALL NOT MAKE EXPENDITURES OF MORE THAN A TOTAL OF FIVE HUNDRED DOLLARS OF THE CANDIDATE'S PERSONAL MONIES FOR A CANDIDATE FOR LEGISLATURE OR MORE THAN ONE THOUSAND DOLLARS FOR A CANDIDATE FOR STATEWIDE OFFICE.

3. SHALL NOT MAKE EXPENDITURES IN THE PRIMARY ELECTION PERIOD IN EXCESS OF THE ADJUSTED PRIMARY ELECTION SPENDING LIMIT.

4. SHALL NOT MAKE EXPENDITURES IN THE GENERAL ELECTION PERIOD IN EXCESS OF THE ADJUSTED GENERAL ELECTION SPENDING LIMIT.

5. SHALL COMPLY WITH SECTION 16-948 REGARDING CAMPAIGN ACCOUNTS AND SECTION 16-953 REGARDING RETURNING UNUSED MONIES TO THE CITIZENS CLEAN ELECTION FUND DESCRIBED IN THIS ARTICLE.

B. NOTWITHSTANDING ANY LAW TO THE CONTRARY, A NON-PARTICIPATING CANDIDATE:

1. SHALL NOT ACCEPT CONTRIBUTIONS IN EXCESS OF AN AMOUNT THAT IS TWENTY PERCENT LESS THAN THE LIMITS SPECIFIED IN SECTION 16-905, SUBSECTIONS A THROUGH G, AS ADJUSTED BY THE SECRETARY OF STATE PURSUANT TO SECTION 16-905, SUBSECTION J. ANY VIOLATION OF THIS PARAGRAPH SHALL BE SUBJECT TO THE CIVIL PENALTIES AND PROCEDURES SET FORTH IN SECTION 16-905, SUBSECTIONS L THROUGH P AND SECTION 16-924.

2. SHALL COMPLY WITH SECTION 16-958 REGARDING REPORTING, INCLUDING FILING REPORTS WITH THE SECRETARY OF STATE INDICATING WHENEVER (A) EXPENDITURES OTHER THAN INDEPENDENT EXPENDITURES ON BEHALF OF THE CANDIDATE, FROM THE BEGINNING OF THE ELECTION CYCLE TO ANY DATE UP TO PRIMARY ELECTION DAY, EXCEED SEVENTY PERCENT OF THE ORIGINAL PRIMARY ELECTION SPENDING LIMIT APPLICABLE TO A PARTICIPATING CANDIDATE SEEKING THE SAME OFFICE, OR (B) CONTRIBUTIONS TO A CANDIDATE, FROM THE BEGINNING OF THE ELECTION CYCLE TO ANY DATE DURING THE GENERAL ELECTION PERIOD, LESS EXPENDITURES MADE FROM THE BEGINNING OF THE ELECTION CYCLE THROUGH PRIMARY ELECTION DAY, EXCEED SEVENTY PERCENT OF THE ORIGINAL GENERAL ELECTION SPENDING LIMIT APPLICABLE TO A PARTICIPATING CANDIDATE SEEKING THE SAME OFFICE.

C. NOTWITHSTANDING ANY LAW TO THE CONTRARY, A CANDIDATE, WHETHER PARTICIPATING OR NONPARTICIPATING:

1. IF AND ONLY IF SPECIFIED IN A WRITTEN AGREEMENT SIGNED BY THE CANDIDATE AND ONE OR MORE OPPOSING CANDIDATES AND FILED WITH THE CITIZENS CLEAN ELECTIONS COMMISSION, SHALL NOT MAKE ANY EXPENDITURE IN THE PRIMARY OR GENERAL ELECTION PERIOD EXCEEDING AN AGREED-UPON AMOUNT LOWER THAN SPENDING LIMITS OTHERWISE APPLICABLE BY STATUTE.

2. SHALL CONTINUE TO BE BOUND BY ALL OTHER APPLICABLE ELECTION AND CAMPAIGN FINANCE STATUTES AND RULES, WITH THE EXCEPTION OF THOSE PROVISIONS IN EXPRESS OR CLEAR CONFLICT WITH THE PROVISIONS OF THIS ARTICLE.

D. NOTWITHSTANDING ANY LAW TO THE CONTRARY, ANY PERSON WHO MAKES INDEPENDENT EXPENDITURES RELATED TO A PARTICULAR OFFICE CUMULATIVELY EXCEEDING FIVE HUNDRED DOLLARS IN AN ELECTION CYCLE, WITH THE EXCEPTION OF ANY EXPENDITURE LISTED IN SECTION 16-920 AND ANY INDEPENDENT EXPENDITURE BY AN ORGANIZATION ARISING FROM A COMMUNICATION DIRECTLY TO THE ORGANIZATION'S MEMBERS, SHAREHOLDERS, EMPLOYEES, AFFILIATED PERSONS, AND SUBSCRIBERS, SHALL FILE REPORTS WITH THE SECRETARY OF STATE IN ACCORDANCE WITH SECTION 16-958 SO INDICATING, IDENTIFYING THE OFFICE AND THE CANDIDATE OR GROUP OF CANDIDATES WHOSE ELECTION OR DEFEAT IS BEING ADVOCATED, AND STATING WHETHER THE PERSON IS ADVOCATING ELECTION OR ADVOCATING DEFEAT.

16-942. CIVIL PENALTIES AND FORFEITURE OF OFFICE.

A. THE CIVIL PENALTY FOR A VIOLATION OF ANY CONTRIBUTION OR EXPENDITURE LIMIT IN SECTION 16-941 BY OR ON BEHALF OF A PARTICIPATING CANDIDATE SHALL BE TEN TIMES THE AMOUNT BY WHICH THE EXPENDITURES OR CONTRIBUTIONS EXCEED THE APPLICABLE LIMIT.

B. IN ADDITION TO ANY OTHER PENALTIES IMPOSED BY LAW, THE CIVIL PENALTY FOR A VIOLATION BY OR ON BEHALF OF ANY CANDIDATE OF ANY REPORTING REQUIREMENT IMPOSED BY THIS CHAPTER SHALL BE ONE HUNDRED DOLLARS PER DAY FOR CANDIDATES FOR THE LEGISLATURE AND THREE HUNDRED DOLLARS PER DAY FOR CANDIDATES FOR STATEWIDE OFFICE. THE PENALTY IMPOSED BY THIS SUBSECTION SHALL BE DOUBLED IF THE AMOUNT NOT REPORTED FOR A PARTICULAR ELECTION CYCLE EXCEEDS TEN PERCENT OF THE ADJUSTED PRIMARY OR GENERAL ELECTION SPENDING LIMIT. NO PENALTY IMPOSED PURSUANT TO THIS SUBSECTION SHALL EXCEED TWICE THE AMOUNT OF EXPENDITURES OR CONTRIBUTIONS NOT REPORTED. THE CANDIDATE AND THE CANDIDATE'S CAMPAIGN ACCOUNT SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE FOR ANY PENALTY IMPOSED PURSUANT TO THIS SUBSECTION.

C. ANY CAMPAIGN FINANCE REPORT FILED INDICATING A VIOLATION OF SECTION 16-941, SUBSECTIONS A OR B OR SECTION 16-941, SUBSECTION C, PARAGRAPH 1 INVOLVING AN AMOUNT IN EXCESS OF TEN PERCENT OF THE SUM OF THE ADJUSTED PRIMARY ELECTION SPENDING LIMIT AND THE ADJUSTED GENERAL ELECTION SPENDING LIMIT FOR A PARTICULAR CANDIDATE SHALL RESULT IN DISQUALIFICATION OF A CANDIDATE OR FORFEITURE OF OFFICE.

D. ANY PARTICIPATING CANDIDATE ADJUDGED TO HAVE COMMITTED A KNOWING VIOLATION OF SECTION 16-941, SUBSECTION A OR SUBSECTION C, PARAGRAPH 1 SHALL REPAY FROM THE CANDIDATE'S PERSONAL MONIES TO THE FUND ALL MONIES EXPENDED FROM THE CANDIDATE'S CAMPAIGN ACCOUNT AND SHALL TURN OVER THE CANDIDATE'S CAMPAIGN ACCOUNT TO THE FUND.

E. ALL CIVIL PENALTIES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE DEPOSITED INTO THE FUND.

16-943. CRIMINAL VIOLATIONS AND PENALTIES.

A. A CANDIDATE, OR ANY OTHER PERSON ACTING ON BEHALF OF A CANDIDATE, WHO KNOWINGLY VIOLATES SECTION 16-941 IS GUILTY OF A CLASS 1 MISDEMEANOR.

B. ANY PERSON WHO KNOWINGLY PAYS ANY THING OF VALUE OR ANY COMPENSATION FOR A QUALIFYING CONTRIBUTION AS DEFINED IN SECTION 16-946 IS GUILTY OF A CLASS 1 MISDEMEANOR.

C. ANY PERSON WHO KNOWINGLY PROVIDES FALSE OR INCOMPLETE INFORMATION ON A REPORT FILED UNDER SECTION 16-958 IS GUILTY OF A CLASS 1 MISDEMEANOR.

16-944. FEE IMPOSED ON LOBBYISTS.

BEGINNING ON JANUARY 1, 1999, AN ANNUAL FEE IS IMPOSED ON ALL REGISTERED LOBBYISTS REPRESENTING (A) ONE OR MORE PERSONS IN CONNECTION WITH A COMMERCIAL OR FOR-PROFIT ACTIVITY EXCEPT PUBLIC BODIES OR (B) A NON-PROFIT ENTITY PREDOMINATELY COMPOSED OF OR ACTING ON BEHALF OF A TRADE ASSOCIATION OR OTHER GROUPING OF COMMERCIAL OR FOR-PROFIT ENTITIES. THE FEE SHALL BE IN THE AMOUNT OF ONE HUNDRED DOLLARS ANNUALLY PER LOBBYIST AND SHALL BE COLLECTED BY THE SECRETARY OF STATE AND TRANSMITTED TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND.

16-945. LIMITS ON EARLY CONTRIBUTIONS.

A. A PARTICIPATING CANDIDATE MAY ACCEPT EARLY CONTRIBUTIONS ONLY FROM INDIVIDUALS AND ONLY DURING THE EXPLORATORY PERIOD AND THE QUALIFYING PERIOD, SUBJECT TO THE FOLLOWING LIMITATIONS:

1. NOTWITHSTANDING ANY LAW TO THE CONTRARY, NO CONTRIBUTOR SHALL GIVE, AND NO PARTICIPATING CANDIDATE SHALL ACCEPT, CONTRIBUTIONS FROM A CONTRIBUTOR EXCEEDING ONE HUNDRED DOLLARS DURING AN ELECTION CYCLE.

2. NOTWITHSTANDING ANY LAW TO THE CONTRARY, EARLY CONTRIBUTIONS TO A PARTICIPATING CANDIDATE FROM ALL SOURCES FOR AN ELECTION CYCLE SHALL NOT EXCEED, FOR A CANDIDATE FOR GOVERNOR, FORTY THOUSAND DOLLARS OR, FOR OTHER CANDIDATES, TEN PERCENT OF THE SUM OF THE ORIGINAL PRIMARY ELECTION SPENDING LIMIT AND THE ORIGINAL GENERAL ELECTION SPENDING LIMIT.

3. QUALIFYING CONTRIBUTIONS SPECIFIED IN SECTION 16-946 SHALL NOT BE INCLUDED IN DETERMINING WHETHER THE LIMITS IN THIS SUBSECTION HAVE BEEN EXCEEDED.

B. EARLY CONTRIBUTIONS SPECIFIED IN SUBSECTION A OF THIS SECTION AND THE CANDIDATE'S PERSONAL MONIES SPECIFIED IN SECTION 16-941, SUBSECTION A, PARAGRAPH 2 MAY BE SPENT ONLY DURING THE EXPLORATORY PERIOD AND THE QUALIFYING PERIOD. ANY EARLY CONTRIBUTIONS NOT SPENT BY THE END OF THE QUALIFYING PERIOD SHALL BE PAID TO THE FUND.

C. IF A PARTICIPATING CANDIDATE HAS A DEBT FROM AN ELECTION CAMPAIGN IN THIS STATE DURING A PREVIOUS ELECTION CYCLE IN WHICH THE CANDIDATE WAS NOT A PARTICIPATING CANDIDATE, THEN, DURING THE EXPLORATORY PERIOD ONLY, THE CANDIDATE MAY ACCEPT, IN ADDITION TO EARLY CONTRIBUTIONS SPECIFIED IN SUBSECTION A OF THIS SECTION, CONTRIBUTIONS SUBJECT TO THE LIMITATIONS IN SECTION 16-941, SUBSECTION B, PARAGRAPH 1, OR MAY EXCEED THE LIMIT ON PERSONAL MONIES IN SECTION 16-941, SUBSECTION A, PARAGRAPH 2, PROVIDED THAT SUCH CONTRIBUTIONS AND MONIES ARE USED SOLELY TO RETIRE SUCH DEBT.

16-946. QUALIFYING CONTRIBUTIONS.

A. DURING THE QUALIFYING PERIOD, A PARTICIPATING CANDIDATE MAY COLLECT QUALIFYING CONTRIBUTIONS, WHICH SHALL BE PAID TO THE FUND.

B. TO QUALIFY AS A "QUALIFYING CONTRIBUTION," A CONTRIBUTION MUST BE:

1. MADE BY A QUALIFIED ELECTOR AS DEFINED IN SECTION 16-121, WHO AT THE TIME OF THE CONTRIBUTION IS REGISTERED IN THE ELECTORAL DISTRICT OF THE OFFICE THE CANDIDATE IS SEEKING AND WHO HAS NOT GIVEN ANOTHER QUALIFYING CONTRIBUTION TO THAT CANDIDATE DURING THAT ELECTION CYCLE;

2. MADE BY A PERSON WHO IS NOT GIVEN ANYTHING OF VALUE IN EXCHANGE FOR THE QUALIFYING CONTRIBUTION;

3. IN THE SUM OF FIVE DOLLARS, EXACTLY;

4. RECEIVED UNSOLICITED DURING THE QUALIFYING PERIOD OR SOLICITED DURING THE QUALIFYING PERIOD BY A PERSON WHO IS NOT EMPLOYED OR RETAINED BY THE CANDIDATE AND WHO IS NOT COMPENSATED TO COLLECT CONTRIBUTIONS BY THE CANDIDATE OR ON BEHALF OF THE CANDIDATE;

5. IF MADE BY CHECK OR MONEY ORDER, MADE PAYABLE TO THE CANDIDATE'S CAMPAIGN COMMITTEE, OR IF IN CASH, DEPOSITED IN THE CANDIDATE'S CAMPAIGN COMMITTEE'S ACCOUNT; AND

6. ACCOMPANIED BY A THREE-PART REPORTING SLIP THAT INCLUDES THE PRINTED NAME, REGISTRATION ADDRESS, AND SIGNATURE OF THE CONTRIBUTOR, THE NAME OF THE CANDIDATE FOR WHOM THE CONTRIBUTION IS MADE, THE DATE, AND THE PRINTED NAME AND SIGNATURE OF THE SOLICITOR.

C. A COPY OF THE REPORTING SLIP SHALL BE GIVEN AS A RECEIPT TO THE CONTRIBUTOR, AND ANOTHER COPY SHALL BE RETAINED BY THE CANDIDATE'S CAMPAIGN COMMITTEE. DELIVERY OF AN ORIGINAL REPORTING SLIP TO THE SECRETARY OF STATE SHALL EXCUSE THE CANDIDATE FROM DISCLOSURE OF THESE CONTRIBUTIONS ON CAMPAIGN FINANCE REPORTS FILED UNDER ARTICLE 1 OF THIS CHAPTER.

16-947. CERTIFICATION AS A PARTICIPATING CANDIDATE.

A. A CANDIDATE WHO WISHES TO BE CERTIFIED AS A PARTICIPATING CANDIDATE SHALL, BEFORE THE END OF THE QUALIFYING PERIOD, FILE AN APPLICATION WITH THE SECRETARY OF STATE, IN A FORM SPECIFIED BY THE CITIZENS CLEAN ELECTIONS COMMISSION.

B. THE APPLICATION SHALL IDENTIFY THE CANDIDATE, THE OFFICE THAT THE CANDIDATE PLANS TO SEEK, AND THE CANDIDATE'S PARTY, IF ANY, AND SHALL CONTAIN THE CANDIDATE'S SIGNATURE, UNDER OATH, CERTIFYING THAT:

1. THE CANDIDATE HAS COMPLIED WITH THE RESTRICTIONS OF SECTION 16-941, SUBSECTION A DURING THE ELECTION CYCLE TO DATE.

2. THE CANDIDATE'S CAMPAIGN COMMITTEE AND EXPLORATORY COMMITTEE HAVE FILED ALL CAMPAIGN FINANCE REPORTS REQUIRED UNDER ARTICLE 1 OF THIS CHAPTER DURING THE ELECTION CYCLE TO DATE AND THAT THEY ARE COMPLETE AND ACCURATE.

3. THE CANDIDATE WILL COMPLY WITH THE REQUIREMENTS OF SECTION 16-941, SUBSECTION A DURING THE REMAINDER OF THE ELECTION CYCLE AND, SPECIFICALLY, WILL NOT ACCEPT PRIVATE CONTRIBUTIONS.

C. THE COMMISSION SHALL ACT ON THE APPLICATION WITHIN ONE WEEK. UNLESS, WITHIN THAT TIME, THE COMMISSION DENIES AN APPLICATION AND PROVIDES WRITTEN REASONS THAT ALL OR PART OF A CERTIFICATION IN SUBSECTION B OF THIS SECTION IS INCOMPLETE OR UNTRUE, THE CANDIDATE SHALL BE CERTIFIED AS A PARTICIPATING CANDIDATE. IF THE COMMISSION DENIES AN APPLICATION FOR FAILURE TO FILE ALL COMPLETE AND ACCURATE CAMPAIGN FINANCE REPORTS OR FAILURE TO MAKE THE CERTIFICATION IN SUBSECTION B, PARAGRAPH 3 OF THIS SECTION, THE CANDIDATE MAY REAPPLY WITHIN TWO WEEKS OF THE COMMISSION'S DECISION BY FILING COMPLETE AND ACCURATE CAMPAIGN FINANCE REPORTS AND ANOTHER SWORN CERTIFICATION.

16-948. CONTROLS ON PARTICIPATING CANDIDATES' CAMPAIGN ACCOUNTS.

A. A PARTICIPATING CANDIDATE SHALL CONDUCT ALL FINANCIAL ACTIVITY THROUGH A SINGLE CAMPAIGN ACCOUNT OF THE CANDIDATE'S CAMPAIGN COMMITTEE. A PARTICIPATING CANDIDATE SHALL NOT MAKE ANY DEPOSITS INTO THE CAMPAIGN ACCOUNT OTHER THAN THOSE PERMITTED UNDER SECTIONS 16-945 OR 16-946.

B. A CANDIDATE MAY DESIGNATE OTHER PERSONS WITH AUTHORITY TO WITHDRAW FUNDS FROM THE CANDIDATE'S CAMPAIGN ACCOUNT. THE CANDIDATE AND ANY PERSON SO DESIGNATED SHALL SIGN A JOINT STATEMENT UNDER OATH PROMISING TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE.

C. THE CANDIDATE OR A PERSON AUTHORIZED UNDER SUBSECTION B OF THIS SECTION SHALL PAY MONIES FROM A PARTICIPATING CANDIDATE'S CAMPAIGN ACCOUNT DIRECTLY TO THE PERSON PROVIDING GOODS OR SERVICES TO THE CAMPAIGN AND SHALL IDENTIFY, ON A REPORT FILED PURSUANT TO ARTICLE 1 OF THIS CHAPTER, THE FULL NAME AND STREET ADDRESS OF THE PERSON AND THE NATURE OF THE GOODS AND SERVICES AND COMPENSATION FOR WHICH PAYMENT HAS BEEN MADE. NOTWITHSTANDING THE PREVIOUS SENTENCE, A CAMPAIGN COMMITTEE MAY ESTABLISH ONE OR MORE PETTY CASH ACCOUNTS, WHICH IN AGGREGATE SHALL NOT EXCEED ONE THOUSAND DOLLARS AT ANY TIME. NO SINGLE EXPENDITURE SHALL BE MADE FROM A PETTY CASH ACCOUNT EXCEEDING ONE HUNDRED DOLLARS.

D. MONIES IN A PARTICIPATING CANDIDATE'S CAMPAIGN ACCOUNT SHALL NOT BE USED TO PAY FINES OR CIVIL PENALTIES, FOR COSTS OR LEGAL FEES RELATED TO REPRESENTATION BEFORE THE COMMISSION, OR FOR DEFENSE OF ANY ENFORCEMENT ACTION UNDER THIS CHAPTER. NOTHING IN THIS SUBSECTION SHALL PREVENT A PARTICIPATING CANDIDATE FROM HAVING A LEGAL DEFENSE FUND.

16-949. CAPS ON SPENDING FROM CITIZENS CLEAN ELECTIONS FUND.

A. THE COMMISSION SHALL NOT SPEND, ON ALL COSTS INCURRED UNDER THIS ARTICLE DURING A PARTICULAR CALENDAR YEAR, MORE THAN FIVE DOLLARS TIMES THE NUMBER OF ARIZONA RESIDENT PERSONAL INCOME TAX RETURNS FILED DURING THE PREVIOUS CALENDAR YEAR. TAX REDUCTIONS AND TAX CREDITS AWARDED TO TAXPAYERS PURSUANT TO SECTION 16-954, SUBSECTIONS A AND B SHALL NOT BE CONSIDERED COSTS INCURRED UNDER THIS ARTICLE FOR PURPOSES OF THIS SECTION. THE COMMISSION MAY EXCEED THIS LIMIT DURING A CALENDAR YEAR, PROVIDED

THAT IT IS OFFSET BY AN EQUAL REDUCTION OF THE LIMIT DURING ANOTHER CALENDAR YEAR DURING THE SAME FOUR-YEAR PERIOD BEGINNING JANUARY 1 IMMEDIATELY AFTER A GUBERNATORIAL ELECTION.

B. THE COMMISSION MAY USE UP TO TEN PERCENT OF THE AMOUNT SPECIFIED IN SUBSECTION A OF THIS SECTION FOR REASONABLE AND NECESSARY EXPENSES OF ADMINISTRATION AND ENFORCEMENT, INCLUDING THE ACTIVITIES SPECIFIED IN SECTION 16-956, SUBSECTIONS B, C, AND D. ANY PORTION OF THE TEN PERCENT NOT USED FOR THIS PURPOSE SHALL REMAIN IN THE FUND.

C. THE COMMISSION SHALL APPLY TEN PERCENT OF THE AMOUNT SPECIFIED IN SUBSECTION A OF THIS SECTION FOR REASONABLE AND NECESSARY EXPENSES ASSOCIATED WITH VOTER EDUCATION, INCLUDING THE ACTIVITIES SPECIFIED IN SECTION 16-956, SUBSECTION A.

D. THE STATE TREASURER SHALL ADMINISTER A CITIZENS CLEAN ELECTION FUND FROM WHICH COSTS INCURRED UNDER THIS ARTICLE SHALL BE PAID. THE AUDITOR GENERAL SHALL REVIEW THE MONIES IN, PAYMENTS INTO, AND EXPENDITURES FROM THE FUND NO LESS OFTEN THAN EVERY FOUR YEARS.

16-950. QUALIFICATION FOR CLEAN CAMPAIGN FUNDING.

A. A CANDIDATE WHO HAS MADE AN APPLICATION FOR CERTIFICATION MAY ALSO APPLY, IN ACCORDANCE WITH SUBSECTION B OF THIS SECTION, TO RECEIVE FUNDS FROM THE CITIZENS CLEAN ELECTIONS FUND, INSTEAD OF RECEIVING PRIVATE CONTRIBUTIONS.

B. TO RECEIVE ANY CLEAN CAMPAIGN FUNDING, THE CANDIDATE MUST PRESENT TO THE SECRETARY OF STATE NO LATER THAN ONE WEEK AFTER THE END OF THE QUALIFYING PERIOD A LIST OF NAMES OF PERSONS WHO HAVE MADE QUALIFYING CONTRIBUTIONS PURSUANT TO SECTION 16-946 ON BEHALF OF THE CANDIDATE. THE LIST SHALL BE DIVIDED BY COUNTY. AT THE SAME TIME, THE CANDIDATE MUST TENDER TO THE SECRETARY OF STATE THE ORIGINAL REPORTING SLIPS IDENTIFIED IN SECTION 16-946, SUBSECTION C FOR PERSONS ON THE LIST AND AN AMOUNT EQUAL TO THE SUM OF THE QUALIFYING CONTRIBUTIONS COLLECTED. THE SECRETARY OF STATE SHALL DEPOSIT THE AMOUNT INTO THE FUND.

C. THE SECRETARY OF STATE SHALL SELECT AT RANDOM A SAMPLE OF FIVE PERCENT OF THE NUMBER OF NON-DUPLICATIVE NAMES ON THE LIST AND FORWARD FACSIMILES OF THE SELECTED REPORTING SLIPS TO THE COUNTY RECORDER FOR THE COUNTIES OF THE ADDRESSES SPECIFIED IN THE SELECTED SLIPS. WITHIN TEN DAYS, THE COUNTY RECORDERS SHALL PROVIDE A REPORT TO THE SECRETARY OF STATE IDENTIFYING AS DISQUALIFIED ANY SLIPS THAT ARE UNSIGNED OR UNDATED OR THAT THE RECORDER IS UNABLE TO VERIFY AS MATCHING A PERSON WHO IS REGISTERED TO VOTE, ON THE DATE SPECIFIED ON THE SLIP, INSIDE THE ELECTORAL DISTRICT OF THE OFFICE THE CANDIDATE IS SEEKING. THE SECRETARY OF STATE SHALL MULTIPLY THE NUMBER OF SLIPS NOT DISQUALIFIED BY TWENTY, AND IF THE RESULT IS GREATER THAN ONE HUNDRED AND TEN PERCENT OF THE QUANTITY REQUIRED, SHALL APPROVE THE CANDIDATE FOR FUNDS, AND IF THE RESULT IS LESS THAN NINETY PERCENT OF THE QUANTITY REQUIRED, SHALL DENY THE APPLICATION FOR FUNDS. OTHERWISE, THE SECRETARY OF STATE SHALL FORWARD FACSIMILES OF ALL OF THE SLIPS TO THE COUNTY RECORDERS FOR VERIFICATION, AND THE

COUNTY RECORDERS SHALL CHECK ALL SLIPS IN ACCORDANCE WITH THE PROCESS ABOVE.

D. TO QUALIFY FOR CLEAN CAMPAIGN FUNDING, A CANDIDATE MUST HAVE BEEN APPROVED AS A PARTICIPATING CANDIDATE PURSUANT TO SECTION 16-947 AND HAVE OBTAINED THE FOLLOWING NUMBER OF QUALIFYING CONTRIBUTIONS:

1. FOR A CANDIDATE FOR LEGISLATURE, TWO HUNDRED.
2. FOR CANDIDATE FOR MINE INSPECTOR, FIVE HUNDRED.
3. FOR A CANDIDATE FOR TREASURER, SUPERINTENDENT OF PUBLIC INSTRUCTION, OR CORPORATION COMMISSION, ONE THOUSAND FIVE HUNDRED.
4. FOR A CANDIDATE FOR SECRETARY OF STATE OR ATTORNEY GENERAL, TWO THOUSAND FIVE HUNDRED.
5. FOR A CANDIDATE FOR GOVERNOR, FOUR THOUSAND.

E. TO QUALIFY FOR CLEAN CAMPAIGN FUNDING, A CANDIDATE MUST HAVE MET THE REQUIREMENTS OF THIS SECTION AND EITHER BE AN INDEPENDENT CANDIDATE OR MEET THE FOLLOWING STANDARDS:

1. TO QUALIFY FOR FUNDING FOR A PARTY PRIMARY ELECTION, A CANDIDATE MUST HAVE PROPERLY FILED NOMINATING PAPERS AND NOMINATING PETITIONS WITH SIGNATURES PURSUANT TO CHAPTER 3, ARTICLES 2 AND 3 OF THIS TITLE IN THE PRIMARY OF A POLITICAL ORGANIZATION ENTITLED TO CONTINUED REPRESENTATION ON THE OFFICIAL BALLOT IN ACCORDANCE WITH SECTION 16-804.

2. TO QUALIFY FOR CLEAN CAMPAIGN FUNDING FOR A GENERAL ELECTION, A CANDIDATE MUST BE A PARTY NOMINEE OF SUCH A POLITICAL ORGANIZATION.

16-951. CLEAN CAMPAIGN FUNDING.

A. AT THE BEGINNING OF THE PRIMARY ELECTION PERIOD, THE COMMISSION SHALL PAY FROM THE FUND TO THE CAMPAIGN ACCOUNT OF EACH CANDIDATE WHO QUALIFIES FOR CLEAN CAMPAIGN FUNDING:

1. FOR A CANDIDATE WHO QUALIFIES FOR CLEAN CAMPAIGN FUNDING FOR A PARTY PRIMARY ELECTION, AN AMOUNT EQUAL TO THE ORIGINAL PRIMARY ELECTION SPENDING LIMIT;

2. FOR AN INDEPENDENT CANDIDATE WHO QUALIFIES FOR CLEAN CAMPAIGN FUNDING, AN AMOUNT EQUAL TO SEVENTY PERCENT OF THE SUM OF THE ORIGINAL PRIMARY ELECTION SPENDING LIMIT, AND THE ORIGINAL GENERAL ELECTION SPENDING LIMIT; OR

3. FOR A QUALIFIED PARTICIPATING CANDIDATE WHO IS UNOPPOSED FOR AN OFFICE IN THAT CANDIDATE'S PRIMARY, IN THE PRIMARY OF ANY OTHER PARTY, AND BY ANY OPPOSING INDEPENDENT CANDIDATE, AN AMOUNT EQUAL TO FIVE DOLLARS TIMES THE NUMBER OF QUALIFYING CONTRIBUTIONS FOR THAT CANDIDATE CERTIFIED BY THE COMMISSION.

B. AT ANY TIME AFTER THE FIRST DAY OF JANUARY OF AN ELECTION YEAR, ANY CANDIDATE WHO HAS MET THE REQUIREMENTS OF SECTION 16-950 MAY SIGN AND CAUSE TO BE FILED A NOMINATION PAPER IN THE FORM SPECIFIED BY SECTION 16-311, SUBSECTION A, WITH A NOMINATING PETITION AND SIGNATURES, INSTEAD OF FILING SUCH PAPERS AFTER THE EARLIEST TIME SET FOR FILING SPECIFIED BY THAT SUBSECTION. UPON SUCH FILING AND VERIFICATION OF THE SIGNATURES, THE COMMISSION SHALL PAY THE AMOUNT

SPECIFIED IN SUBSECTION A OF THIS SECTION IMMEDIATELY, RATHER THAN WAITING FOR THE BEGINNING OF THE PRIMARY ELECTION PERIOD.

C. AT THE BEGINNING OF THE GENERAL ELECTION PERIOD, THE COMMISSION SHALL PAY FROM THE FUND TO THE CAMPAIGN ACCOUNT OF EACH CANDIDATE WHO QUALIFIES FOR CLEAN CAMPAIGN FUNDING FOR THE GENERAL ELECTION, EXCEPT THOSE CANDIDATES IDENTIFIED IN SUBSECTION A, PARAGRAPHS 2 OR 3 OR SUBSECTION D OF THIS SECTION, AN AMOUNT EQUAL TO THE ORIGINAL GENERAL ELECTION SPENDING LIMIT.

D. AT THE BEGINNING OF THE GENERAL ELECTION PERIOD, THE COMMISSION SHALL PAY FROM THE FUND TO THE CAMPAIGN ACCOUNT OF A QUALIFIED PARTICIPATING CANDIDATE WHO HAS NOT RECEIVED FUNDS PURSUANT TO SUBSECTION A, PARAGRAPH 3 OF THIS SECTION AND WHO IS UNOPPOSED BY ANY OTHER PARTY NOMINEE OR ANY OPPOSING INDEPENDENT CANDIDATE AN AMOUNT EQUAL TO FIVE DOLLARS TIMES THE NUMBER OF QUALIFYING CONTRIBUTIONS FOR THAT CANDIDATE CERTIFIED BY THE COMMISSION.

E. THE SPECIAL ORIGINAL GENERAL ELECTION SPENDING LIMIT, FOR A CANDIDATE WHO HAS RECEIVED FUNDS PURSUANT TO SUBSECTION A, PARAGRAPHS 2 OR 3 OR SUBSECTION D OF THIS SECTION, SHALL BE EQUAL TO THE AMOUNT THAT THE COMMISSION IS OBLIGATED TO PAY TO THAT CANDIDATE.

16-952. EQUAL FUNDING OF CANDIDATES.

A. WHENEVER DURING A PRIMARY ELECTION PERIOD A REPORT IS FILED, OR OTHER INFORMATION COMES TO THE ATTENTION OF THE COMMISSION, INDICATING THAT A NONPARTICIPATING CANDIDATE WHO IS NOT UNOPPOSED IN THAT PRIMARY HAS MADE EXPENDITURES DURING THE ELECTION CYCLE TO DATE EXCEEDING THE ORIGINAL PRIMARY ELECTION SPENDING LIMIT, INCLUDING ANY PREVIOUS ADJUSTMENTS, THE COMMISSION SHALL IMMEDIATELY PAY FROM THE FUND TO THE CAMPAIGN ACCOUNT OF ANY PARTICIPATING CANDIDATE IN THE SAME PARTY PRIMARY AS THE NONPARTICIPATING CANDIDATE AN AMOUNT EQUAL TO ANY EXCESS OF THE REPORTED AMOUNT OVER THE PRIMARY ELECTION SPENDING LIMIT, AS PREVIOUSLY ADJUSTED, AND THE PRIMARY ELECTION SPENDING LIMIT FOR ALL SUCH PARTICIPATING CANDIDATES SHALL BE ADJUSTED BY INCREASING IT BY THE AMOUNT THAT THE COMMISSION IS OBLIGATED TO PAY TO A PARTICIPATING CANDIDATE.

B. WHENEVER DURING A GENERAL ELECTION PERIOD A REPORT HAS BEEN FILED, OR OTHER INFORMATION COMES TO THE ATTENTION OF THE COMMISSION, INDICATING THAT THE AMOUNT A NONPARTICIPATING CANDIDATE WHO IS NOT UNOPPOSED HAS RECEIVED IN CONTRIBUTIONS DURING THE ELECTION CYCLE TO DATE LESS THE AMOUNT OF EXPENDITURES THE NONPARTICIPATING CANDIDATE MADE THROUGH THE END OF THE PRIMARY ELECTION PERIOD EXCEEDS THE ORIGINAL GENERAL ELECTION SPENDING LIMIT, INCLUDING ANY PREVIOUS ADJUSTMENTS, THE COMMISSION SHALL IMMEDIATELY PAY FROM THE FUND TO THE CAMPAIGN ACCOUNT OF ANY PARTICIPATING CANDIDATE QUALIFIED FOR THE BALLOT AND SEEKING THE SAME OFFICE AS THE NONPARTICIPATING CANDIDATE AN AMOUNT EQUAL TO ANY EXCESS OF THE REPORTED DIFFERENCE OVER THE GENERAL ELECTION SPENDING LIMIT, AS PREVIOUSLY ADJUSTED, AND THE GENERAL ELECTION SPENDING LIMIT FOR ALL SUCH PARTICIPATING

CANDIDATES SHALL BE ADJUSTED BY INCREASING IT BY THE AMOUNT THAT THE COMMISSION IS OBLIGATED TO PAY TO A PARTICIPATING CANDIDATE.

C. FOR PURPOSES OF SUBSECTIONS A AND B OF THIS SECTION THE FOLLOWING EXPENDITURES REPORTED PURSUANT TO THIS ARTICLE SHALL BE TREATED AS FOLLOWS:

1. INDEPENDENT EXPENDITURES AGAINST A PARTICIPATING CANDIDATE SHALL BE TREATED AS EXPENDITURES OF EACH OPPOSING CANDIDATE, FOR PURPOSE OF SUBSECTION A OF THIS SECTION, OR CONTRIBUTIONS TO EACH OPPOSING CANDIDATE, OR PURPOSE OF SUBSECTION B OF THIS SECTION.

2. INDEPENDENT EXPENDITURES IN FAVOR OF ONE OR MORE NONPARTICIPATING OPPONENTS OF A PARTICIPATING CANDIDATE SHALL BE TREATED AS EXPENDITURES OF THOSE NONPARTICIPATING CANDIDATES, FOR PURPOSE OF SUBSECTION A OF THIS SECTION, OR CONTRIBUTIONS TO THOSE NONPARTICIPATING CANDIDATES, FOR PURPOSE OF SUBSECTION B OF THIS SECTION.

3. INDEPENDENT EXPENDITURES IN FAVOR OF A PARTICIPATING CANDIDATE SHALL BE TREATED, FOR EVERY OPPOSING PARTICIPATING CANDIDATE, AS THOUGH THE INDEPENDENT EXPENDITURES WERE AN EXPENDITURE OF A NONPARTICIPATING OPPONENT, FOR PURPOSE OF SUBSECTION A OF THIS SECTION, OR A CONTRIBUTION TO A NONPARTICIPATING OPPONENT, FOR PURPOSE OF SUBSECTION B OF THIS SECTION.

4. EXPENDITURES MADE DURING THE PRIMARY ELECTION PERIOD BY OR ON BEHALF OF AN INDEPENDENT CANDIDATE OR A NONPARTICIPATING CANDIDATE WHO IS UNOPPOSED IN A PARTY PRIMARY, SHALL BE TREATED AS THOUGH MADE DURING THE GENERAL ELECTION PERIOD, AND EQUALIZING FUNDS PURSUANT TO SUBSECTION B OF THIS SECTION SHALL BE PAID AT THE START OF THE GENERAL ELECTION PERIOD.

5. EXPENDITURES MADE BEFORE THE GENERAL ELECTION PERIOD THAT CONSIST OF A CONTRACT, PROMISE, OR AGREEMENT TO MAKE AN EXPENDITURE DURING THE GENERAL ELECTION PERIOD RESULTING IN AN EXTENSION OF CREDIT SHALL BE TREATED AS THOUGH MADE DURING THE GENERAL ELECTION PERIOD, AND EQUALIZING FUNDS PURSUANT TO SUBSECTION B OF THIS SECTION SHALL BE PAID AT THE START OF THE GENERAL ELECTION PERIOD.

6. EXPENDITURES FOR OR AGAINST A PARTICIPATING CANDIDATE PROMOTING OR OPPOSING MORE THAN ONE CANDIDATE WHO ARE NOT RUNNING FOR THE SAME OFFICE SHALL BE ALLOCATED BY THE COMMISSION AMONG CANDIDATES FOR DIFFERENT OFFICES BASED ON THE RELATIVE SIZE OR LENGTH AND RELATIVE PROMINENCE OF THE REFERENCE TO CANDIDATES FOR DIFFERENT OFFICES.

D. UPON APPLYING FOR CITIZEN FUNDING PURSUANT TO SECTION 16-950, A PARTICIPATING CANDIDATE FOR LEGISLATURE IN A ONE-PARTY-DOMINANT LEGISLATIVE DISTRICT WHO IS QUALIFIED FOR CLEAN CAMPAIGN FUNDING FOR THE PARTY PRIMARY ELECTION OF THE DOMINANT PARTY MAY CHOOSE TO REALLOCATE A PORTION OF FUNDS FROM THE GENERAL ELECTION PERIOD TO THE PRIMARY ELECTION PERIOD. AT THE BEGINNING OF THE PRIMARY ELECTION PERIOD, THE COMMISSION SHALL PAY FROM THE FUND TO THE CAMPAIGN ACCOUNT OF A PARTICIPATING CANDIDATE WHO MAKES THIS CHOICE AN EXTRA AMOUNT EQUAL TO FIFTY PERCENT OF THE ORIGINAL

PRIMARY ELECTION SPENDING LIMIT, AND THE ORIGINAL PRIMARY ELECTION SPENDING LIMIT FOR THE CANDIDATE WHO MAKES THIS CHOICE SHALL BE INCREASED BY THE EXTRA AMOUNT. FOR A PRIMARY ELECTION IN WHICH ONE OR MORE PARTICIPATING CANDIDATES HAVE MADE THIS CHOICE, FUNDS SHALL BE PAID UNDER SUBSECTIONS A AND B OF THIS SECTION ONLY TO THE EXTENT OF ANY EXCESS OVER THE ORIGINAL PRIMARY ELECTION SPENDING LIMIT AS SO INCREASED. IF A PARTICIPATING CANDIDATE WHO MAKES THIS CHOICE BECOMES QUALIFIED FOR CLEAN CAMPAIGN FUNDING FOR THE GENERAL ELECTION, THE AMOUNT THE CANDIDATE RECEIVES AT THE BEGINNING OF THE GENERAL ELECTION PERIOD SHALL BE REDUCED BY THE EXTRA AMOUNT RECEIVED AT THE BEGINNING OF THE PRIMARY ELECTION PERIOD, AND THE ORIGINAL GENERAL ELECTION SPENDING LIMIT FOR THAT CANDIDATE SHALL BE REDUCED BY THE EXTRA AMOUNT. FOR A GENERAL ELECTION IN WHICH A PARTICIPATING CANDIDATE HAS MADE THIS CHOICE, FUNDS SHALL BE PAID UNDER SUBSECTIONS A AND B OF THIS SECTION ONLY TO THE EXTENT OF ANY EXCESS OVER THE ORIGINAL GENERAL ELECTION SPENDING LIMIT, WITHOUT SUCH REDUCTION, UNLESS THE CANDIDATE WHO HAS MADE THIS CHOICE IS THE ONLY PARTICIPATING CANDIDATE IN THE GENERAL ELECTION, IN WHICH CASE SUCH FUNDS SHALL BE PAID TO THE EXTENT OF EXCESS OVER THE ORIGINAL GENERAL ELECTION SPENDING LIMIT WITH SUCH REDUCTION. FOR PURPOSE OF THIS SUBSECTION, A ONE-PARTY-DOMINANT LEGISLATIVE DISTRICT IS A DISTRICT IN WHICH THE NUMBER OF REGISTERED VOTERS REGISTERED IN THE PARTY WITH THE HIGHEST NUMBER OF REGISTERED VOTERS EXCEEDS THE NUMBER OF REGISTERED VOTERS REGISTERED TO EACH OF THE OTHER PARTIES BY AN AMOUNT AT LEAST AS HIGH AS TEN PERCENT OF THE TOTAL NUMBER OF VOTERS REGISTERED IN THE DISTRICT. THE STATUS OF A DISTRICT AS A ONE-PARTY-DOMINANT LEGISLATIVE DISTRICT SHALL BE DETERMINED AS OF THE BEGINNING OF THE QUALIFYING PERIOD.

E. IF AN ADJUSTED SPENDING LIMIT REACHES THREE TIMES THE ORIGINAL SPENDING LIMIT FOR A PARTICULAR ELECTION, THEN THE COMMISSION SHALL NOT PAY ANY FURTHER AMOUNTS FROM THE FUND TO THE CAMPAIGN ACCOUNT OF ANY PARTICIPATING CANDIDATE, AND THE SPENDING LIMIT SHALL NOT BE ADJUSTED FURTHER.

16-953. RETURN OF MONIES TO THE CITIZENS CLEAN ELECTIONS FUND.

A. AT THE END OF THE PRIMARY ELECTION PERIOD, A PARTICIPATING CANDIDATE WHO HAS RECEIVED MONIES PURSUANT TO SECTION 16-951, SUBSECTION A, PARAGRAPH 1 SHALL RETURN TO THE FUND ALL MONIES IN THE CANDIDATE'S CAMPAIGN ACCOUNT ABOVE AN AMOUNT SUFFICIENT TO PAY ANY UNPAID BILLS FOR EXPENDITURES MADE DURING THE PRIMARY ELECTION PERIOD AND FOR GOODS OR SERVICES DIRECTED TO THE PRIMARY ELECTION.

B. AT THE END OF THE GENERAL ELECTION PERIOD, A PARTICIPATING CANDIDATE SHALL RETURN TO THE FUND ALL MONIES IN THE CANDIDATE'S CAMPAIGN ACCOUNT ABOVE AN AMOUNT SUFFICIENT TO PAY ANY UNPAID BILLS FOR EXPENDITURES MADE BEFORE THE GENERAL ELECTION AND FOR GOODS OR SERVICES DIRECTED TO THE GENERAL ELECTION.

C. A PARTICIPATING CANDIDATE SHALL PAY ALL UNCONTESTED AND UNPAID BILLS REFERENCED IN THIS SECTION NO LATER THAN THIRTY DAYS AFTER THE PRIMARY OR GENERAL ELECTION. A PARTICIPATING CANDIDATE

SHALL MAKE MONTHLY REPORTS TO THE COMMISSION CONCERNING THE STATUS OF THE DISPUTE OVER ANY CONTESTED BILLS. ANY MONIES IN A CANDIDATE'S CAMPAIGN ACCOUNT AFTER PAYMENT OF BILLS SHALL BE RETURNED PROMPTLY TO THE FUND.

D. IF A PARTICIPATING CANDIDATE IS REPLACED PURSUANT TO SECTION 16-343, AND THE REPLACEMENT CANDIDATE FILES AN OATH WITH THE SECRETARY OF STATE CERTIFYING TO SECTION 16-947, SUBSECTION B, PARAGRAPH 3, THE CAMPAIGN ACCOUNT OF THE PARTICIPATING CANDIDATE SHALL BE TRANSFERRED TO THE REPLACEMENT CANDIDATE AND THE COMMISSION SHALL CERTIFY THE REPLACEMENT CANDIDATE AS A PARTICIPATING CANDIDATE WITHOUT REQUIRING COMPLIANCE WITH SECTION 16-950 OR THE REMAINDER OF SECTION 16-947. IF THE REPLACEMENT CANDIDATE DOES NOT FILE SUCH AN OATH, THE CAMPAIGN ACCOUNT SHALL BE LIQUIDATED AND ALL REMAINING MONIES RETURNED TO THE FUND.

16-954. CLEAN ELECTIONS TAX REDUCTION; RETURN OF EXCESS MONIES.

A. FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 1998, A TAXPAYER WHO FILES ON A STATE INCOME TAX RETURN FORM MAY DESIGNATE A FIVE-DOLLAR VOLUNTARY CONTRIBUTION PER TAXPAYER TO THE FUND BY MARKING AN OPTIONAL CHECK-OFF BOX ON THE FIRST PAGE OF THE FORM. A TAXPAYER WHO CHECKS THIS BOX SHALL RECEIVE A FIVE-DOLLAR REDUCTION IN THE AMOUNT OF TAX, AND FIVE DOLLARS FROM THE AMOUNT OF TAXES PAID SHALL BE TRANSFERRED BY THE DEPARTMENT OF REVENUE TO THE FUND. THE DEPARTMENT OF REVENUE SHALL PROVIDE CHECK-OFF BOXES, IDENTIFIED AS THE CLEAN ELECTIONS FUND TAX REDUCTION, ON THE FIRST PAGE OF INCOME TAX RETURN FORMS, FOR DESIGNATIONS PURSUANT TO THIS SUBSECTION.

B. ANY TAXPAYER MAY MAKE A VOLUNTARY DONATION TO THE FUND BY DESIGNATING THE FUND ON AN INCOME TAX RETURN FORM FILED BY THE INDIVIDUAL OR BUSINESS ENTITY OR BY MAKING A PAYMENT DIRECTLY TO THE FUND. ANY TAXPAYER MAKING A DONATION PURSUANT TO THIS SUBSECTION SHALL RECEIVE A DOLLAR-FOR-DOLLAR TAX CREDIT NOT TO EXCEED TWENTY PERCENT OF THE TAX AMOUNT ON THE RETURN OR FIVE HUNDRED DOLLARS PER TAXPAYER, WHICHEVER IS HIGHER. DONATIONS MADE PURSUANT TO THIS SECTION ARE OTHERWISE NOT TAX DEDUCTIBLE AND CANNOT BE DESIGNATED AS FOR THE BENEFIT OF A PARTICULAR CANDIDATE, POLITICAL PARTY, OR ELECTION CONTEST. THE DEPARTMENT OF REVENUE SHALL TRANSFER TO THE FUND ALL DONATIONS MADE PURSUANT TO THIS SUBSECTION. THE DEPARTMENT OF REVENUE SHALL PROVIDE A SPACE, IDENTIFIED AS THE CLEAN ELECTIONS FUND TAX CREDIT, ON THE FIRST PAGE OF INCOME TAX RETURN FORMS, FOR DONATIONS PURSUANT TO THIS SUBSECTION.

C. BEGINNING JANUARY 1, 1999, AN ADDITIONAL SURCHARGE OF TEN PERCENT SHALL BE IMPOSED ON ALL CIVIL AND CRIMINAL FINES AND PENALTIES COLLECTED PURSUANT TO SECTION 12-116.01 AND SHALL BE DEPOSITED INTO THE FUND.

D. AT LEAST ONCE PER YEAR, THE COMMISSION SHALL PROJECT THE AMOUNT OF MONIES THAT THE FUND WILL COLLECT OVER THE NEXT FOUR YEARS AND THE TIME SUCH MONIES SHALL BECOME AVAILABLE. WHENEVER THE COMMISSION DETERMINES THAT THE FUND CONTAINS MORE MONIES THAN THE COMMISSION DETERMINES THAT IT REQUIRES TO MEET CURRENT DEBTS

PLUS EXPECTED EXPENSES, UNDER THE ASSUMPTION THAT EXPECTED EXPENSES WILL BE AT THE EXPENDITURE LIMIT IN SECTION 16-949, SUBSECTION A, AND TAKING INTO ACCOUNT THE PROJECTIONS OF COLLECTIONS, THE COMMISSION SHALL DESIGNATE SUCH MONIES AS EXCESS MONIES AND SO NOTIFY THE STATE TREASURER, WHO SHALL THEREUPON RETURN THE EXCESS MONIES TO THE GENERAL FUND.

E. AT LEAST ONCE PER YEAR, THE COMMISSION SHALL PROJECT THE AMOUNT OF CITIZEN FUNDING FOR WHICH ALL CANDIDATES WILL HAVE QUALIFIED PURSUANT TO THIS ARTICLE FOR THE FOLLOWING CALENDAR YEAR. BY THE END OF EACH YEAR, THE COMMISSION SHALL ANNOUNCE WHETHER THE AMOUNT THAT THE COMMISSION PLANS TO SPEND THE FOLLOWING YEAR PURSUANT TO SECTION 16-949, SUBSECTION A EXCEEDS THE PROJECTED AMOUNT OF CITIZEN FUNDING. IF THE COMMISSION DETERMINES THAT THE FUND CONTAINS INSUFFICIENT MONIES OR THE SPENDING CAP WOULD BE EXCEEDED WERE ALL CANDIDATE'S ACCOUNTS TO BE FULLY FUNDED, THEN THE COMMISSION MAY INCLUDE IN THE ANNOUNCEMENT SPECIFICATIONS FOR DECREASES IN THE FOLLOWING PARAMETERS, BASED ON THE COMMISSION'S PROJECTIONS OF COLLECTIONS AND EXPENSES FOR THE FUND, MADE IN THE FOLLOWING ORDER:

1. FIRST, THE COMMISSION MAY ANNOUNCE A DECREASE IN THE MATCHING CAP UNDER SECTION 16-952, SUBSECTION E FROM THREE TIMES TO AN AMOUNT BETWEEN THREE AND ONE TIMES.

2. NEXT, THE COMMISSION MAY ANNOUNCE THAT THE FUND WILL PROVIDE EQUALIZATION MONIES UNDER SECTION 16-952, SUBSECTIONS A AND B AS A FRACTION OF THE AMOUNTS THERE SPECIFIED.

3. FINALLY, THE COMMISSION MAY ANNOUNCE THAT THE FUND WILL PROVIDE MONIES UNDER SECTION 16-951 AS A FRACTION OF THE AMOUNTS THERE SPECIFIED.

F. IF THE COMMISSION CANNOT PROVIDE PARTICIPATING CANDIDATES WITH ALL MONIES SPECIFIED UNDER SECTIONS 16-951 AND 16-952, AS DECREASED BY ANY ANNOUNCEMENT PURSUANT TO SUBSECTION E OF THIS SECTION, THEN THE COMMISSION SHALL ALLOCATE ANY REDUCTIONS IN PAYMENTS PROPORTIONATELY AMONG CANDIDATES ENTITLED TO MONIES AND SHALL DECLARE AN EMERGENCY. UPON DECLARATION OF AN EMERGENCY, A PARTICIPATING CANDIDATE MAY ACCEPT PRIVATE CONTRIBUTIONS TO BRING THE TOTAL MONIES RECEIVED BY THE CANDIDATE FROM THE FUND AND FROM SUCH PRIVATE CONTRIBUTIONS UP TO THE ADJUSTED SPENDING LIMITS, AS DECREASED BY ANY ANNOUNCEMENT MADE PURSUANT TO SUBSECTION E OF THIS SECTION.

16-955. CITIZENS CLEAN ELECTION COMMISSION; STRUCTURE.

A. THE CITIZENS CLEAN ELECTIONS COMMISSION IS ESTABLISHED CONSISTING OF FIVE MEMBERS. NO MORE THAN TWO MEMBERS OF THE COMMISSION SHALL BE MEMBERS OF THE SAME POLITICAL PARTY. NO MORE THAN TWO MEMBERS OF THE COMMISSION SHALL BE RESIDENTS OF THE SAME COUNTY. NO ONE SHALL BE APPOINTED AS A MEMBER WHO DOES NOT HAVE A REGISTRATION PURSUANT TO CHAPTER 1 OF THIS TITLE THAT HAS BEEN CONTINUOUSLY RECORDED FOR AT LEAST FIVE YEARS IMMEDIATELY PRECEDING APPOINTMENT WITH THE SAME POLITICAL PARTY OR AS AN INDEPENDENT.

B. THE COMMISSION ON APPELLATE COURT APPOINTMENTS SHALL NOMINATE CANDIDATES FOR VACANT COMMISSIONER POSITIONS WHO ARE COMMITTED TO ENFORCING THIS ARTICLE IN AN HONEST, INDEPENDENT, AND IMPARTIAL FASHION AND TO SEEKING TO UPHOLD PUBLIC CONFIDENCE IN THE INTEGRITY OF THE ELECTORAL SYSTEM. EACH CANDIDATE SHALL BE A QUALIFIED ELECTOR WHO HAS NOT, IN THE PREVIOUS FIVE YEARS IN THIS STATE, BEEN APPOINTED TO, BEEN ELECTED TO, OR RUN FOR ANY PUBLIC OFFICE, INCLUDING PRECINCT COMMITTEEMAN, OR SERVED AS AN OFFICER OF A POLITICAL PARTY.

C. INITIALLY, THE COMMISSION ON APPELLATE COURT APPOINTMENTS SHALL NOMINATE FIVE SLATES, EACH HAVING THREE CANDIDATES, BEFORE JANUARY 1, 1999. NO LATER THAN FEBRUARY 1, 1999, THE GOVERNOR SHALL SELECT ONE CANDIDATE FROM ONE OF THE SLATES TO SERVE ON THE COMMISSION FOR A TERM ENDING JANUARY 31, 2004. NEXT, THE HIGHEST-RANKING OFFICIAL HOLDING A STATEWIDE OFFICE WHO IS NOT A MEMBER OF THE SAME POLITICAL PARTY AS THE GOVERNOR SHALL SELECT ONE CANDIDATE FROM ANOTHER ONE OF THE SLATES TO SERVE ON THE COMMISSION FOR A TERM ENDING JANUARY 31, 2003. NEXT, THE SECOND-HIGHEST-RANKING OFFICIAL HOLDING A STATEWIDE OFFICE WHO IS A MEMBER OF THE SAME POLITICAL PARTY AS THE GOVERNOR SHALL SELECT ONE CANDIDATE FROM ONE OF THE THREE REMAINING SLATES TO SERVE ON THE COMMISSION FOR A TERM ENDING JANUARY 31, 2002. NEXT, THE SECOND-HIGHEST-RANKING OFFICIAL HOLDING A STATEWIDE OFFICE WHO IS NOT A MEMBER OF THE SAME POLITICAL PARTY AS THE GOVERNOR SHALL SELECT ONE CANDIDATE FROM ONE OF THE TWO REMAINING SLATES TO SERVE ON THE COMMISSION FOR A TERM ENDING JANUARY 31, 2001. FINALLY, THE THIRD-HIGHEST-RANKING OFFICIAL HOLDING A STATEWIDE OFFICE WHO IS A MEMBER OF THE SAME POLITICAL PARTY AS THE GOVERNOR SHALL ELECT ONE CANDIDATE FROM THE LAST SLATE TO SERVE ON THE COMMISSION FOR A TERM ENDING JANUARY 31, 2000. FOR PURPOSE OF THIS SECTION, THE RANKING OF OFFICIALS HOLDING STATEWIDE OFFICE SHALL BE GOVERNOR, SECRETARY OF STATE, ATTORNEY GENERAL, TREASURER, SUPERINTENDENT OF PUBLIC INSTRUCTION, CORPORATION COMMISSIONERS IN ORDER OF SENIORITY, MINE INSPECTOR, THE MEMBERS OF THE SUPREME COURT IN ORDER OF SENIORITY, SENATE MAJORITY AND MINORITY LEADERS, AND HOUSE MAJORITY AND MINORITY LEADERS.

D. ONE COMMISSIONER SHALL BE APPOINTED FOR A FIVE-YEAR TERM BEGINNING FEBRUARY 1 OF EVERY YEAR BEGINNING WITH THE YEAR 2000. THE COMMISSION ON APPELLATE COURT APPOINTMENTS SHALL NOMINATE ONE SLATE OF THREE CANDIDATES BEFORE JANUARY 1 OF EACH YEAR BEGINNING IN THE YEAR 2000, AND THE GOVERNOR AND THE HIGHEST-RANKING OFFICIAL HOLDING A STATEWIDE OFFICE WHO IS NOT A MEMBER OF THE SAME POLITICAL PARTY AS THE GOVERNOR SHALL ALTERNATE FILLING SUCH VACANCIES. THE VACANCY IN THE YEAR 2000 SHALL BE FILLED BY THE GOVERNOR.

E. MEMBERS OF THE COMMISSION MAY BE REMOVED BY THE GOVERNOR, WITH CONCURRENCE OF THE SENATE, FOR SUBSTANTIAL NEGLECT OF DUTY, GROSS MISCONDUCT IN OFFICE, INABILITY TO DISCHARGE THE POWERS AND DUTIES OF OFFICE, OR VIOLATION OF THIS SECTION, AFTER WRITTEN NOTICE AND OPPORTUNITY FOR A RESPONSE.

F. IF A COMMISSIONER DOES NOT COMPLETE HIS OR HER TERM OF OFFICE FOR ANY REASON, THE COMMISSION ON APPELLATE COURT APPOINTMENTS SHALL NOMINATE ONE SLATE OF THREE CANDIDATES AS SOON AS POSSIBLE IN THE FIRST THIRTY DAYS AFTER THE COMMISSIONER VACATES HIS OR HER OFFICE AND A REPLACEMENT SHALL BE SELECTED FROM THE SLATE WITHIN THIRTY DAYS OF NOMINATION OF THE SLATE. THE HIGHEST-RANKING OFFICIAL HOLDING A STATEWIDE OFFICE WHO IS A MEMBER OF THE POLITICAL PARTY OF THE OFFICIAL WHO NOMINATED THE COMMISSIONER WHO VACATED OFFICE SHALL NOMINATE THE REPLACEMENT, WHO SHALL SERVE AS COMMISSIONER FOR THE UNEXPIRED PORTION OF THE TERM. A VACANCY OR VACANCIES SHALL NOT IMPAIR THE RIGHT OF THE REMAINING MEMBERS TO EXERCISE ALL OF THE POWERS OF THE BOARD.

G. COMMISSIONERS ARE ELIGIBLE TO RECEIVE COMPENSATION IN AN AMOUNT OF TWO HUNDRED DOLLARS FOR EACH DAY ON WHICH THE COMMISSION MEETS AND REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

H. THE COMMISSIONERS SHALL ELECT A CHAIR TO SERVE FOR EACH CALENDAR-YEAR PERIOD FROM AMONG THEIR MEMBERS WHOSE TERMS EXPIRE AFTER THE CONCLUSION OF THAT YEAR. THREE COMMISSIONERS SHALL CONSTITUTE A QUORUM.

I. A MEMBER OF THE COMMISSION SHALL SERVE NO MORE THAN ONE TERM AND IS NOT ELIGIBLE FOR REAPPOINTMENT. NO COMMISSIONER, DURING HIS OR HER TENURE OR FOR THREE YEARS THEREAFTER, SHALL SEEK OR HOLD ANY OTHER PUBLIC OFFICE, SERVE AS AN OFFICER OF ANY POLITICAL COMMITTEE, OR EMPLOY OR BE EMPLOYED AS A LOBBYIST.

J. THE COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR WHO SHALL NOT BE A MEMBER OF THE COMMISSION AND WHO SHALL SERVE AT THE PLEASURE OF THE COMMISSION. THE EXECUTIVE DIRECTOR IS ELIGIBLE TO RECEIVE COMPENSATION SET BY THE BOARD WITHIN THE RANGE DETERMINED UNDER SECTION 38-611. THE EXECUTIVE DIRECTOR, SUBJECT TO TITLE 41, CHAPTER 4, ARTICLES 5 AND 6, SHALL EMPLOY, DETERMINE THE CONDITIONS OF EMPLOYMENT, AND SPECIFY THE DUTIES OF ADMINISTRATIVE, SECRETARIAL, AND CLERICAL EMPLOYEES AS THE DIRECTOR DEEMS NECESSARY.

16-956. VOTER EDUCATION AND ENFORCEMENT DUTIES.

A. THE COMMISSION SHALL:

1. DEVELOP, IN CONSULTATION WITH THE COUNTY RECORDERS, A PROCEDURE FOR INCLUDING, WITH BALLOTS MAILED TO ELECTORS CASTING EARLY BALLOTS PURSUANT TO SECTION 16-542, SUBSECTION C AND WITH THE SAMPLE BALLOTS MAILED TO OTHER ELECTORS PURSUANT TO SECTION 16-461, SUBSECTION D AND SECTION 16-510, SUBSECTION C, A DOCUMENT OR SECTION OF A DOCUMENT HAVING A SPACE OF PREDEFINED SIZE FOR A MESSAGE CHOSEN BY EACH CANDIDATE. THE BOARD OF SUPERVISORS SHALL PRESENT TO THE COMMISSION A CERTIFIED CLAIM FOR THE ACTUAL EXTRA COST OF INCLUDING THE MESSAGES IN SUCH MAILINGS IN ACCORDANCE WITH THE PROCEDURE DEVELOPED, AND THE COMMISSION SHALL DIRECT PAYMENT OF THE AUTHENTICATED CLAIMS FROM THE FUND.

2. SPONSOR DEBATES AMONG CANDIDATES, IN SUCH MANNER AS DETERMINED BY THE COMMISSION. THE COMMISSION SHALL REQUIRE PARTICIPATING CANDIDATES TO ATTEND AND PARTICIPATE IN DEBATES AND

MAY SPECIFY BY RULE PENALTIES FOR NONPARTICIPATION. THE COMMISSION SHALL INVITE AND PERMIT NONPARTICIPATING CANDIDATES TO PARTICIPATE IN DEBATES.

B. THE COMMISSION SHALL:

1. PRESCRIBE FORMS FOR REPORTS, STATEMENTS, NOTICES, AND OTHER DOCUMENTS REQUIRED BY THIS ARTICLE.

2. PREPARE AND PUBLISH INSTRUCTIONS SETTING FORTH METHODS OF BOOKKEEPING AND PRESERVATION OF RECORDS TO FACILITATE COMPLIANCE WITH THIS ARTICLE AND EXPLAINING THE DUTIES OF PERSONS AND COMMITTEES UNDER THIS ARTICLE.

3. PRODUCE A YEARLY REPORT DESCRIBING THE COMMISSION'S ACTIVITIES, ANY RECOMMENDATIONS FOR CHANGES OF LAW, ADMINISTRATION, OR FUNDING AMOUNTS, AND ACCOUNTING FOR MONIES IN THE FUND.

4. ADOPT RULES TO IMPLEMENT THE REPORTING REQUIREMENTS OF SECTION 16-958, SUBSECTIONS D AND E.

5. ENFORCE THE PROVISIONS OF THIS ARTICLE, ENSURE THAT MONEY FROM THE FUND IS PLACED IN CANDIDATE CAMPAIGN ACCOUNTS OR OTHERWISE SPENT AS SPECIFIED IN THIS ARTICLE AND NOT OTHERWISE, MONITOR REPORTS FILED PURSUANT TO THIS CHAPTER AND FINANCIAL RECORDS OF CANDIDATES AS NEEDED TO ENSURE THAT EQUALIZATION MONIES ARE PAID PROMPTLY TO OPPOSING QUALIFIED CANDIDATES UNDER SECTION 16-952, AND ENSURE THAT MONEY REQUIRED BY THIS ARTICLE TO BE PAID TO THE FUND IS DEPOSITED IN THE FUND.

C. THE COMMISSION MAY SUBPOENA WITNESSES, COMPEL THEIR ATTENDANCE AND TESTIMONY, ADMINISTER OATHS AND AFFIRMATIONS, TAKE EVIDENCE, AND REQUIRE BY SUBPOENA THE PRODUCTION OF ANY BOOKS, PAPERS, RECORDS, OR OTHER ITEMS MATERIAL TO THE PERFORMANCE OF THE COMMISSION'S DUTIES OR THE EXERCISE OF ITS POWERS.

D. THE COMMISSION MAY ADOPT RULES TO CARRY OUT THE PURPOSES AND PROVISION OF THIS ARTICLE AND TO GOVERN PROCEDURES OF THE COMMISSION. COMMISSION RULEMAKING IS EXEMPT FROM TITLE 41, ARTICLE 3, CHAPTER 6, EXCEPT THAT THE COMMISSION SHALL SUBMIT THE RULES FOR PUBLICATION AND THE SECRETARY OF STATE SHALL PUBLISH THE RULES IN THE ARIZONA ADMINISTRATIVE REGISTER. THE COMMISSION SHALL PROPOSE AND ADOPT RULES IN PUBLIC MEETINGS, WITH AT LEAST SIXTY DAYS ALLOWED FOR INTERESTED PARTIES TO COMMENT AFTER THE RULES ARE PROPOSED.

E. BASED ON THE RESULTS OF THE ELECTIONS IN THE YEAR 2002 OR ANY QUADRENNIAL ELECTION THEREAFTER, AND WITHIN SIX MONTHS AFTER SUCH ELECTION, THE COMMISSION MAY ADOPT RULES CHANGING THE NUMBER OF QUALIFYING CONTRIBUTIONS REQUIRED FOR ANY OFFICE FROM THOSE LISTED IN SECTION 16-950, SUBSECTION D, BY NO MORE THAN TWENTY PERCENT OF THE NUMBER APPLICABLE FOR THE PRECEDING ELECTION.

16-957. ENFORCEMENT PROCEDURE.

A. IF THE COMMISSION FINDS THAT THERE IS REASON TO BELIEVE THAT A PERSON HAS VIOLATED ANY PROVISION OF THIS ARTICLE, THE COMMISSION SHALL SERVE ON THAT PERSON AN ORDER STATING WITH REASONABLE PARTICULARITY THE NATURE OF THE VIOLATION AND REQUIRING COMPLIANCE WITHIN FOURTEEN DAYS. DURING THAT PERIOD, THE ALLEGED

VIOLATOR MAY PROVIDE ANY EXPLANATION TO THE COMMISSION, COMPLY WITH THE ORDER, OR ENTER INTO A PUBLIC ADMINISTRATIVE SETTLEMENT WITH THE COMMISSION.

B. UPON EXPIRATION OF THE FOURTEEN DAYS, IF THE COMMISSION FINDS THAT THE ALLEGED VIOLATOR REMAINS OUT OF COMPLIANCE, THE COMMISSION SHALL MAKE A PUBLIC FINDING TO THAT EFFECT AND ISSUE AN ORDER ASSESSING A CIVIL PENALTY IN ACCORDANCE WITH SECTION 16-942, UNLESS THE COMMISSION PUBLISHES FINDINGS OF FACT AND CONCLUSIONS OF LAW EXPRESSING GOOD CAUSE FOR REDUCING OR EXCUSING THE PENALTY. THE VIOLATOR HAS FOURTEEN DAYS FROM THE DATE OF ISSUANCE OF THE ORDER ASSESSING THE PENALTY TO APPEAL TO THE SUPERIOR COURT AS PROVIDED IN TITLE 12, CHAPTER 7, ARTICLE 6.

C. ANY CANDIDATE IN A PARTICULAR ELECTION CONTEST WHO BELIEVES THAT ANY OPPOSING CANDIDATE HAS VIOLATED THIS ARTICLE FOR THAT ELECTION MAY FILE A COMPLAINT WITH THE COMMISSION REQUESTING THAT ACTION BE TAKEN PURSUANT TO THIS SECTION. IF THE COMMISSION FAILS TO MAKE A FINDING UNDER SUBSECTION A OF THIS SECTION WITHIN THIRTY DAYS AFTER THE FILING OF SUCH A COMPLAINT, THE CANDIDATE MAY BRING A CIVIL ACTION IN THE SUPERIOR COURT TO IMPOSE THE CIVIL PENALTIES PRESCRIBED IN THIS SECTION.

16-958. MANNER OF FILING REPORTS.

A. ANY PERSON WHO HAS PREVIOUSLY REACHED THE DOLLAR AMOUNT SPECIFIED IN SECTION 16-941, SUBSECTION D FOR FILING AN ORIGINAL REPORT SHALL FILE A SUPPLEMENTAL REPORT EACH TIME PREVIOUSLY UNREPORTED INDEPENDENT EXPENDITURES SPECIFIED BY THAT SUBSECTION EXCEEDS ONE THOUSAND DOLLARS. ANY PERSON WHO HAS PREVIOUSLY REACHED THE DOLLAR AMOUNTS SPECIFIED IN SECTION 16-941, SUBSECTION B, PARAGRAPH 2 FOR FILING AN ORIGINAL REPORT SHALL FILE A SUPPLEMENTAL REPORT TO DECLARE THAT PREVIOUSLY UNREPORTED EXPENDITURES OR CONTRIBUTIONS SPECIFIED BY THAT PARAGRAPH EXCEED (1) TEN PERCENT OF THE ORIGINAL PRIMARY ELECTION SPENDING LIMIT OR TWENTY-FIVE THOUSAND DOLLARS, WHICHEVER IS LOWER, BEFORE THE GENERAL ELECTION PERIOD, OR (2) TEN PERCENT OF THE ORIGINAL GENERAL ELECTION SPENDING LIMIT OR TWENTY-FIVE THOUSAND DOLLARS, WHICHEVER IS LOWER, DURING THE GENERAL ELECTION PERIOD. SUCH REPORTS SHALL BE FILED AT THE TIMES SPECIFIED IN SUBSECTION B OF THIS SECTION AND SHALL IDENTIFY THE DOLLAR AMOUNT BEING REPORTED, THE CANDIDATE, AND THE DATE.

B. ANY PERSON WHO MUST FILE AN ORIGINAL REPORT PURSUANT TO SECTION 16-941, SUBSECTION B, PARAGRAPH 2 OR SUBSECTION D, OR WHO MUST FILE A SUPPLEMENTAL REPORT FOR PREVIOUSLY UNREPORTED AMOUNTS PURSUANT TO SUBSECTION A OF THIS SECTION, SHALL FILE AS FOLLOWS:

1. BEFORE THE BEGINNING OF THE PRIMARY ELECTION PERIOD, THE PERSON SHALL FILE A REPORT ON THE FIRST OF EACH MONTH, UNLESS THE PERSON HAS NOT REACHED THE DOLLAR AMOUNT FOR FILING AN ORIGINAL OR SUPPLEMENTAL REPORT ON THAT DATE.

2. THEREAFTER, EXCEPT AS STATED IN PARAGRAPH 3 OF THIS SUBSECTION, THE PERSON SHALL FILE A REPORT ON ANY TUESDAY BY WHICH THE PERSON HAS REACHED THE DOLLAR AMOUNT FOR FILING AN ORIGINAL OR SUPPLEMENTAL REPORT.

3. DURING THE LAST TWO WEEKS BEFORE THE PRIMARY ELECTION AND THE LAST TWO WEEKS BEFORE THE GENERAL ELECTION, THE PERSON SHALL FILE A REPORT WITHIN ONE BUSINESS DAY OF REACHING THE DOLLAR AMOUNT FOR FILING AN ORIGINAL OR SUPPLEMENTAL REPORT.

C. ANY FILING UNDER THIS ARTICLE ON BEHALF OF A CANDIDATE MAY BE MADE BY THE CANDIDATE'S CAMPAIGN COMMITTEE. ALL CANDIDATES SHALL DEPOSIT ANY CHECK RECEIVED BY AND INTENDED FOR THE CAMPAIGN AND MADE PAYABLE TO THE CANDIDATE OR THE CANDIDATE'S CAMPAIGN COMMITTEE, AND ALL CASH RECEIVED BY AND INTENDED FOR THE CAMPAIGN, IN THE CANDIDATE'S CAMPAIGN ACCOUNT BEFORE THE DUE DATE OF THE NEXT REPORT SPECIFIED IN SUBSECTION B OF THIS SECTION. NO CANDIDATE OR PERSON ACTING ON BEHALF OF A CANDIDATE SHALL CONSPIRE WITH A DONOR TO POSTPONE DELIVERY OF A DONATION TO THE CAMPAIGN FOR THE PURPOSE OF POSTPONING THE REPORTING OF THE DONATION IN ANY SUBSEQUENT REPORT.

D. THE SECRETARY OF STATE SHALL IMMEDIATELY NOTIFY THE COMMISSION OF THE FILING OF EACH REPORT UNDER THIS SECTION AND DELIVER A COPY OF THE REPORT TO THE COMMISSION, AND THE COMMISSION SHALL PROMPTLY MAIL OR OTHERWISE DELIVER A COPY OF EACH REPORT FILED PURSUANT TO THIS SECTION TO ALL PARTICIPATING CANDIDATES OPPOSING THE CANDIDATE IDENTIFIED IN SECTION 16-941, SUBSECTION B, PARAGRAPH 2 OR SUBSECTION D.

E. ANY REPORT FILED PURSUANT TO THIS SECTION OR SECTION 16-916, SUBSECTION A, PARAGRAPH 1 OR SUBSECTION B SHALL BE FILED IN ELECTRONIC FORMAT. THE SECRETARY OF STATE SHALL DISTRIBUTE COMPUTER SOFTWARE TO POLITICAL COMMITTEES TO ACCOMMODATE SUCH ELECTRONIC FILING.

F. DURING THE PRIMARY ELECTION PERIOD AND THE GENERAL ELECTION PERIOD, ALL CANDIDATES SHALL MAKE AVAILABLE FOR PUBLIC INSPECTION ALL BANK ACCOUNTS, CAMPAIGN FINANCE REPORTS, AND FINANCIAL RECORDS RELATING TO THE CANDIDATE'S CAMPAIGN, EITHER BY IMMEDIATE DISCLOSURE THROUGH ELECTRONIC MEANS OR AT THE CANDIDATE'S CAMPAIGN HEADQUARTERS, IN ACCORDANCE WITH RULES ADOPTED BY THE COMMISSION.

16-959. INFLATIONARY AND OTHER ADJUSTMENTS OF DOLLAR VALUES.

A. EVERY TWO YEARS, THE SECRETARY OF STATE SHALL MODIFY THE DOLLAR VALUES SPECIFIED IN THE FOLLOWING PARTS OF THIS ARTICLE, IN THE MANNER SPECIFIED BY SECTION 16-905, SUBSECTION J, TO ACCOUNT FOR INFLATION: SECTION 16-941, SUBSECTION A, PARAGRAPH 2 OR SUBSECTION D; SECTION 16-942, SUBSECTION B; SECTION 16-944; SECTION 16-945, SUBSECTION A, PARAGRAPHS 1 AND 2; SECTION 16-948, PARAGRAPH C; SECTION 16-954, SUBSECTION B; SECTION 16-955, SUBSECTION G; AND SECTION 16-961, SUBSECTIONS G AND H. IN ADDITION, THE SECRETARY OF STATE SHALL MAKE A SIMILAR INFLATION ADJUSTMENT BY MODIFYING THE DOLLAR VALUES IN SECTION 16-949, SUBSECTION A AND SECTION 16-954, SUBSECTION A TO THE NEAREST DOLLAR. IN ADDITION, EVERY TWO YEARS, THE SECRETARY OF

STATE SHALL CHANGE THE DOLLAR VALUES IN SECTION 16-961, SUBSECTIONS G AND H IN PROPORTION TO THE CHANGE IN THE NUMBER OF ARIZONA RESIDENT PERSONAL INCOME TAX RETURNS FILED DURING THE PREVIOUS CALENDAR YEAR.

B. BASED ON THE RESULTS OF THE ELECTIONS IN THE YEAR 2002 OR ANY QUADRENNIAL ELECTION THEREAFTER, AND WITHIN SIX MONTHS AFTER SUCH ELECTION, THE COMMISSION MAY ADOPT RULES IN A PUBLIC MEETING REALLOCATING FUNDS AVAILABLE TO ALL CANDIDATES BETWEEN THE PRIMARY AND GENERAL ELECTIONS BY SELECTING A FRACTION FOR PRIMARY ELECTION SPENDING LIMITS THAT IS BETWEEN ONE THIRD AND ONE HALF OF THE SPENDING LIMITS FOR THE ELECTION AS A WHOLE. FOR EACH OFFICE, THE PRIMARY ELECTION SPENDING LIMIT SHALL BE MODIFIED TO BE THE SUM OF THE PRIMARY AND GENERAL SPENDING LIMITS TIMES THE SELECTED FRACTION, AND THE GENERAL ELECTION SPENDING LIMIT SHALL BE MODIFIED TO BE THE SAME SUM TIMES ONE LESS THE SELECTED FRACTION.

16-960. 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. IN ANY COURT CHALLENGE TO THE VALIDITY OF THIS ARTICLE, THE COMMISSION AND ARIZONANS FOR CLEAN ELECTIONS SHALL HAVE STANDING TO INTERVENE.

16-961. DEFINITIONS.

A. THE TERMS "CANDIDATE'S CAMPAIGN COMMITTEE," "CONTRIBUTION," "EXPENDITURES," "EXPLORATORY COMMITTEE," "INDEPENDENT EXPENDITURE," "PERSONAL MONIES," "POLITICAL COMMITTEE," AND "STATEWIDE OFFICE" ARE DEFINED IN SECTION 16-901.

B. 1. "ELECTION CYCLE" MEANS THE PERIOD BETWEEN SUCCESSIVE GENERAL ELECTIONS FOR A PARTICULAR OFFICE.

2. "EXPLORATORY PERIOD" MEANS THE PERIOD BEGINNING ON THE DAY AFTER A GENERAL ELECTION AND ENDING THE DAY BEFORE THE START OF THE QUALIFYING PERIOD.

3. "QUALIFYING PERIOD" MEANS THE PERIOD BEGINNING ON THE FIRST DAY OF AUGUST IN A YEAR PRECEDING AN ELECTION, FOR AN ELECTION FOR A STATEWIDE OFFICE, OR ON THE FIRST DAY OF JANUARY OF AN ELECTION YEAR, FOR AN ELECTION FOR LEGISLATOR, AND ENDING SEVENTY-FIVE DAYS BEFORE THE DAY OF THE GENERAL ELECTION.

4. "PRIMARY ELECTION PERIOD" MEANS THE NINE-WEEK PERIOD ENDING ON THE DAY OF THE PRIMARY ELECTION.

5. "GENERAL ELECTION PERIOD" MEANS THE PERIOD BEGINNING ON THE DAY AFTER THE PRIMARY ELECTION AND ENDING ON THE DAY OF THE GENERAL ELECTION.

6. FOR ANY RECALL ELECTION, THE QUALIFYING PERIOD SHALL BEGIN WHEN THE ELECTION IS CALLED AND LAST FOR THIRTY DAYS, THERE SHALL BE NO PRIMARY ELECTION PERIOD, AND THE GENERAL ELECTION PERIOD SHALL EXTEND FROM THE DAY AFTER THE END OF THE QUALIFYING PERIOD TO THE DAY OF THE RECALL ELECTION. FOR RECALL ELECTIONS,

ANY REFERENCE TO "GENERAL ELECTION" IN THIS ARTICLE SHALL BE TREATED AS IF REFERRING TO THE RECALL ELECTION.

C. 1. "PARTICIPATING CANDIDATE" MEANS A CANDIDATE WHO BECOMES CERTIFIED AS A PARTICIPATING CANDIDATE PURSUANT TO SECTION 16-947.

2. "NONPARTICIPATING CANDIDATE" MEANS A CANDIDATE WHO DOES NOT BECOME CERTIFIED AS A PARTICIPATING CANDIDATE PURSUANT TO SECTION 16-947.

3. ANY LIMITATION OF THIS ARTICLE THAT IS APPLICABLE TO A PARTICIPATING CANDIDATE OR A NONPARTICIPATING CANDIDATE SHALL ALSO APPLY TO THAT CANDIDATE'S CAMPAIGN COMMITTEE OR EXPLORATORY COMMITTEE.

D. "COMMISSION" MEANS THE CITIZENS CLEAN ELECTIONS COMMISSION ESTABLISHED PURSUANT TO SECTION 16-955.

E. "FUND" MEANS THE CITIZENS CLEAN ELECTION FUND DEFINED BY THIS ARTICLE.

F. 1. "PARTY NOMINEE" MEANS A PERSON WHO HAS BEEN NOMINATED BY A POLITICAL PARTY PURSUANT TO SECTIONS 16-301 OR 16-343.

2. "INDEPENDENT CANDIDATE" MEANS A CANDIDATE WHO HAS PROPERLY FILED NOMINATING PAPERS AND NOMINATING PETITIONS WITH SIGNATURES PURSUANT TO SECTION 16-341.

3. "UNOPPOSED," WITH REFERENCE TO AN ELECTION FOR A MEMBER OF THE HOUSE OF REPRESENTATIVES, MEANS OPPOSED BY NO MORE THAN ONE OTHER CANDIDATE.

G. "PRIMARY ELECTION SPENDING LIMITS" MEANS:

1. FOR A CANDIDATE FOR LEGISLATURE, TEN THOUSAND DOLLARS.

2. FOR CANDIDATE FOR MINE INSPECTOR, TWENTY THOUSAND DOLLARS.

3. FOR A CANDIDATE FOR TREASURER, SUPERINTENDENT OF PUBLIC INSTRUCTION, OR CORPORATION COMMISSION, FORTY THOUSAND DOLLARS.

4. FOR A CANDIDATE FOR SECRETARY OF STATE OR ATTORNEY GENERAL, EIGHTY THOUSAND DOLLARS.

5. FOR A CANDIDATE FOR GOVERNOR, THREE HUNDRED EIGHTY THOUSAND DOLLARS.

H. "GENERAL ELECTION SPENDING LIMITS" MEANS AMOUNTS FIFTY PERCENT GREATER THAN THE AMOUNTS SPECIFIED IN SUBSECTION G OF THIS SECTION.

I. 1. "ORIGINAL" SPENDING LIMIT MEANS A LIMIT SPECIFIED IN SUBSECTIONS G AND H OF THIS SECTION, AS ADJUSTED PURSUANT TO SECTION 16-959, OR A SPECIAL AMOUNT EXPRESSLY SET FOR A PARTICULAR CANDIDATE BY A PROVISION OF THIS TITLE.

2. "ADJUSTED" SPENDING LIMIT MEANS AN ORIGINAL SPENDING LIMIT AS FURTHER ADJUSTED TO ACCOUNT FOR REPORTED OVERAGES PURSUANT TO SECTION 16-952.

Section 2. In title 16, chapter 6, article 1, add the following section:

16-901.01. LIMITATIONS ON CERTAIN UNREPORTED EXPENDITURES AND CONTRIBUTIONS.

A. FOR PURPOSES OF THIS CHAPTER, "EXPRESSLY ADVOCATES" MEANS:

1. CONVEYING A COMMUNICATION CONTAINING A PHRASE SUCH AS "VOTE FOR," "ELECT," "RE-ELECT," "SUPPORT," "ENDORSE," "CAST YOUR BALLOT FOR," "(NAME OF CANDIDATE) IN (YEAR)," "(NAME OF CANDIDATE) FOR (OFFICE)," "VOTE AGAINST," "DEFEAT," "REJECT," OR A CAMPAIGN SLOGAN OR WORDS THAT IN CONTEXT CAN HAVE NO REASONABLE MEANING OTHER THAN TO ADVOCATE THE ELECTION OR DEFEAT OF ONE OR MORE CLEARLY IDENTIFIED CANDIDATES, OR

2. MAKING A GENERAL PUBLIC COMMUNICATION, SUCH AS IN A BROADCAST MEDIUM, NEWSPAPER, MAGAZINE, BILLBOARD, OR DIRECT MAILER REFERRING TO ONE OR MORE CLEARLY IDENTIFIED CANDIDATES AND TARGETED TO THE ELECTORATE OF THAT CANDIDATE(S):

(A) THAT IN CONTEXT CAN HAVE NO REASONABLE MEANING OTHER THAN TO ADVOCATE THE ELECTION OR DEFEAT OF THE CANDIDATE(S), AS EVIDENCED BY FACTORS SUCH AS THE PRESENTATION OF THE CANDIDATE(S) IN A FAVORABLE OR UNFAVORABLE LIGHT, THE TARGETING, PLACEMENT, OR TIMING OF THE COMMUNICATION, OR THE INCLUSION OF STATEMENTS OF THE CANDIDATE(S) OR OPPONENTS, OR

(B) IN THE SIXTEEN-WEEK PERIOD IMMEDIATELY PRECEDING A GENERAL ELECTION.

B. A COMMUNICATION WITHIN THE SCOPE OF SUBSECTION A, PARAGRAPH 2 SHALL NOT BE CONSIDERED AS ONE THAT "EXPRESSLY ADVOCATES" MERELY BECAUSE IT PRESENTS INFORMATION ABOUT THE VOTING RECORD OR POSITION ON A CAMPAIGN ISSUE OF THREE OR MORE CANDIDATES, SO LONG AS IT IS NOT MADE IN COORDINATION WITH A CANDIDATE, POLITICAL PARTY, AGENT OF THE CANDIDATE OR PARTY, OR A PERSON WHO IS COORDINATING WITH A CANDIDATE OR CANDIDATE'S AGENT.

PROPOSITION 201

OFFICIAL TITLE

AN INITIATIVE MEASURE

PROPOSING AN AMENDMENT TO TITLE 13, CHAPTER 29 OF THE ARIZONA REVISED STATUTES RELATING TO COCKFIGHTING.

TEXT OF THE AMENDMENT

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

Title 13, Chapter 29 is proposed to be amended as follows if approved by a majority of the qualified electors voting thereon and on proclamation of the Governor:

Sec. 1. Title 13, Chapter 29, A.R.S. is amended by adding new sections 13-2910.03 and 13-2910.04, to read:

§ 13-2910.03. COCKFIGHTING; CLASSIFICATION

A. A PERSON COMMITS COCKFIGHTING BY KNOWINGLY:

1. OWNING, POSSESSING, KEEPING OR TRAINING ANY COCK WITH THE INTENT THAT SUCH COCK ENGAGE IN AN EXHIBITION OF FIGHTING WITH ANOTHER COCK.

2. FOR AMUSEMENT OR GAIN, CAUSING ANY COCK TO FIGHT WITH ANOTHER COCK OR CAUSING ANY COCKS TO INJURE EACH OTHER.

3. PERMITTING ANY ACT IN VIOLATION OF PARAGRAPH 1 OR 2 TO BE DONE ON ANY PREMISES UNDER HIS CHARGE OR CONTROL.

B. COCKFIGHTING IS A CLASS 5 FELONY.

C. FOR PURPOSES OF THIS SECTION AND SECTION 13-2910.04, COCK MEANS ANY MALE CHICKEN, INCLUDING GAME FOWL EXCEPT WILDLIFE AS DEFINED IN A.R.S § 17-101.

§ 13-2910.04. PRESENCE AT COCKFIGHT; CLASSIFICATION

ANY PERSON WHO IS KNOWINGLY PRESENT AT ANY PLACE OR BUILDING WHERE PREPARATIONS ARE BEING MADE FOR AN EXHIBITION OF THE FIGHTING OF COCKS, OR IS PRESENT AT SUCH EXHIBITION, IS GUILTY OF A CLASS 1 MISDEMEANOR.

Sec. 2 Renumber

Sections 13-2910.03 and 13-2910.04, Arizona Revised Statutes, are renumbered as 13-2910.05 and 13-2910.06 respectively.

Sec. 3. Section 13-2910.05, A.R.S., as renumbered, is amended to read:

§ 13-2910.05. Exempt activities

Activity involving the possession, training, exhibition or use of an animal in the otherwise lawful pursuits of hunting, ranching, farming, rodeos, shows and security services shall be exempt from the provisions of §§ 13-2910.01, ~~and~~ 13-2910.02, 13-2910.03 AND 13-2910.04.

Sec. 4.. Section 13-2910.06, A.R.S., as renumbered, is amended to read:

§ 13-2910.06. Defense to cruelty to animals and bird fighting

It is a defense to §§ 13-2910, 13-2910.01, ~~and~~ 13-2910.02, 13-2910.03 AND 13-2910.04 that the activity charged involves the possession, training, exhibition or use of a bird or animal in the otherwise lawful sports of falconry, animal hunting, rodeos, ranching or the training or use of hunting dogs.

PROPOSITION 303

OFFICIAL TITLE

HOUSE CONCURRENT RESOLUTION 2027

AMENDING SECTION 41-511.23, ARIZONA REVISED STATUTES; RELATING TO LAND USE AND CONSERVATION APPROPRIATIONS.

TEXT OF THE 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 land use and conservation appropriations, is enacted to become valid as a law if approved by the voters, and if the initiative styled "The Citizens Growth Management Act" fails to be approved by the voters, at the general election held November 3, 1998:

AN ACT

AMENDING SECTION 41-511.23, ARIZONA REVISED STATUTES; RELATING TO LAND USE AND CONSERVATION APPROPRIATIONS.

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

SECTION 1. THE GROWING SMARTER ACT; DESCRIPTION:

INTENT

A. THE LEGISLATURE HAS ENACTED "THE GROWING SMARTER ACT" CONSISTING OF COMPREHENSIVE MUNICIPAL, COUNTY AND STATE LAND DEPARTMENT LAND USE PLANNING AND ZONING REFORMS, PROVIDING FOR THE ACQUISITION AND PRESERVATION OF OPEN SPACES AND ESTABLISHING A PROGRAM FOR CONTINUING STUDY AND CONSIDERATION OF PERTINENT ISSUES RELATING TO PUBLIC LAND USE POLICIES.

B. THIS PROPOSITION PRESENTS TO THE VOTERS A KEY COMPONENT OF THE GROWING SMARTER ACT. IT FUNDS GRANTS OF MONEY FROM EXISTING STATE REVENUES TO CONSERVE OPEN SPACES IN OR NEAR URBAN AREAS AND OTHER AREAS EXPERIENCING HIGH GROWTH PRESSURES. COMBINED WITH MORE SPECIFIC AND MORE DETAILED COMMUNITY PLANS, GREATER PUBLIC PARTICIPATION IN CREATING AND AMENDING COMMUNITY PLANS, MANDATORY REZONING CONFORMITY WITH ADOPTED PLANS, STATE TRUST LAND PLANNING AND AN URBAN AND RURAL GROWTH STUDY COMMISSION, THIS FUNDING FURTHERS THE BEST INTERESTS OF OUR CITIZENS BY PROTECTING OUR NATURAL HERITAGE AND WISELY MANAGING THE GROWTH OF OUR COMMUNITIES.

C. THESE COMPREHENSIVE REFORMS CONFLICT WITH THE INITIATIVE STYLED "THE CITIZENS GROWTH MANAGEMENT ACT" WHICH MANDATES THE ESTABLISHMENT OF URBAN GROWTH AREAS, GROWTH MANAGEMENT PLANS AND LIMITS THE EXPANSION OF PUBLIC SERVICES. THE PROPOSALS IN THE CITIZENS GROWTH MANAGEMENT ACT ARE INCONSISTENT WITH STATE FUNDED ACQUISITION AND PRESERVATION OF OPEN SPACE WITHIN URBAN GROWTH AREAS AND WITH PROVIDING AFFORDABLE HOUSING AND OTHER URBAN LAND USE NEEDS. MOREOVER, LOCAL TAX BASES MAY BE ERODED BY THE ACQUISITION OF URBAN OPEN SPACE PROPERTY BY GOVERNMENT ENTITIES UNDER THIS ACT UNLESS LOCAL GOVERNMENTS ARE ALLOWED TO CONTINUE TO ANNEX NEW TERRITORY.

D. THE VOTERS ARE THUS PRESENTED A CLEAR CHOICE IN THE DIRECTION THEY WANT COUNTIES AND MUNICIPALITIES TO FOLLOW IN PLANNING AND MANAGING THE GROWTH THAT IS INEVITABLE IN THIS STATE. THE GROWING SMARTER ACT AND THE CITIZENS GROWTH MANAGEMENT ACT ARE NOT COMPATIBLE. THIS PROPOSITION, THE GROWING SMARTER ACT, CAN TAKE EFFECT AND WORK SUCCESSFULLY ONLY IF THE CITIZENS GROWTH MANAGEMENT ACT IS NOT APPROVED BY THE VOTERS AND DOES NOT BECOME EFFECTIVE.

Sec. 2. Section 41-511.23, Arizona Revised Statutes, is amended to read:

41-511.23. Conservation acquisition board; land conservation fund; conservation donation and public conservation accounts; exemption from lapsing

A. The conservation acquisition board is established, as an advisory body to the Arizona state parks board, consisting of the following members who are appointed by the governor, at least one of whom shall be experienced in soliciting money from private sources:

1. One state land lessee.
2. One member who is qualified by experience in managing large holdings of private land for income production or conservation purposes.
3. One member of the state bar of Arizona who is experienced in the practice of private real estate law.
4. One real estate appraiser who is licensed or certified under title 32, chapter 36.
5. One member who is qualified by experience in marketing real estate.
6. One representative of a conservation organization.
7. One representative of a state public educational institution.

B. The governor shall designate a presiding member of the board. The term of office is five years except that initial members shall assign themselves by lot to terms of one, two, three, two members for four and two members for five years in office.

C. The conservation acquisition board shall:

1. Solicit donations to the conservation donation account.

2. Consult with entities such as private land trusts, state land lessees, the state land department, the Arizona state parks board and others to identify conservation areas reclassified pursuant to section 37-312 that are suitable for funding.

3. Recommend to the Arizona state parks board appropriate grants from the land conservation fund.

D. The land conservation fund is established consisting of the following accounts:

1. The conservation donation account consisting of monies received as donations. Monies in the account are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

2. The public conservation account consisting of monies appropriated ~~by the legislature~~ from the state general fund. ~~Subject to legislative appropriation,~~ IN FISCAL YEARS 2000-2001 THROUGH 2010-2011, THE SUM OF TWENTY MILLION DOLLARS IS APPROPRIATED EACH FISCAL YEAR FROM THE STATE GENERAL FUND TO THE PUBLIC CONSERVATION ACCOUNT IN THE LAND CONSERVATION FUND FOR THE PURPOSES OF THIS SECTION. Beginning in fiscal year 1998-1999, each expenditure of monies from the public conservation account shall be matched by an equal expenditure of monies from the conservation donation account and any amount that is so appropriated in a fiscal year and that is not matched at the end of the fiscal year reverts to the state general fund. The matched monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. Monies in the public conservation account, with matching monies from the conservation donation account, are appropriated to the Arizona state parks board for the exclusive purpose of granting monies to the state or any of its political subdivisions for the purchase or lease of state trust lands that are classified as suitable for conservation purposes pursuant to section 37-312. ~~If the legislature fails to appropriate monies to the public conservation account in a fiscal year, the Arizona state parks board may either grant nothing from the fund in that year or, on recommendation by the conservation acquisition board, grant available monies in the conservation donation account for purposes authorized in this paragraph.~~

E. The Arizona state parks board shall administer the land conservation fund. On notice from the board, the state treasurer shall invest and divest monies in either account in the fund as provided by section 35-313, and monies earned from investments shall be credited to the appropriate account in the fund.

SEC. 3. PROHIBITED URBAN GROWTH MANAGEMENT REQUIREMENTS

A. THERE SHALL NOT BE A STATE MANDATE THAT A CITY, CHARTER CITY, TOWN OR COUNTY:

1. ADOPT BY ORDINANCE OR OTHERWISE ANY "GROWTH MANAGEMENT" PLAN, HOWEVER DENOMINATED, CONTAINING ANY PROVISIONS RELATING TO SUCH ISSUES AS MANDATORY DEVELOPMENT FEES, MANDATORY AIR AND WATER QUALITY CONTROLS AND STREET AND HIGHWAY ENVIRONMENTAL IMPACTS, AND REQUIRING THAT, BEFORE

ADOPTION, THE GROWTH MANAGEMENT PLAN, AMENDMENTS AND EXCEPTIONS BE AUTOMATICALLY REFERRED TO THE VOTERS FOR APPROVAL.

2. ESTABLISH OR RECOGNIZE, FORMALLY OR INFORMALLY, URBAN GROWTH BOUNDARIES, HOWEVER DENOMINATED, THAT EFFECTIVELY PREVENT NEW URBAN DEVELOPMENT AND EXTENSION OF PUBLIC SERVICES OUTSIDE THOSE BOUNDARIES.

3. APPLY OR ATTEMPT TO APPLY URBAN GROWTH MANAGEMENT RESTRICTIONS OR BOUNDARIES TO LANDS OWNED OR HELD IN TRUST BY THIS STATE, UNLESS SPECIFICALLY AUTHORIZED BY ACT OF THE LEGISLATURE.

B. THERE SHALL NOT BE A STATE MANDATE THAT THE ATTORNEY GENERAL FILE ANY ACTION IN ANY COURT IN THIS STATE AGAINST ANY LOCAL GOVERNMENT OR OFFICIAL TO ENFORCE ANY PROVISION PROHIBITED BY THIS SECTION.

SEC. 4. CONDITIONAL REPEAL

SECTION 2 OF THIS ACT IS REPEALED IF THE INITIATIVE STYLED "THE CITIZENS GROWTH MANAGEMENT ACT" AND DESIGNATED BY THE SECRETARY OF STATE AS 12-I-98 IS APPROVED BY THE VOTERS AT THE GENERAL ELECTION HELD NOVEMBER 3, 1998 AND BECOMES EFFECTIVE PURSUANT TO ARTICLE IV, PART 1, SECTION 1, CONSTITUTION OF ARIZONA.

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.

PROPOSITION 304

OFFICIAL TITLE

HOUSE BILL 2158

REPEALING SECTION 41-2998.10, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2999.14; REPEALING SECTION 41-2999.14, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3003.10; PROVIDING FOR REFERENDUM; RELATING TO THE STATE LOTTERY COMMISSION.

TEXT OF THE AMENDMENT

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

Sec. 3. Repeal

Section 41-2999.14, Arizona Revised Statutes, is repealed.

~~41-2999.14. Arizona state lottery commission; termination July 1, 1999~~

~~A. The Arizona State Lottery Commission Terminates On July 1, 1999.~~

~~B. Title 5, Chapter 5 Is Repealed On January 1, 2000.~~

Sec. 4. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3003.10, to read:

41-3003.10. ARIZONA STATE LOTTERY COMMISSION; TERMINATION
JULY 1, 2003

A. THE ARIZONA STATE LOTTERY COMMISSION TERMINATES ON JULY 1, 2003.

B. TITLE 5, CHAPTER 5 IS REPEALED ON JANUARY 1, 2004.

Sec. 10. Referendum; state lottery; vote at general election

A. Under the power of the referendum, as vested in the legislature, sections 3 and 4 of this act are enacted, to become valid as law if approved by the voters and on proclamation of the governor.

B. The secretary of state shall submit sections 3 and 4 of this act to the voters at the next general election as provided by article IV, part 1, section 1, Constitution of Arizona.

V. 2000 BALLOT MEASURES

PROPOSITON 200

OFFICIAL TITLE

AN INITIATIVE MEASURE

AN ACT REPEALING SECTIONS 36-275, 36-771, 36-773, 36-774, 36-775, 36-2907.07, 36-2921, 42-3251, 42-3252, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 2, ARTICLE 1, BY ADDING SECTION 11-201.01; AMENDING TITLE 36, CHAPTER 6, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-771, 36-774 AND 36-775; AMENDING TITLE 36, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 9, SECTIONS 36-776, 36-777, 36-778 AND 36-779; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 10, SECTIONS 36-781, 36-782, 36-783; AMENDING TITLE 36, CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-2921.01 AND 36-2901.02; AMENDING SECTIONS 36-2988 AND 36-2989, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 7, ARTICLE 10.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1279.09; AMENDING TITLE 42, CHAPTER 3, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3251; AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 26, ARTICLE 1, SECTION 44-7101; MAKING AN APPROPRIATION; RELATING TO TOBACCO.

