

ARIZONA LEGISLATIVE COUNCIL
DECEMBER 2014

**PROPOSITION 105
REQUIREMENTS**

KEEP UNTIL NOVEMBER 2016 GENERAL ELECTION

ARIZONA LEGISLATIVE COUNCIL

FOR USE IN THE FIFTY-SECOND LEGISLATURE, INCLUDING ANY SPECIAL
SESSIONS DURING 2015 AND 2016

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I. 1998 PROPOSITION 105 TABLE OF SECTIONS AFFECTED
(Updated through the Fifty-first 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.

Section	Action	Election	Fund	Type	Prop. No.	Subsequent Legislative Action
5-601.01	Repealed	2002	n/a	I	202	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	
13-901.01	Decided	1998	n/a	R	301	L99, Ch. 261, sec. 11 (amended)
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	
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)
15-191.01	Amended	2006	n/a	R	300	L98, Ch. 295, sec. 10, as amended by L03, Ch. 264, sec. 46 (repealed)

*Renumbered

15-232	Amended	2006	n/a	R	300	L07, Ch. 184, sec. 1 (amended); L13, Ch. 11, sec. 1
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)
15-979* (formerly 15-978)	Added	2002	\$	I	202	L03, Ch. 176, sec. 2 (renumbered)
15-1803	Amended	2006	n/a	R	300	
15-1825	Added	2006	n/a	R	300	
16-152	Amended	2004	n/a	I	200	L05, Ch. 98, sec. 3 (amended); L11, Ch. 339, sec. 1 (amended)
16-166	Amended	2004	n/a	I	200	L08, Ch. 273, sec. 5 (amended); L10, Ch. 209, sec. 3 (amended)
16-579	Amended	2004	n/a	I	200	L09, Ch. 173, sec. 2 (amended); L11, Ch. 331, sec. 7 (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	

*Renumbered

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)
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)
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)
17-299	Added	2002	\$	I	202	
T23, C2, A8	Added	2006	n/a	I	202	
23-362	Repealed	2006	n/a	I	202	
23-362	Added	2006	n/a	I	202	
23-363	Added	2006	n/a	I	202	
23-364	Added	2006	n/a	I	202	
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	
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	
36-2804	Added	2010	n/a	I	203	
36-2804.01	Added	2010	n/a	I	203	
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	
36-2804.05	Added	2010	n/a	I	203	
36-2804.06	Added	2010	n/a	I	203	
36-2805	Added	2010	n/a	I	203	
36-2806	Added	2010	n/a	I	203	
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)
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	
36-2815	Added	2010	n/a	I	203	
36-2816	Added	2010	n/a	I	203	
36-2817	Added	2010	\$	I	203	
36-2818	Added	2010	n/a	I	203	
36-2819	Added	2010	n/a	I	203	
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)

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)
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)

*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)
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

42-5029 (cont.)	Amended	2000	\$ (E)	R	301	(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)
42-5155	Amended	2000	\$ (D)	R	301	L06, Ch. 230, sec. 2 (amended)
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	
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)

II. 1998 PROPOSITION 105 TABLE OF SECTIONS DECIDED
(Updated through the Fifty-first Legislature, Second Regular Session)
(ALSO CONSULT TEXT AND AMENDMENTS THAT FOLLOW)

In this table:

1. "R" means the proposition was a referendum.
2. "T & R" means that the section was transferred and renumbered.
3. 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.

