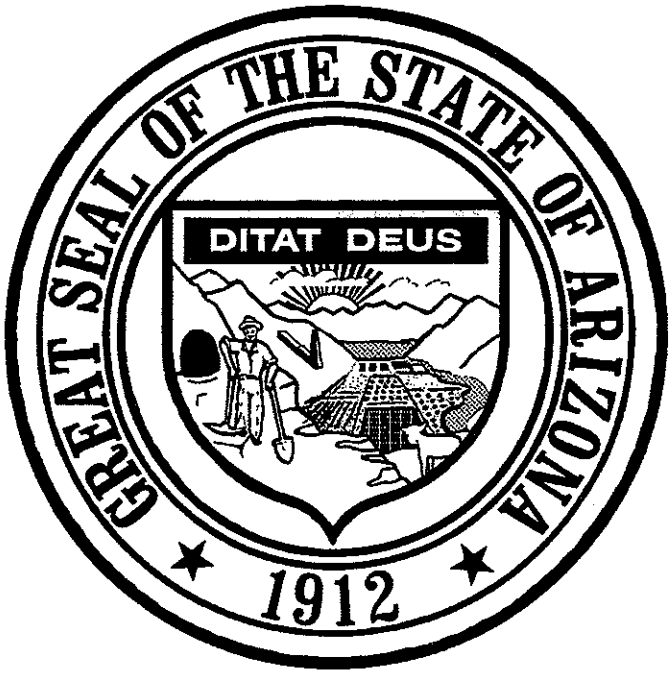
2016 BLENDS

PART I



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July 18, 2016

Pursuant to authority of section 41-1304.03, Arizona Revised Statutes, the attached sections are presented as blends. The blends are based on multiple amendment activity that occurred in the Second Regular Session.

For each blend the publisher will be instructed to indicate in the source note each of the Laws 2016 chapter versions and to include a reviser's note to explain the blend.

Unless otherwise noted, the effective date of each of the following blends is August 6, 2016.

The following blend sections are included:

1.	3-102	Chs. 221 and 232
2.	4-205.05	Chs. 161 and 285
3.	4-206.01	Chs. 161, 345 and 372
4.	4-209	Chs. 161 and 184
5.	4-244	Chs. 161 and 285
6.	5-104	Chs. 247 and 342
7.	5-111	Chs. 246 and 247
8.	6-126	Chs. 263 and 277
9.	10-1503	Chs. 322 and 354 *(Effective 1/1/17)*
10.	11-1024	Chs. 99 and 162
11.	12-284.03	Chs. 94 and 119
12.	14-5101	Chs. 268 and 270 *(Effective 1/1/17)*
13.	14-13101	Chs. 165 and 199
14.	14-13102	Chs. 165 and 199
15.	14-13103	Chs. 165 and 199
16.	14-13104	Chs. 165 and 199
17.	14-13105	Chs. 165 and 199
18.	14-13106	Chs. 165 and 199
19.	14-13107	Chs. 165 and 199
20.	14-13108	Chs. 165 and 199

21.	14-13109	Chs. 165 and 199
22.	14-13110	Chs. 165 and 199
23.	14-13111	Chs. 165 and 199
24.	14-13112	Chs. 165 and 199
25.	14-13113	Chs. 165 and 199
26.	14-13114	Chs. 165 and 199
27.	14-13115	Chs. 165 and 199
28.	14-13116	Chs. 165 and 199
29.	14-13117	Chs. 165 and 199
30.	14-13118	Chs. 165 and 199
31.	15-101	Chs. 124, 330 and 331
32.	15-183	Chs. 124 and 331
33.	15-184	Chs. 124 and 248
34.	15-203	Chs. 138 and 325
35.	15-211	Chs. 226 and 245
36.	15-341	Chs. 212 and 331
37.	15-393	Chs. 124 and 177
38.	15-824	Chs. 124 and 331
39.	15-914	Chs. 235 and 331
40.	15-991	Chs. 124 and 364
41.	15-1024	Chs. 189 and 364
42.	15-1626	Chs. 238 and 372
43.	15-1861	Chs. 249 and 250
44.	15-1864	Chs. 249 and 250
45.	15-2401	Chs. 112 and 353
46.	15-2402	Chs. 112 and 353
47.	18-545	Chs. 80 and 102
48.	19-121.01	Chs. 79 and 296 *(Effective 11/5/16)*
49.	23-101	Chs. 327 and 356
50.	23-108	Chs. 327 and 356
51.	23-108.01	Chs. 327 and 356
52.	26-102	Chs. 147 and 308
53.	28-101	Chs. 29, 171, 232, 263 and 276
54.	28-141	Chs. 171 and 232
55.	28-370	Chs. 263 and 276
56.	28-453	Chs. 263 and 276
57.	28-1095	Chs. 52 and 128
58.	28-1381	Chs. 57 and 339 *(Effective 1/1/17)*
59.	28-2008	Chs. 263 and 276
60.	28-2009	Chs. 263 and 276
61.	28-2011	Chs. 263 and 276
62.	28-2012	Chs. 263 and 276
63.	28-2013	Chs. 263 and 276
64.	28-2051	Chs. 263 and 276
65.	28-2052	Chs. 263 and 276
66.	28-2053	Chs. 263 and 276

67.	28-2058	Chs. 263 and 276
68.	28-2059	Chs. 263 and 276
69.	28-2060	Chs. 263 and 276
70.	28-2061	Chs. 263 and 276
71.	28-2063	Chs. 263 and 276
72.	28-2064	Chs. 263 and 276
73.	28-2065	Chs. 80, 263 and 276
74.	28-2091	Chs. 263 and 276
75.	28-2094	Chs. 263 and 276
76.	28-2095	Chs. 263 and 276
77.	28-2097	Chs. 263 and 276
78.	28-2131	Chs. 263 and 276
79.	28-2132	Chs. 263 and 276
80.	28-2133	Chs. 263 and 276
81.	28-2134	Chs. 263 and 276
82.	28-2135	Chs. 263 and 276
83.	28-2136	Chs. 263 and 276
84.	28-2137	Chs. 263 and 276
85.	28-2162	Chs. 263 and 276
86.	28-2165	Chs. 263 and 276
87.	28-2351	Chs. 174 and 182
88.	28-2401	Chs. 171 and 232
89.	28-2403	Chs. 174 and 182
90.	28-3511	Chs. 263 and 276
91.	28-3512	Chs. 263 and 276
92.	28-3514	Chs. 263 and 276
93.	28-4038	Chs. 171 and 232
94.	28-4302	Chs. 263 and 277
95.	28-4335	Chs. 263 and 276
96.	28-4361	Chs. 263 and 276
97.	28-4403	Chs. 263 and 276
98.	28-4409	Chs. 263 and 276
99.	28-4410	Chs. 263 and 276
100.	28-4412	Chs. 263 and 276
101.	28-4421	Chs. 263 and 276
102.	28-4423	Chs. 263 and 276
103.	28-4533	Chs. 263 and 276
104.	28-4547	Chs. 263 and 276
105.	28-4594	Chs. 263 and 276
106.	28-5101	Chs. 263 and 276
107.	28-5111	Chs. 263 and 276
108.	28-6501	Chs. 174 and 182
109.	28-6547	Chs. 121 and 372
110.	28-6991	Chs. 66, 174 and 182
111.	28-6993	Chs. 174 and 182
112.	28-9501	Chs. 171 and 232

113.	28-9502	Chs. 171 and 232
114.	28-9503	Chs. 171 and 232
115.	28-9506	Chs. 171 and 232
116.	28-9521	Chs. 171 and 232
117.	28-9522	Chs. 171 and 232
118.	28-9523	Chs. 171 and 232
119.	28-9524	Chs. 171 and 232
120.	28-9525	Chs. 171 and 232
121.	28-9526	Chs. 171 and 232
122.	28-9527	Chs. 171 and 232
123.	28-9551	Chs. 171 and 232
124.	28-9556	Chs. 171 and 232
125.	32-101	Chs. 167, 352 and 371
126.	32-102	Chs. 167, 352 and 371
127.	32-103	Chs. 352 and 371
128.	32-122	Chs. 352 and 371
129.	32-122.01	Chs. 167 and 371
130.	32-131	Chs. 352 and 371
131.	32-1121	Chs. 128 and 221
132.	32-1401	Chs. 77, 85 and 212
133.	32-1854	Chs. 77, 85 and 212
134.	32-1901	Chs. 267, 274 and 284
135.	32-1901.01	Chs. 85 and 212
136.	32-1904	Chs. 284 and 288
137.	32-2811	Chs. 39 and 98
138.	32-3021	Chs. 241 and 371
139.	33-1242	Chs. 128, 172 and 230
140.	33-1452	Chs. 253 and 315
141.	33-1803	Chs. 128, 172 and 230
142.	33-1817	Chs. 83 and 254
143.	34-461	Chs. 128 and 234
144.	35-458	Chs. 189 and 334
145.	36-136	Chs. 54, 200 and 243
146.	36-2902.01	Chs. 151 and 190
147.	36-2902.02	Chs. 151 and 190
148.	36-2907	Chs. 122 and 312
149.	36-2939	Chs. 122 and 286
150.	37-1305	Chs. 128 and 219
151.	37-1383	Chs. 128 and 234
152.	38-544	Chs. 79 and 80 *(Effective 11/5/16)*
153.	38-612	Chs. 78 and 318
154.	38-714	Chs. 121, 304 and 321
155.	38-848	Chs. 2, 121 and 178
156.	41-178	Chs. 94 and 119
157.	41-619.51	Chs. 288 and 371
158.	41-1002	Chs. 209 and 365

159.	41-1502	Chs. 114 and 372
160.	41-1504	Chs. 80, 114, 185 and 372
161.	41-1512	Chs. 30 and 372
162.	41-1750	Chs. 95 and 138 *(Effective 1/1/17)*
163.	41-1758	Chs. 288 and 371
164.	41-1758.01	Chs. 288 and 371
165.	41-2053	Chs. 150 and 205
166.	41-2402	Chs. 24 and 119
167.	41-2501	Chs. 214 and 312
168.	41-4039	Chs. 128, 236 and 253
169.	42-2003	Chs. 128 and 208 *(Effective 1/1/17)*
170.	42-5009	Chs. 156, 361 and 374
171.	42-5009	Chs. 156, 208, 361 and 374 *(Effective 1/1/17)*
172.	42-5061	Chs. 181, 361, 368 and 369
173.	42-5062	Chs. 171 and 232 *(Effective 9/1/16)*
174.	42-5063	Chs. 357 and 359
175.	42-5063	Chs. 357, 359 and 374 *(Effective 1/1/17)*
176.	42-5071	Chs. 156 and 223
177.	42-5075	Chs. 128, 156 and 371
178.	42-5159	Chs. 156, 181, 357, 359, 361 and 369
179.	42-5159	Chs. 156, 181, 357, 359, 361, 369 and 374 *(Effective 1/1/17)*
180.	42-6004	Chs. 171, 232, 369 and 373 *(Effective 9/1/16)*
181.	42-6012	Chs. 357 and 359
182.	42-6012	Chs. 357, 359 and 374 *(Effective 1/1/17)*
183.	43-1021	Chs. 156 and 214
184.	43-1022	Chs. 118 and 214
185.	43-1088	Chs. 109 and 309
186.	43-1089.01	Chs. 216 and 331
187.	44-281	Chs. 263 and 277
188.	44-282	Chs. 263 and 277
189.	44-294	Chs. 263 and 277
190.	44-1844	Chs. 31, 53, 67 and 329
191.	47-9311	Chs. 263 and 276
192.	48-805.02	Chs. 183 and 219
193.	48-807	Chs. 183 and 219
194.	49-353	Chs. 128 and 192

EXPLANATION OF BLEND
SECTION 3-102

Laws 2016, Chapters 221 and 232

Laws 2016, Ch. 221, section 1	Effective August 6, 2016 (Retroactive to July 1, 2016)
Laws 2016, Ch. 232, section 1	Effective August 6, 2016 (Retroactive to July 1, 2016)

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 221 and Ch. 232 text changes to section 3-102 are blended in the form shown on the following page.

BLEND OF SECTION 3-102
Laws 2016, Chapters 221 and 232

3-102. Department organization

A. The Arizona department of agriculture is established consisting of the following divisions:

1. The animal services division, which is responsible for milk, dairy, livestock and aquaculture regulation, the state veterinarian, meat, poultry and egg inspection and performing the administrative functions authorized or contracted pursuant to law for the Arizona beef council.

2. The plant services division, which is responsible for the fruit and vegetable standardization program and entomological services.

3. The environmental services division, which is responsible for regulating seed, feed and agricultural chemicals, including pesticides and fertilizers, and for native plant protection.