TEXT OF PROPOSED AMENDMENT

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

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Sec. 23. Title 42, chapter 3, article 6, Arizona Revised Statutes, is amended by adding section 42-3251 to read:

42-3251. Levy and collection of tobacco tax

A. IN ADDITION TO ALL OTHER TAXES, AND IN ADDITION TO THE TAX LEVIED AND IMPOSED BY ARTICLE 2 OF THIS CHAPTER, THERE IS LEVIED AND SHALL BE COLLECTED BY THE DEPARTMENT AND PAID TO THE STATE TREASURER IN THE MANNER PROVIDED BY THIS CHAPTER ON ALL CIGARETTES, CIGARS, SMOKING TOBACCO, PLUG TOBACCO, SNUFF AND OTHER FORMS OF TOBACCO THE FOLLOWING TAX:

1. ON EACH CIGARETTE, 2 CENTS.

2. ON SMOKING TOBACCO, SNUFF, FINE CUT CHEWING TOBACCO, CUT AND GRANULATED TOBACCO, SHORTS AND REFUSE OF FINE CUT CHEWING TOBACCO, AND REFUSE, SCRAPS, CLIPPINGS, CUTTINGS AND SWEEPINGS OF TOBACCO, EXCLUDING TOBACCO POWDER OR TOBACCO PRODUCTS USED EXCLUSIVELY FOR AGRICULTURAL OR HORTICULTURAL PURPOSES AND UNFIT FOR HUMAN CONSUMPTION, 4.5 CENTS PER OUNCE OR MAJOR FRACTION OF AN OUNCE.

3. ON ALL CAVENDISH, PLUG OR TWIST TOBACCO, 1.1 CENTS PER OUNCE OR FRACTIONAL PART OF AN OUNCE.

4. ON EACH TWENTY SMALL CIGARS OR FRACTIONAL PART WEIGHING NOT MORE THAN THREE POUNDS PER THOUSAND, 8.9 CENTS.

5. ON CIGARS OF ALL DESCRIPTIONS, EXCEPT THOSE INCLUDED IN PARAGRAPH 4, MADE OF TOBACCO OR ANY TOBACCO SUBSTITUTE:

(a) IF MANUFACTURED TO RETAIL AT NOT MORE THAN 5 CENTS EACH AT 4.4 CENTS ON EACH THREE CIGARS.

(b) IF MANUFACTURED TO RETAIL AT MORE THAN 5 CENTS EACH, 4.4 CENTS ON EACH CIGAR.

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Sec. 30. Other initiatives

If any other initiative allocating or appropriating eighty percent or more of the money to be paid to the State of Arizona pursuant to the 1998 Master Settlement Agreement between United States tobacco product manufacturers and the State of Arizona, receives more votes than this measure, only section 23, enacting section 42-3251, Arizona Revised Statutes, of this Act shall be effective.

Because Proposition 204, which allocates all monies that the State of Arizona receives pursuant to the tobacco litigation master settlement agreement, received more votes than Proposition 200 in the November, 2000 general election, only section 23 of Proposition 200 became effective.

PROPOSITION 203

OFFICIAL TITLE

AN INITIATIVE MEASURE

TITLE 15, CHAPTER 7, ARTICLE 3.1, ARIZONA REVISED STATUTES, IS REPEALED.
SEC. 3. TITLE 15, CHAPTER 7, ARIZONA REVISED STATUTES, IS AMENDED BY
ADDING A NEW ARTICLE 3.1, ENGLISH LANGUAGE EDUCATION FOR CHILDREN
IN PUBLIC SCHOOLS

TEXT OF PROPOSED AMENDMENT

Sec. 1. Findings and Declarations

The People of Arizona find and declare:

1. The English language is the national public language of the United States of America and of the state of Arizona. It is spoken by the vast majority of Arizona residents, and is also the leading world language for science, technology, and international business, thereby being the language of economic opportunity; and

2. Immigrant parents are eager to have their children acquire a good knowledge of English, thereby allowing them to fully participate in the American Dream of economic and social advancement; and

3. The government and the public schools of Arizona have a moral obligation and a constitutional duty to provide all of Arizona’s children, regardless of their ethnicity or national origins, with the skills necessary to become productive members of our society. Of these skills, literacy in the English language is among the most important.

4. The public schools of Arizona currently do an inadequate job of educating immigrant children, wasting financial resources on costly experimental language programs whose failure over the past two decades is demonstrated by the current high drop-out rates and low English literacy levels of many immigrant children.

5. Young immigrant children can easily acquire full fluency in a new language, such as English, if they are heavily exposed to that language in the classroom at an early age.

6. Therefore it is resolved that: all children in Arizona public schools shall be taught English as rapidly and effectively as possible.

7. Under circumstances in which portions of this statute are subject to conflicting interpretations, these Findings and Declarations shall be assumed to contain the governing intent of the statute.

Sec. 2. Repeal

Title 15, chapter 7, article 3.1, Arizona Revised Statutes, is repealed.

Sec. 3. Title 15, chapter 7, Arizona Revised Statutes, is amended by adding a new article 3.1, to read:

**ARTICLE 3.1. ENGLISH LANGUAGE EDUCATION
FOR CHILDREN IN PUBLIC SCHOOLS**

**SECTION 15-751. DEFINITIONS
IN THIS ARTICLE,**

1. “BILINGUAL EDUCATION/NATIVE LANGUAGE INSTRUCTION” MEANS A LANGUAGE ACQUISITION PROCESS FOR STUDENTS IN WHICH MUCH OR ALL

INSTRUCTION, TEXTBOOKS, OR TEACHING MATERIALS ARE IN THE CHILD'S NATIVE LANGUAGE OTHER THAN ENGLISH.

2. "ENGLISH LANGUAGE CLASSROOM" MEANS A CLASSROOM IN WHICH ENGLISH IS THE LANGUAGE OF INSTRUCTION USED BY THE TEACHING PERSONNEL, AND IN WHICH SUCH TEACHING PERSONNEL POSSESS A GOOD KNOWLEDGE OF THE ENGLISH LANGUAGE. ENGLISH LANGUAGE CLASSROOMS ENCOMPASS BOTH ENGLISH LANGUAGE MAINSTREAM CLASSROOMS AND SHELTERED ENGLISH IMMERSION CLASSROOMS

3. "ENGLISH LANGUAGE MAINSTREAM CLASSROOM" MEANS A CLASSROOM IN WHICH THE STUDENTS EITHER ARE NATIVE ENGLISH LANGUAGE SPEAKERS OR ALREADY HAVE ACQUIRED REASONABLE FLUENCY IN ENGLISH.

4. "ENGLISH LEARNER" OR "LIMITED ENGLISH PROFICIENT STUDENT" MEANS A CHILD WHO DOES NOT SPEAK ENGLISH OR WHOSE NATIVE LANGUAGE IS NOT ENGLISH, AND WHO IS NOT CURRENTLY ABLE TO PERFORM ORDINARY CLASSROOM WORK IN ENGLISH.

5. "SHELTERED ENGLISH IMMERSION" OR "STRUCTURED ENGLISH IMMERSION" MEANS AN ENGLISH LANGUAGE ACQUISITION PROCESS FOR YOUNG CHILDREN IN WHICH NEARLY ALL CLASSROOM INSTRUCTION IS IN ENGLISH BUT WITH THE CURRICULUM AND PRESENTATION DESIGNED FOR CHILDREN WHO ARE LEARNING THE LANGUAGE. BOOKS AND INSTRUCTIONAL MATERIALS ARE IN ENGLISH AND ALL READING, WRITING, AND SUBJECT MATTER ARE TAUGHT IN ENGLISH. ALTHOUGH TEACHERS MAY USE A MINIMAL AMOUNT OF THE CHILD'S NATIVE LANGUAGE WHEN NECESSARY, NO SUBJECT MATTER SHALL BE TAUGHT IN ANY LANGUAGE OTHER THAN ENGLISH, AND CHILDREN IN THIS PROGRAM LEARN TO READ AND WRITE SOLELY IN ENGLISH. THIS EDUCATIONAL METHODOLOGY REPRESENTS THE STANDARD DEFINITION OF "SHELTERED ENGLISH" OR "STRUCTURED ENGLISH" FOUND IN EDUCATIONAL LITERATURE.

SECTION 15-752. ENGLISH LANGUAGE EDUCATION

SUBJECT TO THE EXCEPTIONS PROVIDED IN SECTION 15-753, ALL CHILDREN IN ARIZONA PUBLIC SCHOOLS SHALL BE TAUGHT ENGLISH BY BEING TAUGHT IN ENGLISH AND ALL CHILDREN SHALL BE PLACED IN ENGLISH LANGUAGE CLASSROOMS. CHILDREN WHO ARE ENGLISH LEARNERS SHALL BE EDUCATED THROUGH SHELTERED ENGLISH IMMERSION DURING A TEMPORARY TRANSITION PERIOD NOT NORMALLY INTENDED TO EXCEED ONE YEAR. LOCAL SCHOOLS SHALL BE PERMITTED BUT NOT REQUIRED TO PLACE IN THE SAME CLASSROOM ENGLISH LEARNERS OF DIFFERENT AGES BUT WHOSE DEGREE OF ENGLISH PROFICIENCY IS SIMILAR. LOCAL SCHOOLS SHALL BE ENCOURAGED TO MIX TOGETHER IN THE SAME CLASSROOM ENGLISH LEARNERS FROM DIFFERENT NATIVE-LANGUAGE GROUPS BUT WITH THE SAME DEGREE OF ENGLISH FLUENCY. ONCE ENGLISH LEARNERS HAVE ACQUIRED A GOOD WORKING KNOWLEDGE OF ENGLISH AND ARE ABLE TO DO REGULAR SCHOOL WORK IN ENGLISH, THEY SHALL NO LONGER BE CLASSIFIED AS ENGLISH LEARNERS AND SHALL BE TRANSFERRED TO ENGLISH LANGUAGE MAINSTREAM CLASSROOMS. AS MUCH AS POSSIBLE, CURRENT PER CAPITA SUPPLEMENTAL FUNDING FOR ENGLISH LEARNERS SHALL BE MAINTAINED. FOREIGN LANGUAGE CLASSES FOR CHILDREN WHO ALREADY KNOW ENGLISH

SHALL BE COMPLETELY UNAFFECTED, AS SHALL SPECIAL EDUCATIONAL PROGRAMS FOR PHYSICALLY- OR MENTALLY-IMPAIRED STUDENTS.

SECTION 15-753. PARENTAL WAIVERS

A. THE REQUIREMENTS OF SECTION 15-752 MAY BE WAIVED WITH THE PRIOR WRITTEN INFORMED CONSENT, TO BE PROVIDED ANNUALLY, OF THE CHILD'S PARENTS OR LEGAL GUARDIAN UNDER THE CIRCUMSTANCES SPECIFIED IN THIS SECTION. SUCH INFORMED CONSENT SHALL REQUIRE THAT SAID PARENTS OR LEGAL GUARDIAN PERSONALLY VISIT THE SCHOOL TO APPLY FOR THE WAIVER AND THAT THEY THERE BE PROVIDED A FULL DESCRIPTION OF THE EDUCATIONAL MATERIALS TO BE USED IN THE DIFFERENT EDUCATIONAL PROGRAM CHOICES AND ALL THE EDUCATIONAL OPPORTUNITIES AVAILABLE TO THE CHILD. IF A PARENTAL WAIVER HAS BEEN GRANTED, THE AFFECTED CHILD SHALL BE TRANSFERRED TO CLASSES TEACHING ENGLISH AND OTHER SUBJECTS THROUGH BILINGUAL EDUCATION TECHNIQUES OR OTHER GENERALLY RECOGNIZED EDUCATIONAL METHODOLOGIES PERMITTED BY LAW. INDIVIDUAL SCHOOLS IN WHICH 20 STUDENTS OR MORE OF A GIVEN GRADE LEVEL RECEIVE A WAIVER SHALL BE REQUIRED TO OFFER SUCH A CLASS; IN ALL OTHER CASES, SUCH STUDENTS MUST BE PERMITTED TO TRANSFER TO A PUBLIC SCHOOL IN WHICH SUCH A CLASS IS OFFERED.

B. THE CIRCUMSTANCES IN WHICH A PARENTAL EXCEPTION WAIVER MAY BE APPLIED FOR UNDER THIS SECTION ARE AS FOLLOWS:

1. CHILDREN WHO ALREADY KNOW ENGLISH: THE CHILD ALREADY POSSESSES GOOD ENGLISH LANGUAGE SKILLS, AS MEASURED BY ORAL EVALUATION OR STANDARDIZED TESTS OF ENGLISH VOCABULARY COMPREHENSION, READING, AND WRITING, IN WHICH THE CHILD SCORES APPROXIMATELY AT OR ABOVE THE STATE AVERAGE FOR HIS GRADE LEVEL OR AT OR ABOVE THE 5th GRADE AVERAGE, WHICHEVER IS LOWER; OR

2. OLDER CHILDREN: THE CHILD IS AGE 10 YEARS OR OLDER, AND IT IS THE INFORMED BELIEF OF THE SCHOOL PRINCIPAL AND EDUCATIONAL STAFF THAT AN ALTERNATE COURSE OF EDUCATIONAL STUDY WOULD BE BETTER SUITED TO THE CHILD'S OVERALL EDUCATIONAL PROGRESS AND RAPID ACQUISITION OF BASIC ENGLISH LANGUAGE SKILLS; OR

3. CHILDREN WITH SPECIAL INDIVIDUAL NEEDS: THE CHILD ALREADY HAS BEEN PLACED FOR A PERIOD OF NOT LESS THAN THIRTY CALENDAR DAYS DURING THAT SCHOOL YEAR IN AN ENGLISH LANGUAGE CLASSROOM AND IT IS SUBSEQUENTLY THE INFORMED BELIEF OF THE SCHOOL PRINCIPAL AND EDUCATIONAL STAFF THAT THE CHILD HAS SUCH SPECIAL AND INDIVIDUAL PHYSICAL OR PSYCHOLOGICAL NEEDS, ABOVE AND BEYOND THE CHILD'S LACK OF ENGLISH PROFICIENCY, THAT AN ALTERNATE COURSE OF EDUCATIONAL STUDY WOULD BE BETTER SUITED TO THE CHILD'S OVERALL EDUCATIONAL DEVELOPMENT AND RAPID ACQUISITION OF ENGLISH. A WRITTEN DESCRIPTION OF NO LESS THAN 250 WORDS DOCUMENTING THESE SPECIAL INDIVIDUAL NEEDS FOR THE SPECIFIC CHILD MUST BE PROVIDED AND PERMANENTLY ADDED TO THE CHILD'S OFFICIAL SCHOOL RECORDS, AND THE WAIVER APPLICATION MUST CONTAIN THE ORIGINAL AUTHORIZING SIGNATURES OF BOTH THE SCHOOL PRINCIPAL AND THE LOCAL SUPERINTENDENT OF SCHOOLS. ANY SUCH DECISION TO ISSUE SUCH AN INDIVIDUAL WAIVER IS TO BE MADE SUBJECT TO THE EXAMINATION AND APPROVAL OF THE LOCAL SCHOOL SUPERINTENDENT, UNDER GUIDELINES

ESTABLISHED BY AND SUBJECT TO THE REVIEW OF THE LOCAL GOVERNING BOARD AND ULTIMATELY THE STATE BOARD OF EDUCATION. TEACHERS AND LOCAL SCHOOL DISTRICTS MAY REJECT WAIVER REQUESTS WITHOUT EXPLANATION OR LEGAL CONSEQUENCE, THE EXISTENCE OF SUCH SPECIAL INDIVIDUAL NEEDS SHALL NOT COMPEL ISSUANCE OF A WAIVER, AND THE PARENTS SHALL BE FULLY INFORMED OF THEIR RIGHT TO REFUSE TO AGREE TO A WAIVER.

SECTION 15-754. LEGAL STANDING AND PARENTAL ENFORCEMENT

AS DETAILED IN SECTIONS 15-752 AND 15-753, ALL ARIZONA SCHOOL CHILDREN HAVE THE RIGHT TO BE PROVIDED AT THEIR LOCAL SCHOOL WITH AN ENGLISH LANGUAGE PUBLIC EDUCATION. THE PARENT OR LEGAL GUARDIAN OF ANY ARIZONA SCHOOL CHILD SHALL HAVE LEGAL STANDING TO SUE FOR ENFORCEMENT OF THE PROVISIONS OF THIS STATUTE, AND IF SUCCESSFUL SHALL BE AWARDED NORMAL AND CUSTOMARY ATTORNEY'S FEES AND ACTUAL AND COMPENSATORY DAMAGES, BUT NOT PUNITIVE OR CONSEQUENTIAL DAMAGES. ANY SCHOOL BOARD MEMBER OR OTHER ELECTED OFFICIAL OR ADMINISTRATOR WHO WILLFULLY AND REPEATEDLY REFUSES TO IMPLEMENT THE TERMS OF THIS STATUTE MAY BE HELD PERSONALLY LIABLE FOR FEES AND ACTUAL AND COMPENSATORY DAMAGES BY THE CHILD'S PARENTS OR LEGAL GUARDIAN, AND CANNOT BE SUBSEQUENTLY INDEMNIFIED FOR SUCH ASSESSED DAMAGES BY ANY PUBLIC OR PRIVATE THIRD PARTY. ANY INDIVIDUAL FOUND SO LIABLE SHALL BE IMMEDIATELY REMOVED FROM OFFICE, AND SHALL BE BARRED FROM HOLDING ANY POSITION OF AUTHORITY ANYWHERE WITHIN THE ARIZONA PUBLIC SCHOOL SYSTEM FOR AN ADDITIONAL PERIOD OF FIVE YEARS.

SECTION 15-755. STANDARDIZED TESTING FOR MONITORING
EDUCATION PROGRESS

IN ORDER TO ENSURE THAT THE EDUCATIONAL PROGRESS OF ALL ARIZONA STUDENTS IN ACADEMIC SUBJECTS AND IN LEARNING ENGLISH IS PROPERLY MONITORED, A STANDARDIZED, NATIONALLY-NORMED WRITTEN TEST OF ACADEMIC SUBJECT MATTER GIVEN IN ENGLISH SHALL BE ADMINISTERED AT LEAST ONCE EACH YEAR TO ALL ARIZONA PUBLIC SCHOOLCHILDREN IN GRADES 2 AND HIGHER. ONLY STUDENTS CLASSIFIED AS SEVERELY LEARNING DISABLED MAY BE EXEMPTED FROM THIS TEST. THE PARTICULAR TEST TO BE USED SHALL BE SELECTED BY THE OFFICE OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION, AND IT IS INTENDED THAT THE TEST SHALL GENERALLY REMAIN THE SAME FROM YEAR TO YEAR. THE NATIONAL PERCENTILE SCORES OF STUDENTS SHALL BE CONFIDENTIALLY PROVIDED TO INDIVIDUAL PARENTS, AND THE AGGREGATED PERCENTILE SCORES AND DISTRIBUTIONAL DATA FOR INDIVIDUAL SCHOOLS AND SCHOOL DISTRICTS SHALL BE MADE PUBLICLY AVAILABLE ON AN INTERNET WEB SITE; THE SCORES FOR STUDENTS CLASSIFIED AS "LIMITED-ENGLISH" SHALL BE SEPARATELY SUB-AGGREGATED AND MADE PUBLICLY AVAILABLE THERE AS WELL. ALTHOUGH ADMINISTRATION OF THIS TEST IS REQUIRED SOLELY FOR MONITORING EDUCATIONAL PROGRESS, ARIZONA PUBLIC OFFICIALS AND ADMINISTRATORS MAY UTILIZE THESE TEST SCORES FOR OTHER PURPOSES AS WELL IF THEY SO CHOOSE.

Sec. 4. Severability

If a provision of this act or its application to any person or circumstances 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. 5. Application

The provisions of this act cannot be waived, modified, or set aside by any elected or appointed official or administrator, except as through the amendment process provided for in the Arizona constitution.

PROPOSITION 204

OFFICIAL TITLE

AN INITIATIVE MEASURE

REPEALING SECTION 36-2901.01, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 36-2901.01 AND SECTION 36-2901.02; RELATING TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

TEXT OF PROPOSED AMENDMENT

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

Section 1. Repeal

Section 36-2901.01, Arizona Revised Statutes, is repealed.

Sec. 2. Title 36, chapter 29, article 1, Arizona Revised Statutes, is amended by adding a new section 36-2901.01, to read:

36-2901.01. Additional definition of eligibility for the Arizona health care cost containment system; enforcement; private right of action

A. FOR THE PURPOSES OF SECTION 36-2901, "ELIGIBLE PERSON" INCLUDES ANY PERSON WHO HAS AN INCOME LEVEL THAT, AT A MINIMUM, IS BETWEEN ZERO AND ONE HUNDRED PER CENT OF THE FEDERAL POVERTY GUIDELINES AS PUBLISHED ANNUALLY BY THE UNITED STATES DEPARTMENT OF HEATH AND HUMAN SERVICES AND BASED ON THE RESOURCE LIMITS THAT ARE DEFINED BY THE DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION AND THAT ARE NOT LESS THAN THE RESOURCE LIMITS IN EFFECT ON NOVEMBER 5, 1996, AND ALSO BASED ON OTHER ELIGIBILITY REQUIREMENTS OF FEDERAL LAW OR THE HEALTH CARE FINANCING ADMINISTRATION PURSUANT TO SECTION 1115 OF THE SOCIAL SECURITY ACT. THE PEOPLE ACTING THROUGH INITIATIVE, OR THE LEGISLATURE BY A SIMPLE MAJORITY VOTE, MAY CHANGE THE ELIGIBILITY THRESHOLD TO A PERCENTAGE OF THE FEDERAL POVERTY GUIDELINES THAT IS EVEN MORE INCLUSIVE. NEITHER THE EXECUTIVE DEPARTMENT NOR THE LEGISLATURE MAY ESTABLISH A CAP ON THE NUMBER OF ELIGIBLE PERSONS WHO MAY ENROLL IN THE SYSTEM.

B. TO ENSURE THAT SUFFICIENT MONIES ARE AVAILABLE TO PROVIDE BENEFITS TO ALL PERSONS WHO ARE ELIGIBLE PURSUANT TO THIS SECTION, FUNDING SHALL COME FROM THE ARIZONA TOBACCO LITIGATION SETTLEMENT FUND ESTABLISHED BY SECTION 36-2901.02 AND SHALL BE SUPPLEMENTED, AS NECESSARY, BY ANY OTHER AVAILABLE SOURCES INCLUDING LEGISLATIVE APPROPRIATIONS AND FEDERAL MONIES.

C. AN ELIGIBLE PERSON OR A PROSPECTIVE ELIGIBLE PERSON MAY BRING AN ACTION IN THE SUPERIOR COURT AGAINST THE

DIRECTOR OF THE HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION AND THIS STATE TO ENFORCE THIS SECTION AND SECTION 36-2901.02. THE COURT HAS JURISDICTION TO ENFORCE THIS SECTION AND SECTION 36-2901.02 AND ANY RULE ADOPTED PURSUANT TO THESE SECTIONS AND MAY APPLY APPROPRIATE CIVIL SANCTIONS AND EQUITABLE REMEDIES.

Sec. 3. Title 36, chapter 29, article 1, Arizona Revised Statutes, is amended by adding section 36-2901.02, to read:

36-2901.02 Arizona tobacco litigation settlement fund; nonlapsing

A. THE ARIZONA TOBACCO LITIGATION SETTLEMENT FUND IS ESTABLISHED CONSISTING OF ALL MONIES THAT THIS STATE RECEIVES PURSUANT TO THE TOBACCO LITIGATION MASTER SETTLEMENT AGREEMENT ENTERED INTO ON NOVEMBER 23, 1998 AND INTEREST EARNED ON THESE MONIES. THE DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL ADMINISTER THE FUND. THE STATE TREASURER SHALL INVEST MONIES IN THE FUND PURSUANT TO SECTION 35-313 AND SHALL CREDIT MONIES EARNED FROM THESE INVESTMENTS TO THE FUND.

B. THE DIRECTOR SHALL USE FUND MONIES AS FOLLOWS AND IN THE FOLLOWING ORDER:

1. WITHDRAW AN AMOUNT NECESSARY IN EACH FISCAL YEAR TO FULLY IMPLEMENT AND FULLY FUND THE PROGRAMS AND SERVICES REQUIRED AS A RESULT OF THE EXPANDED DEFINITION OF AN ELIGIBLE PERSON PURSUANT TO SECTION 36-2901.01.

2. WITHDRAW AN AMOUNT NECESSARY IN EACH FISCAL YEAR TO FULLY IMPLEMENT AND FULLY FUND EACH OF THE PROGRAMS LISTED IN SECTION 5-522, SUBSECTION E, AS AMENDED PURSUANT TO THE INITIATIVE MEASURE APPROVED BY THE VOTERS ON NOVEMBER 5, 1996, AT FUNDING LEVELS THAT WHEN ANNUALLY ADJUSTED FOR INFLATION, AS PROVIDED IN SAID INITIATIVE, ARE EQUAL TO OR GREATER THAN THOSE PROVIDED FOR IN THAT ELECTION. THE JOINT LEGISLATIVE BUDGET COMMITTEE SHALL COMPUTE THESE ADJUSTED LEVELS AND PROVIDE THIS INFORMATION TO THE DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION. THE DIRECTOR SHALL TRANSFER THESE MONIES TO THE AGENCIES RESPONSIBLE FOR ADMINISTERING EACH OF THE PROGRAMS. THE LEGISLATURE MAY MODIFY THE FUNDING PROVIDED PURSUANT TO THIS SUBSECTION BY SIMPLE MAJORITY VOTE NOT LESS THAN TEN YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION.

C. THE DIRECTOR MAY USE ANY REMAINING FUND MONIES TO FUND EXPANDED COVERAGE IN THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM INCLUDING THE PREMIUM SHARING PROGRAM AND AS APPROVED BY THE VOTERS OR BY THE LEGISLATURE BY SIMPLE MAJORITY VOTE.

D. THE LEGISLATURE MAY APPROPRIATE ANY MONIES THAT REMAIN IN THE FUND AFTER THE PROGRAMS PRESCRIBED IN SUBSECTION B, PARAGRAPHS 1 AND 2 OF THIS SECTION ARE FULLY FUNDED AND IMPLEMENTED ONLY FOR PROGRAMS THAT BENEFIT THE HEALTH OF THE RESIDENTS OF THIS STATE.

E. MONIES IN THE FUND:

1. SHALL BE USED TO SUPPLEMENT AND NOT SUPPLANT EXISTING AND FUTURE APPROPRIATIONS TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION FOR EXISTING AND FUTURE PROGRAMS.

2. DO NOT REVERT TO THE STATE GENERAL FUND.

3. ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

4. ARE CONTINUOUSLY APPROPRIATED.

Sec. 4. Arizona tobacco litigation settlement fund; conflicting provisions; consistent provisions of measure

A. Section 3 of this measure, relating to the Arizona tobacco litigation settlement fund, supersedes any tobacco litigation settlement fund previously established by the legislature.

B. Any provision of this measure that is not contrary to the provisions of a separate initiative that receives a higher total vote in the election cycle is valid.

PROPOSITION 301**OFFICIAL TITLE****SENATE BILL 1007**

AN ACT... AMENDING TITLE 15, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-901.01; AMENDING SECTION ...15-910, ARIZONA REVISED STATUTES; ... AMENDING SECTION 41-1276, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 187, SECTION 8; AMENDING SECTION ... 42-5010, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 167, SECTION 2; AMENDING SECTION ... 42-5155 ... ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1072.01....

TEXT OF PROPOSED AMENDMENT

Sec. 11. Title 15, chapter 9, article 1, Arizona Revised Statutes, is amended by adding section 15-901.01, to read:

15-901.01. Inflation adjustments

IF APPROVED BY THE QUALIFIED ELECTORS VOTING AT A STATEWIDE GENERAL ELECTION, FOR FISCAL YEARS 2001-2002 THROUGH 2005-2006, THE LEGISLATURE SHALL INCREASE THE BASE LEVEL OR OTHER COMPONENTS OF THE REVENUE CONTROL LIMIT BY TWO PER CENT. FOR FISCAL YEAR 2006-2007 AND EACH FISCAL YEAR THEREAFTER, THE LEGISLATURE SHALL INCREASE THE BASE LEVEL OR OTHER COMPONENTS OF THE REVENUE CONTROL LIMIT BY A MINIMUM GROWTH RATE OF EITHER TWO PER CENT OR THE CHANGE IN THE GDP PRICE DEFLATOR, AS DEFINED IN SECTION 41-563, FROM THE SECOND PRECEDING CALENDAR YEAR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING THE BUDGET YEAR, WHICHEVER IS LESS, EXCEPT THAT THE BASE LEVEL SHALL NEVER BE REDUCED BELOW THE BASE LEVEL ESTABLISHED FOR FISCAL YEAR 2001-2002.

Sec. 13. Section 15-910, Arizona Revised Statutes, is amended to read:

15-910. School district budgets; excess utility costs; desegregation costs; tuition costs for bond issues; costs for registering warrants

A. The governing board may budget for THE DISTRICT'S excess utility costs which are specifically exempt from the DISTRICT'S revenue control limit ~~for the school district~~. IF APPROVED BY THE QUALIFIED ELECTORS VOTING AT A STATEWIDE GENERAL ELECTION, THE EXEMPTION FROM THE REVENUE CONTROL LIMIT UNDER THIS SUBSECTION EXPIRES AT THE END OF THE 2008-2009 BUDGET YEAR. The uniform system of financial records shall specify expenditure items allowable as excess utility costs, which are limited to direct operational costs of heating, cooling, water and electricity, telephone communications and sanitational fees. The department of education and the auditor general shall include in the maintenance and operation section of the budget format, as provided in section 15-903, a separate line for utility expenditures and a special excess utility cost category. The special excess utility cost category shall contain budgeted expenditures for excess utility costs, determined as follows:

1. Determine the lesser of the total budgeted or total actual utility expenditures for fiscal year 1984-1985.

2. Multiply the amount in paragraph 1 of this subsection by the total percentage increase or decrease in the revenue control limit and the capital outlay revenue limit for the budget year over the revenue control limit and the capital outlay revenue limit for fiscal year 1984-1985 excluding monies available from a career ladder program or a teacher compensation program provided for in section 15-952.

3. The sum of the amounts in paragraph PARAGRAPHS 1 and paragraph 2 of this subsection is the amount budgeted in the utility expenditure line.

4. Additional expenditures for utilities are budgeted in the excess utility cost category.

Sec. 35. Section 41-1276, Arizona Revised Statutes, as amended by Laws 2000, chapter 187, section 8, is amended to read:

41-1276. Truth in taxation levy for equalization assistance to school districts

* * *

H. NOTWITHSTANDING SUBSECTION C OF THIS SECTION AND IF APPROVED BY THE QUALIFIED ELECTORS VOTING AT A STATEWIDE GENERAL ELECTION, THE LEGISLATURE SHALL NOT SET A QUALIFYING TAX RATE THAT EXCEEDS \$2.1265 FOR A COMMON OR HIGH SCHOOL DISTRICT OR \$4.253 FOR A UNIFIED SCHOOL DISTRICT. THE LEGISLATURE SHALL NOT SET A COUNTY EQUALIZATION ASSISTANCE FOR EDUCATION RATE THAT EXCEEDS \$0.5123.

Sec. 37. Section 42-5010, Arizona Revised Statutes, is amended to read:

42-5010. Rates; distribution base

* * *

G. IN ADDITION TO THE RATES PRESCRIBED BY SUBSECTION A OF THIS SECTION, IF APPROVED BY THE QUALIFIED ELECTORS VOTING AT A STATEWIDE GENERAL ELECTION, AN ADDITIONAL RATE INCREMENT IS IMPOSED AND SHALL BE COLLECTED THROUGH JUNE 30, 2021. THE TAXPAYER SHALL PAY TAXES PURSUANT TO THIS SUBSECTION AT THE SAME TIME AND IN THE SAME MANNER AS UNDER SUBSECTION A OF THIS SECTION. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR THE REVENUES COLLECTED WITH RESPECT TO THE RATES IMPOSED PURSUANT TO THIS SUBSECTION AND THE STATE TREASURER SHALL DISTRIBUTE ALL OF THOSE REVENUES IN THE MANNER PRESCRIBED BY SECTION 42-5029, SUBSECTION E. THE RATES IMPOSED PURSUANT TO THIS SUBSECTION SHALL NOT BE CONSIDERED LOCAL REVENUES FOR PURPOSES OF ARTICLE IX, SECTION 21, CONSTITUTION OF ARIZONA. THE ADDITIONAL TAX RATE INCREMENT IS LEVIED AT THE RATE OF SIX-TENTHS OF ONE PER CENT OF THE TAX BASE OF EVERY PERSON ENGAGING OR CONTINUING IN THIS STATE IN A BUSINESS CLASSIFICATION LISTED IN SUBSECTION A, PARAGRAPH 1 OF THIS SECTION.

Sec. 38. Section 42-5029, Arizona Revised Statutes, as amended by Laws 2000, chapter 167, section 2, is amended to read:

42-5029. Remission and distribution of monies

A. The department shall transmit all revenues collected under this article and articles 4, 5, 8 and 9 of this chapter to the state treasurer 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 state treasurer 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 on notification by the department of the allocation of monies. The state treasurer 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, 42-5353 and 42-5409. Each month the department shall report to the state treasurer the amount of monies collected pursuant to this article and articles 4, 5, 8 and 9 of this chapter.

C. Each month 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, 42-5353 and 42-5409, after deducting warrants drawn against the account pursuant to sections 42-1118 and 42-1254.

D. Of the monies designated as distribution base the state treasurer shall:

1. Pay twenty-five per cent to the various incorporated municipalities in this state in proportion to their population as shown by the last United States decennial or special census, or revisions to the decennial or special census certified by the United States bureau of the census, 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, as shown by the most recent United States decennial or special census, or revisions to the decennial or special census certified by the United States bureau of the census.

- (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 sections 42-5353 and 42-5409 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409 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 sections 42-5353 and 42-5409 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409 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 state treasurer 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 and 42-5032, 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, 8 and 9 of this chapter.

(b) The department of economic security monies to be used for the purposes stated in title 46, chapter 1.

(c) The tourism fund an amount equal to the sum of the following:

(i) Two million dollars.

(ii) Seventy-five per cent of the amount by which revenues derived from a one-half percentage rate portion of the total tax rate imposed on the transient lodging classification for the current fiscal year exceed the revenues derived from a one-half percentage rate portion of that tax in the previous fiscal year.

(d) The Arizona arts endowment fund established by section 41-986, the full amount by which revenues derived from the amusement classification pursuant to section 42-5073 for the current fiscal year exceed the revenues that were derived from that classification in fiscal year 1993-1994, except that this amount shall not exceed two million dollars in any fiscal year. This subdivision applies for fiscal years through June 30, 2007.

(e) 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 UNDER THE JURISDICTION OF THE STATE BOARD OF DIRECTORS FOR COMMUNITY COLLEGES 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 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.

E. F. The state treasurer 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.

F. 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, 8 and 9 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. The department shall notify the state treasurer of that amount plus the proportionate share of additional allocated costs required to be paid to the taxpayer. 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.

G. H. On receiving a certificate of default from the greater Arizona development authority pursuant to section 41-1554.06 or 41-1554.07 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.

Sec. 40. Section 42-5155, Arizona Revised Statutes, is amended to read:

42-5155. Levy of tax; tax rate; purchaser's liability

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D. IN ADDITION TO THE RATE PRESCRIBED BY SUBSECTION C OF THIS SECTION, IF APPROVED BY THE QUALIFIED ELECTORS VOTING AT A STATEWIDE GENERAL ELECTION, AN ADDITIONAL RATE INCREMENT OF SIX-TENTHS OF ONE PER CENT IS IMPOSED AND SHALL BE COLLECTED THROUGH JUNE 30, 2021. THE TAXPAYER SHALL PAY TAXES PURSUANT TO THIS SUBSECTION AT THE SAME TIME AND IN THE SAME MANNER AS UNDER SUBSECTION C OF THIS SECTION. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR THE REVENUES COLLECTED WITH RESPECT TO THE RATE IMPOSED PURSUANT TO THIS SUBSECTION, AND THE STATE TREASURER SHALL PAY ALL OF THOSE REVENUES IN THE MANNER PRESCRIBED BY SECTION 42-5029, SUBSECTION E.

Sec. 48. Title 43, chapter 10, article 5, Arizona Revised Statutes, is amended by adding section 43-1072.01, to read:

43-1072.01. Credit for increased excise taxes paid

A. SUBJECT TO THE CONDITIONS PRESCRIBED BY THIS SECTION AND IF APPROVED BY THE QUALIFIED ELECTORS VOTING AT A STATEWIDE GENERAL ELECTION, FOR TAX YEARS BEGINNING FROM AND AFTER

DECEMBER 31, 2000 A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS CHAPTER FOR A TAXABLE YEAR FOR A TAXPAYER WHO IS NOT CLAIMED AS A DEPENDENT BY ANY OTHER TAXPAYER AND WHOSE FEDERAL ADJUSTED GROSS INCOME IS:

1. TWENTY-FIVE THOUSAND DOLLARS OR LESS FOR A MARRIED COUPLE OR A SINGLE PERSON WHO IS A HEAD OF A HOUSEHOLD.

2. TWELVE THOUSAND FIVE HUNDRED DOLLARS OR LESS FOR A SINGLE PERSON OR A MARRIED PERSON FILING SEPARATELY.

B. THE CREDIT IS CONSIDERED TO BE IN MITIGATION OF INCREASED TAX RATES PURSUANT TO SECTION 42-5010, SUBSECTION G AND SECTION 42-5155, SUBSECTION D.

C. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED TWENTY-FIVE DOLLARS FOR EACH PERSON WHO IS A RESIDENT OF THIS STATE AND FOR WHOM A PERSONAL OR DEPENDENT EXEMPTION IS ALLOWED WITH RESPECT TO THE TAXPAYER PURSUANT TO SECTION 43-1023, SUBSECTION B, PARAGRAPH 1 AND SECTION 43-1043, BUT NOT MORE THAN ONE HUNDRED DOLLARS FOR ALL PERSONS IN THE TAXPAYER'S HOUSEHOLD, AS DEFINED IN SECTION 43-1072.

D. IF THE ALLOWABLE AMOUNT OF THE CREDIT EXCEEDS THE INCOME TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST INCOME TAXES SHALL BE PAID IN THE SAME MANNER AS A REFUND GRANTED UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS SUBSECTION ARE SUBJECT TO SETOFF UNDER SECTION 42-1122:

E. THE DEPARTMENT SHALL MAKE AVAILABLE SUITABLE FORMS WITH INSTRUCTIONS FOR CLAIMANTS. CLAIMANTS WHO CERTIFY ON THE PRESCRIBED FORM THAT THEY HAVE NO INCOME TAX LIABILITY FOR THE TAXABLE YEAR AND WHO DO NOT MEET THE FILING REQUIREMENTS OF SECTION 43-301 ARE NOT REQUIRED TO FILE AN INDIVIDUAL INCOME TAX RETURN. THE CLAIM SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT.

VI. 2002 BALLOT MEASURES

PROPOSITION 202**OFFICIAL TITLE****AN INITIATIVE MEASURE**

PROPOSING AMENDMENTS TO TITLE 5, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 5-601.02; REPEALING SECTION 5-601.01, ARIZONA REVISED STATUTES; AMENDING SECTION 13-3301, ARIZONA REVISED STATUTES; PROPOSING AMENDMENTS TO TITLE 15, CHAPTER 9, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-978; PROPOSING AMENDMENTS TO TITLE 17, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; PROPOSING AMENDMENTS TO TITLE 36, CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2903.07; PROPOSING AMENDMENTS TO TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1505.12; AMENDING SECTION 41-2306, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 375, SECTION 3; REPEALING SECTION 41-2306, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 372, SECTION 3; RELATING TO TRIBAL-STATE COMPACTS.

TEXT OF THE PROPOSED AMENDMENT

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

Sec. 1. Title

This measure shall be known as the "Indian Gaming Preservation and Self-Reliance Act."

Sec. 2. Declaration of Purpose

For most of the past century, Indians on reservations in Arizona lived in extreme poverty, welfare dependency, and economic despair. The situation began to improve in 1988, when federal law confirmed the right of Indian tribes to conduct limited, regulated gaming on their own land for the purposes of, among other things, providing jobs and funding services for tribal members.

This federal law requires that state governments and tribes negotiate agreements, called tribal-state compacts, to establish the terms and conditions of Indian gaming in each state. Since 1992, Arizona law has authorized the governor of the state to negotiate tribal-state compacts on the state's behalf. Since that time, 17 Indian tribes in Arizona have entered into compacts with the state and proceeded in good faith to make major investments in gaming facilities on their tribal lands.

Today, those gaming facilities provide tribes with vitally needed funds for education, housing, health care, clean water, and other basic services on the tribal reservations. Indian gaming also supports thousands of jobs in the state, and annually generates hundreds of millions of dollars of economic activity, and millions of dollars of taxes, which benefit local communities and the state economy.

With the compacts due to begin expiring in 2003, and with the state and the tribes desiring to continue and enhance the benefits of tribal gaming in the state, the parties began in 2000 to negotiate new compacts that provide for the continuation of Indian gaming.

While the governor and the tribes have agreed on a framework for the new compacts, a legal roadblock now precludes the governor from executing new compacts. The horse and dog racetrack industry filed a lawsuit claiming that the longstanding state law authorizing the governor to negotiate and enter into compacts on the state's behalf was invalid because of legal technicalities. Because of the lawsuit, the state cannot enter into new compacts with the tribes unless a new law corrects the technical deficiencies in existing law or if new compacts are approved by the legislature or the people of the State of Arizona.

Given the impending expiration of the existing compacts, it is critical to promptly resolve any technical deficiencies in current state law and provide a means for the state to enter into new or amended tribal-state gaming compacts. Without this action, Indian tribes in Arizona face the risk that tribal casinos could be shut down, and plans to share Indian gaming revenues with the state and to create opportunities for non-gaming tribes to benefit from Indian gaming will go unrealized.

The Indian Gaming Preservation and Self-Reliance Act is designed to address this situation. The Act resolves any technical deficiencies in current state law and authorizes the governor to execute new tribal-state compacts, in accordance with specified parameters, so that Indian casinos can continue to operate. The Act maintains reasonable limits on Indian gaming and creates the opportunity for non-gaming tribes to benefit from Indian gaming. The Act also provides for tribal governments to share a percentage of their Indian gaming revenues with the state, to support state and local programs.

Sec. 3. Title 5, Chapter 6, Article 1, Arizona Revised Statutes, is amended by adding a new Section 5-601.02, as follows:

5-601.02 NEW STANDARD FORM OF TRIBAL-STATE GAMING COMPACT;
EFFECTS

A. NOTWITHSTANDING ANY OTHER LAW, WITHIN 30 DAYS AFTER RECEIPT OF A TIMELY WRITTEN REQUEST BY THE GOVERNING BODY OF AN INDIAN TRIBE, THE STATE, THROUGH THE GOVERNOR, SHALL ENTER INTO THE NEW STANDARD FORM OF TRIBAL-STATE GAMING COMPACT WITH THE REQUESTING INDIAN TRIBE BY EXECUTING THE NEW COMPACT AND FORWARDING IT TO THE UNITED STATES DEPARTMENT OF THE INTERIOR FOR ANY REQUIRED APPROVAL.

B. THE STATE, THROUGH THE GOVERNOR, MAY ONLY ENTER INTO A NEW COMPACT WITH AN INDIAN TRIBE WITH A PRE-EXISTING COMPACT IF THE INDIAN TRIBE REQUESTS A NEW COMPACT PURSUANT TO SUBSECTION A DURING THE FIRST 30 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION. THE STATE, THROUGH THE GOVERNOR, SHALL SERVE A TIMELY NOTICE OF NONRENEWAL OF A PRE-EXISTING COMPACT ON ANY INDIAN TRIBE THAT DOES NOT REQUEST A NEW COMPACT DURING THE FIRST 30 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION. ANY INDIAN TRIBE WITHOUT A PRE-EXISTING COMPACT ON THE EFFECTIVE DATE OF THIS SECTION MAY REQUEST A NEW COMPACT AT ANY TIME.

C. NOTWITHSTANDING ANY OTHER LAW, AN INDIAN TRIBE MAY CONDUCT THE FOLLOWING FORMS OF GAMBLING AS REGULATED GAMBLING, AS DEFINED IN SECTION 13-3301, IF THE GAMBLING IS CONDUCTED IN ACCORDANCE WITH THE TERMS OF A TRIBAL-STATE GAMING COMPACT: GAMING DEVICES, KENO, OFFTRACK PARI-MUTUEL WAGERING, PARI-MUTUEL WAGERING ON HORSE RACING, PARI-MUTUEL WAGERING ON DOG RACING, BLACKJACK, POKER (INCLUDING JACKPOT POKER), AND LOTTERY.

D. THE DEPARTMENT OF GAMING SHALL ADMINISTER AND CARRY OUT ITS RESPONSIBILITIES UNDER THE PROCEDURES FOR THE TRANSFER AND POOLING OF UNUSED GAMING DEVICE ALLOCATIONS DESCRIBED IN SECTION 3(d) OF THE NEW COMPACT.

E. THE STATE, THROUGH THE GOVERNOR, IS AUTHORIZED TO NEGOTIATE AND ENTER INTO AMENDMENTS TO NEW COMPACTS THAT ARE CONSISTENT WITH THIS CHAPTER AND WITH THE POLICIES OF THE INDIAN GAMING REGULATORY ACT.

F. AT THE REQUEST OF ANY INDIAN TRIBE FOR WHICH PARAGRAPH 6 OF SUBSECTION I DOES NOT SPECIFY A POSSIBLE ADDITIONAL DEVICES ALLOCATION, THE STATE, THROUGH THE GOVERNOR, SHALL NEGOTIATE WITH THE INDIAN TRIBE FOR A POSSIBLE ADDITIONAL DEVICES ALLOCATION. THIS ALLOCATION SHALL NOT BE LESS THAN THE SMALLEST OR GREATER THAN THE LARGEST POSSIBLE ADDITIONAL DEVICES ALLOCATION PROVIDED TO AN INDIAN TRIBE WITH AN EQUAL NUMBER OF DEVICES IN THE CURRENT DEVICE ALLOCATION COLUMN SET FORTH IN THE NEW COMPACT. AT THE OPTION OF THE INDIAN TRIBE, THE POSSIBLE ADDITIONAL DEVICES ALLOCATION SHALL BE INCLUDED IN EITHER THE INDIAN TRIBE'S NEW COMPACT OR AN AMENDMENT TO SUCH NEW COMPACT.

G. THE AUTHORITY AND OBLIGATIONS OF THE STATE, THROUGH THE GOVERNOR, TO NEGOTIATE ADDITIONAL COMPACT TERMS PURSUANT TO SUBSECTIONS E AND F ARE INDEPENDENT OF AND SEPARATE FROM THE OBLIGATIONS OF THE STATE PURSUANT TO SUBSECTION A, AND SHALL NOT CONSTITUTE GROUNDS FOR ANY DELAY BY THE STATE IN CARRYING OUT ITS OBLIGATIONS TO EXECUTE AND FORWARD NEW COMPACTS TO THE UNITED STATES DEPARTMENT OF THE INTERIOR AS REQUIRED IN SUBSECTION A.

H. THE ARIZONA BENEFITS FUND IS ESTABLISHED CONSISTING OF MONIES PAID TO THE STATE BY INDIAN TRIBES PURSUANT TO SECTION 12(c) OF NEW COMPACTS AND INTEREST EARNED ON THOSE MONIES. AN INDIAN TRIBE WITH A NEW COMPACT SATISFIES THE REQUIREMENTS OF SUBSECTION F OF SECTION 5-601. TRIBAL CONTRIBUTIONS PAID TO THE STATE PURSUANT TO A NEW COMPACT SHALL BE DEPOSITED IN THE ARIZONA BENEFITS FUND, NOT THE PERMANENT TRIBAL-STATE COMPACT FUND PURSUANT TO SUBSECTION G OF SECTION 5-601.

I. THE DEPARTMENT OF GAMING SHALL ADMINISTER THE ARIZONA BENEFITS FUND. THE DEPARTMENT OF GAMING SHALL MAKE AN ANNUAL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND EACH INDIAN TRIBE WITH A NEW COMPACT WITHIN 90 DAYS AFTER THE END OF THE STATE'S FISCAL YEAR. THIS REPORT SHALL BE SEPARATE FROM ANY OTHER REPORT OF THE DEPARTMENT OF GAMING. THE REPORT SHALL INCLUDE A STATEMENT OF AGGREGATE GROSS GAMING REVENUE FOR ALL INDIAN TRIBES, AGGREGATE REVENUES DEPOSITED IN THE ARIZONA BENEFITS FUND, INCLUDING INTEREST THEREON, EXPENDITURES MADE FROM THE ARIZONA BENEFITS FUND, AND AGGREGATE AMOUNTS CONTRIBUTED BY ALL INDIAN TRIBES TO CITIES, TOWNS AND COUNTIES PURSUANT TO PARAGRAPH 4 OF THIS SUBSECTION. THE DEPARTMENT OF GAMING SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

2. EXCEPT FOR MONIES EXPENDED BY THE DEPARTMENT OF GAMING AS PROVIDED IN SUBDIVISION (a) OF PARAGRAPH 3 OF THIS SUBSECTION, WHICH SHALL BE SUBJECT TO APPROPRIATION, THE ARIZONA BENEFITS FUND IS NOT SUBJECT TO APPROPRIATION, AND EXPENDITURES FROM THE FUND ARE NOT SUBJECT TO OUTSIDE APPROVAL NOTWITHSTANDING ANY STATUTORY PROVISION TO THE CONTRARY. MONIES PAID TO THE STATE BY INDIAN TRIBES PURSUANT TO A NEW COMPACT SHALL BE DEPOSITED DIRECTLY WITH THE ARIZONA BENEFITS FUND. ON NOTICE FROM THE DEPARTMENT OF GAMING, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE ARIZONA BENEFITS FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. MONIES IN THE ARIZONA BENEFITS FUND SHALL BE EXPENDED ONLY AS PROVIDED IN PARAGRAPH 3 OF THIS SUBSECTION, AND SHALL NOT REVERT TO ANY OTHER FUND, INCLUDING THE STATE GENERAL FUND. MONIES IN THE ARIZONA BENEFITS FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS.

3. MONIES IN THE ARIZONA BENEFITS FUND, INCLUDING ALL INVESTMENT EARNINGS, SHALL BE ALLOCATED AS FOLLOWS:

(A)(I) EIGHT MILLION DOLLARS OR NINE PERCENT, WHICHEVER IS GREATER, SHALL BE USED FOR REIMBURSEMENT OF ADMINISTRATIVE AND REGULATORY EXPENSES, INCLUDING EXPENSES FOR DEVELOPMENT OF AND ACCESS TO ANY ONLINE ELECTRONIC GAME MANAGEMENT SYSTEMS AND FOR LAW ENFORCEMENT ACTIVITIES INCURRED BY THE DEPARTMENT OF GAMING PURSUANT TO THIS CHAPTER. ANY MONIES THAT ARE ALLOCATED PURSUANT TO THIS SUBSECTION 3(A) THAT ARE NOT APPROPRIATED TO THE DEPARTMENT OF GAMING SHALL BE DEPOSITED IN THE INSTRUCTIONAL IMPROVEMENT FUND ESTABLISHED BY SECTION 15-978.

(II) TWO PERCENT SHALL BE USED BY THE DEPARTMENT OF GAMING TO FUND STATE AND LOCAL PROGRAMS FOR THE PREVENTION AND TREATMENT OF, AND EDUCATION CONCERNING, PROBLEM GAMBLING.

(B) OF THE MONIES IN THE ARIZONA BENEFITS FUND THAT ARE NOT ALLOCATED PURSUANT TO SUBDIVISION (A):

(I) FIFTY-SIX PERCENT SHALL BE DEPOSITED IN THE INSTRUCTIONAL IMPROVEMENT FUND ESTABLISHED BY SECTION 15-978 FOR USE BY SCHOOL DISTRICTS FOR CLASSROOM SIZE REDUCTION, TEACHER SALARY INCREASES, DROP-OUT PREVENTION PROGRAMS, AND INSTRUCTIONAL IMPROVEMENT PROGRAMS.

(II) TWENTY-EIGHT PERCENT SHALL BE DEPOSITED IN THE TRAUMA AND EMERGENCY SERVICES FUND ESTABLISHED BY SECTION 36-2903.07.

(III) EIGHT PERCENT SHALL BE DEPOSITED IN THE ARIZONA WILDLIFE CONSERVATION FUND ESTABLISHED BY SECTION 17-299.

(IV) EIGHT PERCENT SHALL BE DEPOSITED IN THE TOURISM FUND ACCOUNT ESTABLISHED BY PARAGRAPH 4 OF SUBSECTION A OF SECTION 41-2306 FOR STATEWIDE TOURISM PROMOTION.

4. IN ADDITION TO MONIES CONTRIBUTED TO THE ARIZONA BENEFITS FUND, TWELVE PERCENT OF TRIBAL CONTRIBUTIONS PURSUANT TO NEW COMPACTS SHALL BE CONTRIBUTED BY INDIAN TRIBES TO CITIES, TOWNS AND COUNTIES AS DEFINED IN TITLE 11, ARIZONA REVISED STATUTES, FOR GOVERNMENT SERVICES THAT BENEFIT THE GENERAL PUBLIC, INCLUDING

PUBLIC SAFETY, MITIGATION OF IMPACTS OF GAMING, AND PROMOTION OF COMMERCE AND ECONOMIC DEVELOPMENT.

(A) AN INDIAN TRIBE MAY DISTRIBUTE SUCH FUNDS DIRECTLY TO CITIES, TOWNS AND COUNTIES FOR THESE PURPOSES. THE AMOUNT OF MONIES SO DISTRIBUTED BY EACH INDIAN TRIBE SHALL BE REPORTED TO THE DEPARTMENT OF GAMING IN THE QUARTERLY REPORT REQUIRED BY THE NEW COMPACT.

(B) ANY MONIES COMPRISING THE TWELVE PERCENT NOT SO DISTRIBUTED BY AN INDIAN TRIBE SHALL BE DEPOSITED IN THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION LOCAL COMMUNITIES FUND ESTABLISHED BY SECTION 41-1505.12 FOR GRANTS TO CITIES, TOWNS AND COUNTIES.

5. THE DEPOSIT OF MONIES REQUIRED BY SUBDIVISION (B) OF PARAGRAPH 3 OF THIS SUBSECTION SHALL BE MADE ON A QUARTERLY BASIS, OR MORE FREQUENTLY IF PRACTICABLE.

I. FOR THE PURPOSES OF THIS SECTION:

1. "GAMING DEVICES" MEANS GAMING DEVICES AS DEFINED IN SUBDIVISION (B)(I) OF PARAGRAPH 6 OF THIS SUBSECTION.

2. "INDIAN GAMING REGULATORY ACT" MEANS THE INDIAN GAMING REGULATORY ACT OF 1988 (P.L. 100-497; 102 STAT. 2467; 25 UNITED STATES CODE SECTIONS 2701 THROUGH 2721 AND 18 UNITED STATES CODE SECTIONS 1166 THROUGH 1168).

3. "INDIAN LANDS" MEANS LANDS AS DEFINED IN 25 UNITED STATES CODE SECTION 2703(4)(A) AND (B), SUBJECT TO THE PROVISIONS OF 25 UNITED STATES CODE SECTION 2719.

4. "INDIAN TRIBE" MEANS:

- (A) THE COCOPAH INDIAN TRIBE.
- (B) THE FORT MOJAVE INDIAN TRIBE.
- (C) THE QUECHAN TRIBE.
- (D) THE TONTO APACHE TRIBE.
- (E) THE YAVAPAI-APACHE NATION.
- (F) THE YAVAPAI-PRESCOTT INDIAN TRIBE.
- (G) THE COLORADO RIVER INDIAN TRIBES.
- (H) THE SAN CARLOS APACHE TRIBE.
- (I) THE WHITE MOUNTAIN APACHE TRIBE.
- (J) THE AK-CHIN INDIAN COMMUNITY.
- (K) THE FORT MCDOWELL YAVAPAI NATION.
- (L) THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY.
- (M) THE GILA RIVER INDIAN COMMUNITY.
- (N) THE PASCUA YAQUI TRIBE.
- (O) THE TOHONO O'ODHAM NATION.
- (P) THE HAVASUPAI TRIBE.
- (Q) THE HUALAPAI TRIBE.
- (R) THE KAIBAB-PAIUTE TRIBE.
- (S) THE HOPI TRIBE.
- (T) THE NAVAJO NATION.
- (U) THE SAN JUAN SOUTHERN PAIUTE TRIBE.

(V) ANY INDIAN TRIBE, AS DEFINED IN 25 UNITED STATES CODE SECTION 2703(5), WITH INDIAN LANDS IN THIS STATE.

5. "PRE-EXISTING COMPACT" MEANS AN INDIAN TRIBE'S TRIBAL STATE GAMING COMPACT AND AMENDMENTS THERETO AS APPROVED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, AND ALL APPENDICES THERETO, AS OF THE EFFECTIVE DATE OF THIS SECTION.

6. "NEW STANDARD FORM OF TRIBAL-STATE GAMING COMPACT" OR "NEW COMPACT" MEANS:

(A) FOR AN INDIAN TRIBE WITHOUT A PRE-EXISTING COMPACT, A TRIBAL-STATE GAMING COMPACT THAT CONTAINS THE PROVISIONS OF THE MOST RECENT TRIBAL-STATE GAMING COMPACT ENTERED INTO BY THE STATE AND AN INDIAN TRIBE AND APPROVED BY THE UNITED STATES SECRETARY OF THE INTERIOR, AND ITS APPENDICES, PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, MODIFIED TO INCLUDE THE PROVISIONS DESCRIBED IN SUBDIVISION (B)(I) THROUGH (XI) OF THIS PARAGRAPH.

(B) FOR AN INDIAN TRIBE WITH A PRE-EXISTING COMPACT, A TRIBAL-STATE GAMING COMPACT THAT CONTAINS THE PROVISIONS OF THE INDIAN TRIBE'S PRE-EXISTING COMPACT, MODIFIED AS FOLLOWS, WITH ANY CROSS REFERENCES IN PRE-EXISTING COMPACT TO BE CONFORMED ACCORDINGLY:

(I) THE FOLLOWING DEFINITION SHALL REPLACE THE CORRESPONDING DEFINITION IN SECTION 2 OF THE PRE-EXISTING COMPACT:

"GAMING DEVICE" MEANS A MECHANICAL DEVICE, AN ELECTRO-MECHANICAL DEVICE OR A DEVICE CONTROLLED BY AN ELECTRONIC MICROPROCESSOR OR ANOTHER MANNER, WHETHER THAT DEVICE CONSTITUTES CLASS II GAMING OR CLASS III GAMING, THAT ALLOWS A PLAYER OR PLAYERS TO PLAY GAMES OF CHANCE, WHETHER OR NOT THE OUTCOME ALSO IS AFFECTED IN SOME PART BY SKILL, AND WHETHER THE DEVICE ACCEPTS COINS, TOKENS, BILLS, COUPONS, TICKET VOUCHERS, PULL TABS, SMART CARDS, ELECTRONIC IN-HOUSE ACCOUNTING SYSTEM CREDITS OR OTHER SIMILAR FORMS OF CONSIDERATION AND, THROUGH THE APPLICATION OF CHANCE, ALLOWS A PLAYER TO BECOME ENTITLED TO A PRIZE, WHICH MAY BE COLLECTED THROUGH THE DISPENSING OF COINS, TOKENS, BILLS, COUPONS, TICKET VOUCHERS, SMART CARDS, ELECTRONIC IN-HOUSE ACCOUNTING SYSTEM CREDITS OR OTHER SIMILAR FORMS OF VALUE. GAMING DEVICE DOES NOT INCLUDE ANY OF THE FOLLOWING:

(1) THOSE TECHNOLOGICAL AIDS FOR BINGO GAMES THAT FUNCTION ONLY AS ELECTRONIC SUBSTITUTES FOR BINGO CARDS.

(2) DEVICES THAT ISSUE AND VALIDATE PAPER LOTTERY PRODUCTS AND THAT ARE DIRECTLY OPERATED ONLY BY ARIZONA STATE LOTTERY LICENSED RETAILERS AND THEIR EMPLOYEES.

(3) DEVICES THAT ARE OPERATED DIRECTLY BY A LOTTERY PLAYER AND THAT DISPENSE PAPER LOTTERY TICKETS, IF THE DEVICES DO NOT IDENTIFY WINNING OR LOSING LOTTERY TICKETS, DISPLAY LOTTERY WINNINGS OR DISBURSE LOTTERY WINNINGS.

(4) DEVICES THAT ARE OPERATED DIRECTLY BY A LOTTERY PLAYER AND THAT VALIDATE PAPER LOTTERY TICKETS FOR A GAME THAT DOES NOT HAVE A PREDETERMINED NUMBER OF WINNING TICKETS, IF:

(A) THE DEVICES DO NOT ALLOW INTERACTIVE GAMING;

(B) THE DEVICES DO NOT ALLOW A LOTTERY PLAYER TO PLAY THE LOTTERY FOR IMMEDIATE PAYMENT OR REWARD;

(C) THE DEVICES DO NOT DISBURSE LOTTERY WINNINGS; AND

(D) THE DEVICES ARE NOT VIDEO LOTTERY TERMINALS.

(5) PLAYER ACTIVATED LOTTERY TERMINALS.”

(II) THE FOLLOWING DEFINITIONS SHALL BE ADDED TO SECTION 2 OF THE PRE-EXISTING COMPACT:

“(MM) “ADDITIONAL GAMING DEVICES” MEANS THE NUMBER OF ADDITIONAL GAMING DEVICES ALLOCATED TO THE TRIBE IN COLUMN (2) OF THE TRIBE’S ROW IN THE TABLE.

(NN) “CARD GAME TABLE” MEANS A SINGLE TABLE AT WHICH THE TRIBE CONDUCTS THE CARD GAME OF POKER OR BLACKJACK.

(OO) “CLASS II GAMING DEVICE” MEANS A GAMING DEVICE WHICH, IF OPERATED ON INDIAN LANDS BY AN INDIAN TRIBE, WOULD BE CLASS II GAMING.

(PP) “CLASS III GAMING DEVICE” MEANS A GAMING DEVICE WHICH, IF OPERATED ON INDIAN LANDS BY AN INDIAN TRIBE, WOULD BE CLASS III GAMING.

(QQ) “CLASS III NET WIN” MEANS GROSS GAMING REVENUE, WHICH IS THE DIFFERENCE BETWEEN GAMING WINS AND LOSSES, BEFORE DEDUCTING COSTS AND EXPENSES.

(RR) “CPI ADJUSTMENT RATE” SHALL MEAN THE QUOTIENT OBTAINED AS FOLLOWS: THE CPI INDEX FOR THE SIXTIETH (60TH) CALENDAR MONTH OF THE APPLICABLE FIVE-YEAR PERIOD FOR WHICH THE WAGER LIMITATIONS ARE BEING ADJUSTED SHALL BE DIVIDED BY THE CPI INDEX FOR THE CALENDAR MONTH IN WHICH THE EFFECTIVE DATE OCCURS. THE CPI INDEX FOR THE NUMERATOR AND THE DENOMINATOR SHALL HAVE THE SAME BASE YEAR. IF THE CPI INDEX IS NO LONGER PUBLISHED, OR IF THE FORMAT OF THE CPI INDEX HAS CHANGED SO THAT THIS CALCULATION IS NO LONGER POSSIBLE, THEN ANOTHER SUBSTANTIALLY COMPARABLE INDEX SHALL BE SUBSTITUTED IN THE FORMULA BY AGREEMENT OF THE TRIBE AND THE STATE SO THAT THE ECONOMIC EFFECT OF THIS CALCULATION IS PRESERVED. IF THE PARTIES CANNOT AGREE ON THE SUBSTITUTE INDEX, THE SUBSTITUTE INDEX SHALL BE DETERMINED BY ARBITRATION IN ACCORDANCE WITH SECTION 15.

(SS) “CPI INDEX” MEANS THE “UNITED STATES CITY AVERAGE (ALL URBAN CONSUMERS) – ALL ITEMS (1982-1984 = 100)” INDEX OF THE CONSUMER PRICE INDEX PUBLISHED BY THE BUREAU OF LABOR STATISTICS, UNITED STATES DEPARTMENT OF LABOR.

(TT) “CPR” MEANS THE CPR INSTITUTE FOR DISPUTE RESOLUTION.

(UU) “CURRENT GAMING DEVICE ALLOCATION” MEANS THE NUMBER OF CLASS III GAMING DEVICES ALLOCATED TO THE TRIBE IN COLUMN (1) OF THE TRIBE’S ROW IN THE TABLE AS ADJUSTED UNDER SECTION 3(C)(4).

(VV) “EFFECTIVE DATE” MEANS THE DAY THIS COMPACT GOES INTO EFFECT AFTER ALL OF THE FOLLOWING EVENTS HAVE OCCURRED:

(1) IT IS EXECUTED ON BEHALF OF THE STATE AND THE TRIBE;

(2) IT IS APPROVED BY THE SECRETARY OF THE INTERIOR;

(3) NOTICE OF THE SECRETARY OF THE INTERIOR’S APPROVAL IS PUBLISHED IN THE FEDERAL REGISTER PURSUANT TO THE ACT; AND

(4) EACH INDIAN TRIBE WITH A GAMING FACILITY IN MARICOPA, PIMA OR PINAL COUNTIES HAS ENTERED INTO A NEW COMPACT AS DEFINED IN A.R.S. SECTION 5-601.02(I)(6), EACH OF WHICH HAS BEEN APPROVED BY THE SECRETARY OF THE INTERIOR, AND NOTICE OF THE SECRETARY OF THE INTERIOR’S APPROVAL HAS BEEN PUBLISHED IN THE FEDERAL REGISTER

PURSUANT TO THE ACT, UNLESS THE GOVERNOR OF THE STATE WAIVES THE REQUIREMENTS OF THIS SECTION 2(VV)(4).

(WW) "FORBEARANCE AGREEMENT" MEANS AN AGREEMENT BETWEEN THE STATE AND AN INDIAN TRIBE IN WHICH THE INDIAN TRIBE THAT IS TRANSFERRING SOME OR ALL OF ITS GAMING DEVICE OPERATING RIGHTS WAIVES ITS RIGHTS TO PUT SUCH GAMING DEVICE OPERATING RIGHTS INTO PLAY DURING THE TERM OF A TRANSFER AGREEMENT.

(XX) "GAMING DEVICE OPERATING RIGHT" MEANS THE AUTHORIZATION OF AN INDIAN TRIBE TO OPERATE CLASS III GAMING DEVICES PURSUANT TO THE TERMS OF A NEW COMPACT AS DEFINED IN A.R.S. SECTION 5-601.02(I)(6).

(YY) "MAXIMUM DEVICES PER GAMING FACILITY" MEANS THE TOTAL NUMBER OF CLASS III GAMING DEVICES THAT THE TRIBE MAY OPERATE WITHIN A SINGLE GAMING FACILITY.

(ZZ) "MULTI-STATION DEVICE" MEANS AN ELECTRONIC CLASS III GAMING DEVICE THAT INCORPORATES MORE THAN ONE PLAYER STATION AND CONTAINS ONE CENTRAL PROCESSING UNIT WHICH OPERATES THE GAME SOFTWARE, INCLUDING A SINGLE RANDOM NUMBER GENERATOR THAT DETERMINES THE OUTCOME OF ALL GAMES AT ALL PLAYER STATIONS FOR THAT CLASS III GAMING DEVICE.

(AAA) "PLAYER ACTIVATED LOTTERY TERMINAL" MEANS AN ON-LINE COMPUTER SYSTEM THAT IS PLAYER ACTIVATED, BUT THAT DOES NOT PROVIDE THE PLAYER WITH INTERACTIVE GAMING, AND THAT USES THE TERMINAL FOR DISPENSING PURPOSES ONLY, IN WHICH:

- (1) THE TERMINAL ALGORITHM IS USED FOR THE RANDOM GENERATION OF NUMBERS;
- (2) THE TICKETS DISPENSED BY THE TERMINAL DO NOT ALLOW THE PLAYER THE MEANS TO PLAY DIRECTLY AGAINST THE TERMINAL;
- (3) THE PLAYER USES THE DISPENSED TICKET TO PARTICIPATE IN AN OFF-SITE RANDOM DRAWING; AND
- (4) THE PLAYER'S ABILITY TO PLAY AGAINST THE TERMINAL FOR IMMEDIATE PAYMENT OR REWARD IS ELIMINATED.

(BBB) "PLAYER STATION" MEANS A TERMINAL OF A MULTI-STATION DEVICE THROUGH WHICH THE PLAYER PLAYS AN ELECTRONIC GAME OF CHANCE SIMULTANEOUSLY WITH OTHER PLAYERS AT OTHER PLAYER STATIONS OF THAT MULTI-STATION DEVICE, AND WHICH:

- (1) HAS NO MEANS TO INDIVIDUALLY DETERMINE GAME OUTCOME;
- (2) CANNOT BE DISCONNECTED FROM THE GAMING DEVICE CENTRAL PROCESSING UNIT THAT DETERMINES THE GAME OUTCOMES FOR ALL PLAYER STATIONS WITHOUT RENDERING THAT TERMINAL INOPERABLE; AND
- (3) DOES NOT SEPARATELY CONTAIN A RANDOM NUMBER GENERATOR OR OTHER MEANS TO INDIVIDUALLY DETERMINE THE GAME OUTCOME.

(CCC) "POPULATION ADJUSTMENT RATE" MEANS THE QUOTIENT OBTAINED AS FOLLOWS: THE STATE POPULATION FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE SIXTIETH (60TH) CALENDAR MONTH OF THE APPLICABLE FIVE-YEAR PERIOD FOR WHICH THE APPLICABLE FIGURE OR AMOUNT IS BEING ADJUSTED OCCURS DIVIDED BY THE STATE POPULATION FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE EFFECTIVE DATE OCCURS. IF THE STATE POPULATION IS NO LONGER PUBLISHED OR CALCULATED BY THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY, THEN ANOTHER SUBSTANTIALLY

COMPARABLE AGENCY OF THE STATE SHALL BE SUBSTITUTED BY AGREEMENT OF THE TRIBE AND THE STATE SO THAT THE EFFECT OF THIS CALCULATION IS PRESERVED. IF THE PARTIES CANNOT AGREE ON THE SUBSTITUTE AGENCY OF THE STATE TO PROVIDE THE STATE POPULATION, THE SUBSTITUTE AGENCY OR PERSON SHALL BE DETERMINED BY ARBITRATION IN ACCORDANCE WITH SECTION 15.

(DDD) "PREVIOUS GAMING FACILITY ALLOCATION" MEANS THE NUMBER OF FACILITIES ALLOCATED TO THE TRIBE IN COLUMN (3) OF THE TRIBE'S ROW IN THE TABLE.

(EEE) "REVISED GAMING FACILITY ALLOCATION" MEANS THE NUMBER OF FACILITIES ALLOCATED TO THE TRIBE IN COLUMN (4) OF THE TRIBE'S ROW IN THE TABLE OR BY SECTION 3(C)(6).

(FFF) "RULES" MEANS THE CPR RULES FOR NON-ADMINISTERED ARBITRATION (2000 REV.).

(GGG) "STATE POPULATION" MEANS THE POPULATION OF THE STATE AS DETERMINED USING THE MOST RECENT ESTIMATES PUBLISHED BY THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY.

(HHH) "TABLE" MEANS THE GAMING DEVICE ALLOCATION TABLE SET OUT AT SECTION 3(C)(5).

(III) "TRANSFER AGREEMENT" MEANS A WRITTEN AGREEMENT AUTHORIZING THE TRANSFER OF GAMING DEVICE OPERATING RIGHTS BETWEEN THE TRIBE AND ANOTHER INDIAN TRIBE.

(JJJ) "TRANSFER NOTICE" MEANS A WRITTEN NOTICE THAT THE TRIBE MUST PROVIDE TO THE STATE GAMING AGENCY OF ITS INTENT TO ACQUIRE OR TRANSFER GAMING DEVICE OPERATING RIGHTS PURSUANT TO A TRANSFER AGREEMENT.

(KKK) "WAGER" MEANS:

(1) IN THE CASE OF A GAMING DEVICE, THE SUM OF MONEY PLACED INTO THE GAMING DEVICE IN CASH, OR CASH EQUIVALENT, BY THE PLAYER WHICH WILL ALLOW ACTIVATION OF THE NEXT RANDOM PLAY OF THE GAMING DEVICE.

(2) IN THE CASE OF POKER, THE SUM OF MONEY PLACED INTO THE POT AND ONTO THE CARD GAME TABLE BY THE PLAYER IN CASH, OR CASH EQUIVALENT, WHICH ENTITLES THE PLAYER TO AN INITIAL DEAL OF CARDS, A SUBSEQUENT DEAL OF A CARD OR CARDS, OR WHICH IS REQUIRED TO BE PLACED INTO THE POT AND ONTO THE CARD GAME TABLE BY THE PLAYER ENTITLING THE PLAYER TO CONTINUE IN THE GAME.

(3) IN THE CASE OF BLACKJACK, THE SUM OF MONEY IN CASH, OR CASH EQUIVALENT, PLACED ONTO THE CARD GAME TABLE BY THE PLAYER ENTITLING THE PLAYER TO AN INITIAL DEAL OF CARDS AND TO ALL SUBSEQUENT CARDS REQUESTED BY THE PLAYER."

(III) SECTION 3 OF THE PRE-EXISTING COMPACT SHALL BE REPLACED WITH THE FOLLOWING:

"SECTION 3. NATURE, SIZE, AND CONDUCT OF CLASS III GAMING.

(A) AUTHORIZED CLASS III GAMING ACTIVITIES. SUBJECT TO THE TERMS AND CONDITIONS OF THIS COMPACT, THE TRIBE IS AUTHORIZED TO OPERATE THE FOLLOWING GAMING ACTIVITIES: (1) CLASS III GAMING DEVICES, (2) BLACKJACK, (3) JACKPOT POKER, (4) KENO, (5) LOTTERY, (6) OFF-TRACK PARI-MUTUEL WAGERING, (7) PARI-MUTUEL WAGERING ON HORSE RACING, AND (8) PARI-MUTUEL WAGERING ON DOG RACING.

(B) APPENDICES GOVERNING GAMING.

(1) TECHNICAL STANDARDS FOR GAMING DEVICES. THE TRIBE MAY ONLY OPERATE CLASS III GAMING DEVICES, INCLUDING MULTI-STATION DEVICES, WHICH COMPLY WITH THE TECHNICAL STANDARDS SET FORTH IN APPENDIX A TO THIS COMPACT. THE TRIBAL GAMING OFFICE SHALL REQUIRE EACH LICENSED AND CERTIFIED MANUFACTURER AND DISTRIBUTOR TO VERIFY UNDER OATH, ON FORMS PROVIDED BY THE TRIBAL GAMING OFFICE, THAT THE CLASS III GAMING DEVICES MANUFACTURED OR DISTRIBUTED BY THEM FOR USE OR PLAY AT THE GAMING FACILITIES MEET THE REQUIREMENTS OF THIS SECTION 3(B)(1) AND APPENDIX A. THE TRIBAL GAMING OFFICE AND THE STATE GAMING AGENCY BY MUTUAL AGREEMENT MAY REQUIRE THE TESTING OF ANY CLASS III GAMING DEVICE TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION 3(B)(1) AND APPENDIX A. ANY SUCH TESTING SHALL BE AT THE EXPENSE OF THE LICENSED MANUFACTURER OR DISTRIBUTOR.

(2) OPERATIONAL STANDARDS FOR BLACKJACK AND JACKPOT POKER. THE TRIBE SHALL CONDUCT BLACKJACK AND JACKPOT POKER IN ACCORDANCE WITH AN APPENDIX, WHICH SHALL CONSIST OF THE MINIMUM INTERNAL CONTROL STANDARDS OF THE COMMISSION AS SET FORTH IN 25 C.F.R. PART 542 AS PUBLISHED IN 64 FED. REG. 590 (JAN. 5, 1999) AS MAY BE AMENDED FROM TIME TO TIME, WITHOUT REGARD TO THE COMMISSION'S AUTHORITY TO PROMULGATE THE STANDARDS, UNTIL AN APPENDIX SETTING FORTH THE OPERATIONAL STANDARDS, SPECIFICATIONS, REGULATIONS AND ANY LIMITATIONS GOVERNING SUCH GAMING ACTIVITIES IS AGREED TO BY THE TRIBE AND THE STATE.

(3) ADDITIONAL APPENDICES.

(A) EXCEPT AS PROVIDED IN SECTIONS 3(B)(1) AND (2), THE TRIBE MAY NOT CONDUCT ANY GAMING ACTIVITIES AUTHORIZED IN THIS COMPACT WITHOUT A MUTUALLY AGREED-UPON APPENDIX SETTING FORTH THE OPERATIONAL STANDARDS, SPECIFICATIONS, REGULATIONS AND ANY LIMITATIONS GOVERNING SUCH GAMING ACTIVITIES. FOR PURPOSES OF THIS SUBSECTION, PROMOTIONAL ACTIVITY CONDUCTED AS A LOTTERY IS A GAMING ACTIVITY FOR WHICH AN APPENDIX SHALL BE REQUIRED. ANY DISPUTES REGARDING THE CONTENTS OF SUCH APPENDICES SHALL BE RESOLVED IN THE MANNER SET FORTH IN SECTION 15.

(B) THE GAMING FACILITY OPERATOR SHALL CONDUCT ITS GAMING ACTIVITIES UNDER AN INTERNAL CONTROL SYSTEM THAT IMPLEMENTS THE MINIMUM INTERNAL CONTROL STANDARDS OF THE COMMISSION AS SET FORTH IN 25 C.F.R. PART 542 AS PUBLISHED IN 64 FED. REG. 590 (JAN. 5, 1999) AS MAY BE AMENDED FROM TIME TO TIME, WITHOUT REGARD TO THE COMMISSION'S AUTHORITY TO PROMULGATE THE STANDARDS.

(C) THE TRIBAL GAMING OFFICE AND THE STATE GAMING AGENCY MAY AGREE TO AMEND APPENDICES TO THIS COMPACT IN ORDER TO CONTINUE EFFICIENT REGULATION AND ADDRESS FUTURE CIRCUMSTANCES. A CHANGE IN AN APPENDIX OR THE ADDITION OF A NEW APPENDIX SHALL NOT BE CONSIDERED AN AMENDMENT TO THIS COMPACT.

(4) SECURITY AND SURVEILLANCE REQUIREMENTS. THE TRIBE SHALL COMPLY WITH THE SECURITY AND SURVEILLANCE REQUIREMENTS SET FORTH IN APPENDIX C TO THIS COMPACT.

(A) IF THE GAMING FACILITY OPERATOR OPERATES THE SURVEILLANCE SYSTEM, THE MANAGER OF THE SURVEILLANCE DEPARTMENT MAY REPORT TO MANAGEMENT OF THE GAMING FACILITY OPERATOR REGARDING

ADMINISTRATIVE AND DAILY MATTERS, BUT MUST REPORT TO A PERSON OR PERSONS INDEPENDENT OF THE MANAGEMENT OF THE GAMING FACILITY OPERATOR (E.G., THE GAMING FACILITY OPERATOR'S MANAGEMENT BOARD OR A COMMITTEE THEREOF, THE TRIBE'S COUNCIL OR A COMMITTEE THEREOF, OR THE TRIBE'S CHAIRPERSON, PRESIDENT, OR GOVERNOR) REGARDING MATTERS OF POLICY, PURPOSE, RESPONSIBILITY, AUTHORITY, AND INTEGRITY OF CASINO MANAGEMENT.

(B) IF THE TRIBAL GAMING OFFICE OPERATES THE SURVEILLANCE SYSTEM, THE MANAGER OF ITS SURVEILLANCE DEPARTMENT MUST REPORT DIRECTLY TO THE EXECUTIVE DIRECTOR OF THE TRIBAL GAMING OFFICE.

(5) ONLINE ELECTRONIC GAME MANAGEMENT SYSTEM. EACH GAMING FACILITY MUST HAVE AN ONLINE ELECTRONIC GAME MANAGEMENT SYSTEM THAT MEETS THE REQUIREMENTS OF APPENDIX A.

(A) IF THE TRIBE IS AK-CHIN INDIAN COMMUNITY, FT. MCDOWELL YAVAPAI NATION, GILA RIVER INDIAN COMMUNITY, PASCUA YAQUI TRIBE, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, OR TOHONO O'ODHAM NATION, THEN THE GAMING FACILITY OPERATOR SHALL PROVIDE THE STATE GAMING AGENCY WITH REAL TIME READ-ONLY ELECTRONIC ACCESS TO THE ONLINE ELECTRONIC GAME MANAGEMENT SYSTEM FOR EACH GAMING FACILITY OF THE TRIBE THAT IS LOCATED WITHIN FORTY (40) MILES OF A MUNICIPALITY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND (400,000), TO PROVIDE THE STATE GAMING AGENCY A MORE EFFECTIVE AND EFFICIENT MEANS OF REGULATING GAMING DEVICES AND TRACKING REVENUES.

1. THE STATE GAMING AGENCY'S REAL TIME READ ONLY ELECTRONIC ACCESS SHALL BE LIMITED TO THE FOLLOWING DATA MAINTAINED BY THE ONLINE ELECTRONIC GAME MANAGEMENT SYSTEM, PROVIDED THAT THE DATA IS AVAILABLE IN REAL-TIME AND PROVIDING REAL-TIME ACCESS DOES NOT RESULT IN THE LOSS OF ACCUMULATION OF DATA ELEMENTS: COIN IN; COIN OUT; DROP (BILLS AND COINS); INDIVIDUAL BILLS DENOMINATION; VOUCHERS; THEORETICAL HOLD; VARIANCES; JACKPOTS; MACHINE FILLS; TICKET IN; TICKET OUT; SLOT DOOR OPENING; DROP DOOR OPENING; CASH BOX OPENING; TICKET IN OPENING; TICKET OUT OPENING; AND NO-COMMUNICATION. IF PROVIDING THIS DATA IN REAL-TIME WOULD RESULT IN THE LOSS OF ACCUMULATION OF DATA ELEMENTS, THE GAMING FACILITY OPERATOR MUST PROVIDE THE STATE GAMING AGENCY WITH ACCESS TO THE DATA VIA END-OF-DAY REPORTS CONTAINING THE REQUIRED DATA.

2. THE STATE GAMING AGENCY SHALL PHASE IN THE SYSTEM TO PROVIDE IT WITH REAL TIME READ-ONLY ACCESS TO THE ONLINE ELECTRONIC GAME MANAGEMENT SYSTEM OVER A THREE YEAR PERIOD. THE STATE GAMING AGENCY SHALL PAY THE COST OF:

A. CONSTRUCTING AND MAINTAINING A DEDICATED TELECOMMUNICATIONS CONNECTION BETWEEN THE GAMING FACILITY OPERATOR'S SERVER ROOM AND THE STATE GAMING AGENCY'S OFFICES;

B. OBTAINING, INSTALLING, AND MAINTAINING ANY HARDWARE OR SOFTWARE NECESSARY TO INTERFACE BETWEEN THE GAMING FACILITY OPERATOR'S ONLINE ELECTRONIC GAME MANAGEMENT SYSTEM AND THE DEDICATED TELECOMMUNICATIONS CONNECTION; AND

C. OBTAINING, INSTALLING, AND MAINTAINING ANY HARDWARE OR SOFTWARE REQUIRED IN THE STATE GAMING AGENCY'S OFFICES.

3. THE STATE GAMING AGENCY'S DEDICATED TELECOMMUNICATIONS CONNECTION FROM ITS OFFICES TO EACH GAMING FACILITY MUST MEET ACCEPTED INDUSTRY STANDARDS FOR SECURITY SUFFICIENT TO MINIMIZE THE POSSIBILITY OF ANY THIRD-PARTY INTERCEPTING ANY DATA TRANSMITTED FROM THE GAMING FACILITY OPERATOR'S ONLINE ELECTRONIC GAME MANAGEMENT SYSTEM OVER THE CONNECTION. THE STATE GAMING AGENCY'S SYSTEM SECURITY POLICY MUST MEET ACCEPTED INDUSTRY STANDARDS TO ASSURE THAT DATA RECEIVED FROM THE GAMING FACILITY OPERATOR'S ONLINE ELECTRONIC GAME MANAGEMENT SYSTEM WILL NOT BE ACCESSIBLE TO UNAUTHORIZED PERSONS OR ENTITIES.

(B) THE STATE GAMING AGENCY (AND ITS OFFICERS, EMPLOYEES, AND AGENTS) ARE PROHIBITED FROM:

1. USING ANY INFORMATION OBTAINED FROM THE GAMING FACILITY OPERATOR'S ONLINE ELECTRONIC GAME MANAGEMENT SYSTEM FOR ANY PURPOSE OTHER THAN TO CARRY OUT ITS DUTIES UNDER THIS COMPACT; AND

2. DISCLOSING ANY INFORMATION OBTAINED FROM THE GAMING FACILITY OPERATOR'S ONLINE ELECTRONIC GAME MANAGEMENT SYSTEM TO ANY PERSON OUTSIDE THE STATE GAMING AGENCY, EXCEPT AS PROVIDED IN SECTION 7(B) AND SECTION 12(C).

(C) NUMBER OF GAMING DEVICE OPERATING RIGHTS AND NUMBER OF GAMING FACILITIES.

(1) NUMBER OF GAMING DEVICES. THE TRIBE'S GAMING DEVICE OPERATING RIGHTS ARE EQUAL TO THE SUM OF ITS CURRENT GAMING DEVICE ALLOCATION, PLUS ANY RIGHTS TO OPERATE ADDITIONAL GAMING DEVICES ACQUIRED BY THE TRIBE IN ACCORDANCE WITH AND SUBJECT TO THE PROVISIONS OF SECTION 3(D). THE TRIBE MAY OPERATE ONE CLASS III GAMING DEVICE FOR EACH OF THE TRIBE'S GAMING DEVICE OPERATING RIGHTS.

(2) CLASS II GAMING DEVICES. THE TRIBE MAY OPERATE UP TO FORTY (40) CLASS II GAMING DEVICES IN A GAMING FACILITY WITHOUT ACQUIRING GAMING DEVICE OPERATING RIGHTS UNDER SECTION 3(D), BUT SUCH CLASS II GAMING DEVICES SHALL BE COUNTED AGAINST THE TRIBE'S NUMBER OF ADDITIONAL GAMING DEVICES. EACH CLASS II GAMING DEVICE IN EXCESS OF FORTY (40) THAT THE TRIBE OPERATES WITHIN ITS INDIAN LANDS SHALL BE COUNTED AGAINST THE TRIBE'S CURRENT GAMING DEVICE ALLOCATION.

(3) NUMBER OF GAMING FACILITIES AND MAXIMUM DEVICES PER GAMING FACILITY. THE TRIBE MAY OPERATE GAMING DEVICES IN THE NUMBER OF GAMING FACILITIES IN COLUMN (3) OR (4) OF THE TRIBE'S ROW IN THE TABLE, WHICHEVER IS LOWER, BUT SHALL NOT OPERATE MORE THAN ITS MAXIMUM DEVICES PER GAMING FACILITY IN ANY ONE GAMING FACILITY. THE MAXIMUM DEVICES PER GAMING FACILITY FOR THE TRIBE IS THE SUM OF THE TRIBE'S CURRENT GAMING DEVICE ALLOCATION (INCLUDING AUTOMATIC PERIODIC INCREASES UNDER SECTION 3(C)(4)), PLUS THE TRIBE'S ADDITIONAL GAMING DEVICES, EXCEPT IF THE TRIBE IS SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, GILA RIVER INDIAN COMMUNITY, PASCUA YAQUI TRIBE, TOHONO O'ODHAM NATION, OR NAVAJO NATION, THEN THE MAXIMUM DEVICES PER GAMING FACILITY IS THE SAME NUMBER AS THE MAXIMUM DEVICES PER GAMING FACILITY FOR AK-CHIN INDIAN COMMUNITY AND FT. MCDOWELL YAVAPAI NATION. IF THE TRIBE IS THE TOHONO O'ODHAM NATION, AND IF THE TRIBE OPERATES

FOUR (4) GAMING FACILITIES, THEN AT LEAST ONE OF THE FOUR (4) GAMING FACILITIES SHALL: (I) BE AT LEAST FIFTY (50) MILES FROM THE EXISTING GAMING FACILITY OF THE TRIBE IN THE TUCSON METROPOLITAN AREA AS OF THE EFFECTIVE DATE; (II) HAVE NO MORE THAN SIX HUNDRED FORTY-FIVE (645) GAMING DEVICES; AND (III) HAVE NO MORE THAN SEVENTY-FIVE (75) CARD GAME TABLES.

(4) PERIODIC INCREASE. DURING THE TERM OF THIS COMPACT, THE TRIBE'S CURRENT GAMING DEVICE ALLOCATION SHALL BE AUTOMATICALLY INCREASED (BUT NOT DECREASED), WITHOUT THE NEED TO AMEND THIS COMPACT ON EACH FIVE-YEAR ANNIVERSARY OF THE EFFECTIVE DATE, TO THE NUMBER EQUAL TO THE CURRENT GAMING DEVICE ALLOCATION SPECIFIED IN THE TABLE MULTIPLIED BY THE POPULATION ADJUSTMENT RATE (WITH ANY FRACTIONS ROUNDED UP TO THE NEXT WHOLE NUMBER).

(5) GAMING DEVICE ALLOCATION TABLE.

GAMING DEVICE ALLOCATION TABLE

LISTED TRIBE	(1) CURRENT GAMING DEVICE ALLOCA- TION	(2) ADDI- TIONAL GAMING DEVICES	(3) PREVIOUS GAMING FACILITY ALLOCA- TION	(4) REVISED GAMING FACILITY ALLOCA- TION
THE COCOPAH INDIAN TRIBE	475	170	2	2
FORT MOJAVE INDIAN TRIBE	475	370	2	2
QUECHAN TRIBE	475	370	2	2
TONTO APACHE TRIBE	475	170	2	1
YAVAPAI-APACHE NATION	475	370	2	1
YAVAPAI-PRESCOTT TRIBE	475	370	2	2
COLORADO RIVER INDIAN TRIBES	475	370	2	2
SAN CARLOS APACHE TRIBE	900	230	3	2
WHITE MOUNTAIN APACHE TRIBE	900	40	3	2
AK-CHIN INDIAN COMMUNITY	475	523	2	1
FT. MCDOWELL YAVAPAI NATION	475	523	2	1
SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY	700	830	3	2
GILA RIVER INDIAN COMMUNITY	1400	1020	4	3
PASCUA YAQUI TRIBE	900	670	3	2
TOHONO O'ODHAM NATION	1400	1020	4	4
SUBTOTAL	10,475		38	29

NON-GAMING TRIBES (AS OF 5/1/02)

HAVASUPAI TRIBE	475	2
HUALAPAI TRIBE	475	2
KAIBAB-PAIUTE TRIBE	475	2
HOPI TRIBE	900	3
NAVAJO NATION	2400	4
SAN JUAN SOUTHERN PAIUTE TRIBE	475	2
<hr/>		<hr/>
SUBTOTAL	5,200	15
STATE TOTAL	15,675	53

(6) IF THE TRIBE IS NOT LISTED ON THE TABLE, THE TRIBE'S CURRENT DEVICE ALLOCATION SHALL BE FOUR HUNDRED SEVENTY-FIVE (475) GAMING DEVICES AND THE TRIBE'S REVISED GAMING FACILITY ALLOCATION SHALL BE TWO (2) GAMING FACILITIES.

(7) MULTI-STATION DEVICES. NO MORE THAN TWO AND ONE-HALF PERCENT (2.5%) OF THE GAMING DEVICES IN A GAMING FACILITY (ROUNDED OFF TO THE NEAREST WHOLE NUMBER) MAY BE MULTI-STATION DEVICES.

(D) TRANSFER OF GAMING DEVICE OPERATING RIGHTS.

(1) TRANSFER REQUIREMENTS. DURING THE TERM OF THIS COMPACT, THE TRIBE MAY ENTER INTO A TRANSFER AGREEMENT WITH ONE OR MORE INDIAN TRIBES TO ACQUIRE GAMING DEVICE OPERATING RIGHTS UP TO THE TRIBE'S NUMBER OF ADDITIONAL GAMING DEVICES OR TO TRANSFER SOME OR ALL THE TRIBE'S GAMING DEVICE OPERATING RIGHTS UP TO THE TRIBE'S CURRENT GAMING DEVICE ALLOCATION, EXCEPT THAT IF THE TRIBE IS NAVAJO NATION, THEN THE TRIBE MAY TRANSFER ONLY UP TO 1400 GAMING DEVICES OF ITS CURRENT GAMING DEVICE ALLOCATION. THE TRIBE'S ACQUISITION OR TRANSFER OF GAMING DEVICE OPERATING RIGHTS IS SUBJECT TO THE FOLLOWING CONDITIONS:

(A) GAMING COMPACT. EACH INDIAN TRIBE THAT IS A PARTY TO A TRANSFER AGREEMENT MUST HAVE A VALID AND EFFECTIVE NEW COMPACT AS DEFINED IN A.R.S. SECTION 5-601.02(I)(6) THAT CONTAINS A PROVISION SUBSTANTIALLY SIMILAR TO THIS SECTION 3(D) PERMITTING TRANSFERS OF THE INDIAN TRIBE'S GAMING DEVICE OPERATING RIGHTS.

(B) FORBEARANCE AGREEMENT. IF THE TRIBE ENTERS INTO A TRANSFER AGREEMENT TO TRANSFER SOME OR ALL OF ITS GAMING DEVICE OPERATING RIGHTS THE TRIBE SHALL ALSO EXECUTE A FORBEARANCE AGREEMENT WITH THE STATE. THE FORBEARANCE AGREEMENT SHALL INCLUDE:

1. A WAIVER OF ALL RIGHTS OF THE TRIBE TO PUT INTO PLAY OR OPERATE THE NUMBER OF GAMING DEVICE OPERATING RIGHTS TRANSFERRED DURING THE TERM OF THE TRANSFER AGREEMENT;

2. AN AGREEMENT BY THE TRIBE TO REDUCE ITS GAMING FACILITY ALLOCATION DURING THE TERM OF THE TRANSFER AGREEMENT AS FOLLOWS:

<u>NUMBER OF TRANSFERRED GAMING DEVICE OPERATING RIGHTS</u>	<u>REDUCTIONS IN GAMING FACILITY ALLOCATION</u>
1-475	1
476-1020	2
1021-1400	3

(I) IF THE TRIBE'S NUMBER UNDER COLUMN (4) OF THE TABLE IS LOWER THAN THE TRIBE'S NUMBER UNDER COLUMN (3), THEN THE TRIBE SHALL BE CREDITED FOR THE REDUCTION, IF THE TRIBE ENTERS INTO A TRANSFER AGREEMENT.

(II) THE NUMBERS IN THE COLUMN UNDER NUMBER OF TRANSFERRED GAMING DEVICE OPERATING RIGHTS SHALL BE INCREASED ON EACH FIVE-YEAR ANNIVERSARY OF THE EFFECTIVE DATE BY MULTIPLYING EACH SUCH NUMBER OTHER THAN ONE (1), BY THE POPULATION ADJUSTMENT RATE.

(III) REDUCTIONS IN THE GAMING FACILITY ALLOCATION WILL BE BASED ON THE CUMULATIVE TOTAL NUMBER OF GAMING DEVICE OPERATING RIGHTS TRANSFERRED BY THE TRIBE UNDER ALL TRANSFER AGREEMENTS THAT ARE IN EFFECT.

(IV) IF THE TRIBE IS THE NAVAJO NATION, THEN THE TRIBE'S GAMING FACILITY ALLOCATION SHALL BE TWO (2), EVEN IF THE TRIBE TRANSFERS UP TO 1400 GAMING DEVICE OPERATING RIGHTS.

(C) GAMING FACILITY NOT REQUIRED. THE TRIBE MAY TRANSFER UNUSED GAMING DEVICE OPERATING RIGHTS WHETHER OR NOT IT HAS A GAMING FACILITY ALLOCATION.

(D) CURRENT OPERATION. THE TRIBE MUST OPERATE GAMING DEVICES AT LEAST EQUAL TO ITS CURRENT GAMING DEVICE ALLOCATION BEFORE, OR SIMULTANEOUSLY WITH, THE TRIBE ACQUIRING THE RIGHT TO OPERATE ADDITIONAL GAMING DEVICES BY A TRANSFER AGREEMENT. THE TRIBE IS NOT REQUIRED TO UTILIZE ANY GAMING DEVICE OPERATING RIGHTS IT ACQUIRES, OR TO UTILIZE THEM PRIOR TO ACQUIRING ADDITIONAL GAMING DEVICE OPERATING RIGHTS.

(E) TRANSFER OF ACQUIRED GAMING DEVICE OPERATING RIGHTS PROHIBITED. THE TRIBE SHALL NOT AT ANY TIME SIMULTANEOUSLY ACQUIRE GAMING DEVICE OPERATING RIGHTS AND TRANSFER GAMING DEVICE OPERATING RIGHTS PURSUANT TO TRANSFER AGREEMENTS.

(2) TRANSFER AGREEMENTS. TRANSFERS OF GAMING DEVICE OPERATING RIGHTS MAY BE MADE PURSUANT TO A TRANSFER AGREEMENT BETWEEN TWO INDIAN TRIBES. A TRANSFER AGREEMENT MUST INCLUDE THE FOLLOWING PROVISIONS:

(A) NUMBER. THE NUMBER OF GAMING DEVICE OPERATING RIGHTS TRANSFERRED AND ACQUIRED.

(B) TERM. THE DURATION OF THE TRANSFER AGREEMENT.

(C) CONSIDERATION. THE CONSIDERATION TO BE PAID BY THE INDIAN TRIBE ACQUIRING THE GAMING DEVICE OPERATING RIGHTS TO THE INDIAN TRIBE TRANSFERRING THE GAMING DEVICE OPERATING RIGHTS AND THE METHOD OF PAYMENT.

(D) DISPUTE RESOLUTION. THE DISPUTE RESOLUTION AND ENFORCEMENT PROCEDURES, INCLUDING A PROVISION FOR THE STATE TO RECEIVE NOTICE OF ANY SUCH PROCEEDING.

(E) NOTICE. A PROCEDURE TO PROVIDE QUARTERLY NOTICE TO THE STATE GAMING AGENCY OF PAYMENTS MADE AND RECEIVED, AND TO PROVIDE TIMELY NOTICE OF DISPUTES, REVOCATION, AMENDMENT, AND TERMINATION.

(3) TRANSFER NOTICE. AT LEAST THIRTY (30) DAYS PRIOR TO THE EXECUTION OF A TRANSFER AGREEMENT, THE TRIBE MUST SEND TO THE STATE GAMING AGENCY A TRANSFER NOTICE OF ITS INTENT TO ACQUIRE OR TRANSFER GAMING DEVICE OPERATING RIGHTS. THE TRANSFER NOTICE SHALL INCLUDE A COPY OF THE PROPOSED TRANSFER AGREEMENT, THE PROPOSED FORBEARANCE AGREEMENT AND A COPY OF THE TRIBAL RESOLUTION AUTHORIZING THE ACQUISITION OR TRANSFER.

(4) STATE GAMING AGENCY DENIAL OF TRANSFER. THE STATE GAMING AGENCY MAY DENY A TRANSFER AS SET FORTH IN A TRANSFER NOTICE ONLY IF: (I) THE PROPOSED TRANSFER VIOLATES THE CONDITIONS SET FORTH IN SECTION 3(D)(1), OR (II) THE PROPOSED TRANSFER AGREEMENT DOES NOT CONTAIN THE MINIMUM REQUIREMENTS LISTED IN SECTION 3(D)(2). THE STATE GAMING AGENCY'S DENIAL OF A PROPOSED TRANSFER MUST BE IN WRITING, MUST INCLUDE THE SPECIFIC REASON(S) FOR THE DENIAL (INCLUDING COPIES OF ALL DOCUMENTATION RELIED UPON BY THE STATE GAMING AGENCY TO THE EXTENT ALLOWED BY STATE LAW), AND MUST BE RECEIVED BY THE TRIBE WITHIN THIRTY (30) DAYS OF THE STATE GAMING AGENCY'S RECEIPT OF THE TRANSFER NOTICE. IF THE TRIBE DISPUTES THE STATE GAMING AGENCY'S DENIAL OF A PROPOSED TRANSFER, THE TRIBE SHALL HAVE THE RIGHT TO HAVE SUCH DISPUTE RESOLVED PURSUANT TO SECTION 15.