Section	Action	Election	Fund	Type	Prop. No.	Subsequent Legislative Action
13-3412	Decided	1998	n/a	R	300	L99, Ch. 15, sec. 4 (amended)
13-3412.01	Decided	1998	n/a	R	300	L02, Ch. 254, sec. 3 (amended)
13-3420	Decided	1998	n/a	R	301	L99, Ch. 15, sec. 5 (amended)
13-4304	Decided	1998	n/a	R	301	L99, Ch. 15, sec. 6 (amended)
13-4314	Decided	1998	n/a	R	301	L99, Ch. 15, sec. 7 (amended); L99, Ch. 203, sec. 8 (amended); L01, Ch. 324, sec. 4 (amended)

III. 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.

IV. 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.

V. 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. FEES 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 300

OFFICIAL TITLE

REFERENDUM PETITION

REFERENDUM ORDERED BY PETITION OF THE PEOPLE

AN ACT

AMENDING SECTION 13-3412, ARIZONA REVISED STATUTES; AMENDING SECTION 13-3412, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 1 OF THIS ACT; REPEALING SECTION 13-3412.01, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 34, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 13-3412.01; RELATING TO DRUG OFFENSES; PROVIDING FOR CONDITIONAL ENACTMENT.

TEXT OF THE AMENDMENT

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

Section 1. Section 13-3412, Arizona Revised Statutes, is amended to read:

13-3412. Exceptions and exemptions; burden of proof; privileged communications

A. The provisions of sections 13-3402, 13-3403, 13-3404, 13-3404.01 and 13-3405 through 13-3409 do not apply to:

1. Manufacturers, wholesalers, pharmacies and pharmacists under the provisions of sections 32-1921 and 32-1961.
2. Medical practitioners, pharmacies and pharmacists while acting in the course of their professional practice, in good faith and in accordance with generally accepted medical standards.
3. Persons who lawfully acquire and use such drugs only for scientific purposes.
4. Officers and employees of the United States, this state or a political subdivision of the United States or this state, while acting in the course of their official duties.
5. An employee or agent of a person described in paragraphs 1 through 4 of this subsection, and a registered nurse or medical technician under the supervision of a medical practitioner, while ~~such~~ THE employee, agent, nurse or technician is acting in the course of professional practice or employment, and not on his own account.
6. A common or contract carrier or warehouseman, or an employee of ~~such~~ THE carrier or warehouseman, whose possession of ~~such~~ drugs is in the usual course of business or employment.
7. Persons lawfully in possession or control of controlled substances authorized by title 36, chapter 27.
8. Persons who sell any ~~non-narcotic~~ NONNARCOTIC substance that under the federal food, drug and cosmetic act may lawfully be sold over the counter without a prescription.

~~9. The receipt, possession or use, of a controlled substance included in schedule I of section 36-2512, by any seriously ill or terminally ill patient, pursuant to the prescription of a doctor in compliance with the provisions of section 13-3412.01.~~

B. In any complaint, information or indictment and in any action or proceeding brought for the enforcement of any provision of this chapter the burden of proof of any ~~such~~ exception, excuse, defense or exemption is on the defendant.

C. In addition to other exceptions to the physician-patient privilege, information communicated to a physician in an effort to procure unlawfully a prescription-only, dangerous or narcotic drug, or to procure unlawfully the administration of ~~such~~ A PRESCRIPTION-ONLY, DANGEROUS OR NARCOTIC drug, is not a privileged communication.

Sec 2. Section 13-3412, Arizona Revised Statutes, as amended by section 1 of this act, is amended to read:

13-3412. Exceptions and exemptions; burden of proof; privileged communications

A. The provisions of sections 13-3402, 13-3403, 13-3404, 13-3404.01 and 13-3405 through 13-3409 do not apply to:

1. Manufacturers, wholesalers, pharmacies and pharmacists under the provisions of sections 32-1921 and 32-1961.

2. Medical practitioners, pharmacies and pharmacists while acting in the course of their professional practice, in good faith and in accordance with generally accepted medical standards.

3. Persons who lawfully acquire and use such drugs only for scientific purposes.

4. Officers and employees of the United States, this state or a political subdivision of the United States or this state, while acting in the course of their official duties.

5. An employee or agent of a person described in paragraphs 1 through 4 of this subsection, and a registered nurse or medical technician under the supervision of a medical practitioner, while the employee, agent, nurse or technician is acting in the course of professional practice or employment, and not on his own account.

6. A common or contract carrier or warehouseman, or an employee of the carrier or warehouseman, whose possession of the drugs is in the usual course of business or employment.