4. The weights and measures services division, which is responsible for the inspection, testing and licensing of commercial weighing, ~~and~~ measuring AND COUNTING devices. Ch. 232

5. THE PEST MANAGEMENT DIVISION, WHICH IS RESPONSIBLE FOR REGULATING PEST MANAGEMENT AND PEST MANAGEMENT SERVICES AS DEFINED IN SECTION 3-3601. Ch. 221

B. The following are established in addition to and separate from the divisions of the department:

1. A state agricultural laboratory.

2. An office of agriculture safety.

3. An office of inspections.

4. An office of commodity development and promotion.

C. The department shall have a central administrative service office providing:

1. Data processing, accounting and budgeting, records management, publications, property control and personnel services and training.

2. A program to cross-train appropriate personnel to enable them to perform similar functions or comparable work for different administrative units in the department.

EXPLANATION OF BLEND
SECTION 4-205.05

Laws 2016, Chapters 161 and 285

Laws 2016, Ch. 161, section 7	Effective August 6, 2016
Laws 2016, Ch. 285, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 161 and Ch. 285 text changes to section 4-205.05 are blended in the form shown on the following page.

BLEND OF SECTION 4-205.05
Laws 2016, Chapters 161 and 285

4-205.05. Disposal of seized or recovered liquor

A. The director may issue a temporary permit OF ANY SERIES authorizing the disposal at public auction of spirituous liquor that has been seized by any agency of this state, the federal government, any political subdivision of this state, any financial institution as defined in section 6-101 that has a security interest in a license, ~~or~~ the federal government pursuant to statute OR A TRUSTEE IN BANKRUPTCY THAT ACQUIRES THE SPIRITUOUS LIQUOR OF A DEBTOR. A bid at a public auction shall not be accepted from a licensee if the spirituous liquors offered for sale at the auction were seized OR ACQUIRED from that licensee. The director shall issue the permit only if presented with proper documents of seizure by the appropriate official OR THE APPOINTMENT OF A TRUSTEE IN BANKRUPTCY. The director may dispose of seized spirituous liquor in whole or in part by public auction, by providing the spirituous liquor to law enforcement for training AND INVESTIGATION purposes only~~, or both,~~ or by authorizing a qualified person to recycle the spirituous liquor.

Ch. 285

Ch. 161

B. Spirituous liquor with a stated expiration date on the label shall not be offered for sale at public auction after the expiration date and shall either be destroyed or disposed of as provided in this section. The licensed wholesaler that distributes the spirituous liquor brand in that sales territory may, but is not required to, accept a return of the liquor at no cost for disposal or to enable it to be returned to the supplier.

EXPLANATION OF BLEND
SECTION 4-206.01

Laws 2016, Chapters 161, 345 and 372

Laws 2016, Ch. 161, section 8	Effective August 6, 2016
Laws 2016, Ch. 345, section 1	Effective August 6, 2016
Laws 2016, Ch. 372, section 1	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 161, Ch. 345 and Ch. 372 text changes to section 4-206.01 are blended in the form shown on the following pages.

BLEND OF SECTION 4-206.01
Laws 2016, Chapters 161, 345 and 372

4-206.01. Bar, beer and wine bar or liquor store licenses; number permitted; fee; sampling privileges

A. The director shall determine the total number of spirituous liquor licenses by type and in each county. The director shall publish a listing of that information as determined by the director.

B. In each county, the director, each year, shall issue additional bar, beer and wine bar or liquor store licenses at the rate of one of each type for each additional ten thousand person increase over the population in that county as of July 1, 2010. Any licenses that have been revoked or reverted in any county after July 1, 2014 may be reissued by the director in the county of their issuance. The director may waive the issuance of any series of new, revoked or reverted licenses in a county for one year where there has been no request made to the department for the issuance of a new license of that series. For the purposes of this subsection, the population of a county is deemed to be the population estimated by the ~~office of employment and population statistics within the Arizona department of administration~~ OFFICE OF ECONOMIC OPPORTUNITY as of July 1 of each year.

Ch. 372

C. A person issued a license authorized by subsection B of this section shall pay an additional issuance fee equal to the license's fair market value that shall be paid to the state general fund. The fair market value shall be defined to mean the mean value of licenses of the same type sold on the open market in the same county during the prior twelve months, but if there are not three or more sales then the fair market value shall be determined by two appraisals furnished to the department by independent professional appraisers employed by the director.

D. The director shall employ professional appraisal services to determine the fair market value of bar, beer and wine bar or liquor store licenses.

E. If more than one person applies for an available license, a priority of applicants shall be determined by a random selection method prescribed by the director.

F. After January 1, 2011, bar licenses and beer and wine bar licenses shall be issued and used only if the clear primary purpose and actual primary use is for on-sale retailer privileges. The off-sale privileges associated with a bar license and a beer and wine bar license shall be limited to use, which is clearly auxiliary to the active primary on-sale privilege. A bar license or a beer and wine bar license shall not be issued or used if the associated off-sale use, by total retail spirituous liquor sales, exceeds thirty ~~per cent~~ PERCENT of the sales price of on-sale spirituous liquors by the licensee at that location. For dual licenses issued pursuant to a single site or where a second license is issued to a site that already has a spirituous liquor license, other than settlement licenses issued as provided by law, the applicant shall have the burden of establishing that public

Chs. 161, 345 and 372

convenience and the best interest of the community will be served by the issuance of the license.

G. The director may issue a beer and wine store license to the holder of a beer and wine bar license simultaneously at the same premises. An applicant for a beer and wine bar license and a beer and wine store license may consolidate the application and may apply for both licenses at the same time. The holder of each license shall fully comply with all applicable provisions of this title. A beer and wine bar license and beer and wine store license on the same premises shall be owned by and issued to the same licensee.

H. The director may issue a beer and wine bar license to the holder of a liquor store license issued simultaneously at the same premises. An applicant for a liquor store license and a beer and wine bar license may consolidate the application and may apply for both licenses at the same time. The holder of each license shall fully comply with all applicable provisions of this title. A liquor store license and a beer and wine bar license on the same premises shall be owned by and issued to the same licensee.

I. The director may issue a restaurant license to the holder of a beer and wine bar license issued simultaneously at the same premises. An applicant for a restaurant license and a beer and wine bar license may consolidate the application and may apply for both licenses at the same time. The holder of each license shall fully comply with all applicable provisions of this title. A restaurant license and a beer and wine bar license on the same premises shall be owned by and issued to the same licensee. The limitation set forth in subsection F of this section with respect to the off-sale privileges of the beer and wine bar licenses shall be measured against the on-sales of beer and wine sales of the establishment. For the
Ch. 161 — purposes of compliance with section 4-205.02, subsection ~~H~~ I, paragraph 2, it shall be conclusively presumed that all on premises sales of spirituous liquors are made under the authority of the restaurant license.

J. An applicant for a liquor store license or a beer and wine store license and the licensee of a liquor store license or a beer and wine store
Ch. 345 — license may apply for sampling privileges associated with the license. ~~Beer and wine store premises shall contain at least five thousand square feet in order to be eligible for sampling privileges.~~ BEER AND WINE STORE PREMISES CONTAINING LESS THAN FIVE THOUSAND SQUARE FEET MUST DEDICATE AT LEAST SEVENTY-FIVE PERCENT OF RETAIL SHELF SPACE TO THE SALE OF SPIRITUOUS LIQUOR IN ORDER TO BE ELIGIBLE FOR SAMPLING PRIVILEGES. A person desiring a sampling privilege associated with a liquor store license shall apply to the director on a form prescribed and furnished by the director. The application for sampling privileges may be filed for an existing license or may be submitted with an initial license application. The request for sampling approval, the review of the application and the issuance of approval shall be conducted under the same procedures for the issuance of a spirituous liquor license prescribed in section 4-201. After a sampling privilege has been issued for a liquor store license or a beer and wine store license, the sampling privilege shall be noted on the license itself and in the records of the department. The sampling rights associated with a license are not
Ch. 161 — transferable. The director may charge a fee for processing ~~the~~ EACH application for sampling privileges and a renewal fee as provided in this

section. A city or town shall not charge any fee relating to the issuance or renewal of a sampling privilege. Notwithstanding section 4-244, paragraph 19, a liquor store licensee or a beer and wine store licensee that holds a license with sampling privileges may provide spirituous liquor sampling subject to the following requirements:

1. Any open product shall be kept locked by the licensee when the sampling area is not staffed.

2. The licensee is otherwise subject to all other provisions of this title. The licensee is liable for any violation of this title committed in connection with the sampling.

3. The licensed retailer shall make sales of sampled products from the licensed retail premises.

4. The licensee shall not charge any customer for the sampling of any products.

5. The sampling shall be conducted under the supervision of an employee of a sponsoring distiller, vintner, brewer, wholesaler or retail licensee.

6. Accurate records of sampling products dispensed shall be retained by the licensee.

7. Sampling shall be limited to three ounces of beer or cooler-type products, one and one-half ounces of wine and one ounce of distilled spirits per person, per brand, per day.

8. The sampling shall be conducted only on the licensed premises.

K. If a beer and wine bar license and a beer and wine store license are issued at the same premises, for the purposes of reporting liquor purchases under each license, all spirituous beverages purchased for sampling are conclusively presumed to be purchased under the beer and wine bar license and all spirituous liquor sold off-sale are conclusively presumed to be purchased under the beer and wine store license.

L. The director may issue a beer and wine store license to the holder of a bar license simultaneously at the same premises. An applicant for a beer and wine store license and a bar license may consolidate the application and may apply for both licenses at the same time. The holder of each license shall fully comply with all applicable provisions of this title. A beer and wine store license and a bar license on the same premises shall be owned by and issued to the same licensee. If a beer and wine store license and a bar license are issued at the same premises, for purposes of reporting liquor purchases under each license, all off-sale beer and wine sales are conclusively presumed to be purchased under the beer and wine store license.

EXPLANATION OF BLEND
SECTION 4-209

Laws 2016, Chapters 161 and 184

Laws 2016, Ch. 161, section 10	Effective August 6, 2016
Laws 2016, Ch. 184, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 161 and Ch. 184 text changes to section 4-209 are blended in the form shown on the following pages.

BLEND OF SECTION 4-209
Laws 2016, Chapters 161 and 184

4-209. Fees for license, application, issuance, renewal and transfer; late renewal penalty; seasonal operation; surcharges

A. A fee shall accompany an application for an original license or transfer of a license, or in case of renewal, shall be paid in advance. Every license expires annually, except that a license may be renewed for a two-year period pursuant to subsection M of this section if no compliance penalties have been issued to that location during the year before the renewal. A licensee who fails to renew the license on or before the due date shall pay a penalty of one hundred fifty dollars, which the licensee shall pay with the renewal fee. A license renewal that is deposited, properly addressed and postage prepaid in an official depository of the United States mail on or before the due date shall be deemed filed and received by the department on the date shown by the postmark or other official mark of the United States postal service stamped on the envelope. If the due date falls on a Saturday, Sunday or other legal holiday, the renewal shall be considered timely if it is received by the department on the next business day. The director may waive a late renewal penalty if good cause is shown by the licensee. A licensee who fails to renew the license on or before the due date may not sell, purchase or otherwise deal in spirituous liquor until the license is renewed. A license that is not renewed within sixty days after the due date is deemed terminated. The director may renew the terminated license if good cause is shown by the licensee. An application fee for an original license or the transfer of a license shall be one hundred dollars, which shall be retained by this state.

B. Issuance fees for original licenses shall be:

1. For an in-state producer's license, to manufacture or produce spirituous liquor in this state, one thousand five hundred dollars.

2. Except as provided in paragraph 15 of this subsection, for an out-of-state producer's, exporter's, importer's or rectifier's license, two hundred dollars.

3. For a microbrewery license, three hundred dollars.

4. For a wholesaler's license, to sell spirituous liquors, one thousand five hundred dollars.

5. For a government license issued in the name of a state agency, state commission, state board, county, city, town, community college or state university or the national guard, one hundred dollars.

6. For a bar license, which is an on-sale retailer's license to sell all spirituous liquors primarily by individual portions and in the original containers, one thousand five hundred dollars.

7. For a beer and wine bar license, which is an on-sale retailer's license to sell beer and wine primarily by individual portions and in the original containers, one thousand five hundred dollars.

8. For a conveyance license issued to an operating railroad company, to sell all spirituous liquors in individual portions or in the original containers on all passenger trains operated by the railroad company, or to an operating airline company, to sell or serve spirituous liquors solely in individual portions on all passenger planes operated by the airline company, or to a boat operating in the waters of this state, to sell all spirituous liquors in individual portions or in the original containers for consumption on the boat, one thousand five hundred dollars.