(5) EFFECTIVE DATE OF TRANSFER. IF THE TRIBE DOES NOT RECEIVE A NOTICE OF DENIAL OF THE TRANSFER FROM THE STATE GAMING AGENCY WITHIN THE TIME PERIOD SPECIFIED ABOVE, THE PROPOSED TRANSFER AGREEMENT SHALL BECOME EFFECTIVE ON THE LATER OF THE THIRTY-FIRST (31ST) DAY FOLLOWING THE STATE GAMING AGENCY'S RECEIPT OF THE TRANSFER NOTICE OR THE DATE SET FORTH IN THE TRANSFER AGREEMENT.

(6) USE OF BROKERS. THE TRIBE SHALL NOT CONTRACT WITH ANY PERSON TO ACT AS A BROKER IN CONNECTION WITH A TRANSFER AGREEMENT. NO PERSON SHALL BE PAID A PERCENTAGE FEE OR A COMMISSION AS A RESULT OF A TRANSFER AGREEMENT, NOR SHALL ANY PERSON RECEIVE A SHARE OF ANY FINANCIAL INTEREST IN THE TRANSFER AGREEMENT OR THE PROCEEDS GENERATED BY THE TRANSFER AGREEMENT. ANY PERSON ACTING AS A BROKER IN CONNECTION WITH A TRANSFER AGREEMENT IS PROVIDING GAMING SERVICES.

(7) REVENUE FROM TRANSFER AGREEMENTS. THE TRIBE AGREES THAT: (I) ALL PROCEEDS RECEIVED BY THE TRIBE AS A TRANSFEROR UNDER A TRANSFER AGREEMENT ARE NET REVENUES FROM TRIBAL GAMING AS DEFINED BY THE ACT AND THAT SUCH PROCEEDS SHALL BE USED FOR THE PURPOSES PERMITTED UNDER THE ACT; AND (II) THE TRIBE SHALL INCLUDE THE PROCEEDS IN AN ANNUAL AUDIT AND SHALL MAKE AVAILABLE TO THE STATE THAT PORTION OF THE AUDIT ADDRESSING PROCEEDS FROM TRANSFER AGREEMENTS.

(8) AGREED UPON PROCEDURES REPORT. THE TRIBE AGREES TO PROVIDE TO THE STATE GAMING AGENCY, EITHER SEPARATELY OR WITH THE OTHER PARTY TO THE TRANSFER AGREEMENT, AN AGREED UPON PROCEDURES REPORT FROM AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. THE PROCEDURES TO BE EXAMINED AND REPORTED UPON ARE WHETHER PAYMENTS MADE UNDER THE TRANSFER AGREEMENT WERE MADE IN THE PROPER AMOUNT, MADE AT THE PROPER TIME, AND DEPOSITED IN AN ACCOUNT OF THE INDIAN TRIBE TRANSFERRING GAMING DEVICE OPERATING RIGHTS.

(9) STATE PAYMENT. PROCEEDS RECEIVED BY THE TRIBE AS A TRANSFEROR UNDER A TRANSFER AGREEMENT FROM THE TRANSFER OF GAMING DEVICE OPERATING RIGHTS ARE NOT SUBJECT TO ANY PAYMENT TO THE STATE UNDER THIS COMPACT OR OTHERWISE.

(10) COMPACT ENFORCEMENT; EFFECT ON TRANSFER AGREEMENTS. IF THE TRIBE ACQUIRES GAMING DEVICE OPERATING RIGHTS UNDER A TRANSFER AGREEMENT, NO DISPUTE BETWEEN THE STATE AND THE OTHER PARTY TO THE TRANSFER AGREEMENT SHALL AFFECT THE TRIBE'S RIGHTS UNDER THE TRANSFER AGREEMENT OR THE TRIBE'S OBLIGATIONS TO MAKE THE PAYMENTS REQUIRED UNDER THE TRANSFER AGREEMENT. IF THE TRIBE TRANSFERS GAMING DEVICE OPERATING RIGHTS UNDER A TRANSFER AGREEMENT, NO DISPUTE BETWEEN THE STATE AND THE OTHER PARTY TO THE TRANSFER AGREEMENT SHALL AFFECT THE TRIBE'S RIGHTS UNDER THE TRANSFER AGREEMENT OR THE OBLIGATIONS OF THE OTHER PARTY TO THE TRANSFER AGREEMENT TO MAKE THE PAYMENTS REQUIRED UNDER THE TRANSFER AGREEMENT. THESE PROVISIONS SHALL NOT APPLY TO A DISPUTE AMONG THE STATE AND BOTH PARTIES TO A TRANSFER REGARDING THE VALIDITY OF A TRANSFER AGREEMENT OR TO A DISPUTE BETWEEN THE PARTIES TO A TRANSFER AGREEMENT REGARDING A BREACH OF THE TRANSFER AGREEMENT.

(11) ACCESS TO RECORDS REGARDING TRANSFER AGREEMENT. THE STATE GAMING AGENCY SHALL HAVE ACCESS TO ALL RECORDS OF THE TRIBE DIRECTLY RELATING TO TRANSFER AGREEMENTS AND FORBEARANCE AGREEMENTS UNDER SECTION 7(B).

(12) TRANSFER AND ACQUISITION OF POOLED GAMING DEVICES.

(A) THE TRIBE IS AUTHORIZED TO JOIN WITH OTHER INDIAN TRIBES TO PERIODICALLY ESTABLISH A POOL TO COLLECT GAMING DEVICE OPERATING RIGHTS FROM INDIAN TRIBES THAT DESIRE TO TRANSFER GAMING DEVICE OPERATING RIGHTS AND TRANSFER THEM TO INDIAN TRIBES THAT DESIRE TO ACQUIRE GAMING DEVICE OPERATING RIGHTS. IF THE TRIBE IS OPERATING ALL OF ITS CURRENT GAMING DEVICE ALLOCATION AND, AFTER MAKING REASONABLE EFFORTS TO DO SO, THE TRIBE IS NOT ABLE TO ACQUIRE ADDITIONAL GAMING DEVICES PURSUANT TO AN AGREEMENT DESCRIBED IN SECTION 3(D)(2), THE TRIBE MAY ACQUIRE ADDITIONAL GAMING DEVICES UP TO THE NUMBER SPECIFIED IN THE TABLE FOR THE TRIBE FROM A TRANSFER POOL UNDER PROCEDURES AGREED TO BY INDIAN TRIBES PARTICIPATING IN THE TRANSFER POOL AND THE STATE.

(B) THE TRIBE AND THE STATE ARE AUTHORIZED TO ESTABLISH A POOLING MECHANISM, UNDER PROCEDURES AGREED TO BY THE TRIBE AND THE STATE, BY WHICH THE RIGHTS TO OPERATE GAMING DEVICES THAT ARE NOT IN OPERATION MAY BE ACQUIRED BY AN INDIAN TRIBE THROUGH AN

AGREEMENT WITH THE STATE. IF THE TRIBE IS OPERATING ALL OF ITS CURRENT GAMING DEVICE ALLOCATION AND, AFTER MAKING REASONABLE EFFORTS TO DO SO, THE TRIBE IS NOT ABLE TO ACQUIRE ADDITIONAL GAMING DEVICES PURSUANT TO AN AGREEMENT DESCRIBED IN SECTION 3(D)(2) OR FROM ANY TRANSFER POOL ESTABLISHED PURSUANT TO SECTION 3(D)(12)(A) WITHIN 90 DAYS AFTER THE OPENING OF A TRANSFER POOL ESTABLISHED PURSUANT TO SECTION 3(D)(12)(A), THE TRIBE MAY ACQUIRE ADDITIONAL GAMING DEVICES FROM THE STATE UP TO THE NUMBER SPECIFIED IN THE TABLE FOR THE TRIBE AT A PRICE THAT IS AT LEAST ONE HUNDRED PERCENT (100%) OF THE HIGHEST PRICE PAID TO DATE FOR THE TRANSFER OF AT LEAST ONE HUNDRED (100) GAMING DEVICE OPERATING RIGHTS FOR A TERM OF AT LEAST FIVE (5) YEARS. THE MONIES PAID BY AN INDIAN TRIBE TO ACQUIRE ADDITIONAL GAMING DEVICES UNDER AN AGREEMENT PURSUANT TO THIS SECTION 3(D)(12)(B) SHALL BENEFIT INDIAN TRIBES THAT HAVE THE RIGHT TO OPERATE GAMING DEVICES THAT ARE ELIGIBLE TO BE TRANSFERRED AND ARE NOT IN OPERATION. THE STATE SHALL PROVIDE INDIAN TRIBES THAT ARE ELIGIBLE TO ENTER INTO AN AGREEMENT WITH THE STATE PURSUANT TO THIS SECTION 3(D)(12)(B) THE OPPORTUNITY TO PARTICIPATE IN THE POOL PURSUANT TO THE PROCEDURES AGREED TO BY THE TRIBE AND THE STATE.

(C) PRIOR TO AGREEING TO ANY PROCEDURES WITH ANY INDIAN TRIBE PURSUANT TO SECTIONS 3(D)(12)(A) OR (B), THE STATE SHALL PROVIDE NOTICE TO THE TRIBE OF THE PROPOSED PROCEDURES.

(E) NUMBER OF CARD GAME TABLES.

(1) NUMBER OF CARD GAME TABLES; NUMBER OF PLAYERS PER GAME. SUBJECT TO THE TERMS AND CONDITIONS OF THIS COMPACT, THE TRIBE IS AUTHORIZED TO OPERATE UP TO SEVENTY-FIVE (75) CARD GAME TABLES WITHIN EACH GAMING FACILITY THAT IS LOCATED MORE THAN FORTY (40) MILES FROM ANY MUNICIPALITY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND (400,000) PERSONS; AND UP TO ONE HUNDRED (100) CARD GAME TABLES WITHIN EACH GAMING FACILITY THAT IS LOCATED WITHIN FORTY (40) MILES OF A MUNICIPALITY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND (400,000) PERSONS. EACH BLACKJACK TABLE SHALL BE LIMITED TO NO MORE THAN SEVEN (7) AVAILABLE PLAYER POSITIONS PLUS THE DEALER. EACH POKER TABLE SHALL BE LIMITED TO NO MORE THAN TEN (10) AVAILABLE PLAYER POSITIONS PLUS THE DEALER. THE TRIBE AGREES THAT IT WILL NOT OPERATE CARD GAMES OUTSIDE OF A GAMING FACILITY.

(2) PERIODIC INCREASES IN THE NUMBER OF CARD GAME TABLES. THE NUMBER OF CARD GAME TABLES THAT THE TRIBE IS AUTHORIZED TO OPERATE IN EACH GAMING FACILITY SHALL BE AUTOMATICALLY INCREASED (BUT NOT DECREASED), WITHOUT THE NEED TO AMEND THIS COMPACT ON EACH FIVE-YEAR ANNIVERSARY OF THE EFFECTIVE DATE, TO THE NUMBER THAT IS EQUAL TO THE NUMBER OF CARD GAME TABLES THE TRIBE IS AUTHORIZED TO OPERATE IN EACH GAMING FACILITY SET FORTH IN SECTION 3(E)(1) MULTIPLIED BY THE APPLICABLE POPULATION ADJUSTMENT RATE (WITH ANY FRACTION ROUNDED UP TO THE NEXT WHOLE NUMBER).

(F) NUMBER OF KENO GAMES. SUBJECT TO THE TERMS AND CONDITIONS OF THIS COMPACT, THE TRIBE IS AUTHORIZED TO OPERATE NO MORE THAN TWO (2) KENO GAMES PER GAMING FACILITY.

(G) INTER-TRIBAL PARITY PROVISIONS.

(1) GAMING DEVICES. EXCEPT AS PROVIDED IN SECTION 3(G)(5), IF, DURING THE TERM OF THIS COMPACT:

(A) AN INDIAN TRIBE LISTED ON THE TABLE IS AUTHORIZED OR PERMITTED TO OPERATE IN THE STATE:

1. MORE CLASS III GAMING DEVICES THAN THE TOTAL NUMBER OF THAT INDIAN TRIBE'S CURRENT GAMING DEVICE ALLOCATION IN COLUMN (1) OF THE TABLE, PLUS THE NUMBER OF THAT INDIAN TRIBE'S ADDITIONAL GAMING DEVICES IN COLUMN (2) OF THE TABLE; OR

2. MORE CLASS III GAMING DEVICES THAN THAT INDIAN TRIBE'S CURRENT GAMING DEVICE ALLOCATION IN COLUMN (1) OF THE TABLE WITHOUT ACQUIRING GAMING DEVICE OPERATING RIGHTS PURSUANT TO AND IN ACCORDANCE WITH SECTION 3(D); OR

3. MORE CLASS III GAMING DEVICES WITHIN A SINGLE GAMING FACILITY THAN THAT INDIAN TRIBE'S MAXIMUM DEVICES PER GAMING FACILITY (AS ADJUSTED IN ACCORDANCE WITH SECTION 3(C)(3)); OR

(B) ANY INDIAN TRIBE NOT LISTED ON THE TABLE IS AUTHORIZED OR PERMITTED AFTER THE EFFECTIVE DATE TO OPERATE IN THE STATE MORE THAN FOUR HUNDRED SEVENTY-FIVE (475) CLASS III GAMING DEVICES, OR MORE THAN FIVE HUNDRED TWENTY-THREE (523) ADDITIONAL GAMING DEVICES UNDER TERMS OTHER THAN SECTION 3(D); THEN

(C) THE FOLLOWING REMEDIES SHALL BE AVAILABLE TO THE TRIBE TO ELECT, AS THE TRIBE MAY DETERMINE IN ITS SOLE DISCRETION, FROM TIME TO TIME:

1. THE TRIBE SHALL AUTOMATICALLY BE ENTITLED TO A GREATER NUMBER OF GAMING DEVICE OPERATING RIGHTS, WITHOUT THE NEED TO AMEND THIS COMPACT AND WITHOUT THE NEED TO ACQUIRE ANY GAMING DEVICE OPERATING RIGHTS UNDER SECTION 3(D). THE GREATER NUMBER OF GAMING DEVICE OPERATING RIGHTS IS THE PRODUCT OF A RATIO (WHICH IS THE TOTAL NUMBER OF CLASS III GAMING DEVICES THE OTHER INDIAN TRIBE IS IN FACT AUTHORIZED OR PERMITTED TO OPERATE FOLLOWING THE OCCURRENCE OF ANY OF THE EVENTS SPECIFIED IN SUBSECTIONS (A) OR (B) OF THIS SECTION 3(G)(1) DIVIDED BY THE TOTAL NUMBER ASSIGNED TO THE OTHER INDIAN TRIBE UNDER COLUMN (1) PLUS COLUMNS (2) OF THE TABLE) MULTIPLIED BY THE TOTAL NUMBER ASSIGNED TO THE TRIBE IN COLUMN (1) PLUS COLUMN (2) OF THE TABLE. IF THE TRIBE IS NOT LISTED ON THE TABLE THEN THE RATIO DESCRIBED IN THE PREVIOUS SENTENCE IS MULTIPLIED BY THE TRIBE'S TOTAL NUMBER OF GAMING DEVICES AUTHORIZED IN THE COMPACT; AND

2. THE TRIBE SHALL AUTOMATICALLY BE ENTITLED TO IMMEDIATELY REDUCE ITS OBLIGATIONS TO MAKE CONTRIBUTIONS TO THE STATE UNDER SECTION 12. INSTEAD OF THE AMOUNTS PAYABLE UNDER SECTION 12(B), THE TRIBE SHALL MAKE QUARTERLY CONTRIBUTIONS TO THE STATE EQUAL TO SEVENTY-FIVE HUNDREDTHS OF ONE PERCENT (.75%) OF ITS CLASS III NET WIN FOR THE PRIOR QUARTER. THIS REMEDY WILL NOT BE AVAILABLE AFTER ANY INDIAN TRIBE WITH A NEW COMPACT AS DEFINED IN A.R.S. SECTION 5-601.02(I)(6) ENTERS ITS FINAL RENEWAL PERIOD AS DESCRIBED IN SECTION 23(B)(3).

(2) CONTRIBUTION TERMS. IF, DURING THE TERM OF THIS COMPACT ANY OTHER INDIAN TRIBE IS AUTHORIZED OR PERMITTED TO OPERATE GAMING DEVICES IN THE STATE AND THE TERMS OF THE OTHER INDIAN TRIBE'S OBLIGATION TO MAKE CONTRIBUTIONS TO THE STATE ARE MORE FAVORABLE TO THE OTHER INDIAN TRIBE THAN THE OBLIGATION OF THE TRIBE TO MAKE CONTRIBUTIONS TO THE STATE UNDER THE TERMS OF SECTION 12, THEN THE TRIBE MAY ELECT TO HAVE SECTION 12 AUTOMATICALLY AMENDED TO CONFORM TO THOSE MORE FAVORABLE TERMS.

(3) ADDITIONAL CLASS III GAMING. EXCEPT AS PROVIDED IN SECTION 3(G)(5), IF DURING THE TERM OF THIS COMPACT, ANY INDIAN TRIBE IS AUTHORIZED TO OPERATE:

(A) A FORM OF CLASS III GAMING IN THE STATE THAT IS NOT LISTED IN SECTION 3(A), THEN THE TRIBE SHALL BE ENTITLED TO OPERATE THE ADDITIONAL FORM OF GAMING THAT THE OTHER INDIAN TRIBE IS AUTHORIZED TO OPERATE, WITHOUT THE NEED TO AMEND THIS COMPACT.

(B) BLACKJACK ON MORE CARD GAME TABLES PER GAMING FACILITY THAN AUTHORIZED UNDER THIS COMPACT, THEN THE TRIBE SHALL BE ENTITLED TO OPERATE BLACKJACK ON THE ADDITIONAL NUMBER OF CARD GAME TABLES THAT THE OTHER INDIAN TRIBE IS AUTHORIZED TO OPERATE, WITHOUT THE NEED TO AMEND THIS COMPACT.

(4) WAGER LIMITS. EXCEPT AS PROVIDED IN SECTION 3(G)(5), IF, DURING THE TERM OF THIS COMPACT, ANY INDIAN TRIBE IS AUTHORIZED OR PERMITTED TO OPERATE IN THE STATE ANY CLASS III GAMING DEVICES OR CARD GAME TABLES WITH HIGHER WAGER LIMITS THAN THE WAGER LIMITS SPECIFIED IN SECTION 3, THEN THE TRIBE IS ALSO AUTHORIZED TO OPERATE ITS GAMING DEVICES AND/OR CARD GAME TABLES WITH THE SAME HIGHER WAGER LIMITS, WITHOUT THE NEED TO AMEND THIS COMPACT.

(5) EXCEPTIONS. THE PROVISIONS OF SECTION 3(G) SHALL NOT BE TRIGGERED:

(A) BY THE AUTOMATIC PERIODIC INCREASES IN: (I) THE CURRENT GAMING DEVICE ALLOCATION PROVIDED IN SECTION 3(C)(4), OR THE RESULTING INCREASE IN THE MAXIMUM DEVICE PER GAMING FACILITY; (II) THE NUMBER OF AUTHORIZED CARD GAME TABLES PROVIDED IN SECTION 3(E)(2); OR (III) THE AUTHORIZED WAGER LIMITS FOR GAMING DEVICES OR CARD GAME TABLES PROVIDED IN SECTION 3(M)(4);

(B) IF THE STATE ENTERS INTO A COMPACT WITH AN INDIAN TRIBE LISTED AS A NON-GAMING TRIBE ON THE TABLE THAT PROVIDES A NUMBER OF ADDITIONAL GAMING DEVICES THAT IS NO GREATER THAN THE LARGEST NUMBER OF ADDITIONAL GAMING DEVICES SHOWN ON THE TABLE FOR ANOTHER INDIAN TRIBE WITH THE SAME CURRENT GAMING DEVICE ALLOCATION AS SHOWN ON THE TABLE FOR SUCH NON-GAMING TRIBE; AND

(C) BY THE PROVISIONS OF A PRE-EXISTING COMPACT AS DEFINED IN A.R.S. SECTION 5-601.02(I)(5).

(H) ADDITIONAL GAMING DUE TO CHANGES IN STATE LAW WITH RESPECT TO PERSONS OTHER THAN INDIAN TRIBES.

(1) IF, ON OR AFTER MAY 1, 2002, STATE LAW CHANGES OR IS INTERPRETED IN A FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION OR IN A FINAL ORDER OF A STATE ADMINISTRATIVE AGENCY TO PERMIT EITHER A PERSON OR ENTITY OTHER THAN AN INDIAN TRIBE TO OPERATE

GAMING DEVICES; ANY FORM OF CLASS III GAMING (INCLUDING VIDEO LOTTERY TERMINALS) THAT IS NOT AUTHORIZED UNDER THIS COMPACT, OTHER THAN GAMBLING THAT IS LAWFUL ON MAY 1, 2002 PURSUANT TO A.R.S. SECTION 13-3302; OR POKER, OTHER THAN POKER THAT IS LAWFUL ON MAY 1, 2002 PURSUANT TO A.R.S. SECTION 13-3302, THEN, UPON THE EFFECTIVE DATE OF SUCH STATE LAW, FINAL JUDGMENT, OR FINAL ORDER:

(A) THE TRIBE SHALL BE AUTHORIZED UNDER THIS COMPACT TO OPERATE CLASS III GAMING DEVICES WITHOUT LIMITATIONS ON THE NUMBER OF GAMING DEVICES, THE NUMBER OF GAMING FACILITIES, OR THE MAXIMUM GAMING DEVICES PER GAMING FACILITY, AND WITHOUT THE NEED TO AMEND THIS COMPACT;

(B) THE TRIBE SHALL BE AUTHORIZED UNDER THIS COMPACT TO OPERATE TABLE GAMES, WITHOUT LIMITATIONS ON THE NUMBER OF CARD GAME TABLES, ON WAGERS, OR ON THE TYPES OF GAMES, AND WITHOUT THE NEED TO AMEND THIS COMPACT, SUBJECT TO THE PROVISIONS OF 3(B)(3); AND

(C) IN ADDITION TO SECTIONS 3(H)(1)(A) AND (B), THE TRIBE'S OBLIGATION UNDER SECTION 12 TO MAKE CONTRIBUTIONS TO THE STATE SHALL BE IMMEDIATELY REDUCED. INSTEAD OF THE AMOUNTS PAYABLE UNDER SECTION 12(B), THE TRIBE SHALL MAKE QUARTERLY CONTRIBUTIONS TO THE STATE EQUAL TO SEVENTY-FIVE HUNDREDTHS OF ONE PERCENT (.75%) OF ITS CLASS III NET WIN FOR THE PRIOR QUARTER.

(2) THE PROVISIONS OF THIS SECTION 3(H) SHALL NOT APPLY TO CASINO NIGHTS OPERATED BY NON-PROFIT OR CHARITABLE ORGANIZATIONS PURSUANT TO AND QUALIFIED UNDER A.R.S. SECTION 13-3302(B); TO SOCIAL GAMBLING AS DEFINED IN A.R.S. SECTION 133301(7); TO ANY PAPER PRODUCT LOTTERY GAMES, LOTTERY; OR TO LOW-WAGER, NON-BANKED RECREATIONAL POOLS OR SIMILAR ACTIVITIES OPERATED BY AND ON THE PREMISES OF RETAILERS LICENSED UNDER TITLE 4, ARIZONA REVISED STATUTES, AS MAY BE AUTHORIZED BY STATE LAW.

(I) NOTICE. PRIOR TO THE TRIBE OBTAINING RIGHTS UNDER SECTIONS 3(G) OR (H), EITHER THE TRIBE OR THE STATE MUST FIRST GIVE WRITTEN NOTICE TO THE OTHER DESCRIBING THE FACTS WHICH THE TRIBE OR THE STATE CONTEND EITHER DO OR MAY SATISFY THE ELEMENTS OF SECTIONS 3(G) OR (H). THE RECEIVING PARTY SHALL SERVE A WRITTEN RESPONSE ON THE OTHER PARTY WITHIN THIRTY (30) DAYS OF RECEIPT OF THE NOTICE. IF THE PARTIES DO NOT AGREE ON WHETHER SECTIONS 3(G) OR (H) HAVE BEEN TRIGGERED, THE DISPUTE MAY BE SUBMITTED TO DISPUTE RESOLUTION UNDER SECTION 15 BY EITHER THE TRIBE OR THE STATE.

(J) LOCATION OF GAMING FACILITY.

(1) ALL GAMING FACILITIES SHALL BE LOCATED ON THE INDIAN LANDS OF THE TRIBE. ALL GAMING FACILITIES OF THE TRIBE SHALL BE LOCATED NOT LESS THAN ONE AND ONE-HALF (1 1/2) MILES APART UNLESS THE CONFIGURATION OF THE INDIAN LANDS OF AN INDIAN TRIBE MAKES THIS REQUIREMENT IMPRACTICABLE. THE TRIBE SHALL NOTIFY THE STATE GAMING AGENCY OF THE PHYSICAL LOCATION OF ANY GAMING FACILITY A MINIMUM OF THIRTY (30) DAYS PRIOR TO COMMENCING GAMING ACTIVITIES AT SUCH LOCATION. GAMING ACTIVITY ON LANDS ACQUIRED AFTER THE ENACTMENT OF THE ACT ON OCTOBER 17, 1988 SHALL BE AUTHORIZED ONLY IN ACCORDANCE WITH 25 U.S.C. § 2719.

(2) NOTICE TO SURROUNDING COMMUNITIES. THE TRIBE SHALL NOTIFY SURROUNDING COMMUNITIES REGARDING NEW OR SUBSTANTIAL MODIFICATIONS TO GAMING FACILITIES AND SHALL DEVELOP PROCEDURES FOR CONSULTATION WITH SURROUNDING COMMUNITIES REGARDING NEW OR SUBSTANTIAL MODIFICATIONS TO GAMING FACILITIES.

(K) FINANCIAL SERVICES IN GAMING FACILITIES. THE TRIBE SHALL ENACT A TRIBAL ORDINANCE ESTABLISHING RESPONSIBLE RESTRICTIONS ON THE PROVISION OF FINANCIAL SERVICES AT GAMING FACILITIES. AT A MINIMUM, THE ORDINANCE SHALL PROHIBIT:

(1) LOCATING AN AUTOMATIC TELLER MACHINE ("ATM") ADJACENT TO, OR IN CLOSE PROXIMITY TO, ANY GAMING DEVICE;

(2) LOCATING IN A GAMING FACILITY AN ATM THAT ACCEPTS ELECTRONIC BENEFIT TRANSFER CARDS ISSUED PURSUANT TO A STATE OR FEDERAL PROGRAM THAT IS INTENDED TO PROVIDE FOR NEEDY FAMILIES OR INDIVIDUALS;

(3) ACCEPTING CHECKS OR OTHER NON-CASH ITEMS ISSUED PURSUANT TO A STATE OR FEDERAL PROGRAM THAT IS INTENDED TO PROVIDE FOR NEEDY FAMILIES OR INDIVIDUALS; AND

(4) THE GAMING FACILITY OPERATOR FROM EXTENDING CREDIT TO ANY PATRON OF A GAMING FACILITY FOR GAMING ACTIVITIES.

(L) FORMS OF PAYMENT FOR WAGERS. ALL PAYMENT FOR WAGERS MADE FOR GAMING ACTIVITIES CONDUCTED BY THE TRIBE ON ITS INDIAN LANDS, INCLUDING THE PURCHASE OF TOKENS FOR USE IN WAGERING, SHALL BE MADE BY CASH, CASH EQUIVALENT, CREDIT CARD OR PERSONAL CHECK. AUTOMATIC TELLER MACHINES (ATMS) MAY BE INSTALLED AT A GAMING FACILITY.

(M) WAGER LIMITATIONS.

(1) FOR GAMING DEVICES. THE MAXIMUM WAGER AUTHORIZED FOR ANY SINGLE PLAY OF A GAMING DEVICE IS TWENTY FIVE DOLLARS (\$25.00).

(2) FOR BLACKJACK. THE MAXIMUM WAGER AUTHORIZED FOR ANY SINGLE INITIAL WAGER ON A HAND OF BLACKJACK BY EACH INDIVIDUAL PLAYER SHALL BE (A) FIVE HUNDRED DOLLARS (\$500.00) AT UP TO TEN (10) CARD GAME TABLES PER GAMING FACILITY, AND (B) TWO HUNDRED AND FIFTY DOLLARS (\$250.00) FOR ALL OTHER CARD GAME TABLES IN A GAMING FACILITY. THE FOREGOING MAXIMUM WAGER LIMITS SHALL APPLY TO EACH SUBSEQUENT WAGER THAT AN INDIVIDUAL PLAYER SHALL BE ENTITLED TO MAKE ON THE SAME HAND AS THE RESULT OF "SPLITS" AND/OR "DOUBLING DOWN" DURING THE PLAY OF SUCH HAND.

(3) FOR POKER. THE WAGER LIMITS FOR A HAND OF POKER SHALL BE (A) \$75.00/\$150.00 AT UP TO TEN (10) CARD GAME TABLES PER GAMING FACILITY, AND (B) \$20.00/\$40.00 FOR ALL OTHER CARD GAME TABLES IN A GAMING FACILITY.

(4) PERIODIC INCREASES IN WAGER LIMITATIONS. DURING THE TERM OF THIS COMPACT, THE WAGER LIMITATIONS SET FORTH IN THIS SECTION 3(M) SHALL EACH BE AUTOMATICALLY INCREASED (BUT NOT DECREASED) WITHOUT THE NEED TO AMEND THIS COMPACT ON EACH FIVE-YEAR ANNIVERSARY OF THE EFFECTIVE DATE TO AN AMOUNT EQUAL TO THE WAGER LIMITATIONS SPECIFIED IN SECTIONS 3(M)(1), (2) AND (3) MULTIPLIED BY THE CPI ADJUSTMENT RATE (WITH ALL AMOUNTS ROUNDED UP TO THE NEXT WHOLE DOLLAR).

THE TRIBE WILL NOTIFY THE STATE GAMING AGENCY OF SUCH WAGER LIMITATION ADJUSTMENTS AS SOON AS REASONABLY POSSIBLE AFTER THE CPI ADJUSTMENT RATE HAS BEEN DETERMINED.

(N) HOURS OF OPERATION. THE TRIBE MAY ESTABLISH BY ORDINANCE OR REGULATION THE PERMISSIBLE HOURS AND DAYS OF OPERATION OF GAMING ACTIVITIES; PROVIDED, HOWEVER, THAT WITH RESPECT TO THE SALE OF LIQUOR THE TRIBE SHALL COMPLY WITH ALL APPLICABLE STATE LIQUOR LAWS AT ALL GAMING FACILITIES.

(O) OWNERSHIP OF GAMING FACILITIES AND GAMING ACTIVITIES. THE TRIBE SHALL HAVE THE SOLE PROPRIETARY INTEREST IN THE GAMING FACILITIES AND GAMING ACTIVITIES. THIS PROVISION SHALL NOT BE CONSTRUED TO PREVENT THE TRIBE FROM GRANTING SECURITY INTERESTS OR OTHER FINANCIAL ACCOMMODATIONS TO SECURED PARTIES, LENDERS, OR OTHERS, OR TO PREVENT THE TRIBE FROM ENTERING INTO LEASES OR FINANCING ARRANGEMENTS.

(P) PROHIBITED ACTIVITIES. ANY CLASS III GAMING NOT SPECIFICALLY AUTHORIZED IN THIS SECTION 3 IS PROHIBITED. EXCEPT AS PROVIDED HEREIN, NOTHING IN THIS COMPACT IS INTENDED TO PROHIBIT OTHERWISE LAWFUL AND AUTHORIZED CLASS II GAMING UPON THE TRIBE'S INDIAN LANDS OR WITHIN THE GAMING FACILITIES.

(Q) OPERATION AS PART OF A NETWORK. GAMING DEVICES AUTHORIZED PURSUANT TO THIS COMPACT MAY BE OPERATED TO OFFER AN AGGREGATE PRIZE OR PRIZES AS PART OF A NETWORK, INCLUDING A NETWORK:

(1) WITH THE GAMING DEVICES OF OTHER INDIAN TRIBES LOCATED WITHIN THE STATE THAT HAVE ENTERED INTO TRIBAL-STATE GAMING COMPACTS WITH THE STATE, OR

(2) BEYOND THE STATE PURSUANT TO A MUTUALLY-AGREED APPENDIX CONTAINING TECHNICAL STANDARDS FOR WIDE AREA NETWORKS.

(R) PROHIBITION ON FIREARMS. THE POSSESSION OF FIREARMS BY ANY PERSON WITHIN A GAMING FACILITY SHALL BE STRICTLY PROHIBITED. THIS PROHIBITION SHALL NOT APPLY TO CERTIFIED LAW ENFORCEMENT OFFICERS AUTHORIZED TO BE ON THE PREMISES AS WELL AS ANY PRIVATE SECURITY SERVICE RETAINED TO PROVIDE SECURITY AT A GAMING FACILITY, OR ARMORED CAR SERVICES.

(S) FINANCING. ANY THIRD-PARTY FINANCING EXTENDED OR GUARANTEED FOR THE GAMING OPERATION AND GAMING FACILITIES SHALL BE DISCLOSED TO THE STATE GAMING AGENCY, AND ANY PERSON EXTENDING SUCH FINANCING SHALL BE REQUIRED TO BE LICENSED BY THE TRIBE AND ANNUALLY CERTIFIED BY THE STATE GAMING AGENCY, UNLESS SAID PERSON IS AN AGENCY OF THE UNITED STATES OR A LENDING INSTITUTION LICENSED AND REGULATED BY THE STATE OR THE UNITED STATES.

(T) RECORD-KEEPING. THE GAMING FACILITY OPERATOR OR THE TRIBAL GAMING OFFICE, WHICHEVER CONDUCTS SURVEILLANCE, SHALL MAINTAIN THE FOLLOWING LOGS AS WRITTEN OR COMPUTERIZED RECORDS WHICH SHALL BE AVAILABLE FOR INSPECTION BY THE STATE GAMING AGENCY IN ACCORDANCE WITH SECTION 7(B): A SURVEILLANCE LOG RECORDING ALL MATERIAL SURVEILLANCE ACTIVITIES IN THE MONITORING ROOM OF THE GAMING FACILITIES; AND A SECURITY LOG RECORDING ALL UNUSUAL OCCURRENCES

INVESTIGATED BY THE TRIBAL GAMING OFFICE. THE GAMING FACILITY OPERATOR OR THE TRIBAL GAMING OFFICE, WHICHEVER CONDUCTS SURVEILLANCE, SHALL RETAIN VIDEO RECORDINGS MADE IN ACCORDANCE WITH APPENDIX C FOR AT LEAST SEVEN (7) DAYS FROM THE DATE OF ORIGINAL RECORDING.

(U) BARRED PERSONS. THE TRIBAL GAMING OFFICE SHALL ESTABLISH A LIST OF PERSONS BARRED FROM THE GAMING FACILITIES BECAUSE THEIR CRIMINAL HISTORY OR ASSOCIATION WITH CAREER OFFENDERS OR CAREER OFFENDER ORGANIZATIONS POSES A THREAT TO THE INTEGRITY OF THE GAMING ACTIVITIES OF THE TRIBE. THE TRIBAL GAMING OFFICE SHALL EMPLOY ITS BEST EFFORTS TO EXCLUDE PERSONS ON SUCH LIST FROM ENTRY INTO ITS GAMING FACILITIES. TO THE EXTENT NOT PREVIOUSLY PROVIDED, THE TRIBAL GAMING OFFICE SHALL SEND A COPY OF ITS LIST ON A MONTHLY BASIS TO THE STATE GAMING AGENCY, ALONG WITH DETAILED INFORMATION REGARDING WHY THE PERSON HAS BEEN BARRED AND, TO THE EXTENT AVAILABLE, THE BARRED PERSON'S PHOTOGRAPH, DRIVER'S LICENSE INFORMATION, AND/OR FINGERPRINTS, TO THE EXTENT THESE ITEMS ARE IN THE POSSESSION OF THE TRIBAL GAMING OFFICE. THE STATE GAMING AGENCY WILL ESTABLISH A LIST WHICH WILL CONTAIN THE NAMES, AND TO THE EXTENT AVAILABLE, PHOTOGRAPHS OF, AND OTHER RELEVANT INFORMATION REGARDING, PERSONS WHOSE REPUTATIONS, CONDUCT, OR CRIMINAL HISTORY IS SUCH THAT THEIR PRESENCE WITHIN A GAMING FACILITY MAY POSE A THREAT TO THE PUBLIC HEALTH, SAFETY, OR WELFARE. SUCH PERSONS WILL BE BARRED FROM ALL TRIBAL GAMING FACILITIES WITHIN THE STATE. THE TRIBE AGREES THAT THE STATE GAMING AGENCY MAY DISSEMINATE THIS LIST, WHICH SHALL CONTAIN DETAILED INFORMATION ABOUT WHY EACH PERSON IS BARRED, TO ALL OTHER TRIBAL GAMING OFFICES.

(V) PROBLEM GAMBLING.

(1) SIGNAGE. AT ALL PUBLIC ENTRANCES AND EXITS OF EACH GAMING FACILITY, THE GAMING FACILITY OPERATOR SHALL POST SIGNS STATING THAT HELP IS AVAILABLE IF A PERSON HAS A PROBLEM WITH GAMBLING AND, AT A MINIMUM, PROVIDE THE STATEWIDE TOLL FREE CRISIS HOTLINE TELEPHONE NUMBER ESTABLISHED BY THE ARIZONA STATE LOTTERY COMMISSION.

(2) SELF-EXCLUSION. THE STATE GAMING AGENCY AND THE TRIBE SHALL COMPLY WITH THE FOLLOWING PROVISIONS:

(A) THE STATE GAMING AGENCY SHALL ESTABLISH A LIST OF PERSONS WHO, BY ACKNOWLEDGING IN A MANNER TO BE ESTABLISHED BY THE STATE GAMING AGENCY THAT THEY ARE PROBLEM GAMBLERS, VOLUNTARILY SEEK TO EXCLUDE THEMSELVES FROM GAMING FACILITIES. THE STATE GAMING AGENCY SHALL ESTABLISH PROCEDURES FOR THE PLACEMENT ON AND REMOVAL FROM THE LIST OF SELF-EXCLUDED PERSONS. NO PERSON OTHER THAN THE PERSON SEEKING VOLUNTARY SELF-EXCLUSION SHALL BE ALLOWED TO INCLUDE ANY PERSON'S NAME ON THE SELF-EXCLUSION LIST OF THE STATE GAMING AGENCY.

(B) THE TRIBE SHALL ESTABLISH PROCEDURES FOR ADVISING PERSONS WHO INQUIRE ABOUT SELF-EXCLUSION ABOUT THE STATE GAMING AGENCY'S PROCEDURES.

(C) THE STATE GAMING AGENCY SHALL COMPILE IDENTIFYING INFORMATION CONCERNING SELF-EXCLUDED PERSONS. SUCH INFORMATION SHALL CONTAIN, AT A MINIMUM, THE FULL NAME AND ANY ALIASES OF THE PERSON, A PHOTOGRAPH OF THE PERSON, THE SOCIAL SECURITY OR DRIVER'S LICENSE NUMBER OF THE PERSON, AND THE MAILING ADDRESS OF THE PERSON.

(D) THE STATE GAMING AGENCY SHALL, ON A MONTHLY BASIS, PROVIDE THE COMPILED INFORMATION TO THE TRIBAL GAMING OFFICE. THE TRIBE SHALL TREAT THE INFORMATION RECEIVED FROM THE STATE GAMING AGENCY UNDER THIS SECTION AS CONFIDENTIAL AND SUCH INFORMATION SHALL NOT BE DISCLOSED EXCEPT TO OTHER TRIBAL GAMING OFFICES FOR INCLUSION ON THEIR LISTS, OR TO APPROPRIATE LAW ENFORCEMENT AGENCIES IF NEEDED IN THE CONDUCT OF AN OFFICIAL INVESTIGATION OR UNLESS ORDERED BY A COURT OF COMPETENT JURISDICTION.

(E) THE TRIBAL GAMING OFFICE SHALL ADD THE SELF-EXCLUDED PERSONS FROM THE LIST PROVIDED BY THE STATE GAMING AGENCY TO THEIR OWN LIST OF SELF-EXCLUDED PERSONS.

(F) THE TRIBAL GAMING OFFICE SHALL REQUIRE THE GAMING FACILITY OPERATOR TO REMOVE ALL SELF-EXCLUDED PERSONS FROM ALL MAILING LISTS AND TO REVOKE ANY SLOT OR PLAYER'S CARDS. THE TRIBAL GAMING OFFICE SHALL REQUIRE THE GAMING FACILITY OPERATOR TO TAKE REASONABLE STEPS TO ENSURE THAT CAGE PERSONNEL CHECK A PERSON'S IDENTIFICATION AGAINST THE STATE GAMING AGENCY'S LIST OF SELF-EXCLUDED PERSONS BEFORE ALLOWING THE PERSON TO CASH A CHECK OR COMPLETE A CREDIT CARD CASH ADVANCE TRANSACTION.

(G) THE TRIBAL GAMING OFFICE SHALL REQUIRE THE GAMING FACILITY OPERATOR TO TAKE REASONABLE STEPS TO IDENTIFY SELF-EXCLUDED PERSONS WHO MAY BE IN A GAMING FACILITY AND, ONCE IDENTIFIED, PROMPTLY ESCORT THE SELF-EXCLUDED PERSON FROM THE GAMING FACILITY.

(H) THE TRIBAL GAMING OFFICE SHALL PROHIBIT THE GAMING FACILITY OPERATOR FROM PAYING ANY HAND-PAID JACKPOT TO A PERSON WHO IS ON THE TRIBAL OR STATE GAMING AGENCY SELF-EXCLUSION LIST. ANY JACKPOT WON BY A PERSON ON THE SELF-EXCLUSION LIST SHALL BE DONATED BY THE GAMING FACILITY OPERATOR TO AN ARIZONA-BASED NON-PROFIT CHARITABLE ORGANIZATION.

(I) NEITHER THE TRIBE, THE GAMING FACILITY OPERATOR, THE TRIBAL GAMING OFFICE, NOR ANY EMPLOYEE THEREOF SHALL BE LIABLE TO ANY SELF-EXCLUDED PERSON OR TO ANY OTHER PARTY IN ANY PROCEEDING AND NEITHER THE TRIBE, THE GAMING FACILITY OPERATOR, NOR THE TRIBAL GAMING OFFICE SHALL BE DEEMED TO HAVE WAIVED ITS SOVEREIGN IMMUNITY WITH RESPECT TO ANY PERSON FOR ANY HARM, MONETARY OR OTHERWISE, WHICH MAY ARISE AS A RESULT OF:

1. THE FAILURE OF THE GAMING FACILITY OPERATOR OR THE TRIBAL GAMING OFFICE TO WITHHOLD OR RESTORE GAMING PRIVILEGES FROM OR TO A SELF-EXCLUDED PERSON; OR

2. OTHERWISE PERMITTING A SELF-EXCLUDED PERSON TO ENGAGE IN GAMING ACTIVITY IN A GAMING FACILITY WHILE ON THE LIST OF SELF-EXCLUDED PERSONS.

(J) NEITHER THE TRIBE, THE GAMING FACILITY OPERATOR, THE TRIBAL GAMING OFFICE, NOR ANY EMPLOYEE THEREOF SHALL BE LIABLE TO ANY SELF-EXCLUDED PERSON OR TO ANY OTHER PARTY IN ANY PROCEEDING, AND NEITHER THE TRIBE, THE GAMING FACILITY OPERATOR, NOR THE TRIBAL GAMING OFFICE SHALL BE DEEMED TO HAVE WAIVED ITS SOVEREIGN IMMUNITY WITH RESPECT TO ANY PERSON FOR ANY HARM, MONETARY OR OTHERWISE, WHICH MAY ARISE AS A RESULT OF DISCLOSURE OR PUBLICATION IN ANY MANNER, OTHER THAN A WILLFULLY UNLAWFUL DISCLOSURE OR PUBLICATION, OF THE IDENTITY OF ANY SELF-EXCLUDED PERSON OR PERSONS.

(K) NOTWITHSTANDING ANY OTHER PROVISION OF THIS COMPACT, THE STATE GAMING AGENCY'S LIST OF SELF-EXCLUDED PERSONS SHALL NOT BE OPEN TO PUBLIC INSPECTION.

(W) RESTRICTION ON MINORS.

(1) UNTIL MAY 31, 2003, NO PERSON UNDER 18 YEARS OF AGE SHALL BE PERMITTED TO PLACE ANY WAGER, DIRECTLY OR INDIRECTLY, IN ANY GAMING ACTIVITY.

(2) PRIOR TO MAY 31, 2003, THE TRIBE SHALL ENACT, AS TRIBAL LAW, A REQUIREMENT THAT BEGINNING JUNE 1, 2003, NO PERSON UNDER 21 YEARS OF AGE SHALL BE PERMITTED TO PLACE ANY WAGER, DIRECTLY OR INDIRECTLY, IN ANY GAMING ACTIVITY.

(3) IF, DURING THE TERM OF THE COMPACT, THE STATE AMENDS ITS LAW TO PERMIT WAGERING BY PERSONS UNDER 21 YEARS OF AGE IN ANY GAMING ACTIVITY BY A PERSON OR ENTITY OTHER THAN AN INDIAN TRIBE, THE TRIBE MAY AMEND TRIBAL LAW TO REDUCE THE LAWFUL GAMING AGE UNDER THIS COMPACT TO CORRESPOND TO THE LAWFUL GAMING AGE UNDER STATE LAW.

(4) NO PERSON UNDER 18 YEARS OF AGE SHALL BE EMPLOYED AS A GAMING EMPLOYEE. NO PERSON UNDER 21 YEARS OF AGE SHALL BE EMPLOYED IN THE SERVICE OF ALCOHOLIC BEVERAGES AT ANY GAMING FACILITY, UNLESS SUCH EMPLOYMENT WOULD BE OTHERWISE PERMITTED UNDER STATE LAW.

(X) ADVERTISING.

(1) RIGHT TO ADVERTISE. THE STATE AND THE TRIBE RECOGNIZE THE TRIBE'S CONSTITUTIONAL RIGHT TO ENGAGE IN ADVERTISING OF LAWFUL GAMING ACTIVITIES AND NOTHING IN THIS COMPACT SHALL BE DEEMED TO ABROGATE OR DIMINISH THAT RIGHT.

(2) PROHIBITION ON ADVERTISING DIRECTED TO MINORS. THE GAMING FACILITY OPERATOR SHALL NOT ADVERTISE OR MARKET GAMING ACTIVITIES IN A MANNER THAT SPECIFICALLY APPEALS TO MINORS.

(3) ADVERTISING GUIDELINES. WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE, THE GAMING FACILITY OPERATOR SHALL ADOPT GUIDELINES FOR THE ADVERTISING AND MARKETING OF GAMING ACTIVITIES THAT ARE NO LESS STRINGENT THAN THOSE CONTAINED IN THE AMERICAN GAMING ASSOCIATION'S GENERAL ADVERTISING GUIDELINES.

(4) CONTENT OF ADVERTISING. IN RECOGNITION OF THE TRIBE'S CONSTITUTIONAL RIGHT TO ADVERTISE GAMING ACTIVITIES, THE SPECIFIC CONTENT OF ADVERTISING AND MARKETING MATERIALS SHALL NOT BE SUBJECT TO THE PROVISIONS OF SECTION 15 OF THIS COMPACT.

(Y) INTERNET GAMING. THE TRIBE SHALL NOT BE PERMITTED TO CONDUCT GAMING ON THE INTERNET UNLESS PERSONS OTHER THAN INDIAN TRIBES WITHIN THE STATE OR THE STATE ARE AUTHORIZED BY STATE LAW TO CONDUCT GAMING ON THE INTERNET.

(Z) LOTTERY PRODUCTS. THE TRIBE WILL NOT OFFER PAPER LOTTERY PRODUCTS IN COMPETITION WITH THE ARIZONA LOTTERY'S PICK OR POWERBALL GAMES.

(AA) ANNUAL STATEMENT. THE TRIBE SHALL SUBMIT TO THE STATE GAMING AGENCY EITHER AN ANNUAL STATEMENT OF COMPLIANCE WITH THE ACT REGARDING THE USE OF NET GAMING REVENUES OR A COPY OF ITS CURRENT GAMING ORDINANCE REQUIRING THAT NET GAMING REVENUES BE USED ACCORDING TO THE ACT."

(IV) THE FOLLOWING PROVISIONS SHALL REPLACE THE CORRESPONDING PROVISIONS IN SECTION 4 OF THE PRE-EXISTING COMPACT:

"(B) GAMING EMPLOYEES. EVERY GAMING EMPLOYEE SHALL BE LICENSED BY THE TRIBAL GAMING OFFICE AND EVERY EMPLOYEE OF THE TRIBAL GAMING OFFICE SHALL BE LICENSED BY THE TRIBE. ANY GAMING EMPLOYEE OR TRIBAL GAMING OFFICE EMPLOYEE THAT IS NOT AN ENROLLED TRIBAL MEMBER SHALL ALSO BE CERTIFIED BY THE STATE GAMING AGENCY PRIOR TO COMMENCEMENT OF EMPLOYMENT, AND ANNUALLY THEREAFTER, SUBJECT TO THE TEMPORARY CERTIFICATION PROVIDED IN SECTION 5(N). ENROLLED TRIBAL MEMBERS ARE NOT REQUIRED TO BE CERTIFIED BY THE STATE AS A CONDITION OF EMPLOYMENT. GAMING EMPLOYEES THAT HOLD THE FOLLOWING POSITIONS ARE ALSO NOT REQUIRED TO BE CERTIFIED BY THE STATE, SO LONG AS THEY DO NOT HAVE UNESCORTED ACCESS TO SECURE AREAS SUCH AS GAMING DEVICE STORAGE AND REPAIR AREAS, COUNT ROOMS, VAULTS, CAGES, CHANGE BOOTHS, CHANGE BANKS/CABINETS, SECURITY OFFICES AND SURVEILLANCE ROOMS, REVENUE ACCOUNTING OFFICES, AND ROOMS CONTAINING INFORMATION SYSTEMS THAT MONITOR OR CONTROL GAMING ACTIVITIES (OR, AS MAY BE AGREED TO BY THE STATE GAMING AGENCY AND THE TRIBAL GAMING OFFICE IN A SEPARATE AGREEMENT DELINEATING THE SECURE AREAS IN THE TRIBE'S GAMING FACILITIES):

(1) FOOD AND BEVERAGE SERVICE PERSONNEL SUCH AS CHEFS, COOKS, WAITERS, WAITRESSES, BUS PERSONS, DISHWASHERS, FOOD AND BEVERAGE CASHIERS, AND HOSTS;

(2) GIFT SHOP MANAGERS, ASSISTANT MANAGERS, CASHIERS, AND CLERKS;

(3) GREETERS;

(4) LANDSCAPERS, GARDENERS, AND GROUNDSKEEPERS;

(5) MAINTENANCE, CLEANING, AND JANITORIAL PERSONNEL;

(6) STEWARDS AND VALETS;

(7) WARDROBE PERSONNEL;

(8) WAREHOUSE PERSONNEL; AND

(9) HOTEL PERSONNEL.

(D) MANUFACTURERS AND SUPPLIERS OF GAMING DEVICES AND GAMING SERVICES. EACH MANUFACTURER AND DISTRIBUTOR OF GAMING DEVICES, AND EACH PERSON PROVIDING GAMING SERVICES, WITHIN OR WITHOUT THE GAMING FACILITY, SHALL BE LICENSED BY THE TRIBAL GAMING OFFICE AND SHALL BE CERTIFIED BY THE STATE GAMING AGENCY PRIOR TO

THE SALE OR LEASE OF ANY GAMING DEVICES OR GAMING SERVICES. THE TRIBE SHALL PROVIDE TO THE STATE GAMING AGENCY A LIST OF THE NAMES AND ADDRESSES OF ALL VENDORS PROVIDING GAMING SERVICES ON A PERIODIC BASIS AT THE TIME OF THE MEETINGS REQUIRED PURSUANT TO SECTION 6(H) OF THIS COMPACT. UTILITIES WHICH ARE THE SOLE AVAILABLE SOURCE OF ANY PARTICULAR SERVICE TO A GAMING FACILITY ARE NOT REQUIRED TO BE CERTIFIED. A VENDOR LICENSED AND REGULATED BY ANOTHER GOVERNMENTAL AGENCY MAY SUBMIT A SUPPLEMENT TO THE APPLICATION ON FILE WITH THE OTHER AGENCY. THE STATE GAMING AGENCY MAY WAIVE THE REQUIREMENT THAT A VENDOR BE CERTIFIED IF IT DETERMINES THAT CERTIFYING THE VENDOR IS NOT NECESSARY TO PROTECT THE PUBLIC INTEREST."

(V) THE FOLLOWING PROVISION SHALL REPLACE THE CORRESPONDING PROVISIONS IN SECTION 5 OF THE PRE-EXISTING COMPACT:

"(P) STATE ADMINISTRATIVE PROCESS; CERTIFICATIONS. ANY APPLICANT FOR STATE CERTIFICATION AGREES BY MAKING SUCH APPLICATION TO BE SUBJECT TO STATE JURISDICTION TO THE EXTENT NECESSARY TO DETERMINE THE APPLICANT'S QUALIFICATION TO HOLD SUCH CERTIFICATION, INCLUDING ALL NECESSARY ADMINISTRATIVE PROCEDURES, HEARINGS AND APPEALS PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, TITLE 41, CHAPTER 6, ARIZONA REVISED STATUTES AND THE ADMINISTRATIVE RULES OF THE STATE GAMING AGENCY.

(Q) ADMINISTRATIVE PROCESS; LICENSES.

(1) ANY PERSON APPLYING FOR LICENSURE BY THE TRIBAL GAMING OFFICE ACKNOWLEDGES THAT BY MAKING SUCH APPLICATION, THE STATE GAMING AGENCY, AS SET FORTH HEREIN, MAY BE HEARD CONCERNING THE APPLICANT'S QUALIFICATIONS TO HOLD SUCH LICENSE. IF THE STATE RECOMMENDS REVOCATION, SUSPENSION, OR DENIAL OF A LICENSE, AND THE TRIBAL GAMING OFFICE REVOKES, SUSPENDS, OR DENIES THE LICENSE BASED ON THE STATE GAMING AGENCY'S RECOMMENDATION, THE PERSON MAY APPEAL THAT ACTION TO THE TRIBE, TO THE EXTENT ANY SUCH RIGHT EXISTS.

(2) IF THE TRIBAL GAMING OFFICE TAKES ANY ACTION WITH RESPECT TO A LICENSE DESPITE A STATE RECOMMENDATION TO THE CONTRARY, THE TRIBAL GAMING OFFICE SHALL AFFORD THE STATE AN OPPORTUNITY FOR A HEARING BEFORE AN APPROPRIATE TRIBAL FORUM TO CONTEST THE TRIBAL GAMING OFFICE LICENSING DECISION. THE DECISION OF THE TRIBAL FORUM SHALL BE FINAL, EXCEPT AS PROVIDED IN SECTION 5(Q)(4).

(3) THE TRIBAL GAMING OFFICE SHALL AFFORD THE STATE GAMING AGENCY THE OPPORTUNITY TO BE HEARD IN AN APPROPRIATE TRIBAL FORUM ON ITS RECOMMENDATION TO SUSPEND OR REVOKE THE LICENSE OF ANY PERSON IN THE SAME MANNER AS IF THE STATE GAMING AGENCY HAD RECOMMENDED DENIAL OF THE LICENSE IN THE FIRST INSTANCE.

(4) INDEPENDENT TRIBUNAL REVIEW OF TRIBAL FORUM.

(A) TRIBUNAL APPOINTMENT AND PROCESS. IF THE TRIBAL FORUM UPHOLDS A DECISION NOT TO FOLLOW A GAMING EMPLOYEE LICENSE RECOMMENDATION, THE STATE GAMING AGENCY MAY APPEAL TO AN INDEPENDENT THREE MEMBER TRIBUNAL BY PROVIDING WRITTEN NOTICE TO THE TRIBAL GAMING OFFICE WITHIN TEN (10) DAYS AFTER RECEIVING THE TRIBAL FORUM'S DECISION. WITHIN TWENTY (20) DAYS THEREAFTER, THE CPR

OR A SIMILAR DISPUTE RESOLUTION SERVICE ACCEPTABLE TO THE PARTIES (THE "DISPUTE RESOLUTION SERVICE"), SHALL SELECT THE TRIBUNAL MEMBERS, EXCEPT THAT UPON AGREEMENT BY THE PARTIES, IN LIEU OF SELECTION BY THE DISPUTE RESOLUTION SERVICE, EACH PARTY MAY SELECT A TRIBUNAL MEMBER, AND THE TWO MEMBERS SHALL SELECT A THIRD MEMBER. IF, WITHIN FIVE (5) DAYS AFTER THEIR APPOINTMENT, THE TRIBUNAL MEMBERS APPOINTED BY THE PARTIES HAVE NOT AGREED UPON A THIRD TRIBUNAL MEMBER, THE DISPUTE RESOLUTION SERVICE SHALL SELECT THE THIRD MEMBER. ALL TRIBUNAL MEMBERS, WHETHER APPOINTED BY THE DISPUTE RESOLUTION SERVICE OR THE PARTIES, SHALL BE (A) IMPARTIAL, (B) LICENSED BY AND IN GOOD STANDING WITH A STATE BAR ASSOCIATION, AND (C) INDEPENDENT FROM THE STATE, THE STATE GAMING AGENCY, THE TRIBE, AND THE TRIBAL GAMING OFFICE. THE TRIBUNAL SHALL HOLD A HEARING AND ISSUE ITS DECISION WITHIN NINETY (90) DAYS AFTER THE STATE GAMING AGENCY DELIVERS ITS WRITTEN NOTICE OF APPEAL TO THE TRIBAL GAMING OFFICE.

(B) TRIBUNAL AUTHORITY. THE TRIBUNAL'S SOLE AUTHORITY SHALL BE TO REVIEW THE DECISION OF THE TRIBAL FORUM AND DETERMINE WHETHER THE DECISION IS SUPPORTED BY SUBSTANTIAL EVIDENCE BASED ON THE RECORD AS A WHOLE. THE TRIBUNAL'S HEARING SHALL BE CONDUCTED IN A FAIR AND IMPARTIAL MANNER. THE HEARING SHALL BE HELD ON THE ADMINISTRATIVE RECORD PRESENTED TO THE TRIBAL FORUM. THE TRIBUNAL'S DECISION SHALL BE FINAL AND NOT SUBJECT TO FURTHER APPEAL OR TO SECTION 15 DISPUTE RESOLUTION PROCEDURES. IF THE TRIBUNAL DETERMINES THE EMPLOYEE SHOULD NOT BE LICENSED, THE TRIBAL GAMING OFFICE SHALL PROMPTLY REVOKE THE DISPUTED LICENSE. THE COST OF THE TRIBUNAL AND THE HEARING SHALL BE BORNE EQUALLY BETWEEN THE STATE AND THE TRIBE."

(VI) THE FOLLOWING PROVISION SHALL BE ADDED TO SECTION 7 OF THE PRE-EXISTING COMPACT:

"(G) COMPACT COMPLIANCE REVIEW. THE STATE GAMING AGENCY IS AUTHORIZED TO CONDUCT AN ANNUAL, COMPREHENSIVE COMPACT COMPLIANCE REVIEW OF THE GAMING OPERATION, GAMING FACILITIES, AND THE GAMING ACTIVITIES OF THE GAMING FACILITY OPERATOR TO MONITOR COMPLIANCE WITH THIS COMPACT, ANY AMENDMENTS OR APPENDICES TO THIS COMPACT, AND OTHER AGREEMENTS RELATING TO THIS COMPACT."

(VII) SECTION 12 OF THE PRE-EXISTING COMPACT SHALL BE REPLACED WITH THE FOLLOWING:

"SECTION 12 PAYMENT OF REGULATORY COSTS; TRIBAL CONTRIBUTIONS

(A) PAYMENT OF REGULATORY COSTS. THE TRIBE AGREES TO PAY THE STATE THE NECESSARY COSTS INCURRED BY THE STATE AS A RESULT OF THE STATE'S PERFORMANCE OF ITS RIGHTS OR DUTIES UNDER THE TERMS OF THIS COMPACT. THE TRIBE'S CONTRIBUTIONS UNDER THIS SECTION 12 SHALL SATISFY THE AGREEMENT TO PAY THOSE COSTS.

(B) TRIBAL CONTRIBUTIONS. IN CONSIDERATION FOR THE SUBSTANTIAL EXCLUSIVITY COVENANTS BY THE STATE IN SECTION 3(H), THE TRIBE SHALL CONTRIBUTE FOR THE BENEFIT OF THE PUBLIC A PERCENTAGE OF THE TRIBE'S CLASS III NET WIN FOR EACH FISCAL YEAR OF THE GAMING FACILITY OPERATOR AS FOLLOWS:

(1) ONE PERCENT (1%) OF THE FIRST TWENTY-FIVE MILLION DOLLARS (\$25,000,000.00);

(2) THREE PERCENT (3%) OF THE NEXT FIFTY MILLION DOLLARS (\$50,000,000.00);

(3) SIX PERCENT (6%) OF THE NEXT TWENTY-FIVE MILLION DOLLARS (\$25,000,000.00); AND

(4) EIGHT PERCENT (8%) OF CLASS III NET WIN IN EXCESS OF ONE HUNDRED MILLION DOLLARS (\$100,000,000.00).

(C) ARIZONA BENEFITS FUND. THE TRIBE SHALL MAKE EIGHTY-EIGHT PERCENT (88%) OF ITS TOTAL ANNUAL CONTRIBUTION UNDER SECTION 12(B) TO THE ARIZONA BENEFITS FUND ESTABLISHED BY A.R.S. 5-601.02(H). THE STATE AGREES THAT THE ARIZONA BENEFITS FUND SHALL BE USED FOR THE PURPOSE OF ADMINISTERING THE CONTRIBUTIONS MADE BY THE TRIBE TO THE STATE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 12(B). ALL CONTRIBUTIONS TO THE STATE FROM THE TRIBE PURSUANT TO THIS SECTION 12(C), AND ALL CONTRIBUTIONS TO THE STATE FROM OTHER INDIAN TRIBES THAT HAVE ENTERED INTO TRIBAL-STATE GAMING COMPACTS WITH THE STATE THAT CONTAIN SIMILAR PROVISIONS, SHALL BE DEPOSITED IN THE ARIZONA BENEFITS FUND ADMINISTERED BY THE STATE GAMING AGENCY. THE STATE AGREES TO INVEST ALL MONIES IN THE ARIZONA BENEFITS FUND IN ACCORDANCE WITH A.R.S. SECTION 35-313; MONIES EARNED FROM SUCH INVESTMENT MAY ONLY BE CREDITED TO THE ARIZONA BENEFITS FUND. THE STATE AGREES THAT CONTRIBUTIONS PAID TO THE STATE BY THE TRIBE UNDER THIS SECTION 12(C) SHALL ONLY BE DISTRIBUTED AS PROVIDED IN A.R.S. SECTION 5-601.02, AS ADOPTED BY THE PEOPLE OF THE STATE AT THE NOVEMBER 5, 2002 ELECTION, AND THE STATE SHALL NOT IMPOSE ANY TAX, FEE, CHARGE, OR OTHER ASSESSMENT UPON THE TRIBE'S GAMING OPERATIONS.

(D) DISTRIBUTIONS BY TRIBE TO CITIES, TOWNS AND COUNTIES. THE TRIBE SHALL MAKE TWELVE PERCENT (12%) OF ITS TOTAL ANNUAL CONTRIBUTION UNDER SECTION 12(B) IN EITHER OR BOTH OF THE FOLLOWING FORMS:

(1) DISTRIBUTIONS TO CITIES, TOWNS OR COUNTIES FOR GOVERNMENT SERVICES THAT BENEFIT THE GENERAL PUBLIC, INCLUDING PUBLIC SAFETY, MITIGATION OF IMPACTS OF GAMING, OR PROMOTION OF COMMERCE AND ECONOMIC DEVELOPMENT;

(2) DEPOSITS TO THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION LOCAL COMMUNITIES FUND ESTABLISHED BY A.R.S. SECTION 41-1505.12.

(E) CONTRIBUTION SCHEDULE.

(1) TRIBAL CONTRIBUTIONS PURSUANT TO SECTION 12(B) SHALL BE PAID QUARTERLY TO THE STATE GAMING AGENCY, OTHER THAN THE AMOUNTS DISTRIBUTED OR DEPOSITED TO BENEFIT CITIES, TOWNS AND COUNTIES UNDER SECTION 12(D). THE CONTRIBUTIONS SHALL BE CALCULATED BASED ON THE TRIBE'S CLASS III NET WIN FOR EACH QUARTER OF THE GAMING FACILITY OPERATOR'S FISCAL YEAR. CONTRIBUTIONS SHALL BE MADE NO LATER THAN TWENTY-FIVE (25) DAYS AFTER THE LAST DAY OF EACH FISCAL QUARTER.

(2) AT THE TIME EACH QUARTERLY CONTRIBUTION IS MADE, THE TRIBE SHALL SUBMIT TO THE STATE GAMING AGENCY A REPORT INDICATING THE CLASS III NET WIN BY GAMING ACTIVITY FOR THE QUARTER, AND THE AMOUNTS PAID UNDER SECTIONS 12(C) AND (D).

(3) THE TRIBE'S FIRST QUARTERLY CONTRIBUTION WILL BE CALCULATED BASED ON THE TRIBE'S CLASS III NET WIN FOR THE FIRST FULL FISCAL QUARTER AFTER THE EFFECTIVE DATE.

(4) FOLLOWING THE STATE GAMING AGENCY'S RECEIPT OF THE ANNUAL AUDIT PURSUANT TO SECTION 11(C), ANY OVERPAYMENT OF MONIES BY THE TRIBE PURSUANT TO THIS SECTION SHALL BE CREDITED TO THE TRIBE'S NEXT QUARTERLY CONTRIBUTION. ANY UNDERPAYMENT OF MONIES SHALL BE PAID BY THE TRIBE WITHIN THIRTY (30) DAYS OF THE STATE GAMING AGENCY'S RECEIPT OF THE ANNUAL AUDIT.

(F) REDUCTION OF TRIBAL CONTRIBUTIONS. IN THE EVENT THAT TRIBAL CONTRIBUTIONS ARE REDUCED PURSUANT TO SECTIONS 3(G) OR (H), THE TRIBE SHALL MAKE THE REDUCED CONTRIBUTIONS UNDER THE TERMS OF THIS SECTION 12, AND THESE MONIES SHALL BE USED IN THE MANNER SET FORTH IN A.R.S. SECTION 5-601.02(H)(3)(A) AS ADOPTED BY THE PEOPLE OF THE STATE AT THE NOVEMBER 5, 2002 ELECTION."

(VIII) THE FOLLOWING PROVISIONS SHALL REPLACE THE CORRESPONDING PROVISIONS, OR BE ADDED TO THE PROVISIONS, AS THE CASE MAY BE, IN SECTION 13 OF THE PRE-EXISTING COMPACT:

"(B) EMERGENCY SERVICE ACCESSIBILITY. THE TRIBE SHALL REQUIRE THE GAMING FACILITY OPERATOR TO MAKE PROVISIONS FOR ADEQUATE EMERGENCY ACCESSIBILITY AND SERVICE. MUTUAL AID AND EMERGENCY RESPONSE SERVICE AGREEMENTS WILL BE ENTERED AS NEEDED WITH ENTITIES FROM THE SURROUNDING COMMUNITIES.

(E) LAW ENFORCEMENT. THE TRIBE SHALL IMPLEMENT A WRITTEN LAW ENFORCEMENT SERVICES PLAN THAT PROVIDES A COMPREHENSIVE AND EFFECTIVE MEANS TO ADDRESS CRIMINAL AND UNDESIRABLE ACTIVITY AT THE GAMING FACILITIES. THIS PLAN SHALL PROVIDE THAT SUFFICIENT LAW ENFORCEMENT RESOURCES ARE AVAILABLE TWENTY-FOUR HOURS A DAY SEVEN DAYS PER WEEK TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE AT THE GAMING FACILITIES. THE TRIBE AND THE STATE SHALL INVESTIGATE VIOLATIONS OF STATE GAMBLING STATUTES AND OTHER CRIMINAL ACTIVITIES AT THE GAMING FACILITIES. TO ACCOMMODATE INVESTIGATIONS AND INTELLIGENCE SHARING, THE TRIBE WILL PROVIDE THAT A POLICE OFFICER HOLDING CURRENT ARIZONA POLICE OFFICER STANDARDS AND TRAINING (POST) CERTIFICATION IS EMPLOYED BY THE GAMING FACILITY OPERATOR, TRIBAL GAMING OFFICE, OR TRIBAL POLICE DEPARTMENT, AND ASSIGNED TO HANDLE GAMING-RELATED MATTERS WHEN THEY ARISE. INTELLIGENCE LIAISONS WILL BE ESTABLISHED AT THE TRIBAL POLICE DEPARTMENT OR TRIBAL GAMING OFFICE AND ALSO AT THE STATE GAMING AGENCY. THERE WILL BE FEDERAL, TRIBAL, AND STATE COOPERATION IN TASK FORCE INVESTIGATIONS. THE STATE GAMING AGENCY'S INTELLIGENCE UNIT WILL GATHER, COORDINATE, CENTRALIZE, AND DISSEMINATE ACCURATE AND CURRENT INTELLIGENCE INFORMATION PERTAINING TO CRIMINAL AND UNDESIRABLE ACTIVITY THAT MAY THREATEN PATRONS, EMPLOYEES, OR ASSETS OF THE GAMING INDUSTRY. THE STATE AND THE TRIBE WILL COORDINATE THE USE OF RESOURCES, AUTHORITY, AND PERSONNEL OF THE

STATE AND THE TRIBE FOR THE SHARED GOAL OF PREVENTING AND PROSECUTING CRIMINAL OR UNDESIRABLE ACTIVITY BY PLAYERS, EMPLOYEES, OR BUSINESSES IN CONNECTION WITH TRIBAL GAMING FACILITIES. VIOLATIONS OF STATE CRIMINAL GAMBLING STATUTES ON TRIBAL LANDS MAY BE PROSECUTED AS FEDERAL CRIMES IN FEDERAL COURT.”

(IX) SECTION 15 OF THE PRE-EXISTING COMPACT SHALL BE REPLACED WITH THE FOLLOWING:

“SECTION 15. DISPUTE RESOLUTION

(A) NOTICE/NEGOTIATION. IF EITHER THE TRIBE OR THE STATE BELIEVES THE OTHER HAS FAILED TO COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS COMPACT, OR IF A DISPUTE ARISES AS TO THE PROPER INTERPRETATION OF THOSE REQUIREMENTS, THEN EITHER PARTY MAY SERVE A WRITTEN NOTICE ON THE OTHER IDENTIFYING THE SPECIFIC PROVISION OR PROVISIONS OF THE COMPACT IN DISPUTE AND SPECIFYING IN DETAIL THE FACTUAL BASES FOR ANY ALLEGED NON-COMPLIANCE AND/OR THE INTERPRETATION OF THE PROVISION OF THE COMPACT PROPOSED BY THE PARTY PROVIDING NOTICE. WITHIN TEN (10) DAYS FOLLOWING DELIVERY OF THE WRITTEN NOTICE OF DISPUTE, THE EXECUTIVE DIRECTOR OF THE TRIBAL GAMING OFFICE AND THE DIRECTOR OF THE STATE GAMING AGENCY SHALL MEET IN AN EFFORT TO VOLUNTARILY RESOLVE THE COMPLIANCE OR INTERPRETATION DISPUTE THROUGH NEGOTIATION. IF THOSE NEGOTIATIONS FAIL TO RESOLVE THE DISPUTE, THE EXECUTIVE DIRECTOR OF THE TRIBAL GAMING OFFICE, THE DIRECTOR OF THE STATE GAMING AGENCY, AND REPRESENTATIVES DESIGNATED BY THE GOVERNOR OF ARIZONA AND THE CHAIRMAN OF THE TRIBE SHALL MEET IN A FURTHER EFFORT TO VOLUNTARILY RESOLVE THE DISPUTE THROUGH FURTHER NEGOTIATION.

(B) MEDIATION. IF THE TRIBE AND THE STATE ARE UNABLE TO RESOLVE BY NEGOTIATION ANY DISPUTE REGARDING COMPLIANCE WITH THE REQUIREMENTS OF THE COMPACT, OR THE PROPER INTERPRETATION OF THOSE REQUIREMENTS, WITHIN THIRTY (30) DAYS AFTER DELIVERY OF THE WRITTEN NOTICE OF DISPUTE, THE TRIBE AND THE STATE SHALL, UPON THE REQUEST OF EITHER PARTY, ENDEAVOR TO SETTLE THE DISPUTE IN AN AMICABLE MANNER BY NON-BINDING MEDIATION ADMINISTERED BY THE CPR UNDER ITS MEDIATION PROCEDURES DATED APRIL 1, 1998 (UNLESS OTHERWISE AGREED TO BY THE PARTIES), AND THE PROCEDURES SET FORTH BELOW. ALTHOUGH THE PARTIES SHALL BE REQUIRED TO PARTICIPATE IN THE MEDIATION PROCESS IF REQUESTED, A REQUEST FOR MEDIATION SHALL NOT PRECLUDE EITHER PARTY FROM PURSUING ANY OTHER AVAILABLE REMEDY.

(1) SELECTION OF MEDIATOR. IF THE PARTIES AGREE UPON A MEDIATOR, THAT PERSON SHALL SERVE AS THE MEDIATOR. IF THE PARTIES ARE UNABLE TO AGREE ON A MEDIATOR WITHIN TEN (10) DAYS OF A REQUEST FOR MEDIATION, THEN THE CPR (I) SHALL SELECT AN ATTORNEY FROM THE CPR PANEL OF DISTINGUISHED NEUTRALS TO BE THE MEDIATOR OR (II) IF REQUESTED BY THE PARTIES, SHALL SELECT THE MEDIATOR FROM A LIST OF POTENTIAL MEDIATORS APPROVED BY THE PARTIES.

(2) CONDUCT OF MEDIATION. THE MEDIATOR SHALL CONTROL THE PROCEDURAL ASPECTS OF THE MEDIATION AND SHALL BE GUIDED BY THE MEDIATION PROCEDURES PROMULGATED BY THE CPR.

(3) COSTS OF MEDIATION. THE COSTS OF MEDIATION SHALL BE BORNE EQUALLY BY THE PARTIES, WITH ONE-HALF (1/2) OF THE EXPENSES CHARGED TO THE TRIBE AND ONE-HALF (1/2) OF THE EXPENSES CHARGED TO THE STATE.

(C) ARBITRATION. IF THE TRIBE AND THE STATE FAIL TO RESOLVE SUCH A DISPUTE REGARDING COMPLIANCE WITH THE REQUIREMENTS OF THE COMPACT OR THE PROPER INTERPRETATION OF THOSE REQUIREMENTS THROUGH NEGOTIATION OR MEDIATION UNDER SECTIONS 15(A) OR (B) WITHIN THIRTY (30) DAYS AFTER DELIVERY OF THE WRITTEN NOTICE OF DISPUTE, UPON A DEMAND BY EITHER PARTY, THE DISPUTE SHALL BE SETTLED THROUGH BINDING ARBITRATION AT A NEUTRAL LOCATION AND, UNLESS OTHERWISE AGREED TO BY THE PARTIES, THE ARBITRATION SHALL BE CONDUCTED IN ACCORDANCE WITH THE RULES, AS MODIFIED BY THE FOLLOWING:

(1) DEMAND FOR ARBITRATION. NO EARLIER THAN THIRTY (30) DAYS AFTER THE DELIVERY OF THE NOTICE REQUIRED UNDER SECTION 15(A), EITHER PARTY MAY SERVE ON THE OTHER A WRITTEN DEMAND FOR ARBITRATION OF THE DISPUTE, IN ACCORDANCE WITH CPR RULE 3. THE DEMAND SHALL CONTAIN A STATEMENT SETTING FORTH THE NATURE OF THE DISPUTE AND THE REMEDY SOUGHT. THE OTHER PARTY SHALL FILE A NOTICE OF DEFENSE AND ANY COUNTERCLAIM WITHIN TWENTY (20) DAYS, IN ACCORDANCE WITH CPR RULE 3. FAILURE TO PROVIDE A NOTICE OF DEFENSE SHALL NOT DELAY THE ARBITRATION. IN THE ABSENCE OF A NOTICE OF DEFENSE, ALL CLAIMS SET FORTH IN THE DEMAND SHALL BE DEEMED DENIED.

(2) ARBITRATORS. UNLESS THE PARTIES AGREE IN WRITING TO THE APPOINTMENT OF A SINGLE ARBITRATOR, THE ARBITRATION SHALL BE CONDUCTED BEFORE A PANEL OF THREE (3) ARBITRATORS. IN THE ABSENCE OF AN AGREEMENT TO A SINGLE ARBITRATOR, WITHIN TWENTY (20) DAYS OF THE DEFENDING PARTY'S RECEIPT OF THE DEMAND, EACH PARTY SHALL SELECT AN ARBITRATOR. AS SOON AS POSSIBLE THEREAFTER, BUT IN NO EVENT MORE THAN FORTY (40) DAYS FOLLOWING DELIVERY OF THE DEMAND, THE PARTY-APPOINTED ARBITRATORS SHALL DISCUSS AND SELECT A THIRD (3RD) ARBITRATOR FROM THE PANEL OF DISTINGUISHED NEUTRALS, WHO SHALL CHAIR THE TRIBUNAL. ALTERNATIVELY, IF THE PARTIES HAVE AGREED UPON A LIST OF ARBITRATORS ACCEPTABLE TO BOTH PARTIES, THE CPR SHALL SELECT THE THIRD (3RD) ARBITRATOR FROM THAT LIST. UNLESS THE PARTIES AGREE OTHERWISE, AT LEAST ONE (1) OF THE ARBITRATORS ON THE TRIBUNAL SHALL BE AN ATTORNEY OR RETIRED JUDGE KNOWLEDGEABLE ABOUT THE ACT, FEDERAL INDIAN LAW, AND JURISDICTION WITHIN INDIAN COUNTRY. IF THE PARTIES DO NOT APPOINT AN ARBITRATOR WITH THOSE QUALIFICATIONS, THE PARTY-APPOINTED ARBITRATORS OR THE CPR SHALL DO SO. ONCE THE TRIBUNAL IS IMPANELED, THERE SHALL BE NO EX PARTE CONTACT WITH THE ARBITRATORS, EXCEPT FOR CONTACTS WITH THE OFFICE OF THE TRIBUNAL CHAIR REGARDING SCHEDULING OR OTHER PURELY ADMINISTRATIVE MATTERS THAT DO NOT DEAL WITH SUBSTANTIVE MATTERS OR THE MERITS OF THE ISSUES.

(3) SELECTION OF ARBITRATOR(S) BY THE CPR. IF A PARTY FAILS TO APPOINT AN ARBITRATOR, OR IF THE PARTY-APPOINTED ARBITRATORS HAVE FAILED TO APPOINT A THIRD (3RD) ARBITRATOR WITHIN THE TIME PERIOD PROVIDED IN SECTION 15(C)(2), EITHER PARTY MAY REQUEST APPOINTMENT OF THE ARBITRATOR BY THE CPR. THE REQUEST SHALL BE MADE IN WRITING

AND SERVED ON THE OTHER PARTY. CPR SHALL FILL ANY VACANCIES ON THE TRIBUNAL WITHIN TEN (10) DAYS OF A REQUEST IN ACCORDANCE WITH CPR RULE 6.

(4) NEUTRALITY OF THE ARBITRATORS. ALL ARBITRATORS SHALL BE INDEPENDENT AND IMPARTIAL. UPON SELECTION, EACH ARBITRATOR SHALL PROMPTLY DISCLOSE IN WRITING TO THE TRIBUNAL AND THE PARTIES ANY CIRCUMSTANCES THAT MIGHT CAUSE DOUBT REGARDING THE ARBITRATOR'S INDEPENDENCE OR IMPARTIALITY. SUCH CIRCUMSTANCES MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, BIAS, INTEREST IN THE RESULT OF THE ARBITRATION, AND PAST OR PRESENT RELATIONS WITH A PARTY OR ITS COUNSEL. FOLLOWING SUCH DISCLOSURE, ANY ARBITRATOR MAY BE CHALLENGED IN ACCORDANCE WITH CPR RULE 7.

(5) COST OF ARBITRATION. THE COSTS OF ARBITRATION SHALL BE BORNE EQUALLY BY THE PARTIES, WITH ONE-HALF (1/2) OF THE EXPENSES CHARGED TO THE TRIBE AND ONE-HALF (1/2) OF THE EXPENSES CHARGED TO THE STATE.

(6) PRELIMINARY CONFERENCE/HEARING. THE TRIBUNAL SHALL HOLD AN INITIAL PRE-HEARING CONFERENCE NO LATER THAN THIRTY (30) DAYS FOLLOWING THE SELECTION OF THE MEMBERS OF THE TRIBUNAL AND SHALL PERMIT DISCOVERY AND MAKE OTHER APPLICABLE DECISIONS IN ACCORDANCE WITH CPR RULES 9 THROUGH 12. UNLESS THE PARTIES AGREE OTHERWISE, OR UNLESS THE TRIBUNAL DETERMINES THAT COMPELLING CIRCUMSTANCES EXIST WHICH DEMAND OTHERWISE, THE ARBITRATION SHALL BE COMPLETED WITHIN ONE HUNDRED AND EIGHTY (180) DAYS OF THE INITIAL PRE-HEARING CONFERENCE.

(7) DISCOVERY.

(A) DOCUMENTS. CONSISTENT WITH THE EXPEDITED NATURE OF ARBITRATION, EACH PARTY WILL, UPON THE WRITTEN REQUEST OF THE OTHER PARTY, PROMPTLY PROVIDE THE OTHER WITH COPIES OF DOCUMENTS RELEVANT TO THE ISSUES RAISED BY ANY CLAIM OR COUNTERCLAIM OR ON WHICH THE PRODUCING PARTY MAY RELY IN SUPPORT OF OR IN OPPOSITION TO ANY CLAIM OR DEFENSE. EXCEPT AS PERMITTED BY THE TRIBUNAL, ALL WRITTEN DISCOVERY SHALL BE COMPLETED WITHIN NINETY (90) DAYS FOLLOWING THE INITIAL PRE-HEARING CONFERENCE. ANY DISPUTE REGARDING DISCOVERY, OR THE RELEVANCE OR SCOPE THEREOF, SHALL BE DETERMINED BY THE TRIBUNAL, WHOSE DETERMINATION SHALL BE CONCLUSIVE.

(B) DEPOSITIONS. CONSISTENT WITH THE EXPEDITED NATURE OF ARBITRATION AND UNLESS THE PARTIES AGREE OTHERWISE, A PARTY, UPON PROVIDING WRITTEN NOTICE TO THE OTHER PARTY, SHALL HAVE THE RIGHT TO TAKE THE DEPOSITIONS OF UP TO FIVE (5) WITNESSES, EACH OF WHICH SHALL LAST NO LONGER THAN ONE (1) DAY. UNLESS THE PARTIES AGREE OTHERWISE, ADDITIONAL DEPOSITIONS SHALL BE SCHEDULED ONLY WITH THE PERMISSION OF THE TRIBUNAL AND FOR GOOD CAUSE SHOWN. A PARTY'S NEED TO TAKE THE DEPOSITION OF A WITNESS WHO IS NOT EXPECTED TO BE AVAILABLE FOR AN ARBITRATION HEARING SHALL BE DEEMED TO BE GOOD CAUSE. EXCEPT AS PERMITTED BY THE TRIBUNAL, ALL DEPOSITIONS SHALL BE CONCLUDED WITHIN ONE HUNDRED AND TWENTY (120) DAYS FOLLOWING THE INITIAL PREHEARING CONFERENCE. ALL OBJECTIONS THAT MIGHT BE RAISED TO DEPOSITION TESTIMONY SHALL BE RESERVED FOR THE

ARBITRATION HEARING, EXCEPT FOR OBJECTIONS BASED ON PRIVILEGE, PROPRIETARY OR CONFIDENTIAL INFORMATION, AND OBJECTIONS TO FORM OR FOUNDATION THAT COULD BE CURED IF RAISED AT THE DEPOSITION.

(8) INJUNCTIVE RELIEF IN AID OF ARBITRATION. THE TRIBE OR THE STATE MAY SEEK IN A COURT OF COMPETENT JURISDICTION (A) PROVISIONAL OR ANCILLARY REMEDIES, INCLUDING PRELIMINARY INJUNCTIVE RELIEF, PENDING THE OUTCOME OF AN ARBITRATION PROCEEDING, OR (B) PERMANENT INJUNCTIVE RELIEF TO ENFORCE AN ARBITRATION AWARD.

(9) ARBITRATION HEARING.

(A) NOTICE/TRANSCRIPT. UNLESS THE PARTIES AGREE OTHERWISE, THE TRIBUNAL SHALL PROVIDE THE PARTIES WITH AT LEAST SIXTY (60) DAYS NOTICE OF THE DATE OF THE ARBITRATION HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THERE SHALL BE A STENOGRAPHIC RECORD MADE OF THE HEARING, WITH THE COST TO BE SHARED BY THE TRIBE AND THE STATE. THE TRANSCRIPT SHALL BE THE OFFICIAL RECORD OF THE PROCEEDING.

(B) LAST, BEST OFFER FORMAT. THE ARBITRATORS SHALL CONDUCT EACH ARBITRATION PROCEEDING USING THE "LAST, BEST OFFER" FORMAT, UNLESS ANY PARTY TO AN ARBITRATION PROCEEDING OPTS OUT OF THE "LAST, BEST OFFER" ARBITRATION FORMAT IN THE MANNER SET FORTH IN SECTION 15(C)(9)(C).

1. NO LATER THAN FORTY (40) DAYS BEFORE THE ARBITRATION HEARING (OR FORTY (40) DAYS BEFORE THE DATE THE DISPUTE IS TO BE SUBMITTED TO THE TRIBUNAL FOR DECISION IF ORAL HEARINGS HAVE BEEN WAIVED), EACH PARTY SHALL SUBMIT TO THE OTHER PARTY OR PARTIES TO THE ARBITRATION A PRELIMINARY LAST, BEST OFFER FOR THOSE ISSUES THAT WILL BE DECIDED USING THE LAST, BEST OFFER FORMAT.

2. NO LATER THAN TWENTY (20) DAYS BEFORE THE ARBITRATION HEARING (OR TWENTY (20) DAYS BEFORE THE DATE THE DISPUTE IS TO BE SUBMITTED TO THE TRIBUNAL FOR DECISION IF ORAL HEARINGS HAVE BEEN WAIVED), EACH PARTY SHALL SUBMIT TO THE TRIBUNAL AND THE OTHER PARTY OR PARTIES TO THE ARBITRATION ITS PRE-HEARING LAST, BEST OFFER FOR THOSE ISSUES THAT WILL BE DECIDED USING THE LAST, BEST OFFER FORMAT.

3. NO LATER THAN TEN (10) DAYS AFTER THE CONCLUSION OF THE ARBITRATION HEARING (OR TEN (10) DAYS BEFORE THE DATE THE DISPUTE IS TO BE SUBMITTED TO THE TRIBUNAL FOR DECISION IF ORAL HEARINGS HAVE BEEN WAIVED), EACH PARTY SHALL SUBMIT TO THE TRIBUNAL AND THE OTHER PARTY OR PARTIES TO THE ARBITRATION ITS FINAL LAST, BEST OFFER FOR THOSE ISSUES THAT WILL BE DECIDED USING THE LAST, BEST OFFER FORMAT.

4. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION 15(C)(9)(B)(4), FOR EACH ISSUE TO BE DECIDED USING THE LAST, BEST OFFER FORMAT, THE TRIBUNAL SHALL, FOR ITS DECISION ON THE ISSUE, ADOPT ONE OF THE LAST, BEST OFFERS SUBMITTED UNDER SECTION 15(C)(9)(B)(3) AND NO OTHER REMEDY (EXCEPTING ONLY REMEDIES IN AID OF THE TRIBUNAL'S DECISION). IF THE TRIBUNAL EXPRESSLY DETERMINES THAT A LAST, BEST OFFER SUBMITTED BY A PARTY WITH RESPECT TO AN ISSUE OR ISSUES IS NOT CONSISTENT WITH OR DOES NOT COMPLY WITH THE ACT AND/OR THE COMPACT, AS THEY MAY BE AMENDED AND AS THEY ARE INTERPRETED BY COURTS OF COMPETENT JURISDICTION, THEN THE TRIBUNAL SHALL REJECT THAT LAST,

BEST OFFER AND SHALL NOT CONSIDER IT IN RENDERING ITS DECISION. IF THE TRIBUNAL EXPRESSLY DETERMINES THAT ALL THE LAST, BEST OFFERS SUBMITTED BY THE PARTIES WITH RESPECT TO AN ISSUE OR ISSUES ARE NOT CONSISTENT WITH OR DO NOT COMPLY WITH THE ACT AND/OR THE COMPACT, AS THEY MAY BE AMENDED AND AS THEY ARE INTERPRETED BY COURTS OF COMPETENT JURISDICTION, THEN THE TRIBUNAL SHALL REJECT ALL THE LAST, BEST OFFERS AND SHALL DECIDE THE RELATED ISSUE OR ISSUES AS IF THE PARTIES HAD ELECTED TO HAVE THE ISSUE OR THOSE ISSUES DECIDED WITHOUT USING THE "LAST, BEST OFFER" FORMAT. IN ADDITION, THE TRIBUNAL SHALL HAVE NO AUTHORITY TO AWARD MONEY DAMAGES AGAINST EITHER PARTY, REGARDLESS OF WHETHER A LAST, BEST OFFER PROPOSES AN AWARD OF DAMAGES.

(C) OPTING OUT OF LAST, BEST OFFER FORMAT. UNLESS THE PARTIES AGREE OTHERWISE, A PARTY DESIRING TO OPT OUT OF THE "LAST, BEST OFFER" ARBITRATION FORMAT SHALL SERVE A WRITTEN NOTICE OF ITS ELECTION NO LATER THAN FIFTY (50) DAYS BEFORE THE ARBITRATION HEARING (OR FIFTY (50) DAYS BEFORE THE DATE THE DISPUTE IS TO BE SUBMITTED TO THE TRIBUNAL FOR DECISION IF ORAL HEARINGS HAVE BEEN WAIVED). THE NOTICE SHALL:

1. IDENTIFY WITH SPECIFICITY THE ISSUE OR ISSUES THAT THE ARBITRATORS WILL DECIDE WITHOUT USING THE "LAST, BEST OFFER" ARBITRATION FORMAT, OR

2. STATE THAT THE ARBITRATORS WILL NOT USE THE "LAST, BEST OFFER" ARBITRATION FORMAT.

(10) DECISION OF THE TRIBUNAL. THE DECISION OF THE TRIBUNAL SHALL BE IN WRITING, SETTING FORTH DETAILED FINDINGS OF FACT AND CONCLUSIONS OF LAW AND A STATEMENT REGARDING THE REASONS FOR THE DISPOSITION OF EACH CLAIM. IF THE TRIBUNAL DETERMINES THAT A LAST, BEST OFFER IS NOT CONSISTENT WITH OR DOES NOT COMPLY WITH THE ACT AND/OR THE COMPACT, THE DECISION OF THE TRIBUNAL SHALL SET FORTH DETAILED FINDINGS OF FACT AND CONCLUSIONS OF LAW AND A STATEMENT REGARDING THE REASONS FOR THE TRIBUNAL'S DETERMINATION. THE WRITTEN DECISION OF THE TRIBUNAL SHALL BE MADE PROMPTLY AND, UNLESS OTHERWISE AGREED TO BY THE PARTIES, NO LATER THAN FORTY (40) DAYS FROM THE DATE OF THE CLOSING OF THE HEARING OR, IF ORAL HEARINGS HAVE BEEN WAIVED, NO LATER THAN FORTY (40) DAYS FROM THE DATE THE DISPUTE IS SUBMITTED TO THE TRIBUNAL FOR DECISION. THE TRIBUNAL MAY TAKE ADDITIONAL TIME TO RENDER ITS DECISION IF THE TRIBUNAL DETERMINES THAT COMPELLING CIRCUMSTANCES REQUIRE ADDITIONAL TIME. THE TRIBUNAL MAY ISSUE AWARDS IN ACCORDANCE WITH CPR RULE 13, TO THE EXTENT THAT RULE IS CONSISTENT WITH SECTION 15(C). THE DECISION OF THE MAJORITY OF THE ARBITRATORS SHALL BE FINAL, BINDING, AND NON-APPEALABLE, EXCEPT FOR A CHALLENGE TO A DECISION ON THE GROUNDS SET FORTH IN 9 U.S.C. §10. THE FAILURE TO COMPLY WITH A JUDGMENT UPON THE AWARD OF THE ARBITRATORS SHALL BE A BREACH OF THIS COMPACT.

(11) GOVERNING LAW/JURISDICTION. TITLE 9 OF THE UNITED STATES CODE (THE UNITED STATES ARBITRATION ACT) AND THE RULES SHALL GOVERN THE INTERPRETATION AND ENFORCEMENT OF SECTION 15(C), BUT NOTHING IN SECTION 15(C) SHALL BE INTERPRETED AS A WAIVER OF THE STATE'S

TENTH AMENDMENT OR ELEVENTH AMENDMENT IMMUNITY OR AS A WAIVER OF THE TRIBE'S SOVEREIGN IMMUNITY. THE TRIBUNAL SHALL RESOLVE THE DISPUTES SUBMITTED FOR ARBITRATION IN ACCORDANCE WITH, AND EVERY DECISION OF THE TRIBUNAL MUST COMPLY AND BE CONSISTENT WITH, THE ACT AND THE COMPACT, AS THEY MAY BE AMENDED AND AS THEY ARE INTERPRETED BY COURTS OF COMPETENT JURISDICTION. THE TRIBUNAL SHALL HAVE NO AUTHORITY TO AWARD MONEY DAMAGES AGAINST EITHER PARTY.

(12) JUDICIAL CONFIRMATION. JUDGMENT UPON ANY AWARD RENDERED BY THE TRIBUNAL MAY BE ENTERED IN ANY COURT HAVING COMPETENT JURISDICTION.

(D) INJUNCTIVE RELIEF. THE PARTIES ACKNOWLEDGE THAT, ALTHOUGH NEGOTIATION FOLLOWED BY MEDIATION AND ARBITRATION ARE THE PREFERRED METHODS OF DISPUTE RESOLUTION, COMPACT SECTION 15 SHALL NOT IMPAIR ANY RIGHTS TO SEEK IN ANY COURT OF COMPETENT JURISDICTION INJUNCTIVE RELIEF PURSUANT TO 25 U.S.C. § 2710(D)(7)(A)(II), OR A JUDGMENT UPON AN AWARD RENDERED BY AN ARBITRATION TRIBUNAL IN ACCORDANCE WITH SECTIONS 15(C)(10) AND 15(C)(11). IN AN ACTION BROUGHT BY THE TRIBE AGAINST THE STATE, ONE COURT OF COMPETENT JURISDICTION IS THE ARIZONA SUPERIOR COURT. IN AN ACTION BROUGHT BY THE STATE AGAINST THE TRIBE, ONE COURT OF COMPETENT JURISDICTION IS THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA. NOTHING IN THIS COMPACT IS INTENDED TO PREVENT EITHER PARTY FROM SEEKING RELIEF IN SOME OTHER COURT OF COMPETENT JURISDICTION, OR TO CONSTITUTE AN ACKNOWLEDGEMENT THAT THE STATE COURTS HAVE JURISDICTION OVER THE TRIBE OR THE TRIBAL COURTS HAVE JURISDICTION OVER THE STATE."

(X) SECTION 17 OF THE PRE-EXISTING COMPACT SHALL BE REPLACED WITH THE FOLLOWING:

"SECTION 17. AMENDMENTS

(A) PROPOSED COMPACT AMENDMENTS. TO CONTINUE TO ENSURE THE FAIR AND HONEST OPERATION OF INDIAN GAMING, NO LATER THAN ONE HUNDRED EIGHTY (180) DAYS AFTER THE EFFECTIVE DATE, THE STATE OR THE TRIBE MAY PROPOSE AMENDMENTS TO ENHANCE THE FOLLOWING REGULATORY PROVISIONS OF THIS COMPACT:

(1) THE PROCESS FOR TRIBAL JUDICIAL REVIEW OF DISPUTES REGARDING THE NONPAYMENT OF ALLEGED WINNINGS TO PATRONS;

(2) COMPLIANCE WITH UNITED STATES PUBLIC HEALTH SERVICE REQUIREMENTS REGARDING FOOD AND BEVERAGE HANDLING;

(3) COMPLIANCE WITH BUILDING CODES AND FIRE SAFETY STANDARDS IN THE CONSTRUCTION OF NEW GAMING FACILITIES AND SIGNIFICANT MODIFICATIONS TO EXISTING GAMING FACILITIES;

(4) THE AVAILABILITY OF ADEQUATE POLICE, FIRE AND EMERGENCY MEDICAL SERVICES TO SERVE EACH GAMING FACILITY;

(5) REMEDIES FOR VIOLATIONS OF THIS COMPACT, THE GAMING ORDINANCE, FEDERAL LAW, OR STATE RULES FOR CERTIFICATION HOLDERS;

(6) LIABILITY INSURANCE FOR GAMING FACILITIES AND PROCEDURES FOR THE DISPOSITION OF TORT CLAIMS THAT ARISE FROM PERSONAL INJURIES OR PROPERTY DAMAGE SUFFERED AT GAMING FACILITIES BY PATRONS OF THE GAMING FACILITIES;

(7) STANDARDS FOR BACKGROUND INVESTIGATIONS, LICENSING AND CERTIFICATION OF GAMING EMPLOYEES BY THE TRIBE OR THE STATE GAMING AGENCY, OR BOTH;

(8) STANDARDS FOR BACKGROUND INVESTIGATIONS, LICENSING, AND CERTIFICATION BY THE TRIBE OR THE STATE GAMING AGENCY, OR BOTH, OF PERSONS OR ENTITIES THAT PROVIDE GAMING GOODS OR SERVICES ON A SIGNIFICANT BASIS;

(9) REPORTS AND AUDITS OF REVENUE FROM GAMING ACTIVITIES TO ALLOW TRACKING AND CONFIRMATION OF SUCH REVENUE;

(10) MINIMUM INTERNAL CONTROL STANDARDS, TECHNICAL STANDARDS, TESTING PROCEDURES, AND INSPECTION PROCEDURES FOR CLASS III GAMING DEVICES AND THE ONLINE ELECTRONIC GAME MANAGEMENT SYSTEMS TO WHICH THEY ARE LINKED;

(11) MINIMUM INTERNAL CONTROL STANDARDS, OPERATIONAL STANDARDS, SPECIFICATIONS, AND REGULATIONS FOR OTHER GAMING ACTIVITIES PERMITTED UNDER THIS COMPACT, INCLUDING RULES FOR GAME PLAY AND DEALING PROCEDURES FOR BLACKJACK AND POKER; AND

(12) SURVEILLANCE REQUIREMENTS.

(B) NEGOTIATIONS/MEDIATION. WITHIN NINETY (90) DAYS OF RECEIPT BY THE TRIBE OR THE STATE OF PROPOSED AMENDMENTS DESCRIBED IN SECTION 17(A), THE TRIBE AND THE STATE SHALL ENTER INTO GOOD FAITH NEGOTIATIONS REGARDING THE PROPOSED AMENDMENTS. IF GOOD FAITH NEGOTIATIONS FAIL TO RESULT IN A MUTUALLY-AGREED UPON AMENDMENT TO THIS COMPACT REGARDING ANY OF THE ISSUES LISTED IN SECTION 17(A), THE PARTIES SHALL PARTICIPATE IN GOOD FAITH IN A MEDIATION CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 15(B) IN AN EFFORT TO RESOLVE THEIR DIFFERENCES. THE REMAINING PROVISIONS OF SECTION 15 SHALL NOT APPLY TO SECTIONS 17(A) OR (B). WITHIN THIRTY (30) DAYS AFTER THE CONCLUSION OF A MEDIATION, THE PARTIES SHALL CONCLUDE NEGOTIATIONS AND DOCUMENT ANY AMENDMENTS CONSISTENT WITH SECTION 17(C).