7. Persons lawfully in possession or control of controlled substances authorized by title 36, chapter 27.

8. Persons who sell any nonnarcotic substance that under the federal food, drug and cosmetic act may lawfully be sold over the counter without a prescription.

9. SERIOUSLY ILL OR TERMINALLY ILL PATIENTS WHO RECEIVE, POSSESS OR USE A SCHEDULE I DRUG PURSUANT TO THE PRESCRIPTION OF A DOCTOR IN COMPLIANCE WITH THE PROVISIONS OF SECTION 13-3412.01.

B. In any complaint, information or indictment and in any action or proceeding brought for the enforcement of any provision of this chapter the burden of proof of any exception, excuse, defense or exemption is on the defendant.

C. In addition to other exceptions to the physician-patient privilege, information communicated to a physician in an effort to procure unlawfully a prescription-only, dangerous or narcotic drug, or to procure unlawfully the administration of a prescription-only, dangerous or narcotic drug, is not a privileged communication.

Sec. 3. Repeal

Section 13-3412.01, Arizona Revised Statutes, is repealed.

~~13-3412.01. Prescribing for seriously ill and terminally ill patients; definitions~~

~~A. Notwithstanding any law to the contrary, including the federal food, drug and cosmetic act (21 United States Code sections 301 through 395) and the controlled substances act (21 United States Code sections 801 through 904), any physician who is licensed pursuant to title 32, chapter 13 or 17 may prescribe a schedule I drug to treat a debilitating disease or to relieve the pain and suffering of a seriously ill patient or terminally ill patient. In prescribing a schedule I drug pursuant to this section, the physician shall comply with professional medical standards.~~

~~B. Notwithstanding any law to the contrary, including the federal food, drug and cosmetic act (21 United States Code sections 301 through 395) and the controlled substances act (21 United States Code sections 801 through 904), a physician who is licensed pursuant to title 32, chapter 13 or 17 shall document that scientific research exists which supports the use of the schedule I drug to treat a debilitating disease or to relieve the pain and suffering of a seriously ill patient or terminally ill patient before prescribing the schedule I drug. A physician who prescribes a schedule I drug pursuant to this section shall obtain the written opinion of a second physician that the prescribing of a schedule I drug is appropriate to treat a debilitating disease or to relieve the pain and suffering of a seriously ill patient or terminally ill patient. The written opinion of the second physician shall be kept in the patient's official medical file. Before prescribing, the physician shall receive the written consent of the patient.~~

~~C. The allopathic board of medical examiners or board of osteopathic examiners in medicine and surgery may investigate any physician who fails to comply with the provisions of this section and may discipline the physician.~~

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

~~1. "Seriously ill" means suffering from a debilitating or life threatening condition.~~

~~2. "Terminally ill" means a person who is seriously ill and who will die as a result of that illness.~~

Sec. 4. Title 13, chapter 34, Arizona Revised Statutes, is amended by adding a new section 13-3412.01, to read:

13-3412.01. PRESCRIBING FOR SERIOUSLY ILL AND TERMINALLY ILL PATIENTS; DEFINITIONS

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY, INCLUDING THE FEDERAL FOOD, DRUG AND COSMETIC ACT (21 UNITED STATES CODE SECTIONS 301 THROUGH 395) AND THE CONTROLLED SUBSTANCES ACT (21 UNITED STATES CODE SECTIONS 801 THROUGH 904), ANY PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 MAY PRESCRIBE A SCHEDULE I DRUG TO TREAT A DEBILITATING DISEASE OR TO RELIEVE THE PAIN AND SUFFERING OF A SERIOUSLY ILL PATIENT OR TERMINALLY ILL PATIENT. IN PRESCRIBING A

SCHEDULE I DRUG PURSUANT TO THIS SECTION, THE PHYSICIAN SHALL COMPLY WITH PROFESSIONAL MEDICAL STANDARDS.