9. For a liquor store license, which is an off-sale retailer's license to sell all spirituous liquors, one thousand five hundred dollars.

10. For a beer and wine store license, which is an off-sale retailer's license to sell beer and wine, one thousand five hundred dollars.

11. For a hotel-motel license issued as such, to sell and serve spirituous liquors solely for consumption on the licensed premises of the hotel or motel, one thousand five hundred dollars.

12. For a restaurant license issued as such, to sell and serve spirituous liquors solely for consumption on the licensed premises of the restaurant, one thousand five hundred dollars. FOR A PERMIT ISSUED UNDER SECTION 4-205.02, SUBSECTION H ALLOWING FOR THE SALE OF BEER FOR THE CONSUMPTION OFF THE LICENSED PREMISES PURSUANT TO SECTION 4-244, PARAGRAPH 32, SUBDIVISION (c), THE DIRECTOR MAY CHARGE A FEE.

Ch. 161

13. For a farm winery license, one hundred dollars. The director may charge a licensed farm winery a fee pursuant to section 4-205.04, subsection ~~D, E or F~~ L.

Chs. 161 and 184

14. For a club license issued in the name of a bona fide club qualified under this title to sell all spirituous liquors on-sale, one thousand dollars.

15. For an out-of-state winery that sells not more than two hundred forty gallons of wine in this state in a calendar year, twenty-five dollars.

16. The department may charge a fee for a craft distiller license.

C. The department may issue licenses with staggered renewal dates to distribute the renewal workload as uniformly as practicable throughout the twelve months of the calendar year. If a license is issued less than six months before the scheduled renewal date of the license, as provided by the department's staggered license renewal system, one-half of the annual license fee shall be charged.

D. The annual fees for licenses shall be:

1. For an in-state producer's license, to manufacture or produce spirituous liquors in this state, three hundred fifty dollars.

2. Except as provided in paragraph 15 of this subsection, for an out-of-state producer's, exporter's, importer's or rectifier's license, fifty dollars.

3. For a microbrewery license, three hundred dollars.

4. For a wholesaler's license, to sell spirituous liquors, two hundred fifty dollars.

5. For a government license issued to a county, city or town, community college or state university or the national guard, one hundred dollars.

6. For a bar license, which is an on-sale retailer's license to sell all spirituous liquors primarily by individual portions and in the original containers, one hundred fifty dollars.

7. For a beer and wine bar license, which is an on-sale retailer's license to sell beer and wine primarily by individual portions and in the original containers, seventy-five dollars.

8. For a conveyance license issued to an operating railroad company, to sell all spirituous liquors in individual portions or in the original containers on all passenger trains operated by the railroad company, or to an operating airline company, to sell or serve spirituous liquors solely in individual portions on all passenger planes operated by the airline company, or to a boat operating in the waters of this state, to sell all spirituous liquor in individual portions or in the original containers for consumption on the boat, two hundred twenty-five dollars.

9. For a liquor store license, which is an off-sale retailer's license to sell all spirituous liquors, fifty dollars.

10. For a beer and wine store license, which is an off-sale retailer's license to sell beer and wine, fifty dollars.

11. For a hotel-motel license issued as such, to sell and serve spirituous liquors solely for consumption on the licensed premises of the hotel or motel, five hundred dollars.

12. For a restaurant license issued as such, to sell and serve spirituous liquors solely for consumption on the licensed premises of the restaurant, five hundred dollars, and for a restaurant license that is permitted to continue operating as a restaurant pursuant to section 4-213, subsection E, an additional amount established by the director. The department shall transfer this amount to the state treasurer for deposit in the state general fund.

13. For a farm winery license, one hundred dollars. The director may charge a licensed farm winery an annual fee pursuant to section 4-205.04, subsection ~~D, E or F~~ L.

Chs. 161 and 184

14. For a club license issued in the name of a bona fide club qualified under this title to sell all spirituous liquors on-sale, one hundred fifty dollars.

15. For an out-of-state winery that sells not more than two hundred forty gallons of wine in this state in a calendar year, twenty-five dollars.

16. The director may charge a fee for the annual renewal of a craft distiller license.

E. Where the business of an on-sale retail licensee is seasonal, not extending over periods of more than six months in any calendar year, the licensee may designate the periods of operation, and a license may be granted for those periods only, on payment of one-half of the fee prescribed in subsection D of this section.

F. Transfer fees from person to person for licenses transferred pursuant to section 4-203, subsection C shall be three hundred dollars.

G. Transfer fees from location to location, as provided for in section 4-203, shall be one hundred dollars.

H. Assignment fees for a change of agent, as provided for in section 4-202, subsection ~~C~~ A, shall be one hundred dollars, except that where a licensee holds multiple licenses the assignment fee for the first license shall be one hundred dollars and the assignment fee for all remaining licenses transferred to the same OR A NEW agent, OR WITH THE SAME ACQUIRING PARTY OR PARTIES, shall be fifty dollars each, except that the aggregate assignment fees shall in no event exceed one thousand dollars.

Ch. 161

I. No fee shall be charged by the department for an assignment of a liquor license in probate or an assignment pursuant to the provisions of a will or pursuant to a judicial decree in a domestic relations proceeding ~~which~~ THAT assigns ownership of a business ~~which~~ THAT includes a spirituous liquor license to one of the parties in the proceeding. In the case of nontransferable licenses no fee shall be charged by the department for the issuance of a license for a licensed business pursuant to a transfer of the business in probate or pursuant to the provisions of a will or pursuant to a judicial decree in a domestic relations proceeding ~~which~~ THAT assigns ownership of the business to one of the parties in the proceeding.

Chs. 161 and 184

J. The director shall assess a surcharge of thirty dollars on all licenses prescribed in subsection D, paragraphs 6, 7 and 12 of this section. Monies from the surcharge shall be used by the department exclusively for the costs of an auditor and support staff to review compliance by applicants and licensees with the requirements of section 4-205.02, subsection E. The department shall assess the surcharge as part of the annual license renewal fee.

K. The director shall assess a surcharge of thirty-five dollars on all licenses prescribed in this section. Monies from the surcharge shall be used by the department exclusively for the costs of an enforcement program to investigate licensees who have been the subject of multiple complaints to the department. The enforcement program shall respond to complaints against licensees by neighborhood associations, by neighborhood civic groups and from municipal and county governments. The department shall assess the surcharge as part of the annual license renewal fee.

L. The director shall assess a surcharge of twenty dollars on all licenses prescribed in subsection D, paragraphs 11 and 12 of this section and thirty-five dollars on all other licenses prescribed in this section. Monies from the surcharge and from surcharges imposed pursuant to subsection K of this section shall be used by the department exclusively for the costs of a neighborhood association interaction and liquor enforcement management unit. The unit shall respond to complaints from neighborhood associations, neighborhood civic groups and local governing authorities regarding liquor violations. The director shall report the unit's activities AND THE USE OF MONIES FROM THE SURCHARGE OR SURCHARGES IMPOSED PURSUANT TO SUBSECTION K OF THIS SECTION to the board at each board meeting or as the board may direct.

Ch. 184

M. Licenses may be renewed every two years with payment of license fees that are twice the amount designated in subsection D of this section and other applicable fees. Licensees renewing every two years must comply with annual reporting requirements. The director may adopt reasonable rules to permit licensees to renew every two years.

EXPLANATION OF BLEND
SECTION 4-244

Laws 2016, Chapters 161 and 285

Laws 2016, Ch. 161, section 14	Effective August 6, 2016
Laws 2016, Ch. 285, section 2	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 161 and Ch. 285 text changes to section 4-244 are blended in the form shown on the following pages.

BLEND OF SECTION 4-244
Laws 2016, Chapters 161 and 285

4-244. Unlawful acts

It is unlawful:

1. For a person to buy for resale, sell or deal in spirituous liquors in this state without first having procured a license duly issued by the board, EXCEPT THAT THE DIRECTOR MAY ISSUE A TEMPORARY PERMIT OF ANY SERIES PURSUANT TO SECTION 4-205.05 TO A TRUSTEE IN BANKRUPTCY TO ACQUIRE AND DISPOSE OF THE SPIRITUOUS LIQUOR OF A DEBTOR. **Ch. 285**

2. For a person to sell or deal in alcohol for beverage purposes without first complying with this title.

3. For a distiller, vintner, brewer or wholesaler knowingly to sell, dispose of or give spirituous liquor to any person other than a licensee except in sampling wares as may be necessary in the ordinary course of business, except in donating spirituous liquor to a nonprofit organization ~~which~~ THAT has obtained a special event license for the purpose of charitable fund raising activities or except in donating spirituous liquor with a cost to the distiller, brewer or wholesaler of up to five hundred dollars in a calendar year to an organization that is exempt from federal income taxes under section 501(c) (3), (4), (6) or (7) of the internal revenue code and not licensed under this title. **Chs. 161 and 285**

4. For a distiller, vintner or brewer to require a wholesaler to offer or grant a discount to a retailer, unless the discount has also been offered and granted to the wholesaler by the distiller, vintner or brewer.

5. For a distiller, vintner or brewer to use a vehicle for trucking or transportation of spirituous liquors unless there is affixed to both sides of the vehicle a sign showing the name and address of the licensee and the type and number of the person's license in letters not less than three and one-half inches in height.

6. For a person to take or solicit orders for spirituous liquors unless the person is a salesman or solicitor of a licensed wholesaler, a salesman or solicitor of a distiller, brewer, vintner, importer or broker or a registered retail agent.

7. For any retail licensee to purchase spirituous liquors from any person other than a solicitor or salesman of a wholesaler licensed in this state.

8. For a retailer to acquire an interest in property owned, occupied or used by a wholesaler in the wholesaler's business, or in a license with respect to the premises of the wholesaler.

9. Except as provided in paragraphs 10 and 11 of this section, for a licensee or other person to sell, furnish, dispose of or give, or cause to be sold, furnished, disposed of or given, to a person under the legal drinking age or for a person under the legal drinking age to buy, receive, have in the person's possession or consume spirituous liquor. This paragraph shall not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.

10. For a licensee to employ a person under nineteen years of age to manufacture, sell or dispose of spirituous liquors. This paragraph shall not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.

11. For an on-sale retailer to employ a person under nineteen years of age in any capacity connected with the handling of spirituous liquors. This paragraph does not prohibit the employment by an on-sale retailer of a person under nineteen years of age who cleans up the tables on the premises for reuse, removes dirty dishes, keeps a ready supply of needed items and helps clean up the premises.

12. For a licensee, when engaged in waiting on or serving customers, to consume spirituous liquor or for a licensee or on-duty employee to be on or about the licensed premises while in an intoxicated or disorderly condition.

13. For an employee of a retail licensee, during that employee's working hours or in connection with such employment, to give to or purchase for any other person, accept a gift of, purchase for himself or consume spirituous liquor, except that:

(a) An employee of a licensee, during that employee's working hours or in connection with the employment, while the employee is not engaged in waiting on or serving customers, may give spirituous liquor to or purchase spirituous liquor for any other person.

(b) An employee of an on-sale retail licensee, during that employee's working hours or in connection with the employment, while the employee is not engaged in waiting on or serving customers, may taste samples of beer or wine not to exceed four ounces per day or distilled spirits not to exceed two ounces per day provided by an employee of a wholesaler or distributor who is present at the time of the sampling.

(c) An employee of an on-sale retail licensee, under the supervision of a manager as part of the employee's training and education, while not engaged in waiting on or serving customers may taste samples of distilled spirits not to exceed two ounces per educational session or beer or wine not to exceed four ounces per educational session, and provided that a licensee shall not have more than two educational sessions in any thirty day period.

(d) An unpaid volunteer who is a bona fide member of a club and who is not engaged in waiting on or serving spirituous liquor to customers may purchase for himself and consume spirituous liquor while participating in a scheduled event at the club. An unpaid participant in a food competition may purchase for himself and consume spirituous liquor while participating in the food competition.

(e) An unpaid volunteer of a special event licensee under section 4-203.02 may purchase and consume spirituous liquor while not engaged in waiting on or serving spirituous liquor to customers at the special event. This subdivision does not apply to an unpaid volunteer whose responsibilities include verification of a person's legal drinking age, security or the operation of any vehicle or heavy machinery.

14. For a licensee or other person to serve, sell or furnish spirituous liquor to a disorderly or obviously intoxicated person, or for a licensee or employee of the licensee to allow or permit a disorderly or obviously intoxicated person to come into or remain on or about the premises, except that a licensee or an employee of the licensee may allow an obviously intoxicated person to remain on the premises for a period of time of not to exceed thirty minutes after the state of obvious intoxication is known or should be known to the licensee in order that a nonintoxicated person may transport the obviously intoxicated person from the premises. For the purposes of this section, "obviously intoxicated" means inebriated to the extent that a person's physical faculties are substantially impaired and the impairment is shown by significantly uncoordinated physical action or significant physical dysfunction that would have been obvious to a reasonable person.