(C) EFFECT. ANY AMENDMENT TO THIS COMPACT SHALL BE IN WRITING AND SIGNED BY BOTH PARTIES. THE TERMS AND CONDITIONS OF THIS COMPACT SHALL REMAIN IN EFFECT UNTIL AMENDED, MODIFIED, OR TERMINATED."

(XI) SECTION 23 OF THE PRE-EXISTING COMPACT SHALL BE REPLACED WITH THE FOLLOWING:

"SECTION 23. EFFECTIVE DATE AND DURATION

(A) REPLACEMENT OF OTHER GAMING COMPACTS. ON THE EFFECTIVE DATE, THIS COMPACT SHALL REPLACE AND SUPERSEDE ANY OTHER TRIBAL-STATE GAMING COMPACT BETWEEN THE STATE AND THE TRIBE. THE TRIBE AND THE STATE SHALL EXECUTE AN ACKNOWLEDGEMENT OF THE EFFECTIVE DATE.

(B) DURATION.

(1) THE INITIAL TERM OF THIS COMPACT SHALL COMMENCE ON THE EFFECTIVE DATE. THE INITIAL TERM OF THIS COMPACT SHALL BE THE REMAINDER OF THE TERM UNDER SECTION 23(B)(1) OF THE TRIBE'S PRE-EXISTING COMPACT AS DEFINED IN A.R.S. SECTION 5-601.02(I)(5), IF ANY, PROVIDED THAT SUCH PRE-EXISTING COMPACT WAS IN EFFECT ON MAY 1, 2002, PLUS TEN (10) YEARS.

(2) THIS COMPACT SHALL THEREAFTER BE EXTENDED FOR A RENEWAL TERM OF TEN (10) YEARS, UNLESS THE STATE OR THE TRIBE NOTIFIES THE OTHER IN WRITING, NOT LESS THAN ONE HUNDRED EIGHTY (180) DAYS PRIOR TO THE EXPIRATION OF THE INITIAL TERM, THAT IT DOES NOT INTEND TO RENEW THE COMPACT BECAUSE OF SUBSTANTIAL NON-COMPLIANCE.

(3) THIS COMPACT SHALL THEREAFTER BE EXTENDED FOR AN ADDITIONAL RENEWAL TERM OF THREE (3) YEARS IN ORDER TO PROVIDE THE PARTIES WITH AN OPPORTUNITY TO NEGOTIATE NEW OR AMENDED COMPACT TERMS, UNLESS THE STATE OR THE TRIBE NOTIFIES THE OTHER IN WRITING, NOT LESS THAN ONE HUNDRED EIGHTY (180) DAYS PRIOR TO THE EXPIRATION OF THE RENEWAL TERM, THAT IT DOES NOT INTEND TO RENEW THE COMPACT BECAUSE OF SUBSTANTIAL NON-COMPLIANCE.

(4) FOR PURPOSES OF THIS SECTION 23, SUBSTANTIAL NON-COMPLIANCE MEANS THE WILLFUL FAILURE OR REFUSAL TO REASONABLY COMPLY WITH THE MATERIAL TERMS OF A FINAL, NON-APPEALABLE COURT ORDER, OR A FINAL, NON-APPEALABLE AWARD OF AN ARBITRATOR OR ARBITRATORS UNDER SECTION 15. SUBSTANTIAL NON-COMPLIANCE DOES NOT INCLUDE TECHNICAL INADVERTENCE OR NON-MATERIAL VARIATIONS OR OMISSIONS IN COMPLIANCE WITH ANY SUCH AWARD OR JUDGMENT. IF EITHER PARTY CONTENDS THAT THE OTHER IS IN SUBSTANTIAL NON-COMPLIANCE, THE PARTY SO CONTENDING SHALL PROVIDE IMMEDIATE WRITTEN NOTICE TO THE OTHER, INCLUDING THE SPECIFIC REASON(S) FOR THE CONTENTION AND COPIES OF ALL DOCUMENTATION RELIED UPON TO THE EXTENT ALLOWED BY LAW.

(5) A DISPUTE OVER WHETHER THE STATE OR THE TRIBE HAS ENGAGED IN SUBSTANTIAL NON-COMPLIANCE SHALL BE RESOLVED UNDER SECTION 15. THE COMPACT SHALL REMAIN IN EFFECT UNTIL THE DISPUTE HAS BEEN RESOLVED BY A FINAL, NON-APPEAL 15 PROCEEDING TO DETERMINE SUBSTANTIAL NON-COMPLIANCE, THE BURDEN OF PROOF SHALL BE ON THE PARTY ALLEGING SUBSTANTIAL NON-COMPLIANCE

(6) THE TRIBE MAY OPERATE CLASS III GAMING ONLY WHILE THIS COMPACT, OR ANY EXTENSION THEREOF, IS IN EFFECT. PRIOR TO THE END OF THE FINAL RENEWAL TERM OF THIS COMPACT, THE STATE AND THE TRIBE SHALL NEGOTIATE UNDER 25 U.S.C. SECTION 2710(D)(3)(A), OR OTHER APPLICABLE FEDERAL LAW, FOR A SUCCESSOR COMPACT OR OTHER SIMILAR AGREEMENT.”

Sec. 4. Repeal

Section 5-601.01, Arizona Revised Statutes, is repealed.

~~5-601.01. Standard form of tribal state compact; eligible tribes; limitation on time for execution of compact~~

~~A. Notwithstanding any other law or the provisions of section 5-601, the state, through the governor, shall enter into the state's standard form of gaming compact with any eligible Indian tribe that requests it.~~

~~B. For the purposes of this section:~~

~~1. The state's standard form of gaming compact is the form of compact that contains provisions limiting types of gaming, the number of gaming devices, the number of gaming locations, and other provisions, that are common to the compacts entered into by this state with Indian tribes in this state on June 24, 1993, and approved by the United States secretary of the interior on July 30, 1993.~~

~~2. An eligible Indian tribe is an Indian tribe in this state that has not entered into a gaming compact with the state.~~

~~C. The state, through the governor, shall execute the compact required by this section within thirty days after written request by the governing body of an eligible tribe.~~

Sec. 5. Section 13-3301, Arizona Revised Statutes, is amended to read:

13-3301. Definitions

In this chapter, unless the context otherwise requires:

1. "Amusement gambling" means gambling involving a device, game or contest which is played for entertainment if all of the following apply:

(a) The player or players actively participate in the game or contest or with the device.

(b) The outcome is not in the control to any material degree of any person other than the player or players.

(c) The prizes are not offered as a lure to separate the player or players from their money.

(d) Any of the following:

(i) No benefit is given to the player or players other than an immediate and unrecorded right to replay which is not exchangeable for value.

(ii) The gambling is an athletic event and no person other than the player or players derives a profit or chance of a profit from the money paid to gamble by the player or players.

(iii) The gambling is an intellectual contest or event, the money paid to gamble is part of an established purchase price for a product, no increment has been added to the price in connection with the gambling event and no drawing or lottery is held to determine the winner or winners.

(iv) Skill and not chance is clearly the predominant factor in the game and the odds of winning the game based upon chance cannot be altered, provided the game complies with any licensing or regulatory requirements by the jurisdiction in which it is operated, no benefit for a single win is given to the player or players other than a merchandise prize which has a wholesale fair market value of less than only at the place of play and only for a merchandise prize which has a fair market value of less than four (4) dollars or coupons which are redeemable only at the place of play and only for a merchandise prize which has a fair market value of less than four (4) dollars and, regardless of the number of wins, no aggregate of coupons may be redeemed for a merchandise prize with a wholesale fair market value of greater than thirty-five (35) dollars.

2. "Conducted as a business" means gambling that is engaged in with the object of gain, benefit or advantage, either direct or indirect, realized or unrealized, but not when incidental to a bona fide social relationship.

3. "Crane game" means an amusement machine which is operated by player controlled buttons, control sticks or other means, or a combination of the buttons or controls, which is activated by coin insertion into the machine and where the player attempts to successfully retrieve prizes with a mechanical or electromechanical claw or device by positioning the claw or device over a prize.

4. "Gambling" or "gamble" means one act of risking or giving something of value for the opportunity to obtain a benefit from a game or contest of chance or skill or a future contingent event but does not include bona fide business transactions which are valid under the law of contracts including contracts for the purchase or sale at a future date of securities or commodities, contracts of indemnity or guarantee and life, health or accident insurance.

5. "Player" means a natural person who participates in gambling.

6. "Regulated gambling" means EITHER:

(A) GAMBLING CONDUCTED IN ACCORDANCE WITH A TRIBAL-STATE GAMING COMPACT OR OTHERWISE IN ACCORDANCE WITH THE REQUIREMENTS OF THE INDIAN GAMING REGULATORY ACT OF 1988 (P.L. 100-497; 102 STAT. 2467;

25 UNITED STATES CODE SECTIONS 2701 THROUGH 2721 AND 18 UNITED STATES CODE SECTIONS 1166 THROUGH 1168); OR

(B) gambling to which all of the following apply:

(a) (I) It is operated and controlled in accordance with a statute, rule or order of this state or of the United States.

(b) (II) All federal, state or local taxes, fees and charges in lieu of taxes have been paid by the authorized person or entity on any activity arising out of or in connection with the gambling.

(c) (III) If conducted by an organization which is exempt from taxation of income under section 43-1201, the organization's records are open to public inspection.

(d) (IV) Beginning on June 1, 2003, none of the players is under twenty-one years of age.

7. "Social gambling" means gambling that is not conducted as a business and that involves players who compete on equal terms with each other in a gamble if all of the following apply:

(a) No player receives, or becomes entitled to receive, any benefit, directly or indirectly, other than the player's winnings from the gamble.

(b) No other person receives or becomes entitled to receive any benefit, directly or indirectly, from the gambling activity, including benefits of proprietorship, management or unequal advantage or odds in a series of gambles.

(c) Until June 1, 2003, none of the players is below the age of majority. Beginning on June 1, 2003, none of the players is under twenty-one years of age.

(d) Players "compete on equal terms with each other in a gamble" when no player enjoys an advantage over any other player in the gamble under the conditions or rules of the game or contest.

Sec. 6. Title 15, Chapter 9, Article 5, Arizona Revised Statutes, is amended by adding a new section 15-978 as follows:

15-978. INSTRUCTIONAL IMPROVEMENT FUND

A. THE INSTRUCTIONAL IMPROVEMENT FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTIONS 5-601.02(H)(3)(A)(I) AND 5-601.02(H)(3)(B)(I), AND INTEREST EARNED ON THOSE MONIES. THE DEPARTMENT OF EDUCATION SHALL ADMINISTER THE FUND. THE FUND IS NOT SUBJECT TO APPROPRIATION, AND EXPENDITURES FROM THE FUND ARE NOT SUBJECT TO OUTSIDE APPROVAL NOTWITHSTANDING ANY STATUTORY PROVISION TO THE CONTRARY.

B. MONIES RECEIVED PURSUANT TO SECTION 5-601.02 SHALL BE DEPOSITED DIRECTLY WITH THE INSTRUCTIONAL IMPROVEMENT FUND. ON NOTICE FROM THE DEPARTMENT OF EDUCATION, 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. NO MONIES IN THE INSTRUCTIONAL IMPROVEMENT FUND SHALL REVERT TO OR BE DEPOSITED IN ANY OTHER FUND, INCLUDING THE STATE GENERAL FUND. MONIES IN THE INSTRUCTIONAL IMPROVEMENT FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. MONIES PROVIDED FROM THE INSTRUCTIONAL IMPROVEMENT FUND SHALL SUPPLEMENT, NOT SUPPLANT, EXISTING STATE AND LOCAL MONIES.

C. THE DEPARTMENT OF EDUCATION SHALL PAY THE MONIES IN THE FUND TO SCHOOL DISTRICTS AND CHARTER SCHOOLS. THE DEPARTMENT OF EDUCATION SHALL DETERMINE THE AMOUNT OF MONIES FROM THE FUND TO BE PAID TO EACH SCHOOL DISTRICT AND CHARTER SCHOOL AS FOLLOWS:

1. DETERMINE THE STUDENT COUNT FOR EACH SCHOOL DISTRICT AND CHARTER SCHOOL AS PROVIDED IN SECTION 15-943.

2. DETERMINE THE STUDENT COUNT FOR ALL SCHOOL DISTRICTS AND CHARTER SCHOOLS AS PROVIDED IN SECTION 15-943.

3. DIVIDE THE AMOUNT DETERMINED IN PARAGRAPH 1 OF THIS SUBSECTION BY THE TOTAL AMOUNT DETERMINED IN PARAGRAPH 2 OF THIS SUBSECTION.

4. MULTIPLY THE QUOTIENT DETERMINED IN PARAGRAPH 3 OF THIS SUBSECTION BY THE TOTAL AMOUNT OF INSTRUCTIONAL IMPROVEMENT FUND MONIES AVAILABLE TO BE DISTRIBUTED TO SCHOOL DISTRICTS AND CHARTER SCHOOLS UNDER THIS SECTION.

D. EACH SCHOOL DISTRICT AND CHARTER SCHOOL MAY UTILIZE UP TO FIFTY PERCENT OF THE AMOUNT OF MONIES DETERMINED PURSUANT TO SUBSECTION C FOR TEACHER COMPENSATION INCREASES AND CLASS SIZE REDUCTION AS PROVIDED IN SECTION 15-977.

E. MONIES THAT ARE NOT UTILIZED AS PROVIDED IN SUBSECTION D SHALL BE UTILIZED FOR THE FOLLOWING MAINTENANCE AND OPERATION PURPOSES:

1. DROPOUT PREVENTION PROGRAMS.

2. INSTRUCTIONAL IMPROVEMENT PROGRAMS INCLUDING PROGRAMS TO DEVELOP MINIMUM READING SKILLS FOR STUDENTS BY THE END OF THIRD GRADE.

F. SCHOOL DISTRICTS AND CHARTER SCHOOLS THAT RECEIVE MONIES FROM THE INSTRUCTIONAL IMPROVEMENT FUND SHALL SUBMIT A REPORT BY NOVEMBER 15 OF EACH YEAR TO THE DEPARTMENT OF EDUCATION THAT PROVIDES AN ACCOUNTING OF THE EXPENDITURE OF MONIES DISTRIBUTED FROM THE FUND DURING THE PREVIOUS FISCAL YEAR. THE DEPARTMENT OF EDUCATION IN CONJUNCTION WITH THE AUDITOR GENERAL SHALL PRESCRIBE THE FORMAT OF THE REPORT UNDER THIS SUBSECTION.

Sec 7, Title 17, Chapter 2, Arizona Revised Statutes, is amended by adding a new Article 7 as follows:

ARTICLE 7. ARIZONA WILDLIFE CONSERVATION FUND

17-299. ARIZONA WILDLIFE CONSERVATION FUND

A. THE ARIZONA WILDLIFE CONSERVATION FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 5-601.02(H)(3)(B)(III) AND INTEREST EARNED ON THOSE MONIES. THE ARIZONA STATE GAME AND FISH COMMISSION SHALL ADMINISTER THE FUND. THE FUND IS NOT SUBJECT TO APPROPRIATION, AND EXPENDITURES FROM THE FUND ARE NOT SUBJECT TO OUTSIDE APPROVAL NOTWITHSTANDING ANY PROVISION OF SECTIONS 17-241 OR 17-261 OR ANY OTHER STATUTORY PROVISIONS TO THE CONTRARY.

B. MONIES RECEIVED PURSUANT TO SECTION 5-601.02 SHALL BE DEPOSITED DIRECTLY WITH THE ARIZONA WILDLIFE CONSERVATION FUND. ON NOTICE FROM THE ARIZONA STATE GAME AND FISH COMMISSION, 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. NO MONIES IN THE ARIZONA WILDLIFE

CONSERVATION FUND SHALL REVERT TO OR BE DEPOSITED IN ANY OTHER FUND, INCLUDING THE STATE GENERAL FUND. MONIES IN THE ARIZONA WILDLIFE CONSERVATION FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. MONIES PROVIDED FROM THE ARIZONA WILDLIFE CONSERVATION FUND SHALL SUPPLEMENT, NOT SUPPLANT, EXISTING MONIES.

C. ALL MONIES IN THE ARIZONA WILDLIFE CONSERVATION FUND SHALL BE SPENT BY THE ARIZONA STATE GAME AND FISH COMMISSION TO CONSERVE, ENHANCE, AND RESTORE ARIZONA'S DIVERSE WILDLIFE RESOURCES AND HABITATS FOR PRESENT AND FUTURE GENERATIONS, AND WHICH MAY INCLUDE THE ACQUISITION OF REAL PROPERTY. THE COMMISSION MAY GRANT MONIES TO ANY AGENCY OF THE STATE OR ANY POLITICAL SUBDIVISION, INDIAN TRIBE, OR NON-PROFIT ORGANIZATION EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501(C) OF THE INTERNAL REVENUE CODE FOR THE PURPOSE OF CONSERVATION OF WILDLIFE OR WILDLIFE HABITAT OR ACQUISITION OF REAL PROPERTY OR INTEREST IN REAL PROPERTY THAT IS WILDLIFE HABITAT. A GRANT OF MONEY UNDER THIS SUBSECTION TO A NONPROFIT ORGANIZATION IS CONDITIONED ON THE ORGANIZATION PROVIDING REASONABLE PUBLIC ACCESS TO ANY LAND THAT IS WHOLLY OR PARTLY PURCHASED WITH THAT MONEY.

Sec. 8. Title 36, Chapter 29, Article 1, Arizona Revised Statutes, is amended by adding a new section 36-2903.07 as follows:

36-2903.07. TRAUMA AND EMERGENCY SERVICES FUND

A. THE TRAUMA AND EMERGENCY SERVICES FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 5-601.02(H)(3)(B)(II) AND INTEREST EARNED ON THOSE MONIES. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL ADMINISTER THE FUND. THE FUND IS NOT SUBJECT TO APPROPRIATION, AND EXPENDITURES FROM THE FUND ARE NOT SUBJECT TO OUTSIDE APPROVAL NOTWITHSTANDING ANY STATUTORY PROVISION TO THE CONTRARY.

B. MONIES RECEIVED PURSUANT TO SECTION 5-601.02 SHALL BE DEPOSITED DIRECTLY WITH THE TRAUMA AND EMERGENCY SERVICES FUND. ON NOTICE FROM THE ADMINISTRATION, 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. NO MONIES IN THE TRAUMA AND EMERGENCY SERVICES FUND SHALL REVERT TO OR BE DEPOSITED IN ANY OTHER FUND, INCLUDING THE STATE GENERAL FUND. MONIES IN THE TRAUMA AND EMERGENCY SERVICES FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. MONIES PROVIDED FROM THE TRAUMA AND EMERGENCY SERVICES FUND SHALL SUPPLEMENT, NOT SUPPLANT, EXISTING MONIES.

C. MONIES IN THE FUND SHALL ONLY BE USED TO REIMBURSE HOSPITALS IN ARIZONA FOR UNRECOVERED TRAUMA CENTER READINESS COSTS AND UNRECOVERED EMERGENCY SERVICES COSTS AS PROVIDED FOR IN THIS SECTION.

D. FOR PURPOSES OF THIS SECTION:

1. "TRAUMA CENTER READINESS COSTS" MEANS CLINICAL, PROFESSIONAL AND OPERATIONAL COSTS THAT ARE INCURRED BY A LEVEL I TRAUMA CENTER AND THAT ARE NECESSARY FOR THE PROVISION OF LEVEL I TRAUMA CARE ON A TWENTY-FOUR HOUR, SEVEN DAYS PER WEEK BASIS.

TRAUMA CENTER READINESS COSTS INCLUDE ONLY THOSE ADMINISTRATIVE AND OVERHEAD COSTS THAT ARE DIRECTLY ASSOCIATED WITH PROVIDING LEVEL I TRAUMA CARE.

2. "EMERGENCY SERVICES COSTS" MEANS CLINICAL, PROFESSIONAL AND OPERATIONAL COSTS THAT ARE NECESSARILY INCURRED BY A HOSPITAL IN PROVIDING EMERGENCY SERVICES.

3. "UNRECOVERED" MEANS THE DIFFERENCE BETWEEN THE COSTS INCURRED BY A HOSPITAL IN PROVIDING THE SERVICE AND THE AMOUNT THAT THE HOSPITAL HAS BEEN PAID FOR PROVIDING THE SERVICE.

E. WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE ADMINISTRATION SHALL PROMULGATE RULES PURSUANT TO ARIZONA REVISED STATUTES TITLE 42, CHAPTER 6, EXCEPT THAT THE RULES SHALL NOT BE SUBJECT TO ARTICLE 5 OF THAT CHAPTER. THE RULES SHALL SET FORTH:

1. A METHODOLOGY TO DETERMINE ARIZONA HOSPITALS' UNRECOVERED TRAUMA CENTER READINESS COSTS AND UNRECOVERED EMERGENCY SERVICES COSTS;

2. A PROCEDURE TO DISTRIBUTE ALL MONIES FROM THE TRAUMA AND EMERGENCY SERVICES FUND TO ARIZONA HOSPITALS IN PROPORTION TO THOSE HOSPITALS' UNRECOVERED TRAUMA CENTER READINESS COSTS AND UNRECOVERED EMERGENCY SERVICES COSTS.

F. THE ADMINISTRATION SHALL DISTRIBUTE ALL MONIES FROM THE TRAUMA AND EMERGENCY SERVICES FUND TO ARIZONA HOSPITALS IN ACCORDANCE WITH THE RULES PROMULGATED PURSUANT TO THIS SECTION.

Sec. 9. Title 41, Chapter 10, Article 1, Arizona Revised Statutes, is amended by adding a new section 41-1505.12 as follows:

41-1505.12. COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION LOCAL COMMUNITIES FUND

A. THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION LOCAL COMMUNITIES FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTIONS 5-601.02(H)(4)(B) AND 5-601.02(I)(6)(B)(VII), AND INTEREST EARNED ON THOSE MONIES. THE DIRECTOR SHALL ADMINISTER THE FUND. THE FUND IS NOT SUBJECT TO APPROPRIATION, AND EXPENDITURES FROM THE FUND ARE NOT SUBJECT TO OUTSIDE APPROVAL NOTWITHSTANDING ANY STATUTORY PROVISION TO THE CONTRARY.

B. MONIES RECEIVED PURSUANT TO SECTIONS 5-601.02(H)(4)(B) AND 5-601.02(I)(6)(B)(VII) SHALL BE DEPOSITED DIRECTLY WITH THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION LOCAL COMMUNITIES FUND. ON NOTICE FROM THE DEPARTMENT OF COMMERCE, THE STATE TREASURER MAY INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. NO MONIES IN THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION LOCAL COMMUNITIES FUND SHALL REVERT TO OR BE DEPOSITED IN ANY OTHER FUND, INCLUDING THE STATE GENERAL FUND. MONIES IN THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION LOCAL COMMUNITIES FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. MONIES PROVIDED FROM THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION LOCAL COMMUNITIES FUND SHALL SUPPLEMENT, NOT SUPPLANT, EXISTING MONIES.

C. ALL MONIES IN THE FUND SHALL BE USED BY THE COMMISSION TO PROVIDE GRANTS TO CITIES, TOWNS AND COUNTIES AS DEFINED IN TITLE 11, ARIZONA REVISED STATUTES, FOR GOVERNMENT SERVICES THAT BENEFIT THE GENERAL PUBLIC, INCLUDING PUBLIC SAFETY, MITIGATION OF IMPACTS OF GAMING, OR PROMOTION OF COMMERCE AND ECONOMIC DEVELOPMENT. ALL GRANT APPLICATIONS MUST HAVE A WRITTEN ENDORSEMENT OF A NEARBY INDIAN TRIBE TO RECEIVE AN AWARD OF FUNDS FROM THE COMMISSION.

Sec. 10. Section 41-2306, Arizona Revised Statutes, as amended by Laws 2000, chapter 375, section 3, is amended to read:

41-2306. Tourism fund

A. The tourism fund is established consisting of separate accounts derived from:

1. Revenues deposited pursuant to section 42-5029, subsection D, paragraph 4, subdivision (f). The legislature shall appropriate all monies in this account to the office of tourism for the purposes of operations and statewide tourism promotion.

2. Revenues deposited pursuant to section 5-835, subsection B or C. The legislature shall appropriate all monies in this account to the office of tourism which, in consultation with a consortium of destination marketing organizations in the county in which the tourism and sports authority is established, shall be spent only to promote tourism within that county and shall not be spent for administrative or overhead expenses.

3. Revenues deposited pursuant to section 42-6108.01. The legislature shall appropriate all monies in this account to the office of tourism which, in conjunction with the destination marketing organization in the county in which the tax revenues are collected, shall be spent only to promote tourism within that county and shall not be spent for administrative or overhead expenses.

4. REVENUES DEPOSITED PURSUANT TO SECTION 5-601.02(H)(3)(B)(IV). THE OFFICE OF TOURISM SHALL ADMINISTER THE ACCOUNT. THE ACCOUNT IS NOT SUBJECT TO APPROPRIATION, AND EXPENDITURES FROM THE FUND ARE NOT SUBJECT TO OUTSIDE APPROVAL NOTWITHSTANDING ANY STATUTORY PROVISION TO THE CONTRARY. MONIES RECEIVED PURSUANT TO SECTION 5-601.02 SHALL BE DEPOSITED DIRECTLY WITH THIS ACCOUNT. ON NOTICE FROM THE OFFICE OF TOURISM, THE STATE TREASURER MAY INVEST AND DIVEST MONIES IN THE ACCOUNT AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE ACCOUNT. NO MONIES IN THE ACCOUNT SHALL REVERT TO OR BE DEPOSITED IN ANY OTHER FUND, INCLUDING THE STATE GENERAL FUND. MONIES IN THIS ACCOUNT SHALL SUPPLEMENT, NOT SUPPLANT, CURRENT FUNDS IN OTHER ACCOUNTS OF THE TOURISM FUND. MONIES IN THIS ACCOUNT SHALL BE SPENT ONLY TO PROMOTE TOURISM WITHIN THE STATE AND SHALL NOT BE USED FOR ADMINISTRATIVE OR OVERHEAD EXPENSES.

B. Monies in the fund are exempt from section 35-190 relating to lapsing of appropriations.

Sec. 11. Repeal

Section 41-2306, Arizona Revised Statutes, as amended by Laws 2000, chapter 372, section 3, is repealed.

~~41-2306. Tourism fund~~

~~A. The tourism fund is established consisting of separate accounts derived from:~~

~~1. Revenues deposited pursuant to section 42-5029, subsection D, paragraph 4, subdivision (f). The legislature shall appropriate all monies in this account to the office of tourism for the purposes of operations and statewide tourism promotion.~~

~~2. Revenues deposited pursuant to section 5-835, subsection B or C. The legislature shall appropriate all monies in this account to the office of tourism which, in consultation with a consortium of destination marketing organizations in the county in which the tourism and sports authority is established, shall be spent only to promote tourism within that county and shall not be spent for administrative or overhead expenses.~~

~~3. Revenues deposited pursuant to section 42-6108.01. The legislature shall appropriate all monies in this account to the office of tourism which, in conjunction with the destination marketing organization in the county in which the tax revenues are collected, shall be spent only to promote tourism within that county and shall not be spent for administrative or overhead expenses.~~

~~B. Monies in the fund are exempt from section 35-190 relating to lapsing of appropriations.~~

Sec. 12. Ratification

The people of the state hereby ratify the new standard form of tribal-state gaming compact.

Sec. 13. Conflicting Initiative

This initiative measure constitutes a comprehensive regulatory scheme for the conduct of tribal gaming in this state. Among other things, this measure retains the right of tribes to conduct gaming in the state with substantial exclusivity, as expressly provided in this measure. This measure fundamentally conflicts in its entirety with any initiative, referendum, or other measure to be considered by the people of the State of Arizona at the November 5, 2002 election concerning tribal gaming or other gaming by any non-governmental entity. If this measure receives more votes than any other initiative, referendum, or other measure concerning tribal gaming or other gaming by any non-governmental entity, including without limitation initiatives numbered I-09-2002 and I-13-2002, the people intend that this measure prevail and take effect in its entirety and that no provision of any other such measure concerning tribal gaming or other gaming by any non-governmental entity take effect.

Sec. 14. Severability

If any provision of this initiative measure is declared invalid, such invalidity shall not affect other provisions of this initiative measure which can be given effect without the invalid provision. To this end, the provisions of this initiative measure are declared to be severable.

PROPOSITION 300**OFFICIAL TITLE****SENATE CONCURRENT RESOLUTION 1005**

AN ACT AMENDING SECTION 37-521, ARIZONA REVISED STATUTES;
RELATING TO STATE SCHOOL TRUST LAND REVENUES.

TEXT OF THE PROPOSED AMENDMENT

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

Section 1. Section 37-521, Arizona Revised Statutes, is amended to read:

37-521. Permanent state school fund; composition; use

A. The permanent state school fund shall consist of:

1. The proceeds of all lands granted to the state by the United States for the support of common schools.

2. All property which accrues to the state by escheat or forfeiture.

3. All property donated for the benefit of the common schools, unless the terms of the donation otherwise provide.

4. All unclaimed shares and dividends of any corporation incorporated under the laws of this state.

5. The proceeds of sale of timber, mineral, gravel or other natural products or property from school lands and state lands other than those granted for specific purposes.

6. The residue of the lands granted for payment of the bonds and accrued interest issued by Maricopa, Pima, Yavapai and Coconino counties, after the purpose of the grant has been satisfied, and the five per cent of the proceeds of sales of public lands lying within this state sold by the United States subsequent to admission of this state into the union, as granted by the enabling act.

B. The fund shall be and remain a perpetual fund and distributions from the fund pursuant to article X, section 7, Constitution of Arizona, ~~together with the PLUS monies derived from the rental of the lands and property, including interest and accrued rent for that year credited pursuant to section 37-295 AND INTEREST PAID ON INSTALLMENT SALES,~~ shall be used as follows:

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 6, the state treasurer AND THE STATE LAND DEPARTMENT shall annually transfer to the state school facilities revenue bond debt service fund established in section 15-2054 the amount that is necessary to pay that fiscal year's debt service on outstanding state school facilities revenue bonds.

2. If there are no outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 6 or if the amount of monies available under this subsection exceeds the amount required under paragraph 1 of this subsection, the monies are subject to legislative appropriation to the new school facilities fund established by section 15-2041.

3. If the amount of monies available under this subsection exceeds the amount required under paragraphs 1 and 2 of this subsection, the legislature may annually appropriate an amount to be used as provided in section 15-971, subsection H, ~~except that the amount appropriated may not exceed the amount appropriated for this purpose in fiscal year 2000-2001~~ EXCEPT THAT THE AMOUNT APPROPRIATED MAY NOT EXCEED THE AMOUNT APPROPRIATED FROM THE PERMANENT STATE SCHOOL FUND AND FROM THE RENT AND INTEREST PAID ON INSTALLMENT SALES FOR THIS PURPOSE IN FISCAL YEAR 2000-2001.

~~4. Notwithstanding paragraphs 1, 2 and 3 of this subsection, from and after June 30, 2001, any expendable earnings from the permanent state school fund that exceed the fiscal year 2000-2001 expendable earnings shall be deposited in the classroom site fund established by section 15-977.~~

4. NOTWITHSTANDING PARAGRAPHS 1, 2 AND 3 OF THIS SUBSECTION, FROM AND AFTER JUNE 30, 2001, ANY EXPENDABLE EARNINGS UNDER THIS SUBSECTION THAT EXCEED THE FISCAL YEAR 2000-2001 EXPENDABLE EARNINGS SHALL BE DEPOSITED IN THE CLASSROOM SITE FUND ESTABLISHED BY SECTION 15-977.

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article IV, part 1, Constitution of Arizona.

3. For the purposes of title 37, chapter 2, article 13, Arizona Revised Statutes, as amended by this act, the Legislature intends that funds received pursuant to this act above the fiscal year 2000-2001 appropriation level be used to supplement and not supplant existing statutory funding obligations of this state to the public schools of this state.

PROPOSITION 301

OFFICIAL TITLE

HOUSE CONCURRENT RESOLUTION 2012

AN ACT REPEALING SECTION 41-3003.11, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3012.01; RELATING TO THE STATE LOTTERY COMMISSION.

TEXT OF THE PROPOSED AMENDMENT

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

Section 1. Repeal

Section 41-3003.11, Arizona Revised Statutes, is repealed.

Sec. 2. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3012.01, to read:

41-3012.01. Arizona state lottery commission; termination July 1, 2012

A. THE ARIZONA STATE LOTTERY COMMISSION TERMINATES ON JULY 1, 2012.

B. TITLE 5, CHAPTER 5 IS REPEALED ON JANUARY 1, 2013.

Sec. 3. Purpose

Pursuant to section 41-2955, subsection B, Arizona Revised Statutes, the Arizona state lottery commission is continued to oversee a state lottery to produce the maximum amount of net revenue for the state consonant with the dignity of the state.

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.

PROPOSITION 302

OFFICIAL TITLE

HOUSE CONCURRENT RESOLUTION 2013

AN ACT AMENDING SECTION 13-901.01, ARIZONA REVISED STATUTES;
RELATING TO PROBATION.

TEXT OF THE PROPOSED AMENDMENT

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

Section 1. Section 13-901.01, Arizona Revised Statutes, is amended to read:

13-901.01. Probation for persons convicted of possession or use of controlled substances or drug paraphernalia; treatment; prevention; education; definition

A. Notwithstanding any law to the contrary, any person who is convicted of the personal possession or use of a controlled substance as ~~defined in section 36-2501~~ OR DRUG PARAPHERNALIA is eligible for probation. The court shall suspend the imposition or execution of sentence and place ~~such~~ THE person on probation.

B. Any person who has been convicted of or indicted for a violent crime as defined in section 13-604.04 is not eligible for probation as provided for in this section but instead shall be sentenced pursuant to ~~the other provisions of~~ chapter 34 of this title.

C. Personal possession or use of a controlled substance pursuant to this section shall not include possession for sale, production, manufacturing or transportation for sale of any controlled substance.

D. If a person is convicted of personal possession or use of a controlled substance as ~~defined in section 36-2501~~ OR DRUG PARAPHERNALIA, as a condition of probation, the court shall require participation in an appropriate drug treatment or education program administered by a qualified agency or organization that provides such programs to persons who abuse controlled substances. Each person WHO IS enrolled in a drug treatment or education program shall be required to pay for participation in the program to the extent of the person's financial ability.

E. A person who has been placed on probation ~~under the provisions of~~ PURSUANT TO this section and who is determined by the court to be in violation of probation shall have new conditions of probation established by the court. The court shall select the additional conditions it deems necessary, including intensified drug treatment, community service, intensive probation, home arrest, ~~or any other such sanctions short of incarceration~~ EXCEPT THAT THE COURT SHALL NOT IMPOSE A

TERM OF INCARCERATION UNLESS THE COURT DETERMINES THAT THE PERSON VIOLATED PROBATION BY COMMITTING AN OFFENSE LISTED IN CHAPTER 34 OR 34.1 OF THIS TITLE OR AN ACT IN VIOLATION OF AN ORDER OF THE COURT RELATING TO DRUG TREATMENT.

F. If a person is convicted a second time of personal possession or use of a controlled substance ~~as defined in section 36-2501~~ OR DRUG PARAPHERNALIA, the court may include additional conditions of probation it deems necessary, including intensified drug treatment, community service, intensive probation, home arrest or any other action within the jurisdiction of the court.

G. AT ANY TIME WHILE THE DEFENDANT IS ON PROBATION, IF AFTER HAVING A REASONABLE OPPORTUNITY TO DO SO THE DEFENDANT FAILS OR REFUSES TO PARTICIPATE IN DRUG TREATMENT, THE PROBATION DEPARTMENT OR THE PROSECUTOR MAY PETITION THE COURT TO REVOKE THE DEFENDANT'S PROBATION. IF THE COURT FINDS THAT THE DEFENDANT REFUSED TO PARTICIPATE IN DRUG TREATMENT, THE DEFENDANT SHALL NO LONGER BE ELIGIBLE FOR PROBATION UNDER THIS SECTION BUT INSTEAD SHALL BE SENTENCED PURSUANT TO CHAPTER 34 OF THIS TITLE.

~~G. H. A person who has been convicted three times of personal possession or use of a controlled substance as defined in section 36-2501 is not eligible for probation under the provisions of this section but instead shall be sentenced pursuant to the other provisions of chapter 34 of this title IF THE COURT FINDS THE PERSON EITHER:~~

1. HAD BEEN CONVICTED THREE TIMES OF PERSONAL POSSESSION OF A CONTROLLED SUBSTANCE OR DRUG PARAPHERNALIA.

2. REFUSED DRUG TREATMENT AS A TERM OF PROBATION.

3. REJECTED PROBATION.

I. SUBSECTIONS G AND H OF THIS SECTION DO NOT PROHIBIT THE DEFENDANT FROM BEING PLACED ON PROBATION PURSUANT TO SECTION 13-901 IF THE DEFENDANT OTHERWISE QUALIFIES FOR PROBATION UNDER THAT SECTION.

J. FOR THE PURPOSES OF THIS SECTION, "CONTROLLED SUBSTANCE" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2501.

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.

PROPOSITION 303**OFFICIAL TITLE****HOUSE CONCURRENT RESOLUTION 2047**

AN ACT CHANGING THE ARTICLE HEADING OF TITLE 36, CHAPTER 6, ARTICLE 8, ARIZONA REVISED STATUTES, TO "TOBACCO TAX FUNDS"; AMENDING TITLE 36, CHAPTER 6, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-770; REPEALING SECTION 36-772, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 6, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 36-772 AND SECTIONS 36-776, 36-777 AND 36-778; AMENDING TITLE 42, CHAPTER 3, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3251.01; AMENDING SECTION 42-3302, ARIZONA REVISED STATUTES; RELATING TO TOBACCO TAXES.

TEXT OF THE PROPOSED AMENDMENT

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

Section 1. Heading change

The article heading of title 36, chapter 6, article 8, Arizona Revised Statutes, is changed from "TOBACCO TAX AND HEALTH CARE FUND" to "TOBACCO TAX FUNDS".

Sec. 2. Title 36, chapter 6, article 8, Arizona Revised Statutes, is amended by adding section 36-770, to read:

36-770. Tobacco products tax fund

A. THE TOBACCO PRODUCTS TAX FUND IS ESTABLISHED CONSISTING OF REVENUES DEPOSITED IN THE FUND PURSUANT TO SECTION 42-3251.01 AND INTEREST EARNED ON THOSE MONIES. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL ADMINISTER THE FUND.

B. FORTY-TWO CENTS OF EACH DOLLAR IN THE FUND SHALL BE DEPOSITED IN THE PROPOSITION 204 PROTECTION ACCOUNT ESTABLISHED BY SECTION 36-778.

C. FIVE CENTS OF EACH DOLLAR IN THE FUND SHALL BE DEPOSITED IN THE HEALTH RESEARCH FUND ESTABLISHED BY SECTION 36-275.

D. TWENTY-SEVEN CENTS OF EACH DOLLAR IN THE FUND SHALL BE DEPOSITED IN THE MEDICALLY NEEDY ACCOUNT ESTABLISHED BY SECTION 36-774.

E. TWENTY CENTS OF EACH DOLLAR IN THE FUND SHALL BE DEPOSITED IN THE EMERGENCY HEALTH SERVICES ACCOUNT ESTABLISHED BY SECTION 36-776.

F. FOUR CENTS OF EACH DOLLAR IN THE FUND SHALL BE DEPOSITED IN THE HEALTH CARE ADJUSTMENT ACCOUNT ESTABLISHED BY SECTION 36-777.

G. TWO CENTS OF EACH DOLLAR IN THE FUND SHALL BE DEPOSITED IN THE HEALTH EDUCATION ACCOUNT ESTABLISHED BY SECTION 36-772.

H. EXCEPT AS PROVIDED IN SECTION 36-776, MONIES IN THE FUND:

1. ARE CONTINUOUSLY APPROPRIATED.
2. DO NOT REVERT TO THE STATE GENERAL FUND.
3. ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

Sec. 3. Repeal

Section 36-772, Arizona Revised Statutes, is repealed.

Sec. 4. Title 36, chapter 6, article 8, Arizona Revised Statutes, is amended by adding a new section 36-772, to read:

36-772. Health education account; audit; reports

A. IN ADDITION TO THE MONIES DEPOSITED PURSUANT TO SECTION 36-770, TWENTY-THREE CENTS OF EACH DOLLAR IN THE TOBACCO TAX AND HEALTH CARE FUND SHALL BE DEPOSITED IN THE HEALTH EDUCATION ACCOUNT FOR PROGRAMS FOR THE PREVENTION AND REDUCTION OF TOBACCO USE, THROUGH PUBLIC HEALTH EDUCATION PROGRAMS, INCLUDING COMMUNITY BASED EDUCATION, CESSATION, EVALUATION AND OTHER PROGRAMS TO DISCOURAGE TOBACCO USE AMONG THE GENERAL POPULATION AS WELL AS MINORS AND CULTURALLY DIVERSE POPULATIONS.

B. THE DEPARTMENT OF HEALTH SERVICES SHALL ADMINISTER THE ACCOUNT.

C. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, MONIES THAT ARE DEPOSITED IN THE HEALTH EDUCATION ACCOUNT:

1. SHALL BE USED TO SUPPLEMENT MONIES THAT ARE APPROPRIATED BY THE LEGISLATURE FOR HEALTH EDUCATION PURPOSES AND SHALL NOT BE USED TO SUPPLANT THOSE APPROPRIATED MONIES.

2. SHALL BE SPENT FOR THE FOLLOWING PURPOSES:

- (a) CONTRACTS WITH COUNTY HEALTH DEPARTMENTS, QUALIFYING COMMUNITY HEALTH CENTERS AS DEFINED IN SECTION 36-2907.06, INDIAN TRIBES, ACCREDITED SCHOOLS, NONPROFIT ORGANIZATIONS, COMMUNITY COLLEGES AND UNIVERSITIES FOR EDUCATION PROGRAMS RELATED TO PREVENTING AND REDUCING TOBACCO USE.

- (b) ADMINISTRATIVE EXPENDITURES RELATED TO IMPLEMENTING AND OPERATING A PROGRAM DEVELOPED PURSUANT TO SUBDIVISION (a) TO AWARD AND OVERSEE CONTRACTS FOR EDUCATION PROGRAMS INCLUDING OBTAINING EXPERT SERVICES TO ASSIST IN EVALUATING REQUESTS FOR PROPOSALS AND RESPONSES TO THOSE REQUESTS.

- (c) DEPARTMENT OF HEALTH SERVICES EXPENDITURES FOR DEVELOPING AND DELIVERING EDUCATION PROGRAMS THAT ARE DESIGNED TO PREVENT OR REDUCE TOBACCO USE

INCLUDING RADIO, TELEVISION OR PRINT MEDIA COSTS. WHEN CONTRACTING FOR THE DEVELOPMENT AND PRODUCTION OF ORIGINAL ADVERTISING MATERIALS, THE DEPARTMENT SHALL REQUIRE ADVERTISING, PRODUCTION AND EDITORIAL FIRMS TO USE THEIR BEST EFFORTS TO EMPLOY OR CONTRACT WITH RESIDENTS OF THIS STATE TO MANAGE, PRODUCE AND EDIT THE ORIGINAL ADVERTISING. THE DEPARTMENT SHALL REPORT ANNUALLY BY DECEMBER 1 TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES REGARDING INSTANCES WHEN THE DEPARTMENT DID NOT EMPLOY OR CONTRACT WITH RESIDENTS OF THIS STATE, INCLUDING THE REASONS FOR FAILING TO DO SO.

(d) THE EVALUATIONS REQUIRED BY SUBSECTION F OF THIS SECTION.

D. THE DEPARTMENT OF HEALTH SERVICES SHALL USE MONIES DEPOSITED IN THE ACCOUNT PURSUANT TO SECTION 36-770 FOR THE PREVENTION AND EARLY DETECTION OF THE FOUR LEADING DISEASE RELATED CAUSES OF DEATH IN THIS STATE, AS PERIODICALLY DETERMINED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION, OR ITS SUCCESSOR AGENCY. INITIALLY, THESE ARE CANCER, HEART DISEASE, STROKE AND PULMONARY DISEASE. THE MONIES SHALL ONLY BE USED TO SUPPLEMENT MONIES THAT ARE APPROPRIATED BY THE LEGISLATURE AND SHALL NOT BE USED TO SUPPLANT THOSE APPROPRIATED MONIES.

E. MONIES FROM THE HEALTH EDUCATION ACCOUNT SHALL NOT BE SPENT FOR LOBBYING ACTIVITIES INVOLVING ELECTED OFFICIALS OR POLITICAL CAMPAIGNS FOR INDIVIDUALS OR ANY BALLOT MEASURE.

F. THE DEPARTMENT OF HEALTH SERVICES SHALL EVALUATE THE PROGRAMS ESTABLISHED PURSUANT TO SUBSECTION C, PARAGRAPH 2 OF THIS SECTION AND SHALL BIENNIALLY SUBMIT A WRITTEN REPORT OF ITS FINDINGS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. THE DEPARTMENT OF HEALTH SERVICES SHALL PROVIDE A COPY OF EACH REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE DEPARTMENT OF HEALTH SERVICES SHALL SUBMIT ITS FIRST REPORT ON OR BEFORE NOVEMBER 15, 2004. THE FIRST REPORT SHALL INCLUDE DATA BEGINNING IN FISCAL YEAR 2001-2002.

Sec. 5. Title 36, chapter 6, article 8, Arizona Revised Statutes, is amended by adding sections 36-776, 36-777 and 36-778, to read:

36-776. Emergency health services account

A. THE EMERGENCY HEALTH SERVICES ACCOUNT IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 36-770. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL ADMINISTER

THE ACCOUNT. THE ADMINISTRATION SHALL USE ACCOUNT MONIES SOLELY FOR THE REIMBURSEMENT OF UNCOMPENSATED CARE, PRIMARY CARE SERVICES AND TRAUMA CENTER READINESS COSTS.

B. MONIES IN THE ACCOUNT ARE SUBJECT TO LEGISLATIVE APPROPRIATION. ANY MONIES REMAINING UNEXPENDED AND UNENCUMBERED ON JUNE 30 OF EACH YEAR IN THE ACCOUNT REVERT TO THE PROPOSITION 204 PROTECTION ACCOUNT ESTABLISHED BY SECTION 36-778.

36-777. Health care adjustment account

A. THE HEALTH CARE ADJUSTMENT ACCOUNT IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 36-770. THE DEPARTMENT OF REVENUE SHALL ADMINISTER THE ACCOUNT.

B. THE DEPARTMENT OF REVENUE SHALL TRANSFER APPROPRIATE AMOUNTS OF ACCOUNT MONIES TO THE HEALTH EDUCATION ACCOUNT ESTABLISHED BY SECTION 36-772, THE HEALTH RESEARCH ACCOUNT ESTABLISHED BY SECTION 36-773 AND THE MEDICALLY NEEDY ACCOUNT ESTABLISHED BY SECTION 36-774 TO COMPENSATE FOR DECREASES IN THESE ACCOUNTS DUE TO LOWER TOBACCO TAX REVENUES AVAILABLE UNDER SECTION 36-771 AS A RESULT OF THE LEVY OF LUXURY TAXES THAT ARE DEDICATED TO THE TOBACCO PRODUCTS TAX FUND PURSUANT TO SECTION 42-3251.01.

C. ANY MONIES IN THE ACCOUNT IN EXCESS OF THE AMOUNT NEEDED FOR THE ADJUSTMENTS PRESCRIBED IN THIS SECTION REVERT TO THE TOBACCO PRODUCTS TAX FUND FOR DISTRIBUTION IN EQUAL AMOUNTS TO THE ACCOUNTS DESCRIBED IN SECTION 36-770, SUBSECTIONS B, C, D AND E.

36-778. Proposition 204 protection account

A. THE PROPOSITION 204 PROTECTION ACCOUNT IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 36-770. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL ADMINISTER THE ACCOUNT.

B. THE ADMINISTRATION SHALL USE ACCOUNT MONIES TO IMPLEMENT AND FUND PROGRAMS AND SERVICES REQUIRED AS A RESULT OF THE EXPANDED DEFINITION OF AN ELIGIBLE PERSON PRESCRIBED IN SECTION 36-2901.01.

C. THE ADMINISTRATION SHALL SPEND THE BALANCE OF MONIES IN THE ACCOUNT BEFORE IT SPENDS MONIES FROM THE ARIZONA TOBACCO LITIGATION SETTLEMENT FUND ESTABLISHED BY SECTION 36-2901.02.

Sec. 6. Title 42, chapter 3, article 6, Arizona Revised Statutes, is amended by adding section 42-3251.01, to read:

42-3251.01. Levy and collection of tobacco tax

A. IN ADDITION TO THE TAXES IMPOSED BY SECTION 42-3251, PARAGRAPHS 1 THROUGH 5, THERE IS LEVIED AND SHALL BE COLLECTED AN ADDITIONAL TAX OF ONE AND

ONE-HALF TIMES THE TAX PRESCRIBED IN THAT SECTION ON JANUARY 1, 2002.

B. MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE TOBACCO PRODUCTS TAX FUND ESTABLISHED BY SECTION 36-770.

Sec. 7. Section 42-3302, Arizona Revised Statutes, is amended to read:

42-3302. Levy; rates; disposition of revenues

A. In addition to all other taxes, there is levied and shall be collected by the department a tax on the purchase on an Indian reservation of cigarettes, cigars, smoking tobacco, plug tobacco, snuff and other forms of tobacco at the rates prescribed by ~~section~~ SECTIONS 42-3251 AND 42-3251.01.

B. The department shall deposit, pursuant to sections 35-146 and 35-147, monies levied and collected pursuant to subsection A of this section in the tobacco tax and health care fund established by section 36-771 AND THE TOBACCO PRODUCTS TAX FUND ESTABLISHED BY SECTION 36-770 for use as prescribed by title 36, chapter 6, article 8.

C. If an Indian tribe imposes a luxury, sales, transaction privilege or similar tax on cigarettes, cigars, smoking tobacco, plug tobacco, snuff and other forms of tobacco but at a rate that is:

1. Less than that prescribed by subsection A of this section, the tax imposed by this article shall be levied at a rate equal to the difference between the rate prescribed by subsection A of this section and the tax imposed by the Indian tribe.

2. Equal to or greater than the tax prescribed by subsection A of this section, then the rate of tax under this article is zero.

Sec. 8. Tobacco revenue use, spending and tracking commission; membership; duties

A. On or before January 1, 2004, the legislature shall establish a tobacco revenue use, spending and tracking commission.

B. The commission shall include members that have expertise in the following:

1. Public health services.
2. Tobacco cessation or tobacco addiction programs.
3. School-based tobacco education programs.
4. Marketing or public relations.
5. Research and evaluation of public health programs.

C. The commission shall advise and consult with the department of health services on the goals, objectives and activities of programs that receive monies pursuant to section 36-772, Arizona Revised Statutes.

Sec. 9. Conditional enactment; effect of other ballot measures;
intent of measure

A. This measure does not become effective if another measure presented to the voters in this election that deals with the levy and collection of an additional tax on tobacco products receives more votes than this measure.

B. It is the intent of this measure to prescribe the only levy and collection of an additional tax on tobacco products in this election.

Sec. 10. Transfer of monies

Any monies in the health education account on the effective date of the repeal of section 36-772, Arizona Revised Statutes, are transferred to the health education account established by section 4 of this act.

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.

VII. 2004 BALLOT MEASURES

PROPOSITION 200**OFFICIAL TITLE****AN INITIATIVE MEASURE**

AMENDING SECTIONS 16-152, 16-166 AND 16-579, ARIZONA REVISED STATUTES; AMENDING TITLE 46, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 46-140.01; RELATING TO THE ARIZONA TAXPAYER AND CITIZEN PROTECTION ACT.

TEXT OF PROPOSED AMENDMENT

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

Section 1. Short title

This act may be cited as the "Arizona Taxpayer and Citizen Protection Act".

Sec. 2. Findings and declaration

This state finds that illegal immigration is causing economic hardship to this state and that illegal immigration is encouraged by public agencies within this state that provide public benefits without verifying immigration status. This state further finds that illegal immigrants have been given a safe haven in this state with the aid of identification cards that are issued without verifying immigration status, and that this conduct contradicts federal immigration policy, undermines the security of our borders and demeans the value of citizenship. Therefore, the people of this state declare that the public interest of this state requires all public agencies within this state to cooperate with federal immigration authorities to discourage illegal immigration.

Sec. 3. Section 16-152, Arizona Revised Statutes, is amended to read:

16-152. Registration form

A. The form used for the registration of electors shall contain:

1. The date the registrant signed the form.
2. The given name of the registrant, middle name, if any, and surname.
3. Complete address of actual place of residence, including street name and number, apartment or space number, city or town and zip code, or such description of the location of the residence that it can be readily ascertained or identified.
4. Complete mailing address, if different from residence address, including post office address, city or town, zip code or other designation used by the registrant for receiving mail.
5. Party preference.
6. Telephone number, unless unlisted.
7. State or country of birth.
8. Date of birth.
9. Occupation.
10. Indian census number (optional to registrant).
11. Father's name or mother's maiden name.
12. The last four digits of the registrant's social security number (optional to registrant).

13. A statement as to whether or not the registrant is currently registered in another state, county or precinct, and if so, the name, address, county and state of previous registration.

14. A statement that the registrant is a citizen of the United States.

15. A statement that the registrant will be eighteen years of age on or before the date of the next general election.

16. A statement that the registrant has not been convicted of treason or a felony, or if so, that the registrant's civil rights have been restored.

17. A statement that the registrant is a resident of this state and of the county in which the registrant is registering.

18. A statement that executing a false registration is a class 6 felony.

19. The signature of the registrant.

20. If the registrant is unable to sign the form, a statement that the affidavit was completed according to the registrant's direction.

21. A statement that if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.

22. A statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

23. A STATEMENT THAT THE APPLICANT SHALL SUBMIT EVIDENCE OF UNITED STATES CITIZENSHIP WITH THE APPLICATION AND THAT THE REGISTRAR SHALL REJECT THE APPLICATION IF NO EVIDENCE OF CITIZENSHIP IS ATTACHED.

B. A duplicate voter receipt shall be provided with the form that provides space for the name, street address and city of residence of the applicant, party preference and the date of signing. The voter receipt is evidence of valid registration for the purpose of casting a ballot to be verified as prescribed in section 16-584, subsection B.

C. The state voter registration form shall be printed in a form prescribed by the secretary of state.

D. The county recorder may establish procedures to verify whether a registrant has successfully petitioned the court for an injunction against harassment pursuant to section 12-1809 or an order of protection pursuant to section ~~12-1810~~ or 13-3602 and, if verified, to protect the registrant's residence address, telephone number or voting precinct number, if appropriate, from public disclosure.

Sec. 4. Section 16-166, Arizona Revised Statutes, is amended to read:

16-166. Verification of registration

A. Except for the mailing of sample ballots, a county recorder who mails an item to any elector shall send the mailing by nonforwardable first class mail marked with the statement required by the postmaster to receive an address correction notification. If the item is returned undelivered, the county recorder shall send a follow-up notice to that elector within three weeks of receipt of the returned notice. The county recorder shall send the follow-up notice to the address that appears on the general county register or to the forwarding address provided by the United States postal service. The follow-up notice shall include a registration form and the information prescribed by section 16-131, subsection C and shall state that if the elector does not complete and return a new registration form with current information to the county recorder within thirty-five days,

the name of the elector will be removed from the general register and transferred to the inactive voter list.

B. If the elector provides the county recorder with a new registration form, the county recorder shall change the general register to reflect the changes indicated on the new registration. If the elector indicates a new residence address outside that county, the county recorder shall forward the voter registration form to the county recorder of the county in which the elector's address is located. If the elector provides a new residence address that is located outside this state, the county recorder shall cancel the elector's registration.

C. The county recorder shall maintain on the inactive voter list the names of electors who have been removed from the general register pursuant to subsection A or E of this section for a period of four years or through the date of the second general election for federal office following the date of the notice from the county recorder that is sent pursuant to subsection E of this section.

D. On notice that a government agency has changed the name of any street, route number, post office box number or other address designation, the county recorder shall revise the registration records and shall send a new verification of registration notice to the electors whose records were changed.

E. The county recorder on or before May 1 of each year preceding a state primary and general election or more frequently as the recorder deems necessary may use the change of address information supplied by the postal service through its licensees to identify registrants whose addresses may have changed. If it appears from information provided by the postal service that a registrant has moved to a different residence address in the same county, the county recorder shall change the registration records to reflect the new address and shall send the registrant a notice of the change by forwardable mail and a postage prepaid preaddressed return form by which the registrant may verify or correct the registration information. If the registrant fails to return the form postmarked not later than twenty-nine days before the next election, the elector shall be removed from the general register and transferred to the inactive voter list. If the notice sent by the recorder is not returned, the registrant may be required to provide affirmation or confirmation of the registrant's address in order to vote. If the registrant does not vote in an election during the period after the date of the notice from the recorder through the date of the second general election for federal office following the date of that notice, the registrant's name shall be removed from the list of inactive voters. If the registrant has changed residence to a new county, the county recorder shall provide information on how the registrant can continue to be eligible to vote.

F. THE COUNTY RECORDER SHALL REJECT ANY APPLICATION FOR REGISTRATION THAT IS NOT ACCOMPANIED BY SATISFACTORY EVIDENCE OF UNITED STATES CITIZENSHIP. SATISFACTORY EVIDENCE OF CITIZENSHIP SHALL INCLUDE ANY OF THE FOLLOWING:

1. THE NUMBER OF THE APPLICANT'S DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE ISSUED AFTER OCTOBER 1, 1996 BY THE DEPARTMENT OF TRANSPORTATION OR THE EQUIVALENT GOVERNMENTAL AGENCY OF ANOTHER STATE WITHIN THE UNITED STATES IF THE AGENCY INDICATES ON THE APPLICANT'S DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE THAT THE PERSON HAS PROVIDED SATISFACTORY PROOF OF UNITED STATES CITIZENSHIP.

2. A LEGIBLE PHOTOCOPY OF THE APPLICANT'S BIRTH CERTIFICATE THAT VERIFIES CITIZENSHIP TO THE SATISFACTION OF THE COUNTY RECORDER.

3. A LEGIBLE PHOTOCOPY OF PERTINENT PAGES OF THE APPLICANT'S UNITED STATES PASSPORT IDENTIFYING THE APPLICANT AND THE APPLICANT'S PASSPORT NUMBER OR PRESENTATION TO THE COUNTY RECORDER OF THE APPLICANT'S UNITED STATES PASSPORT.

4. A PRESENTATION TO THE COUNTY RECORDER OF THE APPLICANT'S UNITED STATES NATURALIZATION DOCUMENTS OR THE NUMBER OF THE CERTIFICATE OF NATURALIZATION. IF ONLY THE NUMBER OF THE CERTIFICATE OF NATURALIZATION IS PROVIDED, THE APPLICANT SHALL NOT BE INCLUDED IN THE REGISTRATION ROLLS UNTIL THE NUMBER OF THE CERTIFICATE OF NATURALIZATION IS VERIFIED WITH THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE BY THE COUNTY RECORDER.

5. OTHER DOCUMENTS OR METHODS OF PROOF THAT ARE ESTABLISHED PURSUANT TO THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.

6. THE APPLICANT'S BUREAU OF INDIAN AFFAIRS CARD NUMBER, TRIBAL TREATY CARD NUMBER OR TRIBAL ENROLLMENT NUMBER.

G. NOTWITHSTANDING SUBSECTION F OF THIS SECTION, ANY PERSON WHO IS REGISTERED IN THIS STATE ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION IS DEEMED TO HAVE PROVIDED SATISFACTORY EVIDENCE OF CITIZENSHIP AND SHALL NOT BE REQUIRED TO RESUBMIT EVIDENCE OF CITIZENSHIP UNLESS THE PERSON IS CHANGING VOTER REGISTRATION FROM ONE COUNTY TO ANOTHER.

H. FOR THE PURPOSES OF THIS SECTION, PROOF OF VOTER REGISTRATION FROM ANOTHER STATE OR COUNTY IS NOT SATISFACTORY EVIDENCE OF CITIZENSHIP.

I. A PERSON WHO MODIFIES VOTER REGISTRATION RECORDS WITH A NEW RESIDENCE BALLOT SHALL NOT BE REQUIRED TO SUBMIT EVIDENCE OF CITIZENSHIP. AFTER CITIZENSHIP HAS BEEN DEMONSTRATED TO THE COUNTY RECORDER, THE PERSON IS NOT REQUIRED TO RESUBMIT SATISFACTORY EVIDENCE OF CITIZENSHIP IN THAT COUNTY.

J. AFTER A PERSON HAS SUBMITTED SATISFACTORY EVIDENCE OF CITIZENSHIP, THE COUNTY RECORDER SHALL INDICATE THIS INFORMATION IN THE PERSON'S PERMANENT VOTER FILE. AFTER TWO YEARS THE COUNTY RECORDER MAY DESTROY ALL DOCUMENTS THAT WERE SUBMITTED AS EVIDENCE OF CITIZENSHIP.

Sec. 5. Section 16-579, Arizona Revised Statutes, is amended to read:

16-579. Procedure for obtaining ballot by elector

A. Every qualified elector, before receiving his ballot, shall announce his name and place of residence in a clear, audible tone of voice to the election official in charge of the signature roster or present his name and residence in writing AND SHALL PRESENT ONE FORM OF IDENTIFICATION THAT BEARS THE NAME, ADDRESS AND PHOTOGRAPH OF THE ELECTOR OR TWO DIFFERENT FORMS OF IDENTIFICATION THAT BEAR THE NAME AND ADDRESS OF THE ELECTOR. If the name is found upon the precinct register by the election officer having charge thereof, or the qualified elector presents a certificate from the county recorder showing that he is entitled by law to vote in the precinct, the election official in charge of the signature roster shall repeat the name and the qualified elector shall be allowed within the voting area.

B. Any qualified elector who is listed as having applied for an early ballot but who states that he has not voted and will not vote an early ballot for this election or surrenders the early ballot to the precinct inspector on election day shall be allowed to vote pursuant to the procedure set forth in section 16-584.

C. Each qualified elector's name shall be numbered consecutively by the clerks, with the number upon the stub of the ballot delivered to him, and in the order of applications for ballots. The election judge having charge of the ballots shall also write his initials upon the stub and the number of the qualified elector as it appears upon the precinct register. The judge shall give the qualified elector only one ballot, and his name shall be immediately checked on the precinct register.

D. Each qualified elector shall sign his name in the signature roster prior to receiving his ballot, but an inspector or judge may sign the roster for an elector who is unable to sign because of physical disability, and in that event the name of the elector shall be written with red ink, and no attestation or other proof shall be necessary. The provisions of this subsection relating to signing the signature roster shall not apply to electors casting a ballot using early voting procedures.

E. A person offering to vote at a special district election for which no special district register has been supplied shall sign an affidavit stating his address and that he resides within the district boundaries or proposed district boundaries and swearing that he is a qualified elector and has not already voted at the election being held.

Sec. 6. Title 46, chapter 1, article 3, Arizona Revised Statutes, is amended by adding section 46-140.01, to read:

46-140.01. Verifying applicants for public benefits; violation; classification; citizen suits

A. AN AGENCY OF THIS STATE AND ALL OF ITS POLITICAL SUBDIVISIONS, INCLUDING LOCAL GOVERNMENTS, THAT ARE RESPONSIBLE FOR THE ADMINISTRATION OF STATE AND LOCAL PUBLIC BENEFITS THAT ARE NOT FEDERALLY MANDATED SHALL DO ALL OF THE FOLLOWING:

1. VERIFY THE IDENTITY OF EACH APPLICANT FOR THOSE BENEFITS AND VERIFY THAT THE APPLICANT IS ELIGIBLE FOR BENEFITS AS PRESCRIBED BY THIS SECTION.

2. PROVIDE ANY OTHER EMPLOYEE OF THIS STATE OR ANY OF ITS POLITICAL SUBDIVISIONS WITH INFORMATION TO VERIFY THE IMMIGRATION STATUS OF ANY APPLICANT FOR THOSE BENEFITS AND ASSIST THE EMPLOYEE IN OBTAINING THAT INFORMATION FROM FEDERAL IMMIGRATION AUTHORITIES.

3. REFUSE TO ACCEPT ANY IDENTIFICATION CARD ISSUED BY THE STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE, INCLUDING A DRIVER LICENSE, TO ESTABLISH IDENTITY OR DETERMINE ELIGIBILITY FOR THOSE BENEFITS UNLESS THE ISSUING AUTHORITY HAS VERIFIED THE IMMIGRATION STATUS OF THE APPLICANT.

4. REQUIRE ALL EMPLOYEES OF THE STATE AND ITS POLITICAL SUBDIVISIONS TO MAKE A WRITTEN REPORT TO FEDERAL IMMIGRATION AUTHORITIES FOR ANY VIOLATION OF FEDERAL IMMIGRATION LAW BY ANY APPLICANT FOR BENEFITS AND THAT IS DISCOVERED BY THE EMPLOYEE.

B. FAILURE TO REPORT DISCOVERED VIOLATIONS OF FEDERAL IMMIGRATION LAW BY AN EMPLOYEE IS A CLASS 2 MISDEMEANOR. IF THAT EMPLOYEE'S SUPERVISOR KNEW OF THE FAILURE TO REPORT AND FAILED TO

DIRECT THE EMPLOYEE TO MAKE THE REPORT, THE SUPERVISOR IS GUILTY OF A CLASS 2 MISDEMEANOR.

C. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER, ETHNICITY OR NATIONAL ORIGIN. ANY PERSON WHO IS A RESIDENT OF THIS STATE SHALL HAVE STANDING IN ANY COURT OF RECORD TO BRING SUIT AGAINST ANY AGENT OR AGENCY OF THIS STATE OR ITS POLITICAL SUBDIVISIONS TO REMEDY ANY VIOLATION OF ANY PROVISION OF THIS SECTION, INCLUDING AN ACTION FOR MANDAMUS. COURTS SHALL GIVE PREFERENCE TO ACTIONS BROUGHT UNDER THIS SECTION OVER OTHER CIVIL ACTIONS OR PROCEEDING PENDING IN THE COURT.

Sec. 7. 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.

VIII. 2006 BALLOT MEASURES

PROPOSITION 201**OFFICIAL TITLE****AN INITIATIVE MEASURE**

REPEALING SECTIONS 36-601.01 AND 36-601.02, AMENDING BY ADDING NEW SECTION 36-601.01 AND AMENDING SECTION 42-3251.02 ARIZONA REVISED STATUTES; RELATING TO THE SMOKE-FREE ARIZONA ACT

TEXT OF PROPOSED AMENDMENT

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

Section 1. Title

This measure shall be known as the "Smoke-Free Arizona Act."

Section 2. Findings and Declaration of Purpose

WHEREAS, an estimated 3,000 lung cancer deaths and more than 35,000 coronary heart disease deaths occur annually among adult nonsmokers in the United States as a result of exposure to secondhand smoke. CDC. Annual smoking-attributable mortality, years of potential life lost, and economic costs. (United States, 1995-1999 Morbidity and Mortality Weekly Report 2002;51(14):300-303.)

WHEREAS, secondhand smoke has been classified by the Environmental Protection Agency (EPA) as a Group A carcinogen. This classification is reserved for chemicals or compounds which have been shown to cause cancer in humans such as asbestos and benzene. (United States Environmental Protection Agency, January 1993. Respiratory Effects of Passive Smoking.)

WHEREAS, secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer. (California Environmental Protection Agency (CAL EPA), "Health effects of exposure to environmental tobacco smoke," Tobacco Control 6(4): 346-353, Winter, 1997.)

WHEREAS, numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smoke-free. Creation of smoke-free workplaces is sound economic policy and provides the maximum level of employee health and safety. (Glantz, S.A. & Smith, L. "The effect of ordinances requiring smoke-free restaurants on restaurant sales in the United States." American Journal of Public Health 87:1687-1693, 1997); Colman, R; Urbonas, C.M, "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health," GPI Atlantic, September 2001.)

THEREFORE, The people of Arizona declare that everyone has the right to breathe clean indoor air in public places and at work, and that the health of Arizonans will be improved by prohibiting smoking in enclosed public places and places of employment. It is the intent of this Proposition to protect patrons, employees and people who may be

particularly vulnerable to the health risks of breathing secondhand tobacco smoke including children, seniors and people with existing health problems.

Section 3. Sections 36-601.01 AND 36-601.02 Arizona Revised Statutes are repealed.

Section 4. Title 36, Article 6, Chapter 6 Article 1 is amended by adding a new 36-601.01 to read:

36-601.01 SMOKE-FREE ARIZONA ACT

A. DEFINITIONS. THE FOLLOWING WORDS AND PHRASES, WHENEVER USED IN THIS SECTION, SHALL BE CONSTRUED AS DEFINED IN THIS SECTION:

1. "EMPLOYEE" MEANS ANY PERSON WHO PERFORMS ANY SERVICE ON A FULL-TIME, PART-TIME OR CONTRACTED BASIS WHETHER OR NOT THE PERSON IS DENOMINATED AN EMPLOYEE, INDEPENDENT CONTRACTOR OR OTHERWISE AND WHETHER OR NOT THE PERSON IS COMPENSATED OR IS A VOLUNTEER.

2. "EMPLOYER" MEANS A PERSON, BUSINESS, PARTNERSHIP, ASSOCIATION, THE STATE OF ARIZONA AND ITS POLITICAL SUBDIVISIONS, CORPORATIONS, INCLUDING A MUNICIPAL CORPORATIONS TRUST, OR NON-PROFIT ENTITY THAT EMPLOYS THE SERVICES OF ONE OR MORE INDIVIDUAL PERSONS.

3. "ENCLOSED AREA" MEANS ALL SPACE BETWEEN A FLOOR AND CEILING THAT IS ENCLOSED ON ALL SIDES BY PERMANENT OR TEMPORARY WALLS OR WINDOWS (EXCLUSIVE OF DOORWAYS), WHICH EXTEND FROM THE FLOOR TO THE CEILING. ENCLOSED AREA INCLUDES A REASONABLE DISTANCE FROM ANY ENTRANCES, WINDOWS AND VENTILATION SYSTEMS SO THAT PERSONS ENTERING OR LEAVING THE BUILDING OR FACILITY SHALL NOT BE SUBJECTED TO BREATHING TOBACCO SMOKE AND SO THAT TOBACCO SMOKE DOES NOT ENTER THE BUILDING OR FACILITY THROUGH ENTRANCES, WINDOWS, VENTILATION SYSTEMS OR ANY OTHER MEANS.

4. "HEALTH CARE FACILITY" MEANS ANY ENCLOSED AREA UTILIZED BY ANY HEALTH CARE INSTITUTION LICENSED ACCORDING TO TITLE 36 CHAPTER 4, CHAPTER 6 ARTICLE 7, OR CHAPTER 17, OR ANY HEALTH CARE PROFESSIONAL LICENSED ACCORDING TO TITLE 32 CHAPTERS 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41, OR 42.

5. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, ENTITY, ASSOCIATION, GOVERNMENTAL SUBDIVISION OR UNIT OF A GOVERNMENTAL SUBDIVISION, OR A PUBLIC OR PRIVATE ORGANIZATION OF ANY CHARACTER.

6. "PHYSICALLY SEPARATED" MEANS ALL SPACE BETWEEN A FLOOR AND CEILING WHICH IS ENCLOSED ON ALL SIDES BY SOLID WALLS OR WINDOWS (EXCLUSIVE OF DOOR OR PASSAGEWAY) AND INDEPENDENTLY VENTILATED FROM SMOKE-FREE AREAS, SO THAT AIR WITHIN PERMITTED SMOKING AREAS DOES NOT DRIFT OR GET VENTED INTO SMOKE-FREE AREAS.

7. "PLACES OF EMPLOYMENT" MEANS AN ENCLOSED AREA UNDER THE CONTROL OF A PUBLIC OR PRIVATE EMPLOYER THAT EMPLOYEES NORMALLY FREQUENT DURING THE COURSE OF EMPLOYMENT, INCLUDING OFFICE BUILDINGS, WORK AREAS, AUDITORIUMS, EMPLOYEE LOUNGES, RESTROOMS, CONFERENCE ROOMS, MEETING ROOMS, CLASSROOMS, CAFETERIAS, HALLWAYS, STAIRS, ELEVATORS, HEALTH CARE FACILITIES, PRIVATE OFFICES AND VEHICLES OWNED AND OPERATED BY THE EMPLOYER

DURING WORKING HOURS WHEN THE VEHICLE IS OCCUPIED BY MORE THAN ONE PERSON. A PRIVATE RESIDENCE IS NOT A "PLACE OF EMPLOYMENT" UNLESS IT IS USED AS A CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY.

8. "VETERAN AND FRATERNAL CLUBS" MEANS A CLUB AS DEFINED IN A.R.S. 4-101(7)(A)(B) OR (C).

9. "PUBLIC PLACE" MEANS ANY ENCLOSED AREA TO WHICH THE PUBLIC IS INVITED OR IN WHICH THE PUBLIC IS PERMITTED, INCLUDING AIRPORTS, BANKS, BARS, COMMON AREAS OF APARTMENT BUILDINGS, CONDOMINIUMS OR OTHER MULTIFAMILY HOUSING FACILITIES, EDUCATIONAL FACILITIES, ENTERTAINMENT FACILITIES OR VENUES, HEALTH CARE FACILITIES, HOTEL AND MOTEL COMMON AREAS, LAUNDROMATS, PUBLIC TRANSPORTATION FACILITIES, RECEPTION AREAS, RESTAURANTS, RETAIL FOOD PRODUCTION AND MARKETING ESTABLISHMENTS, RETAIL SERVICE ESTABLISHMENTS, RETAIL STORES, SHOPPING MALLS, SPORTS FACILITIES, THEATERS, AND WAITING ROOMS. A PRIVATE RESIDENCE IS NOT A "PUBLIC PLACE" UNLESS IT IS USED AS A CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY.

10. "RETAIL TOBACCO STORE" MEANS A RETAIL STORE THAT DERIVES THE MAJORITY OF ITS SALES FROM TOBACCO PRODUCTS AND ACCESSORIES.

11. "SMOKING" MEANS INHALING, EXHALING, BURNING, OR CARRYING OR POSSESSING ANY LIGHTED TOBACCO PRODUCT, INCLUDING CIGARS, CIGARETTES, PIPE TOBACCO AND ANY OTHER LIGHTED TOBACCO PRODUCT.

12. "SPORTS FACILITIES" MEANS ENCLOSED AREAS OF SPORTS PAVILIONS, STADIUMS, GYMNASIUMS, HEALTH SPAS, BOXING ARENAS, SWIMMING POOLS, ROLLER AND ICE RINKS, BILLIARD HALLS, BOWLING ALLEYS, AND OTHER SIMILAR PLACES WHERE MEMBERS OF THE GENERAL PUBLIC ASSEMBLE TO ENGAGE IN PHYSICAL EXERCISE, PARTICIPATE IN ATHLETIC COMPETITION, OR WITNESS SPORTING EVENTS.

B. SMOKING IS PROHIBITED IN ALL PUBLIC PLACES AND PLACES OF EMPLOYMENT WITHIN THE STATE OF ARIZONA, EXCEPT THE FOLLOWING:

1. PRIVATE RESIDENCES, EXCEPT WHEN USED AS A LICENSED CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY.

2. HOTEL AND MOTEL ROOMS THAT ARE RENTED TO GUESTS AND ARE DESIGNATED AS SMOKING ROOMS; PROVIDED, HOWEVER, THAT NOT MORE THAN FIFTY PERCENT OF ROOMS RENTED TO GUESTS IN A HOTEL OR MOTEL ARE SO DESIGNATED.

3. RETAIL TOBACCO STORES THAT ARE PHYSICALLY SEPARATED SO THAT SMOKE FROM RETAIL TOBACCO STORES DOES NOT INFILTRATE INTO AREAS WHERE SMOKING IS PROHIBITED UNDER THE PROVISIONS OF THIS SECTION.

4. VETERANS AND FRATERNAL CLUBS WHEN THEY ARE NOT OPEN TO THE GENERAL PUBLIC.

5. SMOKING WHEN ASSOCIATED WITH A RELIGIOUS CEREMONY PRACTICED PURSUANT TO THE AMERICAN INDIAN RELIGIOUS FREEDOM ACT OF 1978.

6. OUTDOOR PATIOS SO LONG AS TOBACCO SMOKE DOES NOT ENTER AREAS WHERE SMOKING IS PROHIBITED THROUGH ENTRANCES, WINDOWS, VENTILATION SYSTEMS, OR OTHER MEANS.

7. A THEATRICAL PERFORMANCE UPON A STAGE OR IN THE COURSE OF A FILM OR TELEVISION PRODUCTION IF THE SMOKING IS PART OF THE PERFORMANCE OR PRODUCTION.

C. THE PROHIBITION ON SMOKING IN PLACES OF EMPLOYMENT SHALL BE COMMUNICATED TO ALL EXISTING EMPLOYEES BY THE EFFECTIVE DATE OF THIS SECTION AND TO ALL PROSPECTIVE EMPLOYEES UPON THEIR APPLICATION FOR EMPLOYMENT.

D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN OWNER, OPERATOR, MANAGER, OR OTHER PERSON OR ENTITY IN CONTROL OF AN ESTABLISHMENT, FACILITY, OR OUTDOOR AREA MAY DECLARE THAT ENTIRE ESTABLISHMENT, FACILITY, OR OUTDOOR AREA AS A NONSMOKING PLACE.

E. POSTING OF SIGNS AND ASHTRAY REMOVAL.

1. "NO SMOKING" SIGNS OR THE INTERNATIONAL "NO SMOKING" SYMBOL (CONSISTING OF A PICTORIAL REPRESENTATION OF A BURNING CIGARETTE ENCLOSED IN A RED CIRCLE WITH A RED BAR ACROSS IT) SHALL BE CLEARLY AND CONSPICUOUSLY POSTED BY THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON IN CONTROL OF THAT PLACE IDENTIFYING WHERE SMOKING IS PROHIBITED BY THIS SECTION AND WHERE COMPLAINTS REGARDING VIOLATIONS MAY BE REGISTERED.

2. EVERY PUBLIC PLACE AND PLACE OF EMPLOYMENT WHERE SMOKING IS PROHIBITED BY THIS SECTION SHALL HAVE POSTED AT EVERY ENTRANCE A CONSPICUOUS SIGN CLEARLY STATING THAT SMOKING IS PROHIBITED.

3. ALL ASHTRAYS SHALL BE REMOVED FROM ANY AREA WHERE SMOKING IS PROHIBITED BY THIS SECTION BY THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON HAVING CONTROL OF THE AREA.

F. NO EMPLOYER MAY DISCHARGE OR RETALIATE AGAINST AN EMPLOYEE BECAUSE THAT EMPLOYEE EXERCISES ANY RIGHTS AFFORDED BY THIS SECTION OR REPORTS OR ATTEMPTS TO PROSECUTE A VIOLATION OF THIS SECTION.

G. THE LAW SHALL BE IMPLEMENTED AND ENFORCED BY THE DEPARTMENT OF HEALTH SERVICES AS FOLLOWS:

1. THE DEPARTMENT SHALL DESIGN AND IMPLEMENT A PROGRAM, INCLUDING THE ESTABLISHMENT OF AN INTERNET WEBSITE, TO EDUCATE THE PUBLIC REGARDING THE PROVISIONS OF THIS LAW.

2. THE DEPARTMENT SHALL INFORM PERSONS WHO OWN, MANAGE, OPERATE OR OTHERWISE CONTROL A PUBLIC PLACE OR PLACE OF EMPLOYMENT OF THE REQUIREMENTS OF THIS LAW AND HOW TO COMPLY WITH ITS PROVISIONS INCLUDING MAKING INFORMATION AVAILABLE AND PROVIDING A TOLL-FREE TELEPHONE NUMBER AND E-MAIL ADDRESS TO BE USED EXCLUSIVELY FOR THIS PURPOSE.

3. ANY MEMBER OF THE PUBLIC MAY REPORT A VIOLATION OF THIS LAW TO THE DEPARTMENT. THE DEPARTMENT SHALL ACCEPT ORAL AND WRITTEN REPORTS OF VIOLATION AND ESTABLISH AN E-MAIL ADDRESS(ES) AND TOLL-FREE TELEPHONE NUMBER(S) TO BE USED EXCLUSIVELY FOR THE PURPOSE OF REPORTING VIOLATIONS. A PERSON SHALL NOT BE REQUIRED TO DISCLOSE THE PERSON'S IDENTITY WHEN REPORTING A VIOLATION.

4. IF THE DEPARTMENT HAS REASON TO BELIEVE A VIOLATION OF THIS LAW EXISTS, THE DEPARTMENT MAY ENTER UPON AND INTO ANY PUBLIC PLACE OR PLACE OF EMPLOYMENT FOR PURPOSES OF DETERMINING

COMPLIANCE WITH THIS LAW. HOWEVER, THE DEPARTMENT MAY INSPECT PUBLIC PLACES WHERE FOOD OR ALCOHOL IS SERVED AT ANY TIME TO DETERMINE COMPLIANCE WITH THIS LAW.

5. IF THE DEPARTMENT DETERMINES THAT A VIOLATION OF THIS LAW EXISTS AT A PUBLIC PLACE OR PLACE OF EMPLOYMENT, THE DEPARTMENT SHALL ISSUE A NOTICE OF VIOLATION TO THE PERSON WHO OWNS, MANAGES, OPERATES OR OTHERWISE CONTROLS THE PUBLIC PLACE OR PLACE OF EMPLOYMENT. THE NOTICE SHALL INCLUDE THE NATURE OF EACH VIOLATION, DATE AND TIME EACH VIOLATION OCCURRED, AND DEPARTMENT CONTACT PERSON.

6. THE DEPARTMENT SHALL IMPOSE A CIVIL PENALTY ON THE PERSON IN AN AMOUNT OF NOT LESS THAN \$100, BUT NOT MORE THAN \$500 FOR EACH VIOLATION. IN CONSIDERING WHETHER TO IMPOSE A FINE AND THE AMOUNT OF THE FINE, THE DEPARTMENT MAY CONSIDER WHETHER THE PERSON HAS BEEN CITED PREVIOUSLY AND WHAT EFFORTS THE PERSON HAS TAKEN TO PREVENT OR CURE THE VIOLATION INCLUDING REPORTING THE VIOLATION OR TAKING ACTION UNDER SUBSECTION J. EACH DAY THAT A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION. THE DIRECTOR MAY ISSUE A NOTICE THAT INCLUDES THE PROPOSED AMOUNT OF THE CIVIL PENALTY ASSESSMENT. A PERSON MAY APPEAL THE ASSESSMENT OF A CIVIL PENALTY BY REQUESTING A HEARING. IF A PERSON REQUESTS A HEARING TO APPEAL AN ASSESSMENT, THE DIRECTOR SHALL NOT TAKE FURTHER ACTION TO ENFORCE AND COLLECT THE ASSESSMENT UNTIL THE HEARING PROCESS IS COMPLETE. THE DIRECTOR SHALL IMPOSE A CIVIL PENALTY ONLY FOR THOSE DAYS ON WHICH THE VIOLATION HAS BEEN DOCUMENTED BY THE DEPARTMENT.

7. IF A CIVIL PENALTY IMPOSED BY THIS SECTION IS NOT PAID, THE ATTORNEY GENERAL OR A COUNTY ATTORNEY SHALL FILE AN ACTION TO COLLECT THE CIVIL PENALTY IN A JUSTICE COURT OR THE SUPERIOR COURT IN THE COUNTY IN WHICH THE VIOLATION OCCURRED.

8. THE DEPARTMENT MAY APPLY FOR INJUNCTIVE RELIEF TO ENFORCE THESE PROVISIONS IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE VIOLATION OCCURRED. THE COURT MAY IMPOSE APPROPRIATE INJUNCTIVE RELIEF AND IMPOSE A PENALTY OF NOT LESS THAN \$100 BUT NOT MORE THAN \$500 FOR EACH VIOLATION. EACH DAY THAT A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION. IF THE SUPERIOR COURT FINDS THE VIOLATIONS ARE WILLFUL OR EVIDENCE A PATTERN OF NONCOMPLIANCE, THE COURT MAY IMPOSE A FINE UP TO \$5000 PER VIOLATION.

9. THE DEPARTMENT MAY CONTRACT WITH A THIRD PARTY TO DETERMINE COMPLIANCE WITH THIS LAW.

10. THE DEPARTMENT MAY DELEGATE TO A STATE AGENCY OR POLITICAL SUBDIVISION OF THIS STATE ANY FUNCTIONS, POWERS OR DUTIES UNDER THIS LAW.

11. THE DIRECTOR OF THE DEPARTMENT MAY PROMULGATE RULES FOR THE IMPLEMENTATION AND ENFORCEMENT OF THIS LAW. THE DEPARTMENT IS EXEMPT FROM THE RULEMAKING PROCEDURES IN A.R.S. § TITLE 41, CHAPTER 6 EXCEPT THE DEPARTMENT SHALL PUBLISH DRAFT RULES AND THEREAFTER TAKE PUBLIC INPUT INCLUDING HOLD AT LEAST TWO

PUBLIC HEARINGS PRIOR TO IMPLEMENTING THE RULES. THIS EXEMPTION EXPIRES MAY 1, 2007.

H. BEGINNING ON JUNE 1, 2008 AND EVERY OTHER JUNE 1 THEREAFTER, THE DIRECTOR OF THE ARIZONA DEPARTMENT OF HEALTH SERVICES SHALL ISSUE A REPORT ANALYZING ITS ACTIVITIES TO ENFORCE THIS LAW, INCLUDING THE ACTIVITIES OF ALL OF THE STATE AGENCIES OR POLITICAL SUBDIVISIONS TO WHOM THE DEPARTMENT HAS DELEGATED RESPONSIBILITY UNDER THIS LAW.

I. AN OWNER, MANAGER, OPERATOR OR EMPLOYEE OF PLACE REGULATED BY THIS LAW SHALL INFORM ANY PERSON WHO IS SMOKING IN VIOLATION OF THIS LAW THAT SMOKING IS ILLEGAL AND REQUEST THAT THE ILLEGAL SMOKING STOP IMMEDIATELY.

J. THIS LAW DOES NOT CREATE ANY NEW PRIVATE RIGHT OF ACTION NOR DOES IT EXTINGUISH ANY EXISTING COMMON LAW CAUSES OF ACTION.

K. A PERSON WHO SMOKES WHERE SMOKING IS PROHIBITED IS GUILTY OF A PETTY OFFENSE WITH A FINE OF NOT LESS THAN FIFTY DOLLARS AND NOT MORE THAN THREE HUNDRED DOLLARS.

L. SMOKE-FREE ARIZONA FUND

1. THE SMOKE-FREE ARIZONA FUND IS ESTABLISHED CONSISTING OF ALL REVENUES DEPOSITED IN THE FUND PURSUANT TO §42-3251.02 AND INTEREST EARNED ON THOSE MONIES. THE ARIZONA DEPARTMENT OF HEALTH SERVICES SHALL ADMINISTER THE FUND. ON NOTICE FROM THE DEPARTMENT, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY §35-313 AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

2. ALL MONEY IN THE SMOKE-FREE ARIZONA FUND SHALL BE USED TO ENFORCE THE PROVISIONS OF THIS SECTION PROVIDED HOWEVER THAT IF THERE IS MONEY REMAINING AFTER THE DEPARTMENT HAS MET ITS ENFORCEMENT OBLIGATIONS, THAT REMAINING MONEY SHALL BE DEPOSITED IN THE TOBACCO PRODUCTS TAX FUND AND USED FOR EDUCATION PROGRAMS TO REDUCE AND ELIMINATE TOBACCO USE AND FOR NO OTHER PURPOSE.

3. MONIES IN THIS FUND ARE CONTINUOUSLY APPROPRIATED, ARE NOT SUBJECT TO FURTHER APPROVAL, DO NOT REVERT TO THE GENERAL FUND AND ARE EXEMPT FROM THE PROVISIONS OF §36-190 RELATING TO THE LAPSING OF APPROPRIATIONS.

M. THIS SECTION DOES NOT PREVENT A POLITICAL SUBDIVISION OF THE STATE FROM ADOPTING ORDINANCES OR REGULATIONS THAT ARE MORE RESTRICTIVE THAN THIS SECTION NOR DOES THIS SECTION REPEAL ANY EXISTING ORDINANCE OR REGULATION THAT IS MORE RESTRICTIVE THAN THIS SECTION.

N. TRIBAL SOVEREIGNTY – THIS SECTION HAS NO APPLICATION ON INDIAN RESERVATIONS AS DEFINED IN ARS 42-3301(2).

Section 5. Title 42, Chapter 3, Article 6, Arizona Revised Statutes is amended by adding section 42-3251.02 to read:

42-3251.02. LEVY AND COLLECTION OF TOBACCO TAX FOR SMOKE-FREE ARIZONA FUND.

A. IN ADDITION TO THE TAXES IMPOSED BY 42-3251(1), THERE IS LEVIED AND SHALL BE COLLECTED AN ADDITIONAL TAX OF ONE TENTH OF ONE CENT ON EACH CIGARETTE.

B. MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO §§ 35-146 AND 35-147, IN THE SMOKE-FREE ARIZONA FUND ESTABLISHED BY §36-601.01.

Section 6.

1. If any provision, clause, sentence, or paragraph of this Act or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

2. §36-601.01(M) and §42-3251.02 becomes effective on the date of enactment. The remaining provisions of this Act become effective on May 1, 2007.

PROPOSITION 202

OFFICIAL TITLE

AN INITIATIVE MEASURE

REPEALING SECTION 23-362, AMENDING BY ADDING NEW SECTION 23-362 RELATING TO THE ARIZONA MINIMUM WAGE ACT

TEXT OF PROPOSED AMENDMENT

Section 1. This act may be cited as the "Raise the Minimum Wage for Working Arizonans Act"

Section 2. Purpose and intent

The People of the State of Arizona hereby make the following findings and declare their purpose in enacting this Act is as follows:

Article 8. Minimum Wage

The People of the State of Arizona hereby make the following findings and declare their purpose in enacting this Act is as follows:

1. All working Arizonans deserve to be paid a minimum wage that is sufficient to give them a fighting chance to provide for their families.
2. 70% of Arizona workers earning the minimum wage are adults.
3. More than 145,000 working Arizonans will benefit by increasing the minimum wage, half of whom are working women struggling to live on less than \$11,000 per year.
4. Increasing the minimum wage reduces dependency on taxpayer-funded public services

23-362. DEFINITIONS

AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

A. "EMPLOYEE" MEANS ANY PERSON WHO IS OR WAS EMPLOYED BY AN EMPLOYER BUT DOES NOT INCLUDE ANY PERSON WHO IS EMPLOYED BY A PARENT OR A SIBLING, OR WHO IS EMPLOYED PERFORMING BABYSITTING SERVICES IN THE EMPLOYER'S HOME ON A CASUAL BASIS.

B. "EMPLOYER" INCLUDES ANY CORPORATION, PROPRIETORSHIP, PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY COMPANY, TRUST, ASSOCIATION, POLITICAL SUBDIVISION OF THE STATE, INDIVIDUAL OR OTHER ENTITY ACTING DIRECTLY OR INDIRECTLY IN THE INTEREST OF AN EMPLOYER IN RELATION TO AN EMPLOYEE, BUT DOES NOT INCLUDE THE STATE OF ARIZONA, THE UNITED STATES, OR A SMALL BUSINESS.

C. "SMALL BUSINESS" MEANS ANY CORPORATION, PROPRIETORSHIP, PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY COMPANY, TRUST, OR ASSOCIATION THAT HAS LESS THAN FIVE HUNDRED THOUSAND DOLLARS IN GROSS ANNUAL REVENUE AND THAT IS EXEMPT FROM HAVING TO PAY A MINIMUM WAGE UNDER SECTION 206(A) OF TITLE 29 OF THE UNITED STATES CODE.

D. "EMPLOY" INCLUDES TO SUFFER OR PERMIT TO WORK; WHETHER A PERSON IS AN INDEPENDENT CONTRACTOR OR AN EMPLOYEE SHALL BE DETERMINED ACCORDING TO THE STANDARD OF THE FEDERAL FAIR LABOR STANDARDS ACT, BUT THE BURDEN OF PROOF SHALL BE UPON THE PARTY

FOR WHOM THE WORK IS PERFORMED TO SHOW INDEPENDENT CONTRACTOR STATUS BY CLEAR AND CONVINCING EVIDENCE.

E. "WAGE" MEANS MONETARY COMPENSATION DUE TO AN EMPLOYEE BY REASON OF EMPLOYMENT, INCLUDING AN EMPLOYEE'S COMMISSIONS, BUT NOT TIPS OR GRATUITIES.

F. "LAW ENFORCEMENT OFFICER" MEANS THE ATTORNEY GENERAL, A CITY ATTORNEY, A COUNTY ATTORNEY OR A TOWN ATTORNEY.

G. "COMMISSION" MEANS THE INDUSTRIAL COMMISSION OF ARIZONA, ANY SUCCESSOR AGENCY, OR SUCH OTHER AGENCY AS THE GOVERNOR SHALL DESIGNATE TO IMPLEMENT THIS ARTICLE.

23-363. MINIMUM WAGE

A. EMPLOYERS SHALL PAY EMPLOYEES NO LESS THAN THE MINIMUM WAGE, WHICH SHALL BE SIX DOLLARS AND SEVENTY-FIVE CENTS (\$6.75) AN HOUR BEGINNING ON JANUARY 1, 2007.

B. THE MINIMUM WAGE SHALL BE INCREASED ON JANUARY 1, 2008 AND ON JANUARY 1 OF SUCCESSIVE YEARS BY THE INCREASE IN THE COST OF LIVING. THE INCREASE IN THE COST OF LIVING SHALL BE MEASURED BY THE PERCENTAGE INCREASE AS OF AUGUST OF THE IMMEDIATELY PRECEDING YEAR OVER THE LEVEL AS OF AUGUST OF THE PREVIOUS YEAR OF THE CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, U.S. CITY AVERAGE FOR ALL ITEMS) OR ITS SUCCESSOR INDEX AS PUBLISHED BY THE U.S. DEPARTMENT OF LABOR OR ITS SUCCESSOR AGENCY, WITH THE AMOUNT OF THE MINIMUM WAGE INCREASE ROUNDED TO THE NEAREST MULTIPLE OF FIVE CENTS.

C. FOR ANY EMPLOYEE WHO CUSTOMARILY AND REGULARLY RECEIVES TIPS OR GRATUITIES FROM PATRONS OR OTHERS, THE EMPLOYER MAY PAY A WAGE UP TO \$3.00 PER HOUR LESS THAN THE MINIMUM WAGE IF THE EMPLOYER CAN ESTABLISH BY ITS RECORDS OF CHARGED TIPS OR BY THE EMPLOYEE'S DECLARATION FOR FEDERAL INSURANCE CONTRIBUTIONS ACT (FICA) PURPOSES THAT FOR EACH WEEK, WHEN ADDING TIPS RECEIVED TO WAGES PAID, THE EMPLOYEE RECEIVED NOT LESS THAN THE MINIMUM WAGE FOR ALL HOURS WORKED. COMPLIANCE WITH THIS PROVISION WILL BE DETERMINED BY AVERAGING TIPS RECEIVED BY THE EMPLOYEE OVER THE COURSE OF THE EMPLOYER'S PAYROLL PERIOD OR ANY OTHER PERIOD SELECTED BY THE EMPLOYER THAT COMPLIES WITH REGULATIONS ADOPTED BY THE COMMISSION.

23-364. ENFORCEMENT

A. THE COMMISSION IS AUTHORIZED TO ENFORCE AND IMPLEMENT THIS ARTICLE MAY PROMULGATE REGULATIONS CONSISTENT WITH THIS ARTICLE TO DO SO.

B. NO EMPLOYER OR OTHER PERSON SHALL DISCHARGE OR TAKE ANY OTHER ADVERSE ACTION AGAINST ANY PERSON IN RETALIATION FOR ASSERTING ANY CLAIM OR RIGHT UNDER THIS ARTICLE, FOR ASSISTING ANY OTHER PERSON IN DOING SO, OR FOR INFORMING ANY PERSON ABOUT THEIR RIGHTS. TAKING ADVERSE ACTION AGAINST A PERSON WITHIN NINETY DAYS OF A PERSON'S ENGAGING IN THE FOREGOING ACTIVITIES SHALL RAISE A PRESUMPTION THAT SUCH ACTION WAS RETALIATION, WHICH MAY BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE THAT SUCH ACTION WAS TAKEN FOR OTHER PERMISSIBLE REASONS.

C. ANY PERSON OR ORGANIZATION MAY FILE AN ADMINISTRATIVE COMPLAINT WITH THE COMMISSION CHARGING THAT AN EMPLOYER HAS VIOLATED THIS ARTICLE AS TO ANY EMPLOYEE OR OTHER PERSON. WHEN THE COMMISSION RECEIVES A COMPLAINT, THE COMMISSION MAY REVIEW RECORDS REGARDING ALL EMPLOYEES AT THE EMPLOYER'S WORKSITE IN ORDER TO PROTECT THE IDENTITY OF ANY EMPLOYEE IDENTIFIED IN THE COMPLAINT AND TO DETERMINE WHETHER A PATTERN OF VIOLATIONS HAS OCCURRED. THE NAME OF ANY EMPLOYEE IDENTIFIED IN A COMPLAINT TO THE COMMISSION SHALL BE KEPT CONFIDENTIAL AS LONG AS POSSIBLE. WHERE THE COMMISSION DETERMINES THAT AN EMPLOYEE'S NAME MUST BE DISCLOSED IN ORDER TO INVESTIGATE A COMPLAINT FURTHER, IT MAY SO DO ONLY WITH THE EMPLOYEE'S CONSENT.

D. EMPLOYERS SHALL POST NOTICES IN THE WORKPLACE, IN SUCH FORMAT SPECIFIED BY THE COMMISSION, NOTIFYING EMPLOYEES OF THEIR RIGHTS UNDER THIS ARTICLE. EMPLOYERS SHALL PROVIDE THEIR BUSINESS NAME, ADDRESS, AND TELEPHONE NUMBER IN WRITING TO EMPLOYEES UPON HIRE. EMPLOYERS SHALL MAINTAIN PAYROLL RECORDS SHOWING THE HOURS WORKED FOR EACH DAY WORKED, AND THE WAGES PAID TO ALL EMPLOYEES FOR A PERIOD OF FOUR YEARS. FAILURE TO DO SO SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE EMPLOYER DID NOT PAY THE REQUIRED MINIMUM WAGE RATE. THE COMMISSION MAY BY REGULATION REDUCE OR WAIVE THE RECORDKEEPING AND POSTING REQUIREMENTS HEREIN FOR ANY CATEGORIES OF SMALL EMPLOYERS WHOM IT FINDS WOULD BE UNREASONABLY BURDENED BY SUCH REQUIREMENTS. EMPLOYERS SHALL PERMIT THE COMMISSION OR A LAW ENFORCEMENT OFFICER TO INSPECT AND COPY PAYROLL OR OTHER BUSINESS RECORDS, SHALL PERMIT THEM TO INTERVIEW EMPLOYEES AWAY FROM THE WORKSITE, AND SHALL NOT HINDER ANY INVESTIGATION. SUCH INFORMATION PROVIDED SHALL KEEP CONFIDENTIAL EXCEPT AS IS REQUIRED TO PROSECUTE VIOLATIONS OF THIS ARTICLE. EMPLOYERS SHALL PERMIT AN EMPLOYEE OR HIS OR HER DESIGNATED REPRESENTATIVE TO INSPECT AND COPY PAYROLL RECORDS PERTAINING TO THAT EMPLOYEE.

E. A CIVIL ACTION TO ENFORCE THIS ARTICLE MAY BE MAINTAINED IN A COURT OF COMPETENT JURISDICTION BY A LAW ENFORCEMENT OFFICER OR BY ANY PRIVATE PARTY INJURED BY A VIOLATION OF THIS ARTICLE.

F. ANY EMPLOYER WHO VIOLATES RECORDKEEPING, POSTING, OR OTHER REQUIREMENTS THAT THE COMMISSION MAY ESTABLISH UNDER THIS ARTICLE SHALL BE SUBJECT TO A CIVIL PENALTY OF AT LEAST \$250 DOLLARS FOR A FIRST VIOLATION, AND AT LEAST \$1000 DOLLARS FOR EACH SUBSEQUENT OR WILLFUL VIOLATION AND MAY, IF THE COMMISSION OR COURT DETERMINES APPROPRIATE, BE SUBJECT TO SPECIAL MONITORING AND INSPECTIONS.