B. NOTWITHSTANDING ANY LAW TO THE CONTRARY, INCLUDING THE FEDERAL FOOD, DRUG AND COSMETIC ACT (21 UNITED STATES CODE SECTIONS 301 THROUGH 395) AND THE CONTROLLED SUBSTANCES ACT (21 UNITED STATES CODE SECTIONS 801 THROUGH 904), A PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 SHALL DOCUMENT THAT SCIENTIFIC RESEARCH EXISTS WHICH SUPPORTS THE USE OF THE SCHEDULE I DRUG TO TREAT A DEBILITATING DISEASE OR TO RELIEVE THE PAIN AND SUFFERING OF A SERIOUSLY ILL PATIENT OR TERMINALLY ILL PATIENT BEFORE PRESCRIBING THE SCHEDULE I DRUG. A PHYSICIAN WHO PRESCRIBES A SCHEDULE I DRUG PURSUANT TO THIS SECTION SHALL OBTAIN THE WRITTEN OPINION OF A SECOND PHYSICIAN THAT THE PRESCRIBING OF A SCHEDULE I DRUG IS APPROPRIATE TO TREAT A DEBILITATING DISEASE OR TO RELIEVE THE PAIN AND SUFFERING OF A SERIOUSLY ILL PATIENT OR TERMINALLY ILL PATIENT. THE WRITTEN OPINION OF THE SECOND PHYSICIAN SHALL BE KEPT IN THE PATIENT'S OFFICIAL MEDICAL FILE. BEFORE PRESCRIBING, THE PHYSICIAN SHALL RECEIVE THE WRITTEN CONSENT OF THE PATIENT.

C. THE ALLOPATHIC BOARD OF MEDICAL EXAMINERS OR BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY MAY INVESTIGATE ANY PHYSICIAN WHO FAILS TO COMPLY WITH THE PROVISIONS OF THIS SECTION AND MAY DISCIPLINE THE PHYSICIAN.

D. FOR THE PURPOSES OF THIS SECTION:

1. "SERIOUSLY ILL" MEANS SUFFERING FROM A DEBILITATING OR LIFE THREATENING CONDITION.

2. "TERMINALLY ILL" MEANS A PERSON WHO IS SERIOUSLY ILL AND WHO WILL DIE AS A RESULT OF THAT ILLNESS.

SEC. 5. CONDITIONAL ENACTMENT

SECTIONS 2 AND 4 OF THIS ACT DO NOT BECOME EFFECTIVE UNLESS THE UNITED STATES CONGRESS AUTHORIZES THE MEDICAL USE OF MARIJUANA OR UNLESS THE FEDERAL FOOD AND DRUG ADMINISTRATION AUTHORIZES THE MEDICAL USE OF MARIJUANA AND THE DRUG ENFORCEMENT ADMINISTRATION RESCHEDULES MARIJUANA TO A SCHEDULE OTHER THAN SCHEDULE I. THE ATTORNEY GENERAL SHALL NOTIFY THE DIRECTOR OF THE ARIZONA LEGISLATIVE COUNCIL OF THE DATE ON WHICH THE CONDITION IS MET.

PROPOSITION 301

OFFICIAL TITLE

REFERENDUM PETITION

REFERENDUM ORDERED BY PETITION OF THE PEOPLE

AN ACT

AMENDING SECTIONS 13-901.01, 13-3420, 13-4304 AND 13-4314, ARIZONA REVISED STATUTES; RELATING TO DRUG OFFENSES.