15. For an on-sale or off-sale retailer or an employee of such retailer to sell, dispose of, deliver or give spirituous liquor to a person between the hours of 2:00 a.m. and 6:00 a.m.

16. For a licensee or employee to knowingly permit any person on or about the licensed premises to give or furnish any spirituous liquor to any person under twenty-one years of age or knowingly permit any person under twenty-one years of age to have in the person's possession spirituous liquor on the licensed premises.

17. For an on-sale retailer or an employee of such retailer to allow a person to consume or possess spirituous liquors on the premises between the hours of 2:30 a.m. and 6:00 a.m.

18. For an on-sale retailer to permit an employee or for an employee to solicit or encourage others, directly or indirectly, to buy the employee drinks or anything of value in the licensed premises during the employee's working hours. No on-sale retailer shall serve employees or allow a patron of the establishment to give spirituous liquor to, purchase liquor for or drink liquor with any employee during the employee's working hours.

19. For an off-sale retailer or employee to sell spirituous liquor except in the original unbroken container, to permit spirituous liquor to be consumed on the premises or to knowingly permit spirituous liquor to be consumed on adjacent property under the licensee's exclusive control.

20. For a person to consume spirituous liquor in a public place, thoroughfare or gathering. The license of a licensee permitting a violation of this paragraph on the premises shall be subject to revocation. This paragraph does not apply to the sale of spirituous liquors on the premises of and by an on-sale retailer. This paragraph also does not apply to a person consuming beer from a broken package in a public recreation area or on private property with permission of the owner or lessor or on the walkways surrounding such private property or to a person consuming beer or wine from a broken package in a public recreation area as part of a special event or festival that is conducted under a license secured pursuant to section 4-203.02 or 4-203.03.

Chs. 161 and 285

21. For a person to have possession of or to transport spirituous liquor ~~which~~ THAT is manufactured in a distillery, winery, brewery or rectifying plant contrary to the laws of the United States and this state. Any property used in transporting such spirituous liquor shall be forfeited

to the state and shall be seized and disposed of as provided in section 4-221.

22. For an on-sale retailer or employee to allow a person under the legal drinking age to remain in an area on the licensed premises during those hours in which its primary use is the sale, dispensing or consumption of alcoholic beverages after the licensee, or the licensee's employees, know or should have known that the person is under the legal drinking age. An on-sale retailer may designate an area of the licensed premises as an area in which spirituous liquor will not be sold or consumed for the purpose of allowing underage persons on the premises if the designated area is separated by a physical barrier and at no time will underage persons have access to the area in which spirituous liquor is sold or consumed. A licensee or an employee of a licensee may require a person who intends to enter a licensed premises or a portion of a licensed premises where persons under the legal drinking age are prohibited under this section to exhibit a written instrument of identification that is acceptable under section 4-241 as a condition of entry. The director, or a municipality, may adopt rules to regulate the presence of underage persons on licensed premises provided the rules adopted by a municipality are more stringent than those adopted by the director. The rules adopted by the municipality shall be adopted by local ordinance and shall not interfere with the licensee's ability to comply with this paragraph. This paragraph does not apply:

(a) If the person under the legal drinking age is accompanied by a spouse, parent or legal guardian of legal drinking age or is an on-duty employee of the licensee.

(b) If the owner, lessee or occupant of the premises is a club as defined in section 4-101, paragraph 7, subdivision (a) and the person under the legal drinking age is any of the following:

(i) An active duty military service member.

(ii) A veteran.

(iii) A member of the United States army national guard or the United States air national guard.

(iv) A member of the United States military reserve forces.

(c) To the area of the premises used primarily for the serving of food during the hours when food is served.

23. For an on-sale retailer or employee to conduct drinking contests, to sell or deliver to a person an unlimited number of spirituous liquor beverages during any set period of time for a fixed price, to deliver more than ~~forty~~ FIFTY ounces of beer, one liter of wine or four ounces of distilled spirits in any spirituous liquor drink to one person at one time for that person's consumption or to advertise any practice prohibited by this paragraph. The provisions of this paragraph do not prohibit an on-sale retailer or employee from selling and delivering an opened, original container of distilled spirits if:

Ch. 161

(a) Service or pouring of the spirituous liquor is provided by an employee of the on-sale retailer.

(b) The employee of the on-sale retailer monitors consumption to ensure compliance with this paragraph. Locking devices may be used, but are not required.

24. For a licensee or employee to knowingly permit the unlawful possession, use, sale or offer for sale of narcotics, dangerous drugs or marijuana on the premises. As used in this paragraph, "dangerous drug" has the same meaning prescribed in section 13-3401.

25. For a licensee or employee to knowingly permit prostitution or the solicitation of prostitution on the premises.

26. For a licensee or employee to knowingly permit unlawful gambling on the premises.

27. For a licensee or employee to knowingly permit trafficking or attempted trafficking in stolen property on the premises.

28. For a licensee or employee to fail or refuse to make the premises or records available for inspection and examination as provided in this title or to comply with a lawful subpoena issued under this title.

29. For any person other than a peace officer or a member of a sheriff's volunteer posse while on duty who has received firearms training that is approved by the Arizona peace officer standards and training board, A RETIRED PEACE OFFICER AS DEFINED IN SECTION 38-1113 OR AN HONORABLY RETIRED LAW ENFORCEMENT OFFICER WHO HAS BEEN ISSUED A CERTIFICATE OF FIREARMS PROFICIENCY PURSUANT TO SECTION 13-3112, SUBSECTION T, the licensee or an employee of the licensee acting with the permission of the licensee to be in possession of a firearm while on the licensed premises of an on-sale retailer. This paragraph shall not be construed to include a situation in which a person is on licensed premises for a limited time in order to seek emergency aid and such person does not buy, receive, consume or possess spirituous liquor. This paragraph shall not apply to: Ch. 285

(a) Hotel or motel guest room accommodations.

(b) The exhibition or display of a firearm in conjunction with a meeting, show, class or similar event.

(c) A person with a permit issued pursuant to section 13-3112 who carries a concealed handgun on the licensed premises of any on-sale retailer that has not posted a notice pursuant to section 4-229.

30. For a licensee or employee to knowingly permit a person in possession of a firearm other than a peace officer or a member of a sheriff's volunteer posse while on duty who has received firearms training that is approved by the Arizona peace officer standards and training board, A RETIRED PEACE OFFICER AS DEFINED IN SECTION 38-1113 OR AN HONORABLY RETIRED LAW ENFORCEMENT OFFICER WHO HAS BEEN ISSUED A CERTIFICATE OF FIREARMS PROFICIENCY PURSUANT TO SECTION 13-3112, SUBSECTION T, the licensee or an employee of the licensee acting with the permission of the licensee to remain on the licensed premises or to serve, sell or furnish spirituous liquor to a person in possession of a firearm while on the licensed premises of an on-sale retailer. It shall be a defense to action under this paragraph if the licensee or employee requested assistance of a peace officer to remove such person. This paragraph shall not apply to: Ch. 285

(a) Hotel or motel guest room accommodations.

(b) The exhibition or display of a firearm in conjunction with a meeting, show, class or similar event.

(c) A person with a permit issued pursuant to section 13-3112 who carries a concealed handgun on the licensed premises of any on-sale retailer that has not posted a notice pursuant to section 4-229.

31. For any person in possession of a firearm while on the licensed premises of an on-sale retailer to consume spirituous liquor. This paragraph does not prohibit the consumption of small amounts of spirituous liquor by an undercover peace officer on assignment to investigate the licensed establishment.

32. For a licensee or employee to knowingly permit spirituous liquor to be removed from the licensed premises, except in the original unbroken package. This paragraph does not apply to any of the following:

Chs. 161 and 285

(a) A person who removes a bottle of wine ~~which~~ THAT has been partially consumed in conjunction with a purchased meal from licensed premises if a cork is inserted flush with the top of the bottle or the bottle is otherwise securely closed.

(b) A person who is in licensed premises that have noncontiguous portions that are separated by a public or private walkway or driveway and who takes spirituous liquor from one portion of the licensed premises across the public or private walkway or driveway directly to the other portion of the licensed premises.

Ch. 161

(c) A LICENSEE OF a bar, beer and wine bar, liquor store, beer and wine store, ~~or~~ microbrewery ~~licensee~~ OR RESTAURANT THAT HAS A PERMIT PURSUANT TO SECTION 4-205.02, SUBSECTION H who dispenses beer only in a clean container composed of a material approved by a national sanitation organization with a maximum capacity that does not exceed one gallon and not for consumption on the premises if:

(i) The licensee or the licensee's employee fills the container at the tap at the time of sale.

(ii) The container is sealed ~~with a plastic adhesive~~ and displays a government warning label.

(iii) The dispensing of that beer is not done through a drive-through or walk-up service window.

~~The department shall review the effects of this subdivision and submit a report by July 1, 2015 on the effects of this subdivision to the governor, the speaker of the house of representatives and the president of the senate. The department shall provide a copy of this report to the secretary of state.~~

33. For a person who is obviously intoxicated to buy or attempt to buy spirituous liquor from a licensee or employee of a licensee or to consume spirituous liquor on licensed premises.

34. For a person under twenty-one years of age to drive or be in physical control of a motor vehicle while there is any spirituous liquor in the person's body.

35. For a person under twenty-one years of age to operate or be in physical control of a motorized watercraft that is underway while there is any spirituous liquor in the person's body. For the purposes of this paragraph, "underway" has the same meaning prescribed in section 5-301.

36. For a licensee, manager, employee or controlling person to purposely induce a voter, by means of alcohol, to vote or abstain from voting for or against a particular candidate or issue on an election day.

37. For a licensee to fail to report an occurrence of an act of violence to either the department or a law enforcement agency.

38. For a licensee to use a vending machine for the purpose of dispensing spirituous liquor.

39. For a licensee to offer for sale a wine carrying a label including a reference to Arizona or any Arizona city, town or geographic location unless at least seventy-five ~~per cent~~ PERCENT by volume of the grapes used in making the wine were grown in Arizona.

Chs. 161 and 285

40. For a retailer to knowingly allow a customer to bring spirituous liquor onto the licensed premises, except that an on-sale retailer may allow a wine and food club to bring wine onto the premises for consumption by the club's members and guests of the club's members in conjunction with meals purchased at a meeting of the club that is conducted on the premises and that at least seven members attend. An on-sale retailer who allows wine and food clubs to bring wine onto its premises under this paragraph shall comply with all applicable provisions of this title and any rules adopted pursuant to this title to the same extent as if the on-sale retailer had sold the wine to the members of the club and their guests. For the purposes of this paragraph, "wine and food club" means an association that has more than twenty bona fide members paying at least six dollars per year in dues and that has been in existence for at least one year.

41. For a person under twenty-one years of age to have in the person's body any spirituous liquor. In a prosecution for a violation of this paragraph:

(a) Pursuant to section 4-249, it is a defense that the spirituous liquor was consumed in connection with the bona fide practice of a religious belief or as an integral part of a religious exercise and in a manner not dangerous to public health or safety.

(b) Pursuant to section 4-226, it is a defense that the spirituous liquor was consumed for a bona fide medicinal purpose and in a manner not dangerous to public health or safety.

42. For an employee of a licensee to accept any gratuity, compensation, remuneration or consideration of any kind to either:

(a) Permit a person who is under twenty-one years of age to enter any portion of the premises where that person is prohibited from entering pursuant to paragraph 22 of this section.

(b) Sell, furnish, dispose of or give spirituous liquor to a person who is under twenty-one years of age.

43. For a person to purchase, offer for sale or use any device, machine or process ~~which~~ THAT mixes spirituous liquor with pure oxygen or another gas to produce a vaporized product for the purpose of consumption by inhalation or to allow patrons to use any item for the consumption of vaporized spirituous liquor.

Chs. 161 and 285

44. For a retail licensee or an employee of a retail licensee to sell spirituous liquor to a person if the retail licensee or employee knows the person intends to resell the spirituous liquor.

45. Except as authorized by paragraph 32, subdivision (c) of this section, for a person to reuse a bottle or other container authorized for use by the laws of the United States or any agency of the United States for the packaging of distilled spirits or for a person to increase the original contents or a portion of the original contents remaining in a liquor bottle or other authorized container by adding any substance.

EXPLANATION OF BLEND
SECTION 5-104

Laws 2016, Chapters 247 and 342

Laws 2016, Ch. 247, section 1	Effective May 13, 2016
Laws 2016, Ch. 342, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 247 and Ch. 342 text changes to section 5-104 are blended in the form shown on the following pages.