G. ANY EMPLOYER WHO FAILS TO PAY THE WAGES REQUIRED UNDER THIS ARTICLE SHALL BE REQUIRED TO PAY THE EMPLOYEE THE BALANCE OF THE WAGES OWED, INCLUDING INTEREST THEREON, AND AN ADDITIONAL AMOUNT EQUAL TO TWICE THE UNDERPAID WAGES. ANY EMPLOYER WHO RETALIATES AGAINST AN EMPLOYEE OR OTHER PERSON IN VIOLATION OF THIS ARTICLE SHALL BE REQUIRED TO PAY THE EMPLOYEE AN AMOUNT SET BY THE COMMISSION OR A COURT SUFFICIENT TO COMPENSATE THE EMPLOYEE

AND DETER FUTURE VIOLATIONS, BUT NOT LESS THAN ONE HUNDRED FIFTY DOLLARS FOR EACH DAY THAT THE VIOLATION CONTINUED OR UNTIL LEGAL JUDGMENT IS FINAL. THE COMMISSION AND THE COURTS SHALL HAVE THE AUTHORITY TO ORDER PAYMENT OF SUCH UNPAID WAGES, OTHER AMOUNTS, AND CIVIL PENALTIES AND TO ORDER ANY OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF FOR VIOLATIONS OF THIS ARTICLE. CIVIL PENALTIES SHALL BE RETAINED BY THE AGENCY THAT RECOVERED THEM AND USED TO FINANCE ACTIVITIES TO ENFORCE THIS ARTICLE. A PREVAILING PLAINTIFF SHALL BE ENTITLED TO REASONABLE ATTORNEY'S FEES AND COSTS OF SUIT.

H. A CIVIL ACTION TO ENFORCE THIS ARTICLE MAY BE COMMENCED NO LATER THAN TWO YEARS AFTER A VIOLATION LAST OCCURS, OR THREE YEARS IN THE CASE OF A WILLFUL VIOLATION, AND MAY ENCOMPASS ALL VIOLATIONS THAT OCCURRED AS PART OF A CONTINUING COURSE OF EMPLOYER CONDUCT REGARDLESS OF THEIR DATE. THE STATUTE OF LIMITATIONS SHALL BE TOLLED DURING ANY INVESTIGATION OF AN EMPLOYER BY THE COMMISSION OR OTHER LAW ENFORCEMENT OFFICER, BUT SUCH INVESTIGATION SHALL NOT BAR A PERSON FROM BRINGING A CIVIL ACTION UNDER THIS ARTICLE. NO VERBAL OR WRITTEN AGREEMENT OR EMPLOYMENT CONTRACT MAY WAIVE ANY RIGHTS UNDER THIS ARTICLE.

I. THE LEGISLATURE MAY BY STATUTE RAISE THE MINIMUM WAGE ESTABLISHED UNDER THIS ARTICLE, EXTEND COVERAGE, OR INCREASE PENALTIES. A COUNTY, CITY, OR TOWN MAY BY ORDINANCE REGULATE MINIMUM WAGES AND BENEFITS WITHIN ITS GEOGRAPHIC BOUNDARIES BUT MAY NOT PROVIDE FOR A MINIMUM WAGE LOWER THAN THAT PRESCRIBED IN THIS ARTICLE. STATE AGENCIES, COUNTIES, CITIES, TOWNS AND OTHER POLITICAL SUBDIVISIONS OF THE STATE MAY CONSIDER VIOLATIONS OF THIS ARTICLE IN DETERMINING WHETHER EMPLOYERS MAY RECEIVE OR RENEW PUBLIC CONTRACTS, FINANCIAL ASSISTANCE OR LICENSES. THIS ARTICLE SHALL BE LIBERALLY CONSTRUED IN FAVOR OF ITS PURPOSES AND SHALL NOT LIMIT THE AUTHORITY OF THE LEGISLATURE OR ANY OTHER BODY TO ADOPT ANY LAW OR POLICY THAT REQUIRES PAYMENT OF HIGHER OR SUPPLEMENTAL WAGES OR BENEFITS, OR THAT EXTENDS SUCH PROTECTIONS TO EMPLOYERS OR EMPLOYEES NOT COVERED BY THIS ARTICLE.

Section 4. Severability

If any part of this law, or the application of the law to any person or circumstance, is held invalid, the remainder of this law, including the application of such part to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the parts of this law are severable.

Section 5. Effective Date

This article shall take effect January 1, 2007.

PROPOSITION 203

OFFICIAL TITLE

AN INITIATIVE MEASURE

**ARIZONA EARLY CHILDHOOD DEVELOPMENT AND HEALTH
INITIATIVE**

PROPOSING AMENDMENTS TO TITLE 8, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 13; AMENDING TITLE 42, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 9; AND PROVIDING FOR INITIAL FUNDING AND INITIAL TERMS OF BOARD AND REGIONAL COUNCIL MEMBERS; RELATING TO FUNDING FOR EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS.

TEXT OF PROPOSED AMENDMENT

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

Section 1. Popular Title.

This measure shall be known as the "Arizona Early Childhood Development and Health Initiative."

Section 2. Title 8, Arizona Revised Statutes, is amended by adding chapter 13, to read:

**CHAPTER 13. EARLY CHILDHOOD DEVELOPMENT
AND HEALTH PROGRAMS**

ARTICLE 1. GENERAL PROVISIONS

8-1151. FINDINGS AND DECLARATIONS

A. THE PEOPLE OF ARIZONA FIND THAT:

1. EARLY LEARNING EXPERIENCES DIRECTLY IMPACT A CHILD'S LONG-TERM EDUCATIONAL SUCCESS. RESEARCH SHOWS THAT THAT THE MAJORITY OF A CHILD'S BRAIN STRUCTURE IS FORMED BEFORE AGE THREE AND THAT THE YEARS BETWEEN BIRTH AND KINDERGARTEN ARE WHEN CHILDREN DEVELOP MANY OF THEIR LANGUAGE SKILLS, THOUGHT PROCESSES, SELF-CONFIDENCE, DISCIPLINE AND VALUES.

2. HEALTH, VISION AND DENTAL SCREENINGS THAT DETECT CHILDREN'S HEALTH PROBLEMS EARLY ENABLE THEM TO RECEIVE THE CARE THEY NEED TO GROW AND THRIVE.

3. CHILDREN ENTERING SCHOOL WHO HAVE HAD HIGH-QUALITY EARLY CHILDHOOD DEVELOPMENTAL EXPERIENCES, INSIDE THE HOME OR IN OTHER SETTINGS OF THEIR PARENTS' CHOICE, ARE BETTER ABLE TO SUCCEED ACADEMICALLY AND HAVE GREATER OPPORTUNITIES.

4. ALL ARIZONANS BENEFIT FROM PROVIDING EARLY CHILDHOOD DEVELOPMENT OPPORTUNITIES FOR OUR CHILDREN. FOR CHILDREN, SUCH EFFORTS GIVE THEM A HEALTHY START AND AN OPPORTUNITY TO SUCCEED. FOR PARENTS, THE AVAILABILITY AND AFFORDABILITY OF QUALITY EARLY CHILDHOOD DEVELOPMENT PROGRAMS HELPS THEM RETAIN JOBS AND EARN HIGHER INCOMES. FOR TAXPAYERS, EARLY DEVELOPMENT PROGRAMS SAVE

TAX DOLLARS BY LOWERING DROP-OUT RATES, REDUCING CRIME AND CUTTING THE COST OF SOCIAL SERVICES.

5. ALL ARIZONA CHILDREN SHOULD BEGIN SCHOOL WITH THE SKILLS THEY NEED FOR LONG-TERM EDUCATIONAL AND PERSONAL SUCCESS.

6. FOR THESE REASONS, THE PEOPLE OF ARIZONA FIND THAT PROVIDING DEDICATED FUNDING TO IMPROVE THE QUALITY, ACCESSIBILITY AND AFFORDABILITY OF EARLY CHILDHOOD DEVELOPMENT OPPORTUNITIES IN THE SETTING OF THE PARENTS' CHOICE SHOULD BE ONE OF THE STATE'S TOP PRIORITIES.

B. THE PEOPLE OF ARIZONA THEREFORE DECLARE OUR INTENT TO PROVIDE THE NECESSARY COORDINATION AND FUNDING FOR EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS IN ARIZONA THAT WILL:

1. WORK WITH PARENTS, COMMUNITY LEADERS, LOCAL GOVERNMENTS, PUBLIC AND PRIVATE ENTITIES AND FAITH-BASED GROUPS TO IMPROVE THE QUALITY OF AND INCREASE ACCESS TO EARLY CHILDHOOD DEVELOPMENT PROGRAMS IN COMMUNITIES THROUGHOUT THE STATE.

2. INCREASE ACCESS TO PREVENTIVE HEALTH PROGRAMS AND HEALTH SCREENINGS.

3. OFFER PARENTS AND FAMILIES SUPPORT AND EDUCATION ABOUT EARLY CHILD DEVELOPMENT AND LITERACY.

4. RECOGNIZE THE DIVERSITY OF ARIZONA COMMUNITIES AND GIVE THEM A VOICE IN IDENTIFYING PROGRAMS TO ADDRESS THEIR PARTICULAR NEEDS.

5. PROVIDE TRAINING AND SUPPORT TO EARLY CHILDHOOD DEVELOPMENT PROVIDERS.

6. BE SUBJECT TO ACCOUNTABILITY AND AUDIT REQUIREMENTS, INCLUDING REQUIREMENTS THAT THE SUCCESS OF THE BOARD AND REGIONAL PARTNERSHIPS, AS WELL AS THE PROGRAMS THEY UNDERTAKE AND FUND, BE MEASURED BY OUTCOMES FOR CHILDREN AND FAMILIES.

8-1152. DEFINITIONS

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOARD" MEANS THE ARIZONA EARLY CHILDHOOD DEVELOPMENT AND HEALTH BOARD ESTABLISHED BY THIS CHAPTER.

2. "EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS" MEANS PROGRAMS AND SERVICES PROVIDED TO CHILDREN PRIOR TO KINDERGARTEN AND THEIR FAMILIES FOR THE PURPOSE OF ASSISTING CHILD DEVELOPMENT BY PROVIDING EDUCATION AND OTHER SUPPORT, INCLUDING PARENT AND FAMILY SUPPORT PROGRAMS, CHILD CARE, PRESCHOOL, HEALTH SCREENINGS AND ACCESS TO PREVENTIVE HEALTH SERVICES.

ARTICLE 2. REGIONAL PARTNERSHIPS

8-1161. RESPONSIBILITIES OF REGIONAL PARTNERSHIP COUNCILS

A. EACH REGIONAL PARTNERSHIP COUNCIL SHALL IDENTIFY THE ASSETS AVAILABLE FOR EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS IN ITS REGION, INCLUDING OPPORTUNITIES FOR COORDINATION AND USE OF OTHER AVAILABLE FUNDING SOURCES.

B. BASED ON THAT INFORMATION, EACH REGIONAL PARTNERSHIP COUNCIL SHALL IDENTIFY AND PRIORITIZE THE UNMET NEED FOR EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS IN ITS REGION.

C. EACH REGIONAL PARTNERSHIP COUNCIL SHALL SUBMIT A REPORT DETAILING ASSETS, COORDINATION OPPORTUNITIES AND UNMET NEEDS TO THE BOARD BIANNUALLY. THE REGIONAL PARTNERSHIP COUNCIL'S NEEDS AND ASSETS ASSESSMENT SHALL BE FORWARDED TO THE BOARD FOR FINAL APPROVAL NO LATER THAN SEPTEMBER 1 OF EACH EVEN-NUMBERED YEAR, BEGINNING IN 2008. THE BOARD SHALL HAVE DISCRETION TO APPROVE OR REJECT A COUNCIL'S ASSESSMENT IN WHOLE OR IN PART OR TO REQUIRE REVISIONS. THE BOARD SHALL ACT ON ALL NEEDS AND ASSETS ASSESSMENTS NO LATER THAN OCTOBER 1 OF EACH EVEN-NUMBERED YEAR, BEGINNING IN 2008.

D. EACH REGIONAL PARTNERSHIP COUNCIL SHALL ANNUALLY DEVELOP A REGIONAL PLAN FOR THE EXPENDITURE, DURING THE NEXT FISCAL YEAR, OF FUNDS BUDGETED BY THE BOARD PURSUANT TO 8-1184 TO MEET THE NEEDS IDENTIFIED IN ITS REGION.

1. A REGIONAL FUNDING PLAN MAY INCLUDE PROGRAMS AND SERVICES TO BE CONDUCTED BY THE COUNCIL DIRECTLY AS WELL AS PROGRAMS AND SERVICES TO BE PROVIDED BY PRIVATE, PUBLIC, GOVERNMENTAL AND FAITH-BASED ORGANIZATIONS THROUGH FUNDING GRANTS.

2. A REGIONAL FUNDING PLAN SHALL INCLUDE AMOUNTS REQUESTED, IF ANY, TO COMPLETE THE REGIONAL NEEDS AND ASSETS ASSESSMENTS REQUIRED BY THIS SECTION. THESE NEEDS AND ASSETS ASSESSMENTS MAY BE FUNDED WITH MONIES FROM THE PROGRAM ACCOUNT ESTABLISHED PURSUANT TO SECTION 8-1181.

3. EACH REGIONAL PARTNERSHIP COUNCIL SHALL SUBMIT ITS ANNUAL REGIONAL FUNDING PLAN TO THE BOARD FOR APPROVAL NO LATER THAN JANUARY 1 OF EACH YEAR, BEGINNING IN 2009. THE BOARD SHALL HAVE DISCRETION TO APPROVE OR REJECT A COUNCIL'S PLAN IN WHOLE OR IN PART OR TO REQUIRE REVISIONS. THE BOARD SHALL ACT ON ALL REGIONAL FUNDING PLANS NO LATER THAN FEBRUARY 1 OF EACH YEAR, BEGINNING IN 2009.

E. AFTER ITS REGIONAL PLAN HAS BEEN APPROVED BY THE BOARD, EACH REGIONAL PARTNERSHIP COUNCIL SHALL CONDUCT THE APPROVED PROGRAMS DIRECTLY AND/OR MAKE THE APPROVED GRANTS PURSUANT TO SECTION 8-1173.

F. THE BOARD MAY, ON A FINDING OF GOOD CAUSE, APPROVE NEEDS AND ASSETS ASSESSMENTS AND REGIONAL FUNDING PLANS RECEIVED AFTER THE DEADLINES SET FORTH IN THIS SECTION, INCLUDING REVISED ASSESSMENTS OR PLANS RE-SUBMITTED IN RESPONSE TO BOARD ACTION REVISING OR REJECTING A SUBMITTED ASSESSMENT OR PLAN.

G. EACH REGIONAL PARTNERSHIP COUNCIL SHALL INCREASE PARENTS' AND PROVIDERS' ACCESS TO INFORMATION ABOUT EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS. METHODS FOR MEETING THIS REQUIREMENT INCLUDE:

1. PROVIDING INFORMATION ABOUT THE PROGRAMS AND SERVICES PROVIDED BY THE BOARD, THE COUNCIL AND GRANT RECIPIENTS.

2. PROVIDING INFORMATION ABOUT EXISTING FEDERAL, STATE, LOCAL AND PRIVATE SOURCES OF FUNDING AVAILABLE TO IMPROVE THE QUALITY OF AND ACCESS TO EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS.

3. PROVIDING SUPPORT AND TRAINING FOR EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROVIDERS.

4. INFORMING PROVIDERS AND PARENTS ABOUT LICENSING AND OTHER REQUIREMENTS FOR EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROVIDERS.

5. FOSTERING COOPERATION AMONG EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROVIDERS IN ORDER TO INCREASE THE NUMBER OF CHILDREN AND FAMILIES SERVED AND IMPROVE OUTCOMES FOR CHILDREN AND FAMILIES SERVED.

H. EACH REGIONAL PARTNERSHIP COUNCIL MAY SOLICIT PRIVATE FUNDS FROM INDIVIDUALS, CORPORATIONS AND FOUNDATIONS TO SUPPORT ITS EFFORTS TO IMPROVE THE QUALITY OF AND ACCESS TO EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS IN ITS REGION. THE BOARD MUST APPROVE ANY GIFTS RECEIVED IN RESPONSE TO COUNCIL SOLICITATIONS. APPROVED GIFTS SHALL BE DEPOSITED INTO THE PRIVATE GIFTS ACCOUNT OF THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND PURSUANT TO SECTION 8-1182.

8-1162. COMPOSITION OF REGIONAL PARTNERSHIP COUNCILS;
REIMBURSEMENT OF EXPENSES; IMMUNITY

A. EACH REGIONAL PARTNERSHIP COUNCIL SHALL BE MADE UP OF ELEVEN MEMBERS WHO RESIDE OR WORK IN THE REGION, INCLUDING AT LEAST:

1. ONE PARENT OF A CHILD AGED FIVE OR YOUNGER AT THE TIME OF THEIR APPOINTMENT TO THE COUNCIL.

2. ONE CHILD CARE PROVIDER.

3. ONE HEALTH SERVICES PROVIDER.

4. ONE PUBLIC SCHOOL ADMINISTRATOR. FOR THE PURPOSES OF THIS REQUIREMENT, CHARTER SCHOOLS ESTABLISHED PURSUANT TO TITLE 15 ARE CONSIDERED PUBLIC SCHOOLS.

5. ONE EARLY CHILDHOOD EDUCATOR.

6. ONE MEMBER OF THE BUSINESS COMMUNITY.

7. ONE REPRESENTATIVE OF THE FAITH COMMUNITY.

8. ONE REPRESENTATIVE OF A PHILANTHROPIC ORGANIZATION.

9. IF AN INDIAN TRIBE IS LOCATED IN THE REGION, ONE PUBLIC OFFICIAL OR EMPLOYEE OR A TRIBAL GOVERNMENT.

B. MEMBERS OF THE REGIONAL PARTNERSHIP COUNCILS SHALL BE APPOINTED BY THE BOARD AFTER A PUBLIC APPLICATION PROCESS AND WITH THE INPUT OF THE REGIONAL PARTNERSHIP COUNCIL.

C. MEMBERS OF THE REGIONAL PARTNERSHIP COUNCILS SHALL SERVE FOUR YEAR TERMS, TO BEGIN AND END JULY 1.

D. MEMBERS OF THE REGIONAL PARTNERSHIP COUNCIL WHO MISS MORE THAN THREE MEETINGS WITHOUT EXCUSE OR RESIGN THEIR MEMBERSHIP SHALL BE REPLACED BY THE BOARD AFTER A PUBLIC APPLICATION PROCESS AND WITH THE INPUT OF THE REGIONAL PARTNERSHIP COUNCIL.

E. COUNCIL MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION, THEY ARE ELIGIBLE FOR TRAVEL EXPENSES AND REIMBURSEMENT FOR SUBSISTENCE PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2. REIMBURSEMENT SHALL BE PAID FROM THE ADMINISTRATIVE COSTS ACCOUNT OF THE EARLY

CHILDHOOD DEVELOPMENT AND HEALTH FUND ESTABLISHED BY SECTION 8-1181 ON CLAIMS APPROVED BY THE EXECUTIVE DIRECTOR.

F. MEMBERS OF THE COUNCIL ARE IMMUNE FROM PERSONAL LIABILITY WITH RESPECT TO ALL ACTS DONE AND ACTIONS TAKEN IN GOOD FAITH WITHIN THE SCOPE OF THEIR AUTHORITY DURING DULY CONSTITUTED REGULAR AND SPECIAL MEETINGS WITH APPROVAL OF A MAJORITY OF THE COUNCIL.

8-1163. STAFF SUPPORT FOR REGIONAL PARTNERSHIP COUNCILS

A. THE EXECUTIVE DIRECTOR OF THE BOARD SHALL HIRE REGIONAL DIRECTORS TO PROVIDE SUPPORT TO REGIONAL PARTNERSHIP COUNCILS IN MEETING THEIR RESPONSIBILITIES.

B. WITH THE APPROVAL OF THE BOARD, THE EXECUTIVE DIRECTOR MAY ALSO HIRE ADDITIONAL REGIONAL STAFF TO SUPPORT THE REGIONAL PARTNERSHIP COUNCILS.

C. A REGIONAL DIRECTOR MAY BE RESPONSIBLE FOR MORE THAN ONE REGION AND A REGION MAY BE ASSIGNED MORE THAN ONE STAFF PERSON IN ADDITION TO ITS DIRECTOR.

8-1164. DESIGNATION OF REGIONS

A. THE BOARD SHALL DESIGNATE REGIONS COVERING THE ENTIRE STATE, EACH OF WHICH SHALL HAVE A REGIONAL PARTNERSHIP COUNCIL AS PROVIDED BY THIS ARTICLE.

B. WHEN DESIGNATING REGIONS, THE BOARD SHALL CONSIDER EXISTING REGIONAL BOUNDARIES AND ORGANIZATIONS, DISTRIBUTION OF POPULATIONS AND SERVICES AND OTHER FACTORS DEMONSTRATING RELATIONSHIP OR COHESION OF PERSONS AND ORGANIZATIONS WITHIN A REGION.

C. THE BOARD SHALL MAKE INITIAL REGIONAL DESIGNATIONS NO LATER THAN DECEMBER 1, 2007. THE BOARD MAY REDESIGNATE REGIONS IN ITS DISCRETION NO LATER THAN JANUARY 15 OF ANY EVEN-NUMBERED YEAR, BEGINNING IN 2010.

D. INDIAN TRIBES RECOGNIZED BY THE FEDERAL GOVERNMENT WITH TRIBAL LANDS LOCATED IN THE STATE OF ARIZONA MAY

1. PARTICIPATE IN THE DESIGNATED GEOGRAPHICAL REGION OR REGIONS IN WHICH THEIR TRIBAL LANDS ARE LOCATED.

2. ELECT TO HAVE ITS TRIBAL LANDS TREATED AS A SEPARATE REGION BY THE BOARD. IF A TRIBE SO ELECTS, IT SHALL INFORM THE BOARD BY MARCH 1 OF ANY EVEN-NUMBERED YEAR, BEGINNING IN 2008, THAT IT WISHES TO BE TREATED AS A SEPARATE REGION FOR THE NEXT TWO FISCAL YEARS.

ARTICLE 3. PROGRAMS TO INCREASE THE QUALITY OF AND ACCESS TO EARLY CHILDHOOD DEVELOPMENT AND HEALTH SERVICES

8-1171. REGIONAL AND STATEWIDE DIRECT AND GRANT PROGRAM REQUIREMENTS; PERMITTED OBJECTIVES

PROGRAMS UNDERTAKEN BY THE BOARD AND THE REGIONAL PARTNERSHIP COUNCILS, EITHER DIRECTLY OR THROUGH THE AWARD OF GRANTS, SHALL ACCOMPLISH ONE OR MORE OF THE FOLLOWING OBJECTIVES:

1. IMPROVING THE QUALITY OF EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS.

2. INCREASING ACCESS TO QUALITY EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS.

3. INCREASING ACCESS TO PREVENTIVE HEALTH CARE AND HEALTH SCREENINGS FOR CHILDREN THROUGH AGE FIVE.

4. OFFERING PARENT AND FAMILY SUPPORT AND EDUCATION CONCERNING EARLY CHILD DEVELOPMENT AND LITERACY.

5. PROVIDING PROFESSIONAL DEVELOPMENT AND TRAINING FOR EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROVIDERS.

6. INCREASING COORDINATION OF EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS AND PUBLIC INFORMATION ABOUT THE IMPORTANCE OF EARLY CHILDHOOD DEVELOPMENT AND HEALTH.

8-1172. PROGRAM AND GRANT PROPOSAL REQUIREMENTS

GRANT PROPOSALS SEEKING FUNDING FROM EITHER THE BOARD OR A REGIONAL PARTNERSHIP COUNCIL AND PROPOSALS FOR PROGRAMS TO BE CONDUCTED DIRECTLY BY A REGIONAL PARTNERSHIP COUNCIL MUST INCLUDE:

A. A DETAILED DESCRIPTION OF HOW THE FUNDS WILL BE USED.

B. AN EXPLANATION OF HOW THE PROGRAM WILL MEET ONE OR MORE OF THE OBJECTIVES PERMITTED BY SECTION 8.1171.

C. AN EXPLANATION OF HOW THE PROGRAM WILL MEET THE NEEDS IDENTIFIED IN THE MOST RECENT STATEWIDE OR REGIONAL NEEDS AND ASSETS ASSESSMENT PREPARED PURSUANT TO SECTION 8-1192 OR 8-1161.

D. AN EXPLANATION OF HOW THE PROGRAM HAS MADE OR WILL MAKE USE OF OTHER AVAILABLE RESOURCES, INCLUDING FEDERAL, STATE, LOCAL AND PRIVATE MONIES, TO ACHIEVE ITS OBJECTIVES.

E. A DESCRIPTION OF THE FINANCIAL CONTROLS AND ACCOUNTABILITY MEASURES THE PROGRAM WILL EMPLOY.

F. A DESCRIPTION OF HOW THE PROGRAM WILL EVALUATE ITS SUCCESS IN MEETING THE IDENTIFIED OBJECTIVES AND OBTAINING OUTCOMES FOR CHILDREN AND FAMILIES.

8-1173. PROCEDURES FOR THE AWARD OF REGIONAL GRANTS

A. UPON APPROVAL OF ITS REGIONAL FUNDING PLAN BY THE BOARD, EACH REGIONAL PARTNERSHIP COUNCIL SHALL PUBLICIZE THE GRANTS PERMITTED BY THE PLAN IN THE COMMUNITY AND ENCOURAGE THE SUBMISSION OF GRANT PROPOSALS FROM PUBLIC AND PRIVATE ENTITIES IN THE REGION FOR PROGRAMS TO ACHIEVE THE GOALS OF THE AUTHORIZED GRANTS.

B. EACH REGIONAL PARTNERSHIP COUNCIL SHALL REVIEW GRANT PROPOSALS FOR COMPLIANCE WITH THE REQUIREMENTS OF SECTION 8-1172 AND SHALL SELECT GRANTEEES TO RECOMMEND TO THE BOARD.

C. IN ADDITION TO COMPLYING WITH THE CONFLICT OF INTEREST PROVISIONS OF TITLE 38, CHAPTER 3, ARTICLE 8, NO REGIONAL PARTNERSHIP COUNCIL MEMBER SHALL VOTE ON, OR PARTICIPATE IN THE DISCUSSION OF, ANY GRANT PROPOSAL IN WHICH ANY ENTITY BY WHICH THEY ARE EMPLOYED OR ON WHOSE BOARD THEY SERVE HAS A SUBSTANTIAL INTEREST, AS DEFINED BY SECTION 38-502.

D. EACH REGIONAL PARTNERSHIP COUNCIL SHALL FORWARD TO THE BOARD ALL OF THE GRANT PROPOSALS IT HAS RECEIVED, ALONG WITH ITS RECOMMENDATIONS FOR WHICH GRANTS SHOULD BE AWARDED AND AN EXPLANATION OF HOW THOSE GRANT PROPOSALS WILL COMPLY WITH THE APPROVED REGIONAL FUNDING PLAN. REGIONAL RECOMMENDATIONS MUST

BE FORWARDED TO THE BOARD NO LATER THAN MAY 15 OF EACH YEAR, BEGINNING IN 2009.

E. THE BOARD SHALL HAVE DISCRETION TO APPROVE OR REJECT A REGIONAL PARTNERSHIP COUNCIL'S RECOMMENDATIONS, IN WHOLE OR IN PART. THE BOARD SHALL ACT ON ALL REGIONAL GRANT PROPOSALS NO LATER THAN JUNE 15 OF EACH YEAR, BEGINNING IN 2009.

F. THE BOARD MAY, ON A FINDING OF GOOD CAUSE, APPROVE THE FUNDING OF GRANT PROPOSALS RECEIVED FROM A COUNCIL AFTER THE DEADLINES SET FORTH IN THIS SECTION, INCLUDING REVISED RECOMMENDATIONS RESUBMITTED IN RESPONSE TO BOARD ACTION REVISING OR REJECTING A GRANT RECOMMENDATION.

G. IN EVALUATING DIRECT PROGRAM AND GRANT PROGRAM PROPOSALS, THE REGIONAL PARTNERSHIP COUNCIL AND BOARD MUST CONSIDER:

1. THE EXTENT TO WHICH THE PROGRAM WILL MEET NEEDS IDENTIFIED IN THE MOST REGIONAL AND/OR STATEWIDE NEEDS AND ASSETS ASSESSMENT.

2. THE EXTENT TO WHICH THE PROGRAM HAS MADE OR WILL MAKE USE OF OTHER EXISTING RESOURCES, INCLUDING FEDERAL, STATE AND PRIVATE FUNDS, TO ACHIEVE ITS OBJECTIVES.

3. THE OVERALL NEEDS OF THE REGION AND THE STATE, AS IDENTIFIED IN THE REGIONAL AND STATEWIDE NEEDS AND ASSETS ASSESSMENTS.

4. THE ADEQUACY OF THE MEANS BY WHICH THE APPLICANT PROPOSES TO EVALUATE THE SUCCESS OF THE PROGRAM.

5. THE ADEQUACY OF THE FINANCIAL CONTROLS AND ACCOUNTABILITY MEASURES PROPOSED BY THE APPLICANT.

8-1174. PROGRAM AND GRANTEE ACCOUNTABILITY

A. WITHIN 45 DAYS OF THE END OF THE PROGRAM FUNDING OR GRANT PERIOD, ALL REGIONAL PARTNERSHIP COUNCILS CONDUCTING PROGRAMS DIRECTLY AND ALL GRANT RECIPIENTS MUST PROVIDE THE FOLLOWING INFORMATION IN A FORM PRESCRIBED BY THE BOARD:

1. A DESCRIPTION OF THE USE OF FUNDS.

2. THE NUMBER OF CHILDREN AND FAMILIES SERVED BY THE PROGRAM.

3. THE PERCENTAGE OF CHILDREN AND FAMILIES SERVED BY THE PROGRAM WHOSE FAMILY INCOMES ARE NO MORE THAN 100 PERCENT OF THE FEDERAL POVERTY GUIDELINES AS DEFINED BY SECTION 46-801(9).

4. A DETAILED ACCOUNTING OF FUNDS.

5. AN ASSESSMENT OF THE SUCCESS OF THE PROGRAM IN MEETING THE IDENTIFIED OBJECTIVES AND OBTAINING OUTCOMES FOR CHILDREN USING THE MEASURES DESCRIBED IN THE PROGRAM OR GRANT APPLICATION PURSUANT TO SECTION 8-1172.

B. REGIONAL GRANT RECIPIENTS SHALL PROVIDE THE REQUIRED INFORMATION TO THE REGIONAL PARTNERSHIP COUNCIL IN THEIR REGION; THE REGIONAL PARTNERSHIP COUNCIL SHALL FORWARD THAT INFORMATION TO THE BOARD. STATE GRANT RECIPIENTS AND REGIONAL PARTNERSHIP COUNCILS CONDUCTING PROGRAMS DIRECTLY SHALL PROVIDE THE REQUIRED INFORMATION DIRECTLY TO THE BOARD.

C. THE BOARD MAY, AT ITS DISCRETION, REQUEST ADDITIONAL INFORMATION FROM REGIONAL PARTNERSHIP COUNCILS OR GRANT RECIPIENTS ABOUT THE FUNDED PROGRAMS. IN ADDITION, ALL REGIONAL PARTNERSHIP COUNCIL PROGRAM RECORDS AND GRANTEE RECORDS, INCLUDING FINANCIAL RECORDS, ARE SUBJECT TO REVIEW BY THE BOARD AT ITS DISCRETION AT ANY TIME DURING THE PERIOD THAT FUNDING IS PROVIDED AND FOR FIVE YEARS AFTER THE FUNDING OR GRANT PERIOD HAS ENDED.

D. REGIONAL PARTNERSHIP COUNCIL PROGRAMS AND GRANT RECIPIENTS ARE SUBJECT TO AN INDEPENDENT AUDIT AT THE DISCRETION OF THE BOARD AT ANY TIME DURING THE PERIOD FUNDING IS PROVIDED AND FOR FIVE YEARS AFTER THE FUNDING OR GRANT PERIOD HAS ENDED.

ARTICLE 4. FUNDING SOURCES AND ADMINISTRATION

8-1181. EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND

A. THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND IS ESTABLISHED CONSISTING OF FUNDS TRANSFERRED PURSUANT TO SUBSECTION D; FEDERAL, STATE, LOCAL AND PRIVATE FUNDS ACCEPTED BY THE BOARD PURSUANT TO 8-1182; AND ANY MONIES APPROPRIATED TO THE BOARD BY THE LEGISLATURE. THE BOARD SHALL ADMINISTER THE FUND.

B. THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND IS DIVIDED INTO THE FOLLOWING ACCOUNTS: THE PROGRAM ACCOUNT, THE ADMINISTRATIVE COSTS ACCOUNT, THE PRIVATE GIFTS ACCOUNT, THE GRANT MONIES ACCOUNT AND THE LEGISLATIVE APPROPRIATIONS ACCOUNT.

C. MONIES IN THE PROGRAM, ADMINISTRATIVE COSTS, PRIVATE GIFTS AND GRANT MONIES ACCOUNTS OF THE FUND ARE NOT SUBJECT TO LEGISLATIVE APPROPRIATION AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

D. NINETY PERCENT OF THE MONIES DEPOSITED INTO THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND PURSUANT TO SECTION 42-3373 SHALL BE DEPOSITED INTO THE PROGRAM ACCOUNT AND TEN PERCENT OF THE MONIES SHALL BE DEPOSITED INTO THE ADMINISTRATIVE COSTS ACCOUNT. ADMINISTRATIVE COSTS OF THE BOARD, INCLUDING STAFF COMPENSATION, MAY ONLY BE PAID FROM THE ADMINISTRATIVE COSTS ACCOUNT. FUNDS MAY BE TRANSFERRED BY THE BOARD FROM THE ADMINISTRATIVE COSTS ACCOUNT TO THE PROGRAM ACCOUNT, BUT FUNDS MAY NOT BE TRANSFERRED FROM THE PROGRAM ACCOUNT TO THE ADMINISTRATIVE COSTS ACCOUNT. FUNDS MAY BE TRANSFERRED BY THE BOARD FROM THE PRIVATE GIFTS ACCOUNT AND THE GRANT MONIES ACCOUNT TO THE ADMINISTRATIVE COSTS ACCOUNT TO COVER THE ADMINISTRATIVE COSTS OF PROGRAMS AND ACTIVITIES UNDERTAKEN USING GIFT OR GRANT MONIES.

E. THE BOARD MAY INVEST ANY UNEXPENDED MONIES IN THE FUND AS PROVIDED IN TITLE 35, CHAPTER 2. INTEREST AND OTHER INCOME FROM INVESTMENTS OF MONIES IN ANY ACCOUNT SHALL BE CREDITED TO THAT ACCOUNT EXCEPT AS OTHERWISE PROVIDED BY LAW.

8-1182. ACCEPTANCE OF GIFTS AND GRANTS; ACCEPTANCE OF FEDERAL, STATE AND LOCAL MONIES; USE

A. THE BOARD MAY ACCEPT AND SPEND FEDERAL, STATE AND LOCAL MONIES AND PRIVATE GRANTS, GIFTS, CONTRIBUTIONS AND DEVISES TO ASSIST IN CARRYING OUT THE PURPOSES OF THIS CHAPTER.

B. FEDERAL, STATE, OR LOCAL MONIES RECEIVED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE GRANT MONIES ACCOUNT ESTABLISHED BY SECTION 8-1181 AND SHALL BE USED IN ACCORDANCE WITH THE CONDITIONS PLACED ON THOSE MONIES BY THE GOVERNMENT MAKING THE GRANT OF FUNDS.

C. PRIVATE GRANTS, GIFTS, CONTRIBUTIONS AND DEVICES SHALL BE DEPOSITED IN THE PRIVATE GIFTS ACCOUNT ESTABLISHED BY SECTION 8-1181 AND SHALL BE USED IN ACCORDANCE WITH THE PERMISSIBLE CONDITIONS, IF ANY, PLACED ON THE USE OF THOSE MONIES BY THE GOVERNMENT DONOR.

8-1183. PROHIBITION ON SUPPLANTATION OF STATE FUNDS; ADDITIONAL LEGISLATIVE APPROPRIATIONS

PROGRAM AND GRANT FUNDS DISTRIBUTED UNDER THIS CHAPTER AND OTHER EXPENDITURES BY THE BOARD PURSUANT TO SECTION 8-1192 SHALL SUPPLEMENT, NOT SUPPLANT, OTHER STATE EXPENDITURES ON, AND FEDERAL MONIES RECEIVED FOR, EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS. THIS SECTION SHALL NOT PROHIBIT THE LEGISLATURE FROM APPROPRIATING MONEY TO BOARD PROGRAMS OR VESTING THE BOARD WITH AUTHORITY TO SPEND ADDITIONAL, LEGISLATIVELY APPROPRIATED FUNDS ON EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS.

8-1184. BUDGET AND FUNDING PROCESS

A. UPON RECEIPT AND APPROVAL OF THE REGIONAL PARTNERSHIP COUNCILS' NEEDS AND ASSETS ASSESSMENTS PURSUANT TO SECTION 8-1161, THE BOARD SHALL BEGIN ITS ANNUAL BUDGETING PROCESS.

B. BEGINNING IN 2008, ON OR BEFORE NOVEMBER 1 OF EACH YEAR THE BOARD SHALL HOLD A PUBLIC HEARING TO ADOPT A BUDGET FOR THE NEXT FISCAL YEAR THAT INCLUDES:

1. RECEIPTS DURING THE PAST FISCAL YEAR AND CURRENT FISCAL YEAR TO DATE.
2. EXPENDITURES DURING THE PAST FISCAL YEAR AND CURRENT FISCAL YEAR TO DATE.
3. ESTIMATES OF AMOUNTS NECESSARY FOR EXPENSES DURING THE NEXT FISCAL YEAR INCLUDING AMOUNTS PROPOSED FOR:
 - (A) FUNDING OF REGIONAL PLANS PURSUANT TO SECTIONS 8-1161 AND 8-1173.
 - (B) STATEWIDE GRANTS PURSUANT TO SECTION 8-1192.
 - (C) STATEWIDE AND REGIONAL PROGRAMMATIC AND EDUCATIONAL ACTIVITIES OF THE BOARD PURSUANT TO SECTIONS 8-1192 AND 8-1161.
 - (D) ADMINISTRATIVE COSTS OF THE BOARD AND THE REGIONAL PARTNERSHIP COUNCILS.
 - (E) EXPENDITURE OF FUNDS FROM FEDERAL, STATE, OR LOCAL GRANTS AND/OR PRIVATE GIFTS, IF ANY.
4. ANTICIPATED REVENUE TO THE BOARD FROM EACH SOURCE AVAILABLE FOR EXPENDITURE IN THE NEXT FISCAL YEAR.
5. A COMPLETE ASSET AND LIABILITY STATEMENT.
6. CASH ON HAND AS OF THE DATE THE BUDGET IS ADOPTED AND THE ANTICIPATED BALANCE AT THE END OF THE CURRENT FISCAL YEAR.
7. AN ITEMIZED STATEMENT OF COMMITMENTS, RESERVES AND ANTICIPATED OBLIGATIONS FOR THE NEXT FISCAL YEAR.

A. THE BOARD MAY AMEND THE BUDGET ON A FINDING OF GOOD CAUSE.

8-1185. ALLOCATION OF FUNDS

A. OF THE MONIES EXPENDED IN A FISCAL YEAR FROM THE PROGRAM ACCOUNT OF THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND ESTABLISHED BY SECTION 8-1181, NO MORE THAN TEN PERCENT MAY BE USED TO FUND STATEWIDE GRANTS OR PROGRAMS UNDERTAKEN DIRECTLY BY THE BOARD PURSUANT TO SECTION 8-1192.

B. OF THE MONIES IN THE PROGRAM ACCOUNT USED TO FUND APPROVED REGIONAL PLANS IN A FISCAL YEAR, THIRTY-FIVE PERCENT MUST BE PROVIDED TO FUND REGIONAL PLANS BASED ON THE POPULATION OF CHILDREN AGED FIVE AND YOUNGER IN THE REGION. FORTY PERCENT MUST BE PROVIDED TO FUND REGIONAL PLANS BASED ON THE POPULATION OF CHILDREN AGED FIVE AND YOUNGER IN THE REGION WHOSE FAMILY INCOME DOES NOT EXCEED ONE HUNDRED PERCENT OF THE FEDERAL POVERTY GUIDELINES AS DEFINED BY SECTION 46-801(9). THE REMAINING TWENTY-FIVE PERCENT MAY BE USED TO FUND REGIONAL PROGRAMS WITHOUT CONSIDERATION OF REGIONAL POPULATION. FOR THE PURPOSE OF THIS SECTION, THE BOARD SHALL ESTIMATE POPULATION BASED ON AVAILABLE INFORMATION AND USING A METHOD CHOSEN AT ITS DISCRETION.

8-1186. ANNUAL AUDIT

A. THE BOARD SHALL CAUSE AN ANNUAL FINANCIAL AUDIT TO BE CONDUCTED OF EACH OF THE BOARD'S FUNDS, ACCOUNTS AND SUBACCOUNTS BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT WITHIN ONE HUNDRED TWENTY DAYS AFTER THE END OF THE FISCAL YEAR.

B. THE BOARD SHALL IMMEDIATELY FILE A CERTIFIED COPY OF THE AUDIT WITH THE AUDITOR GENERAL. THE AUDITOR GENERAL MAY MAKE SUCH FURTHER AUDITS AND EXAMINATIONS AS NECESSARY AND MAY TAKE APPROPRIATE ACTION RELATING TO THE AUDIT OR EXAMINATION PURSUANT TO TITLE 41, CHAPTER 7, ARTICLE 10.1. IF THE AUDITOR GENERAL TAKES NO FURTHER ACTION WITHIN THIRTY DAYS AFTER THE AUDIT IS FILED, THE AUDIT IS CONSIDERED TO BE SUFFICIENT.

C. THE BOARD SHALL PAY NEGOTIATED AND APPROVED FEES AND COSTS OF THE CERTIFIED PUBLIC ACCOUNTANT AND AUDITOR GENERAL UNDER THIS SECTION FROM THE ADMINISTRATIVE COSTS ACCOUNT OF THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND ESTABLISHED BY SECTION 8-1181.

**ARTICLE 5. EARLY CHILDHOOD DEVELOPMENT
AND HEALTH BOARD**

8-1191. MEMBERS; APPOINTMENT; TERMS; OATH; IMMUNITY

A. THE ARIZONA EARLY CHILDHOOD DEVELOPMENT AND HEALTH BOARD CONSISTS OF NINE APPOINTED MEMBERS AND, AS NON-VOTING EX OFFICIO MEMBERS, THE SUPERINTENDENT OF PUBLIC INSTRUCTION, THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES AND THE DIRECTOR OF THE DEPARTMENT OF ECONOMIC SECURITY. THE NON-VOTING EX OFFICIO MEMBERS MAY DESIGNATE A MEMBER OF THEIR DEPARTMENTAL STAFF RESPONSIBLE FOR EARLY CHILDHOOD DEVELOPMENT AND HEALTH ISSUES TO PARTICIPATE AS THEIR REPRESENTATIVE.

B. APPOINTED MEMBERS SHALL BE APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 38-211. THE TERM OF EACH APPOINTED MEMBER IS SIX YEARS, TO BEGIN AND END ON THE THIRD MONDAY IN JANUARY.

C. APPOINTMENTS TO THE BOARD SHALL MEET THE FOLLOWING CRITERIA:

1. APPOINTED MEMBERS SHALL HAVE DEMONSTRATED INTEREST AND/OR EXPERIENCE IN EARLY CHILDHOOD DEVELOPMENT AND HEALTH.

2. THE APPOINTED MEMBERS OF THE BOARD SHALL INCLUDE RESIDENTS OF AT LEAST FOUR DIFFERENT COUNTIES.

3. NO MORE THAN FOUR APPOINTED MEMBERS OF THE BOARD MAY BE RESIDENTS OF THE SAME COUNTY.

4. NO MORE THAN FOUR APPOINTED MEMBERS OF THE BOARD MAY BE REGISTERED MEMBERS OF THE SAME POLITICAL PARTY.

5. NO APPOINTED MEMBERS OF THE BOARD MAY HAVE A SUBSTANTIAL INTEREST IN THE PROVISION OF EARLY CHILDHOOD EDUCATION SERVICES, AS THAT TERM IS DEFINED BY ARIZONA'S CONFLICT OF INTEREST LAW, SECTION 38-502.

D. EACH APPOINTED MEMBER OF THE BOAR SHALL TAKE THE OATH OF OFFICE BEFORE ENTERING UPON THE DUTIES OF THE MEMBER'S OFFICE.

E. MEMBERS OF THE BOARD ARE IMMUNE FROM PERSONAL LIABILITY WITH RESPECT TO ALL ACTS DONE AND ACTIONS TAKEN IN GOOD FAITH WITHIN THE SCOPE OF THEIR AUTHORITY DURING DULY CONSTITUTED REGULAR AND SPECIAL MEETINGS WITH APPROVAL OF A MAJORITY OF THE BOARD.

8-1192. POWERS AND DUTIES

A. THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH BOARD SHALL:

1. CONDUCT A BIENNIAL ASSESSMENT OF EXISTING EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS IN THE STATE OF ARIZONA, INCLUDING AN ANALYSIS OF ANY UNMET EARLY CHILDHOOD DEVELOPMENT AND HEALTH NEEDS OF ARIZONA CHILDREN; UTILIZATION OF AVAILABLE FEDERAL, STATE AND PRIVATE FUNDS; SUGGESTIONS FOR IMPROVED PROGRAM COORDINATION; AND OUTCOMES FOR CHILDREN AND FAMILIES. THE BOARD SHALL SUBMIT A REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ON OR BEFORE DECEMBER 15 OF EVERY ODD-NUMBERED YEAR BEGINNING IN 2007 AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE REPORT SHALL BE DISTRIBUTED IN ACCORDANCE WITH SECTION 41-4153.

2. REVIEW AND APPROVE THE BIENNIAL REGIONAL NEEDS AND ASSETS ASSESSMENTS PREPARED PURSUANT TO SECTION 8-1161.

3. ADMINISTER THE DISTRIBUTION OF FUNDS FROM THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND ESTABLISHED BY SECTION 8-1181 FOR PROGRAMS AND GRANTS IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 8-1161 AND 8-1173.

4. PREPARE AN ANNUAL REPORT DESCRIBING THE ACTIVITIES OF THE BOARD, INCLUDING A DESCRIPTION OF FUNDS DISTRIBUTED AND SPENT PURSUANT TO SECTIONS 8-1161, 8-1173 AND 8-1192 AND A DESCRIPTION OF

THE OUTCOMES FOR CHILDREN AND FAMILIES ACHIEVED BY THE BOARD, THE REGIONAL PARTNERSHIP COUNCILS, AND THE GRANT RECIPIENTS. THE BOARD SHALL SUBMIT THE REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ON OR BEFORE SEPTEMBER 15 OF EACH YEAR, BEGINNING IN 2008, AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE REPORT SHALL BE DISTRIBUTED IN ACCORDANCE WITH SECTION 41-4153.

5. SOLICIT PRIVATE FUNDS FROM INDIVIDUALS, CORPORATIONS AND FOUNDATIONS TO SUPPORT IMPROVING QUALITY OF AND ACCESS TO EARLY CHILDHOOD DEVELOPMENT AND HEALTH OPPORTUNITIES FOR ARIZONA CHILDREN. SOLICITED FUNDS SHALL BE DEPOSITED INTO THE PRIVATE GIFTS ACCOUNT OF THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND PURSUANT TO SECTION 8-1182 AND MAY BE SPENT ON STATEWIDE OR REGIONAL GRANTS OR DIRECT PROGRAMS.

6. KEEP A RECORD OF ITS OWN PROCEEDINGS.

7. ADOPT PROCEDURES FOR ITS MEETINGS AND ELECT OFFICERS.

8. COORDINATE WITH OTHER AGENCIES INVOLVED WITH EARLY CHILDHOOD DEVELOPMENT AND HEALTH ISSUES.

B. THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH BOARD MAY:

1. AUTHORIZE EXPENDITURE OF FUNDS FROM THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND ESTABLISHED BY SECTION 8-1181 FOR PROGRAMS AND SERVICES TO ENHANCE THE QUALITY OF OR ACCESS TO EARLY CHILDHOOD DEVELOPMENT AND HEALTH OPPORTUNITIES FOR ARIZONA CHILDREN. THESE FUNDS MAY BE USED TO OPERATE PROGRAMS AND SERVICES PROVIDED DIRECTLY BY THE BOARD, TO FUND STATEWIDE GRANT PROGRAMS, OR TO FUND REGIONAL OR LOCAL GRANTS TO TEST INNOVATIVE EARLY CHILDHOOD DEVELOPMENT AND HEALTH PROGRAMS.

2. AUTHORIZE EXPENDITURE OF FUNDS FROM THE GRANT MONIES AND PRIVATE GIFTS ACCOUNTS FOR PROGRAMS AND SERVICES TO ENHANCE THE QUALITY OF OR ACCESS TO EARLY CHILDHOOD DEVELOPMENT AND HEALTH OPPORTUNITIES FOR ARIZONA CHILDREN.

3. ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO CARRY OUT THIS CHAPTER.

4. CONTRACT WITH ANY PRIVATE PARTY AND ENTER INTO INTERAGENCY AND INTERGOVERNMENTAL AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3 WITH ANY PUBLIC AGENCY.

5. SUE AND BE SUED.

6. HIRE STAFF AND CONSULTANTS, INCLUDING LEGAL COUNSEL.

8-1193. PUBLIC RECORD, OPEN MEETING, AND CONFLICT OF INTEREST

LAWS

THE ARIZONA EARLY CHILDHOOD DEVELOPMENT AND HEALTH BOARD AND THE REGIONAL PARTNERSHIP COUNCILS ARE PUBLIC AGENCIES. THEY ARE THEREFORE SUBJECT TO:

1. THE OPEN MEETING LAW, TITLE 38, CHAPTER 3, ARTICLE 3.1

2. THE PUBLIC RECORDS LAW, TITLE 39, CHAPTER 1.

3. THE CONFLICT OF INTEREST LAW, TITLE 38, CHAPTER 3, ARTICLE 8.

8-1194. MEETINGS; TRAVEL EXPENSES

A. THE BOARD SHALL HOLD AT LEAST SIX REGULAR MEETINGS ANNUALLY AT TIMES IT DIRECTS. SPECIAL MEETINGS MAY BE HELD ON THE CALL OF THE PRESIDING OFFICER.

B. MEMBERS OF THE BOARD ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT ARE ELIGIBLE FOR TRAVEL EXPENSES AND REIMBURSEMENT FOR SUBSISTENCE PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2. REIMBURSEMENT SHALL BE PAID ON CLAIMS APPROVED BY THE EXECUTIVE DIRECTOR FROM THE ADMINISTRATIVE COSTS ACCOUNT OF THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND ESTABLISHED BY SECTION 8-1181.

8-1195. EXECUTIVE DIRECTOR COMPENSATION; DUTIES; REGIONAL AND BOARD STAFF; CENTRAL OFFICE; EXPENDITURE OF FUNDS

A. THE BOARD SHALL APPOINT AND SET THE COMPENSATION OF THE EXECUTIVE DIRECTOR.

B. THE EXECUTIVE DIRECTOR IS RESPONSIBLE FOR MANAGING, ADMINISTERING AND SUPERVISING THE ACTIVITIES OF THE BOARD'S STAFF, INCLUDING REGIONAL DIRECTORS AND STAFF HIRED PURSUANT TO SECTION 8-1163.

C. THE EXECUTIVE DIRECTOR SHALL APPOINT AND SET THE COMPENSATION OF:

1. REGIONAL DIRECTORS AND STAFF AS AUTHORIZED BY THE BOARD PURSUANT TO SECTION 8-1163.

2. ADDITIONAL BOARD STAFF NECESSARY TO PERFORM THE DUTIES SPECIFIED BY THIS CHAPTER.

D. THE EXECUTIVE DIRECTOR, REGIONAL DIRECTORS, REGIONAL STAFF AND OTHER BOARD STAFF ARE ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611 AND ARE PUBLIC EMPLOYEES FOR PURPOSES OF TITLE 38. THEIR COMPENSATION MAY ONLY BE PAID FROM THE ADMINISTRATIVE COSTS ACCOUNT ESTABLISHED BY SECTION 8-1181.

E. THE EXECUTIVE DIRECTOR SHALL ESTABLISH, EQUIP AND MAINTAIN A CENTRAL OFFICE AND SUCH FIELD OFFICES AS THE EXECUTIVE DIRECTOR DEEMS NECESSARY.

F. THE EXECUTIVE DIRECTOR OR HIS DESIGNEE SHALL AUTHORIZE ALL EXPENDITURES OF MONEY UNDER THIS CHAPTER, WHICH SHALL BE PAID AS OTHER CLAIMS AGAINST THIS STATE OUT OF THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH FUND ESTABLISHED BY SECTION 8-1181.

Section 3. Title 42, chapter 3, Arizona Revised Statutes, is amended by adding article 9, to read:

**ARTICLE 9. TOBACCO TAX FOR EARLY CHILDHOOD
DEVELOPMENT AND HEALTH**

42-3371. LEVY AND COLLECTION OF TAX ON CIGARETTES, CIGARS, AND
OTHER FORMS OF TOBACCO.

IN ADDITION TO ALL OTHER TAXES, THERE IS LEVIED AND SHALL BE COLLECTED BY THE DEPARTMENT IN THE MANNER PROVIDED BY THIS CHAPTER, ON ALL CIGARETTES, CIGARS, SMOKING TOBACCO, PLUG TOBACCO, SNUFF AND OTHER FORMS OF TOBACCO THE FOLLOWING TAX:

1. ON EACH CIGARETTE, FOUR CENTS.

2. ON SMOKING TOBACCO, SNUFF, FINE CUT CHEWING TOBACCO, CUT AND GRANULATED TOBACCO, SHORTS AND REFUSE OF FINE CUT CHEWING TOBACCO, AND REFUSE, SCRUBS, CLIPPINGS, CUTTINGS AND SWEEPINGS OF TOBACCO, EXCLUDING TOBACCO POWDER OR TOBACCO PRODUCTS USED EXCLUSIVELY FOR AGRICULTURAL OR HORTICULTURAL PURPOSES AND UNFIT FOR HUMAN CONSUMPTION, 9 CENTS PER OUNCE OR MAJOR FRACTION OF AN OUNCE.

3. ON ALL CAVENDISH, PLUG OR TWIST TOBACCO, 2.2 CENTS PER OUNCE OR FRACTIONAL PART OF AN OUNCE.

4. ON EACH TWENTY SMALL CIGARS OR FRACTIONAL PART WEIGHING NOT MORE THAN THREE POUNDS PER THOUSAND, 17.8 CENTS.

5. ON CIGARS OF ALL DESCRIPTIONS EXCEPT THOSE INCLUDED IN PARAGRAPH 4, MADE OF TOBACCO OR ANY TOBACCO SUBSTITUTE:

(A) IF MANUFACTURED TO RETAIL AT NOT MORE THAN FIVE CENTS EACH, 8.8 CENTS ON EACH THREE CIGARS.

(B) IF MANUFACTURED TO RETAIL AT MORE THAN FIVE CENTS EACH, 8.8 CENTS ON EACH CIGAR.

42-3372. DISPOSITION OF MONIES

NOTWITHSTANDING SECTION 42-3102, THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, MONIES LEVIED AND COLLECTED PURSUANT TO THIS ARTICLE IN THE EARLY CHILDHOOD DEVELOPMENT AND EDUCATION FUND ESTABLISHED BY SECTION 8-1181 FOR USE AS PRESCRIBED BY TITLE 8, CHAPTER 13.

Section 4. Initial activities of Board during development phase, use of funds for administrative costs, use of funds for statewide and Board Programs and grants

A. In order to provide for start-up costs of the Arizona Early Childhood Development Board, notwithstanding section 8-1181(D), Arizona Revised Statutes, as added by this initiative measure:

1. All funds deposited on or before June 30, 2007, into the early childhood development and education fund pursuant to section 42-3372, Arizona Revised Statutes, as added by this section shall be deposited into the administrative costs account established by 8-1181(B).

2. The Arizona Early Childhood Development and Health Board may transfer funds deposited in the administrative costs account pursuant to this section to the program account established by 8-1181(B).

3. The director shall thereafter make all subsequent transfers as prescribed by statute.

B. In order to permit the Arizona Early Childhood Development and Health Board to begin increasing access to and quality of early childhood development and health programs in Arizona during the time needed to set regions, appoint regional councils, assess needs and assets, and complete regional plans, notwithstanding sections 8-1184 and 8-1185, Arizona Revised Statutes, as added by this measure:

1. The Board shall conduct direct programs and/or award grants pursuant to section 8-1192, Arizona Revised Statutes, as added by this measure, for the fiscal years beginning July 1, 2007 and July 1, 2008.

2. The expenditures authorized by this section may include expenditures for the purpose of completing statewide and/or regional needs and assets assessments. These expenditures may be made from the program account established by section 8-1181.

3. The Board may, in its discretion, conduct regional programs or award regional grants pursuant to this section.

Section 5. Initial terms of members of Arizona Early Childhood Development and Health Board

A. Notwithstanding section 8-1191, Arizona Revised Statutes, as added by this initiative measure, the initial terms of members are:

1. Three terms ending the third Monday in January, 2009.
2. Three terms ending the third Monday in January, 2011.
3. Three terms ending the third Monday in January, 2013.

B. The Governor shall make all subsequent appointments as prescribed by statute.

Section 6. Initial terms of members of Regional Partnership Councils

A. Notwithstanding section 8-1162, Arizona Revised Statutes, as added by this initiative measure, the initial terms of members of each Regional Partnership Council are:

1. Five terms beginning April 1, 2008 and ending July 1, 2010.
2. Six terms beginning April 1, 2008 and ending July 1, 2012.

B. Notwithstanding section 8-1162, Arizona Revised Statutes, as added by this measure, the Arizona Early Childhood Development and Health Board may in its discretion, appoint temporary regional partnership council members to serve terms beginning on the date of appointment and ending on April 1, 2008.

C. The Arizona Early Childhood Development and Health Board shall make all subsequent appointments as prescribed by statute.

Section 7. Severability

If any provision of this initiative measure is declared invalid, such invalidity shall not affect other provisions of this initiative measure that can be given effect without the invalid provision. To this end, the provisions of this initiative measure are declared to be severable.

PROPOSITION 204**OFFICIAL TITLE****AN INITIATIVE MEASURE**

PROPOSING AMENDMENT TO TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES BY ADDING SECTION 13-2910.07; RELATING TO CRUEL AND INHUMANE CONFINEMENT OF ANIMALS.

TEXT OF PROPOSED AMENDMENT

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

Sec. 1. Title

This measure shall be known as the Humane Treatment of Farm Animals Act.

Sec. 2. Title 13, Chapter 29 is amended by adding a new section 13-2910.07 as follows:

13-2910.07. CRUEL AND INHUMANE CONFINEMENT OF A PIG DURING PREGNANCY OR OF A CALF RAISED FOR VEAL

A. NOTWITHSTANDING ANY OTHER PROVISION OF TITLE 3 OR TITLE 13, A PERSON SHALL NOT TETHER OR CONFINED ANY PIG DURING PREGNANCY OR ANY CALF RAISED FOR VEAL, ON A FARM, FOR ALL OR THE MAJORITY OF ANY DAY, IN A MANNER THAT PREVENTS SUCH ANIMAL FROM:

1. LYING DOWN AND FULLY EXTENDING HIS OR HER LIMBS; OR
2. TURNING AROUND FREELY.

B. THIS SECTION SHALL NOT APPLY TO:

1. PIGS OR CALVES DURING TRANSPORTATION.
2. PIGS OR CALVES IN RODEO EXHIBITIONS, STATE OR COUNTY FAIR EXHIBITIONS, OR OTHER SIMILAR EXHIBITIONS.
3. THE KILLING OF PIGS OR CALVES ACCORDING TO THE PROVISIONS OF CHAPTER 13, TITLE 3 AND OTHER APPLICABLE LAW AND REGULATIONS.
4. PIGS OR CALVES INVOLVED IN LAWFUL SCIENTIFIC OR AGRICULTURAL RESEARCH.

5. PIGS OR CALVES WHILE UNDERGOING AN EXAMINATION, TEST, TREATMENT OR OPERATION FOR VETERINARY PURPOSES.

6. A PIG DURING THE SEVEN DAY PERIOD PRIOR TO THE PIG'S EXPECTED DATE OF GIVING BIRTH.

C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1 MISDEMEANOR.

D. THE FOLLOWING DEFINITIONS SHALL GOVERN THIS SECTION:

1. "CALF" MEANS A CALF OF THE BOVINE SPECIES.
2. "CALF RAISED FOR VEAL" MEANS A CALF RAISED WITH THE INTENT OF SELLING, MARKETING OR DISTRIBUTING THE MEAT, ORGANS OR ANY PART OF SUCH CALF AS A FOOD PRODUCT DESCRIBED AS "VEAL."

3. "FARM" MEANS THE LAND, BUILDING, SUPPORT FACILITIES, AND OTHER EQUIPMENT THAT IS WHOLLY OR PARTIALLY USED FOR THE PRODUCTION OF ANIMALS FOR FOOD OR FIBER.

4. "PIG" MEANS ANY ANIMAL OF THE PORCINE SPECIES.

5. "TURNING AROUND FREELY" MEANS HAVING THE ABILITY TO TURN AROUND IN A COMPLETE CIRCLE WITHOUT ANY IMPEDIMENT, INCLUDING A TETHER, OR, IN THE CASE OF AN ENCLOSURE (INCLUDING WHAT IS COMMONLY DESCRIBED AS A "GESTATION CRATE" FOR PIGS AND A "VEAL CRATE" FOR CALVES) WITHOUT TOUCHING ANY SIDE OF THE ENCLOSURE.

Sec. 3. Effective Date

This initiative measure shall take effect December 31, 2012.

Sec. 4. Severability

Each section, subsection, sentence, clause, phrase or other portion of this initiative measure as adopted shall be deemed to be a separate, distinct and independent provision. If any portion thereof is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the holding shall not affect the validity or constitutionality of any other portion of this initiative measure, which can be given effect without the invalid provision. To this end, the provisions of this initiative measure are declared to be severable.

Sec. 5. No Mandatory Expenditures

Nothing in this initiative measure proposes a mandatory expenditure of state revenues for any purpose, establishes a fund for any specific purpose, or allocates funding for any specific purpose.

Sec. 6. Conditional Funding Source

Subject to Section 7 of this initiative measure, Title 13, Chapter 29 is amended by adding a new section 13-2910.08 as follows:

13-2910.08. THE HUMANE TREATMENT OF FARM ANIMALS FUND

THE "HUMANE TREATMENT OF FARM ANIMALS FUND" IS HEREBY ESTABLISHED TO BE ADMINISTERED BY THE ATTORNEY GENERAL UNDER THE CONDITIONS AND FOR THE PURPOSES PROVIDED BY THIS SECTION. UPON RECEIPT, THE ATTORNEY GENERAL SHALL DEPOSIT IN THE FUND ANY MONIES RECEIVED FOR THE STATE AS A RESULT OF ENFORCEMENT OF THE HUMANE TREATMENT OF FARM ANIMALS ACT AND ANY MONIES RECEIVED BY THE ATTORNEY GENERAL AS A MONEY DONATION TO THE FUND FROM ANY PUBLIC OR PRIVATE GROUP, SOCIETY, ASSOCIATION OR INDIVIDUAL. THE MONIES IN THE FUND SHALL BE USED ONLY FOR MANDATORY EXPENDITURES, IF ANY, REQUIRED BY THE HUMANE TREATMENT OF FARM ANIMALS ACT AND ADMINISTRATION OF THE FUND. MONIES IN THE FUND ARE NOT SUBJECT TO LEGISLATIVE APPROPRIATION. THE FUND IS EXEMPT FROM STATUTORY PROVISIONS RELATING TO LAPSING OF APPROPRIATIONS AND SHALL NOT REVERT TO THE GENERAL FUND.

Sec. 7. Conditional Enactment

Section 13-2910.08 does not become effective unless a court of competent jurisdiction holds that section 13-2910.07 proposes a mandatory expenditure of state revenues for any purpose, establishes a fund for any specific purpose, or allocates funding for any specific purpose.

PROPOSITION 207**OFFICIAL TITLE****AN INITIATIVE MEASURE**

AMENDING TITLE 12, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.1; RELATING TO THE PRIVATE PROPERTY RIGHTS PROTECTION ACT.

TEXT OF PROPOSED AMENDMENT

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

Section 1. Short title

This act may be cited as the "Private Property Rights Protection Act".

Sec. 2. Findings and declarations

A. The people of Arizona find and declare:

1. Article 2, section 17 of our State Constitution declares in no uncertain terms that private property shall not be taken for private use.
2. Our Constitution further provides that no person shall be deprived of property without due process of law.
3. Finally, our Constitution does not permit property to be taken or damaged without just compensation having first been made.
4. Notwithstanding these clear constitutional rights, the state and municipal governments of Arizona consistently encroach on the rights of private citizens to own and use their property, requiring the people of this State to seek redress in our state and federal courts which have not always adequately protected private property rights as demanded by the State and Federal Constitutions. For example:
 - (a) A recent United States Supreme Court ruling, *Kelo v. City of New London*, allowed a city to exercise its power of eminent domain to take a citizen's home for the purpose of transferring control of the land to a private commercial developer.
 - (b) The City of Mesa used eminent domain to acquire and bulldoze homes for a redevelopment project that included a hotel and water park. After the developer's financing fell through the project was abandoned and the property left vacant.
 - (c) The City of Mesa filed condemnation actions against Randy Bailey, to take his family-owned brake shop, and Patrick Dennis, to take his auto-body shop, so that local business owners could relocate and expand a hardware store and an appliance store.
 - (d) The City of Tempe instituted an eminent domain action to condemn the home of Kenneth and Mary Ann Pillow in order to transfer their property to a private developer who planned to build upscale townhomes.
 - (e) The City of Chandler filed a condemnation action against a fast food restaurant in order to replace the fast-food restaurant with upscale dining and retail uses.
 - (f) In the wake of the *Kelo* ruling, the City of Tempe recently sought to condemn property in an industrial park in order to make way for an enormous retail shopping mall.

(g) The City of Tempe told the owners of an Apache Boulevard bowling alley that the City intended to condemn their property and specifically instructed them not to make further improvements to the land. Heeding Tempe's advice, the owners made no further improvements and ultimately lost bowling league contracts and went out of business. The Arizona Court of Appeals refused the owners' request for just compensation.

(h) Courts have also allowed state and local governments to impose significant prohibitions and restrictions on the use of private property without compensating the owner for the economic loss of value to that property.

5. For home owners in designated slum or blighted areas, the compensation received when a primary residence is seized is not truly just as required by our state constitution.

6. Furthermore, even when property is taken for a valid public use, the judicial processes available to property owners to obtain just compensation are burdensome, costly and unfair.

B. Having made the above findings, the people of Arizona declare that all property rights are fundamental rights and that all people have inalienable rights including the right to acquire, possess, control and protect property. Therefore the citizens of the State of Arizona hereby adopt the Private Property Rights Protection Act to ensure that Arizona citizens do not lose their home or property or lose the value of their home or property without just compensation. Whenever state and local governments take or diminish the value of private property, it is the intent of this act that the owner will receive just compensation, either by negotiation or by an efficient and fair judicial process.

Sec. 3. Title 12, chapter 8, Arizona Revised Statutes, is amended by adding article 2.1, to read:

Article 2.1. PRIVATE PROPERTY RIGHTS PROTECTION ACT

12-1131. PROPERTY MAY BE TAKEN ONLY FOR PUBLIC USE CONSISTENT WITH THIS ARTICLE

EMINENT DOMAIN MAY BE EXERCISED ONLY IF THE USE OF EMINENT DOMAIN IS AUTHORIZED BY THIS STATE, WHETHER BY STATUTE OR OTHERWISE, AND FOR A PUBLIC USE AS DEFINED BY THIS ARTICLE.

12-1132. BURDEN OF PROOF

A. IN ALL EMINENT DOMAIN ACTIONS THE JUDICIARY SHALL COMPLY WITH THE STATE CONSTITUTION'S MANDATE THAT WHENEVER AN ATTEMPT IS MADE TO TAKE PRIVATE PROPERTY FOR A USE ALLEGED TO BE PUBLIC, THE QUESTION WHETHER THE CONTEMPLATED USE BE REALLY PUBLIC SHALL BE A JUDICIAL QUESTION, AND DETERMINED AS SUCH WITHOUT REGARD TO ANY LEGISLATIVE ASSERTION THAT THE USE IS PUBLIC.

B. IN ANY EMINENT DOMAIN ACTION FOR THE PURPOSE OF SLUM CLEARANCE AND REDEVELOPMENT, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE SHALL ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THAT EACH PARCEL IS NECESSARY TO ELIMINATE A DIRECT THREAT TO PUBLIC HEALTH OR SAFETY CAUSED BY THE PROPERTY IN ITS CURRENT CONDITION, INCLUDING THE REMOVAL OF STRUCTURES THAT ARE BEYOND REPAIR OR UNFIT FOR HUMAN HABITATION OR USE, OR TO ACQUIRE ABANDONED PROPERTY AND THAT NO REASONABLE ALTERNATIVE TO CONDEMNATION EXISTS.

12-1133. JUST COMPENSATION; SLUM CLEARANCE AND REDEVELOPMENT
 IN ANY EMINENT DOMAIN ACTION FOR THE PURPOSE OF SLUM CLEARANCE AND REDEVELOPMENT, IF PRIVATE PROPERTY CONSISTING OF AN INDIVIDUAL'S PRINCIPAL RESIDENCE IS TAKEN, THE OCCUPANTS SHALL BE PROVIDED A COMPARABLE REPLACEMENT DWELLING THAT IS DECENT, SAFE, AND SANITARY AS DEFINED IN THE STATE AND FEDERAL RELOCATION LAWS, SECTION 11-961 ET SEQ. AND 42 USC 4601 ET SEQ., AND THE REGULATIONS PROMULGATED THEREUNDER. AT THE OWNER'S ELECTION, IF MONETARY COMPENSATION IS DESIRED IN LIEU OF A REPLACEMENT DWELLING, THE AMOUNT OF JUST COMPENSATION THAT IS MADE AND DETERMINED FOR THAT TAKING SHALL NOT BE LESS THAN THE SUM OF MONEY THAT WOULD BE NECESSARY TO PURCHASE A COMPARABLE REPLACEMENT DWELLING THAT IS DECENT, SAFE, AND SANITARY AS DEFINED IN THE STATE AND FEDERAL RELOCATION LAWS AND REGULATIONS.

12-1134. DIMINUTION IN VALUE; JUST COMPENSATION

A. IF THE EXISTING RIGHTS TO USE, DIVIDE, SELL OR POSSESS PRIVATE REAL PROPERTY ARE REDUCED BY THE ENACTMENT OR APPLICABILITY OF ANY LAND USE LAW ENACTED AFTER THE DATE THE PROPERTY IS TRANSFERRED TO THE OWNER AND SUCH ACTION REDUCES THE FAIR MARKET VALUE OF THE PROPERTY THE OWNER IS ENTITLED TO JUST COMPENSATION FROM THIS STATE OR THE POLITICAL SUBDIVISION OF THIS STATE THAT ENACTED THE LAND USE LAW.

B. THIS SECTION DOES NOT APPLY TO LAND USE LAWS THAT:

1. LIMIT OR PROHIBIT A USE OR DIVISION OF REAL PROPERTY FOR THE PROTECTION OF THE PUBLIC'S HEALTH AND SAFETY, INCLUDING RULES AND REGULATIONS RELATING TO FIRE AND BUILDING CODES, HEALTH AND SANITATION, TRANSPORTATION OR TRAFFIC CONTROL, SOLID OR HAZARDOUS WASTE, AND POLLUTION CONTROL;

2. LIMIT OR PROHIBIT THE USE OR DIVISION OF REAL PROPERTY COMMONLY AND HISTORICALLY RECOGNIZED AS A PUBLIC NUISANCE UNDER COMMON LAW;

3. ARE REQUIRED BY FEDERAL LAW;

4. LIMIT OR PROHIBIT THE USE OR DIVISION OF A PROPERTY FOR THE PURPOSE OF HOUSING SEX OFFENDERS, SELLING ILLEGAL DRUGS, LIQUOR CONTROL, OR PORNOGRAPHY, OBSCENITY, NUDE OR TOPLESS DANCING, AND OTHER ADULT ORIENTED BUSINESSES IF THE LAND USE LAWS ARE CONSISTENT WITH THE CONSTITUTIONS OF THIS STATE AND THE UNITED STATES;

5. ESTABLISH LOCATIONS FOR UTILITY FACILITIES;

6. DO NOT DIRECTLY REGULATE AN OWNER'S LAND; OR

7. WERE ENACTED BEFORE THE EFFECTIVE DATE OF THIS SECTION.

C. THIS STATE OR THE POLITICAL SUBDIVISION OF THIS STATE THAT ENACTED THE LAND USE LAW HAS THE BURDEN OF DEMONSTRATING THAT THE LAND USE LAW IS EXEMPT PURSUANT TO SUBSECTION B.

D. THE OWNER SHALL NOT BE REQUIRED TO FIRST SUBMIT A LAND USE APPLICATION TO REMOVE, MODIFY, VARY OR OTHERWISE ALTER THE APPLICATION OF THE LAND USE LAW TO THE OWNER'S PROPERTY AS A PREREQUISITE TO DEMANDING OR RECEIVING JUST COMPENSATION PURSUANT TO THIS SECTION.

E. IF A LAND USE LAW CONTINUES TO APPLY TO PRIVATE REAL PROPERTY MORE THAN NINETY DAYS AFTER THE OWNER OF THE PROPERTY MAKES A WRITTEN DEMAND IN A SPECIFIC AMOUNT FOR JUST COMPENSATION TO THIS STATE OR THE POLITICAL SUBDIVISION OF THIS STATE THAT ENACTED THE LAND USE LAW, THE OWNER HAS A CAUSE OF ACTION FOR JUST COMPENSATION IN A COURT IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED, UNLESS THIS STATE OR POLITICAL SUBDIVISION OF THIS STATE AND THE OWNER REACH AN AGREEMENT ON THE AMOUNT OF JUST COMPENSATION TO BE PAID, OR UNLESS THIS STATE OR POLITICAL SUBDIVISION OF THIS STATE AMENDS, REPEALS, OR ISSUES TO THE LANDOWNER A BINDING WAIVER OF ENFORCEMENT OF THE LAND USE LAW ON THE OWNER'S SPECIFIC PARCEL.

F. ANY DEMAND FOR LANDOWNER RELIEF OR ANY WAIVER THAT IS GRANTED IN LIEU OF COMPENSATION RUNS WITH THE LAND.

G. AN ACTION FOR JUST COMPENSATION BASED ON DIMINUTION IN VALUE MUST BE MADE OR FOREVER BARRED WITHIN THREE YEARS OF THE EFFECTIVE DATE OF THE LAND USE LAW, OR OF THE FIRST DATE THE REDUCTION OF THE EXISTING RIGHTS TO USE, DIVIDE, SELL OR POSSESS PROPERTY APPLIES TO THE OWNER'S PARCEL, WHICHEVER IS LATER.

H. THE REMEDY CREATED BY THIS SECTION IS IN ADDITION TO ANY OTHER REMEDY THAT IS PROVIDED BY THE LAWS AND CONSTITUTION OF THIS STATE OR THE UNITED STATES AND IS NOT INTENDED TO MODIFY OR REPLACE ANY OTHER REMEDY.

I. NOTHING IN THIS SECTION PROHIBITS THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE FROM REACHING AN AGREEMENT WITH A PRIVATE PROPERTY OWNER TO WAIVE A CLAIM FOR DIMINUTION IN VALUE REGARDING ANY PROPOSED ACTION BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE OR ACTION REQUESTED BY THE PROPERTY OWNER.

12-1135. ATTORNEY FEES AND COSTS

A. A PROPERTY OWNER IS NOT LIABLE TO THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE FOR ATTORNEY FEES OR COSTS IN ANY EMINENT DOMAIN ACTION OR IN ANY ACTION FOR DIMINUTION IN VALUE.

B. A PROPERTY OWNER SHALL BE AWARDED REASONABLE ATTORNEY FEES, COSTS AND EXPENSES IN EVERY EMINENT DOMAIN ACTION IN WHICH THE TAKING IS FOUND TO BE NOT FOR A PUBLIC USE.

C. IN ANY EMINENT DOMAIN ACTION FOR THE PURPOSE OF SLUM CLEARANCE AND REDEVELOPMENT, A PROPERTY OWNER SHALL BE AWARDED REASONABLE ATTORNEY FEES IN EVERY CASE IN WHICH THE FINAL AMOUNT OFFERED BY THE MUNICIPALITY WAS LESS THAN THE AMOUNT ASCERTAINED BY A JURY OR THE COURT IF A JURY IS WAIVED BY THE PROPERTY OWNER.

D. A PREVAILING PLAINTIFF IN AN ACTION FOR JUST COMPENSATION THAT IS BASED ON DIMINUTION IN VALUE PURSUANT TO SECTION 12-1134 MAY BE AWARDED COSTS, EXPENSES AND REASONABLE ATTORNEY FEES.

12-1136. DEFINITIONS

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "FAIR MARKET VALUE" MEANS THE MOST LIKELY PRICE ESTIMATED IN TERMS OF MONEY WHICH THE LAND WOULD BRING IF EXPOSED FOR SALE IN THE OPEN MARKET, WITH REASONABLE TIME ALLOWED IN WHICH TO FIND

A PURCHASER, BUYING WITH KNOWLEDGE OF ALL THE USES AND PURPOSES TO WHICH IT IS ADAPTED AND FOR WHICH IT IS CAPABLE.

2. "JUST COMPENSATION" FOR PURPOSES OF AN ACTION FOR DIMINUTION IN VALUE MEANS THE SUM OF MONEY THAT IS EQUAL TO THE REDUCTION IN FAIR MARKET VALUE OF THE PROPERTY RESULTING FROM THE ENACTMENT OF THE LAND USE LAW AS OF THE DATE OF ENACTMENT OF THE LAND USE LAW.

3. "LAND USE LAW" MEANS ANY STATUTE, RULE, ORDINANCE, RESOLUTION OR LAW ENACTED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE THAT REGULATES THE USE OR DIVISION OF LAND OR ANY INTEREST IN LAND OR THAT REGULATES ACCEPTED FARMING OR FORESTRY PRACTICES.

4. "OWNER" MEANS THE HOLDER OF FEE TITLE TO THE SUBJECT REAL PROPERTY.

5. "PUBLIC USE":

(a) MEANS ANY OF THE FOLLOWING:

(i) THE POSSESSION, OCCUPATION, AND ENJOYMENT OF THE LAND BY THE GENERAL PUBLIC, OR BY PUBLIC AGENCIES;

(ii) THE USE OF LAND FOR THE CREATION OR FUNCTIONING OF UTILITIES;

(iii) THE ACQUISITION OF PROPERTY TO ELIMINATE A DIRECT THREAT TO PUBLIC HEALTH OR SAFETY CAUSED BY THE PROPERTY IN ITS CURRENT CONDITION, INCLUDING THE REMOVAL OF A STRUCTURE THAT IS BEYOND REPAIR OR UNFIT FOR HUMAN HABITATION OR USE; OR

(iv) THE ACQUISITION OF ABANDONED PROPERTY.

(b) DOES NOT INCLUDE THE PUBLIC BENEFITS OF ECONOMIC DEVELOPMENT, INCLUDING AN INCREASE IN TAX BASE, TAX REVENUES, EMPLOYMENT OR GENERAL ECONOMIC HEALTH.

6. "TAKEN" AND "TAKING" MEAN THE TRANSFER OF OWNERSHIP OR USE FROM A PRIVATE PROPERTY OWNER TO THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE OR TO ANY PERSON OTHER THAN THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

12-1137. APPLICABILITY

IF A CONFLICT BETWEEN THIS ARTICLE AND ANY OTHER LAW ARISES, THIS ARTICLE CONTROLS.

12-1138. SEVERABILITY

IF ANY PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID THAT 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.

PROPOSITION 300

OFFICIAL TITLE

SENATE CONCURRENT RESOLUTION 1031

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO PUBLIC PROGRAM ELIGIBILITY.

TEXT OF PROPOSED AMENDMENT

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Under the power of the referendum, as vested in the Legislature, the following measure, relating to public program eligibility, is enacted to become valid as a law if approved by the voters and on proclamation of the Governor:

AN ACT

AMENDING SECTIONS 15-191.01, 15-232, 15-1803, 46-801 AND 46-803, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 14, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1825; RELATING TO PUBLIC PROGRAM ELIGIBILITY.

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

Section 1. Section 15-191.01, Arizona Revised Statutes, is amended to read:

15-191.01. Family literacy program; procedures; curriculum; eligibility plan

A. The family literacy program is established in the state board of education through the division of early childhood education programs to increase the basic academic and literacy skills of eligible parents and their preschool children in accordance with this article. The state board of education shall establish family literacy projects as part of the overall program at locations where there is a high incidence of economic and educational disadvantage as determined by the state board of education in consultation with the department of economic security and, as appropriate, other state agencies.

B. The state board of education shall adopt procedures necessary to implement the family literacy program.

C. The state board of education shall establish guidelines for requiring family literacy program participants to engage in community service activities in exchange for benefits received from the program. Participants shall be allowed to choose from a variety of community and faith based service providers that are under contract with the department to provide community service opportunities or program services. Participants shall be allowed and encouraged to engage in community services within their own communities. Participants shall be allowed to fulfill the requirements of this subsection by providing community services to the program from which they received services.

D. The state board of education shall submit an annual report by December 31 to the governor, the speaker of the house of representatives and the president of the senate regarding the community service activities of family literacy program participants pursuant to subsection C, including information on the number of participants, the types of community service performed and the number of hours spent in community service activities.

E. Local education agencies and adult education programs funded by the department of education are eligible for grants if the state board of education determines that a high percentage of adults in the county, the local school district or the targeted local school service area have not graduated from high school. Selection criteria for grant awards shall include at a minimum the educational needs of the adult population, the incidence of unemployment in the county, district or local targeted school service area, the degree to which community collaboration and partnership demonstrate the ability to bring additional resources to the program and the readiness and likelihood of the proposing organizations to establish a successful family literacy project.

F. Each project team shall include representatives from each of the following:

1. One or more local school districts or the county school superintendent's office.

2. An adult education provider funded by the division of adult education or a provider that complies with the policies, academic standards, performance outcomes, assessment and data collection requirements of adult education as prescribed by the division of adult education.

3. A private or public early childhood education provider.

4. Any other social service, governmental or private agency that may provide assistance for the planning and operation of the project.

G. In addition to the grants prescribed in subsection H, the state board of education shall authorize two grants to existing literacy programs in this state that can offer training and serve as models and training resources for the establishment and expansion of other programs throughout this state. Existing literacy programs shall submit a grant application to the state board of education in the same manner as prescribed in subsection K.

H. The state board of education shall authorize additional grants through the division of early childhood education programs in areas of educational and economic need.

I. Selected projects shall use either:

1. A nationally recognized family literacy model such as models developed by the national center for family literacy or its successor.

2. A model that, in the determination of the project team and the state board of education, is superior to a nationally recognized family literacy model.

J. Eligible parents shall be instructed in adult basic education and general educational development. Preschool children shall receive instruction in developmentally appropriate early childhood programs.

Other planned, structured activities involving parents and children in learning activities may be established as a part of the curriculum.

K. Each grant application shall include a plan to address at least the following:

1. Identification and recruitment of eligible parents and children.
2. Screening and preparation of parents and children for participation in the family literacy program.
3. Instructional programs and assessment practices that promote academic and literacy skills and that equip parents to provide needed support for the educational growth and success of their children.
4. A determination that at least ten but no more than twenty parents with children will be eligible for and be enrolled in the family literacy program at all times, or that the family literacy programs shall document efforts to continually recruit eligible families.
5. Provision of child care through either private or public providers.
6. A transportation plan for participants.
7. An organizational partnership involving at a minimum a common school, a private or publicly funded preschool provider and an adult education program funded by the department of education or by an outside funding source.

L. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER, ETHNICITY OR NATIONAL ORIGIN.

M. THE STATE BOARD OF EDUCATION SHALL REPORT ON DECEMBER 31 AND JUNE 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF PARENTS WHO APPLIED TO PARTICIPATE IN A PROGRAM UNDER THIS ARTICLE AND THE TOTAL NUMBER OF PARENTS WHO WERE NOT ELIGIBLE UNDER THIS ARTICLE BECAUSE THE PARENT WAS NOT AN ELIGIBLE PARENT AS DEFINED IN SECTION 15-191, PARAGRAPH 1, SUBDIVISION (c).

Sec. 2. Section 15-232, Arizona Revised Statutes, is amended to read:

15-232. Division of adult education; duties

A. There is established a division of adult education within the department of education, under the jurisdiction of the state board for ~~vocational and technological~~ OF education, which shall:

1. Prescribe a course of study for adult education in school districts.
2. Make available and supervise the program of adult education in other institutions and agencies of this state.
3. Adopt rules for the establishment and conduct of classes for immigrant and adult education, including the teaching of English to foreigners, in school districts.
4. Devise plans for establishment and maintenance of classes for immigrant and adult education, including the teaching of English to foreigners, stimulate and correlate the Americanization work of various agencies, including governmental, and perform such other duties as may be

prescribed by the state board of education and the superintendent of public instruction.

5. Prescribe a course of study to provide training for adults to continue their basic education to the degree of passing a general equivalency diploma test or an equivalency test approved by the state board of education.

B. THE DEPARTMENT OF EDUCATION SHALL PROVIDE CLASSES UNDER THIS SECTION ONLY TO ADULTS WHO ARE CITIZENS OR LEGAL RESIDENTS OF THE UNITED STATES OR ARE OTHERWISE LAWFULLY PRESENT IN THE UNITED STATES. THIS SUBSECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER, ETHNICITY OR NATIONAL ORIGIN.

C. THE DEPARTMENT OF EDUCATION SHALL REPORT ON DECEMBER 31 AND JUNE 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF ADULTS WHO APPLIED FOR INSTRUCTION AND THE TOTAL NUMBER OF ADULTS WHO WERE DENIED INSTRUCTION UNDER THIS SECTION BECAUSE THE APPLICANT WAS NOT A CITIZEN OR LEGAL RESIDENT OF THE UNITED STATES OR WAS NOT OTHERWISE LAWFULLY PRESENT IN THE UNITED STATES.

Sec. 3. Section 15-1803, Arizona Revised Statutes, is amended to read:

15-1803. Alien in-state student status

A. An alien is entitled to classification as an in-state refugee student if such person has been granted refugee status in accordance with all applicable laws of the United States and has met all other requirements for domicile.

B. IN ACCORDANCE WITH THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 (P.L. 104-208; 110 STAT. 3009), A PERSON WHO WAS NOT A CITIZEN OR LEGAL RESIDENT OF THE UNITED STATES OR WHO IS WITHOUT LAWFUL IMMIGRATION STATUS IS NOT ENTITLED TO CLASSIFICATION AS AN IN-STATE STUDENT PURSUANT TO SECTION 15-1802 OR ENTITLED TO CLASSIFICATION AS A COUNTY RESIDENT PURSUANT TO SECTION 15-1802.01.

C. EACH COMMUNITY COLLEGE AND UNIVERSITY SHALL REPORT ON DECEMBER 31 AND JUNE 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF STUDENTS WHO WERE ENTITLED TO CLASSIFICATION AS AN IN-STATE STUDENT AND THE TOTAL NUMBER OF STUDENTS WHO WERE NOT ENTITLED TO CLASSIFICATION AS AN IN-STATE STUDENT UNDER THIS SECTION BECAUSE THE STUDENT WAS NOT A CITIZEN OR LEGAL RESIDENT OF THE UNITED STATES OR IS WITHOUT LAWFUL IMMIGRATION STATUS.

Sec. 4. Title 15, chapter 14, article 2, Arizona Revised Statutes, is amended by adding section 15-1825, to read:

15-1825. Prohibited financial assistance; report

A. A PERSON WHO IS NOT A CITIZEN OF THE UNITED STATES, WHO IS WITHOUT LAWFUL IMMIGRATION STATUS AND WHO IS

ENROLLED AS A STUDENT AT ANY UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS OR AT ANY COMMUNITY COLLEGE UNDER THE JURISDICTION OF A COMMUNITY COLLEGE DISTRICT IN THIS STATE IS NOT ENTITLED TO TUITION WAIVERS, FEE WAIVERS, GRANTS, SCHOLARSHIP ASSISTANCE, FINANCIAL AID, TUITION ASSISTANCE OR ANY OTHER TYPE OF FINANCIAL ASSISTANCE THAT IS SUBSIDIZED OR PAID IN WHOLE OR IN PART WITH STATE MONIES.

B. EACH COMMUNITY COLLEGE AND UNIVERSITY SHALL REPORT ON DECEMBER 31 AND JUNE 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF STUDENTS WHO APPLIED AND THE TOTAL NUMBER OF STUDENTS WHO WERE NOT ENTITLED TO TUITION WAIVERS, FEE WAIVERS, GRANTS, SCHOLARSHIP ASSISTANCE, FINANCIAL AID, TUITION ASSISTANCE OR ANY OTHER TYPE OF FINANCIAL ASSISTANCE THAT IS SUBSIDIZED OR PAID IN WHOLE OR IN PART WITH STATE MONIES UNDER THIS SECTION BECAUSE THE STUDENT WAS NOT A CITIZEN OR LEGAL RESIDENT OF THE UNITED STATES OR NOT LAWFULLY PRESENT IN THE UNITED STATES.

C. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER, ETHNICITY OR NATIONAL ORIGIN.

Sec. 5. Section 46-801, Arizona Revised Statutes, is amended to read:

46-801. Definitions

In this chapter, unless the context otherwise requires:

1. "Caretaker relative" means a relative who exercises responsibility for the day-to-day physical care, guidance and support of a child who physically resides with the relative and who is by affinity or consanguinity or by court decree a grandparent, great-grandparent, sibling of the whole or half blood, stepbrother, stepsister, aunt, uncle, great-aunt, great-uncle or first cousin.
2. "Cash assistance" has the same meaning prescribed in section 46-101.
3. "Child" means a person who is under thirteen years of age.
4. "Child care" means the compensated service that is provided to a child who is unaccompanied by a parent or guardian during a portion of a twenty-four hour day.
5. "Child care assistance" means any money payments for child care services that are paid by the department and that are paid for the benefit of an eligible family.
6. "Child care home provider" means a person who is at least eighteen years of age, who is not the parent, guardian, caretaker relative or noncertified relative provider of a child needing child care and who is certified by the department to care for four or fewer children for compensation with child care assistance monies.
7. "Child care providers" means child care facilities licensed pursuant to title 36, chapter 7.1, article 1, child care group homes certified pursuant to title 36, chapter 7.1, article 4, child care home providers,

in-home providers, noncertified relative providers and regulated child care on military installations or for federally recognized Indian tribes.

8. "Eligible family" means CITIZENS OR LEGAL RESIDENTS OF THE UNITED STATES OR INDIVIDUALS WHO ARE OTHERWISE LAWFULLY PRESENT IN THE UNITED STATES AND WHO ARE parents, legal guardians or caretaker relatives with legal residence in this state and children in their care who meet the eligibility requirements for child care assistance.

9. "Federal poverty level" means the poverty guidelines that are issued by the United States department of health and human services pursuant to section 673(2) of the omnibus budget reconciliation act of 1981 and that are reported annually in the federal register.

10. "In-home provider" means a provider who is certified by the department to care for a child of an eligible family in the child's own home and is compensated with child care assistance monies.

11. "Noncertified relative provider" means a person who is at least eighteen years of age, who provides child care services to an eligible child, who is by affinity or consanguinity or by court decree the grandparent, great-grandparent, sibling not residing in the same household, aunt, great-aunt, uncle or great-uncle of the eligible child and who meets the department's requirements to be a noncertified relative provider.

12. "Parent" or "parents" means the natural or adoptive parents of a child.

Sec. 6. Section 46-803, Arizona Revised Statutes, is amended to read:

46-803. Eligibility for child care assistance

A. The department shall provide child care assistance to eligible families who are attempting to achieve independence from the cash assistance program and who need child care assistance in support of and as specified in their personal responsibility agreement pursuant to chapters 1 and 2 of this title.

B. The department shall provide child care assistance to eligible families who are transitioning off of cash assistance due to increased earnings or child support income in order to accept or maintain employment. Eligible families must request this assistance within six months after the cash assistance case closure. Child care assistance may be provided for up to twenty-four months after the case closure and shall cease whenever the family income exceeds one hundred sixty-five per cent of the federal poverty level.

C. The department shall provide child care assistance to eligible families who are diverted from cash assistance pursuant to section 46-298 in order to obtain or maintain employment. Child care assistance may be provided for up to twenty-four months after the case closure and shall cease whenever the family income exceeds one hundred sixty-five per cent of the federal poverty level.

D. The department may provide child care assistance to support eligible families with incomes of one hundred sixty-five per cent or less of the federal poverty level to accept or maintain employment. Priority for this child care assistance shall be given to families with incomes of one hundred per cent or less of the federal poverty level.

E. The department may provide child care assistance to families referred by child protective services and to children in foster care pursuant to title 8, chapter 5 to support child protection.

F. The department may provide child care assistance to special circumstance families whose incomes are one hundred sixty-five per cent or less of the federal poverty level and who are unable to provide child care for a portion of a twenty-four hour day due to a crisis situation of domestic violence or homelessness, or a physical, mental, emotional or medical condition, participation in a drug treatment or drug rehabilitation program or court ordered community restitution. Priority for this child care assistance shall be given to families with incomes of one hundred per cent or less of the federal poverty level.

G. In lieu of the employment activity required in subsection B, C or D of this section, the department may allow eligible families with teenaged custodial parents under twenty years of age to complete a high school diploma or its equivalent or engage in remedial education activities reasonably related to employment goals.

H. The department may provide supplemental child care assistance for department approved education and training activities if the eligible parent, legal guardian or caretaker relative is working at least a monthly average of twenty hours per week and this education and training are reasonably related to employment goals. The eligible parent, legal guardian or caretaker relative must demonstrate satisfactory progress in the education or training activity.

I. Beginning March 12, 2003, the department shall establish waiting lists for child care assistance and prioritize child care assistance for different eligibility categories in order to manage within appropriated and available monies. Priority of children on the waiting list shall start with those families at one hundred per cent of the federal poverty level and continue with each successive ten per cent increase in the federal poverty level until the maximum allowable federal poverty level of one hundred sixty-five per cent. Priority shall be given regardless of time spent on the waiting list.

J. The department shall establish criteria for denying, reducing or terminating child care assistance that include:

1. Whether there is a parent, legal guardian or care-taker relative available to care for the child.
2. Financial or programmatic eligibility changes or ineligibility.
3. Failure to cooperate with the requirements of the department to determine or redetermine eligibility.

4. Hours of child care need that fall within the child's compulsory academic school hours.

5. Reasonably accessible and available publicly funded early childhood education programs.

6. Whether an otherwise eligible family has been sanctioned and cash assistance has been terminated pursuant to chapter 2 of this title.

7. Other circumstances of a similar nature.

8. Whether sufficient monies exist for the assistance.

K. Families receiving child care assistance under subsection D or F of this section are also subject to the following requirements for such child care assistance:

1. Each child is limited to no more than sixty cumulative months of child care assistance. The department may provide an extension if the family can prove that the family is making efforts to improve skills and move towards self-sufficiency.

2. Families are limited to no more than six children receiving child care assistance.

3. Copayments shall be imposed for all children receiving child care assistance. Copayments for each child may be higher for the first child in child care than for additional children in child care.

L. The department shall review each case at least once a year to evaluate eligibility for child care assistance.

M. THE DEPARTMENT SHALL REPORT ON DECEMBER 31 AND JUNE 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF FAMILIES WHO APPLIED FOR CHILD CARE ASSISTANCE AND THE TOTAL NUMBER OF FAMILIES WHO WERE DENIED ASSISTANCE UNDER THIS SECTION BECAUSE THE PARENTS, LEGAL GUARDIANS OR CARETAKER RELATIVES WHO APPLIED FOR ASSISTANCE WERE NOT CITIZENS OR LEGAL RESIDENTS OF THE UNITED STATES OR WERE NOT OTHERWISE LAWFULLY PRESENT IN THE UNITED STATES.

N. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER, ETHNICITY OR NATIONAL ORIGIN.

~~M.~~ O. Notwithstanding section 35-173, monies appropriated for the purposes of this section shall not be used for any other purpose without the approval of the joint legislative budget committee.

~~N.~~ P. The department shall refer all child care subsidy recipients to child support enforcement and to local workforce services and provide information on the earned income tax credit.

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.

PROPOSITION 301

OFFICIAL TITLE

SENATE CONCURRENT RESOLUTION 1033

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO PROBATION FOR METHAMPHETAMINE OFFENSES.

TEXT OF PROPOSED AMENDMENT

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Under the power of the referendum, as vested in the Legislature, the following measure, relating to probation for methamphetamine offenses, is enacted to become valid as a law if approved by the voters and on proclamation of the Governor:

AN ACT

AMENDING SECTION 13-901.01, ARIZONA REVISED STATUTES; RELATING TO PROBATION.

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

Section 1. Section 13-901.01, Arizona Revised Statutes, is amended to read:

13-901.01. Probation for persons convicted of possession or use of controlled substances or drug paraphernalia; treatment; prevention; education; exceptions; definition

A. Notwithstanding any law to the contrary, any person who is convicted of the personal possession or use of a controlled substance or drug paraphernalia is eligible for probation. The court shall suspend the imposition or execution of sentence and place the person on probation.

B. Any person who has been convicted of or indicted for a violent crime as defined in section 13-604.04 is not eligible for probation as provided for in this section but instead shall be sentenced pursuant to chapter 34 of this title.

C. Personal possession or use of a controlled substance pursuant to this section shall not include possession for sale, production, manufacturing or transportation for sale of any controlled substance.

D. If a person is convicted of personal possession or use of a controlled substance or drug paraphernalia, as a condition of probation, the court shall require participation in an appropriate drug treatment or education program administered by a qualified agency or organization that provides such programs to persons who abuse controlled substances. Each person who is enrolled in a drug treatment or education program shall be required to pay for participation in the program to the extent of the person's financial ability.

E. A person who has been placed on probation pursuant to this section and who is determined by the court to be in violation of probation shall have new conditions of probation established by the court. The court shall select the additional conditions it deems necessary, including intensified drug treatment, community restitution, intensive probation, home arrest or any other sanctions except that the court shall not impose a term of incarceration unless the court determines that the person violated probation by committing an offense listed in chapter 34 or 34.1 of this title or an act in violation of an order of the court relating to drug treatment.

F. If a person is convicted a second time of personal possession or use of a controlled substance or drug paraphernalia, the court may include additional conditions of probation it deems necessary, including intensified drug treatment, community restitution, intensive probation, home arrest or any other action within the jurisdiction of the court.

G. At any time while the defendant is on probation, if after having a reasonable opportunity to do so the defendant fails or refuses to participate in drug treatment, the probation department or the prosecutor may petition the court to revoke the defendant's probation. If the court finds that the defendant refused to participate in drug treatment, the defendant shall no longer be eligible for probation under this section but instead shall be sentenced pursuant to chapter 34 of this title.

H. A person is not eligible for probation under this section but instead shall be sentenced pursuant to chapter 34 of this title if the court finds the person either:

1. Had been convicted three times of personal possession of a controlled substance or drug paraphernalia.
2. Refused drug treatment as a term of probation.
3. Rejected probation.
4. WAS CONVICTED OF THE PERSONAL POSSESSION OR USE OF A CONTROLLED SUBSTANCE OR DRUG PARAPHERNALIA AND THE OFFENSE INVOLVED METHAMPHETAMINE.

I. Subsections G and H of this section do not prohibit the defendant from being placed on probation pursuant to section 13-901 if the defendant otherwise qualifies for probation under that section.

J. For the purposes of this section, "controlled substance" has the same meaning prescribed in section 36-2501.

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.

IX. 2008 BALLOT MEASURES

**(No statutory ballot measures were approved
by the voters in 2008.)**

X. 2010 BALLOT MEASURES

PROPOSITION 203**OFFICIAL TITLE**

AN INITIATIVE MEASURE AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28.1; AMENDING SECTION 43-1201, ARIZONA REVISED STATUTES; RELATING TO THE MEDICAL USE OF MARIJUANA; PROVIDING FOR CONDITIONAL REPEAL.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the people of the state of Arizona:

Section 1. Title.

This act may be cited as the "Arizona Medical Marijuana Act."

Sec. 2. Findings.