TEXT OF THE AMENDMENT

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

Sec. 2. Section 13-901.01, Arizona Revised Statutes, is amended to read:

13-901.01. Probation for persons convicted of possession and use of marijuana, a dangerous drug or a narcotic drug; treatment; prevention; education

A. ~~Notwithstanding any law to the contrary, any~~ A person who is convicted of ~~the personal~~ A FIRST OR SECOND possession or use of ~~a controlled substance as defined in section 36-2501 shall be~~ MARIJUANA IN VIOLATION OF SECTION 13-3405, SUBSECTION A, PARAGRAPH 1, POSSESSION OR USE OF A DANGEROUS DRUG IN VIOLATION OF SECTION 13-3407, SUBSECTION A, PARAGRAPH 1 OR POSSESSION OR USE OF A NARCOTIC DRUG IN VIOLATION OF SECTION 13-3408, SUBSECTION A, PARAGRAPH 1 IS eligible for probation. UNLESS ANY OF THE FOLLOWING APPLY:

1. THE PERSON HAS TWO OR MORE HISTORICAL PRIOR FELONY CONVICTIONS AS DEFINED BY SECTION 13-604 NOT INVOLVING POSSESSION OF MARIJUANA, A DANGEROUS DRUG OR A NARCOTIC DRUG; OR

2. THE PERSON HAS A HISTORICAL PRIOR CONVICTION FOR A VIOLENT OFFENSE AS DEFINED IN SECTION 13-604.04 OR AN OFFENSE INVOLVING THE INTENTIONAL OR KNOWING INFLICTION OF SERIOUS PHYSICAL INJURY OR THE DISCHARGE, USE OR THREATENING EXHIBITION OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT.

B. A PERSON ELIGIBLE FOR PROBATION PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE PLACED ON PROBATION, UNLESS THE PERSON REJECTS PROBATION, IF ANY OF THE FOLLOWING APPLY:

1. THE PERSON HAS NO HISTORICAL PRIOR FELONY CONVICTIONS; OR

2. THE PERSON HAS ONE HISTORICAL PRIOR FELONY CONVICTION AND THAT CONVICTION IS FOR POSSESSION OR USE OF MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS. ~~The court shall suspend the imposition or execution of sentence and place such person on probation.~~

~~B. Any person who has been convicted of or indicted for a violent crime as defined section 41-1604.14, subsection B shall not be eligible for probation as provided for in this section, but instead shall be sentenced pursuant to the other provisions of title 13, chapter 34.~~

~~C. Personal possession or use of a controlled substance pursuant to this act shall not include possession for sale, production, manufacturing, or transportation for sale of any controlled substance.~~

~~D. C. If a person is convicted of personal possession or use of a controlled substance as defined in section 36-2501 MARIJUANA IN VIOLATION OF SECTION 13-3405, SUBSECTION A, PARAGRAPH 1, POSSESSION OR USE OF A DANGEROUS DRUG IN~~

VIOLATION OF SECTION 13-3407, SUBSECTION A, PARAGRAPH 1 OR POSSESSION OR USE OF A NARCOTIC DRUG IN VIOLATION OF SECTION 13-3408, SUBSECTION A, PARAGRAPH 1, 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 ~~his or her~~ THE COST OF participation in the program to the extent of ~~his or her~~ THE PERSON'S financial ability.

~~E.~~ D. NOTWITHSTANDING ANY LAW TO THE CONTRARY, 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 ~~his or her~~ THE INITIAL TERMS OF probation shall have new conditions of probation AUTHORIZED PURSUANT TO SECTION 13-901 established ~~in the following manner:~~ 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.~~

~~F.~~ E. If A person WHO IS PLACED ON PROBATION PURSUANT TO THIS SECTION is convicted ~~a second time of personal possession or use of a controlled substance as defined in section 36-2501~~ OF POSSESSION OR USE OF MARIJUANA IN VIOLATION OF SECTION 13-3405, SUBSECTION A, PARAGRAPH 1, POSSESSION OR USE OF A DANGEROUS DRUG IN VIOLATION OF SECTION 13-3407, SUBSECTION A, PARAGRAPH 1 OR POSSESSION OR USE OF A NARCOTIC DRUG IN VIOLATION OF SECTION 13-3408, SUBSECTION A, PARAGRAPH 1 AND THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF ANY OFFENSE LISTED IN THIS SUBSECTION, the court may include additional conditions of probation AUTHORIZED PURSUANT TO SECTION 13-901 it deems necessary, including intensified drug treatment, community service, intensive probation, home arrest, ~~or any other action within the jurisdiction of the court.~~