BLEND OF SECTION 5-104
Laws 2016, Chapters 247 and 342

5-104. Arizona racing commission; director; department; powers and duties

A. The commission shall:

1. Issue racing dates.

2. Prepare and adopt complete rules to govern the racing meetings as may be required to protect and promote the safety and welfare of the animals participating in racing meetings, to protect and promote public health, safety and the proper conduct of racing and pari-mutuel wagering and any other matter pertaining to the proper conduct of racing within this state.

3. Conduct hearings on applications for permits and approve permits and shall conduct rehearings on licensing and regulatory decisions made by the director as required pursuant to rules adopted by the commission.

4. Conduct all reviews of applications to construct capital improvements at racetracks as provided in this chapter.

5. Adopt rules governing the proper and humane methods for the disposition and transportation of dogs by breeders, kennels or others.

B. The director shall license personnel and shall regulate and supervise all racing meetings held and pari-mutuel wagering conducted in this state and cause the various places where racing meetings are held and wagering is conducted to be visited and inspected on a regular basis. The director may delegate to stewards any of the director's powers and duties as are necessary to fully carry out and effectuate the purposes of this chapter. The director shall exercise immediate supervision over the department Ch. 342 —~~of racing~~. The director is subject to ongoing supervision by the commission, and the commission may approve or reject decisions of the director in accordance with rules established by the commission.

C. The commission or the department is authorized to allow stewards, with the written approval of the director, to require a jockey, apprentice jockey, sulky driver, groom, horseshoer, outrider, trainer, assistant trainer, exercise rider, pony rider, starter, assistant starter, jockey's agent, veterinarian, assistant veterinarian, cool-out, lead-out, paddock employee, security or maintenance worker, official or individual licensed in an occupational category whose role requires direct hands-on contact with horses or greyhounds, while on the grounds of a permittee, to submit to a test if the stewards have reason to believe the licensee is under the influence of or unlawfully in possession of any prohibited substance regulated by title 13, chapter 34.

D. The department shall employ the services of the office of administrative hearings to conduct hearings on matters requested to be heard by the director or the commission for the department except for those rehearings that are required by the terms of this chapter to be conducted by the commission. Any person adversely affected by a decision of a steward or

by any other decision of the department may request a hearing on the decision. The decision of the administrative law judge becomes the decision of the director unless rejected or modified by the director within thirty days. The commission may hear any appeal of a decision of the director in accordance with title 41, chapter 6, article 10.

E. The department may visit and investigate the offices, tracks or places of business of any permittee and place in those offices, tracks or places of business expert accountants and other persons as it deems necessary for the purpose of ascertaining that the permittee or any licensee is in compliance with the rules adopted pursuant to this article.

F. The department shall establish and collect the following licensing fees and regulatory assessments, which shall not be reduced ~~for hardship tax credits pursuant to section 5-111, subsection I or~~ for capital improvements pursuant to section 5-111.02 or 5-111.03:

Ch. 247

1. For each racing license issued, a license fee.

2. From the purse accounts provided for in section 5-111, a regulatory assessment to pay for racing animal medication testing, animal safety and welfare.

3. From each permittee, a regulatory assessment for each day of dark day simulcasting conducted in excess of the number of live racing days conducted by the permittee.

4. From each commercial racing permittee, a regulatory assessment payable from amounts deducted from pari-mutuel pools by the permittee, in addition to the amounts the permittee is authorized to deduct pursuant to section 5-111, subsection C from amounts wagered on live and simulcast races from in-state and out-of-state wagering handled by the permittee.

G. The commission shall establish financial assistance procedures for promoting adoption of racing greyhounds as domestic pets and for promoting adoption of retired racehorses. The provision of financial assistance to nonprofit enterprises for the purpose of promoting adoption of racing greyhounds as domestic pets and for the purpose of promoting adoption of retired racehorses is contingent on a finding by the commission that the program presented by the enterprise is in the best interest of the racing industry and this state. On a finding by the commission, the commission is authorized to make grants to nonprofit enterprises whose programs promote adoption of racing greyhounds or adoption of retired racehorses. The commission shall develop an application process. The commission shall require an enterprise to report to the commission on the use of grants under this subsection. Financial assistance for nonprofit enterprises for the purpose of promoting adoption of racing greyhounds as domestic pets under this subsection shall not exceed the amount collected for license fees under subsection F of this section for greyhound racing kennels, farms or other operations where greyhounds are raised for the purpose of dog racing. Financial assistance for nonprofit enterprises that promote adoption of retired racehorses under this subsection shall not exceed the amount of retired racehorse adoption surcharges collected pursuant to this subsection. The commission shall collect a retired racehorse adoption surcharge in addition to each civil penalty assessed in connection with horse or harness racing pursuant to this article. The amount of the retired racehorse

Chs. 247 and 342 — adoption surcharge shall be five ~~per cent~~ PERCENT of the amount collected for each applicable civil penalty.

H. A license is valid for the period established by the commission, but not to exceed three years, except for a temporary license issued pursuant to section 5-107.01, subsection F. The licensing period for horse racing shall begin July 1. The licensing period for greyhound racing shall begin February 1.

I. On application in writing by an objector to any decision of track stewards, made within three days after the official notification to the objector of the decision complained of, the department or administrative law judge shall review the objection. In the case of a suspension of a license by the track stewards, the suspension shall run for a period of not more than six months. Before the end of this suspension period, filing an application for review is not cause for reinstatement. If at the end of this suspension period the department or administrative law judge has not held a hearing to review the decision of the stewards, the suspended license shall be reinstated until the department or administrative law judge holds a hearing to review the objection. Except as provided in section 41-1092.08, subsection H, a final decision of the commission is subject to judicial review pursuant to title 12, chapter 7, article 6.

J. The commission or the director may issue subpoenas for the attendance of witnesses and the production of books, records and documents relevant and material to a particular matter before the commission or department and the subpoenas shall be served and enforced in accordance with title 41, chapter 6, article 10.

K. Any member of the commission, the administrative law judge or the director or the director's designee may administer oaths, and the oaths shall be administered to any person who appears before the commission to give testimony or information pertaining to matters before the commission.

L. The commission shall adopt rules that require permittees to retain for three months all official race photographs and videotapes. The department shall retain all photographs and videotapes that are used as evidence in an administrative proceeding until the conclusion of the proceeding and any subsequent judicial proceeding. All photographs and videotapes must be available to the public on request, including photographs and videotapes of races concerning which an objection is made, regardless of whether the objection is allowed or disallowed.

M. The director may establish a management review section for the development, implementation and operation of a system of management reports and controls in major areas of department operations, including licensing,
Ch. 342 — work load management and staffing, and enforcement of ~~the provisions of~~ this article and the rules of the commission.

N. In cooperation with the department of public safety, the director shall establish a cooperative fingerprint registration system. Each applicant for a license or permit under this article or any other person who has a financial interest in the business or corporation making the application shall submit to fingerprint registration as part of the background investigation conducted pursuant to section 5-108. The cooperative fingerprint registration system shall be maintained in an updated form using information from available law enforcement sources and shall

Chs. 247 and 342 — provide current information to the director ~~upon~~ ON request as to the fitness of each racing permittee and each racing licensee to engage in the racing industry in this state.

O. The director shall develop and require department staff to use uniform procedural manuals in the issuance of any license or permit under this article and in the enforcement of this article and the rules adopted under this article.

P. The director shall submit an annual report containing operational and economic performance information as is necessary to evaluate the department's budget request for the forthcoming fiscal year to the governor, the speaker of the house of representatives, the president of the senate and the Arizona state library, archives and public records no later than September 30 each year. The annual report shall be for the preceding fiscal year and shall contain performance information as follows:

1. The total state revenues for the previous fiscal year from the overall pari-mutuel handle with an itemization for each dog racing meeting, each horse racing meeting, each harness racing meeting and each additional wagering facility.

2. The total state revenues for the previous fiscal year from the regulation of racing, including licensing fees assessed pursuant to subsection F of this section and monetary penalties assessed pursuant to section 5-108.02.

3. The amount and use of capital improvement funds pursuant to sections 5-111.02 and 5-111.03 that would otherwise be state revenues.

4. The number of licenses and permits issued, renewed, pending and revoked during the previous fiscal year.

5. The investigations conducted during the previous fiscal year and any action taken as a result of the investigations.

6. The department budget for the immediately preceding three fiscal years, including the number of full-time, part-time, temporary and contract employees, a statement of budget needs for the forthcoming fiscal year and a statement of the minimum staff necessary to accomplish these objectives.

7. Revenues generated for this state for the preceding fiscal year by persons holding horse, harness and dog racing permits.

8. Recommendations for increasing state revenues from the regulation of the racing industry while maintaining the financial health of the industry and protecting the public interest.

Q. The commission may certify animals as Arizona bred or as Arizona stallions. The commission may delegate this authority to a breeders' association it contracts with for these purposes. The commission may authorize the association, racing organization or department to charge and collect a reasonable fee to cover the cost of breeding or ownership certification or transfer of ownership for racing purposes.

R. The department has responsibility for the collection and accounting of revenues for the state boxing and mixed martial arts commission,
Ch. 342 — including~~, but not limited to,~~ licensing fees required by section 5-230, the levy of the tax on gross receipts imposed by section 5-104.02 and cash deposited pursuant to section 5-229. All revenues collected pursuant to this subsection, from whatever source, shall be reported and deposited pursuant to section 5-104.02, subsection C, except that licensing fees required by

section 5-230 shall be deposited in the racing regulation fund established by section 5-113.01. The director shall adopt rules as necessary to accomplish the purposes of this subsection and chapter 2, article 2 of this title.

S. The commission may obtain the services of the office of administrative hearings on any matter that the commission is empowered to hear.

Chs. 247 and 342

T. Notwithstanding any other rule or law, ~~upon~~ ON application by a dog racing permittee, the director may reduce the number of kennels required for any race to not less than five kennels.

U. The department may adopt rules pursuant to title 41, chapter 6 to carry out the purposes of this article, ensure the safety and integrity of racing in this state and protect the public interest.

EXPLANATION OF BLEND
SECTION 5-111

Laws 2016, Chapters 246 and 247

Laws 2016, Ch. 246, section 3 — Effective August 6, 2016

Laws 2016, Ch. 247, section 2 — Effective May 13, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 246 and Ch. 247 text changes to section 5-111 are blended in the form shown on the following pages.

The Laws 2016, Chapter 246 version of section 5-111 made a technical change in subsection B, fourth sentence. The Ch. 247 version struck that sentence in subsection B. Since this would not produce a substantive change, the blend version reflects the Ch. 247 version.

BLEND OF SECTION 5-111
Laws 2016, Chapters 246 and 247

5-111. Wagering percentage to permittee and state; exemptions

A. The commission shall prescribe rules governing wagering on races under the system known as pari-mutuel wagering. Wagering shall be conducted by a permittee only by pari-mutuel wagering and only on the dates for which racing or dark day simulcasting has been authorized by the commission. Wagering for a licensed racing meeting shall be conducted by a commercial live-racing permittee only within an enclosure in which authorized racing takes place and, in counties having a population of less than five hundred thousand persons or at least one million five hundred thousand persons, at those additional facilities that are owned or leased by a permittee, that are approved by the commission and that are used by a permittee for handling wagering as part of the pari-mutuel system of the commercial live-racing permittee. In all other counties, wagering may also be conducted at additional facilities that are owned or leased by a commercial live-racing permittee who is licensed to conduct live racing in those counties or, UNTIL JANUARY 1, 2019, who has the consent of all commercial permittees currently licensed to conduct live racing in those counties[,] and that are used by a permittee for handling wagering and as part of the pari-mutuel system of the commercial live-racing permittee. BEGINNING JANUARY 1, 2019, CONSENT OF COMMERCIAL PERMITTEES LICENSED TO CONDUCT LIVE RACING IN THOSE COUNTIES IS NOT REQUIRED. FROM AND AFTER DECEMBER 31, 2016, ANY AGREEMENT CONCERNING SIMULCASTING THAT IS EXECUTED BETWEEN A PERMITTEE THAT CONDUCTED LIVE DOG RACING IN 2016 AND A HORSE RACING FACILITY THAT IS LOCATED IN A COUNTY WITH A POPULATION OF MORE THAN THREE MILLION PERSONS SHALL PROVIDE THAT TWENTY PERCENT OF THE COMMISSION FEE PAID TO A PERMITTEE THAT CONDUCTED LIVE DOG RACING IN 2016 UNDER THAT AGREEMENT BE DISTRIBUTED TO THE RECOGNIZED HORSEMEN'S ASSOCIATION THAT REPRESENTS HORSEMEN PARTICIPATING IN RACE MEETS IN THIS STATE. If the additional facilities have not been used for authorized racing before their use for handling wagering, a permittee shall not use the facilities for handling wagering before receiving approval for use by the governing body of the city or town, if located within the corporate limits, or by the board of supervisors, if located in an unincorporated area of the county. A permittee may televise any live or simulcast races received at the permittee's racing enclosure to the additional facilities at the times the races are conducted or received at the permittee's enclosure. For the purpose of section 5-110, subsection C only, a race on which wagering is permitted under this subsection shall be deemed to also occur at the additional facility in the county in which the additional facility is located, and shall be limited in the same manner as actual live racing in that county. For the purpose of subsections B and C of this section, the wagering at the additional facility shall be deemed to occur in the county in which the additional facility is located.