The People of the State of Arizona find and declare the following:

A. Marijuana's recorded use as a medicine goes back nearly 5,000 years, and modern medical research has confirmed beneficial uses for marijuana in treating or alleviating the pain, nausea and other symptoms associated with a variety of debilitating medical conditions, including cancer, multiple sclerosis and HIV/AIDS, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

B. Studies published since the 1999 Institute of Medicine report have continued to show the therapeutic value of marijuana in treating a wide array of debilitating medical conditions. These include relief of neuropathic pain caused by multiple sclerosis, HIV/AIDS and other illnesses that often fail to respond to conventional treatments and relief of nausea, vomiting and other side effects of drugs used to treat HIV/AIDS and hepatitis C, increasing the chances of patients continuing on life-saving treatment regimens.

C. Marijuana has many currently accepted medical uses in the United States, having been recommended by thousands of licensed physicians to at least 260,000 patients in the states with medical marijuana laws. Marijuana's medical utility has been recognized by a wide range of medical and public health organizations, including the American Academy of HIV Medicine, American College of Physicians, American Nurses Association, American Public Health Association, Leukemia & Lymphoma Society and many others.

D. Data from the Federal Bureau of Investigation's Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marijuana arrests in the U.S. are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use marijuana.

E. Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Vermont, Rhode Island and Washington have removed state-level criminal penalties for the medical use and cultivation of marijuana. Arizona joins in this effort for the health and welfare of its citizens.

F. States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this act does not put the state of Arizona in violation of federal law.

G. State law should make a distinction between the medical and nonmedical uses of marijuana. Hence, the purpose of this act is to protect patients with debilitating medical conditions, as well as their physicians and providers, from arrest and prosecution, criminal and other penalties and property forfeiture if such patients engage in the medical use of marijuana.

Sec. 3. Title 36, Arizona Revised Statutes, is amended by adding Chapter 28.1 to read:

CHAPTER 28.1 ARIZONA MEDICAL MARIJUANA ACT

36-2801. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ALLOWABLE AMOUNT OF MARIJUANA"

(a) WITH RESPECT TO A QUALIFYING PATIENT, THE "ALLOWABLE AMOUNT OF MARIJUANA" MEANS:

(i) TWO-AND-ONE-HALF OUNCES OF USABLE MARIJUANA; AND

(ii) IF THE QUALIFYING PATIENT'S REGISTRY IDENTIFICATION CARD STATES THAT THE QUALIFYING PATIENT IS AUTHORIZED TO CULTIVATE MARIJUANA, TWELVE MARIJUANA PLANTS CONTAINED IN AN ENCLOSED, LOCKED FACILITY EXCEPT THAT THE PLANTS ARE NOT REQUIRED TO BE IN AN ENCLOSED, LOCKED FACILITY IF THE PLANTS ARE BEING TRANSPORTED BECAUSE THE QUALIFYING PATIENT IS MOVING.

(b) WITH RESPECT TO A DESIGNATED CAREGIVER, THE "ALLOWABLE AMOUNT OF MARIJUANA" FOR EACH PATIENT ASSISTED BY THE DESIGNATED CAREGIVER UNDER THIS CHAPTER MEANS:

(i) TWO-AND-ONE-HALF OUNCES OF USABLE MARIJUANA; AND

(ii) IF THE DESIGNATED CAREGIVER'S REGISTRY IDENTIFICATION CARD PROVIDES THAT THE DESIGNATED CAREGIVER IS AUTHORIZED TO CULTIVATE MARIJUANA, TWELVE MARIJUANA PLANTS CONTAINED IN AN ENCLOSED, LOCKED FACILITY EXCEPT THAT THE PLANTS ARE NOT REQUIRED TO BE IN AN ENCLOSED, LOCKED FACILITY IF THE PLANTS ARE BEING TRANSPORTED BECAUSE THE DESIGNATED CAREGIVER IS MOVING.

(c) MARIJUANA THAT IS INCIDENTAL TO MEDICAL USE, BUT IS NOT USABLE MARIJUANA AS DEFINED IN THIS CHAPTER, SHALL NOT BE COUNTED TOWARD A QUALIFYING PATIENT'S OR DESIGNATED CAREGIVER'S ALLOWABLE AMOUNT OF MARIJUANA.

2. "CARDHOLDER" MEANS A QUALIFYING PATIENT, A DESIGNATED CAREGIVER OR A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT WHO HAS BEEN ISSUED AND POSSESSES A VALID REGISTRY IDENTIFICATION CARD.

3. "DEBILITATING MEDICAL CONDITION" MEANS ONE OR MORE OF THE FOLLOWING:

(a) CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN IMMUNODEFICIENCY VIRUS, ACQUIRED IMMUNE DEFICIENCY SYNDROME, HEPATITIS C, AMYOTROPHIC LATERAL SCLEROSIS, CROHN'S DISEASE, AGITATION OF ALZHEIMER'S DISEASE OR THE TREATMENT OF THESE CONDITIONS.

(b) A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION OR ITS TREATMENT THAT PRODUCES ONE OR MORE OF THE FOLLOWING: CACHEXIA OR WASTING SYNDROME; SEVERE AND CHRONIC PAIN; SEVERE NAUSEA; SEIZURES, INCLUDING THOSE CHARACTERISTIC OF EPILEPSY; OR SEVERE AND PERSISTENT MUSCLE SPASMS, INCLUDING THOSE CHARACTERISTIC OF MULTIPLE SCLEROSIS.

(c) ANY OTHER MEDICAL CONDITION OR ITS TREATMENT ADDED BY THE DEPARTMENT PURSUANT TO SECTION 36-2801.01.

4. "DEPARTMENT" MEANS THE ARIZONA DEPARTMENT OF HEALTH SERVICES OR ITS SUCCESSOR AGENCY.

5. "DESIGNATED CAREGIVER" MEANS A PERSON WHO:

(a) IS AT LEAST TWENTY-ONE YEARS OF AGE.

(b) HAS AGREED TO ASSIST WITH A PATIENT'S MEDICAL USE OF MARIJUANA.

(c) HAS NOT BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.

(d) ASSISTS NO MORE THAN FIVE QUALIFYING PATIENTS WITH THE MEDICAL USE OF MARIJUANA.

(e) MAY RECEIVE REIMBURSEMENT FOR ACTUAL COSTS INCURRED IN ASSISTING A REGISTERED QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA IF THE REGISTERED DESIGNATED CAREGIVER IS CONNECTED TO THE REGISTERED QUALIFYING PATIENT THROUGH THE DEPARTMENT'S REGISTRATION PROCESS. THE DESIGNATED CAREGIVER MAY NOT BE PAID ANY FEE OR COMPENSATION FOR HIS SERVICE AS A CAREGIVER. PAYMENT FOR COSTS UNDER THIS SUBDIVISION SHALL NOT CONSTITUTE AN OFFENSE UNDER TITLE 13, CHAPTER 34 OR UNDER TITLE 36, CHAPTER 27, ARTICLE 4.

6. "ENCLOSED, LOCKED FACILITY" MEANS A CLOSET, ROOM, GREENHOUSE OR OTHER ENCLOSED AREA EQUIPPED WITH LOCKS OR OTHER SECURITY DEVICES THAT PERMIT ACCESS ONLY BY A CARDHOLDER.

7. "EXCLUDED FELONY OFFENSE" MEANS:

(a) A VIOLENT CRIME AS DEFINED IN SECTION 13-901.03, SUBSECTION B, THAT WAS CLASSIFIED AS A FELONY IN THE JURISDICTION WHERE THE PERSON WAS CONVICTED.

(b) A VIOLATION OF A STATE OR FEDERAL CONTROLLED SUBSTANCE LAW THAT WAS CLASSIFIED AS A FELONY IN THE JURISDICTION WHERE THE PERSON WAS CONVICTED BUT DOES NOT INCLUDE:

(i) AN OFFENSE FOR WHICH THE SENTENCE, INCLUDING ANY TERM OF PROBATION, INCARCERATION OR SUPERVISED RELEASE, WAS COMPLETED TEN OR MORE YEARS EARLIER.

(ii) AN OFFENSE INVOLVING CONDUCT THAT WOULD BE IMMUNE FROM ARREST, PROSECUTION OR PENALTY UNDER SECTION 36-2811 EXCEPT THAT THE CONDUCT OCCURRED BEFORE THE EFFECTIVE DATE OF THIS CHAPTER OR WAS PROSECUTED BY AN AUTHORITY OTHER THAN THE STATE OF ARIZONA.

8. "MARIJUANA" MEANS ALL PARTS OF ANY PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, AND THE SEEDS OF SUCH PLANT.

9. "MEDICAL USE" MEANS THE ACQUISITION, POSSESSION, CULTIVATION, MANUFACTURE, USE, ADMINISTRATION, DELIVERY, TRANSFER OR TRANSPORTATION OF MARIJUANA OR PARAPHERNALIA RELATING TO THE ADMINISTRATION OF MARIJUANA TO TREAT OR ALLEVIATE A REGISTERED QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION

OR SYMPTOMS ASSOCIATED WITH THE PATIENT'S DEBILITATING MEDICAL CONDITION.

10. "NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT" MEANS A PRINCIPAL OFFICER, BOARD MEMBER, EMPLOYEE OR VOLUNTEER OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND HAS NOT BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.

11. "NONPROFIT MEDICAL MARIJUANA DISPENSARY" MEANS A NOT-FOR-PROFIT ENTITY THAT ACQUIRES, POSSESSES, CULTIVATES, MANUFACTURES, DELIVERS, TRANSFERS, TRANSPORTS, SUPPLIES, SELLS OR DISPENSES MARIJUANA OR RELATED SUPPLIES AND EDUCATIONAL MATERIALS TO CARDHOLDERS. A NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY RECEIVE PAYMENT FOR ALL EXPENSES INCURRED IN ITS OPERATION.

12. "PHYSICIAN" MEANS A DOCTOR OF MEDICINE WHO HOLDS A VALID AND EXISTING LICENSE TO PRACTICE MEDICINE PURSUANT TO TITLE 32, CHAPTER 13 OR ITS SUCCESSOR, A DOCTOR OF OSTEOPATHIC MEDICINE WHO HOLDS A VALID AND EXISTING LICENSE TO PRACTICE OSTEOPATHIC MEDICINE PURSUANT TO TITLE 32, CHAPTER 17 OR ITS SUCCESSOR, A NATUROPATHIC PHYSICIAN WHO HOLDS A VALID AND EXISTING LICENSE TO PRACTICE NATUROPATHIC MEDICINE PURSUANT TO TITLE 32, CHAPTER 14 OR ITS SUCCESSOR OR A HOMEOPATHIC PHYSICIAN WHO HOLDS A VALID AND EXISTING LICENSE TO PRACTICE HOMEOPATHIC MEDICINE PURSUANT TO TITLE 32, CHAPTER 29 OR ITS SUCCESSOR.

13. "QUALIFYING PATIENT" MEANS A PERSON WHO HAS BEEN DIAGNOSED BY A PHYSICIAN AS HAVING A DEBILITATING MEDICAL CONDITION.

14. "REGISTRY IDENTIFICATION CARD" MEANS A DOCUMENT ISSUED BY THE DEPARTMENT THAT IDENTIFIES A PERSON AS A REGISTERED QUALIFYING PATIENT, REGISTERED DESIGNATED CAREGIVER OR A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.

15. "USABLE MARIJUANA" MEANS THE DRIED FLOWERS OF THE MARIJUANA PLANT, AND ANY MIXTURE OR PREPARATION THEREOF, BUT DOES NOT INCLUDE THE SEEDS, STALKS AND ROOTS OF THE PLANT AND DOES NOT INCLUDE THE WEIGHT OF ANY NON-MARIJUANA INGREDIENTS COMBINED WITH MARIJUANA AND PREPARED FOR CONSUMPTION AS FOOD OR DRINK.

16. "VERIFICATION SYSTEM" MEANS A SECURE, PASSWORD-PROTECTED, WEB-BASED SYSTEM ESTABLISHED AND MAINTAINED BY THE DEPARTMENT THAT IS AVAILABLE TO LAW ENFORCEMENT PERSONNEL AND NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS ON A TWENTY-FOUR HOUR BASIS FOR VERIFICATION OF REGISTRY IDENTIFICATION CARDS.

17. "VISITING QUALIFYING PATIENT" MEANS A PERSON:

(a) WHO IS NOT A RESIDENT OF ARIZONA OR WHO HAS BEEN A RESIDENT OF ARIZONA LESS THAN THIRTY DAYS.

(b) WHO HAS BEEN DIAGNOSED WITH A DEBILITATING MEDICAL CONDITION BY A PERSON WHO IS LICENSED WITH AUTHORITY TO PRESCRIBE DRUGS TO HUMANS IN THE STATE OF THE PERSON'S RESIDENCE OR, IN THE CASE OF A PERSON WHO HAS BEEN A RESIDENT OF ARIZONA LESS THAN THIRTY DAYS, THE STATE OF THE PERSON'S FORMER RESIDENCE.

18. "WRITTEN CERTIFICATION" MEANS A DOCUMENT DATED AND SIGNED BY A PHYSICIAN, STATING THAT IN THE PHYSICIAN'S PROFESSIONAL OPINION THE PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE MEDICAL USE OF MARIJUANA TO TREAT OR ALLEVIATE THE PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE DEBILITATING MEDICAL CONDITION. THE PHYSICIAN MUST:

(a) SPECIFY THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION IN THE WRITTEN CERTIFICATION.

(b) SIGN AND DATE THE WRITTEN CERTIFICATION ONLY IN THE COURSE OF A PHYSICIAN-PATIENT RELATIONSHIP AFTER THE PHYSICIAN HAS COMPLETED A FULL ASSESSMENT OF THE QUALIFYING PATIENT'S MEDICAL HISTORY.

36-2801.01. Addition of debilitating medical conditions.

THE PUBLIC MAY PETITION THE DEPARTMENT TO ADD DEBILITATING MEDICAL CONDITIONS OR TREATMENTS TO THE LIST OF DEBILITATING MEDICAL CONDITIONS SET FORTH IN SECTION 36-2801, PARAGRAPH -3-. THE DEPARTMENT SHALL CONSIDER PETITIONS IN THE MANNER REQUIRED BY DEPARTMENT RULE, INCLUDING PUBLIC NOTICE AND HEARING. THE DEPARTMENT SHALL APPROVE OR DENY A PETITION WITHIN ONE-HUNDRED-EIGHTY DAYS OF ITS SUBMISSION. THE APPROVAL OR DENIAL OF A PETITION IS A FINAL DECISION OF THE DEPARTMENT SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. JURISDICTION AND VENUE ARE VESTED IN THE SUPERIOR COURT.

36-2802. Arizona Medical Marijuana Act; limitations

THIS CHAPTER DOES NOT AUTHORIZE ANY PERSON TO ENGAGE IN, AND DOES NOT PREVENT THE IMPOSITION OF ANY CIVIL, CRIMINAL OR OTHER PENALTIES FOR ENGAGING IN, THE FOLLOWING CONDUCT:

A. UNDERTAKING ANY TASK UNDER THE INFLUENCE OF MARIJUANA THAT WOULD CONSTITUTE NEGLIGENCE OR PROFESSIONAL MALPRACTICE.

B. POSSESSING OR ENGAGING IN THE MEDICAL USE OF MARIJUANA:

1. ON A SCHOOL BUS.

2. ON THE GROUNDS OF ANY PRESCHOOL OR PRIMARY OR SECONDARY SCHOOL.

3. IN ANY CORRECTIONAL FACILITY.

C. SMOKING MARIJUANA:

1. ON ANY FORM OF PUBLIC TRANSPORTATION.

2. IN ANY PUBLIC PLACE.

D. OPERATING, NAVIGATING OR BEING IN ACTUAL PHYSICAL CONTROL OF ANY MOTOR VEHICLE, AIRCRAFT OR MOTORBOAT 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.

E. USING MARIJUANA EXCEPT AS AUTHORIZED UNDER THIS CHAPTER.

36-2803. Rulemaking

A. NOT LATER THAN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THIS CHAPTER, THE DEPARTMENT SHALL ADOPT RULES:

1. GOVERNING THE MANNER IN WHICH THE DEPARTMENT SHALL CONSIDER PETITIONS FROM THE PUBLIC TO ADD DEBILITATING MEDICAL CONDITIONS OR TREATMENTS TO THE LIST OF DEBILITATING MEDICAL CONDITIONS SET FORTH IN SECTION 36-2801, PARAGRAPH 3, INCLUDING PUBLIC NOTICE OF, AND AN OPPORTUNITY TO COMMENT IN A PUBLIC HEARING UPON, PETITIONS.

2. ESTABLISHING THE FORM AND CONTENT OF REGISTRATION AND RENEWAL APPLICATIONS SUBMITTED UNDER THIS CHAPTER.

3. GOVERNING THE MANNER IN WHICH IT SHALL CONSIDER APPLICATIONS FOR AND RENEWALS OF REGISTRY IDENTIFICATION CARDS.

4. GOVERNING NONPROFIT MEDICAL MARIJUANA DISPENSARIES, FOR THE PURPOSE OF PROTECTING AGAINST DIVERSION AND THEFT WITHOUT IMPOSING AN UNDUE BURDEN ON NONPROFIT MEDICAL MARIJUANA DISPENSARIES OR COMPROMISING THE CONFIDENTIALITY OF CARDHOLDERS, INCLUDING:

(a) THE MANNER IN WHICH THE DEPARTMENT SHALL CONSIDER APPLICATIONS FOR AND RENEWALS OF REGISTRATION CERTIFICATES.

(b) MINIMUM OVERSIGHT REQUIREMENTS FOR NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

(c) MINIMUM RECORDKEEPING REQUIREMENTS FOR NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

(d) MINIMUM SECURITY REQUIREMENTS FOR NONPROFIT MEDICAL MARIJUANA DISPENSARIES, INCLUDING REQUIREMENTS FOR PROTECTION OF EACH REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY LOCATION BY A FULLY OPERATIONAL SECURITY ALARM SYSTEM.

(e) PROCEDURES FOR SUSPENDING OR REVOKING THE REGISTRATION CERTIFICATE OF NONPROFIT MEDICAL MARIJUANA DISPENSARIES THAT VIOLATE THE PROVISIONS OF THIS CHAPTER OR THE RULES ADOPTED PURSUANT TO THIS SECTION.

5. ESTABLISHING APPLICATION AND RENEWAL FEES FOR REGISTRY IDENTIFICATION CARDS AND NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATES, ACCORDING TO THE FOLLOWING:

(a) THE TOTAL AMOUNT OF ALL FEES SHALL GENERATE REVENUES SUFFICIENT TO IMPLEMENT AND ADMINISTER THIS CHAPTER EXCEPT THAT FEE REVENUE MAY BE OFFSET OR SUPPLEMENTED BY PRIVATE DONATIONS.

(b) NONPROFIT MEDICAL MARIJUANA DISPENSARY APPLICATION FEES MAY NOT EXCEED \$5,000.

(c) NONPROFIT MEDICAL MARIJUANA DISPENSARY RENEWAL FEES MAY NOT EXCEED \$1,000.

(d) THE TOTAL AMOUNT OF REVENUE FROM NONPROFIT MEDICAL MARIJUANA DISPENSARY APPLICATION AND RENEWAL FEES AND REGISTRY IDENTIFICATION CARD FEES FOR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS SHALL BE SUFFICIENT TO IMPLEMENT AND ADMINISTER THE NONPROFIT MEDICAL MARIJUANA DISPENSARY PROVISIONS OF THIS CHAPTER, INCLUDING THE VERIFICATION SYSTEM, EXCEPT THAT THE FEE REVENUE MAY BE OFFSET OR SUPPLEMENTED BY PRIVATE DONATIONS.

(e) THE DEPARTMENT MAY ESTABLISH A SLIDING SCALE OF PATIENT APPLICATION AND RENEWAL FEES BASED UPON A QUALIFYING PATIENT'S HOUSEHOLD INCOME.

(f) THE DEPARTMENT MAY CONSIDER PRIVATE DONATIONS UNDER SECTION 36-2817 TO REDUCE APPLICATION AND RENEWAL FEES.

B. THE DEPARTMENT IS AUTHORIZED TO ADOPT THE RULES SET FORTH IN SUBSECTION A AND SHALL ADOPT THOSE RULES PURSUANT TO TITLE 41, CHAPTER 6.

36-2804. Registration and certification of nonprofit medical marijuana dispensaries

A. NONPROFIT MEDICAL MARIJUANA DISPENSARIES SHALL REGISTER WITH THE DEPARTMENT.

B. NOT LATER THAN NINETY DAYS AFTER RECEIVING AN APPLICATION FOR A NONPROFIT MEDICAL MARIJUANA DISPENSARY, THE DEPARTMENT SHALL REGISTER THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AND ISSUE A REGISTRATION CERTIFICATE AND A RANDOM 20-DIGIT ALPHANUMERIC IDENTIFICATION NUMBER IF:

1. THE PROSPECTIVE NONPROFIT MEDICAL MARIJUANA DISPENSARY HAS SUBMITTED THE FOLLOWING:

(a) THE APPLICATION FEE.

(b) AN APPLICATION, INCLUDING:

(i) THE LEGAL NAME OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY.

(ii) THE PHYSICAL ADDRESS OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AND THE PHYSICAL ADDRESS OF ONE ADDITIONAL LOCATION, IF ANY, WHERE MARIJUANA WILL BE CULTIVATED, NEITHER OF WHICH MAY BE WITHIN FIVE HUNDRED FEET OF A PUBLIC OR PRIVATE SCHOOL EXISTING BEFORE THE DATE OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY APPLICATION.

(iii) THE NAME, ADDRESS AND DATE OF BIRTH OF EACH PRINCIPAL OFFICER AND BOARD MEMBER OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY.

(iv) THE NAME, ADDRESS AND DATE OF BIRTH OF EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.

(c) OPERATING PROCEDURES CONSISTENT WITH DEPARTMENT RULES FOR OVERSIGHT OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY, INCLUDING PROCEDURES TO ENSURE ACCURATE RECORD-KEEPING AND ADEQUATE SECURITY MEASURES.

(d) IF THE CITY, TOWN OR COUNTY IN WHICH THE NONPROFIT MEDICAL MARIJUANA DISPENSARY WOULD BE LOCATED HAS ENACTED ZONING RESTRICTIONS, A SWORN STATEMENT CERTIFYING THAT THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IS IN COMPLIANCE WITH THE RESTRICTIONS.

2. NONE OF THE PRINCIPAL OFFICERS OR BOARD MEMBERS HAS BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.

3. NONE OF THE PRINCIPAL OFFICERS OR BOARD MEMBERS HAS SERVED AS A PRINCIPAL OFFICER OR BOARD MEMBER FOR A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT HAS HAD ITS REGISTRATION CERTIFICATE REVOKED.

4. NONE OF THE PRINCIPAL OFFICERS OR BOARD MEMBERS IS UNDER TWENTY-ONE YEARS OF AGE.

C. THE DEPARTMENT MAY NOT ISSUE MORE THAN ONE NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATE FOR EVERY TEN PHARMACIES THAT HAVE REGISTERED UNDER SECTION 32-1929, HAVE OBTAINED A PHARMACY PERMIT FROM THE ARIZONA BOARD OF PHARMACY AND OPERATE WITHIN THE STATE EXCEPT THAT THE DEPARTMENT MAY ISSUE NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATES IN EXCESS OF THIS LIMIT IF NECESSARY TO ENSURE THAT THE DEPARTMENT ISSUES AT LEAST ONE NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATE IN EACH COUNTY IN WHICH AN APPLICATION HAS BEEN APPROVED.

D. THE DEPARTMENT MAY CONDUCT A CRIMINAL RECORDS CHECK IN ORDER TO CARRY OUT THIS SECTION.

36-2804.01. Registration of nonprofit medical marijuana dispensary agents; notices; civil penalty; classification

A. A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT SHALL BE REGISTERED WITH THE DEPARTMENT BEFORE VOLUNTEERING OR WORKING AT A MEDICAL MARIJUANA DISPENSARY.

B. A NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY APPLY TO THE DEPARTMENT FOR A REGISTRY IDENTIFICATION CARD FOR A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT BY SUBMITTING:

1. THE NAME, ADDRESS AND DATE OF BIRTH OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.

2. A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT APPLICATION.

3. A STATEMENT SIGNED BY THE PROSPECTIVE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT PLEDGING NOT TO DIVERT MARIJUANA TO ANYONE WHO IS NOT ALLOWED TO POSSESS MARIJUANA PURSUANT TO THIS CHAPTER.

4. THE APPLICATION FEE.

C. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL NOTIFY THE DEPARTMENT WITHIN TEN DAYS AFTER A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT CEASES TO BE EMPLOYED BY OR VOLUNTEER AT THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY.

D. NO PERSON WHO HAS BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE MAY BE A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.

E. THE DEPARTMENT MAY CONDUCT A CRIMINAL RECORDS CHECK IN ORDER TO CARRY OUT THIS SECTION.

36-2804.02. Registration of qualifying patients and designated caregivers

A. A QUALIFYING PATIENT MAY APPLY TO THE DEPARTMENT FOR A REGISTRY IDENTIFICATION CARD BY SUBMITTING:

1. WRITTEN CERTIFICATION ISSUED BY A PHYSICIAN WITHIN THE NINETY DAYS IMMEDIATELY PRECEDING THE DATE OF APPLICATION.

2. THE APPLICATION FEE.

3. AN APPLICATION, INCLUDING:

(a) NAME, MAILING ADDRESS, RESIDENCE ADDRESS AND DATE OF BIRTH OF THE QUALIFYING PATIENT EXCEPT THAT IF THE APPLICANT IS HOMELESS NO ADDRESS IS REQUIRED.

(b) NAME, ADDRESS AND TELEPHONE NUMBER OF THE QUALIFYING PATIENT'S PHYSICIAN.

(c) NAME, ADDRESS AND DATE OF BIRTH OF THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER, IF ANY.

(d) A STATEMENT SIGNED BY THE QUALIFYING PATIENT PLEDGING NOT TO DIVERT MARIJUANA TO ANYONE WHO IS NOT ALLOWED TO POSSESS MARIJUANA PURSUANT TO THIS CHAPTER.

(e) A SIGNED STATEMENT FROM THE DESIGNATED CAREGIVER, IF ANY, AGREEING TO BE THE PATIENT'S DESIGNATED CAREGIVER AND PLEDGING NOT TO DIVERT MARIJUANA TO ANYONE WHO IS NOT ALLOWED TO POSSESS MARIJUANA PURSUANT TO THIS CHAPTER.

(f) A DESIGNATION AS TO WHO WILL BE ALLOWED TO CULTIVATE MARIJUANA PLANTS FOR THE QUALIFYING PATIENT'S MEDICAL USE IF A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IS NOT OPERATING WITHIN TWENTY-FIVE MILES OF THE QUALIFYING PATIENT'S HOME.

B. THE APPLICATION FOR A QUALIFYING PATIENT'S REGISTRY IDENTIFICATION CARD SHALL ASK WHETHER THE PATIENT WOULD LIKE THE DEPARTMENT TO NOTIFY HIM OF ANY CLINICAL STUDIES NEEDING HUMAN SUBJECTS FOR RESEARCH ON THE MEDICAL USE OF MARIJUANA. THE DEPARTMENT SHALL NOTIFY INTERESTED PATIENTS IF IT IS NOTIFIED OF STUDIES THAT WILL BE CONDUCTED IN THE UNITED STATES.

36-2804.03. Issuance of registry identification cards

A. EXCEPT AS PROVIDED IN SUBSECTION B AND IN SECTION 36-2804.05, THE DEPARTMENT SHALL:

1. VERIFY THE INFORMATION CONTAINED IN AN APPLICATION OR RENEWAL SUBMITTED PURSUANT TO THIS CHAPTER AND APPROVE OR DENY AN APPLICATION OR RENEWAL WITHIN TEN DAYS OF RECEIVING A COMPLETED APPLICATION OR RENEWAL.

2. ISSUE A REGISTRY IDENTIFICATION CARD TO A QUALIFYING PATIENT AND HIS DESIGNATED CAREGIVER, IF ANY, WITHIN FIVE DAYS OF APPROVING THE APPLICATION OR RENEWAL. A DESIGNATED CAREGIVER MUST HAVE A REGISTRY IDENTIFICATION CARD FOR EACH OF HIS QUALIFYING PATIENTS.

3. ISSUE EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT A REGISTRY IDENTIFICATION CARD AND LOG-IN INFORMATION FOR THE VERIFICATION SYSTEM WITHIN FIVE DAYS OF APPROVING THE APPLICATION OR RENEWAL.

B. THE DEPARTMENT MAY NOT ISSUE A REGISTRY IDENTIFICATION CARD TO A QUALIFYING PATIENT WHO IS UNDER THE AGE OF EIGHTEEN UNLESS:

1. THE QUALIFYING PATIENT'S PHYSICIAN HAS EXPLAINED THE POTENTIAL RISKS AND BENEFITS OF THE MEDICAL USE OF MARIJUANA TO THE CUSTODIAL PARENT OR LEGAL GUARDIAN RESPONSIBLE FOR HEALTH CARE DECISIONS FOR THE QUALIFYING PATIENT.

2. A CUSTODIAL PARENT OR LEGAL GUARDIAN RESPONSIBLE FOR HEALTH CARE DECISIONS FOR THE QUALIFYING PATIENT SUBMITS A WRITTEN CERTIFICATION FROM TWO PHYSICIANS.

3. THE CUSTODIAL PARENT OR LEGAL GUARDIAN WITH RESPONSIBILITY FOR HEALTH CARE DECISIONS FOR THE QUALIFYING PATIENT CONSENTS IN WRITING TO:

- (a) ALLOW THE QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA.
- (b) SERVE AS THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER.
- (c) CONTROL THE ACQUISITION OF THE MARIJUANA, THE DOSAGE AND THE FREQUENCY OF THE MEDICAL USE OF MARIJUANA BY THE QUALIFYING PATIENT.

C. A REGISTRY IDENTIFICATION CARD, OR ITS EQUIVALENT, THAT IS ISSUED UNDER THE LAWS OF ANOTHER STATE, DISTRICT, TERRITORY, COMMONWEALTH OR INSULAR POSSESSION OF THE UNITED STATES THAT ALLOWS A VISITING QUALIFYING PATIENT TO POSSESS OR USE MARIJUANA FOR MEDICAL PURPOSES IN THE JURISDICTION OF ISSUANCE HAS THE SAME FORCE AND EFFECT WHEN HELD BY A VISITING QUALIFYING PATIENT AS A REGISTRY IDENTIFICATION CARD ISSUED BY THE DEPARTMENT, EXCEPT THAT A VISITING QUALIFYING PATIENT IS NOT AUTHORIZED TO OBTAIN MARIJUANA FROM A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

36-2804.04. Registry identification cards

A. REGISTRY IDENTIFICATION CARDS FOR QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS SHALL CONTAIN ALL OF THE FOLLOWING:

- 1. NAME, ADDRESS AND DATE OF BIRTH OF THE CARDHOLDER.
- 2. A STATEMENT OF WHETHER THE CARDHOLDER IS A QUALIFYING PATIENT OR A DESIGNATED CAREGIVER.
- 3. THE DATE OF ISSUANCE AND EXPIRATION DATE OF THE REGISTRY IDENTIFICATION CARD.
- 4. A RANDOM 20-DIGIT ALPHANUMERIC IDENTIFICATION NUMBER, CONTAINING AT LEAST FOUR NUMBERS AND AT LEAST FOUR LETTERS, THAT IS UNIQUE TO THE CARDHOLDER.
- 5. IF THE CARDHOLDER IS A DESIGNATED CAREGIVER, THE RANDOM IDENTIFICATION NUMBER OF THE REGISTERED QUALIFYING PATIENT THE DESIGNATED CAREGIVER IS ASSISTING.
- 6. A PHOTOGRAPH OF THE CARDHOLDER.
- 7. A CLEAR INDICATION OF WHETHER THE CARDHOLDER HAS BEEN AUTHORIZED BY THIS CHAPTER TO CULTIVATE MARIJUANA PLANTS FOR THE QUALIFYING PATIENT'S MEDICAL USE.

B. REGISTRY IDENTIFICATION CARDS FOR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS SHALL CONTAIN THE FOLLOWING:

- 1. THE NAME, ADDRESS AND DATE OF BIRTH OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.
- 2. A STATEMENT THAT THE CARDHOLDER IS A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.
- 3. THE LEGAL NAME OF THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY WITH WHICH THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT IS AFFILIATED.
- 4. A RANDOM 20-DIGIT ALPHANUMERIC IDENTIFICATION NUMBER THAT IS UNIQUE TO THE CARDHOLDER.
- 5. THE DATE OF ISSUANCE AND EXPIRATION DATE OF THE REGISTRY IDENTIFICATION CARD.
- 6. A PHOTOGRAPH, IF THE DEPARTMENT DECIDES TO REQUIRE ONE.

C. IF THE REGISTRY IDENTIFICATION CARD OF EITHER A QUALIFYING PATIENT OR THE PATIENT'S DESIGNATED CAREGIVER DOES NOT STATE THAT THE CARDHOLDER IS AUTHORIZED TO CULTIVATE MARIJUANA PLANTS, THEN THE DEPARTMENT MUST GIVE WRITTEN NOTICE TO THE REGISTERED QUALIFYING PATIENT, WHEN THE QUALIFYING PATIENT'S REGISTRY IDENTIFICATION CARD IS ISSUED, OF THE NAME AND ADDRESS OF ALL REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

36-2804.05. Denial of registry identification card

A. THE DEPARTMENT MAY DENY AN APPLICATION OR RENEWAL OF A QUALIFYING PATIENT'S REGISTRY IDENTIFICATION CARD ONLY IF THE APPLICANT:

1. DOES NOT MEET THE REQUIREMENTS OF SECTION 36-2801, PARAGRAPH 13.
2. DOES NOT PROVIDE THE INFORMATION REQUIRED.
3. PREVIOUSLY HAD A REGISTRY IDENTIFICATION CARD REVOKED FOR VIOLATING THIS CHAPTER.
4. PROVIDES FALSE INFORMATION.

B. THE DEPARTMENT MAY DENY AN APPLICATION OR RENEWAL OF A DESIGNATED CAREGIVER'S REGISTRY IDENTIFICATION CARD IF THE APPLICANT:

1. DOES NOT MEET THE REQUIREMENTS OF SECTION 36-2801, PARAGRAPH 5.
2. DOES NOT PROVIDE THE INFORMATION REQUIRED.
3. PREVIOUSLY HAD A REGISTRY IDENTIFICATION CARD REVOKED FOR VIOLATING THIS CHAPTER.
4. PROVIDES FALSE INFORMATION.

C. THE DEPARTMENT MAY DENY A REGISTRY IDENTIFICATION CARD TO A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT IF:

1. THE AGENT APPLICANT DOES NOT MEET THE REQUIREMENTS OF SECTION 36-2801(10).
2. THE APPLICANT OR DISPENSARY DID NOT PROVIDE THE REQUIRED INFORMATION.
3. PREVIOUSLY HAD A REGISTRY IDENTIFICATION CARD REVOKED FOR VIOLATING THIS CHAPTER.
4. THE APPLICANT OR DISPENSARY PROVIDES FALSE INFORMATION.

D. THE DEPARTMENT MAY CONDUCT A CRIMINAL RECORDS CHECK OF EACH DESIGNATED CAREGIVER OR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT APPLICANT TO CARRY OUT THIS SECTION.

E. THE DEPARTMENT SHALL GIVE WRITTEN NOTICE TO THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY OF THE REASON FOR DENYING A REGISTRY IDENTIFICATION CARD TO A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.

F. THE DEPARTMENT SHALL GIVE WRITTEN NOTICE TO THE QUALIFYING PATIENT OF THE REASON FOR DENYING A REGISTRY IDENTIFICATION CARD TO THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER.

G. DENIAL OF AN APPLICATION OR RENEWAL IS CONSIDERED A FINAL DECISION OF THE DEPARTMENT SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. JURISDICTION AND VENUE FOR JUDICIAL REVIEW ARE VESTED IN THE SUPERIOR COURT.

36-2804.06. Expiration and renewal of registry identification cards and registration certificates; replacement

A. ALL REGISTRY IDENTIFICATION CARDS AND REGISTRATION CERTIFICATES EXPIRE ONE YEAR AFTER DATE OF ISSUE.

B. A REGISTRY IDENTIFICATION CARD OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT SHALL BE CANCELLED AND HIS ACCESS TO THE VERIFICATION SYSTEM SHALL BE DEACTIVATED UPON NOTIFICATION TO THE DEPARTMENT BY A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT IS NO LONGER EMPLOYED BY OR NO LONGER VOLUNTEERS AT THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY.

C. A RENEWAL NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATE SHALL BE ISSUED WITHIN TEN DAYS OF RECEIPT OF THE PRESCRIBED RENEWAL APPLICATION AND RENEWAL FEE FROM A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IF ITS REGISTRATION CERTIFICATE IS NOT UNDER SUSPENSION AND HAS NOT BEEN REVOKED.

D. IF A CARDHOLDER LOSES HIS REGISTRY IDENTIFICATION CARD, HE SHALL PROMPTLY NOTIFY THE DEPARTMENT. WITHIN FIVE DAYS OF THE NOTIFICATION, AND UPON PAYMENT OF A TEN DOLLAR FEE, THE DEPARTMENT SHALL ISSUE A NEW REGISTRY IDENTIFICATION CARD WITH A NEW RANDOM IDENTIFICATION NUMBER TO THE CARDHOLDER AND, IF THE CARDHOLDER IS A REGISTERED QUALIFYING PATIENT, TO THE REGISTERED QUALIFYING PATIENT'S REGISTERED DESIGNATED CAREGIVER, IF ANY.

36-2805. Facility restrictions

A. ANY NURSING CARE INSTITUTION, HOSPICE, ASSISTED LIVING CENTER, ASSISTED LIVING FACILITY, ASSISTED LIVING HOME, RESIDENTIAL CARE INSTITUTION, ADULT DAY HEALTH CARE FACILITY OR ADULT FOSTER CARE HOME LICENSED UNDER TITLE 36, CHAPTER 4, MAY ADOPT REASONABLE RESTRICTIONS ON THE USE OF MARIJUANA BY THEIR RESIDENTS OR PERSONS RECEIVING INPATIENT SERVICES, INCLUDING:

1. THAT THE FACILITY WILL NOT STORE OR MAINTAIN THE PATIENT'S SUPPLY OF MARIJUANA.

2. THAT THE FACILITY, CAREGIVERS OR HOSPICE AGENCIES SERVING THE FACILITY'S RESIDENTS ARE NOT RESPONSIBLE FOR PROVIDING THE MARIJUANA FOR QUALIFYING PATIENTS.

3. THAT MARIJUANA BE CONSUMED BY A METHOD OTHER THAN SMOKING.

4. THAT MARIJUANA BE CONSUMED ONLY IN A PLACE SPECIFIED BY THE FACILITY.

B. NOTHING IN THIS SECTION REQUIRES A FACILITY LISTED IN SUBSECTION A TO ADOPT RESTRICTIONS ON THE MEDICAL USE OF MARIJUANA.

C. A FACILITY LISTED IN SUBSECTION A MAY NOT UNREASONABLY LIMIT A REGISTERED QUALIFYING PATIENT'S ACCESS TO OR USE OF MARIJUANA AUTHORIZED UNDER THIS CHAPTER UNLESS FAILING TO DO SO WOULD CAUSE FACILITY TO LOSE A MONETARY OR LICENSING-RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS.

36-2806. Registered nonprofit medical marijuana dispensaries; requirements

A. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL BE OPERATED ON A NOT-FOR-PROFIT BASIS. THE BYLAWS OF A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL CONTAIN SUCH PROVISIONS RELATIVE TO THE DISPOSITION OF REVENUES AND RECEIPTS TO ESTABLISH AND MAINTAIN ITS NONPROFIT CHARACTER. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY NEED NOT BE RECOGNIZED AS TAX-EXEMPT BY THE INTERNAL REVENUE SERVICE AND IS NOT REQUIRED TO INCORPORATE PURSUANT TO TITLE 10, CHAPTER 19, ARTICLE 1.

B. THE OPERATING DOCUMENTS OF A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL INCLUDE PROCEDURES FOR THE OVERSIGHT OF THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY AND PROCEDURES TO ENSURE ACCURATE RECORDKEEPING.

C. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL HAVE A SINGLE SECURE ENTRANCE AND SHALL IMPLEMENT APPROPRIATE SECURITY MEASURES TO DETER AND PREVENT THE THEFT OF MARIJUANA AND UNAUTHORIZED ENTRANCE INTO AREAS CONTAINING MARIJUANA.

D. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IS PROHIBITED FROM ACQUIRING, POSSESSING, CULTIVATING, MANUFACTURING, DELIVERING, TRANSFERRING, TRANSPORTING, SUPPLYING OR DISPENSING MARIJUANA FOR ANY PURPOSE EXCEPT TO ASSIST REGISTERED QUALIFYING PATIENTS WITH THE MEDICAL USE OF MARIJUANA DIRECTLY OR THROUGH THE REGISTERED QUALIFYING PATIENTS' DESIGNATED CAREGIVERS.

E. ALL CULTIVATION OF MARIJUANA MUST TAKE PLACE IN AN ENCLOSED, LOCKED FACILITY AT A PHYSICAL ADDRESS PROVIDED TO THE DEPARTMENT DURING THE REGISTRATION PROCESS, WHICH CAN ONLY BE ACCESSED BY REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS ASSOCIATED IN THE REGISTRY WITH THE NONPROFIT MEDICAL MARIJUANA DISPENSARY.

F. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY ACQUIRE USABLE MARIJUANA OR MARIJUANA PLANTS FROM A REGISTERED QUALIFYING PATIENT OR A REGISTERED DESIGNATED CAREGIVER ONLY IF THE REGISTERED QUALIFYING PATIENT OR REGISTERED DESIGNATED CAREGIVER RECEIVES NO COMPENSATION FOR THE MARIJUANA.

G. A NONPROFIT MEDICAL MARIJUANA DISPENSARY SHALL NOT PERMIT ANY PERSON TO CONSUME MARIJUANA ON THE PROPERTY OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

H. REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES ARE SUBJECT TO REASONABLE INSPECTION BY THE DEPARTMENT. THE DEPARTMENT SHALL GIVE REASONABLE NOTICE OF AN INSPECTION UNDER THIS SUBSECTION.

36-2806.01. Dispensary locations

CITIES, TOWNS AND COUNTIES MAY ENACT REASONABLE ZONING REGULATIONS THAT LIMIT THE USE OF LAND FOR REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES TO SPECIFIED AREAS IN THE MANNER

PROVIDED IN TITLE 9, CHAPTER 4, ARTICLE 6.1, AND TITLE 11, CHAPTER 6, ARTICLE 2.

36-2806.02. Dispensing marijuana for medical use

A. BEFORE MARIJUANA MAY BE DISPENSED TO A REGISTERED DESIGNATED CAREGIVER OR A REGISTERED QUALIFYING PATIENT, A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT MUST ACCESS THE VERIFICATION SYSTEM AND DETERMINE FOR THE REGISTERED QUALIFYING PATIENT FOR WHOM THE MARIJUANA IS INTENDED AND ANY REGISTERED DESIGNATED CAREGIVER TRANSPORTING THE MARIJUANA TO THE PATIENT, THAT:

1. THE REGISTRY IDENTIFICATION CARD PRESENTED TO THE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IS VALID.

2. EACH PERSON PRESENTING A REGISTRY IDENTIFICATION CARD IS THE PERSON IDENTIFIED ON THE REGISTRY IDENTIFICATION CARD PRESENTED TO THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT.

3. THE AMOUNT TO BE DISPENSED WOULD NOT CAUSE THE REGISTERED QUALIFYING PATIENT TO EXCEED THE LIMIT ON OBTAINING NO MORE THAN TWO-AND-ONE-HALF OUNCES OF MARIJUANA DURING ANY FOURTEEN-DAY PERIOD.

B. AFTER MAKING THE DETERMINATIONS REQUIRED IN SUBSECTION A, BUT BEFORE DISPENSING MARIJUANA TO A REGISTERED QUALIFYING PATIENT OR A REGISTERED DESIGNATED CAREGIVER ON A REGISTERED QUALIFYING PATIENT'S BEHALF, A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT MUST ENTER THE FOLLOWING INFORMATION IN THE VERIFICATION SYSTEM:

1. HOW MUCH MARIJUANA IS BEING DISPENSED TO THE REGISTERED QUALIFYING PATIENT.

2. WHETHER IT WAS DISPENSED DIRECTLY TO THE REGISTERED QUALIFYING PATIENT OR TO THE REGISTERED QUALIFYING PATIENT'S REGISTERED DESIGNATED CAREGIVER.

3. THE DATE AND TIME THE MARIJUANA WAS DISPENSED.

4. THE REGISTRY IDENTIFICATION CARD NUMBER OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AND OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT WHO DISPENSED THE MARIJUANA.

36-2807. Verification system

A. WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS CHAPTER, THE DEPARTMENT SHALL ESTABLISH A SECURE, PASSWORD-PROTECTED, WEB-BASED VERIFICATION SYSTEM FOR USE ON A TWENTY-FOUR HOUR BASIS BY LAW ENFORCEMENT PERSONNEL AND NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS TO VERIFY REGISTRY IDENTIFICATION CARDS.

B. THE VERIFICATION SYSTEM MUST ALLOW LAW ENFORCEMENT PERSONNEL AND NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS TO ENTER A REGISTRY IDENTIFICATION NUMBER AND VERIFY WHETHER THE NUMBER CORRESPONDS WITH A CURRENT, VALID IDENTIFICATION CARD.

C. THE SYSTEM SHALL DISCLOSE:

1. THE NAME OF THE CARDHOLDER, BUT MUST NOT DISCLOSE THE CARDHOLDER'S ADDRESS.

2. THE AMOUNT OF MARIJUANA THAT EACH REGISTERED QUALIFYING PATIENT RECEIVED FROM NONPROFIT MEDICAL MARIJUANA DISPENSARIES DURING THE PAST SIXTY DAYS.

D. THE VERIFICATION SYSTEM MUST INCLUDE THE FOLLOWING DATA SECURITY FEATURES:

1. ANY TIME AN AUTHORIZED USER ENTERS FIVE INVALID REGISTRY IDENTIFICATION NUMBERS WITHIN FIVE MINUTES, THAT USER CANNOT LOG IN TO THE SYSTEM AGAIN FOR TEN MINUTES.

2. A USERS LOG-IN INFORMATION SHALL BE DEACTIVATED AFTER 5 INCORRECT LOGIN ATTEMPTS UNTIL THE AUTHORIZED USER CONTACTS THE DEPARTMENT AND VERIFIES HIS IDENTITY.

3. THE SERVER MUST REJECT ANY LOG-IN REQUEST THAT IS NOT OVER AN ENCRYPTED CONNECTION.

36-2808. Notifications to department; civil penalty

A. A REGISTERED QUALIFYING PATIENT SHALL NOTIFY THE DEPARTMENT WITHIN TEN DAYS OF ANY CHANGE IN THE REGISTERED QUALIFYING PATIENT'S NAME, ADDRESS, DESIGNATED CAREGIVER OR PREFERENCE REGARDING WHO MAY CULTIVATE MARIJUANA FOR THE REGISTERED QUALIFYING PATIENT OR IF THE REGISTERED QUALIFYING PATIENT CEASES TO HAVE HIS DEBILITATING MEDICAL CONDITION.

B. A REGISTERED DESIGNATED CAREGIVER OR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT SHALL NOTIFY THE DEPARTMENT WITHIN TEN DAYS OF ANY CHANGE IN HIS NAME OR ADDRESS.

C. WHEN A CARDHOLDER NOTIFIES THE DEPARTMENT OF ANY CHANGES LISTED IN SUBSECTION A BUT REMAINS ELIGIBLE UNDER THIS CHAPTER, THE DEPARTMENT SHALL ISSUE THE CARDHOLDER A NEW REGISTRY IDENTIFICATION CARD WITH NEW RANDOM 20-DIGIT ALPHANUMERIC IDENTIFICATION NUMBERS WITHIN TEN DAYS OF RECEIVING THE UPDATED INFORMATION AND A TEN-DOLLAR FEE. IF THE PERSON NOTIFYING THE DEPARTMENT IS A REGISTERED QUALIFYING PATIENT, THE DEPARTMENT SHALL ALSO ISSUE HIS REGISTERED DESIGNATED CAREGIVER, IF ANY, A NEW REGISTRY IDENTIFICATION CARD WITHIN TEN DAYS OF RECEIVING THE UPDATED INFORMATION.

D. IF THE REGISTERED QUALIFYING PATIENT'S CERTIFYING PHYSICIAN NOTIFIES THE DEPARTMENT IN WRITING THAT EITHER THE REGISTERED QUALIFYING PATIENT HAS CEASED TO SUFFER FROM A DEBILITATING MEDICAL CONDITION OR THAT THE PHYSICIAN NO LONGER BELIEVES THE PATIENT WOULD RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE MEDICAL USE OF MARIJUANA, THE CARD IS VOID UPON NOTIFICATION BY THE DEPARTMENT TO THE QUALIFYING PATIENT.

E. WHEN A REGISTERED QUALIFYING PATIENT CEASES TO BE A REGISTERED QUALIFYING PATIENT OR CHANGES REGISTERED DESIGNATED CAREGIVER, THE DEPARTMENT SHALL PROMPTLY NOTIFY THE FORMER DESIGNATED CAREGIVER THAT HIS DUTIES AND RIGHTS UNDER THIS CHAPTER AS TO THAT QUALIFYING PATIENT EXPIRE FIFTEEN DAYS AFTER NOTIFICATION BY THE DEPARTMENT IS SENT.

F. A REGISTERED QUALIFYING PATIENT, DESIGNATED CAREGIVER OR NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT WHO FAILS TO COMPLY WITH SUBSECTION A OR B IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE HUNDRED FIFTY DOLLARS.

36-2809. Annual report

THE DEPARTMENT SHALL SUBMIT TO THE LEGISLATURE AN ANNUAL REPORT THAT DOES NOT DISCLOSE ANY IDENTIFYING INFORMATION ABOUT CARDHOLDERS, NONPROFIT MEDICAL MARIJUANA DISPENSARIES OR PHYSICIANS BUT CONTAINS AT LEAST ALL OF THE FOLLOWING INFORMATION:

1. THE NUMBER OF REGISTRY IDENTIFICATION CARD APPLICATIONS AND RENEWALS.
2. THE NUMBER OF QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS APPROVED IN EACH COUNTY.
3. THE NATURE OF THE DEBILITATING MEDICAL CONDITIONS OF THE QUALIFYING PATIENTS.
4. THE NUMBER OF REGISTRY IDENTIFICATION CARDS REVOKED.
5. THE NUMBER OF PHYSICIANS PROVIDING WRITTEN CERTIFICATIONS FOR QUALIFYING PATIENTS.
6. THE NUMBER OF REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
7. THE NUMBER OF NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS IN EACH COUNTY.

36-2810. Confidentiality

A. THE FOLLOWING INFORMATION RECEIVED AND RECORDS KEPT BY THE DEPARTMENT FOR PURPOSES OF ADMINISTERING THIS CHAPTER ARE CONFIDENTIAL, EXEMPT FROM TITLE 39, CHAPTER 1, ARTICLE 2, EXEMPT FROM SECTION 36-105 AND NOT SUBJECT TO DISCLOSURE TO ANY INDIVIDUAL OR PUBLIC OR PRIVATE ENTITY, EXCEPT AS NECESSARY FOR AUTHORIZED EMPLOYEES OF THE DEPARTMENT TO PERFORM OFFICIAL DUTIES OF THE DEPARTMENT PURSUANT TO THIS CHAPTER.

1. APPLICATIONS OR RENEWALS, THEIR CONTENTS AND SUPPORTING INFORMATION SUBMITTED BY QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS, INCLUDING INFORMATION REGARDING THEIR DESIGNATED CAREGIVERS AND PHYSICIANS.
2. APPLICATIONS OR RENEWALS, THEIR CONTENTS AND SUPPORTING INFORMATION SUBMITTED BY OR ON BEHALF OF NONPROFIT MEDICAL MARIJUANA DISPENSARIES IN COMPLIANCE WITH THIS CHAPTER, INCLUDING THE PHYSICAL ADDRESSES OF NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
3. THE INDIVIDUAL NAMES AND OTHER INFORMATION IDENTIFYING PERSONS TO WHOM THE DEPARTMENT HAS ISSUED REGISTRY IDENTIFICATION CARDS.

B. ANY DISPENSING INFORMATION REQUIRED TO BE KEPT UNDER SECTION 36-2806.02, SUBSECTION B, OR DEPARTMENT REGULATION SHALL IDENTIFY CARDHOLDERS BY THEIR REGISTRY IDENTIFICATION NUMBERS AND NOT CONTAIN NAMES OR OTHER PERSONALLY IDENTIFYING INFORMATION.

C. ANY DEPARTMENT HARD DRIVES OR OTHER DATA RECORDING MEDIA THAT ARE NO LONGER IN USE AND THAT CONTAIN CARDHOLDER INFORMATION MUST BE DESTROYED. THE DEPARTMENT SHALL RETAIN A SIGNED STATEMENT FROM A DEPARTMENT EMPLOYEE CONFIRMING THE DESTRUCTION.

D. DATA SUBJECT TO THIS SECTION SHALL NOT BE COMBINED OR LINKED IN ANY MANNER WITH ANY OTHER LIST OR DATABASE AND IT SHALL NOT BE USED FOR ANY PURPOSE NOT PROVIDED FOR IN THIS CHAPTER.

E. NOTHING IN THIS SECTION PRECLUDES THE FOLLOWING NOTIFICATIONS:

1. DEPARTMENT EMPLOYEES MAY NOTIFY LAW ENFORCEMENT ABOUT FALSIFIED OR FRAUDULENT INFORMATION SUBMITTED TO THE DEPARTMENT IF THE EMPLOYEE WHO SUSPECTS THAT FALSIFIED OR FRAUDULENT INFORMATION HAS BEEN SUBMITTED HAS CONFERRED WITH HIS SUPERVISOR AND BOTH AGREE THAT THE CIRCUMSTANCES WARRANT REPORTING.

2. THE DEPARTMENT MAY NOTIFY STATE OR LOCAL LAW ENFORCEMENT ABOUT APPARENT CRIMINAL VIOLATIONS OF THIS CHAPTER IF THE EMPLOYEE WHO SUSPECTS THE OFFENSE HAS CONFERRED WITH HIS SUPERVISOR AND BOTH AGREE THAT THE CIRCUMSTANCES WARRANT REPORTING.

3. NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS MAY NOTIFY THE DEPARTMENT OF A SUSPECTED VIOLATION OR ATTEMPTED VIOLATION OF THIS CHAPTER OR DEPARTMENT RULES.

F. NOTHING IN THIS SECTION PRECLUDES SUBMISSION OF THE SECTION 36-2809 REPORT TO THE LEGISLATURE. THE ANNUAL REPORT SUBMITTED TO THE LEGISLATURE IS SUBJECT TO TITLE 39, CHAPTER 1, ARTICLE 2.

36-2811. Presumption of medical use of marijuana; protections; civil penalty

A. THERE IS A PRESUMPTION THAT A QUALIFYING PATIENT OR DESIGNATED CAREGIVER IS ENGAGED IN THE MEDICAL USE OF MARIJUANA PURSUANT TO THIS CHAPTER.

1. THE PRESUMPTION EXISTS IF THE QUALIFYING PATIENT OR DESIGNATED CAREGIVER:

(a) IS IN POSSESSION OF A REGISTRY IDENTIFICATION CARD.

(b) IS IN POSSESSION OF AN AMOUNT OF MARIJUANA THAT DOES NOT EXCEED THE ALLOWABLE AMOUNT OF MARIJUANA.

2. THE PRESUMPTION MAY BE REBUTTED BY EVIDENCE THAT CONDUCT RELATED TO MARIJUANA WAS NOT FOR THE PURPOSE OF TREATING OR ALLEVIATING THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION PURSUANT TO THIS CHAPTER.

B. A REGISTERED QUALIFYING PATIENT OR REGISTERED DESIGNATED CAREGIVER IS NOT SUBJECT TO ARREST, PROSECUTION OR PENALTY IN ANY MANNER, OR DENIAL OF ANY RIGHT OR PRIVILEGE, INCLUDING ANY CIVIL PENALTY OR DISCIPLINARY ACTION BY A COURT OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU:

1. FOR THE REGISTERED QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA PURSUANT TO THIS CHAPTER, IF THE REGISTERED QUALIFYING PATIENT DOES NOT POSSESS MORE THAN THE ALLOWABLE AMOUNT OF MARIJUANA.

2. FOR THE REGISTERED DESIGNATED CAREGIVER ASSISTING A REGISTERED QUALIFYING PATIENT TO WHOM HE IS CONNECTED THROUGH THE DEPARTMENT'S REGISTRATION PROCESS WITH THE REGISTERED

QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA PURSUANT TO THIS CHAPTER IF THE REGISTERED DESIGNATED CAREGIVER DOES NOT POSSESS MORE THAN THE ALLOWABLE AMOUNT OF MARIJUANA.

3. FOR OFFERING OR PROVIDING MARIJUANA TO A REGISTERED QUALIFYING PATIENT OR A REGISTERED DESIGNATED CAREGIVER FOR THE REGISTERED QUALIFYING PATIENT'S MEDICAL USE OR TO A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IF NOTHING OF VALUE IS TRANSFERRED IN RETURN AND THE PERSON GIVING THE MARIJUANA DOES NOT KNOWINGLY CAUSE THE RECIPIENT TO POSSESS MORE THAN THE ALLOWABLE AMOUNT OF MARIJUANA.

C. A PHYSICIAN SHALL NOT BE SUBJECT TO ARREST, PROSECUTION OR PENALTY IN ANY MANNER OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING BUT NOT LIMITED TO CIVIL PENALTY OR DISCIPLINARY ACTION BY THE ARIZONA BOARD OF MEDICAL EXAMINERS OR BY ANY OTHER BUSINESS, OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU, BASED SOLELY ON PROVIDING WRITTEN CERTIFICATIONS OR FOR OTHERWISE STATING THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, A PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE MEDICAL USE OF MARIJUANA TO TREAT OR ALLEVIATE THE PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE DEBILITATING MEDICAL CONDITION, BUT NOTHING IN THIS CHAPTER PREVENTS A PROFESSIONAL LICENSING BOARD FROM SANCTIONING A PHYSICIAN FOR FAILING TO PROPERLY EVALUATE A PATIENT'S MEDICAL CONDITION OR OTHERWISE VIOLATING THE STANDARD OF CARE FOR EVALUATING MEDICAL CONDITIONS.

D. NO PERSON MAY BE SUBJECT TO ARREST, PROSECUTION OR PENALTY IN ANY MANNER, OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING ANY CIVIL PENALTY OR DISCIPLINARY ACTION BY A COURT OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU, FOR:

1. PROVIDING A REGISTERED QUALIFYING PATIENT, A REGISTERED DESIGNATED CAREGIVER OR A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY WITH MARIJUANA PARAPHERNALIA FOR PURPOSES OF A QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA.

2. BEING IN THE PRESENCE OR VICINITY OF THE MEDICAL USE OF MARIJUANA AUTHORIZED UNDER THIS CHAPTER.

3. ASSISTING A REGISTERED QUALIFYING PATIENT WITH ADMINISTERING MARIJUANA AS AUTHORIZED BY THIS CHAPTER.

E. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY IS NOT SUBJECT TO PROSECUTION; SEARCH OR INSPECTION, EXCEPT BY THE DEPARTMENT PURSUANT TO SECTION 36-2806, SUBSECTION H; SEIZURE OR PENALTY IN ANY MANNER AND MAY NOT BE DENIED ANY RIGHT OR PRIVILEGE, INCLUDING CIVIL PENALTY OR DISCIPLINARY ACTION BY A COURT OR BUSINESS LICENSING BOARD OR ENTITY, FOR ACTING PURSUANT TO THIS CHAPTER AND DEPARTMENT REGULATIONS TO ACQUIRE, POSSESS, CULTIVATE, MANUFACTURE, DELIVER, TRANSFER, TRANSPORT, SUPPLY, SELL OR DISPENSE MARIJUANA OR RELATED SUPPLIES AND EDUCATIONAL MATERIALS TO REGISTERED QUALIFYING PATIENTS, TO REGISTERED DESIGNATED CAREGIVERS ON BEHALF OF REGISTERED QUALIFYING PATIENTS OR TO OTHER REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

F. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT IS NOT SUBJECT TO ARREST, PROSECUTION, SEARCH, SEIZURE OR PENALTY IN ANY MANNER AND MAY NOT BE DENIED ANY RIGHT OR PRIVILEGE, INCLUDING CIVIL PENALTY OR DISCIPLINARY ACTION BY A COURT OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR ENTITY, FOR WORKING OR VOLUNTEERING FOR A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY PURSUANT TO THIS CHAPTER AND DEPARTMENT REGULATIONS TO ACQUIRE, POSSESS, CULTIVATE, MANUFACTURE, DELIVER, TRANSFER, TRANSPORT, SUPPLY, SELL OR DISPENSE MARIJUANA OR RELATED SUPPLIES AND EDUCATIONAL MATERIALS TO REGISTERED QUALIFYING PATIENTS, TO REGISTERED DESIGNATED CAREGIVERS ON BEHALF OF REGISTERED QUALIFYING PATIENTS OR TO OTHER REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

G. PROPERTY, INCLUDING ALL INTERESTS IN THE PROPERTY, OTHERWISE SUBJECT TO FORFEITURE UNDER TITLE 13, CHAPTER 39, THAT IS POSSESSED, OWNED OR USED IN CONNECTION WITH THE MEDICAL USE OF MARIJUANA AUTHORIZED UNDER THIS CHAPTER OR ACTS INCIDENTAL TO THE MEDICAL USE OF MARIJUANA AUTHORIZED UNDER THIS CHAPTER, IS NOT SUBJECT TO SEIZURE OR FORFEITURE. THIS SUBSECTION DOES NOT PREVENT CIVIL FORFEITURE IF THE BASIS FOR THE FORFEITURE IS UNRELATED TO THE MEDICAL USE OF MARIJUANA.

H. MERE POSSESSION OF, OR APPLICATION FOR, A REGISTRY IDENTIFICATION CARD MAY NOT CONSTITUTE PROBABLE CAUSE OR REASONABLE SUSPICION, NOR MAY IT BE USED TO SUPPORT THE SEARCH OF THE PERSON OR PROPERTY OF THE PERSON POSSESSING OR APPLYING FOR THE REGISTRY IDENTIFICATION CARD. THE POSSESSION OF, OR APPLICATION FOR, A REGISTRY IDENTIFICATION CARD DOES NOT PRECLUDE THE EXISTENCE OF PROBABLE CAUSE IF PROBABLE CAUSE EXISTS ON OTHER GROUNDS.

I. NO SCHOOL, LANDLORD OR EMPLOYER MAY BE PENALIZED OR DENIED ANY BENEFIT UNDER STATE LAW FOR ENROLLING, LEASING TO OR EMPLOYING A REGISTERED QUALIFYING PATIENT OR A REGISTERED DESIGNATED CAREGIVER.

36-2812. Affirmative defense

A. EXCEPT AS PROVIDED IN SECTION 36-2802, A QUALIFYING PATIENT AND A QUALIFYING PATIENT'S DESIGNATED CAREGIVER, IF ANY, MAY ASSERT THE MEDICAL PURPOSE FOR USING MARIJUANA AS A DEFENSE TO ANY PROSECUTION OF AN OFFENSE INVOLVING MARIJUANA INTENDED FOR A QUALIFYING PATIENT'S MEDICAL USE, AND THIS DEFENSE SHALL BE PRESUMED VALID WHERE THE EVIDENCE SHOWS THAT:

1. A PHYSICIAN STATES THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, AFTER HAVING COMPLETED A FULL ASSESSMENT OF THE QUALIFYING PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION MADE IN THE COURSE OF A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP, THE QUALIFYING PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE MEDICAL USE OF MARIJUANA TO TREAT OR ALLEVIATE THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION.

2. THE QUALIFYING PATIENT AND THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER, IF ANY, WERE COLLECTIVELY IN POSSESSION OF A QUANTITY OF MARIJUANA THAT WAS NOT MORE THAN WAS REASONABLY NECESSARY TO ENSURE THE UNINTERRUPTED AVAILABILITY OF MARIJUANA FOR THE PURPOSE OF TREATING OR ALLEVIATING THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION.

3. ALL MARIJUANA PLANTS WERE CONTAINED IN AN ENCLOSED LOCKED FACILITY.

4. THE QUALIFYING PATIENT AND THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER, IF ANY, WERE ENGAGED IN THE ACQUISITION, POSSESSION, CULTIVATION, MANUFACTURE, USE OR TRANSPORTATION OF MARIJUANA, PARAPHERNALIA OR BOTH, RELATING TO THE ADMINISTRATION OF MARIJUANA SOLELY TO TREAT OR ALLEVIATE THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS ASSOCIATED WITH THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION.

B. A PERSON MAY ASSERT THE MEDICAL PURPOSE FOR USING MARIJUANA IN A MOTION TO DISMISS, AND THE CHARGES SHALL BE DISMISSED FOLLOWING AN EVIDENTIARY HEARING WHERE THE PERSON SHOWS THE ELEMENTS LISTED IN SUBSECTION(A).

C. IF A QUALIFYING PATIENT OR A QUALIFYING PATIENT'S DESIGNATED CAREGIVER DEMONSTRATE THE QUALIFYING PATIENT'S MEDICAL PURPOSE FOR USING MARIJUANA PURSUANT TO THIS SECTION, THE QUALIFYING PATIENT AND THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER SHALL NOT BE SUBJECT TO THE FOLLOWING FOR THE QUALIFYING PATIENT'S MEDICAL USE OF MARIJUANA:

1. DISCIPLINARY ACTION BY A COURT OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU.

2. FORFEITURE OF ANY INTEREST IN OR RIGHT TO NON-MARIJUANA, LICIT PROPERTY.

36-2813. Discrimination prohibited

A. NO SCHOOL OR LANDLORD MAY REFUSE TO ENROLL OR LEASE TO AND MAY NOT OTHERWISE PENALIZE A PERSON SOLELY FOR HIS STATUS AS A CARDHOLDER, UNLESS FAILING TO DO SO WOULD CAUSE THE SCHOOL OR LANDLORD TO LOSE A MONETARY OR LICENSING RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS.

B. UNLESS A FAILURE TO DO SO WOULD CAUSE AN EMPLOYER TO LOSE A MONETARY OR LICENSING RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS, AN EMPLOYER MAY NOT DISCRIMINATE AGAINST A PERSON IN HIRING, TERMINATION OR IMPOSING ANY TERM OR CONDITION OF EMPLOYMENT OR OTHERWISE PENALIZE A PERSON BASED UPON EITHER:

1. THE PERSON'S STATUS AS A CARDHOLDER.

2. A REGISTERED QUALIFYING PATIENT'S POSITIVE DRUG TEST FOR MARIJUANA COMPONENTS OR METABOLITES, UNLESS THE PATIENT USED, POSSESSED OR WAS IMPAIRED BY MARIJUANA ON THE PREMISES OF THE PLACE OF EMPLOYMENT OR DURING THE HOURS OF EMPLOYMENT.

C. FOR THE PURPOSES OF MEDICAL CARE, INCLUDING ORGAN TRANSPLANTS, A REGISTERED QUALIFYING PATIENT'S AUTHORIZED USE OF MARIJUANA MUST BE CONSIDERED THE EQUIVALENT OF THE USE OF ANY OTHER MEDICATION UNDER THE DIRECTION OF A PHYSICIAN AND

DOES NOT CONSTITUTE THE USE OF AN ILLICIT SUBSTANCE OR OTHERWISE DISQUALIFY A REGISTERED QUALIFYING PATIENT FROM MEDICAL CARE.

D. NO PERSON MAY BE DENIED CUSTODY OF OR VISITATION OR PARENTING TIME WITH A MINOR, AND THERE IS NO PRESUMPTION OF NEGLIGENCE OR CHILD ENDANGERMENT FOR CONDUCT ALLOWED UNDER THIS CHAPTER, UNLESS THE PERSON'S BEHAVIOR CREATES AN UNREASONABLE DANGER TO THE SAFETY OF THE MINOR AS ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE.

36-2814. Acts not required; acts not prohibited

A. NOTHING IN THIS CHAPTER REQUIRES:

1. A GOVERNMENT MEDICAL ASSISTANCE PROGRAM OR PRIVATE HEALTH INSURER 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.

36-2815. Revocation

A. THE DEPARTMENT SHALL IMMEDIATELY REVOKE THE REGISTRY IDENTIFICATION CARD OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT WHO VIOLATES SECTION 36-2804.01, SUBSECTION D, OR SECTION 36-2816, SUBSECTION B. THE DEPARTMENT SHALL SUSPEND OR REVOKE THE REGISTRY IDENTIFICATION CARD OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT FOR OTHER VIOLATIONS OF THIS CHAPTER.

B. THE DEPARTMENT SHALL IMMEDIATELY REVOKE THE REGISTRATION CERTIFICATE OF A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT VIOLATES SECTION 2816, SUBSECTIONS B OR C, AND ITS BOARD MEMBERS AND PRINCIPAL OFFICERS MAY NOT SERVE AS THE BOARD MEMBERS OR PRINCIPAL OFFICERS FOR ANY OTHER REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY.

C. ANY CARDHOLDER WHO SELLS MARIJUANA TO A PERSON WHO IS NOT ALLOWED TO POSSESS MARIJUANA FOR MEDICAL PURPOSES UNDER THIS CHAPTER SHALL HAVE HIS REGISTRY IDENTIFICATION CARD REVOKED, AND SHALL BE SUBJECT TO OTHER PENALTIES FOR THE UNAUTHORIZED SALE OF MARIJUANA AND OTHER APPLICABLE OFFENSES.

D. THE DEPARTMENT MAY REVOKE THE REGISTRY IDENTIFICATION CARD OF ANY CARDHOLDER WHO KNOWINGLY VIOLATES THIS CHAPTER, AND THE CARDHOLDER SHALL BE SUBJECT TO OTHER PENALTIES FOR THE APPLICABLE OFFENSE.

E. REVOCATION IS A FINAL DECISION OF THE DEPARTMENT SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. JURISDICTION AND VENUE ARE VESTED IN THE SUPERIOR COURT.

36-2816. Violations; civil penalty; classification

A. A REGISTERED QUALIFYING PATIENT MAY NOT DIRECTLY, OR THROUGH HIS DESIGNATED CAREGIVER, OBTAIN MORE THAN TWO-AND-ONE-HALF OUNCES OF MARIJUANA FROM REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES IN ANY FOURTEEN-DAY PERIOD.

B. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY OR AGENT MAY NOT DISPENSE, DELIVER OR OTHERWISE TRANSFER MARIJUANA TO A PERSON OTHER THAN ANOTHER REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY, A REGISTERED QUALIFYING PATIENT OR A REGISTERED QUALIFYING PATIENT'S REGISTERED DESIGNATED CAREGIVER.

C. A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY NOT ACQUIRE USABLE MARIJUANA OR MATURE MARIJUANA PLANTS FROM ANY PERSON OTHER THAN ANOTHER REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY, A REGISTERED QUALIFYING PATIENT OR A REGISTERED DESIGNATED CAREGIVER. A KNOWING VIOLATION OF THIS SUBSECTION IS A CLASS 2 FELONY.

D. IT IS A CLASS 1 MISDEMEANOR FOR ANY PERSON, INCLUDING AN EMPLOYEE OR OFFICIAL OF THE DEPARTMENT OR ANOTHER STATE AGENCY OR LOCAL GOVERNMENT, TO BREACH THE CONFIDENTIALITY OF INFORMATION OBTAINED PURSUANT TO THIS CHAPTER.

E. MAKING FALSE STATEMENTS TO A LAW ENFORCEMENT OFFICIAL ABOUT ANY FACT OR CIRCUMSTANCE RELATING TO THE MEDICAL USE OF MARIJUANA TO AVOID ARREST OR PROSECUTION IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS, WHICH SHALL BE IN ADDITION TO ANY OTHER PENALTIES THAT MAY APPLY FOR MAKING A FALSE STATEMENT OR FOR THE USE OF MARIJUANA OTHER THAN USE UNDERTAKEN PURSUANT TO THIS CHAPTER.

36-2817. Medical marijuana fund; private donations

A. THE MEDICAL MARIJUANA FUND IS ESTABLISHED CONSISTING OF FEES COLLECTED, CIVIL PENALTIES IMPOSED AND PRIVATE DONATIONS RECEIVED UNDER THIS CHAPTER. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

B. THE DIRECTOR OF THE DEPARTMENT MAY ACCEPT AND SPEND PRIVATE GRANTS, GIFTS, DONATIONS, CONTRIBUTIONS AND DEVISES TO ASSIST IN CARRYING OUT THE PROVISIONS OF THIS CHAPTER.

C. MONIES IN THE MEDICAL MARIJUANA FUND DO NOT REVERT TO THE STATE GENERAL FUND AT THE END OF A FISCAL YEAR.

36-2818. Enforcement of this act; mandamus

A. IF THE DEPARTMENT FAILS TO ADOPT REGULATIONS TO IMPLEMENT THIS CHAPTER WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS CHAPTER, ANY CITIZEN MAY COMMENCE A MANDAMUS ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

B. IF THE DEPARTMENT FAILS TO ISSUE A REGISTRY IDENTIFICATION CARD WITHIN FORTY-FIVE DAYS OF THE SUBMISSION OF A VALID APPLICATION OR RENEWAL, THE REGISTRY IDENTIFICATION CARD SHALL BE DEEMED ISSUED, AND A COPY OF THE REGISTRY IDENTIFICATION CARD APPLICATION OR RENEWAL IS DEEMED A VALID REGISTRY IDENTIFICATION CARD.

C. IF AT ANY TIME AFTER THE ONE HUNDRED FORTY DAYS FOLLOWING THE EFFECTIVE DATE OF THIS CHAPTER THE DEPARTMENT IS NOT ACCEPTING APPLICATIONS OR HAS NOT PROMULGATED RULES ALLOWING QUALIFYING PATIENTS TO SUBMIT APPLICATIONS, A NOTARIZED STATEMENT BY A QUALIFYING PATIENT CONTAINING THE INFORMATION REQUIRED IN AN APPLICATION PURSUANT TO SECTION 36-2804.02, SUBSECTION A, PARAGRAPH 3, TOGETHER WITH A WRITTEN CERTIFICATION ISSUED BY A PHYSICIAN WITHIN THE NINETY DAYS IMMEDIATELY PRECEDING THE NOTARIZED STATEMENT, SHALL BE DEEMED A VALID REGISTRY IDENTIFICATION CARD.

36-2819. Fingerprinting requirements

EACH PERSON APPLYING AS A DESIGNATED CAREGIVER, A PRINCIPAL OFFICER, AGENT OR EMPLOYEE OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MEDICAL MARIJUANA DISPENSARY AGENT SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE DEPARTMENT 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 WITHOUT DISCLOSING THAT THE RECORDS CHECK IS RELATED TO THE MEDICAL MARIJUANA ACT AND ACTS PERMITTED BY IT. THE DEPARTMENT SHALL DESTROY EACH SET OF FINGERPRINTS AFTER THE CRIMINAL RECORDS CHECK IS COMPLETED.

Sec. 4. Section 43-1201, Arizona Revised Statutes, is amended to read:

43-1201. Organizations exempt from tax

A. Organizations that are exempt from federal income tax under section 501 of the internal revenue code are exempt from the tax imposed under this title. In addition, the following organizations are exempt from the taxes imposed under this title, except as otherwise provided in this chapter:

1. Labor, agricultural or horticultural organizations, other than cooperative organizations.

2. Fraternal beneficiary societies, orders or organizations both:

(a) Operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system.

(b) Providing for the payment of life, sick, accident or other benefits to the members of such society, order or organization or their dependents.

3. Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit or any corporation chartered for burial purposes and not permitted by its charter to engage in any business not necessarily related to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual member thereof.

4. Corporations organized and operated exclusively for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation.

5. Business leagues, chambers of commerce, real estate boards or boards of trade, not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

6. Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare or local organizations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.

7. Clubs organized and operated exclusively for pleasure, recreation and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

8. Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom and turning over the entire amount of such income, less expenses, to an organization which itself is exempt from the tax imposed by this title.

9. Voluntary employees' beneficiary organizations providing for the payment of life, sick, accident or other benefits to the members of such organizations or their dependents, if both of the following apply:

(a) No part of their net earnings inures, other than through such payments, to the benefit of any private shareholder or individual.

(b) Eighty-five per cent or more of the income consists of amounts collected from members and amounts contributed to the organization by the employer of the members for the sole purpose of making such payments and meeting expenses.

10. Teachers' or public employees' retirement fund organizations of a purely local character, if both of the following apply:

(a) No part of their net earnings inures to the benefit of any private shareholder or individual, other than through payment of retirement benefits.

(b) The income consists solely of amounts received from public taxation, amounts received from assessments upon the salaries of members and income in respect of investments. For the purposes of this paragraph, "public employees" means employees of the state and its political subdivisions.

11. Religious or apostolic organizations or corporations, if such organizations or corporations have a common treasury or community treasury, even if such corporations or organizations engage in business for the common benefit of the members, but only if the members thereof include, at the time of filing their returns, in their Arizona gross income their pro rata shares, whether distributed or not, of the net income of the organizations or corporations for such year. Any amount so included in the Arizona gross income of a member shall be treated as a dividend received.

12. Voluntary employees' beneficiary organizations providing for the payment of life, sick, accident or other benefits to the members of such organization, their dependents or their designated beneficiaries, if both of the following apply:

(a) Admission to membership in such organization is limited to individuals who are officers or employees of the United States government.

(b) No part of the net earnings of such organization inures, other than through such payments, to the benefit of any private shareholder or individual.

13. Corporations classified as diversified management companies under section 5 of the federal investment company act of 1940 and registered as provided in that act.

14. Insurance companies paying to the state tax upon premium income derived from sources within this state.

15. Mutual ditch, irrigation or water companies or similar nonprofit organizations if eighty-five per cent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

16. Workers' compensation pools established pursuant to section 23-961.01.

B. NONPROFIT MEDICAL MARIJUANA DISPENSARIES UNDER TITLE 36, CHAPTER 28.1, ARE EXEMPT FROM THE TAXES IMPOSED UNDER THIS TITLE.

Sec. 5. Conditional repeal; notice

A. Section 36-2812, Arizona Revised Statutes, as added by this act, is repealed as of the date the Arizona department of health services begins to issue registry identification cards to qualifying patients and designated caregivers.

B. The Arizona department of health services shall notify, in writing, the director of the Arizona legislative council of this date.

Sec. 6. Exemption from rule making

For the purposes of this act, the Department is exempt from the rule making requirements of Title 41, Chapter 6, Arizona Revised Statutes, for one year after the effective date of this act except that the Department shall provide the public with an opportunity to comment on proposed rules and shall publish otherwise exempted rules.

Sec. 7. 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.

XI. 2012 BALLOT MEASURES

**(No statutory ballot measures were approved by
the voters in 2012.)**

XII. 2014 BALLOT MEASURES

PROPOSITION 303

OFFICIAL TITLE

HOUSE CONCURRENT RESOLUTION 2005

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO THE USE OF INVESTIGATIONAL DRUGS, BIOLOGICAL PRODUCTS AND DEVICES.

TEXT OF THE 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.

XIII. 2016 BALLOT MEASURES

PROPOSITION 206**OFFICIAL TITLE****AN INITIATIVE MEASURE**

AMENDING TITLE 23, CHAPTER 2, ARTICLE 8, ARIZONA REVISED STATUTES, BY AMENDING SECTIONS 23-363 AND 23-364; AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8.1; RELATING TO ARIZONA'S MINIMUM WAGE AND EARNED PAID SICK TIME BENEFITS.

TEXT OF PROPOSED AMENDMENT

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

Section 1. Short Title

This act may be cited as the "The Fair Wages and Healthy Families Act"

Sec. 2. Heading change

The article heading of title 23, chapter 2, article 8, Arizona Revised Statutes, is changed from "MINIMUM WAGE" to "MINIMUM WAGE AND EMPLOYEE BENEFITS".

Sec 3. Section 23-363, Arizona Revised Statutes, is amended to read:

23-363. Minimum wage

A. Employers shall pay employees no less than the minimum wage, which shall be ~~six dollars and seventy-five cents (\$6.75) an hour beginning on January 1, 2007.~~ NOT LESS THAN:

1. \$10 ON AND AFTER JANUARY 1, 2017.
2. \$10.50 ON AND AFTER JANUARY 1, 2018.
3. \$11 ON AND AFTER JANUARY 1, 2019.
4. \$12 ON AND AFTER JANUARY 1, 2020.

B. The minimum wage shall be increased on January 1, 2008~~21~~ and on January 1 of successive years, by the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase as of August of the immediately preceding year over the level as of August of the previous year of the consumer price index (all urban consumers, U.S. city average for all items) or its successor index as published by the U.S. department of labor or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of five cents.

C. For any employee who customarily and regularly receives tips or gratuities from patrons or others, the employer may pay a wage up to \$3.00 per hour less than the minimum wage if the employer can establish by its records of charged tips or by the employee's declaration for federal insurance contributions act (FICA) purposes that for each week, when adding tips received to wages paid, the employee received not less than the minimum wage for all hours worked. Compliance with this provision will be determined by averaging tips received by the employee over the course of the employer's payroll period or any other period selected by the employer that complies with regulations adopted by the commission.

Sec. 4. Section 23-364, Arizona Revised Statutes, is amended to read:

23-364. Enforcement

A. The commission is authorized to enforce and implement this article and may promulgate regulations consistent with this article to do so. FOR PURPOSES OF THIS SECTION: (1) "ARTICLE" SHALL MEAN BOTH ARTICLE 8 AND ARTICLE 8.1 OF THIS CHAPTER; (2) "EARNED PAID SICK TIME" IS AS DEFINED IN SECTION 23-371, ARIZONA REVISED STATUTES; (3) "EMPLOYER" SHALL REFER TO THE DEFINITION OF EMPLOYER IN SECTION 23-362, ARIZONA REVISED STATUTES, FOR PURPOSES OF MINIMUM WAGE ENFORCEMENT AND SHALL REFER TO THE DEFINITION OF EMPLOYER IN SECTION 23-371, ARIZONA REVISED STATUTES, FOR PURPOSES OF EARNED PAID SICK TIME ENFORCEMENT; AND (4) "RETALIATION" SHALL MEAN DENIAL OF ANY RIGHT GUARANTEED UNDER ARTICLE 8 AND ARTICLE 8.1 OF THIS CHAPTER AND ANY THREAT, DISCHARGE, SUSPENSION, DEMOTION, REDUCTION OF HOURS, OR ANY OTHER ADVERSE ACTION AGAINST AN EMPLOYEE FOR THE EXERCISE OF ANY RIGHT GUARANTEED HEREIN INCLUDING ANY SANCTIONS AGAINST AN EMPLOYEE WHO IS THE RECIPIENT OF PUBLIC BENEFITS FOR RIGHTS GUARANTEED HEREIN. RETALIATION SHALL ALSO INCLUDE INTERFERENCE WITH OR PUNISHMENT FOR IN ANY MANNER PARTICIPATING IN OR ASSISTING AN INVESTIGATION, PROCEEDING OR HEARING UNDER THIS ARTICLE.

B. No employer or other person shall DISCRIMINATE OR SUBJECT ANY PERSON TO RETALIATION ~~discharge or take any other adverse action against any person in retaliation~~ for asserting any claim or right under this article, for assisting any other person in doing so, or for informing any person about their rights. Taking adverse action against a person within ninety days of a person's engaging in the foregoing activities shall raise a presumption that such action was retaliation, which may be rebutted by clear and convincing evidence that such action was taken for other permissible reasons.

C. Any person or organization may file an administrative complaint with the commission charging that an employer has violated this article as to any employee or other person. When the commission receives a complaint, the commission may review records regarding all employees at the employer's worksite in order to protect the identity of any employee identified in the complaint and to determine whether a pattern of violations has occurred. The name of any employee identified in a complaint to the commission shall be kept confidential as long as possible. Where the commission determines that an employee's name must be disclosed in order to investigate a complaint further, it may so do only with the employee's consent.

D. Employers shall post notices in the workplace, in such format specified by the commission, notifying employees of their Rights under this article. Employers shall provide their business name, address, and telephone number in writing to employees upon hire. Employers shall maintain payroll records showing the hours worked for each day worked, and the wages AND EARNED PAID SICK TIME paid to all employees for a period of four years. Failure to do so shall raise a rebuttable presumption that the employer did not pay the required minimum wage rate OR EARNED PAID SICK TIME.

The commission may by regulation reduce or waive the recordkeeping and posting requirements herein for any categories of small employers whom it finds would be unreasonably burdened by such requirements. Employers shall permit the commission or a law enforcement officer to inspect and copy payroll or other business records, shall permit them to interview employees away from the worksite, and shall not hinder any investigation. Such information provided shall keep confidential except as is required to prosecute violations of this article. Employers shall permit an employee or his or her designated representative to inspect and copy payroll records pertaining to that employee.

E. A civil action to enforce this article may be maintained in a court of competent jurisdiction by a law enforcement officer or by any private party injured by a violation of this article.

F. Any employer who violates recordkeeping, posting, or other requirements that the commission may establish under this article shall be subject to a civil penalty of at least \$250 dollars for a first violation, and at least \$1000 dollars for each subsequent or willful violation and may, if the commission or court determines appropriate, be subject to special monitoring and inspections.

G. Any employer who fails to pay the wages OR EARNED PAID SICK TIME required under this article shall be required to pay the employee the balance of the wages OR EARNED PAID SICK TIME owed, including interest thereon, and an additional amount equal to twice the underpaid wages OR EARNED PAID SICK TIME. Any employer who retaliates against an employee or other person in violation of this article shall be required to pay the employee an amount set by the commission or a court sufficient to compensate the employee and deter future violations, but not less than one hundred fifty dollars for each day that the violation continued or until legal judgment is final. The commission and the courts shall have the authority to order payment of such unpaid wages, UNPAID EARNED SICK TIME, other amounts, and civil penalties and to order any other appropriate legal or equitable relief for violations of this article. Civil penalties shall be retained by the agency that recovered them and used to finance activities to enforce this article. A prevailing plaintiff shall be entitled to reasonable attorney's fees and costs of suit.

H. A civil action to enforce this article may be commenced no later than two years after a violation last occurs, or three years in the case of a willful violation, and may encompass all violations that occurred as part of a continuing course of employer conduct regardless of their date. The statute of limitations shall be tolled during any investigation of an employer by the commission or other law enforcement officer, but such investigation shall not bar a person from bringing a civil action under this article. No verbal or written agreement or employment contract may waive any rights under this article.

I. The legislature may by statute raise the minimum wage established under this article, extend coverage, or increase penalties. A county, city, or town may by ordinance regulate minimum wages and benefits within its geographic boundaries but may not provide for a minimum wage lower than that prescribed in this article. State agencies, counties, cities, towns and other political subdivisions of the state may consider violations of this article in determining whether employers may receive or renew public contracts, financial assistance or licenses. This article shall be liberally construed in favor

of its purposes and shall not limit the authority of the legislature or any other body to adopt any law or policy that requires payment of higher or supplemental wages or benefits, or that extends such protections to employers or employees not covered by this article.

Sec. 5. Title 23, chapter 2, Arizona Revised Statutes, is amended by adding article 8.1, to read:

ARTICLE 8.1. EARNED PAID SICK TIME

23-371. Definitions

FOR PURPOSES OF THIS ARTICLE:

A. "ABUSE" MEANS AN OFFENSE PRESCRIBED IN SECTION 13-3623, ARIZONA REVISED STATUTES.

B. "COMMISSION" IS AS DEFINED IN SECTION 23-362, ARIZONA REVISED STATUTES.

C. "DOMESTIC VIOLENCE" IS AS DEFINED IN SECTION 13-3601, ARIZONA REVISED STATUTES.

D. "EARNED PAID SICK TIME" MEANS TIME THAT IS COMPENSATED AT THE SAME HOURLY RATE AND WITH THE SAME BENEFITS, INCLUDING HEALTH CARE BENEFITS, AS THE EMPLOYEE NORMALLY EARNS DURING HOURS WORKED AND IS PROVIDED BY AN EMPLOYER TO AN EMPLOYEE FOR THE PURPOSES DESCRIBED IN SECTION 23-373 OF THIS ARTICLE, BUT IN NO CASE SHALL THIS HOURLY AMOUNT BE LESS THAN THAT PROVIDED UNDER THE FAIR LABOR STANDARDS ACT OF 1938 (29 UNITED STATES CODE SECTION 206(A)(1)) OR SECTION 23-363, ARIZONA REVISED STATUTES.

E. "EMPLOY" IS AS DEFINED IN SECTION 23-362, ARIZONA REVISED STATUTES.

F. "EMPLOYEE" IS AS DEFINED IN SECTION 23-362, ARIZONA REVISED STATUTES. EMPLOYEE INCLUDES RECIPIENTS OF PUBLIC BENEFITS WHO ARE ENGAGED IN WORK ACTIVITY AS A CONDITION OF RECEIVING PUBLIC ASSISTANCE.

G. "EMPLOYER" INCLUDES ANY CORPORATION, PROPRIETORSHIP, PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY COMPANY, TRUST, ASSOCIATION, POLITICAL SUBDIVISION OF THE STATE, INDIVIDUAL OR OTHER ENTITY ACTING DIRECTLY OR INDIRECTLY IN THE INTEREST OF AN EMPLOYER IN RELATION TO AN EMPLOYEE, BUT DOES NOT INCLUDE THE STATE OF ARIZONA OR THE UNITED STATES.

H. "FAMILY MEMBER" MEANS:

1. REGARDLESS OF AGE, A BIOLOGICAL, ADOPTED OR FOSTER CHILD, STEPCHILD OR LEGAL WARD, A CHILD OF A DOMESTIC PARTNER, A CHILD TO WHOM THE EMPLOYEE STANDS *IN LOCO PARENTIS*, OR AN INDIVIDUAL TO WHOM THE EMPLOYEE STOOD *IN LOCO PARENTIS* WHEN THE INDIVIDUAL WAS A MINOR;

2. A BIOLOGICAL, FOSTER, STEPPARENT OR ADOPTIVE PARENT OR LEGAL GUARDIAN OF AN EMPLOYEE OR AN EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER OR A PERSON WHO STOOD *IN LOCO PARENTIS* WHEN

THE EMPLOYEE OR EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER WAS A MINOR CHILD;

3. A PERSON TO WHOM THE EMPLOYEE IS LEGALLY MARRIED UNDER THE LAWS OF ANY STATE, OR A DOMESTIC PARTNER OF AN EMPLOYEE AS REGISTERED UNDER THE LAWS OF ANY STATE OR POLITICAL SUBDIVISION;

4. A GRANDPARENT, GRANDCHILD OR SIBLING (WHETHER OF A BIOLOGICAL, FOSTER, ADOPTIVE OR STEP RELATIONSHIP) OF THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER; OR

5. ANY OTHER INDIVIDUAL RELATED BY BLOOD OR AFFINITY WHOSE CLOSE ASSOCIATION WITH THE EMPLOYEE IS THE EQUIVALENT OF A FAMILY RELATIONSHIP.

I. "RETALIATION" IS AS DEFINED IN SECTION 23-364, ARIZONA REVISED STATUTES.

J. "SEXUAL VIOLENCE" MEANS AN OFFENSE PRESCRIBED IN: (A) TITLE 13, CHAPTER 14, ARIZONA REVISED STATUTES, EXCEPT FOR SECTIONS 13-1408 AND 13-1422; OR (B) SECTIONS 13-1304(A)(3), 13-1307, 13-3019, 13-3206, 13-3212, 13-3552, 13-3553, 13-3554, OR 13-3560, ARIZONA REVISED STATUTES.

K. "STALKING" MEANS AN OFFENSE PRESCRIBED IN SECTION 13-2923, ARIZONA REVISED STATUTES.

L. "YEAR" MEANS A REGULAR AND CONSECUTIVE 12-MONTH PERIOD AS DETERMINED BY THE EMPLOYER.

23-372. Accrual of Earned Paid Sick Time

A. EMPLOYEES OF AN EMPLOYER WITH 15 OR MORE EMPLOYEES SHALL ACCRUE A MINIMUM OF ONE HOUR OF EARNED PAID SICK TIME FOR EVERY 30 HOURS WORKED, BUT EMPLOYEES SHALL NOT BE ENTITLED TO ACCRUE OR USE MORE THAN 40 HOURS OF EARNED PAID SICK TIME PER YEAR, UNLESS THE EMPLOYER SELECTS A HIGHER LIMIT.

B. EMPLOYEES OF AN EMPLOYER WITH FEWER THAN 15 EMPLOYEES SHALL ACCRUE A MINIMUM OF ONE HOUR OF EARNED PAID SICK TIME FOR EVERY 30 HOURS WORKED, BUT EMPLOYEES SHALL NOT BE ENTITLED TO ACCRUE OR USE MORE THAN 24 HOURS OF EARNED PAID SICK TIME PER YEAR, UNLESS THE EMPLOYER SELECTS A HIGHER LIMIT.

C. IN DETERMINING THE NUMBER OF EMPLOYEES PERFORMING WORK FOR AN EMPLOYER FOR COMPENSATION DURING A GIVEN WEEK, ALL EMPLOYEES PERFORMING WORK FOR COMPENSATION ON A FULL-TIME, PART-TIME OR TEMPORARY BASIS SHALL BE COUNTED. IN SITUATIONS IN WHICH THE NUMBER OF EMPLOYEES WHO WORK FOR AN EMPLOYER FOR COMPENSATION PER WEEK FLUCTUATES ABOVE AND BELOW 15 EMPLOYEES PER WEEK OVER THE COURSE OF THE YEAR, AN EMPLOYER IS REQUIRED TO PROVIDE EARNED PAID SICK TIME PURSUANT TO SUBSECTION A OF THIS SECTION IF IT MAINTAINED 15 OR MORE EMPLOYEES ON THE PAYROLL FOR SOME PORTION OF A DAY IN EACH OF 20 DIFFERENT CALENDAR WEEKS, WHETHER OR NOT THE WEEKS WERE

CONSECUTIVE, IN EITHER THE CURRENT OR THE PRECEDING YEAR (IRRESPECTIVE OF WHETHER THE SAME INDIVIDUALS WERE IN EMPLOYMENT IN EACH DAY).

D. ALL EMPLOYEES SHALL ACCRUE EARNED PAID SICK TIME AS FOLLOWS:

1. EARNED PAID SICK TIME AS PROVIDED IN THIS SECTION SHALL BEGIN TO ACCRUE AT THE COMMENCEMENT OF EMPLOYMENT OR ON JULY 1, 2017, WHICHEVER IS LATER. AN EMPLOYER MAY PROVIDE ALL EARNED PAID SICK TIME THAT AN EMPLOYEE IS EXPECTED TO ACCRUE IN A YEAR AT THE BEGINNING OF THE YEAR.

2. AN EMPLOYEE MAY USE EARNED PAID SICK TIME AS IT IS ACCRUED, EXCEPT THAT AN EMPLOYER MAY REQUIRE AN EMPLOYEE HIRED AFTER JULY 1, 2017, TO WAIT UNTIL THE NINETIETH CALENDAR DAY AFTER COMMENCING EMPLOYMENT BEFORE USING ACCRUED EARNED PAID SICK TIME, UNLESS OTHERWISE PERMITTED BY THE EMPLOYER.

3. EMPLOYEES WHO ARE EXEMPT FROM OVERTIME REQUIREMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938 (29 UNITED STATES CODE SECTION 213(A)(1)) WILL BE ASSUMED TO WORK 40 HOURS IN EACH WORK WEEK FOR PURPOSES OF EARNED PAID SICK TIME ACCRUAL UNLESS THEIR NORMAL WORK WEEK IS LESS THAN 40 HOURS, IN WHICH CASE EARNED PAID SICK TIME ACCRUES BASED UPON THAT NORMAL WORK WEEK.

4. EARNED PAID SICK TIME SHALL BE CARRIED OVER TO THE FOLLOWING YEAR, SUBJECT TO THE LIMITATIONS ON USAGE IN SUBSECTIONS A AND B. ALTERNATIVELY, IN LIEU OF CARRYOVER OF UNUSED EARNED PAID SICK TIME FROM ONE YEAR TO THE NEXT, AN EMPLOYER MAY PAY AN EMPLOYEE FOR UNUSED EARNED PAID SICK TIME AT THE END OF A YEAR AND PROVIDE THE EMPLOYEE WITH AN AMOUNT OF EARNED PAID SICK TIME THAT MEETS OR EXCEEDS THE REQUIREMENTS OF THIS ARTICLE THAT IS AVAILABLE FOR THE EMPLOYEE'S IMMEDIATE USE AT THE BEGINNING OF THE SUBSEQUENT YEAR.

5. IF AN EMPLOYEE IS TRANSFERRED TO A SEPARATE DIVISION, ENTITY OR LOCATION, BUT REMAINS EMPLOYED BY THE SAME EMPLOYER, THE EMPLOYEE IS ENTITLED TO ALL EARNED PAID SICK TIME ACCRUED AT THE PRIOR DIVISION, ENTITY OR LOCATION AND IS ENTITLED TO USE ALL EARNED PAID SICK TIME AS PROVIDED IN THIS SECTION. WHEN THERE IS A SEPARATION FROM EMPLOYMENT AND THE EMPLOYEE IS REHIRED WITHIN NINE MONTHS OF SEPARATION BY THE SAME EMPLOYER, PREVIOUSLY ACCRUED EARNED PAID SICK TIME THAT HAD NOT BEEN USED SHALL BE REINSTATED. FURTHER, THE EMPLOYEE SHALL BE ENTITLED TO USE ACCRUED EARNED PAID SICK TIME AND ACCRUE ADDITIONAL EARNED PAID SICK TIME AT THE RE-COMMENCEMENT OF EMPLOYMENT.

6. WHEN A DIFFERENT EMPLOYER SUCCEEDS OR TAKES THE PLACE OF AN EXISTING EMPLOYER, ALL EMPLOYEES OF THE ORIGINAL EMPLOYER WHO REMAIN EMPLOYED BY THE SUCCESSOR EMPLOYER ARE ENTITLED TO ALL EARNED PAID SICK TIME THEY ACCRUED WHEN EMPLOYED BY THE ORIGINAL EMPLOYER, AND ARE ENTITLED TO USE EARNED PAID SICK TIME PREVIOUSLY ACCRUED.

7. AT ITS DISCRETION, AN EMPLOYER MAY LOAN EARNED PAID SICK TIME TO AN EMPLOYEE IN ADVANCE OF ACCRUAL BY SUCH EMPLOYEE.

E. ANY EMPLOYER WITH A PAID LEAVE POLICY, SUCH AS A PAID TIME OFF POLICY, WHO MAKES AVAILABLE AN AMOUNT OF PAID LEAVE SUFFICIENT TO MEET THE ACCRUAL REQUIREMENTS OF THIS SECTION THAT MAY BE USED FOR THE SAME PURPOSES AND UNDER THE SAME CONDITIONS AS EARNED PAID SICK TIME UNDER THIS ARTICLE IS NOT REQUIRED TO PROVIDE ADDITIONAL PAID SICK TIME.

F. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS REQUIRING FINANCIAL OR OTHER REIMBURSEMENT TO AN EMPLOYEE FROM AN EMPLOYER UPON THE EMPLOYEE'S TERMINATION, RESIGNATION, RETIREMENT OR OTHER SEPARATION FROM EMPLOYMENT FOR ACCRUED EARNED PAID SICK TIME THAT HAS NOT BEEN USED.