~~G.~~ F. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A person who ~~has been~~ IS convicted ~~three times of personal possession or use of a controlled substance as defined in section 36-2501~~ shall MARIJUANA IN VIOLATION OF SECTION 13-3405, SUBSECTION A, PARAGRAPH 1, POSSESSION OR USE OF A DANGEROUS DRUG IN VIOLATION OF SECTION 13-3407, SUBSECTION A, PARAGRAPH 1 OR POSSESSION OR USE OF A NARCOTIC DRUG IN VIOLATION OF SECTION 13-3408, SUBSECTION A, PARAGRAPH 1 AND THE PERSON HAS PREVIOUSLY BEEN CONVICTED TWO OR MORE TIMES OF ANY OFFENSE LISTED IN THIS SUBSECTION ~~not be eligible for probation under the provisions of this section, but instead shall be sentenced pursuant to the other provisions of title 13, chapter 34.~~

Sec. 4. Section 13-3420, Arizona Revised Statutes, is amended to read:

13-3420. Unlawful substances; threshold amounts

For purposes of determining if the threshold amount is equaled or exceeded in any single offense or combination of offenses, a percentage of each substance listed by weight in section 13-3401, paragraph ~~28~~ 30, or any fraction thereof to its threshold amount shall be established. The percentages shall be added to determine if the threshold amount is equaled or exceeded. If the total of the percentages established equals or exceeds one hundred per cent, the threshold amount is equaled or exceeded. If the threshold amount is equaled or exceeded because of the application of this subsection, the person shall be sentenced as if the combination of unlawful substances consisted entirely of the unlawful substance of the greatest proportionate amount. If there are equal proportionate amounts, the person shall be sentenced as if THE unlawful substances consisted entirely of the unlawful substance constituting the highest class of offense.

Sec. 6. Section 13-4304, Arizona Revised Statutes, is amended to read:

13-4304. Property subject to forfeiture; exemptions

All property, including all interests in such property, described in a statute providing for its forfeiture is subject to forfeiture. However:

1. No vehicle used by any person as a common carrier in the transaction of business as a common carrier may be forfeited under the provisions of this chapter unless it appears that the owner or other person in charge of the vehicle was a consenting party or privy to the act or omission giving rise to forfeiture or knew or had reason to know of it.

2. No vehicle may be forfeited under the provisions of this chapter for any act or omission established by the owner to have been committed or omitted by a person other than the owner while the vehicle was unlawfully in the possession of a person other than the owner in violation of the criminal laws of this state or of the United States.

3. No property may be forfeited pursuant to section 13-3413, subsection A, paragraph 1 or 3 if the conduct giving rise to the forfeiture:

(a) Did not involve an amount of unlawful substance greater than the statutory threshold amount as defined in section 13-3401, ~~paragraph 28, and~~

(b) Was not committed for financial gain.

4. No owner's or interest holder's interest may be forfeited under this chapter if the owner or interest holder establishes all of the following:

(a) He acquired the interest before or during the conduct giving rise to forfeiture.

(b) He did not empower any person whose act or omission gives rise to forfeiture with legal or equitable power to convey the interest, as to a bona fide purchaser for value, and he was not married to any such person or if married to such person, held the property as separate property.

(c) He did not know and could not reasonably have known of the act or omission or that it was likely to occur.

5. No owner's or interest holder's interest may be forfeited under this chapter if the owner or interest holder establishes all of the following:

(a) He acquired the interest after the conduct giving rise to forfeiture.

(b) He is a bona fide purchaser for value not knowingly taking part in an illegal transaction.

(c) He was at the time of purchase and at all times after the purchase and before the filing of a racketeering lien notice or the provision of notice of pending forfeiture or the filing and notice of a civil or criminal proceeding under this title relating to the property, whichever is earlier, reasonably without notice of the act or omission giving rise to forfeiture and reasonably without cause to believe that the property was subject to forfeiture.