Ch. 246

Ch. 246 B. UNTIL JANUARY 1, 2017, during the period of any permit for dog racing in any county, the state shall receive five and one-half ~~per cent~~ PERCENT of all monies handled in the pari-mutuel pool operated by the permittee, to be paid daily during the racing meeting. In all counties having a population of one million five hundred thousand persons or more, four and three-quarters ~~per cent~~ PERCENT of the gross amount of monies handled in a pari-mutuel pool shall be deducted from the pari-mutuel pool and shall be deposited daily into a trust account for the payment of purse amounts. In counties having a population of less than one million five hundred thousand persons, four ~~per cent~~ PERCENT of the gross amount of monies handled in a pari-mutuel pool shall be deducted from the pari-mutuel pool and shall be deposited daily in a trust account for the payment of purse amounts.

Chs. 246 and 247

Ch. 247 ~~In addition, twenty-five per cent of any reduction in pari-mutuel taxes each year resulting from the application of the hardship tax reduction credit determined pursuant to subsection I of this section shall be deposited in the trust account for supplementing purse amounts in an equitable manner over the racing meeting as determined by the commission.~~ Notwithstanding any other provision of this subsection, the percentage paid by a permittee to the state does not apply to monies handled in a pari-mutuel pool for wagering on simulcasts of out-of-state races. During a week in which a permittee conducts live racing at the permittee's racetrack enclosure, the permittee shall deduct from monies handled in a pari-mutuel pool for wagering on simulcasts of out-of-state races and deposit daily in a trust account for the payment of purse amounts the same percentage of the pari-mutuel pool as is deducted for purses for live races unless otherwise agreed by written contract. Unless otherwise agreed by written contract, if the commission reasonably determines that live racing will not be conducted within one calendar year at a racetrack enclosure, the permittee shall deduct from monies handled in a pari-mutuel pool for wagering on simulcasts of out-of-state races and deposit daily in a trust account to supplement purses of any dog track where live racing is conducted within a one hundred mile radius. The supplementing provided by this subsection shall be in the most equitable manner possible as determined by the commission. The permittee shall allocate the funds in the trust account and pay purse amounts at least biweekly. The permittee, at the permittee's discretion, may pay additional amounts to augment purses from the amounts received by the permittee under this subsection.

Ch. 246 C. During the period of a permit for horse~~,~~ OR harness ~~or dog~~ racing, the permittee that conducts the meeting may deduct up to and including twenty-five ~~per cent~~ PERCENT of the total amount handled in the regular pari-mutuel pools and, at the permittee's option, may deduct up to and including thirty ~~per cent~~ PERCENT of the total amount handled in the exacta,

Chs. 246 and 247

Ch. 246 daily double, quinella and other wagering pools involving two horses ~~or dogs~~,

Chs. 246 and 247 and up to and including thirty-five ~~per cent~~ PERCENT of the total amount handled in the trifecta or other wagering pools involving more than two horses ~~or dogs~~ in one or more races. The amounts if deducted shall be distributed as prescribed in subsection D of this section and section 5-111.02 for horse or harness racing permittees. UNTIL JANUARY 1, 2017, for dog racing permittees, unless otherwise agreed by written contract, the permittee shall allocate to purses from amounts wagered on live racing

Ch. 246

conducted in this state an amount equal to fifty ~~per cent~~ PERCENT of any amounts that are deducted pursuant to this subsection in excess of twenty ~~per cent~~ PERCENT of the total amount handled in the regular pari-mutuel pools, twenty-one ~~per cent~~ PERCENT of the total amount handled in the exacta, daily double, quinella and other wagering pools involving two dogs or twenty-five ~~per cent~~ PERCENT of the total amount handled in the trifecta or other wagering pools involving more than two dogs in one or more races. For dog racing permittees the percentages prescribed in subsection B of this section shall be distributed to the state and to the trust account for payment of purse amounts and the permittee shall receive the balance. If the dog racing permittee has made capital improvements, the distribution to the state shall be adjusted as provided in section 5-111.03. Monies deposited in the trust account for payment of purses pursuant to this subsection shall be in addition to amounts deposited pursuant to subsection B of this section.

Chs. 246 and 247

D. During the period of a permit for horse or harness racing, the state shall receive two ~~per cent~~ PERCENT of the gross amount of the first one million dollars of the daily pari-mutuel pools and five ~~per cent~~ PERCENT of the gross amount exceeding one million dollars of the daily pari-mutuel pools. Notwithstanding any other provision of this subsection, the percentage paid by a permittee to the state does not apply to monies handled in a pari-mutuel pool for wagering on simulcasts of out-of-state races. The permittee shall retain the balance of the total amounts deducted pursuant to subsection C of this section. Of the amount retained by the permittee, minus the amount payable to the permittee for capital improvements pursuant to section 5-111.02, breakage distributed to the permittee pursuant to section 5-111.01 and other applicable state, county and city transaction privilege or other taxes, unless otherwise agreed by written contract, fifty ~~per cent~~ PERCENT shall be used for purses. Unless otherwise agreed by written contract, fifty ~~per cent~~ PERCENT of the revenues received by the permittee from simulcasting races as provided in section 5-112, net of costs of advertising, shall be utilized as a supplement to the general purse structure. All amounts that are deducted from the pari-mutuel pool for purses pursuant to this section and sections 5-111.01, 5-112 and 5-114 and revenues that are received from simulcasting and that are to be used as a supplement to the general purse structure pursuant to this subsection shall be deposited daily into a trust account for the payment of purse amounts.

Chs. 246 and 247

Chs. 246 and 247

E. Any county fair racing association may apply to the commission for one racing meeting each year and the commission shall set the number of days and the dates of the meetings. A racing meeting conducted under this subsection shall be operated in such manner so that all profits accrue to the county fair racing association, and the county fair racing association may deduct from the pari-mutuel pool the same amount as prescribed in subsection C of this section. All county fair racing meetings, whether conducted by county fair racing associations under this subsection or by an individual, corporation or association other than a county fair racing association, are exempt from the payment to the state of the percentage of the pari-mutuel pool prescribed by subsection D of this section and are also exempt from the provisions of section 5-111.01.

F. Monies from charity racing days are exempt from the state percentage of the pari-mutuel pool prescribed in this section.

G. Sums held by a permittee for payment of unclaimed pari-mutuel tickets are exempt from the revised Arizona unclaimed property act, title 44, chapter 3.

H. All of the amounts received by a permittee from the gross amount of monies handled in a pari-mutuel pool and all amounts held by a permittee for payment of purses pursuant to this section and sections 5-111.01, 5-112 and 5-114 are exempt from the provisions of title 42, chapter 5.

~~I. On August 1 of each year, a permittee is eligible for a hardship tax credit pursuant to this subsection. For purposes of this subsection, "permittee" shall include any person who has succeeded to the interest of a permittee and who is authorized to conduct racing at the facility for which the permit was issued. The department shall determine the amount of any hardship tax credit as follows:~~

~~1. Determine the percentage decrease in pari-mutuel wagering by determining the percentage decrease in pari-mutuel wagering between the base period amount and the amount of pari-mutuel wagering in the previous fiscal year at the racetrack and the additional wagering facilities operated by the permittee. The base period amount is the highest total annual pari-mutuel wagering at the racetrack and all additional wagering facilities as reported to the department for fiscal year 1989-1990, 1990-1991, 1991-1992, 1992-1993 or 1993-1994.~~

Ch. 247

~~2. Determine the permittee's hardship tax credit by multiplying the total pari-mutuel tax due as a result of wagering at the racetrack and all additional wagering facilities for the previous fiscal year before applying any hardship tax credit amount by the percentage decrease in pari-mutuel wagering determined pursuant to paragraph 1 of this subsection and multiplying the result by three.~~

~~3. The permittee's pari-mutuel tax due as otherwise determined under subsections B and D of this section shall be reduced for the current period and any future periods by an amount equal to the amount of the hardship tax credit determined pursuant to this subsection. The hardship tax credit is in addition to any other tax exemptions, rebates and credits.~~

EXPLANATION OF BLEND
SECTION 6-126

Laws 2016, Chapters 263 and 277

Laws 2016, Ch. 263, section 1	Effective August 6, 2016
Laws 2016, Ch. 277, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 277 text changes to section 6-126 are blended in the form shown on the following pages.

BLEND OF SECTION 6-126
Laws 2016, Chapters 263 and 277

6-126. Application fees for financial institutions and enterprises

A. The following nonrefundable fees are payable to the department with the filing of the following applications:

1. To apply for a banking permit, five thousand dollars.

2. To apply for an amendment to a banking or savings and loan association permit, one thousand dollars.

3. To establish each banking branch office, seven hundred fifty dollars.

4. To move a banking office to other than an established office of a bank, one thousand dollars.

5. To apply for a savings and loan association permit, five thousand dollars.

6. To establish each savings and loan association branch office, one thousand five hundred dollars.

7. To move an office of a savings and loan association to other than an established office, one thousand dollars.

8. To organize and establish a credit union, one hundred dollars.

9. To establish each credit union branch or to move a credit union office to other than an established office of a credit union, two hundred fifty dollars.

10. To organize and establish any other financial institutions for which an application or investigation fee is not otherwise provided by law, two thousand five hundred dollars.

11. To acquire control of a financial institution, other than a consumer lender, five thousand dollars.

12. To apply for a trust company license, five thousand dollars.

13. To apply for a commercial mortgage banker, mortgage banker, escrow agent or consumer lender license, one thousand five hundred dollars.

14. To apply for a mortgage broker, commercial mortgage broker, sales finance company or debt management company license, eight hundred dollars.

15. To apply for a collection agency license, one thousand five hundred dollars.

16. To apply for a deferred presentment company license, one thousand dollars.

Chs. 263 and 277

~~17. To apply for a motor vehicle dealer license, three hundred dollars.~~

~~18.~~ 17. To apply for a branch office of an escrow agent, consumer lender, commercial mortgage banker, mortgage banker, trust company, money

transmitter, collection agency or deferred presentment company, five hundred dollars.

~~19.~~ 18. To apply for a branch office of a mortgage broker, commercial mortgage broker, debt management company or sales finance company, two hundred fifty dollars.

~~20.~~ 19. To apply for approval of the articles of incorporation of a business development corporation, five hundred dollars.

~~21.~~ 20. To apply for approval for the merger or consolidation of two or more financial institutions, five thousand dollars per institution.

~~22.~~ 21. To apply for approval to convert from a national bank or federal savings and loan charter to a state chartered institution, five thousand dollars.

~~23.~~ 22. To apply for approval to convert from a federal credit union to a state chartered credit union, one thousand dollars.

~~24.~~ 23. To apply for approval to merge or consolidate two or more credit unions, five hundred dollars per credit union.

~~25.~~ 24. To move an established office of an enterprise to other than an established office, fifty dollars.

~~26.~~ 25. To issue a duplicate or replace a lost enterprise's license, one hundred dollars.

~~27.~~ 26. To change a responsible person on a mortgage broker's, commercial mortgage broker's, commercial mortgage banker's or a mortgage banker's license, two hundred fifty dollars.

~~28.~~ 27. To change an active manager on a collection agency license or a manager of a money transmitter branch office license, two hundred fifty dollars.

~~29.~~ 28. To change the licensee name on a financial institution or enterprise license, not more than two hundred fifty dollars.

~~30.~~ 29. To apply for a money transmitter license, one thousand five hundred dollars plus twenty-five dollars for each branch office and authorized delegate to a maximum of four thousand five hundred dollars.

~~31.~~ 30. To acquire control of any money transmitter or controlling person pursuant to chapter 12 of this title, two thousand five hundred dollars.

~~32.~~ 31. To receive the following publications:

(a) Quarterly bank and savings and loan statement of condition, not more than ten dollars per copy.

(b) Monthly summary of actions report, not more than five dollars per copy.

(c) A list of licensees, a monthly pending actions report and all other in-house prepared reports or listings made available to the public, not more than one dollar per page.