23-373. Use of Earned Paid Sick Time

A. EARNED PAID SICK TIME SHALL BE PROVIDED TO AN EMPLOYEE BY AN EMPLOYER FOR:

1. AN EMPLOYEE'S MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION; AN EMPLOYEE'S NEED FOR MEDICAL DIAGNOSIS, CARE, OR TREATMENT OF A MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION; AN EMPLOYEE'S NEED FOR PREVENTIVE MEDICAL CARE;

2. CARE OF A FAMILY MEMBER WITH A MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION; CARE OF A FAMILY MEMBER WHO NEEDS MEDICAL DIAGNOSIS, CARE, OR TREATMENT OF A MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION; CARE OF A FAMILY MEMBER WHO NEEDS PREVENTIVE MEDICAL CARE;

3. CLOSURE OF THE EMPLOYEE'S PLACE OF BUSINESS BY ORDER OF A PUBLIC OFFICIAL DUE TO A PUBLIC HEALTH EMERGENCY OR AN EMPLOYEE'S NEED TO CARE FOR A CHILD WHOSE SCHOOL OR PLACE OF CARE HAS BEEN CLOSED BY ORDER OF A PUBLIC OFFICIAL DUE TO A PUBLIC HEALTH EMERGENCY, OR CARE FOR ONESELF OR A FAMILY MEMBER WHEN IT HAS BEEN DETERMINED BY THE HEALTH AUTHORITIES HAVING JURISDICTION OR BY A HEALTH CARE PROVIDER THAT THE EMPLOYEE'S OR FAMILY MEMBER'S PRESENCE IN THE COMMUNITY MAY JEOPARDIZE THE HEALTH OF OTHERS BECAUSE OF HIS OR HER EXPOSURE TO A COMMUNICABLE DISEASE, WHETHER OR NOT THE EMPLOYEE OR FAMILY MEMBER HAS ACTUALLY CONTRACTED THE COMMUNICABLE DISEASE; OR

4. NOTWITHSTANDING SECTION 13-4439, ARIZONA REVISED STATUTES, ABSENCE NECESSARY DUE TO DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING, PROVIDED THE LEAVE IS TO ALLOW THE EMPLOYEE TO OBTAIN FOR THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER:

(a) MEDICAL ATTENTION NEEDED TO RECOVER FROM PHYSICAL OR PSYCHOLOGICAL INJURY OR DISABILITY CAUSED BY DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING;

(b) SERVICES FROM A DOMESTIC VIOLENCE OR SEXUAL VIOLENCE PROGRAM OR VICTIM SERVICES ORGANIZATION;

(c) PSYCHOLOGICAL OR OTHER COUNSELING;

(d) RELOCATION OR TAKING STEPS TO SECURE AN EXISTING HOME DUE TO THE DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING; OR

(e) LEGAL SERVICES, INCLUDING BUT NOT LIMITED TO PREPARING FOR OR PARTICIPATING IN ANY CIVIL OR CRIMINAL LEGAL PROCEEDING RELATED TO OR RESULTING FROM THE DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING.

B. EARNED PAID SICK TIME SHALL BE PROVIDED UPON THE REQUEST OF AN EMPLOYEE. SUCH REQUEST MAY BE MADE ORALLY, IN WRITING, BY ELECTRONIC MEANS OR BY ANY OTHER MEANS ACCEPTABLE TO THE EMPLOYER. WHEN POSSIBLE, THE REQUEST SHALL INCLUDE THE EXPECTED DURATION OF THE ABSENCE.

C. WHEN THE USE OF EARNED PAID SICK TIME IS FORESEEABLE, THE EMPLOYEE SHALL MAKE A GOOD FAITH EFFORT TO PROVIDE NOTICE OF THE NEED FOR SUCH TIME TO THE EMPLOYER IN ADVANCE OF THE USE OF THE EARNED PAID SICK TIME AND SHALL MAKE A REASONABLE EFFORT TO SCHEDULE THE USE OF EARNED PAID SICK TIME IN A MANNER THAT DOES NOT UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.

D. AN EMPLOYER THAT REQUIRES NOTICE OF THE NEED TO USE EARNED PAID SICK TIME WHERE THE NEED IS NOT FORESEEABLE SHALL PROVIDE A WRITTEN POLICY THAT CONTAINS PROCEDURES FOR THE EMPLOYEE TO PROVIDE NOTICE. AN EMPLOYER THAT HAS NOT PROVIDED TO THE EMPLOYEE A COPY OF ITS WRITTEN POLICY FOR PROVIDING SUCH NOTICE SHALL NOT DENY EARNED PAID SICK TIME TO THE EMPLOYEE BASED ON NON-COMPLIANCE WITH SUCH A POLICY.

E. AN EMPLOYER MAY NOT REQUIRE, AS A CONDITION OF AN EMPLOYEE'S TAKING EARNED PAID SICK TIME, THAT THE EMPLOYEE SEARCH FOR OR FIND A REPLACEMENT WORKER TO COVER THE HOURS DURING WHICH THE EMPLOYEE IS USING EARNED PAID SICK TIME.

F. EARNED PAID SICK TIME MAY BE USED IN THE SMALLER OF HOURLY INCREMENTS OR THE SMALLEST INCREMENT THAT THE EMPLOYER'S PAYROLL SYSTEM USES TO ACCOUNT FOR ABSENCES OR USE OF OTHER TIME.

G. FOR EARNED PAID SICK TIME OF THREE OR MORE CONSECUTIVE WORK DAYS, AN EMPLOYER MAY REQUIRE REASONABLE DOCUMENTATION THAT THE EARNED PAID SICK TIME HAS BEEN USED FOR A PURPOSE COVERED BY SUBSECTION A. DOCUMENTATION SIGNED BY A HEALTH CARE PROFESSIONAL INDICATING THAT EARNED PAID SICK TIME IS NECESSARY SHALL BE CONSIDERED REASONABLE DOCUMENTATION FOR PURPOSES OF THIS SECTION. IN CASES OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING, ONE OF THE FOLLOWING TYPES OF DOCUMENTATION SELECTED BY THE EMPLOYEE SHALL BE CONSIDERED REASONABLE DOCUMENTATION:

1. A POLICE REPORT INDICATING THAT THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER WAS A VICTIM OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING;

2. A PROTECTIVE ORDER; INJUNCTION AGAINST HARASSMENT; A GENERAL COURT ORDER; OR OTHER EVIDENCE FROM A COURT OR PROSECUTING ATTORNEY THAT THE EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER APPEARED, OR IS SCHEDULED TO APPEAR, IN COURT IN CONNECTION WITH AN INCIDENT OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE, OR STALKING;

3. A SIGNED STATEMENT FROM A DOMESTIC VIOLENCE OR SEXUAL VIOLENCE PROGRAM OR VICTIM SERVICES ORGANIZATION AFFIRMING THAT THE EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER IS RECEIVING SERVICES RELATED TO DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE, OR STALKING;

4. A SIGNED STATEMENT FROM A WITNESS ADVOCATE AFFIRMING THAT THE EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER IS RECEIVING SERVICES FROM A VICTIM SERVICES ORGANIZATION;

5. A SIGNED STATEMENT FROM AN ATTORNEY, MEMBER OF THE CLERGY, OR A MEDICAL OR OTHER PROFESSIONAL AFFIRMING THAT THE EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER IS A VICTIM OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE, OR STALKING; OR

6. AN EMPLOYEE'S WRITTEN STATEMENT AFFIRMING THAT THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER IS A VICTIM OF DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE, OR STALKING, AND THAT THE LEAVE WAS TAKEN FOR ONE OF THE PURPOSES OF SUBSECTION A, PARAGRAPH 4 OF THIS SECTION. THE EMPLOYEE'S WRITTEN STATEMENT, BY ITSELF, IS REASONABLE DOCUMENTATION FOR ABSENCES UNDER THIS PARAGRAPH. THE WRITTEN STATEMENT DOES NOT NEED TO BE IN AN AFFIDAVIT FORMAT OR NOTARIZED, BUT SHALL BE LEGIBLE IF HANDWRITTEN AND SHALL REASONABLY MAKE CLEAR THE EMPLOYEE'S IDENTITY, AND IF APPLICABLE, THE EMPLOYEE'S RELATIONSHIP TO THE FAMILY MEMBER.

H. THE PROVISION OF DOCUMENTATION UNDER SUBSECTION G DOES NOT WAIVE OR DIMINISH ANY CONFIDENTIAL OR PRIVILEGED COMMUNICATIONS BETWEEN A VICTIM OF DOMESTIC VIOLENCE, SEXUAL

VIOLENCE, ABUSE, OR STALKING WITH ONE OR MORE OF THE INDIVIDUALS NAMED IN SUBSECTION G.

I. AN EMPLOYER MAY NOT REQUIRE THAT DOCUMENTATION UNDER SUBSECTION G EXPLAIN THE NATURE OF THE HEALTH CONDITION OR THE DETAILS OF THE DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING.

23-374. Exercise of Rights Protected; Retaliation Prohibited

A. IT SHALL BE UNLAWFUL FOR AN EMPLOYER OR ANY OTHER PERSON TO INTERFERE WITH, RESTRAIN, OR DENY THE EXERCISE OF, OR THE ATTEMPT TO EXERCISE, ANY RIGHT PROTECTED UNDER THIS ARTICLE.

B. AN EMPLOYER SHALL NOT ENGAGE IN RETALIATION OR DISCRIMINATE AGAINST AN EMPLOYEE OR FORMER EMPLOYEE BECAUSE THE PERSON HAS EXERCISED RIGHTS PROTECTED UNDER THIS ARTICLE. SUCH RIGHTS INCLUDE BUT ARE NOT LIMITED TO THE RIGHT TO REQUEST OR USE EARNED PAID SICK TIME PURSUANT TO THIS ARTICLE; THE RIGHT TO FILE A COMPLAINT WITH THE COMMISSION OR COURTS OR INFORM ANY PERSON ABOUT ANY EMPLOYER'S ALLEGED VIOLATION OF THIS ARTICLE; THE RIGHT TO PARTICIPATE IN AN INVESTIGATION, HEARING OR PROCEEDING OR COOPERATE WITH OR ASSIST THE COMMISSION IN ITS INVESTIGATIONS OF ALLEGED VIOLATIONS OF THIS ARTICLE; AND THE RIGHT TO INFORM ANY PERSON OF HIS OR HER POTENTIAL RIGHTS UNDER THIS ARTICLE.

C. IT SHALL BE UNLAWFUL FOR AN EMPLOYER'S ABSENCE CONTROL POLICY TO COUNT EARNED PAID SICK TIME TAKEN UNDER THIS ARTICLE AS AN ABSENCE THAT MAY LEAD TO OR RESULT IN DISCIPLINE, DISCHARGE, DEMOTION, SUSPENSION, OR ANY OTHER ADVERSE ACTION.

D. PROTECTIONS OF THIS SECTION SHALL APPLY TO ANY PERSON WHO MISTAKENLY BUT IN GOOD FAITH ALLEGES VIOLATIONS OF THIS ARTICLE.

23-375. Notice

A. EMPLOYERS SHALL GIVE EMPLOYEES WRITTEN NOTICE OF THE FOLLOWING AT THE COMMENCEMENT OF EMPLOYMENT OR BY JULY 1, 2017, WHICHEVER IS LATER: EMPLOYEES ARE ENTITLED TO EARNED PAID SICK TIME AND THE AMOUNT OF EARNED PAID SICK TIME, THE TERMS OF ITS USE GUARANTEED UNDER THIS ARTICLE, THAT RETALIATION AGAINST EMPLOYEES WHO REQUEST OR USE EARNED PAID SICK TIME IS PROHIBITED, THAT EACH EMPLOYEE HAS THE RIGHT TO FILE A COMPLAINT IF EARNED PAID SICK TIME AS REQUIRED BY THIS ARTICLE IS DENIED BY THE EMPLOYER OR THE EMPLOYEE IS SUBJECTED TO RETALIATION FOR REQUESTING OR TAKING EARNED PAID SICK TIME, AND THE CONTACT INFORMATION FOR THE COMMISSION WHERE QUESTIONS ABOUT RIGHTS AND RESPONSIBILITIES UNDER THIS ARTICLE CAN BE ANSWERED.

B. THE NOTICE REQUIRED IN SUBSECTION A SHALL BE IN ENGLISH, SPANISH, AND ANY LANGUAGE THAT IS DEEMED APPROPRIATE BY THE COMMISSION.

C. THE AMOUNT OF EARNED PAID SICK TIME AVAILABLE TO THE EMPLOYEE, THE AMOUNT OF EARNED PAID SICK TIME TAKEN BY THE EMPLOYEE TO DATE IN THE YEAR AND THE AMOUNT OF PAY THE EMPLOYEE HAS RECEIVED AS EARNED PAID SICK TIME SHALL BE RECORDED IN, OR ON AN ATTACHMENT TO, THE EMPLOYEE'S REGULAR PAYCHECK.

D. THE COMMISSION SHALL CREATE AND MAKE AVAILABLE TO EMPLOYERS, IN ENGLISH, SPANISH, AND ANY LANGUAGE DEEMED APPROPRIATE BY THE COMMISSION, MODEL NOTICES THAT CONTAIN THE INFORMATION REQUIRED UNDER SUBSECTION A FOR EMPLOYERS' USE IN COMPLYING WITH SUBSECTION A.

E. AN EMPLOYER WHO VIOLATES THE NOTICE REQUIREMENTS OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY ACCORDING TO SECTION 23-364(F), ARIZONA REVISED STATUTES.

23-376. Regulations

THE COMMISSION SHALL BE AUTHORIZED TO COORDINATE IMPLEMENTATION AND ENFORCEMENT OF THIS ARTICLE AND SHALL PROMULGATE APPROPRIATE GUIDELINES OR REGULATIONS FOR SUCH PURPOSES.

23-377. Confidentiality and Nondisclosure

AN EMPLOYER MAY NOT REQUIRE DISCLOSURE OF DETAILS RELATING TO DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING OR THE DETAILS OF AN EMPLOYEE'S OR AN EMPLOYEE'S FAMILY MEMBER'S HEALTH INFORMATION AS A CONDITION OF PROVIDING EARNED PAID SICK TIME UNDER THIS ARTICLE. IF AN EMPLOYER POSSESSES HEALTH INFORMATION OR INFORMATION PERTAINING TO DOMESTIC VIOLENCE, SEXUAL VIOLENCE, ABUSE OR STALKING ABOUT AN EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER, SUCH INFORMATION SHALL BE TREATED AS CONFIDENTIAL AND NOT DISCLOSED EXCEPT TO THE AFFECTED EMPLOYEE OR WITH THE PERMISSION OF THE AFFECTED EMPLOYEE.

23-378. Encouragement of More Generous Earned Paid Sick Time

Policies; No Effect on More Generous Policies or Laws

A. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO DISCOURAGE OR PROHIBIT AN EMPLOYER FROM THE ADOPTION OR RETENTION OF AN EARNED PAID SICK TIME POLICY MORE GENEROUS THAN THE ONE REQUIRED HEREIN.

B. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS DIMINISHING THE OBLIGATION OF AN EMPLOYER TO COMPLY WITH ANY CONTRACT, COLLECTIVE BARGAINING AGREEMENT, EMPLOYMENT BENEFIT PLAN OR OTHER AGREEMENT PROVIDING MORE GENEROUS PAID SICK TIME TO AN EMPLOYEE THAN REQUIRED HEREIN. NOTHING IN THIS

ARTICLE SHALL BE CONSTRUED AS DIMINISHING THE RIGHTS OF PUBLIC EMPLOYEES REGARDING PAID SICK TIME OR USE OF PAID SICK TIME.

C. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO SUPERSEDE ANY PROVISION OF ANY LOCAL LAW THAT PROVIDES GREATER RIGHTS TO PAID SICK TIME THAN THE RIGHTS ESTABLISHED UNDER THIS ARTICLE.

23-379. Other Legal Requirements

A. NOTHING IN THIS ARTICLE SHALL BE INTERPRETED OR APPLIED SO AS TO CREATE A CONFLICT WITH FEDERAL LAW.

B. THIS ARTICLE PROVIDES MINIMUM REQUIREMENTS PERTAINING TO EARNED PAID SICK TIME AND SHALL NOT BE CONSTRUED TO PREEMPT, LIMIT, OR OTHERWISE AFFECT THE APPLICABILITY OF ANY OTHER LAW, REGULATION, REQUIREMENT, POLICY, OR STANDARD THAT PROVIDES FOR GREATER ACCRUAL OR USE BY EMPLOYEES OF EARNED PAID SICK TIME OR THAT EXTENDS OTHER PROTECTIONS TO EMPLOYEES.

23-380. Public Education and Outreach

THE COMMISSION MAY DEVELOP AND IMPLEMENT A MULTILINGUAL OUTREACH PROGRAM TO INFORM EMPLOYEES, PARENTS AND PERSONS WHO ARE UNDER THE CARE OF A HEALTH CARE PROVIDER ABOUT THE AVAILABILITY OF EARNED PAID SICK TIME UNDER THIS ARTICLE. THIS PROGRAM MAY INCLUDE THE DISTRIBUTION OF NOTICES AND OTHER WRITTEN MATERIALS IN ENGLISH, SPANISH, AND ANY LANGUAGE DEEMED APPROPRIATE BY THE COMMISSION TO ALL CHILD CARE AND ELDER CARE PROVIDERS, DOMESTIC VIOLENCE SHELTERS, SCHOOLS, HOSPITALS, COMMUNITY HEALTH CENTERS AND OTHER HEALTH CARE PROVIDERS.

23-381. Collective Bargaining Agreements

ALL OR ANY PORTION OF THE EARNED PAID SICK TIME REQUIREMENTS OF THIS ARTICLE SHALL NOT APPLY TO EMPLOYEES COVERED BY A VALID COLLECTIVE BARGAINING AGREEMENT, TO THE EXTENT THAT SUCH REQUIREMENTS ARE EXPRESSLY WAIVED IN THE COLLECTIVE BARGAINING AGREEMENT IN CLEAR AND UNAMBIGUOUS TERMS. NO PROVISIONS OF ARTICLE 8.1 SHALL APPLY TO EMPLOYEES COVERED BY A COLLECTIVE BARGAINING AGREEMENT IN EFFECT ON THE EFFECTIVE DATE OF THIS ACT UNTIL THE STATED EXPIRATION DATE IN THE COLLECTIVE BARGAINING AGREEMENT.

Sec. 6. Saving Clause

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

Sec. 7. 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.

XIV. 2018 BALLOT MEASURES

PROPOSITION 306

OFFICIAL TITLE

HOUSE CONCURRENT RESOLUTION 2007

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO THE CITIZENS CLEAN ELECTIONS ACT.

TEXT OF THE 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 citizens clean elections act, is enacted to become valid as a law if approved by the voters and on proclamation of the Governor:

AN ACT

AMENDING SECTIONS 16-948 AND 16-956, ARIZONA REVISED STATUTES; RELATING TO THE CITIZENS CLEAN ELECTIONS ACT.

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

Section 1. Section 16-948, Arizona Revised Statutes, is amended to read:

16-948. Controls on participating candidates' campaign accounts

A. A participating candidate shall conduct all financial activity through a single campaign account of the candidate's campaign committee. A participating candidate shall not make any deposits into the campaign account other than those permitted under section 16-945 or 16-946.

B. A candidate may designate other persons with authority to withdraw funds MONIES from the candidate's campaign account. The candidate and any person so designated shall sign a joint statement under oath promising to comply with the requirements of this title.

C. The candidate or a person authorized under subsection B of this section shall pay monies from a participating candidate's campaign account directly to the person providing goods or services to the campaign and shall identify, on a report filed pursuant to article 1- 1.4 of this chapter, the full name and street address of the person and the nature of the goods and services and compensation for which payment has been made. THE FOLLOWING PAYMENTS MADE DIRECTLY OR INDIRECTLY FROM A PARTICIPATING CANDIDATE'S CAMPAIGN ACCOUNT ARE UNLAWFUL CONTRIBUTIONS:

1. A PAYMENT MADE TO A PRIVATE ORGANIZATION THAT IS EXEMPT UNDER SECTION 501(a) OF THE INTERNAL REVENUE CODE AND THAT IS ELIGIBLE TO ENGAGE IN ACTIVITIES TO INFLUENCE THE OUTCOME OF A CANDIDATE ELECTION.

2. A PAYMENT MADE DIRECTLY OR INDIRECTLY TO A POLITICAL PARTY.

~~D.~~ Notwithstanding the ~~previous sentence~~ SUBSECTION C OF THIS SECTION, a campaign committee may establish one or more petty cash accounts, which in aggregate shall not exceed one thousand dollars at any time. No single expenditure shall be made from a petty cash account exceeding one hundred dollars.

~~D.~~ E. Monies in a participating candidate's campaign account shall not be used to pay fines or civil penalties, for costs or legal fees related to representation before the commission, or for defense of any enforcement action under this chapter. Nothing in this subsection shall prevent a participating candidate from having a legal defense fund.

~~E.~~ F. A participating candidate shall not use clean elections monies to purchase goods or services that bear 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 participating candidate or in which the candidate has a controlling interest. The use of goods or services that are prohibited by this subsection is deemed to be an unlawful in-kind contribution to the participating candidate.

Sec. 2. Section 16-956, Arizona Revised Statutes, is amended to read:

16-956. Voter education and enforcement duties

A. The commission shall:

1. Develop a procedure for publishing a document or section of a document having a space of predefined size for a message chosen by each candidate. For the document that is delivered before the primary election, the document shall contain the names of every candidate for every statewide and legislative district office in that primary election without regard to whether the candidate is a participating candidate or a nonparticipating candidate. For the document that is delivered before the general election, the document shall contain the names of every candidate for every statewide and legislative district office in that general election without regard to whether the candidate is a participating candidate or a nonparticipating candidate. The commission shall deliver one copy of each document to every household that contains a registered voter. For the document that is delivered before the primary election, the delivery may be made over a period of days but shall be sent in time to be delivered to households before the earliest date for receipt by registered voters of any requested early ballots for the primary election. The commission may

deliver the second document over a period of days but shall send the second document in order to be delivered to households before the earliest date for receipt by registered voters of any requested early ballots for the general election. The primary election and general election documents published by the commission shall comply with all of the following:

(a) For any candidate who does not submit a message pursuant to this paragraph, the document shall include with the candidate's listing the words "no statement submitted".

(b) The document shall have printed on its cover the words "citizens clean elections commission voter education guide" and the words "primary election" or "general election" and the applicable year. The document shall also contain at or near the bottom of the document cover in type that is no larger than one-half the size of the type used for "citizens clean elections commission voter education guide" the words "paid for by the citizens clean elections fund".

(c) In order to prevent voter confusion, the document shall be easily distinguishable from the publicity pamphlet that is required to be produced by the secretary of state pursuant to section 19-123.

2. Sponsor debates among candidates, in such manner as determined by the commission. The commission shall require participating candidates to attend and participate in debates and may specify by rule penalties for nonparticipation. The commission shall invite and permit nonparticipating candidates to participate in debates.

3. Prescribe forms for reports, statements, notices and other documents required by this article. The commission shall not require a candidate to use a reporting system other than the reporting system jointly approved by the commission and the office of the secretary of state.

4. Prepare and publish instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with this article and explaining the duties of persons and committees under this article.

5. Produce a yearly report describing the commission's activities and any recommendations for changes of law, administration or funding amounts and accounting for monies in the fund.

6. Adopt rules to implement the reporting requirements of section 16-958, subsections D and E.

7. Enforce this article, ensure that money from the fund is placed in candidate campaign accounts or otherwise spent as specified in this article and not otherwise, monitor reports filed pursuant to this chapter and financial records of candidates as needed and ensure that money required by this article to be paid to the fund is deposited in the fund. The commission shall not take action on any external complaint that is filed more than ninety days after the postelection report is filed or ninety days

after the completion of the canvass of the election to which the complaint relates, whichever is later.

B. The commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the commission's duties or the exercise of its powers.

C. The commission may adopt rules to carry out the purposes of this article and to govern procedures of the commission. ~~Commission rule making is exempt from title 41, chapter 6, article 3.~~ The commission shall propose and adopt rules in public meetings, with at least sixty days allowed for interested parties to comment after the rules are proposed. The commission shall also file ~~a notice of exempt rule making~~ and the proposed rule in the format prescribed in section 41-1022 with the secretary of state's office for publication in the Arizona administrative register. After consideration of the comments received in the sixty day comment period, the commission may adopt the rule in an open meeting. Any rules given final approval in an open meeting shall be filed in the format prescribed in section 41-1022 with the secretary of state's office for publication in the Arizona administrative register. Any rules adopted by the commission shall only be applied prospectively from the date the rule was adopted.

D. Rules adopted by the commission are not effective until January 1 in the year following the adoption of the rule, except that rules adopted by unanimous vote of the commission may be made immediately effective and enforceable.

E. If, in the view of the commission, the action of a particular candidate or committee requires immediate change to a commission rule, a unanimous vote of the commission is required. Any rule change made pursuant to this subsection that is enacted with less than a unanimous vote takes effect for the next election cycle.

F. Based on the results of the elections in any quadrennial election after 2002, and within six months after such election, the commission may adopt rules changing the number of qualifying contributions required for any office from those listed in section 16-950, subsection D, by no more than twenty ~~per cent~~ PERCENT of the number applicable for the preceding election.

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.

XV. 2020 BALLOT MEASURES

PROPOSITION 207

OFFICIAL TITLE

AN INITIATIVE MEASURE

AMENDING SECTION 36-2817, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28.2; AMENDING TITLE 42, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 10; AMENDING TITLE 43, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-108; RELATING TO THE RESPONSIBLE ADULT USE, REGULATION AND TAXATION OF MARIJUANA.

TEXT OF PROPOSED AMENDMENT

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

Section 1. Short title

This act may be cited as the "Smart and Safe Arizona Act".

Section 2. Findings and declaration of purpose

The People of the State of Arizona find and declare as follows:

1. In the interest of the efficient use of law enforcement resources, enhancing revenue for public purposes, and individual freedom, the responsible adult use of marijuana should be legal for persons twenty-one years of age or older, subject to state regulation, taxation, and local ordinance.

2. In the interest of the health and public safety of our citizenry, the legal adult use of marijuana should be regulated so that:

(a) Legitimate, taxpaying business people, and not criminal actors, conduct sales of marijuana.

(b) Marijuana sold in this state is tested, labeled and subject to additional regulations to ensure that consumers are informed and protected.

(c) Employers retain their rights to maintain drug-and-alcohol-free places of employment.

(d) The health and safety of employees in the marijuana industry are protected.

(e) Individuals must show proof of age before purchasing marijuana.

(f) Selling, transferring, or providing marijuana to minors and other individuals under the age of twenty-one remains illegal.

(g) Driving, flying or boating while impaired to the slightest degree by marijuana remains illegal.

Section 3. Section 36-2817, Arizona Revised Statutes, is amended to read:

36-2817. Medical marijuana fund; private donations

A. The medical marijuana fund is established consisting of fees collected, civil penalties imposed and private donations received under this chapter. The department shall administer the fund. Monies in the fund are continuously appropriated.

B. The director of the department may accept and spend private grants, gifts, donations, contributions and devises to assist in carrying out the provisions of this chapter.

C. Monies in the medical marijuana fund do not revert to the state general fund at the end of a fiscal year.

D. ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DIRECTOR OF THE DEPARTMENT SHALL TRANSFER THE FOLLOWING SUMS FROM THE MEDICAL MARIJUANA FUND FOR THE FOLLOWING PURPOSES:

1. \$15,000,000 TO THE ARIZONA TEACHERS ACADEMY FUND ESTABLISHED BY SECTION 15-1655.

2. \$10,000,000 TO THE DEPARTMENT TO FUND THE FORMATION AND OPERATION OF COUNCILS, COMMISSIONS AND PROGRAMS DEDICATED TO IMPROVING PUBLIC HEALTH, INCLUDING TEEN SUICIDE PREVENTION, THE MATERNAL MORTALITY REVIEW PROGRAM, IMPROVING YOUTH HEALTH, SUBSTANCE ABUSE PREVENTION, ADDRESSING ADVERSE CHILDHOOD EXPERIENCES, THE ARIZONA POISON CONTROL SYSTEM ESTABLISHED PURSUANT TO SECTION 36-1161, THE ARIZONA HEALTH IMPROVEMENT PLAN, THE CHILD FATALITY REVIEW TEAM ESTABLISHED PURSUANT TO SECTION 36-3501 AND THE CHRONIC PAIN SELF MANAGEMENT PROGRAM.

3. \$10,000,000 TO THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY TO DISTRIBUTE GRANTS FOR THE FOLLOWING PURPOSES:

(a) REDUCING IMPAIRED DRIVING, INCLUDING CONDUCTING TRAINING PROGRAMS AND PURCHASING EQUIPMENT FOR DETECTING, TESTING AND ENFORCING LAWS AGAINST DRIVING, FLYING OR BOATING WHILE IMPAIRED.

(b) EQUIPMENT, TRAINING AND PERSONNEL COSTS FOR DEDICATED TRAFFIC ENFORCEMENT.

4. \$2,000,000 TO THE DEPARTMENT TO IMPLEMENT, CARRY OUT AND ENFORCE CHAPTER 28.2 OF THIS TITLE.

5. \$4,000,000 TO THE DEPARTMENT TO DISTRIBUTE GRANTS TO QUALIFIED NONPROFIT ENTITIES THAT WILL PROVIDE OUTREACH TO INDIVIDUALS WHO MAY BE ELIGIBLE TO FILE PETITIONS FOR EXPUNGEMENT PURSUANT TO SECTION 36-2862 AND WILL ASSIST WITH THE EXPUNGEMENT PETITION PROCESS. THE DEPARTMENT SHALL DISTRIBUTE GRANTS PURSUANT TO THIS PARAGRAPH ON OR BEFORE JUNE 30, 2021.

6. \$2,000,000 TO THE DEPARTMENT TO DEVELOP AND IMPLEMENT, IN CONJUNCTION WITH THE DEPARTMENT OF ECONOMIC SECURITY AND OTHER STATE AGENCIES, A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE ENFORCEMENT OF PREVIOUS MARIJUANA LAWS. FOR THE PURPOSES

OF THIS PARAGRAPH, "MARIJUANA ESTABLISHMENT" AND "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

7. \$1,000,000 TO THE DEPARTMENT TO FUND PROGRAMS AND GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS FOR EDUCATION AND COMMUNITY OUTREACH RELATED TO CHAPTER 28.2 OF THIS TITLE.

8. \$1,000,000 TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

Section 4. Title 36, Arizona Revised Statutes, is amended by adding chapter 28.2, to read:

CHAPTER 28.2

RESPONSIBLE ADULT USE OF MARIJUANA

36-2850. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT REQUIRES OTHERWISE:

1. "ADVERTISE," "ADVERTISEMENT" AND "ADVERTISING" MEAN ANY PUBLIC COMMUNICATION IN ANY MEDIUM THAT OFFERS OR SOLICITS A COMMERCIAL TRANSACTION INVOLVING THE SALE, PURCHASE OR DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.

2. "CHILD-RESISTANT" MEANS DESIGNED OR CONSTRUCTED TO BE SIGNIFICANTLY DIFFICULT FOR CHILDREN UNDER FIVE YEARS OF AGE TO OPEN, AND NOT DIFFICULT FOR NORMAL ADULTS TO USE PROPERLY.

3. "CONSUME," "CONSUMING" AND "CONSUMPTION" MEAN THE ACT OF INGESTING, INHALING OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

4. "CONSUMER" MEANS AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS.

5. "CULTIVATE" AND "CULTIVATION" MEAN TO PROPAGATE, BREED, GROW, PREPARE AND PACKAGE MARIJUANA.

6. "DELIVER" AND "DELIVERY" MEAN THE TRANSPORTATION, TRANSFER OR PROVISION OF MARIJUANA OR MARIJUANA PRODUCTS TO A CONSUMER AT A LOCATION OTHER THAN THE DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT.

7. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES OR ITS SUCCESSOR AGENCY.

8. "DESIGNATED CAREGIVER," "EXCLUDED FELONY OFFENSE," "INDEPENDENT THIRD-PARTY LABORATORY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT," AND "QUALIFYING PATIENT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2801.

9. "DUAL LICENSEE" MEANS AN ENTITY THAT HOLDS BOTH A NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION AND A MARIJUANA ESTABLISHMENT LICENSE.

10. "EARLY APPLICANT" MEANS EITHER OF THE FOLLOWING:

(a) AN ENTITY SEEKING TO OPERATE A MARIJUANA ESTABLISHMENT IN A COUNTY WITH FEWER THAN TWO REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

(b) A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED AND IN GOOD STANDING WITH THE DEPARTMENT.

11. "EMPLOYEE," "EMPLOYER," "HEALTH CARE FACILITY," AND "PLACES OF EMPLOYMENT" HAVE THE SAME MEANINGS PRESCRIBED IN THE SMOKE-FREE ARIZONA ACT, SECTION 36-601.01.

12. "GOOD STANDING" MEANS THAT A NONPROFIT MEDICAL MARIJUANA DISPENSARY IS NOT THE SUBJECT OF A PENDING NOTICE OF INTENT TO REVOKE ISSUED BY THE DEPARTMENT.

13. "INDUSTRIAL HEMP" HAS THE SAME MEANING PRESCRIBED IN SECTION 3-311.

14. "LOCALITY" MEANS A CITY, TOWN OR COUNTY.

15. "MANUFACTURE" AND "MANUFACTURING" MEAN TO COMPOUND, BLEND, EXTRACT, INFUSE OR OTHERWISE MAKE OR PREPARE A MARIJUANA PRODUCT.

16. "MARIJUANA":

(a) MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS, WHETHER GROWING OR NOT, AS WELL AS THE SEEDS FROM THE PLANT, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THE PLANT OR ITS SEEDS OR RESIN.

(b) INCLUDES CANNABIS AS DEFINED IN 13-3401.

(c) DOES NOT INCLUDE INDUSTRIAL HEMP, THE FIBER PRODUCED FROM THE STALKS OF THE PLANT OF THE GENUS CANNABIS, OIL OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEEDS OF THE PLANT THAT ARE INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

17. "MARIJUANA CONCENTRATE":

(a) MEANS RESIN EXTRACTED FROM ANY PART OF A PLANT OF THE GENUS CANNABIS AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THAT RESIN OR TETRAHYDROCANNABINOL.

(b) DOES NOT INCLUDE INDUSTRIAL HEMP OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH CANNABIS TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

18. "MARIJUANA ESTABLISHMENT" MEANS AN ENTITY LICENSED BY THE DEPARTMENT TO OPERATE ALL OF THE FOLLOWING:

(a) A SINGLE RETAIL LOCATION AT WHICH THE LICENSEE MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, CULTIVATE MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS.

(b) A SINGLE OFF-SITE CULTIVATION LOCATION AT WHICH THE LICENSEE MAY CULTIVATE MARIJUANA, PROCESS MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

(c) A SINGLE OFF-SITE LOCATION AT WHICH THE LICENSEE MAY MANUFACTURE MARIJUANA PRODUCTS AND PACKAGE AND STORE MARIJUANA AND MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

19. "MARIJUANA FACILITY AGENT" MEANS A PRINCIPAL OFFICER, BOARD MEMBER OR EMPLOYEE OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND HAS NOT BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.

20. "MARIJUANA PRODUCTS" MEANS MARIJUANA CONCENTRATE AND PRODUCTS THAT ARE COMPOSED OF MARIJUANA AND OTHER INGREDIENTS AND THAT ARE INTENDED FOR USE OR CONSUMPTION, INCLUDING EDIBLE PRODUCTS, OINTMENTS AND TINCTURES.

21. "MARIJUANA TESTING FACILITY" MEANS THE DEPARTMENT OR ANOTHER ENTITY THAT IS LICENSED BY THE DEPARTMENT TO ANALYZE THE POTENCY OF MARIJUANA AND TEST MARIJUANA FOR HARMFUL CONTAMINANTS.

22. "OPEN SPACE" MEANS A PUBLIC PARK, PUBLIC SIDEWALK, PUBLIC WALKWAY OR PUBLIC PEDESTRIAN THOROUGHFARE.

23. "PROCESS" AND "PROCESSING" MEAN TO HARVEST, DRY, CURE, TRIM OR SEPARATE PARTS OF THE MARIJUANA PLANT.

24. "PUBLIC PLACE" HAS THE SAME MEANING PRESCRIBED IN THE SMOKE-FREE ARIZONA ACT, SECTION 36-601.01.

25. "SMOKE" MEANS TO INHALE, EXHALE, BURN, CARRY OR POSSESS ANY LIGHTED MARIJUANA OR LIGHTED MARIJUANA PRODUCTS, WHETHER NATURAL OR SYNTHETIC.

36-2851. Employers; driving; minors; control of property; smoking in public places and open spaces

THIS CHAPTER:

1. DOES NOT RESTRICT THE RIGHTS OF EMPLOYERS TO MAINTAIN A DRUG-AND-ALCOHOL-FREE WORKPLACE OR AFFECT THE ABILITY OF EMPLOYERS TO HAVE WORKPLACE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES OR PROSPECTIVE EMPLOYEES.

2. DOES NOT REQUIRE AN EMPLOYER TO ALLOW OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR CULTIVATION OF MARIJUANA IN A PLACE OF EMPLOYMENT.

3. DOES NOT ALLOW DRIVING, FLYING OR BOATING WHILE IMPAIRED TO EVEN THE SLIGHTEST DEGREE BY MARIJUANA OR PREVENT THIS STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING, FLYING OR BOATING WHILE IMPAIRED TO EVEN THE SLIGHTEST DEGREE BY MARIJUANA.

4. DOES NOT ALLOW AN INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE TO PURCHASE, POSSESS, TRANSPORT OR CONSUME MARIJUANA OR MARIJUANA PRODUCTS.

5. DOES NOT ALLOW THE SALE, TRANSFER OR PROVISION OF MARIJUANA OR MARIJUANA PRODUCTS TO AN INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE.

6. DOES NOT RESTRICT THE RIGHTS OF EMPLOYERS, SCHOOLS, DAY CARE CENTERS, ADULT DAY CARE FACILITIES, HEALTH CARE FACILITIES OR CORRECTIONS FACILITIES TO PROHIBIT OR REGULATE CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER WHEN SUCH CONDUCT OCCURS ON OR IN THEIR PROPERTIES.

7. DOES NOT RESTRICT THE ABILITY OF AN INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, PRIVATE CORPORATION, PRIVATE ENTITY OR PRIVATE ORGANIZATION OF ANY CHARACTER THAT OCCUPIES, OWNS OR CONTROLS PROPERTY TO PROHIBIT OR REGULATE CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER ON IN OR SUCH PROPERTY.

8. DOES NOT ALLOW ANY PERSON TO:

(a) SMOKE MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE.

(b) CONSUME MARIJUANA OR MARIJUANA PRODUCTS WHILE DRIVING, OPERATING OR RIDING IN THE PASSENGER SEAT OR COMPARTMENT OF AN OPERATING MOTOR VEHICLE, BOAT, VESSEL, AIRCRAFT OR ANOTHER VEHICLE USED FOR TRANSPORTATION.

9. DOES NOT PROHIBIT THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE FROM PROHIBITING OR REGULATING CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER WHEN SUCH CONDUCT OCCURS ON OR IN PROPERTY THAT IS OCCUPIED, OWNED, CONTROLLED OR OPERATED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

10. DOES NOT AUTHORIZE A PERSON TO PROCESS OR MANUFACTURE MARIJUANA BY MEANS OF ANY LIQUID OR GAS, OTHER THAN ALCOHOL, THAT HAS A FLASHPOINT BELOW ONE HUNDRED DEGREES FAHRENHEIT, UNLESS PERFORMED BY A MARIJUANA ESTABLISHMENT.

11. DOES NOT REQUIRE A PERSON TO VIOLATE FEDERAL LAW OR TO IMPLEMENT OR FAIL TO IMPLEMENT A RESTRICTION ON THE POSSESSION, CONSUMPTION, DISPLAY, TRANSFER, PROCESSING, MANUFACTURING OR CULTIVATION OF MARIJUANA IF BY SO DOING THE PERSON WILL LOSE A MONETARY OR LICENSING-RELATED BENEFIT UNDER FEDERAL LAW.

12. DOES NOT SUPERSEDE OR ELIMINATE ANY EXISTING RIGHTS OR PRIVILEGES OF ANY PERSON EXCEPT AS SPECIFICALLY SET FORTH IN THIS CHAPTER.

13. DOES NOT LIMIT ANY PRIVILEGE OR RIGHT OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY UNDER CHAPTER 28.1 OF THIS TITLE EXCEPT AS EXPRESSLY SET FORTH IN THIS CHAPTER.

14. DOES NOT LIMIT ANY PRIVILEGE OR RIGHT OF A QUALIFYING PATIENT OR DESIGNATED CAREGIVER UNDER CHAPTER 28.1 OF THIS TITLE.

36-2852. Allowable possession and personal use of marijuana, marijuana products and marijuana paraphernalia

A. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED IN SECTIONS 36-2851 AND 36-2853 AND NOTWITHSTANDING ANY OTHER LAW, THE FOLLOWING ACTS BY AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE ARE LAWFUL, ARE NOT AN OFFENSE UNDER THE LAWS OF THIS STATE OR ANY LOCALITY, MAY NOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND CANNOT SERVE AS THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS, FOR IMPOSING PENALTIES OF ANY KIND UNDER THE LAWS OF THIS STATE OR ANY LOCALITY OR FOR ABROGATING OR LIMITING ANY RIGHT OR PRIVILEGE CONFERRED OR PROTECTED BY THE LAWS OF THIS STATE OR ANY LOCALITY:

1. POSSESSING, CONSUMING, PURCHASING, PROCESSING, MANUFACTURING BY MANUAL OR MECHANICAL MEANS, INCLUDING SIEVING OR ICE WATER SEPARATION BUT EXCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS, OR TRANSPORTING ONE OUNCE OR LESS OF MARIJUANA, EXCEPT THAT NOT MORE THAN FIVE GRAMS OF MARIJUANA MAY BE IN THE FORM OF MARIJUANA CONCENTRATE.

2. POSSESSING, TRANSPORTING, CULTIVATING OR PROCESSING NOT MORE THAN SIX MARIJUANA PLANTS FOR PERSONAL USE AT THE INDIVIDUAL'S PRIMARY RESIDENCE, AND POSSESSING, PROCESSING AND MANUFACTURING BY MANUAL OR MECHANICAL MEANS, INCLUDING SIEVING OR ICE WATER SEPARATION BUT EXCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS, THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE MARIJUANA PLANTS WERE GROWN IF ALL OF THE FOLLOWING APPLY:

(a) NOT MORE THAN TWELVE PLANTS ARE PRODUCED AT A SINGLE RESIDENCE WHERE TWO OR MORE INDIVIDUALS WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE RESIDE AT ONE TIME.

(b) CULTIVATION TAKES PLACE WITHIN A CLOSET, ROOM, GREENHOUSE OR OTHER ENCLOSED AREA ON THE GROUNDS OF THE RESIDENCE EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS.

(c) CULTIVATION TAKES PLACE IN AN AREA WHERE THE MARIJUANA PLANTS ARE NOT VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS.

3. TRANSFERRING ONE OUNCE OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN FIVE GRAMS MAY BE IN THE FORM OF MARIJUANA CONCENTRATE, TO AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IF THE TRANSFER IS WITHOUT REMUNERATION AND IS NOT ADVERTISED OR PROMOTED TO THE PUBLIC.

4. TRANSFERRING UP TO SIX MARIJUANA PLANTS TO AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IF THE TRANSFER IS WITHOUT REMUNERATION AND IS NOT ADVERTISED OR PROMOTED TO THE PUBLIC.

5. ACQUIRING, POSSESSING, MANUFACTURING, USING, PURCHASING, SELLING OR TRANSPORTING PARAPHERNALIA RELATING TO THE CULTIVATION, MANUFACTURE, PROCESSING OR CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS.

6. ASSISTING ANOTHER INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IN ANY OF THE ACTS DESCRIBED IN THIS SUBSECTION.

B. NOTWITHSTANDING ANY OTHER LAW, A PERSON WITH METABOLITES OR COMPONENTS OF MARIJUANA IN THE PERSON'S BODY IS GUILTY OF VIOLATING SECTION 28-1381, SUBSECTION A, PARAGRAPH 3 ONLY IF THE PERSON IS ALSO IMPAIRED TO THE SLIGHTEST DEGREE.

C. NOTWITHSTANDING ANY OTHER LAW, THE ODOR OF MARIJUANA OR BURNT MARIJUANA DOES NOT BY ITSELF CONSTITUTE REASONABLE ARTICULABLE SUSPICION OF A CRIME. THIS SUBSECTION DOES NOT APPLY WHEN A LAW ENFORCEMENT OFFICER IS INVESTIGATING WHETHER A PERSON HAS VIOLATED SECTION 28-1381.

36-2853. Violations; classification; civil penalty; additional fine; enforcement

A. NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A PERSON WHO POSSESSES AN AMOUNT OF MARIJUANA GREATER THAN THE AMOUNT ALLOWED PURSUANT TO SECTION 36-2852, BUT NOT MORE THAN TWO AND ONE-HALF OUNCES OF MARIJUANA, OF WHICH NOT MORE THAN TWELVE AND ONE-HALF GRAMS IS IN THE FORM OF MARIJUANA CONCENTRATE, IS GUILTY OF A PETTY OFFENSE.

B. NOTWITHSTANDING ANY OTHER LAW, A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO POSSESSES, CONSUMES, TRANSPORTS OR TRANSFERS WITHOUT REMUNERATION ONE OUNCE OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN FIVE GRAMS IS IN THE FORM OF MARIJUANA CONCENTRATE, OR PARAPHERNALIA RELATING TO THE CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS:

1. FOR A FIRST VIOLATION, SHALL PAY A CIVIL PENALTY OF NOT MORE THAN \$100 TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856 AND IN THE COURT'S DISCRETION MAY BE ORDERED TO ATTEND UP TO FOUR HOURS OF DRUG EDUCATION OR COUNSELING.

2. FOR A SECOND VIOLATION, IS GUILTY OF A PETTY OFFENSE, AND IN THE COURT'S DISCRETION MAY BE ORDERED TO ATTEND UP TO EIGHT HOURS OF DRUG EDUCATION OR COUNSELING.

3. FOR A THIRD OR SUBSEQUENT VIOLATION, IS GUILTY OF A CLASS 1 MISDEMEANOR.

C. A PERSON WHO SMOKES MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE IS GUILTY OF A PETTY OFFENSE.

D. EXCEPT AS OTHERWISE PROVIDED IN CHAPTER 28.1 OF THIS TITLE AND NOTWITHSTANDING ANY OTHER LAW, ANY UNLICENSED PERSON WHO CULTIVATES MARIJUANA PLANTS PURSUANT TO SECTION 36-2852 WHERE THEY ARE VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS OR OUTSIDE OF AN ENCLOSED AREA THAT IS EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

E. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO MISREPRESENTS THE PERSON'S AGE TO ANY OTHER PERSON BY MEANS OF A WRITTEN INSTRUMENT OF IDENTIFICATION OR WHO USES A FRAUDULENT OR FALSE WRITTEN INSTRUMENT OF IDENTIFICATION WITH THE INTENT TO INDUCE A PERSON TO SELL OR OTHERWISE TRANSFER MARIJUANA OR A MARIJUANA PRODUCT TO THE PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 1 MISDEMEANOR.

F. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO SOLICITS ANOTHER PERSON TO PURCHASE MARIJUANA OR A MARIJUANA PRODUCT IN VIOLATION OF THIS CHAPTER IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

36-2854. Rules; licensing; early applicants; fees; civil penalty; legal counsel

A. THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT AND ENFORCE THIS CHAPTER AND REGULATE MARIJUANA, MARIJUANA PRODUCTS, MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES. THOSE RULES SHALL INCLUDE REQUIREMENTS FOR:

1. LICENSING MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES, INCLUDING CONDUCTING INVESTIGATIONS AND

BACKGROUND CHECKS TO DETERMINE ELIGIBILITY FOR LICENSING FOR MARIJUANA ESTABLISHMENT AND MARIJUANA TESTING FACILITY APPLICANTS, EXCEPT THAT:

(a) AN APPLICATION FOR A MARIJUANA ESTABLISHMENT LICENSE OR MARIJUANA TESTING FACILITY LICENSE MAY NOT REQUIRE THE DISCLOSURE OF THE IDENTITY OF ANY PERSON WHO IS ENTITLED TO A SHARE OF LESS THAN TEN PERCENT OF THE PROFITS OF AN APPLICANT THAT IS A PUBLICLY TRADED CORPORATION.

(b) THE DEPARTMENT MAY NOT ISSUE MORE THAN ONE MARIJUANA ESTABLISHMENT LICENSE FOR EVERY TEN PHARMACIES THAT HAVE REGISTERED UNDER SECTION 32-1929, THAT HAVE OBTAINED A PHARMACY PERMIT FROM THE ARIZONA BOARD OF PHARMACY AND THAT OPERATE WITHIN THIS STATE.

(c) NOTWITHSTANDING SUBDIVISION (b) OF THIS PARAGRAPH, THE DEPARTMENT MAY ISSUE A MARIJUANA ESTABLISHMENT LICENSE TO NOT MORE THAN TWO MARIJUANA ESTABLISHMENTS PER COUNTY THAT CONTAINS NO REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES, OR ONE MARIJUANA ESTABLISHMENT LICENSE PER COUNTY THAT CONTAINS ONE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY. ANY LICENSE ISSUED PURSUANT TO THIS SUBDIVISION SHALL BE FOR A FIXED COUNTY AND MAY NOT BE RELOCATED OUTSIDE OF THAT COUNTY.

(d) THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR MARIJUANA ESTABLISHMENT LICENSES FROM EARLY APPLICANTS BEGINNING JANUARY 19, 2021 THROUGH MARCH 9, 2021. NOT LATER THAN SIXTY DAYS AFTER RECEIVING AN APPLICATION PURSUANT TO THIS SUBDIVISION, THE DEPARTMENT SHALL ISSUE A MARIJUANA ESTABLISHMENT LICENSE TO EACH QUALIFIED EARLY APPLICANT. IF THE DEPARTMENT HAS NOT ADOPTED FINAL RULES PURSUANT TO THIS SECTION AT THE TIME MARIJUANA ESTABLISHMENT LICENSES ARE ISSUED PURSUANT TO THIS SUBDIVISION, LICENSEES SHALL COMPLY WITH THE RULES ADOPTED BY THE DEPARTMENT TO IMPLEMENT CHAPTER 28.1 OF THIS TITLE EXCEPT THOSE THAT ARE INCONSISTENT WITH THIS CHAPTER.

(e) AFTER ISSUING MARIJUANA ESTABLISHMENT LICENSES TO QUALIFIED EARLY APPLICANTS, THE DEPARTMENT SHALL ISSUE MARIJUANA ESTABLISHMENT LICENSES AVAILABLE UNDER SUBDIVISIONS (b) AND (c) OF THIS PARAGRAPH BY RANDOM SELECTION AND ACCORDING TO RULES ADOPTED PURSUANT TO THIS SECTION. AT LEAST SIXTY DAYS PRIOR TO ANY RANDOM SELECTION, THE DEPARTMENT SHALL PROMINENTLY PUBLICIZE THE RANDOM SELECTION ON ITS WEBSITE AND THROUGH OTHER MEANS OF GENERAL DISTRIBUTION INTENDED TO REACH AS MANY INTERESTED PARTIES AS POSSIBLE AND SHALL PROVIDE NOTICE THROUGH AN EMAIL NOTIFICATION SYSTEM TO WHICH INTERESTED PARTIES CAN SUBSCRIBE.

(f) NOTWITHSTANDING SUBDIVISIONS (b) AND (c) OF THIS PARAGRAPH, AND NO LATER THAN SIX MONTHS AFTER THE DEPARTMENT ADOPTS FINAL RULES TO IMPLEMENT A SOCIAL EQUITY OWNERSHIP PROGRAM PURSUANT TO PARAGRAPH 9 OF THIS SUBSECTION, THE DEPARTMENT SHALL ISSUE TWENTY-SIX ADDITIONAL MARIJUANA ESTABLISHMENT LICENSES TO ENTITIES THAT ARE QUALIFIED PURSUANT TO THE SOCIAL EQUITY OWNERSHIP PROGRAM.

(g) LICENSES ISSUED BY THE DEPARTMENT TO MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES SHALL BE VALID FOR A PERIOD OF TWO YEARS.

2. LICENSING FEES AND RENEWAL FEES FOR MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES IN AMOUNTS THAT ARE REASONABLE AND RELATED TO THE ACTUAL COST OF PROCESSING APPLICATIONS FOR LICENSES AND RENEWALS AND THAT DO NOT EXCEED FIVE TIMES THE FEES PRESCRIBED BY THE DEPARTMENT TO REGISTER OR RENEW A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

3. THE SECURITY OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.

4. MARIJUANA ESTABLISHMENTS TO SAFELY CULTIVATE, PROCESS AND MANUFACTURE MARIJUANA AND MARIJUANA PRODUCTS.

5. TRACKING, TESTING, LABELING AND PACKAGING MARIJUANA AND MARIJUANA PRODUCTS, INCLUDING REQUIREMENTS THAT MARIJUANA AND MARIJUANA PRODUCTS BE:

(a) SOLD TO CONSUMERS IN CLEARLY AND CONSPICUOUSLY LABELED CONTAINERS THAT CONTAIN ACCURATE WARNINGS REGARDING THE USE OF MARIJUANA OR MARIJUANA PRODUCTS.

(b) PLACED IN CHILD-RESISTANT PACKAGING ON EXIT FROM A MARIJUANA ESTABLISHMENT.

6. FORMS OF GOVERNMENT-ISSUED IDENTIFICATION THAT ARE ACCEPTABLE BY A MARIJUANA ESTABLISHMENT VERIFYING A CONSUMER'S AGE AND PROCEDURES RELATED TO VERIFYING A CONSUMER'S AGE CONSISTENT WITH SECTION 4-241. UNTIL THE DEPARTMENT ADOPTS FINAL RULES RELATED TO VERIFYING A CONSUMER'S AGE, MARIJUANA ESTABLISHMENTS SHALL COMPLY WITH THE PROOF OF LEGAL AGE REQUIREMENTS PRESCRIBED IN SECTION 4-241.

7. THE POTENCY OF EDIBLE MARIJUANA PRODUCTS THAT MAY BE SOLD TO CONSUMERS BY MARIJUANA ESTABLISHMENTS AT REASONABLE LEVELS UPON CONSIDERATION OF INDUSTRY STANDARDS, EXCEPT THAT THE RULES:

(a) SHALL LIMIT THE STRENGTH OF EDIBLE MARIJUANA PRODUCTS TO NO MORE THAN TEN MILLIGRAMS OF TETRAHYDROCANNABINOL PER SERVING OR ONE HUNDRED MILLIGRAMS OF TETRAHYDROCANNABINOL PER PACKAGE.

(b) SHALL REQUIRE THAT IF A MARIJUANA PRODUCT CONTAINS MORE THAN ONE SERVING, IT MUST BE DELINEATED OR SCORED INTO STANDARD SERVING SIZES AND HOMOGENIZED TO ENSURE UNIFORM DISBURSEMENT THROUGHOUT THE MARIJUANA PRODUCT.

8. ENSURING THE HEALTH, SAFETY AND TRAINING OF EMPLOYEES OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.

9. THE CREATION AND IMPLEMENTATION OF A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE ENFORCEMENT OF PREVIOUS MARIJUANA LAWS.

B. THE DEPARTMENT MAY:

1. SUBJECT TO TITLE 41, CHAPTER 6, ARTICLE 10, DENY ANY APPLICATION SUBMITTED OR DENY, SUSPEND OR REVOKE, IN WHOLE OR PART, ANY REGISTRATION OR LICENSE ISSUED UNDER THIS CHAPTER IF THE REGISTERED OR LICENSED PARTY OR AN OFFICER, AGENT OR EMPLOYEE OF THE REGISTERED OR LICENSED PARTY DOES ANY OF THE FOLLOWING:

(a) VIOLATES THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.

(b) HAS BEEN, IS OR MAY CONTINUE TO BE IN SUBSTANTIAL VIOLATION OF THE REQUIREMENTS FOR LICENSING OR REGISTRATION AND, AS A RESULT, THE HEALTH OR SAFETY OF THE GENERAL PUBLIC IS IN IMMEDIATE DANGER.

2. SUBJECT TO TITLE 41, CHAPTER 6, ARTICLE 10, AND UNLESS ANOTHER PENALTY IS PROVIDED ELSEWHERE IN THIS CHAPTER, ASSESS A CIVIL PENALTY AGAINST A PERSON THAT VIOLATES THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER IN AN AMOUNT NOT TO EXCEED \$1,000 FOR EACH VIOLATION. EACH DAY A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION. THE MAXIMUM AMOUNT OF ANY ASSESSMENT IS \$25,000 FOR ANY THIRTY-DAY PERIOD. IN DETERMINING THE AMOUNT OF A CIVIL PENALTY ASSESSED AGAINST A PERSON, THE DEPARTMENT SHALL CONSIDER ALL OF THE FACTORS SET FORTH IN SECTION 36-2816, SUBSECTION H. ALL CIVIL PENALTIES COLLECTED BY THE DEPARTMENT PURSUANT TO THIS PARAGRAPH SHALL BE DEPOSITED IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

3. AT ANY TIME DURING REGULAR HOURS OF OPERATION, VISIT AND INSPECT A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE TO DETERMINE IF IT COMPLIES WITH THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER. THE DEPARTMENT SHALL MAKE AT LEAST ONE UNANNOUNCED VISIT ANNUALLY TO EACH FACILITY LICENSED PURSUANT TO THIS CHAPTER.

4. ADOPT ANY OTHER RULES NOT EXPRESSLY STATED IN THIS SECTION THAT ARE NECESSARY TO ENSURE THE SAFE AND RESPONSIBLE CULTIVATION, SALE, PROCESSING, MANUFACTURE, TESTING AND TRANSPORT OF MARIJUANA AND MARIJUANA PRODUCTS.

C. UNTIL THE DEPARTMENT ADOPTS RULES PERMITTING AND REGULATING DELIVERY BY MARIJUANA ESTABLISHMENTS PURSUANT TO SUBSECTION D OF THIS SECTION, DELIVERY IS UNLAWFUL UNDER THIS CHAPTER.

D. ON OR AFTER JANUARY 1, 2023, THE DEPARTMENT MAY, AND NO LATER THAN JANUARY 1, 2025 THE DEPARTMENT SHALL, ADOPT RULES TO PERMIT AND REGULATE DELIVERY BY MARIJUANA ESTABLISHMENTS. THE RULES SHALL:

1. REQUIRE THAT DELIVERY AND THE MARIJUANA AND MARIJUANA PRODUCTS TO BE DELIVERED ORIGINATE FROM A DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT AND ONLY AFTER AN ORDER IS MADE WITH THE MARIJUANA ESTABLISHMENT BY A CONSUMER.

2. PROHIBIT DELIVERY TO ANY PROPERTY OWNED OR LEASED BY THE UNITED STATES, THIS STATE, A POLITICAL SUBDIVISION OF THIS STATE OR THE ARIZONA BOARD OF REGENTS.

3. LIMIT THE AMOUNT OF MARIJUANA AND MARIJUANA PRODUCTS BASED ON RETAIL PRICE THAT MAY BE IN A DELIVERY VEHICLE DURING A SINGLE TRIP FROM THE DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT.

4. PROHIBIT EXTRA OR UNALLOCATED MARIJUANA OR MARIJUANA PRODUCTS IN DELIVERY VEHICLES.

5. REQUIRE THAT DELIVERIES BE MADE ONLY BY MARIJUANA FACILITY AGENTS IN UNMARKED VEHICLES THAT ARE EQUIPPED WITH A GLOBAL POSITIONING SYSTEM OR SIMILAR LOCATION TRACKING SYSTEM AND VIDEO SURVEILLANCE AND RECORDING EQUIPMENT, AND THAT CONTAIN A LOCKED COMPARTMENT IN WHICH MARIJUANA AND MARIJUANA PRODUCTS MUST BE STORED.

6. REQUIRE DELIVERY LOGS NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBSECTION AND RULES ADOPTED PURSUANT TO THIS SUBSECTION.

7. REQUIRE INSPECTIONS TO ENSURE COMPLIANCE WITH THIS SUBSECTION AND RULES ADOPTED PURSUANT TO THIS SUBSECTION.

8. INCLUDE ANY OTHER PROVISIONS NECESSARY TO ENSURE SAFE AND RESTRICTED DELIVERY.

9. REQUIRE DUAL LICENSEES TO COMPLY WITH THE RULES ADOPTED PURSUANT TO THIS SUBSECTION.

E. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, THE DEPARTMENT MAY NOT PERMIT DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS UNDER THIS CHAPTER BY ANY INDIVIDUAL OR ENTITY. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, AN

INDIVIDUAL OR ENTITY THAT DELIVERS MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER SHALL PAY A CIVIL PENALTY OF \$20,000 PER VIOLATION TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY GENERAL.

F. ALL RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL BE CONSISTENT WITH THE PURPOSE OF THIS CHAPTER.

G. THE DEPARTMENT MAY NOT ADOPT ANY RULE THAT:

1. PROHIBITS THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REQUIREMENTS THAT MAKE THE OPERATION OF A MARIJUANA ESTABLISHMENT UNDULY BURDENSOME.

2. PROHIBITS OR INTERFERES WITH THE ABILITY OF A DUAL LICENSEE TO OPERATE A MARIJUANA ESTABLISHMENT AND A NONPROFIT MEDICAL MARIJUANA DISPENSARY AT SHARED LOCATIONS.

H. NOTWITHSTANDING SECTION 41-192, THE DEPARTMENT MAY EMPLOY LEGAL COUNSEL AND MAKE AN EXPENDITURE OR INCUR AN INDEBTEDNESS FOR LEGAL SERVICES FOR THE PURPOSES OF:

1. DEFENDING THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

2. DEFENDING CHAPTER 28.1 OF THIS TITLE OR RULES ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

I. THE DEPARTMENT SHALL DEPOSIT ALL LICENSE FEES, APPLICATION FEES AND RENEWAL FEES PAID TO THE DEPARTMENT PURSUANT TO THIS CHAPTER IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

J. ON REQUEST, THE DEPARTMENT SHALL SHARE WITH THE DEPARTMENT OF REVENUE INFORMATION REGARDING A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE, INCLUDING ITS NAME, PHYSICAL ADDRESS, CULTIVATION SITE AND TRANSACTION PRIVILEGE TAX LICENSE NUMBER.

K. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT MAY:

1. LICENSE AN INDEPENDENT THIRD-PARTY LABORATORY TO ALSO OPERATE AS A MARIJUANA TESTING FACILITY.

2. OPERATE A MARIJUANA TESTING FACILITY.

L. THE DEPARTMENT SHALL MAINTAIN AND PUBLISH A CURRENT LIST OF ALL MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY NAME AND LICENSE NUMBER.

M. NOTWITHSTANDING ANY OTHER LAW, THE ISSUANCE OF AN OCCUPATIONAL, PROFESSIONAL OR OTHER REGULATORY LICENSE OR CERTIFICATION TO A PERSON BY A JURISDICTION OR REGULATORY AUTHORITY OUTSIDE THIS STATE DOES NOT ENTITLE THAT PERSON TO BE ISSUED A MARIJUANA ESTABLISHMENT LICENSE, A MARIJUANA TESTING FACILITY LICENSE, OR ANY OTHER LICENSE, REGISTRATION OR CERTIFICATION UNDER THIS CHAPTER.

36-2855. Marijuana facility agents; registration; card; rules

A. A MARIJUANA FACILITY AGENT SHALL BE REGISTERED WITH THE DEPARTMENT BEFORE WORKING AT A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY.

B. A PERSON WHO WISHES TO BE REGISTERED AS A MARIJUANA FACILITY AGENT OR RENEW THE PERSON'S REGISTRATION AS A MARIJUANA FACILITY AGENT SHALL:

1. SUBMIT A COMPLETED APPLICATION ON A FORM PRESCRIBED BY THE DEPARTMENT AND PAY A NONREFUNDABLE FEE THAT IS REASONABLE AND RELATED TO THE ACTUAL COST OF PROCESSING APPLICATIONS SUBMITTED PURSUANT TO THIS SECTION.

2. SUBMIT EVIDENCE THAT THE APPLICANT HOLDS A CURRENT LEVEL I FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07, OR SUBMIT A FULL SET OF THE APPLICANT'S FINGERPRINTS 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 WITHOUT DISCLOSING THAT THE RECORDS CHECK IS RELATED TO THIS CHAPTER AND ACTS ALLOWED BY THIS CHAPTER. THE DEPARTMENT OF PUBLIC SAFETY SHALL DESTROY EACH SET OF FINGERPRINTS AFTER THE CRIMINAL RECORDS CHECK IS COMPLETED.

C. IF THE DEPARTMENT DETERMINES THAT AN APPLICANT MEETS THE CRITERIA FOR REGISTRATION UNDER THIS CHAPTER AND RULES PURSUANT TO THIS CHAPTER, THE DEPARTMENT SHALL ISSUE THE APPLICANT A MARIJUANA FACILITY AGENT CARD THAT IS VALID FOR TWO YEARS.

D. A REGISTERED MARIJUANA FACILITY AGENT MAY BE EMPLOYED BY OR ASSOCIATED WITH ANY MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY. A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY SHALL PROMPTLY NOTIFY THE DEPARTMENT WHEN IT EMPLOYS OR BECOMES ASSOCIATED WITH A NEW MARIJUANA FACILITY AGENT. A MARIJUANA FACILITY AGENT SHALL PROMPTLY NOTIFY THE DEPARTMENT WHEN THE MARIJUANA FACILITY AGENT IS EMPLOYED BY OR BECOMES ASSOCIATED WITH A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY AND WHEN THE MARIJUANA FACILITY AGENT IS NO LONGER EMPLOYED BY OR ASSOCIATED WITH A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY.

E. A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT OF A DUAL LICENSEE WHO HAS APPLIED TO BE REGISTERED AS A MARIJUANA FACILITY AGENT MAY SERVE AS A MARIJUANA FACILITY AGENT OF THAT DUAL LICENSEE UNTIL THE DEPARTMENT HAS APPROVED OR REJECTED THE AGENT'S APPLICATION.

F. THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT THIS SECTION.

36-2856. Smart and safe Arizona fund; disposition; exemption

A. THE SMART AND SAFE ARIZONA FUND IS ESTABLISHED CONSISTING OF ALL MONIES DEPOSITED PURSUANT TO SECTIONS 36-2854, 42-5452 AND 42-5503, PRIVATE DONATIONS AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE SMART AND SAFE ARIZONA FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT TO IMPLEMENT, CARRY OUT AND ENFORCE THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER.

2. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT OF REVENUE TO IMPOSE AND ENFORCE THE TAX AUTHORIZED AND LEVIED BY SECTION 42-5452.

3. THE ACTUAL REASONABLE COSTS INCURRED BY THE SUPREME COURT AND THE DEPARTMENT OF PUBLIC SAFETY TO PROCESS PETITIONS FOR EXPUNGEMENT AND EXPUNGEMENT ORDERS PURSUANT TO SECTION 36-2862 AND TO OTHERWISE IMPLEMENT SECTION 36-2862.

4. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.

5. ANY OTHER MANDATORY EXPENDITURE OF STATE REVENUES REQUIRED BY THIS CHAPTER TO IMPLEMENT OR ENFORCE THE PROVISIONS OF THIS CHAPTER.

C. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS FROM THE SMART AND SAFE ARIZONA FUND PURSUANT TO SUBSECTION B OF THIS SECTION.

D. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE SMART AND SAFE ARIZONA FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. 33 PERCENT TO COMMUNITY COLLEGE DISTRICTS AND PROVISIONAL COMMUNITY COLLEGE DISTRICTS, BUT NOT TO COMMUNITY COLLEGE TUITION FINANCING DISTRICTS ESTABLISHED PURSUANT TO SECTION 15-1409, FOR THE PURPOSES OF INVESTING IN AND PROVIDING WORKFORCE DEVELOPMENT PROGRAMS, JOB TRAINING, CAREER AND TECHNICAL EDUCATION, AND SCIENCE, TECHNOLOGY, ENGINEERING AND MATH PROGRAMS, AS FOLLOWS:

(a) 15 PERCENT OF THE 33 PERCENT DIVIDED EQUALLY BETWEEN EACH COMMUNITY COLLEGE DISTRICT.

(b) 0.5 PERCENT OF THE 33 PERCENT DIVIDED EQUALLY BETWEEN EACH PROVISIONAL COMMUNITY COLLEGE DISTRICT, IF ONE OR MORE PROVISIONAL COMMUNITY COLLEGE DISTRICTS EXIST.

(c) THE REMAINDER TO COMMUNITY COLLEGE DISTRICTS AND PROVISIONAL COMMUNITY COLLEGES DISTRICTS IN PROPORTION 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.

2. 31.4 PERCENT TO MUNICIPAL POLICE DEPARTMENTS, MUNICIPAL FIRE DEPARTMENTS, FIRE DISTRICTS ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 5 AND COUNTY SHERIFFS' DEPARTMENTS IN PROPORTION TO THE NUMBER OF ENROLLED MEMBERS FOR EACH SUCH AGENCY IN THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 4 AND THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION PLAN ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 4.1, FOR PERSONNEL COSTS.

3. 25.4 PERCENT TO THE ARIZONA HIGHWAY USER REVENUE FUND ESTABLISHED BY SECTION 28-6533.

4. 10 PERCENT TO THE JUSTICE REINVESTMENT FUND ESTABLISHED BY SECTION 36-2863.

5. 0.2 PERCENT TO THE ATTORNEY GENERAL TO USE TO ENFORCE THIS CHAPTER, OR TO GRANT TO LOCALITIES TO ENFORCE THIS CHAPTER.

E. THE MONIES TRANSFERRED AND RECEIVED PURSUANT TO THIS SECTION:

1. ARE IN ADDITION TO ANY OTHER APPROPRIATION, TRANSFER OR OTHER ALLOCATION OF MONIES AND MAY NOT SUPPLANT, REPLACE OR CAUSE A REDUCTION IN OTHER FUNDING SOURCES.

2. ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTIONS 20 AND 21, CONSTITUTION OF ARIZONA.

36-2857. Localities; marijuana establishments and marijuana testing facilities

A. A LOCALITY MAY:

1. ENACT REASONABLE ZONING REGULATIONS THAT LIMIT THE USE OF LAND FOR MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES TO SPECIFIED AREAS.

2. LIMIT THE NUMBER OF MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, OR BOTH.

3. PROHIBIT MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITIES, OR BOTH.

4. REGULATE THE TIME, PLACE AND MANNER OF MARIJUANA ESTABLISHMENT AND MARIJUANA TESTING FACILITY OPERATIONS.

5. ESTABLISH REASONABLE RESTRICTIONS ON PUBLIC SIGNAGE REGARDING MARIJUANA, MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.

6. PROHIBIT OR RESTRICT DELIVERY WITHIN ITS JURISDICTION.

B. A COUNTY MAY EXERCISE ITS AUTHORITY PURSUANT TO SUBSECTION A OF THIS SECTION ONLY IN UNINCORPORATED AREAS OF THE COUNTY.

C. A LOCALITY MAY NOT ENACT ANY ORDINANCE, REGULATION OR RULE THAT:

1. IS MORE RESTRICTIVE THAN A COMPARABLE ORDINANCE, REGULATION OR RULE THAT APPLIES TO NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

2. MAKES THE OPERATION OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY UNDULY BURDENSOME IF THE LOCALITY HAS NOT PROHIBITED MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES.

3. CONFLICTS WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

4. PROHIBITS THE TRANSPORTATION OF MARIJUANA BY A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY ON PUBLIC ROADS.

5. RESTRICTS OR INTERFERES WITH THE ABILITY OF A DUAL LICENSEE OR AN ENTITY ELIGIBLE TO BECOME A DUAL LICENSEE TO OPERATE A NONPROFIT MEDICAL MARIJUANA DISPENSARY AND A MARIJUANA ESTABLISHMENT COOPERATIVELY AT SHARED LOCATIONS.

6. EXCEPT AS EXPRESSLY AUTHORIZED BY THIS SECTION OR SECTION 36-2851, PROHIBITS OR RESTRICTS ANY CONDUCT OR TRANSACTION ALLOWED BY THIS CHAPTER, OR IMPOSES ANY LIABILITY OR PENALTY IN ADDITION TO THAT PRESCRIBED BY THIS CHAPTER FOR ANY CONDUCT OR TRANSACTION CONSTITUTING A VIOLATION OF THIS CHAPTER.

36-2858. Lawful operation of marijuana establishments and marijuana testing facilities

A. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED IN SECTION 36-2857 AND NOTWITHSTANDING ANY OTHER LAW, IT IS LAWFUL AND IS NOT AN OFFENSE UNDER THE LAWS OF THIS STATE OR ANY LOCALITY, MAY NOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND MAY NOT CONSTITUTE THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS OR THE BASIS FOR IMPOSING PENALTIES UNDER THE LAWS OF THIS STATE OR ANY LOCALITY FOR:

1. A MARIJUANA ESTABLISHMENT, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT, TO:

(a) POSSESS MARIJUANA OR MARIJUANA PRODUCTS.

(b) PURCHASE, SELL OR TRANSPORT MARIJUANA AND MARIJUANA PRODUCTS TO OR FROM A MARIJUANA ESTABLISHMENT.

(c) SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, EXCEPT THAT A MARIJUANA ESTABLISHMENT MAY NOT SELL MORE THAN ONE OUNCE OF MARIJUANA TO A CONSUMER IN A SINGLE TRANSACTION, NOT MORE THAN FIVE GRAMS OF WHICH MAY BE IN THE FORM OF MARIJUANA CONCENTRATE.

(d) CULTIVATE, PRODUCE, TEST OR PROCESS MARIJUANA OR MANUFACTURE MARIJUANA OR MARIJUANA PRODUCTS BY ANY MEANS INCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS.

2. AN AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT TO SELL OR OTHERWISE TRANSFER MARIJUANA TO AN INDIVIDUAL UNDER TWENTY-ONE YEARS OF AGE, IF THE AGENT REASONABLY VERIFIED THAT THE INDIVIDUAL APPEARED TO BE TWENTY-ONE YEARS OF AGE OR OLDER BY MEANS OF A GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION IN COMPLIANCE WITH RULES ADOPTED PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 6.

3. A MARIJUANA TESTING FACILITY, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA TESTING FACILITY, TO OBTAIN, POSSESS, PROCESS, REPACKAGE, TRANSFER, TRANSPORT OR TEST MARIJUANA AND MARIJUANA PRODUCTS.

4. A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT, OR AN AGENT ACTING ON BEHALF OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT, TO SELL OR OTHERWISE TRANSFER MARIJUANA OR MARIJUANA PRODUCTS TO A NONPROFIT MEDICAL MARIJUANA DISPENSARY, A MARIJUANA ESTABLISHMENT OR AN AGENT ACTING ON BEHALF OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT.

5. ANY INDIVIDUAL, CORPORATION OR OTHER ENTITY TO SELL, LEASE OR OTHERWISE ALLOW PROPERTY OR GOODS THAT ARE OWNED, MANAGED OR CONTROLLED BY THE INDIVIDUAL, CORPORATION OR OTHER ENTITY TO BE USED FOR ANY ACTIVITY AUTHORIZED BY THIS CHAPTER, OR TO PROVIDE SERVICES TO A MARIJUANA ESTABLISHMENT, OR MARIJUANA TESTING FACILITY OR AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY IN CONNECTION WITH ANY ACTIVITY AUTHORIZED BY THIS CHAPTER.

B. THIS SECTION DOES NOT PRECLUDE THE DEPARTMENT FROM IMPOSING PENALTIES AGAINST A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY FOR FAILING TO COMPLY WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

C. A MARIJUANA ESTABLISHMENT MAY BE OWNED OR OPERATED BY A PUBLICLY TRADED COMPANY.

D. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE:

1. MAY HOLD A MARIJUANA ESTABLISHMENT LICENSE AND OPERATE A MARIJUANA ESTABLISHMENT PURSUANT TO THIS CHAPTER.

2. MAY OPERATE ON A FOR-PROFIT BASIS IF THE DUAL LICENSEE PROMPTLY NOTIFIES THE DEPARTMENT AND DEPARTMENT OF REVENUE AND TAKES ANY ACTIONS NECESSARY TO ENABLE ITS FOR-PROFIT OPERATION, INCLUDING CONVERTING ITS CORPORATE FORM AND AMENDING ITS ORGANIZATIONAL AND OPERATING DOCUMENTS.

3. MUST CONTINUE TO HOLD BOTH ITS MARIJUANA ESTABLISHMENT LICENSE AND NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION, REGARDLESS OF ANY CHANGE IN OWNERSHIP OF THE DUAL LICENSEE, UNLESS IT TERMINATES ITS STATUS AS A DUAL LICENSEE AND FORFEITS EITHER ITS MARIJUANA ESTABLISHMENT LICENSE OR NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION BY NOTIFYING THE DEPARTMENT OF SUCH A TERMINATION AND FORFEITURE.

4. MAY NOT BE REQUIRED TO:

(a) EMPLOY OR CONTRACT WITH A MEDICAL DIRECTOR.

(b) OBTAIN NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT OR MARIJUANA FACILITY AGENT REGISTRATIONS FOR OUTSIDE VENDORS THAT DO NOT HAVE REGULAR, UNSUPERVISED ACCESS TO THE INTERIOR OF THE DUAL LICENSEE.

(c) HAVE A SINGLE SECURE ENTRANCE AS REQUIRED BY SECTION 36-2806, SUBSECTION C, BUT MAY BE REQUIRED TO IMPLEMENT APPROPRIATE SECURITY MEASURES TO DETER AND PREVENT THE THEFT OF MARIJUANA AND TO REASONABLY REGULATE CUSTOMER ACCESS TO THE PREMISES.

(d) COMPLY WITH ANY OTHER PROVISION OF CHAPTER 28.1 OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE THAT MAKES ITS OPERATION AS A DUAL LICENSEE UNDULY BURDENSOME.

E. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE THAT ELECTS TO OPERATE ON A FOR-PROFIT BASIS PURSUANT TO SUBSECTION D, PARAGRAPH 2 OF THIS SECTION:

1. IS SUBJECT TO THE TAXES IMPOSED PURSUANT TO TITLE 43.

2. IS NOT REQUIRED TO SUBMIT ITS ANNUAL FINANCIAL STATEMENTS OR AN AUDIT REPORT TO THE DEPARTMENT FOR PURPOSES OF RENEWING ITS NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION.

F. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE MUST CONDUCT BOTH OF THE FOLLOWING OPERATIONS AT A SHARED LOCATION:

1. SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS PURSUANT TO THIS CHAPTER.

2. DISPENSE MARIJUANA TO REGISTERED QUALIFYING PATIENTS AND REGISTERED DESIGNATED CAREGIVERS PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

G. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE, A DUAL LICENSEE MAY ENGAGE IN ANY ACT, PRACTICE, CONDUCT OR TRANSACTION ALLOWED FOR A MARIJUANA ESTABLISHMENT BY THIS CHAPTER.

H. NOTWITHSTANDING ANY OTHER LAW:

1. AN INDIVIDUAL MAY BE AN APPLICANT, PRINCIPAL OFFICER OR BOARD MEMBER OF MORE THAN ONE MARIJUANA ESTABLISHMENT OR MORE THAN ONE DUAL LICENSEE REGARDLESS OF THE ESTABLISHMENT'S LOCATION.

2. TWO OR MORE MARIJUANA ESTABLISHMENTS OR DUAL LICENSEES MAY DESIGNATE A SINGLE OFF-SITE LOCATION AS PRESCRIBED IN SECTION 36-2850, PARAGRAPH 18, SUBDIVISION (c) TO BE JOINTLY USED BY THOSE DUAL LICENSEES OR MARIJUANA ESTABLISHMENTS.

I. MARIJUANA ESTABLISHMENTS, MARIJUANA TESTING FACILITIES AND DUAL LICENSEES THAT ARE SUBJECT TO APPLICABLE FEDERAL OR STATE ANTIDISCRIMINATION LAWS MAY NOT PAY THEIR EMPLOYEES DIFFERENTLY BASED SOLELY ON A PROTECTED CLASS STATUS SUCH AS SEX, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE OR DISABILITY. THIS SUBSECTION DOES NOT EXPAND OR MODIFY THE JURISDICTIONAL REACH, PROVISIONS OR REQUIREMENTS OF ANY APPLICABLE ANTI-DISCRIMINATION LAW.

36-2859. Advertising restrictions; enforcement; civil penalty

A. A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY ENGAGE IN ADVERTISING.

B. AN ADVERTISING PLATFORM MAY HOST ADVERTISING ONLY IF ALL OF THE FOLLOWING APPLY:

1. THE ADVERTISING IS AUTHORIZED BY A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY.

2. THE ADVERTISING ACCURATELY AND LEGIBLY IDENTIFIES THE MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY RESPONSIBLE FOR THE CONTENT OF THE ADVERTISING BY NAME AND LICENSE NUMBER OR REGISTRATION NUMBER.

C. ANY ADVERTISING UNDER THIS CHAPTER INVOLVING DIRECT, INDIVIDUALIZED COMMUNICATION OR DIALOGUE SHALL USE A METHOD OF AGE AFFIRMATION TO VERIFY THAT THE RECIPIENT IS TWENTY-ONE YEARS OF AGE OR OLDER BEFORE ENGAGING IN THAT COMMUNICATION OR DIALOGUE. FOR THE PURPOSES OF THIS SUBSECTION, THAT METHOD OF AGE AFFIRMATION MAY INCLUDE USER CONFIRMATION, BIRTH DATE DISCLOSURE OR OTHER SIMILAR REGISTRATION METHODS.

D. IT IS UNLAWFUL FOR AN INDIVIDUAL OR ENTITY OTHER THAN A MARIJUANA ESTABLISHMENT OR DUAL LICENSEE TO DO ANY OF THE FOLLOWING IN A MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER OR RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS CHAPTER:

1. FACILITATE THE DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.

2. SOLICIT OR ACCEPT ORDERS FOR MARIJUANA OR MARIJUANA PRODUCTS OR OPERATE A PLATFORM THAT SOLICITS OR ACCEPTS ORDERS FOR MARIJUANA OR MARIJUANA PRODUCTS.

3. OPERATE A LISTING SERVICE RELATED TO THE SALE OR DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.

E. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2854, SUBSECTION B. A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2816.

F. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, AN INDIVIDUAL OR ENTITY OTHER THAN A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT ADVERTISES MARIJUANA OR MARIJUANA PRODUCTS IN VIOLATION OF THIS SECTION OR OTHERWISE VIOLATES THIS SECTION SHALL PAY A CIVIL PENALTY OF \$20,000 PER VIOLATION TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY GENERAL.

36-2860. Packaging restrictions on particular marijuana products

A. A MARIJUANA ESTABLISHMENT MAY NOT:

1. PACKAGE OR LABEL MARIJUANA OR MARIJUANA PRODUCTS IN A FALSE OR MISLEADING MANNER.

2. MANUFACTURE OR SELL MARIJUANA PRODUCTS THAT RESEMBLE THE FORM OF A HUMAN, ANIMAL, INSECT, FRUIT, TOY OR CARTOON.

3. SELL OR ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS WITH NAMES THAT RESEMBLE OR IMITATE FOOD OR DRINK BRANDS MARKETED TO CHILDREN, OR OTHERWISE ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS TO CHILDREN.

B. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2854, SUBSECTION B.

36-2861. Contracts; professional services

A. IT IS THE PUBLIC POLICY OF THIS STATE THAT CONTRACTS RELATED TO MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES ARE ENFORCEABLE.

B. A PERSON THAT IS LICENSED, CERTIFIED OR REGISTERED BY ANY DEPARTMENT, AGENCY OR REGULATORY BOARD OF THIS STATE IS NOT SUBJECT TO DISCIPLINARY ACTION BY THAT ENTITY FOR PROVIDING PROFESSIONAL ASSISTANCE TO A PROSPECTIVE OR REGISTERED MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR OTHER PERSON FOR ANY LAWFUL ACTIVITY UNDER THIS CHAPTER.

36-2862. Expungement; petition; appeal; dismissal of complaints; rules

A. BEGINNING JULY 12, 2021, AN INDIVIDUAL WHO WAS ARRESTED FOR, CHARGED WITH, ADJUDICATED OR CONVICTED BY TRIAL OR PLEA OF, OR SENTENCED FOR, ANY OF THE FOLLOWING OFFENSES BASED ON OR ARISING OUT OF CONDUCT OCCURRING BEFORE THE EFFECTIVE DATE OF THIS SECTION MAY PETITION THE COURT TO HAVE THE RECORD OF THAT ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE EXPUNGED:

1. POSSESSING, CONSUMING OR TRANSPORTING TWO AND ONE-HALF OUNCES OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN TWELVE AND ONE-HALF GRAMS WAS IN THE FORM OF MARIJUANA CONCENTRATE.

2. POSSESSING, TRANSPORTING, CULTIVATING OR PROCESSING NOT MORE THAN SIX MARIJUANA PLANTS AT THE INDIVIDUAL'S PRIMARY RESIDENCE FOR PERSONAL USE.

3. POSSESSING, USING OR TRANSPORTING PARAPHERNALIA RELATING TO THE CULTIVATION, MANUFACTURE, PROCESSING OR CONSUMPTION OF MARIJUANA.

B. IF THE COURT RECEIVES A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION:

1. THE COURT SHALL NOTIFY THE PROSECUTING AGENCY OF THE FILING OF THE PETITION, AND ALLOW THE PROSECUTING AGENCY TO RESPOND TO THE PETITION WITHIN THIRTY DAYS.

2. THE COURT MAY HOLD A HEARING:

(a) ON THE REQUEST OF EITHER THE PETITIONER OR THE PROSECUTING AGENCY.

(b) IF THE COURT CONCLUDES THERE ARE GENUINE DISPUTES OF FACT REGARDING WHETHER THE PETITION SHOULD BE GRANTED.

3. THE COURT SHALL GRANT THE PETITION UNLESS THE PROSECUTING AGENCY ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE PETITIONER IS NOT ELIGIBLE FOR EXPUNGEMENT.

4. THE COURT SHALL ISSUE A SIGNED ORDER OR MINUTE ENTRY GRANTING OR DENYING THE PETITION IN WHICH IT MAKES FINDINGS OF FACT AND CONCLUSIONS OF LAW.

C. IF THE COURT GRANTS A PETITION FOR EXPUNGEMENT:

1. THE SIGNED ORDER OR MINUTE ENTRY REQUIRED PURSUANT TO SUBSECTION B, PARAGRAPH 4 OF THIS SECTION SHALL DO ALL OF THE FOLLOWING:

(a) IF THE PETITIONER WAS ADJUDICATED OR CONVICTED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, VACATE THE JUDGMENT OF ADJUDICATION OR CONVICTION.

(b) STATE THAT IT EXPUNGES ANY RECORD OF THE PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE.

(c) IF THE PETITIONER WAS CONVICTED OR ADJUDICATED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, STATE THAT THE PETITIONER'S CIVIL RIGHTS, INCLUDING THE RIGHT TO POSSESS FIREARMS, ARE RESTORED, UNLESS THE PETITIONER IS OTHERWISE NOT ELIGIBLE FOR THE RESTORATION OF CIVIL RIGHTS ON GROUNDS OTHER THAN A CONVICTION FOR AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION.

(d) REQUIRE THE CLERK OF THE COURT TO NOTIFY THE DEPARTMENT OF PUBLIC SAFETY, THE PROSECUTING AGENCY AND THE ARRESTING LAW ENFORCEMENT AGENCY, IF APPLICABLE, OF THE EXPUNGEMENT ORDER.

(e) REQUIRE THE CLERK OF THE COURT TO SEAL ALL RECORDS RELATING TO THE EXPUNGED ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE AND ALLOW THE RECORDS TO BE ACCESSED ONLY BY THE INDIVIDUAL WHOSE RECORD WAS EXPUNGED OR THE INDIVIDUAL'S ATTORNEY.

2. THE DEPARTMENT OF PUBLIC SAFETY SHALL SEAL AND SEPARATE THE EXPUNGED RECORD FROM ITS RECORDS AND INFORM ALL APPROPRIATE STATE AND FEDERAL LAW ENFORCEMENT AGENCIES OF THE EXPUNGEMENT. UNLESS THE PETITIONER IS INDIGENT, THE DEPARTMENT OF PUBLIC SAFETY MAY CHARGE THE SUCCESSFUL PETITIONER A REASONABLE FEE DETERMINED BY THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY TO RESEARCH AND CORRECT THE PETITIONER'S CRIMINAL HISTORY RECORD.

3. THE ARRESTING AND PROSECUTING AGENCIES SHALL CLEARLY IDENTIFY IN EACH AGENCY'S FILES AND ELECTRONIC RECORDS THAT THE PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE ARE EXPUNGED AND SHALL NOT MAKE ANY RECORDS OF THE EXPUNGED ARREST, CHARGE, CONVICTION, ADJUDICATION OR SENTENCE AVAILABLE AS A PUBLIC RECORD TO ANY PERSON EXCEPT TO THE INDIVIDUAL WHOSE RECORD WAS EXPUNGED OR THAT INDIVIDUAL'S ATTORNEY.

D. AN ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE THAT IS EXPUNGED PURSUANT TO THIS SECTION MAY NOT BE USED IN A SUBSEQUENT PROSECUTION BY A PROSECUTING AGENCY OR COURT FOR ANY PURPOSE.

E. AN INDIVIDUAL WHOSE RECORD OF ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE IS EXPUNGED PURSUANT TO THIS SECTION MAY STATE THAT THE INDIVIDUAL HAS NEVER BEEN ARRESTED FOR, CHARGED WITH, ADJUDICATED OR CONVICTED OF, OR SENTENCED FOR THE CRIME THAT IS THE SUBJECT OF THE EXPUNGEMENT.

F. IF THE COURT DENIES A PETITION FOR EXPUNGEMENT, THE PETITIONER MAY FILE A DIRECT APPEAL PURSUANT TO SECTION 13-4033, SUBSECTION A, PARAGRAPH 3.

G. ON MOTION, THE COURT SHALL DISMISS WITH PREJUDICE ANY PENDING COMPLAINT, INFORMATION OR INDICTMENT BASED ON ANY OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, TO INCLUDE CHARGES OR ALLEGATIONS BASED ON OR ARISING OUT OF CONDUCT OCCURRING BEFORE THE EFFECTIVE DATE OF THIS CHAPTER. THE INDIVIDUAL CHARGED MAY THEREAFTER PETITION THE COURT TO EXPUNGE RECORDS OF THE ARREST AND CHARGE OR ALLEGATION AS PROVIDED THIS SECTION. A MOTION BROUGHT PURSUANT TO THIS SUBSECTION MAY BE FILED WITH THE COURT BEFORE JULY 12, 2021.

H. THE SUPREME COURT MAY ADOPT RULES NECESSARY TO IMPLEMENT THIS SECTION, AND MAY ALSO SPONSOR PUBLIC SERVICE ANNOUNCEMENTS OR OTHER NOTIFICATIONS INTENDED TO PROVIDE NOTICE TO INDIVIDUALS WHO MAY BE ELIGIBLE TO FILE PETITIONS FOR EXPUNGEMENT PURSUANT TO THIS SECTION.

I. A PROSECUTING AGENCY MAY FILE A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION ON BEHALF OF ANY INDIVIDUAL WHO WAS PROSECUTED BY THAT PROSECUTING AGENCY, AND THE ATTORNEY GENERAL MAY FILE A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION ON BEHALF OF ANY INDIVIDUAL.

36-2863. Justice reinvestment fund; exemption; distribution; definition

A. THE JUSTICE REINVESTMENT FUND IS ESTABLISHED CONSISTING OF ALL MONIES DEPOSITED PURSUANT TO SECTION 36-2856 AND INTEREST EARNED ON THOSE MONIES. MONIES THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND, AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE JUSTICE REINVESTMENT FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.

2. THE REASONABLE ADMINISTRATIVE COSTS INCURRED BY THE DEPARTMENT TO CARRY OUT ITS DUTIES PURSUANT TO THIS SECTION.

C. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE JUSTICE REINVESTMENT FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. THIRTY-FIVE PERCENT TO COUNTY PUBLIC HEALTH DEPARTMENTS, IN PROPORTION TO THE POPULATION OF EACH COUNTY ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS, FOR THE PURPOSE OF PROVIDING JUSTICE REINVESTMENT PROGRAMS

OR DISTRIBUTING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS TO PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THAT COUNTY.

2. THIRTY-FIVE PERCENT TO THE DEPARTMENT FOR THE PURPOSE OF DISTRIBUTING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS THAT PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THIS STATE.

3. THIRTY PERCENT TO THE DEPARTMENT FOR THE PURPOSE OF ADDRESSING IMPORTANT PUBLIC HEALTH ISSUES THAT AFFECT THIS STATE.

D. GRANTS MADE PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTER 23, AND EACH GRANTEE SHALL PROVIDE THE GRANTING AGENCY WITH AN ANNUAL REPORT DETAILING THE USE OF GRANTED MONIES.

E. MONIES TRANSFERRED AND RECEIVED PURSUANT TO SUBSECTION C OF THIS SECTION ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTION 20, CONSTITUTION OF ARIZONA.

F. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS PURSUANT TO SUBSECTION B OF THIS SECTION.

G. FOR THE PURPOSES OF THIS SECTION, "JUSTICE REINVESTMENT PROGRAMS" MEANS INITIATIVES OR PROGRAMS THAT FOCUS ON ANY OF THE FOLLOWING:

1. PUBLIC AND BEHAVIORAL HEALTH, INCLUDING EVIDENCE-BASED AND EVIDENCE-INFORMED SUBSTANCE USE PREVENTION AND TREATMENT AND SUBSTANCE USE EARLY INTERVENTION SERVICES.

2. RESTORATIVE JUSTICE, JAIL DIVERSION, WORKFORCE DEVELOPMENT, INDUSTRY-SPECIFIC TECHNICAL ASSISTANCE OR MENTORING SERVICES FOR ECONOMICALLY DISADVANTAGED PERSONS IN COMMUNITIES DISPROPORTIONATELY IMPACTED BY HIGH RATES OF ARREST AND INCARCERATION.

3. ADDRESSING THE UNDERLYING CAUSES OF CRIME, REDUCING DRUG-RELATED ARRESTS AND REDUCING THE PRISON POPULATION IN THIS STATE.

4. CREATING OR DEVELOPING TECHNOLOGY AND PROGRAMS TO ASSIST WITH THE RESTORATION OF CIVIL RIGHTS AND THE EXPUNGEMENT OF CRIMINAL RECORDS.

36-2864. Transaction privilege tax; use tax; additional taxes prohibited; exception

A. FOR PURPOSES OF THE TRANSACTION PRIVILEGE TAX AND USE TAX LEVIED AND COLLECTED PURSUANT TO TITLE 42, CHAPTERS 5 AND 6, MARIJUANA AND MARIJUANA PRODUCTS ARE TANGIBLE PERSONAL PROPERTY DEFINED IN SECTION 42-5001 AND ARE SUBJECT TO THE TRANSACTION PRIVILEGE TAX IN THE RETAIL CLASSIFICATION AND USE TAX.

B. EXCEPT AS PROVIDED IN SUBSECTION A OF THIS SECTION AND SECTION 42-5452, THIS STATE AND LOCALITIES MAY NOT LEVY OR COLLECT ADDITIONAL TAXES OF ANY KIND ON THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS AND MAY NOT LEVY OR COLLECT ANY FEES OR ASSESSMENTS OF ANY KIND ON THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS OR ON THE LICENSING, OPERATIONS OR ACTIVITIES OF MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, UNLESS THE FEE OR ASSESSMENT IS OF GENERAL APPLICABILITY TO INDIVIDUALS OR BUSINESSES THAT ARE NOT ENGAGED IN THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS.

C. THE PROHIBITION IMPOSED BY SUBSECTION B OF THIS SECTION DOES NOT APPLY TO UNIFORM INCREASES TO THE TRANSACTION PRIVILEGE TAX RATE FOR THE RETAIL CLASSIFICATION OR USE TAX RATE BY THIS STATE OR A LOCALITY OR TO UNIFORM INCREASES TO FEES OR ASSESSMENTS ALLOWED BY SUBSECTION B OF THIS SECTION.

36-2865. Enforcement of this chapter; special action

A. IF THE DEPARTMENT FAILS TO ADOPT RULES NECESSARY TO IMPLEMENT THIS CHAPTER ON OR BEFORE JUNE 1, 2021, OR FAILS TO BEGIN ACCEPTING APPLICATIONS AS PROVIDED IN SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d), ANY CITIZEN MAY COMMENCE A SPECIAL ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

B. IF THE DEPARTMENT FAILS TO ISSUE A LICENSE OR SEND A NOTICE OF DENIAL WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE MARIJUANA ESTABLISHMENT APPLICATION PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d), THE APPLICANT MAY COMMENCE A SPECIAL ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

C. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE, IF THE DEPARTMENT FAILS TO ISSUE ANY MARIJUANA ESTABLISHMENT LICENSES PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d) ON OR BEFORE APRIL 5, 2021, EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY IN GOOD STANDING MAY BEGIN TO CULTIVATE, PRODUCE, PROCESS, MANUFACTURE, TRANSPORT AND TEST MARIJUANA AND MARIJUANA PRODUCTS AND MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS UNTIL THE DEPARTMENT ISSUES LICENSES TO OPERATE MARIJUANA ESTABLISHMENTS. IF THIS OCCURS, NONPROFIT MEDICAL MARIJUANA DISPENSARIES IN GOOD STANDING SHALL:

1. BE TREATED AS MARIJUANA ESTABLISHMENTS FOR ALL PURPOSES UNDER THIS CHAPTER, AND THEIR NONPROFIT MEDICAL MARIJUANA ESTABLISHMENT AGENTS SHALL BE TREATED AS MARIJUANA FACILITY AGENTS FOR ALL PURPOSES UNDER THIS CHAPTER.

2. COMPLY WITH THE RULES ADOPTED BY THE DEPARTMENT TO IMPLEMENT CHAPTER 28.1 OF THIS TITLE, EXCEPT THOSE THAT ARE INCONSISTENT WITH THIS CHAPTER.

Section 5. Title 42, chapter 5, Arizona Revised Statutes, is amended by adding article 10 to read:

ARTICLE 10.

MARIJUANA AND MARIJUANA PRODUCTS

42-5451. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CONSUMER," "DUAL LICENSEE," "MARIJUANA," "MARIJUANA ESTABLISHMENT" AND "MARIJUANA PRODUCTS" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

2. "DESIGNATED CAREGIVER," "NONPROFIT MEDICAL MARIJUANA DISPENSARY" AND "QUALIFYING PATIENT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2801.

42-5452. Levy and rate of tax; effect of federal excise tax

A. THERE IS LEVIED AND THE DEPARTMENT SHALL COLLECT AN EXCISE TAX ON ALL MARIJUANA AND MARIJUANA PRODUCTS SOLD TO A CONSUMER BY A MARIJUANA ESTABLISHMENT AT A RATE OF SIXTEEN PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD. THIS SUBSECTION DOES NOT APPLY TO MARIJUANA DISPENSED TO A REGISTERED QUALIFYING PATIENT OR REGISTERED DESIGNATED CAREGIVER PURSUANT TO TITLE 36, CHAPTER 28.1 BY A DUAL LICENSEE OR NONPROFIT MEDICAL MARIJUANA DISPENSARY.

B. IF THE UNITED STATES LEVIES AND COLLECTS AN EXCISE TAX ON MARIJUANA AND MARIJUANA PRODUCTS, THE AGGREGATE OF FEDERAL AND STATE EXCISE TAXES MAY NOT EXCEED A RATE OF THIRTY PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD, AND THE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE LOWERED ACCORDINGLY AND AUTOMATICALLY ON THE EFFECTIVE DATE OF THE FEDERAL EXCISE TAX.

C. A PRODUCT SUBJECT TO THE TAX IMPOSED BY THIS SECTION MAY NOT BE BUNDLED WITH A PRODUCT OR SERVICE THAT IS NOT SUBJECT TO THE TAX IMPOSED BY THIS SECTION.

D. THE TAX LEVIED AND COLLECTED PURSUANT TO THIS SECTION SHALL NOT BE INCLUDED IN COMPUTING THE TAX BASE, GROSS PROCEEDS OF SALES OR GROSS INCOME OF A MARIJUANA ESTABLISHMENT FOR PURPOSES OF TITLE 42, CHAPTERS 5 AND 6, AND IS NOT SUBJECT TO ANY TRANSACTION PRIVILEGE, SALES, USE OR OTHER SIMILAR TAX LEVIED BY A COUNTY, CITY, TOWN OR SPECIAL TAXING DISTRICT.

E. NOTWITHSTANDING SECTION 42-3102, THE DEPARTMENT SHALL DEPOSIT ALL MONIES LEVIED AND COLLECTED PURSUANT TO THIS SECTION THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

42-5453. Return statement and payment by marijuana establishment; penalty; interest; rules; confidential information

A. THE TAX IMPOSED BY THIS ARTICLE IS DUE AND PAYABLE, TOGETHER WITH A RETURN STATEMENT PRESCRIBED BY THE DEPARTMENT, FOR EACH MONTH ON OR BEFORE THE TWENTIETH DAY OF THE SUCCEEDING MONTH.