Sec. 7. Section 13-4314, Arizona Revised Statutes, is amended to read:

13-4314. Disposition by court

A. If no petitions for remission or mitigation or claims are timely filed or if no petitioner files a claim in the court within thirty days after the mailing of a declaration of forfeiture, the attorney for the state shall apply to the court for an order of forfeiture and allocation of forfeited property pursuant to section 13-4315. On the state's written application showing jurisdiction, notice and facts sufficient to demonstrate probable cause for forfeiture, and in cases brought pursuant to section 13-3413, subsection a, paragraph 1 or 3, probable cause to believe that the conduct giving rise to forfeiture involved an amount of unlawful substance greater than the statutory threshold amount as defined in section 13-3401, ~~paragraph 28,~~ or was committed for financial gain, the court shall order the property forfeited to the state.

B. After the court's disposition of all claims timely filed under this chapter, the state has clear title to the forfeited property and the court shall so order. Title to the forfeited property and its proceeds is deemed to have vested in the state on the commission of the act or omission giving rise to the forfeiture under this title.

C. If, in his discretion, the attorney for the state has entered into a stipulation with an interest holder that the interest holder has an interest that is exempted from forfeiture, the court, on application of the attorney for the state, may release or convey forfeited personal property to the interest holder if all of the following are true:

1. The interest holder has an interest which was acquired in the regular course of business as a financial institution within section 13-2301, subsection D, paragraph 3.

2. The amount of the interest holder's encumbrance is readily determinable and it has been reasonably established by proof made available by the attorney for the state to the court.

3. The encumbrance held by the interest holder seeking possession is the only interest exempted from forfeiture and the order forfeiting the property to the state transferred all of the rights of the owner prior to forfeiture, including rights to redemption, to the state.

4. After the court's release or conveyance, the interest holder shall dispose of the property by a commercially reasonable public sale, and within ten days of disposition shall tender to the state the amount received at disposition less the amount of the interest holder's encumbrance and reasonable expense incurred by the interest holder in connection with the sale or disposal. For the purposes of this chapter "commercially reasonable" shall be a sale or disposal that would be commercially reasonable under section 47-9504.

D. On order of the court forfeiting the subject property, the attorney for the state may transfer good and sufficient title to any subsequent purchaser or transferee, and the title shall be recognized by all courts, by this state and by all departments and agencies of this state and any political subdivision.

E. On entry of judgment for a claimant or claimants in any proceeding to forfeit property under this chapter such property or interest in property shall be returned or conveyed immediately to the claimant or claimants designated by the court. If it appears that there was reasonable cause for the seizure for forfeiture or for the filing of the notice of pending forfeiture, complaint, information or indictment, the court shall cause a finding to be entered, and the claimant is not, in such case, entitled to costs or damages, nor is the person or seizing agency that made the seizure, nor is the attorney for the state liable to suit or judgment on account of such seizure, suit or prosecution.

F. The court shall order any claimant who fails to establish that ~~his~~ THE CLAIMANT'S entire interest is exempt from forfeiture under section 13-4304 to pay the costs of any claimant who establishes that ~~his~~ THAT CLAIMANT'S entire interest is exempt from forfeiture under section 13-4304, and the state's costs and expenses of the investigation and prosecution of the matter, including reasonable attorney fees.

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.

VI. 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

* * *

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.

VII. 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.

1. 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:

(1) 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 TELE-COMMUNICATIONS 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
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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 BIENNIALY 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.

VIII. 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.

IX. 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 DEVICES 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 BIANNUAL 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 BIANNUAL 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 CONFINES 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.

X. 2008 BALLOT MEASURES

**(No statutory ballot measures were approved
by the voters in 2008.)**

XI. 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 DISPENSANRY 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 NEGLECT 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.

XII. 2012 BALLOT MEASURES

**(No statutory ballot measures were approved by
the voters in 2012.)**

XIII. 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.