~~33.~~ 32. To apply for a loan originator license, an amount to be determined by the superintendent.

~~34.~~ 33. To apply for a loan originator license transfer, an amount to be determined by the superintendent.

~~35.~~ 34. To apply for a conversion from a mortgage banker license to a mortgage broker license, an amount to be determined by the superintendent.

B. On issuance of a license or permit for a financial institution or enterprise, the superintendent shall collect the first year's annual assessment or renewal fee for the financial institution or enterprise prorated according to the number of quarters remaining until the date of the next annual assessment or renewal.

C. The following annual renewal fees shall be paid each year:

1. For an escrow agent, or trust company, one thousand dollars plus two hundred fifty dollars for each branch office.

2. For a debt management company or sales finance company, five hundred dollars plus two hundred dollars for each branch office.

3. For a collection agency, six hundred dollars plus two hundred dollars for each branch office.

Chs. 263 and 277

~~4. For a motor vehicle dealer, one hundred fifty dollars.~~

~~5.~~ 4. For an inactive mortgage broker or commercial mortgage broker, two hundred fifty dollars.

~~6.~~ 5. For a mortgage banker that negotiates or closes in the aggregate one hundred loans or less in the immediately preceding calendar year, seven hundred fifty dollars, and for a mortgage banker that negotiates or closes in the aggregate over one hundred loans in the immediately preceding calendar year, one thousand two hundred fifty dollars. In addition, a mortgage banker shall pay two hundred fifty dollars for each branch office.

~~7.~~ 6. For a commercial mortgage banker, one thousand two hundred fifty dollars. In addition, a commercial mortgage banker shall pay two hundred fifty dollars for each branch office.

~~8.~~ 7. For a mortgage broker or commercial mortgage broker that negotiates or closes in the aggregate fifty loans or less in the immediately preceding calendar year, two hundred fifty dollars and for a mortgage broker or commercial mortgage broker that negotiates or closes in the aggregate more than fifty loans in the immediately preceding calendar year, five hundred dollars. In addition, a mortgage broker or commercial mortgage broker shall pay two hundred dollars for each branch office.

~~9.~~ 8. For a consumer lender, one thousand dollars plus two hundred dollars for each branch office.

~~10.~~ 9. For a money transmitter, five hundred dollars plus twenty-five dollars for each branch office and each authorized delegate to a maximum of two thousand five hundred dollars.

~~11.~~ 10. For a deferred presentment company, four hundred dollars. In addition, a deferred presentment company shall pay two hundred dollars for each branch office.

~~12.~~ 11. For a loan originator, an amount to be determined by the superintendent.

~~13.~~ 12. For an inactive status loan originator, an amount to be determined by the superintendent.

D. The license, renewal or branch office permit fee for a premium finance company for each calendar year or part thereof shall not be less than one hundred dollars or more than three hundred dollars as set by the superintendent. If the license is issued or the branch office is opened after June 30 in any year, the fees shall not be less than fifty dollars or more than one hundred fifty dollars for that year.

EXPLANATION OF BLEND
SECTION 10-1503

Laws 2016, Chapters 322 and 354

Laws 2016, Ch. 322, section 8	Effective January 1, 2017
Laws 2016, Ch. 354, section 16	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 322 and Ch. 354 text changes to section 10-1503 are blended effective from and after December 31, 2016 in the form shown on the following pages. However, both the blend version and the Ch. 354 version of section 10-1503 will be published since the Ch. 354 version becomes effective before the Ch. 322 version. The publisher will automatically delete the Ch. 354 version on publication of the appropriate pocket part.

BLEND OF SECTION 10-1503
Laws 2016, Chapters 322 and 354

10-1503. Application for authority to transact business

A. A foreign corporation may apply for authority to transact business in this state by delivering an application and a certificate of disclosure to the commission for filing. The certificate of disclosure shall contain the information set forth in section 10-202, subsection D and is subject to the requirements of section 10-202, subsection F. The application shall be executed by the corporation and shall set forth:

1. The name of the foreign corporation and, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of section 10-1506.

2. The name of the state or country under whose law it is incorporated.

3. Its date of incorporation and period of duration.

4. The street address of its principal office in its state or country of incorporation OR, IF NONE, THE STREET ADDRESS OF ITS REGISTERED AGENT IN ITS STATE OR COUNTRY OF INCORPORATION. Ch. 354

5. The street address of the proposed known place of business of the corporation in this state and the name and street address of its proposed statutory agent in this state.

6. If its purpose or purposes are narrower than the transaction of any or all lawful business in which corporations may engage in the state or country under whose law it is incorporated, a statement of the limitations on its purpose.

7. The names and usual business addresses of its current directors and officers.

8. A statement of the aggregate number of shares that the corporation has authority to issue, itemized by classes~~, par value of shares, shares without par value~~ and series, if any, within a class. Ch. 354

9. A statement of the aggregate number of issued shares itemized by classes~~, par value of shares, shares without par value~~ and series, if any, within a class.

10. A brief statement of the character of business that the corporation initially intends actually to conduct in this state. This statement does not limit the character of business that the corporation ultimately conducts.

B. The foreign corporation shall deliver the application and the certificate of disclosure to the commission, together with a copy of its articles of incorporation, any amendments to the articles of incorporation and a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated, and the nonrefundable fees required by law.

C. After determining that the application sets forth the information required by this section, does not use as the name of the corporation in this state a name that is in violation of section 10-1506 and appears in all other respects to conform to the requirements of this article, the commission shall file the application. The date of filing shall be the date on which the corporation is granted authority to transact business in this state.

D. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the application shall be published. An affidavit evidencing the publication may be filed with the commission.

Ch. 322

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

E. A foreign corporation authorized to transact business in this state is subject to section 10-1623.

EXPLANATION OF BLEND
SECTION 11-1024

Laws 2016, Chapters 99 and 162

Laws 2016, Ch. 99, section 3 — Effective August 6, 2016

Laws 2016, Ch. 162, section 1 — Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 99 and Ch. 162 text changes to section 11-1024 are blended in the form shown on the following pages.

The Laws 2016, Ch. 99 version made a technical change in subsection J (formerly subsection H). The Ch. 162 version amended subsection J (formerly subsection H) so that the technical change is no longer necessary. Since this would not produce a substantive change, the blend version reflects the Ch. 162 version.

BLEND OF SECTION 11-1024
Laws 2016, Chapters 99 and 162

11-1024. Service animals; rights of individuals with disabilities; violation; classification; definitions

A. Any person or entity that operates a public place shall not discriminate against individuals with disabilities who use service animals if the work or tasks performed by the service animal are directly related to the individual's disability. Work or tasks include assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities and helping individuals with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks.

B. It is not discriminatory to exclude a service animal from a public place if one or more of the following apply:

1. The animal poses a direct threat to the health or safety of others.

2. The animal fundamentally alters the nature of the public place or the goods, services or activities provided.

3. The animal poses an undue burden.

4. THE ANIMAL IS OUT OF CONTROL AND THE ANIMAL'S HANDLER DOES NOT TAKE EFFECTIVE ACTION TO CONTROL THE ANIMAL.

5. THE ANIMAL IS NOT HOUSEBROKEN.

C. IF A PUBLIC PLACE ASKS AN INDIVIDUAL TO REMOVE A SERVICE ANIMAL PURSUANT TO SUBSECTION B OF THIS SECTION, THE PUBLIC PLACE SHALL GIVE THE INDIVIDUAL THE OPPORTUNITY TO RETURN AND OBTAIN GOODS, SERVICES OR ACCOMMODATIONS WITHOUT THE ANIMAL ON THE PREMISES.

Ch. 162

~~C.~~ D. Public places may maintain a general no pets policy if it is not used to exclude service animals and if it does not grant rights to any person to bring the person's pet into a public place that otherwise does not permit pets.

E. A SERVICE ANIMAL MUST BE UNDER THE CONTROL OF THE SERVICE ANIMAL'S HANDLER.

~~D.~~ F. A service ~~animal~~ ANIMAL'S handler is liable for any damage done to a public place by the service animal or service animal in training.

~~E.~~ G. Any trainer or individual with a disability may take an animal being trained as a service animal to a public place for purposes of training it to the same extent as provided in subsections A, B and ~~C~~ D of this section.

~~F.~~ H. A zoo or wild animal park may prohibit a service animal, including a dog guide or service dog, from any area of the zoo or wild animal park where the service animal may come into direct contact with the animals contained in the zoo or wild animal park. Service animals shall not be excluded from public walkways or sidewalks or from any area that allows for physical barriers between the service animals, dog guides or service dogs and the animals in the zoo or wild animal park. Any zoo or wild animal park that prohibits dog guides and service dogs shall provide without cost adequate facilities for the temporary confinement of dog guides and service dogs. The facilities shall be adequate to accommodate the anticipated attendance of legally blind~~,~~ OR deaf PERSONS or persons with physical disabilities, shall be in an area not accessible to the general public, shall provide water for the dog guides and service dogs and shall otherwise be safe, clean and comfortable. The zoo or wild animal park on request by a legally blind person who is required to leave that person's dog guide or service dog pursuant to this subsection shall provide a sighted escort if the legally blind person is unaccompanied by a sighted person.

Chs. 99 and 162

~~G.~~ I. The driver of a vehicle approaching a legally blind pedestrian who is carrying a cane that is predominately white or metallic in color, who is using a service animal or who is assisted by a sighted person shall yield the right-of-way and take reasonable precautions to avoid injury to the pedestrian and the service animal. The pedestrian has the same rights as any other person whether or not the pedestrian is carrying the cane, using a service animal or being assisted by a sighted person. Drivers shall take the same precautions with respect to pedestrians who have a disability other than blindness and their service animals. A driver who violates this subsection is liable for damages for any injury caused to the pedestrian or the service animal.

~~H.~~ J. Any person or entity that violates ~~subsections~~ SUBSECTION A, ~~through G~~ H OR I of this section is guilty of a class 2 misdemeanor.

Ch. 162

~~I.~~ K. This section is not intended to affect any civil remedies available for a violation of this section.

~~J.~~ L. For the purposes of this section:

1. "Direct threat to the health or safety of others" means that a significant risk to the health or safety of others exists and cannot be eliminated by modification of policies, practices or procedures or by the provision of auxiliary aids or services.

2. "Discriminate" means discriminatory actions prescribed in section 41-1492.02 and includes:

(a) Refusing to permit an individual with a disability to enter a public place with a service animal or interfering with the individual's right to enter or use the public place.

(b) Failing to provide an individual with a disability the same services and access to the same areas of the premises as afforded to others.

(c) Attempting to impose a charge, fee or deposit because an individual with a disability is accompanied by a service animal.

(d) Requiring an individual with a disability to disclose disability related information. However, a public accommodation may ask if the animal is a service animal being used because of a disability OR WHAT WORK OR TASK THE SERVICE ANIMAL HAS BEEN TRAINED TO PERFORM.

Ch. 162

(e) Requiring provision of identification for the service animal.

3. "Individual with a disability" means an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

4. "Public place" means any office or place of business or recreation to which the general public is invited, whether operated by a public or private entity and includes all forms of conveyance, including taxis, tow trucks and ambulances.

5. "Service animal" means any dog or miniature horse that is Ch. 99 — individually trained OR IN TRAINING to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Service animal does not include other species of animals, whether wild or domestic or trained or untrained.

6. "UNDER THE CONTROL OF THE SERVICE ANIMAL'S HANDLER" MEANS THE SERVICE ANIMAL HAS A HARNESS, LEASH OR OTHER TETHER, UNLESS EITHER THE HANDLER IS UNABLE BECAUSE OF A DISABILITY TO USE A HARNESS, LEASH OR OTHER Ch. 162 — TETHER OR THE USE OF THE HARNESS, LEASH OR OTHER TETHER WOULD INTERFERE WITH THE SERVICE ANIMAL'S SAFE AND EFFECTIVE PERFORMANCE OF WORK OR TASKS, IN WHICH CASE THE SERVICE ANIMAL MUST BE OTHERWISE UNDER THE HANDLER'S CONTROL BY VOICE CONTROL, SIGNALS OR OTHER EFFECTIVE MEANS.

~~6.~~ 7. "Wild animal park" means an entity that is open to the public on a regular basis, that is licensed by the United States department of agriculture as an exhibit and that is operating primarily to conserve, propagate and exhibit wild and exotic animals.

EXPLANATION OF BLEND
SECTION 12-284.03

Laws 2016, Chapters 94 and 119

Laws 2016, Ch. 94, section 2	Effective August 6, 2016
Laws 2016, Ch. 119, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 94 and Ch. 119 text changes to section 12-284.03 are blended in the form shown on the following page.