B. A MARIJUANA ESTABLISHMENT THAT FAILS TO PAY THE TAX IMPOSED BY THIS ARTICLE WITHIN TEN DAYS AFTER THE DATE THE PAYMENT IS DUE IS SUBJECT TO AND SHALL PAY A PENALTY DETERMINED UNDER SECTION 42-1125, PLUS INTEREST AT THE RATE DETERMINED PURSUANT TO SECTION 42-1123, FROM THE TIME THE TAX WAS DUE AND PAYABLE UNTIL PAID. THE DEPARTMENT MAY WAIVE ANY PENALTY OR INTEREST IF IT DETERMINES THAT THE MARIJUANA ESTABLISHMENT HAS MADE A GOOD FAITH ATTEMPT TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE.

C. THE MONTHLY RETURN STATEMENT PRESCRIBED BY THE DEPARTMENT SHALL INCLUDE AN ACCOUNTING OF THE QUANTITY OF MARIJUANA THAT IS SOLD BY A MARIJUANA ESTABLISHMENT THAT IS SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE DURING THE TAX MONTH.

D. ALL PENALTIES AND INTEREST COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

E. THE DEPARTMENT MAY ADOPT RULES THAT ARE NECESSARY OR CONVENIENT TO ENFORCE THIS ARTICLE, EXCEPT THAT THOSE RULES MAY NOT CONFLICT WITH TITLE 36, CHAPTER 28.2.

F. THE DEPARTMENT MAY SHARE CONFIDENTIAL INFORMATION AS DEFINED IN SECTION 42-2001 WITH THE DEPARTMENT OF HEALTH SERVICES FOR ITS USE IN DETERMINING WHETHER A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE IS COMPLIANCE WITH TAX OBLIGATIONS UNDER THIS TITLE OR TITLE 43.

Section 6. Title 43, Chapter 1, article 1, Arizona Revised Statutes, is amended by adding Section 43-108 to read:

43-108. Subtraction from gross income; ordinary and necessary expenses; marijuana establishments and marijuana testing facilities; definitions

A. NOTWITHSTANDING ANY OTHER LAW, IN COMPUTING ARIZONA ADJUSTED GROSS INCOME OR ARIZONA TAXABLE INCOME FOR A TAXPAYER, ALL ORDINARY AND NECESSARY EXPENSES PAID OR INCURRED DURING THE TAXABLE YEAR IN CARRYING ON A TRADE OR BUSINESS AS A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING

FACILITY, OR DUAL LICENSEE THAT ELECTS TO OPERATE ON A FOR-PROFIT BASIS PURSUANT TO TITLE 36, CHAPTER 28.2 SHALL BE SUBTRACTED FROM ARIZONA GROSS INCOME TO THE EXTENT NOT ALREADY EXCLUDED FROM ARIZONA GROSS INCOME.

B. FOR THE PURPOSES OF THIS SECTION, "DUAL LICENSEE," "MARIJUANA ESTABLISHMENT," AND "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

Section 7. Voter Protection Act

For the purposes of the Voter Protection Act, Ariz. Const. art. IV, §1(6)(C), the People of the State of Arizona declare that the following acts of the Legislature would further the purpose of this act.

1. Enacting a per se law for the presumption of marijuana impairment based on the concentration of delta-9 tetrahydrocannabinol in a person's body when scientific research on the subject is conclusive and the National Highway Traffic Safety Administration recommends the adoption of such a law.

2. Reducing or eliminating any offense, offense level or penalty provided for in this act.

3. Increasing the amount of marijuana that a person may lawfully possess.

4. Amending the provisions of this act to align more closely with federal laws and regulations if marijuana is legalized or decriminalized by the federal government, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.

5. Amending the provisions of this act to align more closely with federal laws and regulations governing the possession, processing, cultivation, transport, or transfer of industrial hemp, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.

6. Increasing the number of marijuana establishment licenses by up to 10 percent in furtherance of the social equity ownership program established by this act.

7. Facilitating the expungement and sealing of records of arrests, charges, convictions, adjudications and sentences that were predicated on conduct made lawful by this act, including by automatic means, and otherwise preventing or mitigating prejudice to individuals whose arrests, charges, convictions, adjudications or sentences are expunged.

8. Amending the definition of "smoking" in this act to conform with the Smoke-Free Arizona Act if that act is amended to include the use of an electronic smoking device that creates an aerosol or vapor.

Section 8. Exemption from rulemaking

For the purposes of this act, and for sixty months after the effective date of this act, the department of revenue and the department of health services are exempt from (a) any executive order or other directive purporting to limit or restrict their ability to adopt new rules, and (b) the rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes, except that each department shall provide the public with a reasonable opportunity to comment on proposed rules and shall publish otherwise exempted rules.

Section 9. Severability

If any provision of this act or its application to any person or circumstance is declared invalid by a court of competent jurisdiction, such invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application. The invalidated provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of this act and, to the fullest extent possible, the provisions of this act, including each portion of any section of this act containing any invalidated provision that is not itself invalid, shall be construed so as to give effect to the intent thereof.

PROPOSITION 208

OFFICIAL TITLE

AN INITIATIVE MEASURE

AMENDING TITLE 15, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 10.1; AMENDING SECTION 15-1655, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1013; RELATING TO EDUCATION FUNDING.

TEXT OF PROPOSED AMENDMENTS

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

Section 1. Short title

This act may be cited as the "Invest in Education Act".

Section 2. Findings and declaration of purpose

The People of the State of Arizona find and declare as follows:

1. All Arizona students deserve a certified, qualified teacher in their classrooms and to learn in the safest possible environment.
2. Years of underfunding by the Arizona Legislature have led to crisis-level teacher shortages and woefully inadequate services.
3. Additional permanent funding is needed to develop, recruit and retain qualified teachers, hire counselors, close the achievement gap, improve career and vocational education for Arizona students, prepare Arizona students for good jobs and careers and meet Arizona employers' need for a skilled workforce.

Section 3. Title 15, Arizona Revised Statutes, is amended by adding chapter 10.1, to read:

CHAPTER 10.1

ADDITIONAL SUPPORT FOR PUBLIC EDUCATION

ARTICLE 1. GENERAL PROVISIONS

15-1281. Student support and safety fund; exemption; distribution; definitions

A. THE STUDENT SUPPORT AND SAFETY FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 43-1013, PRIVATE DONATIONS AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND, AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE STUDENT SUPPORT AND SAFETY FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.

2. THE ACTUAL REASONABLE COSTS INCURRED BY THE AUDITOR GENERAL AND DEPARTMENT OF EDUCATION TO IMPLEMENT SECTION 15-1284.

3. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT OF REVENUE TO IMPLEMENT AND ENFORCE SECTION 43-1013.

4. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE BOARD OF EDUCATION TO IMPLEMENT SUBSECTION D, PARAGRAPH 3 OF THIS SECTION.

5. ANY OTHER MANDATORY EXPENDITURE OF STATE REVENUES REQUIRED TO IMPLEMENT THIS CHAPTER AND THE INVEST IN EDUCATION ACT.

C. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS FROM THE STUDENT SUPPORT AND SAFETY FUND PURSUANT TO SUBSECTION B OF THIS SECTION.

D. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE STUDENT SUPPORT AND SAFETY FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. FIFTY PERCENT AS GRANTS TO SCHOOL DISTRICTS AND CHARTER SCHOOLS, IN PROPORTION TO THE WEIGHTED STUDENT COUNT PURSUANT TO SECTION 15-943, PARAGRAPH 2, FOR THE SCHOOL DISTRICT OR CHARTER SCHOOL FOR THE PRIOR FISCAL YEAR, FOR THE PURPOSE OF HIRING TEACHERS AND CLASSROOM SUPPORT PERSONNEL AND INCREASING BASE COMPENSATION FOR TEACHERS AND CLASSROOM SUPPORT PERSONNEL. FOR THE PURPOSES OF THIS PARAGRAPH, THE STATE EDUCATION SYSTEM FOR COMMITTED YOUTH AND THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND SHALL RECEIVE GRANT FUNDS IN THE SAME MANNER AS SCHOOL DISTRICTS AND CHARTER SCHOOLS.

2. TWENTY-FIVE PERCENT AS GRANTS TO SCHOOL DISTRICTS AND CHARTER SCHOOLS, IN PROPORTION TO THE WEIGHTED STUDENT COUNT PURSUANT TO SECTION 15-943, PARAGRAPH 2, FOR THE SCHOOL DISTRICT OR CHARTER SCHOOL FOR THE PRIOR FISCAL YEAR, FOR THE PURPOSE OF HIRING STUDENT SUPPORT SERVICES PERSONNEL AND INCREASING BASE COMPENSATION FOR STUDENT SUPPORT SERVICES PERSONNEL. FOR THE PURPOSES OF THIS PARAGRAPH, THE STATE EDUCATION SYSTEM FOR COMMITTED YOUTH AND THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND SHALL

RECEIVE GRANT FUNDS IN THE SAME MANNER AS SCHOOL DISTRICTS AND CHARTER SCHOOLS.

3. TEN PERCENT AS GRANTS TO SCHOOL DISTRICTS AND CHARTER SCHOOLS, IN PROPORTION TO THE WEIGHTED STUDENT COUNT PURSUANT TO SECTION 15-943, PARAGRAPH 2, FOR THE SCHOOL DISTRICT OR CHARTER SCHOOL FOR THE PRIOR FISCAL YEAR, FOR THE PURPOSE OF PROVIDING MENTORING AND RETENTION PROGRAMMING FOR NEW CLASSROOM TEACHERS TO INCREASE RETENTION. THE STATE BOARD OF EDUCATION SHALL PRESCRIBE THE FORM AND FORMAT OF MENTORING AND RETENTION PROGRAMMING SUPPORTED BY MONIES TRANSFERRED PURSUANT TO THIS PARAGRAPH, EXCEPT THAT THE EQUIVALENT OF ONE FULL-TIME MENTOR MAY BE ASSIGNED TO NOT MORE THAN FIFTEEN NEW CLASSROOM TEACHERS EMPLOYED BY THE SCHOOL DISTRICT OR CHARTER SCHOOL. IF A SCHOOL DISTRICT OR CHARTER SCHOOL RECEIVES MONIES PURSUANT TO THIS PARAGRAPH IN EXCESS OF ITS NEEDS FOR MENTORING AND RETENTION PROGRAMMING, THOSE EXCESS MONIES MAY BE USED FOR TEACHER RETENTION. THE STATE BOARD OF EDUCATION SHALL ADOPT RULES TO IMPLEMENT THIS PARAGRAPH NOT LATER THAN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION. FOR THE PURPOSES OF THIS PARAGRAPH, THE STATE EDUCATION SYSTEM FOR COMMITTED YOUTH AND THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND SHALL RECEIVE GRANT FUNDS IN THE SAME MANNER AS SCHOOL DISTRICTS AND CHARTER SCHOOLS.

4. TWELVE PERCENT TO THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282.

5. THREE PERCENT TO THE ARIZONA TEACHERS ACADEMY FUND ESTABLISHED BY SECTION 15-1655.

E. GRANTS MADE PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTERS 23 AND 24.

F. FOR THE PURPOSES OF THIS SECTION:

1. "CLASSROOM SUPPORT PERSONNEL" MEANS ANY NONADMINISTRATIVE SCHOOL PERSONNEL, INCLUDING CERTIFIED PERSONNEL, WHO PROVIDE CLASSROOM SUPPORT AND INSTRUCTIONAL SUPPORT SERVICES AS PRESCRIBED BY THE SCHOOL DISTRICT GOVERNING BOARD OR CHARTER SCHOOL GOVERNING BODY, INCLUDING LIBRARIANS, NURSES, COUNSELORS, SOCIAL WORKERS, SPEECH PATHOLOGISTS, BEHAVIORAL COACHES AND PSYCHOLOGISTS.

2. "MENTORING AND RETENTION PROGRAMMING" MEANS REGULAR, JOB-EMBEDDED, IN-PERSON, ONE-ON-ONE FEEDBACK THAT IS FOCUSED ON INSTRUCTION AND ENSURING NEW CLASSROOM TEACHER QUALITY, SUCCESS AND RETENTION.

3. "NEW CLASSROOM TEACHER" MEANS A CLASSROOM TEACHER WHO IS IN THE TEACHER'S FIRST, SECOND OR THIRD YEAR OF TEACHING.

4. "STUDENT SUPPORT SERVICES PERSONNEL" MEANS ANY CLASSIFIED, NONADMINISTRATIVE SCHOOL PERSONNEL WHO PROVIDE STUDENT SUPPORT SERVICES AS DEFINED BY THE SCHOOL DISTRICT GOVERNING BOARD OR CHARTER SCHOOL GOVERNING BODY, INCLUDING CLASSROOM AIDES, MEDIA SPECIALISTS, HEALTH ASSISTANTS, SECURITY PERSONNEL, STUDENT FOOD SERVICE PERSONNEL, CLERICAL STAFF, STUDENT TRANSPORTATION PERSONNEL AND SCHOOL SITE PLANT OPERATORS.

5. "TEACHER" MEANS ANY NONADMINISTRATIVE PERSONNEL, INCLUDING CERTIFIED TEACHERS, WHO INSTRUCT STUDENTS OR SUPPORT STUDENT ACADEMIC ACHIEVEMENT AS PRESCRIBED BY THE SCHOOL DISTRICT GOVERNING BOARD OR CHARTER SCHOOL GOVERNING BODY, INCLUDING CLASSROOM TEACHERS, EARLY CHILDHOOD TEACHERS, MENTOR TEACHERS, INSTRUCTIONAL COACHES AND ACADEMIC INTERVENTIONISTS.

15-1282. Career training and workforce fund; exemption; distribution

A. THE CAREER TRAINING AND WORKFORCE FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 15-1281, PRIVATE DONATIONS AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND, AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE CAREER TRAINING AND WORKFORCE FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.

2. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT OF EDUCATION TO IMPLEMENT AND ADMINISTER SECTION 15-1283.

3. ANY OTHER MANDATORY EXPENDITURE OF STATE REVENUES REQUIRED TO IMPLEMENT THIS SECTION AND SECTION 15-1283.

C. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO TRANSFER MONIES FROM THE CAREER TRAINING AND WORKFORCE FUND PURSUANT TO SUBSECTION B OF THIS SECTION.

D. THE STATE TREASURER SHALL TRANSFER MONIES IN THE CAREER TRAINING AND WORKFORCE FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AT THE DIRECTION OF THE DEPARTMENT OF EDUCATION IN ACCORDANCE WITH SECTION 15-1283.

15-1283. Career training and workforce program; grants; rules

A. THE DEPARTMENT OF EDUCATION SHALL ESTABLISH A CAREER TRAINING AND WORKFORCE PROGRAM TO DO ALL OF THE FOLLOWING:

1. PROVIDE MULTI-YEAR GRANTS OF UP TO FIVE YEARS TO SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL EDUCATION DISTRICTS FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282 FOR THE PURPOSE OF PROVIDING SERVICES TO STUDENTS IN GRADES NINE THROUGH TWELVE.

2. PROVIDE SUPPORT TO SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL EDUCATION DISTRICTS THAT RECEIVE GRANTS FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282.

B. NOT LATER THAN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL ADOPT RULES TO IMPLEMENT THIS SECTION. THE RULES SHALL INCLUDE:

1. PROCEDURES AND REQUIREMENTS FOR SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL EDUCATION DISTRICTS TO APPLY FOR, RECEIVE AND RENEW GRANTS FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282, INCLUDING:

(a) REQUIRING THAT GRANT APPLICATIONS BE APPROVED BY THE GOVERNING BOARD OR GOVERNING BODY OF THE SCHOOL DISTRICT, CHARTER SCHOOL OR CAREER TECHNICAL EDUCATION DISTRICT.

(b) PROVIDING REAL-TIME, ACCESSIBLY FORMATTED DATA REGARDING STUDENT GRADES, ATTENDANCE AND BEHAVIOR TO GRADE NINE TEACHERS AND SUPPORT STAFF.

(c) COMMITTING TO ALLOCATE TIME FOR GRADE NINE TEACHERS AND SUPPORT STAFF TO MEET DURING THE SCHOOL DAY TO REVIEW DATA AND DEVELOP STRATEGIES TO INTERVENE WITH AT-RISK STUDENTS IN GRADE NINE, KEEPING RECORDS OF SUCH MEETINGS AND PROVIDING THOSE RECORDS TO THE DEPARTMENT ON REQUEST.

(d) USING GRANT MONIES TO ESTABLISH AND EXPAND PROGRAMS, OPPORTUNITIES AND STRATEGIES ALLOWED UNDER THIS SECTION AND NOT USING GRANT MONIES TO MAINTAIN PROGRAMS, OPPORTUNITIES AND STRATEGIES ESTABLISHED BEFORE THE EFFECTIVE DATE OF THIS SECTION, EXCEPT WHEN A USE IS NECESSARY TO REPLACE THE LOSS OR EXPIRATION OF TIME-LIMITED GRANTS AND FEDERAL MONIES.

2. PROCEDURES FOR THE DEPARTMENT'S EVALUATION OF GRANT APPLICATIONS RECEIVED PURSUANT TO THIS SECTION.

3. ALLOWABLE USES OF GRANTS RECEIVED FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282, INCLUDING:

(a) DEVELOPING OR EXPANDING CAREER AND TECHNICAL EDUCATION PROGRAMS THAT ARE TIED TO MEDIUM TO HIGH-WAGE, HIGH-DEMAND CAREERS THAT RESULT IN ONE OR MORE OF DIRECT WORK EXPERIENCE, INDUSTRY CERTIFICATION OR POSTSECONDARY CREDITS.

(b) DEVELOPING OR EXPANDING CAREER AND TECHNICAL EDUCATION PROGRAMS THAT INSPIRE AND PREPARE STUDENTS TO BECOME CLASSROOM TEACHERS.

(c) HIRING SCHOOL COUNSELORS.

(d) DEVELOPING AND IMPLEMENTING ACADEMIC ACCELERATION PROGRAMS UNDER WHICH OBJECTIVE MEASURES ARE USED TO ENROLL STUDENTS WHO HAVE REACHED PROFICIENCY INTO THE NEXT MORE RIGOROUS COURSE IN THAT CONTENT AREA.

(e) EXPANDING COLLEGE-LEVEL EDUCATIONAL OPPORTUNITIES, INCLUDING:

(i) ADVANCED PLACEMENT, INTERNATIONAL BACCALAUREATE OR COMPARABLE COLLEGE-LEVEL COURSES.

(ii) DUAL CREDIT, CO-ENROLLMENT PROGRAMS OR EXTENDED CO-ENROLLMENT PROGRAMS OFFERED IN CONJUNCTION WITH AN ARIZONA COMMUNITY COLLEGE, PUBLIC UNIVERSITY OR OTHER ACCREDITED INSTITUTION OF HIGHER LEARNING OR POSTSECONDARY EDUCATIONAL INSTITUTION.

(iii) RECRUITING, LICENSING, EMPLOYING AND TRAINING PERSONNEL TO PROVIDE COLLEGE-LEVEL EDUCATIONAL OPPORTUNITIES FOR HIGH SCHOOL STUDENTS.

(f) ASSISTING STUDENTS IN COMPLETING GRADE NINE WITH SUFFICIENT CREDITS TO BE ON TRACK TO ON-TIME GRADUATION, INCLUDING:

(i) EXPANDING COUNSELING SERVICES TO STUDENTS IN GRADE NINE AND PROVIDING SUMMER BRIDGE PROGRAMS FOR AT-RISK, INCOMING NINTH GRADERS.

(ii) IMPLEMENTING EVIDENCE-BASED STRATEGIES AND PROGRAMS TO COMBAT CHRONIC ABSENTEEISM.

(iii) PROVIDING TUTORING AND MENTORING SERVICES.

(iv) PROVIDING REAL-TIME, ACCESSIBLY-FORMATTED DATA REGARDING STUDENT GRADES, ATTENDANCE AND BEHAVIOR TO GRADE NINE TEACHERS AND SUPPORT STAFF.

(v) ALLOWING GRADE NINE TEACHERS AND SUPPORT STAFF TO MEET DURING THE SCHOOL DAY TO REVIEW DATA AND DEVELOP STRATEGIES TO INTERVENE WITH AT-RISK STUDENTS IN GRADE NINE, KEEPING RECORDS OF SUCH MEETINGS AND PROVIDING THOSE RECORDS TO THE DEPARTMENT UPON REQUEST.

(g) EXPANDING TUTORING, MENTORING, COUNSELING, MENTAL HEALTH AND WRAP-AROUND SERVICES THAT MEET HIGH SCHOOL STUDENTS' IMMEDIATE NEEDS.

(h) FUNDING TO OFFSET THE COSTS OF STUDENTS ENROLLED IN NINTH GRADE AND WHO PERSIST TO COMPLETE FOUR YEAR CAREER AND TECHNICAL EDUCATION PROGRAMS OFFERED PURSUANT TO SECTION 15-393.

4. PROCEDURES THAT WILL ALLOW THE DEPARTMENT TO PROVIDE ONGOING SUPPORT TO SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL EDUCATION DISTRICTS THAT RECEIVE GRANTS PURSUANT TO THIS SECTION.

C. THE DEPARTMENT OF EDUCATION SHALL:

1. BEGIN ACCEPTING APPLICATIONS FOR GRANTS PURSUANT TO THIS SECTION NOT LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION.

2. NOTIFY THE STATE TREASURER WHEN GRANTS ARE AWARDED UNDER THIS SECTION AND DIRECT THE STATE TREASURER TO TRANSFER MONIES FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282 TO GRANTEES.

D. GRANTS MADE PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTERS 23 AND 24.

15-1284. Separate local-level funds; annual reporting; no supplanting

A. EACH SCHOOL DISTRICT AND CHARTER SCHOOL THAT RECEIVES MONIES FROM THE STUDENT SUPPORT AND SAFETY FUND ESTABLISHED BY SECTION 15-1281 SHALL ESTABLISH A SEPARATE LOCAL LEVEL FUND TO RECEIVE MONIES FROM THAT FUND. THIS SUBSECTION APPLIES TO THE STATE EDUCATION SYSTEM FOR COMMITTED YOUTH AND THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND.

B. EACH SCHOOL DISTRICT, CHARTER SCHOOL AND CAREER TECHNICAL EDUCATION DISTRICT THAT RECEIVES MONIES FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282 SHALL ESTABLISH A SEPARATE LOCAL-LEVEL FUND TO RECEIVE MONIES FROM THAT FUND.

C. SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL EDUCATION DISTRICTS THAT RECEIVE MONIES FROM EITHER THE STUDENT SUPPORT AND SAFETY FUND ESTABLISHED BY SECTION 15-1281 OR THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282 SHALL PROVIDE:

1. AN ACCOUNTING OF MONIES RECEIVED FROM THOSE FUNDS EACH FISCAL YEAR THROUGH THE UNIFORM SYSTEM OF FINANCIAL RECORDS.

2. INFORMATION REGARDING CLASSROOM TEACHER SALARIES FOR EACH FISCAL YEAR THROUGH THE UNIFORM SYSTEM OF FINANCIAL RECORDS, INCLUDING THE AVERAGE CLASSROOM TEACHER SALARY, THE AVERAGE SALARY FOR A FIRST-YEAR CLASSROOM TEACHER, AND THE AVERAGE SALARIES FOR CLASSROOM TEACHERS IN THEIR FIFTH, TENTH, FIFTEENTH, AND TWENTIETH YEARS OF TEACHING IN THE SCHOOL DISTRICT, CHARTER SCHOOL OR CAREER TECHNICAL EDUCATION DISTRICT.

D. THE DEPARTMENT OF EDUCATION AND THE AUDITOR GENERAL SHALL ALLOW THE ADDITIONAL REPORTING REQUIRED BY SUBSECTION C OF THIS SECTION THROUGH THE UNIFORM SYSTEM OF FINANCIAL RECORDS AND THE ARIZONA CHART OF ACCOUNTS.

E. NOTWITHSTANDING ANY OTHER LAW, THE ADDITIONAL MONIES RECEIVED BY SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL

EDUCATION DISTRICTS FROM THE STUDENT SUPPORT AND SAFETY FUND ESTABLISHED BY SECTION 15-1281 AND THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282 ARE IN ADDITION TO ANY OTHER APPROPRIATION, TRANSFER OR ALLOCATION OF PUBLIC OR PRIVATE MONIES FROM ANY OTHER SOURCE AND MAY NOT SUPPLANT, REPLACE OR CAUSE A REDUCTION IN OTHER FUNDING SOURCES.

15-1285. Local revenues and revenue control limitations; exemption

NOTWITHSTANDING ANY OTHER LAW, MONIES RECEIVED BY SCHOOL DISTRICTS AND CAREER TECHNICAL EDUCATION DISTRICTS PURSUANT TO THIS CHAPTER:

1. ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTION 21, ARIZONA CONSTITUTION.
2. ARE EXEMPT FROM ANY BUDGETARY, EXPENDITURE OR REVENUE CONTROL LIMIT THAT WOULD LIMIT THE ABILITY OF SCHOOL DISTRICTS OR CAREER TECHNICAL EDUCATION DISTRICTS TO ACCEPT OR EXPEND THOSE MONIES.

Section 4. Section 15-1655, Arizona Revised Statutes, is amended to read:

15-1655. Arizona teachers academy; tuition and fees scholarships; fund; annual report; definitions

A. Eligible postsecondary institutions shall implement an Arizona teachers academy to incentivize students to enter the teaching profession and to commit to teach in Arizona public schools. The Arizona board of regents, in consultation with eligible postsecondary institutions, shall develop and implement centralized administrative processes for the academy, including:

1. A marketing and promotion plan to recruit students for the academy.
2. Data collection and reporting.
3. Tracking postgraduation service requirements.
4. Coordinating induction services.
5. Distributing monies in the Arizona teachers academy fund between eligible postsecondary institutions.
6. Collecting reimbursement from individuals who fail to meet service obligations.

B. The Arizona teachers academy may include new or existing teacher preparation program pathways that are student-focused and that employ proven, research-based models of best practices already being implemented. Each eligible postsecondary institution may develop a portfolio of teacher preparation programs to offer as part of the academy. Programs offered as part of the academy shall include accelerated models for:

1. High-demand teacher specializations, including special education, science, technology, engineering and mathematics.
2. Critical need areas, including low-income public schools, public schools located on Indian reservations and rural public schools.
3. Individuals seeking postbaccalaureate coursework that results in professional certification.

C. Each eligible postsecondary institution shall develop formalized partnerships with public schools in this state to build commitments for teacher employment on completion of the Arizona teachers academy. The targeted deployment of teachers who have completed the academy shall be based on the needs of each school system and the community that is being served as well as the individual skills of each teacher.

D. Each eligible postsecondary institution shall provide to each full-time student who is enrolled in the Arizona teachers academy an annual scholarship ~~of \$100,000 per year~~ UP TO THE ACTUAL COST OF TUITION AND FEES for a maximum of two academic years or four semesters for graduate university students, ~~\$5,000 per year~~ UP TO THE ACTUAL COST OF TUITION AND FEES for a maximum of four academic years or eight semesters for undergraduate university students, ~~\$3,000 per year~~ UP TO THE ACTUAL COST OF TUITION AND FEES for a maximum of two academic years or four semesters for community college students for tuition and fees associated with the student's program of study, ~~and \$2,500 onetime for teachers seeking~~ UP TO THE ACTUAL COST OF OBTAINING national board certification AND RENEWAL, AND UP TO THE ACTUAL COST OF OBTAINING A TEACHING CERTIFICATE INCLUDING THE ACTUAL COST OF THE EXAM, after all other financial gifts, aid or grants received by that student or teacher. Scholarships under this subsection are subject to all of the following:

1. If the student does not successfully complete the academic year in good academic standing, the student shall reimburse the Arizona board of regents for the total amount of the scholarship for tuition and fees the student received for that year.

2. For each academic year that the student successfully completes and for which the student receives a scholarship for all tuition and fees, the student must agree to teach for one full school year in a public school in this state. For students teaching and receiving the scholarship concurrently, the commitment period begins after graduation from the Arizona teachers academy. For teachers seeking a national board certification, the teaching commitment is one additional year after completing the requirements of the national board certification program.

3. If the scholarship does not cover remaining tuition and fee costs after other aid received, the eligible postsecondary institution may not charge students the remaining difference. If the scholarship amount exceeds tuition and fee costs at an eligible postsecondary institution, the institution may use the remaining amount to support Arizona teachers academy costs.

4. If the student does not fulfill the student's obligation to teach in a public school, the student must reimburse the Arizona board of regents for the proportional amount of the scholarship for tuition and fees that the student received that corresponds to the number of school years the student agreed to teach but did not teach in a public school in this state.

5. If the student is physically or mentally unable to fulfill the requirements of the Arizona teachers academy, the Arizona board of regents shall establish a process for assessing the student's ability to repay the financial assistance received and shall make a determination on any terms of repayment.

6. The Arizona board of regents shall establish a process for deferring service or repayment based on factors adopted by the board.

E. Students enrolled in a noneducation program in the Arizona teachers academy must complete one or more teacher preparation courses to ensure the likelihood that the student will transition into a postbaccalaureate program to receive a teaching certification following graduation.

F. The Arizona teachers academy fund is established consisting of MONIES DEPOSITED PURSUANT TO SECTION 15-1281, SUBSECTION D, PARAGRAPH 5 AND legislative appropriations made for the purpose of administering the Arizona teachers academy. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to the lapsing of appropriations. The Arizona board of regents shall administer the fund and shall establish criteria for distributing monies in the fund to eligible postsecondary institutions each fiscal year to fund the costs of the academy. Monies in the fund may be used only for:

1. Reimbursing Arizona teachers academy scholarships that cover the balance of tuition and fees for undergraduate, graduate and postbaccalaureate students enrolled in the Arizona teachers academy after all other gifts and aid received.

2. Support for teachers who are currently employed in a public school in this state and who are seeking a national board certification.

3. Induction services for Arizona teachers academy graduates.

4. Implementing a marketing and promotion plan to recruit and retain students in the Arizona teachers academy WITH PARTICULAR EMPHASIS ON ENSURING PARTICIPANTS REFLECT THE DIVERSITY OF THE STATE'S STUDENT POPULATION and administering the Arizona teachers academy. Annual expenditures for marketing, promoting and administrating the Arizona teachers academy may not exceed three percent of the monies in the fund each fiscal year.

G. Monies remaining in the Arizona teachers academy fund at the end of each fiscal year may be used by eligible postsecondary institutions for Arizona teachers academy costs in the next fiscal year.

~~H. On or before August 1 of each fiscal year, the state general fund appropriation for the Arizona teachers academy for the current fiscal year shall be reduced by the amount of monies remaining in the Arizona teachers academy fund at the end of the prior fiscal year.~~

I. H. On or before March 1, 2020 and each year thereafter, the Arizona board of regents shall report to the joint legislative budget committee and the governor's office of strategic planning and budgeting on all of the following:

1. The total number of students enrolled in the Arizona teachers academy by eligible postsecondary institution in the current academic year.

2. The number of Arizona teachers academy graduates receiving induction services in the current academic year.

3. The estimated amount of monies committed from the Arizona teachers academy fund in the current fiscal year.

J. I. On or before September 1, 2019 and each year thereafter, the Arizona board of regents shall report to the governor, the president of the senate and the speaker of the house of representatives, and shall submit a copy to the secretary of state, on all of the following:

1. The total number of students enrolled in the Arizona teachers academy at each eligible postsecondary institution by year of college enrollment and the number of teachers receiving a scholarship through the Arizona teachers academy for national board certification.

2. The percentage of students who completed each year of the academy and who plan to continue to the subsequent year, delineated by each teacher preparation program offered by each eligible postsecondary institution as part of the Arizona teachers academy.

3. The number of teachers who completed a program of study through the Arizona teachers academy by each eligible postsecondary institution.

4. The number of teachers currently teaching in a public school in this state as part of an agreement for receiving an Arizona teachers academy scholarship.

5. The number of graduates receiving induction services.

6. The number of students who have defaulted on their obligation and who are in repayment agreements.

7. The number of students who have deferred repayment agreements.

8. The number of students who have completed repayment agreements.

9. The methodology for distributing any monies appropriated for the Arizona teachers academy to each eligible postsecondary institution and the amounts distributed to each.

10. The amount of unused monies in the Arizona teachers academy fund from the prior fiscal year.

~~K.~~ J. For the purposes of this section:

1. "Eligible postsecondary institutions" means universities under the jurisdiction of the Arizona board of regents and community colleges in this state that offer postbaccalaureate programs that lead to teacher certification and that have entered into an agreement with the Arizona board of regents relative to these postbaccalaureate programs.

2. "Tuition and fees" means tuition, mandatory fees and program fees that are associated with a program in the Arizona teachers academy leading to teacher certification and that are charged by an eligible postsecondary institution.

Section 5. Title 43, chapter 10, article 2, Arizona Revised Statutes, is amended by adding section 41-1013 to read:

43-1013. Income tax surcharge for public education

A. IN ADDITION TO ANY OTHER TAX IMPOSED BY THIS CHAPTER, FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2020, THERE SHALL BE LEVIED, COLLECTED AND PAID AN INCOME TAX SURCHARGE TO ADVANCE PUBLIC EDUCATION IN THIS STATE AS FOLLOWS:

1. IN THE CASE OF A SINGLE PERSON OR A MARRIED PERSON FILING SEPARATELY, A SURCHARGE AT THE RATE OF THREE AND ONE-HALF PERCENT OF TAXABLE INCOME IN EXCESS OF \$250,000.

2. IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN OR A SINGLE PERSON WHO IS A HEAD OF HOUSEHOLD, A SURCHARGE AT THE RATE OF THREE AND ONE-HALF PERCENT OF TAXABLE INCOME IN EXCESS OF \$500,000.

B. NOTWITHSTANDING SECTIONS 42-1116 AND 43-206, THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED PURSUANT TO THE INCOME TAX SURCHARGE IMPOSED BY THIS SECTION, AND SHALL DEPOSIT THOSE REVENUES IN THE STUDENT SUPPORT AND SAFETY FUND ESTABLISHED BY SECTION 15-1281.

C. THE INCOME TAX SURCHARGE LEVIED BY THIS SECTION MUST BE COLLECTED REGARDLESS OF WHETHER THE INCOME TAX RATE BRACKETS IN THIS CHAPTER ARE CHANGED, REPLACED OR ELIMINATED BY AN ACT OF THE LEGISLATURE.

Section 6. Severability

If any provision of this act or its application to any person or circumstance is declared invalid by a court of competent jurisdiction, such invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application. The invalidated provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of this act and, to the fullest extent possible, the provisions of this act, including each portion of any section of this act containing any invalidated provision that is not itself invalid, shall be construed so as to give effect to the intent thereof.

Section 7. Exemption from rulemaking

For the purposes of adopting rules to implement this act, and for twenty-four months after the effective date of this act, the department of education, the state board of education and the department of revenue are exempt from both of the following:

1. Any executive order or other directive purporting to limit or restrict the ability of the department of education, the state board of education and the department of revenue to adopt new rules.

2. The rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes, except that each department shall provide the public with a reasonable opportunity to comment on proposed rules and shall publish otherwise-exempted rules.

Section 8. Standing and fee shifting

A. The People of the State of Arizona desire that this act, if approved by the voters and thereafter challenged in court, be defended by the State of Arizona. If the Attorney General fails to defend or enforce this act or fails to appeal an adverse judgment against its validity or application, in whole or in part, any resident of this state shall have standing to initiate or intervene in any action or proceeding to enforce or defend this act.

B. The court shall award fees and expenses to any resident who initiates or interviews in, and prevails on the merits of, any action or proceeding to enforce or defend this act pursuant to subsection A of this section. For the purposes of this section, "fees and expenses" includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test or project found by the court to be necessary to prepare the party's case, and reasonable attorneys' fees.

XVI. 2022 BALLOT MEASURES

PROPOSITION 209

OFFICIAL TITLE

AN INITIATIVE MEASURE

AMENDING SECTIONS 12-1598.10, 33-1101, 33-1123, 33-1125, 33-1126, 33-1131 AND 44-1201, ARIZONA REVISED STATUTES; RELATING TO PREDATORY DEBT COLLECTION PROTECTION.

TEXT OF PROPOSED AMENDMENTS

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

Section 1. Section 12-1598.10, Arizona Revised Statutes, is amended to read:

12-1598.10. Continuing lien on earnings; order

A. If it appears from the answer of the garnishee that the judgment debtor was an employee of the garnishee, or that the garnishee otherwise owed earnings to the judgment debtor when the writ was served, or earnings would be owed within sixty days thereafter and there is no timely written objection to the writ or the answer of the garnishee filed, on application by the judgment creditor the court shall order that the nonexempt earnings, if any, withheld by the garnishee after service of the writ be transferred to the judgment creditor who is entitled to such monies subject to the judgment debtor's right to objection and hearing pursuant to this article. The court shall further order that the garnishment is a continuing lien against the nonexempt earnings of the judgment debtor.

B. If a timely objection is filed the court shall conduct a hearing pursuant to section 12-1598.07 and shall make the following determinations:

1. Whether the writ is valid against the judgment debtor.
2. The amount outstanding on the judgment at the time the writ was served, plus accruing costs.
3. Whether the judgment debtor was employed by the garnishee at the time the writ was served.
4. Whether earnings were owed or would be owed by the garnishee to the judgment debtor within sixty days after the service of the writ.
5. Whether the debt was, at the time of service of the writ, subject to an effective agreement for debt scheduling between the judgment debtor and a qualified debt counseling organization.

C. If the court makes an affirmative determination under subsection B, paragraph 1 of this section and subsection B, paragraph 3 or 4 of this section and determines that the debt was not, at the time of service of the writ, subject to an effective agreement between the judgment debtor and a qualified debt counseling organization, the court shall order that the nonexempt earnings, if any, withheld by the garnishee after service of the writ be transferred to the judgment creditor and further order that the garnishment is a continuing lien against the nonexempt earnings of the judgment debtor. Otherwise the court shall order the garnishee discharged from the writ.

D. A continuing lien ordered pursuant to this section is invalid and of no force and effect on the occurrence of any of the following conditions:

1. The underlying judgment is satisfied in full, is vacated or expires.
2. The judgment debtor leaves the garnishee's employ for more than sixty days or, if the judgment debtor is an employee of a school district, a charter school, the Arizona state schools for the deaf and the blind or an accommodation school and the judgment debtor is subject to an employment contract that specifies that paydays are restricted to the school year, for more than ninety days.
3. The judgment creditor releases the garnishment.
4. The proceedings are stayed by a court of competent jurisdiction, including the United States bankruptcy court.
5. The judgment debtor has not earned any nonexempt earnings for at least sixty days or, if the judgment debtor is an employee of a school district, a charter school, the Arizona state schools for the deaf and the blind or an accommodation school and the judgment debtor is subject to an employment contract that specifies that paydays are restricted to the school year, for at least ninety days.
6. The court orders that the garnishment be quashed.

E. If no objections are filed to the answer of the garnishee and an order of continuing lien is not entered within forty-five days after the filing of the answer of the garnishee, any earnings held by the garnishee shall be released to the judgment debtor and the garnishee shall be discharged from any liability on the garnishment.

F. If at the hearing the court determines that the judgment debtor is subject to the ~~twenty-five~~ TEN percent maximum disposable earnings provision under section 33-1131, subsection B and based on clear and convincing evidence that the judgment debtor or the judgment debtor's family would suffer extreme economic hardship as a result of the garnishment, the court may reduce the amount of nonexempt earnings withheld under a continuing lien ordered pursuant to this section from the ~~twenty-five~~ TEN percent to not less than ~~fifteen~~ FIVE percent.

G. A court order entered pursuant to this section if recorded does not constitute a lien against real property pursuant to section 33-961.

H. The court, sitting without a jury, shall decide all issues of fact and law.

Section 2. Section 33-1101, Arizona Revised Statutes, is amended to read:

33-1101. Homestead exemptions; persons entitled to hold homesteads;
annual adjustment

A. Any person the age of eighteen or over, married or single, who resides within the state may hold as a homestead exempt from attachment, execution and forced sale, not exceeding ~~one hundred fifty thousand dollars~~ \$400,000 in value, any one of the following:

1. The person's interest in real property in one compact body upon which exists a dwelling house in which the person resides.
2. The person's interest in one condominium or cooperative in which the person resides.
3. A mobile home in which the person resides.

4. A mobile home in which the person resides plus the land upon which that mobile home is located.

B. Only one homestead exemption may be held by a married couple or a single person under this section. The value as specified in this section refers to the equity of a single person or married couple. If a married couple lived together in a dwelling house, a condominium or cooperative, a mobile home or a mobile home plus land on which the mobile home is located and are then divorced, the total exemption allowed for that residence to either or both persons shall not exceed ~~one hundred fifty thousand dollars~~ \$400,000 in value.

C. The homestead exemption, not exceeding the value provided for in subsection A, AS ADJUSTED BY SUBSECTION D OF THIS SECTION, automatically attaches to the person's interest in identifiable cash proceeds from the voluntary or involuntary sale of the property. The homestead exemption in identifiable cash proceeds continues for eighteen months after the date of the sale of the property or until the person establishes a new homestead with the proceeds, whichever period is shorter. Only one homestead exemption at a time may be held by a person under this section.

D. THE HOMESTEAD EXEMPTION PROVIDED BY THIS SECTION SHALL BE ADJUSTED ANNUALLY BEGINNING ON JANUARY 1, 2024 AND THEREAFTER ON JANUARY 1 OF EACH SUCCESSIVE YEAR BY THE INCREASE IN THE COST OF LIVING. THE INCREASE IN THE COST OF LIVING SHALL BE MEASURED BY THE PERCENTAGE INCREASE AS OF AUGUST OF THE IMMEDIATELY PRECEDING YEAR OVER THE LEVEL AS OF AUGUST OF THE PREVIOUS YEAR OF THE CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, UNITED STATES CITY AVERAGE FOR ALL ITEMS) OR ITS SUCCESSOR INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, OR ITS SUCCESSOR AGENCY, WITH THE AMOUNT OF THE EXEMPTION ROUNDED UP TO THE NEAREST \$100.

Section 3. Section 33-1123, Arizona Revised Statutes, is amended to read:

33-1123. Household furniture, furnishings and appliances; annual adjustment

A. Household furniture and furnishings, household goods, including consumer electronic devices, and household appliances personally used by the debtor or a dependent of the debtor and not otherwise specifically prescribed in this chapter are exempt from process provided their aggregate fair market value does not exceed ~~six thousand dollars~~ \$15,000.

B. THE EXEMPTION PROVIDED BY THIS SECTION SHALL BE ADJUSTED ANNUALLY BEGINNING ON JANUARY 1, 2024 AND THEREAFTER ON JANUARY 1 OF EACH SUCCESSIVE YEAR BY THE INCREASE IN THE COST OF LIVING. THE INCREASE IN THE COST OF LIVING SHALL BE MEASURED BY THE PERCENTAGE INCREASE AS OF AUGUST OF THE IMMEDIATELY PRECEDING YEAR OVER THE LEVEL AS OF AUGUST OF THE PREVIOUS YEAR OF THE CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, UNITED STATES CITY AVERAGE FOR ALL ITEMS) OR ITS SUCCESSOR INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT

OF LABOR, BUREAU OF LABOR STATISTICS, OR ITS SUCCESSOR AGENCY, WITH THE AMOUNT OF THE EXEMPTION ROUNDED UP TO THE NEAREST \$100.

Section 4. Section 33-1125, Arizona Revised Statutes, is amended to read:

33-1125. Personal items

The following property of a debtor used primarily for personal, family or household purposes is exempt from process:

1. All wearing apparel of not more than a fair market value of five hundred dollars.
2. All musical instruments provided for the debtor's individual or family use of not more than an aggregate fair market value of four hundred dollars.
3. Horses, milk cows and poultry of not more than an aggregate fair market value of one thousand dollars.
4. All engagement and wedding rings of not more than an aggregate fair market value of two thousand dollars.
5. The library of a debtor, including books, manuals, published materials and personal documents of not more than an aggregate fair market value of two hundred fifty dollars.
6. One watch of not more than a fair market value of two hundred fifty dollars.
7. One typewriter, one computer, one bicycle, one sewing machine, a family bible or a lot in any burial ground of not more than an aggregate fair market value of two thousand dollars.
8. Equity in one motor vehicle of not more than ~~six thousand dollars~~ \$15,000. If the debtor or debtor's dependent has a physical disability, the equity in the motor vehicle shall not exceed ~~twelve thousand dollars~~ \$25,000. THE EXEMPTION PRESCRIBED IN THIS PARAGRAPH SHALL BE ADJUSTED ANNUALLY BEGINNING ON JANUARY 1, 2024 AND THEREAFTER ON JANUARY 1 OF EACH SUCCESSIVE YEAR BY THE INCREASE IN THE COST OF LIVING. THE INCREASE IN THE COST OF LIVING SHALL BE MEASURED BY THE PERCENTAGE INCREASE AS OF AUGUST OF THE IMMEDIATELY PRECEDING YEAR OVER THE LEVEL AS OF AUGUST OF THE PREVIOUS YEAR OF THE CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, UNITED STATES CITY AVERAGE FOR ALL ITEMS) OR ITS SUCCESSOR INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, OR ITS SUCCESSOR AGENCY, WITH THE AMOUNT OF THE EXEMPTION ROUNDED UP TO THE NEAREST \$100.
9. Professionally prescribed prostheses for the debtor or a dependent of the debtor, including a wheelchair or motorized mobility device.
10. All firearms of not more than an aggregate fair market value of two thousand dollars.
11. All domestic animals or household pets.

Section 5. Section 33-1126, Arizona Revised Statutes, is amended to read:

33-1126. Money, benefits or proceeds; exception

A. The following property of a debtor is exempt from execution, attachment or sale on any process issued from any court:

1. All money received by or payable to a surviving spouse or child on the life of a deceased spouse, parent or legal guardian, not exceeding twenty thousand dollars.

2. The earnings of the minor child of a debtor or the proceeds of these earnings by reason of any liability of the debtor not contracted for the special benefit of the minor child.

3. All monies received by or payable to a person entitled to receive child support or spousal maintenance pursuant to a court order.

4. All money, proceeds or benefits of any kind to be paid in a lump sum or to be rendered on a periodic or installment basis to the insured or any beneficiary under any policy of health, accident or disability insurance or any similar plan or program of benefits in use by any employer, except for premiums payable on the policy or debt of the insured secured by a pledge, and except for collection of any debt or obligation for which the insured or beneficiary has been paid under the plan or policy and except for payment of amounts ordered for support of a person from proceeds and benefits furnished in lieu of earnings that would have been subject to that order and subject to any exemption applicable to earnings so replaced.

5. All money arising from any claim for the destruction of, or damage to, exempt property and all proceeds or benefits of any kind arising from fire or other insurance on any property exempt under this article.

6. The cash surrender value of life insurance policies where for a continuous unexpired period of two years the policies have been owned by a debtor. The policy shall have named as beneficiary the debtor's surviving spouse, child, parent, brother or sister. The policy may have named as beneficiary any other family member who is a dependent, in the proportion that the policy names any such beneficiary, except that, subject to the statute of limitations, the amount of any premium that is recoverable or avoidable by a creditor pursuant to title 44, chapter 8, article 1, with interest thereon, is not exempt. The exemption provided by this paragraph does not apply to a claim for the payment of a debt of the insured or beneficiary that is secured by a pledge or assignment of the cash value of the insurance policy or the proceeds of the policy. For the purposes of this paragraph, "dependent" means a family member who is dependent on the insured debtor for not less than half support.

7. An annuity contract where for a continuous unexpired period of two years that contract has been owned by a debtor and has named as beneficiary the debtor, the debtor's surviving spouse, child, parent, brother or sister, or any other dependent family member, except that, subject to the statute of limitations, the amount of any premium, payment or deposit with respect to that contract is recoverable or avoidable by a creditor pursuant to title 44, chapter 8, article 1 is not exempt. The exemption provided by this paragraph does not apply to a claim for a payment of a debt of the annuitant or beneficiary that is secured by a pledge or assignment of the contract or its proceeds. For the purposes of this paragraph, "dependent" means a family member who is dependent on the debtor for not less than half support.

8. Any claim for damages recoverable by any person by reason of any levy on or sale under execution of that person's exempt personal property or by reason of the wrongful taking or detention of that property by any person, and the judgment recovered for damages.

9. A total of ~~three hundred dollars~~ \$5,000 held in a single account in any one financial institution as defined by section 6-101. The property declared exempt by this paragraph is not exempt from normal service charges assessed against the account by the financial institution at which the account is carried. THE EXEMPTION PRESCRIBED IN THIS PARAGRAPH SHALL BE ADJUSTED ANNUALLY BEGINNING ON JANUARY 1, 2024 AND THEREAFTER ON JANUARY 1 OF EACH SUCCESSIVE YEAR BY THE INCREASE IN THE COST OF LIVING. THE INCREASE IN THE COST OF LIVING SHALL BE MEASURED BY THE PERCENTAGE INCREASE AS OF AUGUST OF THE IMMEDIATELY PRECEDING YEAR OVER THE LEVEL AS OF AUGUST OF THE PREVIOUS YEAR OF THE CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, UNITED STATES CITY AVERAGE FOR ALL ITEMS) OR ITS SUCCESSOR INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, OR ITS SUCCESSOR AGENCY, WITH THE AMOUNT OF THE EXEMPTION ROUNDED UP TO THE NEAREST \$100.

10. An interest in a college savings plan under section 529 of the internal revenue code of 1986, either as the owner or as the beneficiary. This does not include money contributed to the plan within two years before a debtor files for bankruptcy.

B. Any money or other assets payable to a participant in or beneficiary of, or any interest of any participant or beneficiary in, a retirement plan under section 401(a), 403(a), 403(b), 408, 408A or 409 or a deferred compensation plan under section 457 of the United States internal revenue code of 1986, as amended, whether the beneficiary's interest arises by inheritance, designation, appointment or otherwise, is exempt from all claims of creditors of the beneficiary or participant. This subsection does not apply to any of the following:

1. An alternate payee under a qualified domestic relations order, as defined in section 414(p) of the United States internal revenue code of 1986, as amended. The interest of any and all alternate payees is exempt from any and all claims of any creditor of the alternate payee.

2. Amounts contributed within one hundred twenty days before a debtor files for bankruptcy.

3. The assets of bankruptcy proceedings filed before July 1, 1987.

C. Any person eighteen years of age or over, married or single, who resides within this state and who does not exercise the homestead exemption under article 1 of this chapter may claim as a personal property homestead exempt from all process prepaid rent, including security deposits as provided in section 33-1321, subsection A, for the claimant's residence, not exceeding two thousand dollars.

D. This section does not exempt property from orders that are the result of a judgment for arrearages of child support or for a child support debt.

Section 6. Section 33-1131, Arizona Revised Statutes, is amended to read:

33-1131. Definition; wages; salary; compensation

A. For the purposes of this section, "disposable earnings" means that remaining portion of a debtor's wages, salary or compensation for his personal services, including bonuses and commissions, or otherwise, and includes payments pursuant to a pension or retirement program or deferred compensation plan, after deducting from such earnings those amounts required by law to be withheld.

B. Except as provided in subsection C, the maximum part of the disposable earnings of a debtor for any workweek ~~which~~ THAT is subject to process may not exceed ~~twenty-five per cent~~ TEN PERCENT of disposable earnings for that week or the amount by which disposable earnings for that week exceed ~~thirty~~ SIXTY times the APPLICABLE minimum hourly wage ~~prescribed by federal law~~ in effect at the time the earnings are payable, whichever is less. THE APPLICABLE MINIMUM HOURLY WAGE IS THE MINIMUM WAGE REQUIRED BY FEDERAL, STATE OR LOCAL LAW, WHICHEVER IS HIGHEST.

C. The exemptions provided in subsection B do not apply in the case of any order for the support of any person. In such case, one-half of the disposable earnings of a debtor for any pay period is exempt from process.

D. The exemptions provided in this section do not apply in the case of any order of any court of bankruptcy under chapter XIII of the federal bankruptcy act or any debt due for any state or federal tax.

Section 7. Section 44-1201, Arizona Revised Statutes, is amended to read:

44-1201. Rate of interest for loan or indebtedness; interest on judgments; definitions

A. Interest on any loan, indebtedness or other obligation shall be AS FOLLOWS:

1. THE MAXIMUM INTEREST RATE ON MEDICAL DEBT SHALL BE THE LESSER OF THE FOLLOWING:

(a) THE ANNUAL RATE EQUAL TO THE WEEKLY AVERAGE ONE-YEAR CONSTANT MATURITY TREASURY YIELD, AS PUBLISHED BY THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, FOR THE CALENDAR WEEK PRECEDING THE DATE WHEN THE CONSUMER WAS FIRST PROVIDED WITH A BILL, OR

(b) THREE PERCENT A YEAR. THE MAXIMUM INTEREST RATE PROVIDED PURSUANT TO THIS PARAGRAPH ALSO APPLIES TO ANY JUDGMENTS ON MEDICAL DEBT.

2. FOR ANY LOAN, INDEBTEDNESS OR OBLIGATION OTHER THAN MEDICAL DEBT, INTEREST SHALL BE at the rate of ten per cent per annum, unless a different rate is contracted for in writing, in which event any rate of interest may be agreed to. Interest on any judgment, OTHER THAN A JUDGMENT ON MEDICAL DEBT, that is based on a written agreement evidencing a loan, indebtedness or obligation that bears a rate of interest not in excess of the maximum permitted by law shall be at the rate of interest provided in the agreement and shall be specified in the judgment.

B. Unless specifically provided for in statute or a different rate is contracted for in writing, interest on any judgment OTHER THAN A JUDGMENT ON MEDICAL DEBT shall be at the lesser of ten per cent per annum or at a rate per annum that is equal to one per cent plus the prime rate as published by the board of governors of the federal reserve system in statistical release H.15 or any publication that may supersede it on the date that the judgment is entered. The judgment shall state the applicable interest rate and it shall not change after it is entered.

C. Interest on a judgment on a condemnation proceeding, including interest that is payable pursuant to section 12-1123, subsection B, shall be payable as follows:

1. If instituted by a city or town, at the rate prescribed by section 9-409.
2. If instituted by a county, at the rate prescribed by section 11-269.04.
3. If instituted by the department of transportation, at the rate prescribed by section 28-7101.

4. If instituted by a county flood control district, a power district or an agricultural improvement district, at the rate prescribed by section 48-3628.

D. A court shall not award either of the following:

1. Prejudgment interest for any unliquidated, future, punitive or exemplary damages that are found by the trier of fact.
2. Interest for any future, punitive or exemplary damages that are found by the trier of fact.

E. For the purposes of subsection D of this section, "future damages" means damages that will be incurred after the date of the judgment and includes the costs of any injunctive or equitable relief that will be provided after the date of the judgment.

F. If awarded, prejudgment interest shall be at the rate described in subsection A or B of this section.

G. FOR THE PURPOSES OF THIS SECTION:

1. "HEALTH CARE SERVICES" MEANS SERVICES PROVIDED AT OR BY ANY OF THE FOLLOWING:

- (a) HEALTH CARE INSTITUTIONS AS DEFINED IN SECTION 36-401.
- (b) PRIVATE OFFICES OR CLINICS OF HEALTH CARE PROVIDERS LICENSED UNDER TITLE 32, CHAPTERS 7, 11, 13, 15, 15.1, 16, 17, 18, 19, 19.1, 25, 28, 33, 34, or 35.

(c) AMBULANCES OR AMBULANCE SERVICES AS DEFINED IN SECTION 36-2201.

2. "MEDICAL DEBT" MEANS A LOAN, INDEBTEDNESS OR OTHER OBLIGATION ARISING DIRECTLY FROM THE RECEIPT OF HEALTH CARE SERVICES OR OF MEDICAL PRODUCTS OR DEVICES.

Section 8. Conflicts with federal law

This act shall not be interpreted or applied so as to create any power or duty in conflict with federal law.

Section 9. 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.

Section 10. Saving clause

This act applies prospectively only. Accordingly, it does not affect rights and duties that matured before the effective date of this act, contracts entered into before the effective date of this act or the interest rate on judgments that are based on a written agreement entered into before the effective date of this act.

Section 11. Legal defense

The People of Arizona desire that this initiative, if approved by the voters, be defended if it is challenged in court. They therefore declare that the political committee registered to circulate petitions and campaign in support of the adoption of the initiative, or any one or more of its officers, has standing to defend this initiative on behalf of and as the agent of the People of Arizona in any legal action brought to challenge the validity of this initiative.

Section 12. Short title

This act may be cited as the "Predatory Debt Collection Protection Act."

PROPOSITION 211

OFFICIAL TITLE

AN INITIATIVE MEASURE

AMENDING TITLE 16, ARIZONA REVISED STATUTES BY ADDING CHAPTER 6.1; RELATING TO THE DISCLOSURE OF THE ORIGINAL SOURCE OF MONIES USED FOR CAMPAIGN MEDIA SPENDING.

TEXT OF PROPOSED AMENDMENTS

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

Section 1. Short title

This act may be cited as the "Voters' Right to Know Act".

Section 2. Purpose and Intent

A. This act establishes that the People of Arizona have the right to know the original source of all major contributions used to pay, in whole or part, for campaign media spending. This right requires the prompt, accessible, comprehensible and public disclosure of the identity of all donors who give more than \$5,000 to fund campaign media spending in an election cycle and the source of those monies, regardless of whether the monies passed through one or more intermediaries.

B. This act is intended to protect and promote rights and interests guaranteed by the First Amendment of the United States Constitution and also protected by the Arizona Constitution, to promote self-government and ensure responsive officeholders, to prevent corruption and to assist Arizona voters in making informed election decisions by securing their right to know the source of monies used to influence Arizona elections.

C. By adopting this act, the People of Arizona affirm their desire to stop "dark money," the practice of laundering political contributions, often through multiple intermediaries, to hide the original source.

D. This act empowers the Citizens Clean Elections Commission and individual voters to enforce its disclosure requirements. Violators will be subject to significant civil penalties.

Section 3. Title 16, Arizona Revised Statutes, is amended by adding chapter 6.1, to read:

CHAPTER 6.1. CAMPAIGN MEDIA SPENDING

ARTICLE 1. DISCLOSURE OF ORIGINAL SOURCE OF MONIES

16-971. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BUSINESS INCOME" MEANS:

(a) MONIES RECEIVED BY A PERSON IN COMMERCIAL TRANSACTIONS IN THE ORDINARY COURSE OF THE PERSON'S REGULAR TRADE, BUSINESS OR INVESTMENTS.

(b) MEMBERSHIP OR UNION DUES THAT DO NOT EXCEED \$5,000 FROM ANY ONE PERSON IN A CALENDAR YEAR.

2. "CAMPAIGN MEDIA SPENDING":

(a) MEANS SPENDING MONIES OR ACCEPTING IN-KIND CONTRIBUTIONS TO PAY FOR ANY OF THE FOLLOWING:

(i) A PUBLIC COMMUNICATION THAT EXPRESSLY ADVOCATES FOR OR AGAINST THE NOMINATION, OR ELECTION OF A CANDIDATE.

(ii) A PUBLIC COMMUNICATION THAT PROMOTES, SUPPORTS, ATTACKS OR OPPOSES A CANDIDATE WITHIN SIX MONTHS PRECEDING AN ELECTION INVOLVING THAT CANDIDATE.

(iii) A PUBLIC COMMUNICATION THAT REFERS TO A CLEARLY IDENTIFIED CANDIDATE WITHIN NINETY DAYS BEFORE A PRIMARY ELECTION UNTIL THE TIME OF THE GENERAL ELECTION AND THAT IS DISSEMINATED IN THE JURISDICTION WHERE THE CANDIDATE'S ELECTION IS TAKING PLACE.

(iv) A PUBLIC COMMUNICATION THAT PROMOTES, SUPPORTS, ATTACKS OR OPPOSES THE QUALIFICATION OR APPROVAL OF ANY STATE OR LOCAL INITIATIVE OR REFERENDUM.

(v) A PUBLIC COMMUNICATION THAT PROMOTES, SUPPORTS, ATTACKS OR OPPOSES THE RECALL OF A PUBLIC OFFICER.

(vi) AN ACTIVITY OR PUBLIC COMMUNICATION THAT SUPPORTS THE ELECTION OR DEFEAT OF CANDIDATES OF AN IDENTIFIED POLITICAL PARTY OR THE ELECTORAL PROSPECTS OF AN IDENTIFIED POLITICAL PARTY, INCLUDING PARTISAN VOTER REGISTRATION, PARTISAN GET-OUT-THE-VOTE ACTIVITY OR OTHER PARTISAN CAMPAIGN ACTIVITY.

(vii) RESEARCH, DESIGN, PRODUCTION, POLLING, DATA ANALYTICS, MAILING OR SOCIAL MEDIA LIST ACQUISITION OR ANY OTHER ACTIVITY CONDUCTED IN PREPARATION FOR OR IN CONJUNCTION WITH ANY OF THE ACTIVITIES DESCRIBED IN ITEMS (i) THROUGH (vi) OF THIS SUBDIVISION.

(b) DOES NOT INCLUDE SPENDING MONIES OR ACCEPTING IN-KIND CONTRIBUTIONS FOR ANY OF THE FOLLOWING:

(i) A NEWS STORY, COMMENTARY OR EDITORIAL BY ANY BROADCASTING STATION, CABLE TELEVISION OPERATOR, VIDEO SERVICE PROVIDER, PROGRAMMER OR PRODUCER, NEWSPAPER, MAGAZINE, WEBSITE OR OTHER PERIODICAL PUBLICATION THAT IS NOT OWNED OR OPERATED BY A CANDIDATE, A CANDIDATE'S SPOUSE OR A CANDIDATE COMMITTEE, POLITICAL PARTY OR POLITICAL ACTION COMMITTEE.

(ii) A NONPARTISAN ACTIVITY INTENDED TO ENCOURAGE VOTER REGISTRATION AND TURNOUT.

(iii) PUBLISHING A BOOK OR PRODUCING A DOCUMENTARY, IF THE PUBLICATION OR PRODUCTION IS FOR DISTRIBUTION TO THE GENERAL PUBLIC THROUGH TRADITIONAL DISTRIBUTION MECHANISMS OR IF A FEE IS REQUIRED TO PURCHASE THE BOOK OR VIEW THE DOCUMENTARY.

(iv) PRIMARY OR NONPARTISAN DEBATES BETWEEN CANDIDATES OR BETWEEN PROPONENTS AND OPPONENTS OF A STATE OR LOCAL INITIATIVE OR REFERENDUM AND ANNOUNCEMENTS OF THOSE DEBATES.

3. "CANDIDATE" HAS THE SAME MEANING AS IN SECTION 16-901.

4. "CANDIDATE COMMITTEE" HAS THE SAME MEANING AS IN SECTION 16-901.

5. "COMMISSION" MEANS THE CITIZENS CLEAN ELECTIONS COMMISSION.

6. "CONTRIBUTION" MEANS MONEY, DONATION, GIFT, LOAN OR ADVANCE OR OTHER THING OF VALUE, INCLUDING GOODS AND SERVICES.

7. "COVERED PERSON"

(a) MEANS ANY PERSON WHOSE TOTAL CAMPAIGN MEDIA SPENDING OR ACCEPTANCE OF IN-KIND CONTRIBUTIONS TO ENABLE CAMPAIGN MEDIA SPENDING, OR A COMBINATION OF BOTH, IN AN ELECTION CYCLE IS MORE THAN \$50,000 IN STATEWIDE CAMPAIGNS OR MORE THAN \$25,000 IN ANY OTHER TYPE OF CAMPAIGNS. FOR THE PURPOSES OF THIS CHAPTER, THE AMOUNT OF A PERSON'S CAMPAIGN MEDIA SPENDING INCLUDES CAMPAIGN MEDIA SPENDING MADE BY ENTITIES ESTABLISHED, FINANCED, MAINTAINED OR CONTROLLED BY THAT PERSON.

(b) DOES NOT INCLUDE:

(i) INDIVIDUALS WHO SPEND ONLY THEIR OWN PERSONAL MONIES FOR CAMPAIGN MEDIA SPENDING.

(ii) ORGANIZATIONS THAT SPEND ONLY THEIR OWN BUSINESS INCOME FOR CAMPAIGN MEDIA SPENDING.

(iii) A CANDIDATE COMMITTEE.

(iv) A POLITICAL ACTION COMMITTEE OR POLITICAL PARTY THAT RECEIVES NOT MORE THAN \$20,000 IN CONTRIBUTIONS, INCLUDING IN-KIND CONTRIBUTIONS, FROM ANY ONE PERSON IN AN ELECTION CYCLE.

8. "ELECTION CYCLE" MEANS THE TIME BEGINNING THE DAY AFTER GENERAL ELECTION DAY IN EVEN-NUMBERED YEARS AND CONTINUING THROUGH THE END OF GENERAL ELECTION DAY IN THE NEXT EVEN-NUMBERED YEAR.

9. "EXPRESSLY ADVOCATES" HAS THE SAME MEANING AS IN SECTION 16-901.01.

10. "IDENTITY" MEANS:

(a) IN THE CASE OF AN INDIVIDUAL, THE NAME, MAILING ADDRESS, OCCUPATION AND EMPLOYER OF THE INDIVIDUAL

(b) IN THE CASE OF ANY OTHER PERSON, THE NAME, MAILING ADDRESS, FEDERAL TAX STATUS AND STATE OF INCORPORATION, REGISTRATION OR PARTNERSHIP, IF ANY.

11. "IN-KIND CONTRIBUTION" MEANS A CONTRIBUTION OF GOODS, SERVICES OR ANYTHING OF VALUE THAT IS PROVIDED WITHOUT CHARGE OR AT LESS THAN THE USUAL AND NORMAL CHARGE.

12. "ORIGINAL MONIES" MEANS BUSINESS INCOME OR AN INDIVIDUAL'S PERSONAL MONIES.

13. "PERSON" INCLUDES BOTH A NATURAL PERSON AND AN ENTITY SUCH AS A CORPORATION, LIMITED LIABILITY COMPANY, LABOR ORGANIZATION, PARTNERSHIP OR ASSOCIATION, REGARDLESS OF LEGAL FORM.

14. "PERSONAL MONIES"

(a) MEANS ANY OF THE FOLLOWING:

(i) ANY ASSET OF AN INDIVIDUAL THAT, AT THE TIME THE INDIVIDUAL ENGAGED IN CAMPAIGN MEDIA SPENDING OR TRANSFERRED MONIES TO ANOTHER PERSON FOR SUCH SPENDING, THE INDIVIDUAL HAD LEGAL CONTROL OVER AND RIGHTFUL TITLE TO.

(ii) INCOME RECEIVED BY AN INDIVIDUAL OR THE INDIVIDUAL'S SPOUSE, INCLUDING SALARY AND OTHER EARNED INCOME FROM BONA FIDE EMPLOYMENT, DIVIDENDS AND PROCEEDS FROM THE INDIVIDUAL'S PERSONAL INVESTMENTS OR BEQUESTS TO THE INDIVIDUAL, INCLUDING INCOME FROM TRUSTS ESTABLISHED BY BEQUESTS.

(iii) A PORTION OF ASSETS THAT ARE JOINTLY OWNED BY THE INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE EQUAL TO THE INDIVIDUAL'S SHARE OF THE ASSET UNDER THE INSTRUMENT OF CONVEYANCE OR OWNERSHIP. IF NO SPECIFIC SHARE IS INDICATED BY AN INSTRUMENT OF CONVEYANCE OR OWNERSHIP, THE VALUE IS ONE-HALF THE VALUE OF THE PROPERTY OR ASSET.

(b) DOES NOT MEAN ANY ASSET OR INCOME RECEIVED FROM ANY PERSON FOR THE PURPOSE OF INFLUENCING ANY ELECTION.

15. "POLITICAL ACTION COMMITTEE" HAS THE SAME MEANING AS IN SECTION 16-901.

16. "POLITICAL PARTY" HAS THE SAME MEANING AS IN SECTION 16-901.

17. "PUBLIC COMMUNICATION"

(a) MEANS A PAID COMMUNICATION TO THE PUBLIC BY MEANS OF BROADCAST, CABLE, SATELLITE, INTERNET OR ANOTHER DIGITAL METHOD, NEWSPAPER, MAGAZINE, OUTDOOR ADVERTISING FACILITY, MASS MAILING OR ANOTHER MASS DISTRIBUTION, TELEPHONE BANK OR ANY OTHER FORM OF GENERAL PUBLIC POLITICAL ADVERTISING OR MARKETING, REGARDLESS OF MEDIUM.

(b) DOES NOT INCLUDE COMMUNICATIONS BETWEEN AN ORGANIZATION AND ITS EMPLOYEES, STOCKHOLDERS OR BONA FIDE MEMBERS.

18. "TRACEABLE MONIES" MEANS:

(a) MONIES THAT HAVE BEEN GIVEN, LOANED OR PROMISED TO BE GIVEN TO A COVERED PERSON AND FOR WHICH NO DONOR HAS OPTED OUT OF THEIR USE OR TRANSFER FOR CAMPAIGN MEDIA SPENDING PURSUANT TO SECTION 16-972.

(b) MONIES USED TO PAY FOR IN-KIND CONTRIBUTIONS TO A COVERED PERSON TO ENABLE CAMPAIGN MEDIA SPENDING.

19. "TRANSFER RECORDS" MEANS A WRITTEN RECORD OF THE IDENTITY OF EACH PERSON THAT DIRECTLY OR INDIRECTLY CONTRIBUTED OR TRANSFERRED MORE THAN \$2,500 OF ORIGINAL MONIES USED FOR CAMPAIGN MEDIA SPENDING, THE AMOUNT OF EACH CONTRIBUTION OR TRANSFER AND THE PERSON TO WHOM THOSE MONIES WERE TRANSFERRED.

16-972. Campaign media spending; transfer records; written notice; donor opt-out; disclosure of previous records

A. A COVERED PERSON MUST MAINTAIN TRANSFER RECORDS. THE COVERED PERSON MUST MAINTAIN THESE RECORDS FOR AT LEAST FIVE YEARS AND PROVIDE THE RECORDS ON REQUEST TO THE COMMISSION.

B. BEFORE THE COVERED PERSON MAY USE OR TRANSFER A DONOR'S MONIES FOR CAMPAIGN MEDIA SPENDING, THE DONOR MUST BE NOTIFIED IN WRITING THAT THE MONIES MAY BE SO USED AND MUST BE GIVEN AN OPPORTUNITY TO OPT OUT OF HAVING THE DONATION USED OR TRANSFERRED FOR CAMPAIGN MEDIA SPENDING. THE NOTICE UNDER THIS SUBSECTION MUST:

1. INFORM DONORS THAT THEIR MONIES MAY BE USED FOR CAMPAIGN MEDIA SPENDING AND THAT INFORMATION ABOUT DONORS MAY HAVE TO BE REPORTED TO THE APPROPRIATE GOVERNMENT AUTHORITY IN THIS STATE FOR DISCLOSURE TO THE PUBLIC.

2. INFORM DONORS THAT THEY CAN OPT OUT OF HAVING THEIR MONIES USED OR TRANSFERRED FOR CAMPAIGN MEDIA SPENDING BY NOTIFYING THE COVERED PERSON IN WRITING WITHIN TWENTY-ONE DAYS AFTER RECEIVING THE NOTICE.

3. COMPLY WITH RULES ADOPTED BY THE COMMISSION PURSUANT TO THIS CHAPTER TO ENSURE THAT THE NOTICE IS CLEARLY VISIBLE AND THAT IT ACCOMPLISHES THE PURPOSES OF THIS SECTION.

C. THE NOTICE REQUIRED BY THIS SECTION MAY BE PROVIDED TO THE DONOR BEFORE OR AFTER THE COVERED PERSON RECEIVES A DONOR'S MONIES, BUT THE DONOR'S MONIES MAY NOT BE USED OR TRANSFERRED FOR CAMPAIGN MEDIA SPENDING UNTIL AT LEAST TWENTY-ONE DAYS AFTER THE NOTICE IS PROVIDED OR UNTIL THE DONOR PROVIDES WRITTEN CONSENT PURSUANT TO THIS SECTION, WHICHEVER IS EARLIER.

D. ANY PERSON THAT DONATES TO A COVERED PERSON MORE THAN \$5,000 IN TRACEABLE MONIES IN AN ELECTION CYCLE MUST INFORM THAT COVERED PERSON IN WRITING, WITHIN TEN DAYS AFTER RECEIVING A WRITTEN REQUEST FROM THE COVERED PERSON, OF THE IDENTITY OF EACH OTHER PERSON THAT DIRECTLY OR INDIRECTLY CONTRIBUTED MORE THAN \$2,500 IN ORIGINAL MONIES BEING TRANSFERRED AND THE AMOUNT OF EACH OTHER PERSON'S ORIGINAL MONIES BEING TRANSFERRED. IF THE ORIGINAL MONIES WERE PREVIOUSLY TRANSFERRED, THE DONOR MUST DISCLOSE ALL SUCH PREVIOUS TRANSFERS OF MORE THAN \$2,500 AND IDENTIFY THE INTERMEDIARIES. THE DONOR MUST MAINTAIN THESE RECORDS FOR AT LEAST FIVE YEARS AND PROVIDE THE RECORDS ON REQUEST TO THE COMMISSION.

E. ANY PERSON THAT MAKES AN IN-KIND CONTRIBUTION TO A COVERED PERSON OF MORE THAN \$5,000 IN AN ELECTION CYCLE TO ENABLE CAMPAIGN MEDIA SPENDING MUST INFORM THAT COVERED PERSON IN WRITING, AT THE TIME THE IN-KIND CONTRIBUTION IS MADE OR PROMISED TO BE MADE, OF THE IDENTITY OF EACH OTHER PERSON THAT DIRECTLY OR INDIRECTLY CONTRIBUTED OR PROVIDED MORE THAN \$2,500 IN ORIGINAL MONIES USED TO PAY FOR THE IN-KIND CONTRIBUTION AND THE AMOUNT OF EACH OTHER PERSON'S ORIGINAL MONIES SO USED. IF THE ORIGINAL MONIES WERE PREVIOUSLY TRANSFERRED, THE IN-KIND DONOR MUST DISCLOSE ALL SUCH PREVIOUS TRANSFERS OF MORE THAN \$2,500 AND IDENTIFY THE INTERMEDIARIES. THE IN-KIND DONOR MUST MAINTAIN THESE RECORDS FOR AT LEAST FIVE YEARS AND PROVIDE THE RECORDS ON REQUEST TO THE COMMISSION.

16-973. Disclosure reports; exceptions

A. WITHIN FIVE DAYS AFTER FIRST SPENDING MONIES OR ACCEPTING IN-KIND CONTRIBUTIONS TOTALING \$50,000 OR MORE DURING AN ELECTION CYCLE ON CAMPAIGN MEDIA SPENDING IN STATEWIDE CAMPAIGNS OR \$25,000 OR MORE DURING THE ELECTION CYCLE IN ANY OTHER TYPE OF CAMPAIGNS, A COVERED PERSON SHALL FILE WITH THE SECRETARY OF STATE AN INITIAL REPORT THAT DISCLOSES ALL OF THE FOLLOWING:

1. THE IDENTITY OF THE PERSON THAT OWNS OR CONTROLS THE TRACEABLE MONIES.

2. THE IDENTITY OF ANY ENTITY ESTABLISHED, FINANCED, MAINTAINED OR CONTROLLED BY THE PERSON THAT OWNS OR CONTROLS THE TRACEABLE MONIES AND THAT MAINTAINS ITS OWN TRANSFER RECORDS AND THAT ENTITY'S RELATIONSHIP TO THE COVERED PERSON.

3. THE NAME, MAILING ADDRESS AND POSITION OF THE INDIVIDUAL WHO IS THE CUSTODIAN OF THE TRANSFER RECORDS.

4. THE NAME, MAILING ADDRESS AND POSITION OF AT LEAST ONE INDIVIDUAL WHO CONTROLS, DIRECTLY OR INDIRECTLY, HOW THE TRACEABLE MONIES ARE SPENT.

5. THE TOTAL AMOUNT OF TRACEABLE MONIES OWNED OR CONTROLLED BY THE COVERED PERSON ON THE DATE THE REPORT IS MADE.

6. THE IDENTITY OF EACH DONOR OF ORIGINAL MONIES WHO CONTRIBUTED, DIRECTLY OR INDIRECTLY, MORE THAN \$5,000 OF TRACEABLE MONIES OR IN-KIND CONTRIBUTIONS FOR CAMPAIGN MEDIA SPENDING DURING THE ELECTION CYCLE TO THE COVERED PERSON AND THE DATE AND AMOUNT OF EACH OF THE DONOR'S CONTRIBUTIONS.

7. THE IDENTITY OF EACH PERSON THAT ACTED AS AN INTERMEDIARY AND THAT TRANSFERRED, IN WHOLE OR IN PART, TRACEABLE MONIES OF MORE THAN \$5,000 FROM ORIGINAL SOURCES TO THE COVERED PERSON AND THE DATE, AMOUNT AND SOURCE, BOTH ORIGINAL AND INTERMEDIATE, OF THE TRANSFERRED MONIES.

8. THE IDENTITY OF EACH PERSON THAT RECEIVED FROM THE COVERED PERSON DISBURSEMENTS TOTALING \$10,000 OR MORE OF TRACEABLE MONIES DURING THE ELECTION CYCLE AND THE DATE AND PURPOSE OF EACH DISBURSEMENT, INCLUDING THE FULL NAME AND OFFICE SOUGHT OF ANY CANDIDATE OR A DESCRIPTION OF ANY BALLOT PROPOSITION THAT WAS SUPPORTED, OPPOSED OR REFERENCED IN A PUBLIC COMMUNICATION THAT WAS PAID FOR, IN WHOLE OR IN PART, WITH THE DISBURSED MONIES.

9. THE IDENTITY OF ANY PERSON WHOSE TOTAL CONTRIBUTIONS OF TRACEABLE MONIES TO THE COVERED PERSON CONSTITUTED MORE THAN HALF OF THE TRACEABLE MONIES OF THE COVERED PERSON AT THE START OF THE ELECTION CYCLE.

B. AFTER A COVERED PERSON MAKES AN INITIAL REPORT, EACH TIME THE COVERED PERSON SPENDS MONIES OR ACCEPTS IN-KIND CONTRIBUTIONS TOTALING AN ADDITIONAL \$25,000 OR MORE DURING AN ELECTION CYCLE ON CAMPAIGN MEDIA SPENDING IN STATEWIDE CAMPAIGNS OR AN ADDITIONAL \$15,000 OR MORE ON CAMPAIGN MEDIA SPENDING DURING AN ELECTION CYCLE IN ANY OTHER TYPE OF CAMPAIGNS, THAT COVERED PERSON SHALL FILE WITH THE SECRETARY OF STATE WITHIN THREE DAYS AFTER SPENDING MONIES OR ACCEPTING THE IN-KIND CONTRIBUTION A REPORT THAT DISCLOSES ANY INFORMATION THAT HAS CHANGED SINCE THE MOST RECENT REPORT WAS MADE PURSUANT TO THIS SECTION.

C. WHEN THE INFORMATION REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPHS 1 THROUGH 4 OF THIS SECTION HAS CHANGED SINCE IT WAS PREVIOUSLY REPORTED, THE CHANGED INFORMATION SHALL BE REPORTED TO THE SECRETARY OF STATE WITHIN TWENTY DAYS, EXCEPT THAT THERE IS NO OBLIGATION TO REPORT CHANGES THAT OCCUR MORE

THAN ONE YEAR AFTER THE MOST RECENT REPORT SHOULD HAVE BEEN FILED PURSUANT TO THIS SECTION.

D. TO DETERMINE THE SOURCES, INTERMEDIARIES AND AMOUNTS OF INDIRECT CONTRIBUTIONS RECEIVED, A COVERED PERSON MAY RELY ON THE INFORMATION IT RECEIVED PURSUANT TO SECTION 16-972, UNLESS THE COVERED PERSON KNOWS OR HAS REASON TO KNOW THAT THE INFORMATION RELIED ON IS FALSE OR UNRELIABLE.

E. WHEN A COVERED PERSON TRANSFERS MORE THAN \$5,000 IN TRACEABLE MONIES TO ANOTHER COVERED PERSON, OR AFTER RECEIVING THE REQUIRED NOTICE UNDER SECTION 16-972, SUBSECTION B, FAILS TO OPT OUT OF HAVING PREVIOUSLY TRANSFERRED MONIES USED FOR CAMPAIGN MEDIA SPENDING, A TRANSFER RECORD MUST BE PROVIDED TO THE RECIPIENT COVERED PERSON THAT IDENTIFIES EACH PERSON THAT DIRECTLY OR INDIRECTLY CONTRIBUTED MORE THAN \$2,500 OF THE ORIGINAL MONIES BEING TRANSFERRED, THE AMOUNT OF EACH PERSON'S ORIGINAL MONIES BEING TRANSFERRED, AND ANY OTHER PERSON THAT PREVIOUSLY TRANSFERRED THE ORIGINAL MONIES.

F. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE IDENTITY OF AN ORIGINAL SOURCE THAT IS OTHERWISE PROTECTED FROM DISCLOSURE BY LAW OR A COURT ORDER OR THAT DEMONSTRATES TO THE SATISFACTION OF THE COMMISSION THAT THERE IS A REASONABLE PROBABILITY THAT PUBLIC KNOWLEDGE OF THE ORIGINAL SOURCE'S IDENTITY WOULD SUBJECT THE SOURCE OR THE SOURCE'S FAMILY TO A SERIOUS RISK OF PHYSICAL HARM SHALL NOT BE DISCLOSED OR INCLUDED IN A DISCLAIMER.

G. THIS SECTION DOES NOT REQUIRE PUBLIC DISCLOSURE OF OR A DISCLAIMER REGARDING THE IDENTITY OF AN ORIGINAL SOURCE THAT CONTRIBUTES, DIRECTLY OR THROUGH INTERMEDIARIES, \$5,000 OR LESS IN MONIES OR IN-KIND CONTRIBUTIONS DURING AN ELECTION CYCLE TO A COVERED PERSON FOR CAMPAIGN MEDIA SPENDING.

H. ALL DISCLOSURE REPORTS MADE PURSUANT TO THIS SECTION SHALL BE MADE ELECTRONICALLY TO THE SECRETARY OF STATE AND TO ANY OTHER BODY AS DIRECTED BY LAW. OFFICIALS SHALL PROMPTLY MAKE THE INFORMATION PUBLIC AND PROVIDE IT TO THE COMMISSION ELECTRONICALLY. ALL DISCLOSURE REPORTS ARE SUBJECT TO PENALTY OF PERJURY.

I. EXCEPT AS PROVIDED IN SUBSECTION J OF THIS SECTION, A POLITICAL ACTION COMMITTEE OR POLITICAL PARTY THAT IS A COVERED PERSON MAY SATISFY THE TIMING REQUIREMENTS FOR REPORTING IN THIS SECTION BY FILING THE PERIODIC CAMPAIGN FINANCE REPORTS AS REQUIRED BY LAW FOR POLITICAL ACTION COMMITTEES AND POLITICAL PARTIES, PROVIDED THAT THE DISCLOSURES REQUIRED BY THIS SECTION ARE INCLUDED IN THOSE PERIODIC REPORTS, INCLUDING THE REQUIREMENT TO IDENTIFY THE ORIGINAL SOURCES OF TRACEABLE MONIES WHO GAVE, DIRECTLY OR INDIRECTLY, AND ANY

INTERMEDIARIES WHO TRANSFERRED, DIRECTLY OR INDIRECTLY, MORE THAN \$5,000 IN TRACEABLE MONIES TO THE COVERED PERSON DURING THE ELECTION CYCLE.

J. IF A POLITICAL ACTION COMMITTEE OR POLITICAL PARTY THAT IS A COVERED PERSON SPENDS MONIES OR ACCEPTS IN-KIND CONTRIBUTIONS WITHIN 20 DAYS OF AN ELECTION THAT WOULD REQUIRE A REPORT UNDER THIS SECTION, IT SHALL FILE A REPORT PURSUANT TO THIS SECTION WITHIN 3 DAYS OF THAT SPENDING OR IN-KIND CONTRIBUTION.

16-974. Citizens clean elections commission; powers and duties; rules

A. THE COMMISSION IS THE PRIMARY AGENCY AUTHORIZED TO IMPLEMENT AND ENFORCE THIS CHAPTER. THE COMMISSION MAY DO ANY OF THE FOLLOWING:

1. ADOPT AND ENFORCE RULES.
2. ISSUE AND ENFORCE CIVIL SUBPOENAS, INCLUDING THIRD PARTY SUBPOENAS.
3. INITIATE ENFORCEMENT ACTIONS.
4. CONDUCT FACT-FINDING HEARINGS AND INVESTIGATIONS.
5. IMPOSE CIVIL PENALTIES FOR NONCOMPLIANCE, INCLUDING PENALTIES FOR LATE OR INCOMPLETE DISCLOSURES AND FOR ANY OTHER VIOLATIONS OF THIS CHAPTER.
6. SEEK LEGAL AND EQUITABLE RELIEF IN COURT AS NECESSARY.
7. ESTABLISH THE RECORDS PERSONS MUST MAINTAIN TO SUPPORT THEIR DISCLOSURES.
8. PERFORM ANY OTHER ACT THAT MAY ASSIST IN IMPLEMENTING THIS CHAPTER.

B. IF THE COMMISSION IMPOSES A CIVIL PENALTY ON A PERSON AND THAT PERSON DOES NOT TIMELY SEEK JUDICIAL REVIEW, THE COMMISSION MAY FILE A CERTIFIED COPY OF ITS ORDER REQUIRING PAYMENT OF THE CIVIL PENALTY WITH THE CLERK OF THE SUPERIOR COURT IN ANY COUNTY OF THIS STATE. THE CLERK SHALL TREAT THE COMMISSION ORDER IN THE SAME MANNER AS A JUDGMENT OF THE SUPERIOR COURT. A COMMISSION ORDER FILED PURSUANT TO THIS SUBSECTION HAS THE SAME EFFECT AS A JUDGMENT OF THE SUPERIOR COURT AND MAY BE RECORDED, ENFORCED OR SATISFIED IN THE SAME MANNER. A FILING FEE IS NOT REQUIRED FOR AN ACTION FILED UNDER THIS SUBSECTION.

C. THE COMMISSION SHALL ESTABLISH DISCLAIMER REQUIREMENTS FOR PUBLIC COMMUNICATIONS BY COVERED PERSONS. A POLITICAL ACTION COMMITTEE THAT COMPLIES WITH THESE REQUIREMENTS NEED NOT SEPARATELY COMPLY WITH THE REQUIREMENTS PRESCRIBED IN SECTION 16-925, SUBSECTION B. PUBLIC COMMUNICATIONS BY COVERED PERSONS SHALL STATE, AT A MINIMUM, THE NAMES OF THE TOP THREE DONORS WHO DIRECTLY OR INDIRECTLY

MADE THE THREE LARGEST CONTRIBUTIONS OF ORIGINAL MONIES DURING THE ELECTION CYCLE TO THE COVERED PERSON. IF IT IS NOT TECHNOLOGICALLY POSSIBLE FOR A PUBLIC COMMUNICATION DISSEMINATED ON THE INTERNET OR BY SOCIAL MEDIA MESSAGE, TEXT MESSAGE OR SHORT MESSAGE SERVICE TO PROVIDE ALL THE INFORMATION REQUIRED BY THIS SUBSECTION, THE PUBLIC COMMUNICATION MUST PROVIDE A MEANS FOR VIEWERS TO OBTAIN, IMMEDIATELY AND EASILY, THE REQUIRED INFORMATION WITHOUT HAVING TO RECEIVE EXTRANEOUS INFORMATION.

D. THE COMMISSION'S RULES AND ANY COMMISSION ENFORCEMENT ACTIONS PURSUANT TO THIS CHAPTER ARE NOT SUBJECT TO THE APPROVAL OF OR ANY PROHIBITION OR LIMIT IMPOSED BY ANY OTHER EXECUTIVE OR LEGISLATIVE GOVERNMENTAL BODY OR OFFICIAL. NOTWITHSTANDING ANY LAW TO THE CONTRARY, RULES ADOPTED PURSUANT TO THIS CHAPTER ARE EXEMPT FROM TITLE 41, CHAPTERS 6 AND 6.1.

E. THE COMMISSION SHALL ESTABLISH A PROCESS TO REIMBURSE THE SECRETARY OF STATE AND ANY OTHER AGENCY THAT INCURS COSTS TO IMPLEMENT OR ENFORCE THIS CHAPTER.

F. THE COMMISSION MAY ADJUST THE CONTRIBUTION AND EXPENDITURE THRESHOLDS IN THIS CHAPTER TO REFLECT INFLATION.

16-975. Structured transactions prohibited

A PERSON MAY NOT STRUCTURE OR ASSIST IN STRUCTURING, OR ATTEMPT OR ASSIST IN AN ATTEMPT TO STRUCTURE ANY SOLICITATION, CONTRIBUTION, DONATION, EXPENDITURE, DISBURSEMENT OR OTHER TRANSACTION TO EVADE THE REPORTING REQUIREMENTS OF THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.

16-976. Penalties; separate account; use of monies; surcharge

A. THE CIVIL PENALTY FOR ANY VIOLATION OF THIS CHAPTER SHALL BE AT LEAST THE AMOUNT OF THE UNDISCLOSED OR IMPROPERLY DISCLOSED CONTRIBUTION AND NOT MORE THAN THREE TIMES THAT AMOUNT. FOR VIOLATIONS OF SECTION 16-975, THE RELEVANT AMOUNT FOR THE PURPOSES OF CALCULATING THE CIVIL PENALTY IS THE AMOUNT DETERMINED BY THE COMMISSION TO CONSTITUTE A STRUCTURED TRANSACTION.

B. CIVIL PENALTIES COLLECTED FOR VIOLATIONS OF THIS CHAPTER SHALL BE DEPOSITED IN A SEPARATE ACCOUNT IN THE CITIZENS CLEAN ELECTIONS FUND ESTABLISHED PURSUANT TO CHAPTER 6, ARTICLE 2 OF THIS TITLE AND USED TO DEFRAY THE COSTS OF IMPLEMENTING AND ENFORCING THIS CHAPTER. ANY MONIES IN THIS ACCOUNT THAT ARE NOT USED TO IMPLEMENT AND ENFORCE THIS CHAPTER MAY BE USED FOR OTHER COMMISSION-APPROVED PURPOSES.

C. AN ADDITIONAL SURCHARGE OF ONE PERCENT SHALL BE IMPOSED ON CIVIL AND CRIMINAL PENALTIES AND THE PROCEEDS DEPOSITED IN THE ACCOUNT IN THE CITIZENS CLEAN ELECTIONS FUND ESTABLISHED PURSUANT TO SUBSECTION B OF THIS SECTION. THE SURCHARGE SHALL BE SUSPENDED FOR ONE TO THREE YEARS AT A TIME IF THE COMMISSION DETERMINES THAT, DURING THAT PERIOD, IT CAN PERFORM THE ACTIONS REQUIRED BY THIS CHAPTER WITHOUT THE MONIES FROM THE SURCHARGE.

16-977. Complaints; investigations; civil action

A. ANY QUALIFIED VOTER IN THIS STATE MAY FILE A VERIFIED COMPLAINT WITH THE COMMISSION AGAINST A PERSON THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER. THE COMPLAINT MUST STATE THE FACTUAL BASIS FOR BELIEVING THAT THERE HAS BEEN A VIOLATION OF THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

B. IF THE COMMISSION DETERMINES THAT THE COMPLAINT, IF TRUE, STATES THE FACTUAL BASIS FOR A VIOLATION OF THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER, THE COMMISSION SHALL INVESTIGATE THE ALLEGATIONS AND PROVIDE THE ALLEGED VIOLATOR WITH AN OPPORTUNITY TO BE HEARD.

C. IF THE COMMISSION DISMISSES AT ANY TIME THE COMPLAINT OR TAKES NO SUBSTANTIVE ENFORCEMENT ACTION WITHIN NINETY DAYS AFTER RECEIVING THE COMPLAINT, THE COMPLAINANT MAY BRING A CIVIL ACTION AGAINST THE COMMISSION TO COMPEL IT TO TAKE ENFORCEMENT ACTION, AND THE COURT SHALL REVIEW DE NOVO WHETHER THE COMMISSION'S DISMISSAL OR FAILURE TO ACT WAS REASONABLE. IN ANY MATTER IN WHICH THE CIVIL PENALTY FOR THE ALLEGED VIOLATION COULD BE GREATER THAN \$50,000, ANY CLAIM OR DEFENSE BY THE COMMISSION OF PROSECUTORIAL DISCRETION IS NOT A BASIS FOR DISMISSING OR FAILING TO ACT ON THE COMPLAINT. A COURT MAY AWARD THE PREVAILING PARTY IN A CIVIL ACTION UNDER THIS SUBSECTION ITS REASONABLE ATTORNEYS' FEES.

16-978. Legislative, county and municipal provisions

A. NOTHING IN THIS ACT PREVENTS THE LEGISLATURE, A COUNTY BOARD OF SUPERVISORS OR A MUNICIPAL GOVERNMENT FROM ENACTING OR ENFORCING ADDITIONAL OR MORE STRINGENT DISCLOSURE PROVISIONS FOR CAMPAIGN MEDIA SPENDING THAN THOSE CONTAINED IN THIS CHAPTER. ADDITIONAL OR MORE STRINGENT DISCLOSURE REQUIREMENTS FOR CAMPAIGN MEDIA SPENDING FURTHER THE PURPOSES OF THIS CHAPTER.

B. TO THE EXTENT THE PROVISIONS OF THIS CHAPTER CONFLICT WITH ANY STATE LAW, THIS CHAPTER GOVERNS.

16-979. Legal defense; standing; legal counsel

A. A POLITICAL ACTION COMMITTEE FORMED TO SUPPORT THE VOTERS' RIGHT TO KNOW ACT OR ANY OF THAT COMMITTEE'S OFFICERS MAY INTERVENE AS OF RIGHT IN ANY LEGAL ACTION BROUGHT TO CHALLENGE THE VALIDITY OF THIS CHAPTER OR ANY OF ITS PROVISIONS.

B. THE COMMISSION HAS STANDING TO DEFEND THIS CHAPTER ON BEHALF OF THIS STATE IN ANY LEGAL ACTION BROUGHT TO CHALLENGE THE VALIDITY OF THIS CHAPTER OR ANY OF ITS PROVISIONS.

C. NOTWITHSTANDING ANY LAW, THE COMMISSION HAS EXCLUSIVE AND INDEPENDENT AUTHORITY TO SELECT LEGAL COUNSEL TO REPRESENT THE COMMISSION REGARDING ITS DUTIES UNDER THIS CHAPTER AND TO DEFEND THIS CHAPTER IF ITS VALIDITY IS CHALLENGED.

Section 4. Severability

The provisions of this act are severable. If any provision of this act or application of a provision to any person or circumstance is held to be unconstitutional, the remainder of this act, and the application of the provisions to any person or circumstance, shall not be affected by the holding. The invalidated provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of this act.

Section 5. Applicability; Implementation

A. If approved by the voters, this act applies to all elections and contributions that occur after the effective date of this act.

B. If approved by the voters, the Commission shall publicize the requirements of these provisions.

C. The rights established by this Act shall be construed broadly.

PROPOSITION 308

OFFICIAL TITLE

SENATE CONCURRENT RESOLUTION 1044

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO THE CLASSIFICATION OF STUDENTS FOR TUITION PURPOSES.

TEXT OF PROPOSED AMENDMENT

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Under the power of the referendum, as vested in the Legislature, the following measure, relating to the classification of students for tuition purposes, is enacted to become valid as a law if approved by the voters and on proclamation of the Governor:

AN ACT

AMENDING SECTIONS 1-502 AND 15-1803, ARIZONA REVISED STATUTES; REPEALING SECTION 15-1825, ARIZONA REVISED STATUTES; RELATING TO THE CLASSIFICATION OF STUDENTS FOR TUITION PURPOSES.

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

Section 1. Section 1-502, Arizona Revised Statutes, is amended to read:

1-502. Eligibility for state or local public benefits; documentation; violations; classification; citizen suits; court costs and attorney fees; definition

A. Notwithstanding any other state law and to the extent ~~permitted~~ ALLOWED by federal law, any agency of this state or a political subdivision of this state that administers any state or local public benefit shall require each natural person who applies for the state or local public benefit to submit at least one of the following documents to the entity that administers the state or local public benefit demonstrating lawful presence in the United States:

1. An Arizona driver license issued after 1996 or an Arizona nonoperating identification license.
2. A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.
3. A United States certificate of birth abroad.
4. A United States passport.
5. A foreign passport with a United States visa.
6. An I-94 form with a photograph.

7. A United States citizenship and immigration services employment authorization document or refugee travel document.

8. A United States certificate of naturalization.

9. A United States certificate of citizenship.

10. A tribal certificate of Indian blood.

11. A tribal or bureau of Indian affairs affidavit of birth.

B. For the purposes of administering the Arizona health care cost containment system, documentation of citizenship and legal residence shall conform with the requirements of title XIX of the social security act.

C. To the extent ~~permitted~~ ALLOWED by federal law, an agency of this state or political subdivision of this state may allow tribal members, the elderly and persons with disabilities or incapacity of the mind or body to provide documentation as specified in section 6036 of the federal deficit reduction act of 2005 (P.L. 109-171; 120 Stat. 81) and related federal guidance in lieu of the documentation required by this section.

D. Any person who applies for state or local public benefits shall sign a sworn affidavit stating that the documents presented pursuant to subsection A of this section are true under penalty of perjury.

E. Failure to report discovered violations of federal immigration law by an employee of an agency of this state or a political subdivision of this state that administers any state or local public benefit is a class 2 misdemeanor. If that employee's supervisor knew of the failure to report and failed to direct the employee to make the report, the supervisor is guilty of a class 2 misdemeanor.

F. This section shall be enforced without regard to race, color, religion, sex, age, disability or national origin.

G. Any person who is a resident of this state has standing in any court of record to bring suit against any agent or agency of this state or its political subdivisions to remedy any violation of any provision of this section, including an action for mandamus. Courts shall give preference to actions brought under this section over other civil actions or proceedings pending in the court.

H. The court may award court costs and reasonable attorney fees to any person or any official or agency of this state or a county, city, town or other political subdivision of this state that prevails by an adjudication on the merits in a proceeding brought pursuant to this section.

I. For the purposes of this section, "state or local public benefit" has the same meaning prescribed in 8 United States Code section 1621, except that it does not include commercial or professional licenses, POSTSECONDARY EDUCATION, benefits provided by the public retirement systems and plans of this state or services widely available to the general population as a whole.

Section 2. Section 15-1803, Arizona Revised Statutes, is amended to read:

15-1803. Alien in-state student status; nonresident tuition exemption

A. An alien is entitled to classification as an in-state refugee student if such THE person has been granted refugee status in accordance with all applicable laws of the United States and has met all other requirements for domicile.

~~B. In accordance with the illegal immigration reform and immigrant responsibility act of 1996 (P.L. 104-208; 110 Stat. 3009), a person who was not a citizen or legal resident of the United States or who is without lawful immigration status is not entitled to classification as an in-state student pursuant to section 15-1802 or entitled to classification as a county resident pursuant to section 15-1802.01.~~

~~C. Each community college and university shall report on December 31 and June 30 of each year to the joint legislative budget committee the total number of students who were entitled to classification as an in-state student and the total number of students who were not entitled to classification as an in-state student under this section because the student was not a citizen or legal resident of the United States or is without lawful immigration status.~~

B. NOTWITHSTANDING ANY OTHER LAW, A STUDENT, OTHER THAN A NONIMMIGRANT ALIEN AS DESCRIBED IN 8 UNITED STATES CODE SECTION 1101(a)(15), WHO MEETS BOTH OF THE FOLLOWING REQUIREMENTS IS ELIGIBLE FOR IN-STATE TUITION AT ANY UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS OR AT ANY COMMUNITY COLLEGE AS DEFINED IN SECTION 15-1401:

1. ATTENDED ANY PUBLIC OR PRIVATE HIGH SCHOOL OPTION OR HOMESCHOOL EQUIVALENT PURSUANT TO SECTION 15-802 WHILE PHYSICALLY PRESENT IN THIS STATE FOR AT LEAST TWO YEARS.

2. GRADUATED FROM ANY PUBLIC OR PRIVATE HIGH SCHOOL OPTION OR HOMESCHOOL EQUIVALENT PURSUANT TO SECTION 15-802 WHILE PHYSICALLY PRESENT IN THIS STATE OR OBTAINED A HIGH SCHOOL EQUIVALENCY DIPLOMA IN THIS STATE.

C. PERSONS WITHOUT LAWFUL IMMIGRATION STATUS ARE ELIGIBLE FOR IN-STATE TUITION PURSUANT TO SUBSECTION B OF THIS SECTION.

Section 3. Repeal

Section 15-1825, Arizona Revised Statutes, is repealed.

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.