BLEND OF SECTION 12-284.03
Laws 2016, Chapters 94 and 119

12-284.03. Distribution of fees

A. Excluding the monies that are kept by the court pursuant to subsection B of this section, the county treasurer shall transmit, distribute or deposit all monies received from the clerk of the superior court pursuant to section 12-284, subsection K as follows:

Chs. 94 and 119

1. 1.31 ~~per cent~~ PERCENT to the state treasurer for deposit in the

Ch. 119

~~drug and gang enforcement account~~ RESOURCE CENTER FUND established by ~~section 41-2402~~ AND for the purposes of section 41-2402, subsection G.

Chs. 94 and 119

2. 8.87 ~~per cent~~ PERCENT to the state treasurer for deposit in the

Ch. 94

domestic violence ~~shelter~~ SERVICES fund established by section 36-3002.

3. 1.93 ~~per cent~~ PERCENT to the state treasurer for deposit in the child abuse prevention fund established by section 8-550.01.

4. In the county law library fund established by section 12-305, either:

(a) 7.62 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of more than five hundred thousand persons ~~according to the most recent United States decennial census~~.

(b) 15.30 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of five hundred thousand persons or less ~~according to the most recent United States decennial census~~.

5. 0.35 ~~per cent~~ PERCENT to the state treasurer for deposit in the alternative dispute resolution fund established by section 12-135.

6. To the elected officials' retirement plan fund established by section 38-802, either of the following percentages, which shall be distributed to the fund pursuant to section 38-810:

(a) 23.79 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of more than five hundred thousand persons ~~according to the most recent United States decennial census~~.

Chs. 94 and 119

(b) 15.30 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of five hundred thousand persons or less ~~according to the most recent United States decennial census~~.

7. 17.07 ~~per cent~~ PERCENT to the state treasurer for deposit in the judicial collection enhancement fund established by section 12-113.

8. 0.26 ~~per cent~~ PERCENT to the state treasurer for deposit in the confidential intermediary and fiduciary fund established by section 8-135.

9. In the county general fund, the following percentages:

(a) 31.29 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of more than five hundred thousand persons ~~according to the most recent United States decennial census~~.

(b) 32.10 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of five hundred thousand persons or less ~~according to the most recent United States decennial census~~.

B. 7.51 ~~per cent~~ PERCENT of the monies transmitted, distributed or deposited pursuant to subsection A of this section shall be kept and used by the court collecting the fees in the same manner as the seven dollars of the time payment fee prescribed by section 12-116, subsection B.

EXPLANATION OF BLEND
SECTION 14-5101

Laws 2016, Chapters 268 and 270

Laws 2016, Ch. 268, section 1 — Effective August 6, 2016

Laws 2016, Ch. 270, section 1 — Effective January 1, 2017

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 268 and Ch. 270 text changes to section 14-5101 are blended effective from and after December 31, 2016 in the form shown on the following page. However, both the blend version and the Ch. 268 version of section 14-5101 will be published since the Ch. 268 version becomes effective before the Ch. 270 version. The publisher will automatically delete the Ch. 268 version on publication of the appropriate pocket part.

BLEND OF SECTION 14-5101
Laws 2016, Chapters 268 and 270

14-5101. Definitions

In this title, unless the context otherwise requires:

Ch. 270 — 1. "CONTACT" INCLUDES IN-PERSON CONTACT, WRITTEN COMMUNICATION AND ALL FORMS OF ELECTRONIC COMMUNICATIONS.

Ch. 270 — 2. "CONTACT ORDER" MEANS AN ORDER ALLOWING CONTACT BETWEEN A WARD AND A PERSON WITH A SIGNIFICANT RELATIONSHIP TO THE WARD.

~~1.~~ 3. "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person. In cases of limited guardianship only, a person is not deemed an incapacitated person for purposes of voting if the person files a petition~~,~~ AND has a hearing and the judge determines by clear and convincing evidence that the person retains sufficient understanding to exercise the right to vote pursuant to section 14-5304.02.

Chs. 268 and 270

Ch. 268 — 4. "INPATIENT PSYCHIATRIC FACILITY" MEANS A HOSPITAL THAT CONTAINS AN ORGANIZED PSYCHIATRIC SERVICES UNIT OR A SPECIAL HOSPITAL THAT IS LICENSED TO PROVIDE PSYCHIATRIC SERVICES.

~~2.~~ 5. "Investigator" means a person who is appointed by the court under section 14-5308.

Ch. 270 — 6. "JOINT LEGAL DECISION-MAKING" HAS THE SAME MEANING PRESCRIBED IN SECTION 25-401.

Ch. 270 — 7. "LEGAL DECISION-MAKING" HAS THE SAME MEANING PRESCRIBED IN SECTION 25-401.

Ch. 270 — 8. "PARENTING TIME" HAS THE SAME MEANING PRESCRIBED IN SECTION 25-401.

~~3.~~ 9. "Physician" means a person licensed pursuant to title 32, chapter 13 or 17.

~~4.~~ 10. "Protected person" means a minor or any other person for whom a conservator has been appointed or any other protective order has been made.

Chs. 268 and 270 — ~~5.~~ 11. "Protective proceeding" means a proceeding under ~~the provisions of~~ section 14-5401 to determine that a person cannot effectively manage or apply his estate to necessary ends, either because he lacks the ability or is otherwise inconvenienced, or because he is a minor, and to secure administration of his estate by a conservator or other appropriate relief.

~~6.~~ 12. "Psychologist" means a person licensed pursuant to title 32, chapter 19.1.

~~7.~~ 13. "Registered nurse" has the same meaning as prescribed in section 32-1601.

Ch. 270 — 14. "SIGNIFICANT RELATIONSHIP" MEANS THE PERSON EITHER IS RELATED TO THE WARD BY BLOOD OR MARRIAGE OR IS A CLOSE FRIEND OF THE WARD AS ESTABLISHED BY A HISTORY OF PATTERN AND PRACTICE.

Ch. 270 — 15. "VISITATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 25-401.

~~8.~~ 16. "Ward" means a person for whom a guardian has been appointed. "Minor ward" means a minor for whom a guardian has been appointed solely because of minority.

EXPLANATION OF BLEND
SECTION 14-13101

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13101 is blended in the form shown on the following page.

BLEND OF SECTION 14-13101
Laws 2016, Chapters 165 and 199

14-13101. Short title

Chs. 165 and 199

THIS CHAPTER MAY BE CITED AS THE REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT.

EXPLANATION OF BLEND
SECTION 14-13102

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13102 is blended in the form shown on the following pages.

BLEND OF SECTION 14-13102
Laws 2016, Chapters 165 and 199

14-13102. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ACCOUNT" MEANS AN ARRANGEMENT UNDER A TERMS-OF-SERVICE AGREEMENT IN WHICH A CUSTODIAN CARRIES, MAINTAINS, PROCESSES, RECEIVES OR STORES A DIGITAL ASSET OF THE USER OR PROVIDES GOODS OR SERVICES TO THE USER.

2. "AGENT" MEANS AN ATTORNEY-IN-FACT GRANTED AUTHORITY UNDER A DURABLE OR NONDURABLE POWER OF ATTORNEY.

3. "CARRIES" MEANS ENGAGES IN THE TRANSMISSION OF AN ELECTRONIC COMMUNICATION.

4. "CATALOGUE OF ELECTRONIC COMMUNICATIONS" MEANS INFORMATION THAT IDENTIFIES EACH PERSON WITH WHICH A USER HAS HAD AN ELECTRONIC COMMUNICATION, THE TIME AND DATE OF THE COMMUNICATION AND THE ELECTRONIC ADDRESS OF THE PERSON.

5. "CONSERVATOR" MEANS A PERSON APPOINTED BY A COURT TO MANAGE THE ESTATE OF A LIVING INDIVIDUAL AND INCLUDES A LIMITED CONSERVATOR AND A FIDUCIARY AS DEFINED IN SECTION 14-5651, SUBSECTION K.

6. "CONTENT OF AN ELECTRONIC COMMUNICATION" MEANS INFORMATION CONCERNING THE SUBSTANCE OR MEANING OF THE COMMUNICATION THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(a) HAS BEEN SENT OR RECEIVED BY A USER.

Chs. 165 and 199

(b) IS IN ELECTRONIC STORAGE BY A CUSTODIAN PROVIDING AN ELECTRONIC-COMMUNICATION SERVICE TO THE PUBLIC OR IS CARRIED OR MAINTAINED BY A CUSTODIAN PROVIDING A REMOTE-COMPUTING SERVICE TO THE PUBLIC.

(c) IS NOT READILY ACCESSIBLE TO THE PUBLIC.

7. "COURT" MEANS THE SUPERIOR COURT.

8. "CUSTODIAN" MEANS A PERSON THAT CARRIES, MAINTAINS, PROCESSES, RECEIVES OR STORES A DIGITAL ASSET OF A USER.

9. "DESIGNATED RECIPIENT" MEANS A PERSON CHOSEN BY A USER USING AN ONLINE TOOL TO ADMINISTER DIGITAL ASSETS OF THE USER.

10. "DIGITAL ASSET" MEANS AN ELECTRONIC RECORD IN WHICH AN INDIVIDUAL HAS A RIGHT OR INTEREST. DIGITAL ASSET DOES NOT INCLUDE AN UNDERLYING ASSET OR LIABILITY UNLESS THE ASSET OR LIABILITY IS ITSELF AN ELECTRONIC RECORD.

11. "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC OR SIMILAR CAPABILITIES.

12. "ELECTRONIC COMMUNICATION" HAS THE SAME MEANING PRESCRIBED IN 18 UNITED STATES CODE SECTION 2510(12).

13. "ELECTRONIC-COMMUNICATION SERVICE" MEANS A CUSTODIAN THAT PROVIDES TO A USER THE ABILITY TO SEND OR RECEIVE AN ELECTRONIC COMMUNICATION.

14. "FIDUCIARY" MEANS AN ORIGINAL, ADDITIONAL OR SUCCESSOR PERSONAL REPRESENTATIVE, CONSERVATOR, AGENT, TRUSTEE OR A FIDUCIARY AS DEFINED IN SECTION 14-5651, SUBSECTION K.

15. "INFORMATION" MEANS DATA, TEXT, IMAGES, VIDEOS, SOUNDS, CODES, COMPUTER PROGRAMS, SOFTWARE, DATABASES OR THE LIKE.

16. "ONLINE TOOL" MEANS AN ELECTRONIC SERVICE PROVIDED BY A CUSTODIAN THAT ALLOWS THE USER, IN AN AGREEMENT DISTINCT FROM THE TERMS-OF-SERVICE AGREEMENT BETWEEN THE CUSTODIAN AND USER, TO PROVIDE DIRECTIONS FOR DISCLOSURE OR NONDISCLOSURE OF DIGITAL ASSETS TO A THIRD PERSON.

17. "PERSON" MEANS AN INDIVIDUAL, AN ESTATE, A BUSINESS OR NONPROFIT ENTITY, A PUBLIC CORPORATION, A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY OR INSTRUMENTALITY OR ANY OTHER LEGAL ENTITY.

18. "PERSONAL REPRESENTATIVE" MEANS AN EXECUTOR, AN ADMINISTRATOR, A SPECIAL ADMINISTRATOR OR PERSON THAT PERFORMS SUBSTANTIALLY THE SAME FUNCTION UNDER LAW OF THIS STATE OTHER THAN THIS CHAPTER.

19. "POWER OF ATTORNEY" MEANS A RECORD THAT GRANTS AN AGENT AUTHORITY TO ACT IN THE PLACE OF A PRINCIPAL.

20. "PRINCIPAL" MEANS AN INDIVIDUAL WHO GRANTS AUTHORITY TO AN AGENT IN A POWER OF ATTORNEY.

Chs. 165 and 199

21. "PROTECTED PERSON" MEANS AN INDIVIDUAL FOR WHOM A CONSERVATOR HAS BEEN APPOINTED. PROTECTED PERSON INCLUDES AN INDIVIDUAL FOR WHOM AN APPLICATION FOR THE APPOINTMENT OF A CONSERVATOR IS PENDING.

22. "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND THAT IS RETRIEVABLE IN PERCEIVABLE FORM.

23. "REMOTE-COMPUTING SERVICE" MEANS A CUSTODIAN THAT PROVIDES TO A USER COMPUTER-PROCESSING SERVICES OR THE STORAGE OF DIGITAL ASSETS BY MEANS OF AN ELECTRONIC COMMUNICATIONS SYSTEM, AS DEFINED IN 18 UNITED STATES CODE SECTION 2510(14).

24. "TERMS-OF-SERVICE AGREEMENT" MEANS AN AGREEMENT THAT CONTROLS THE RELATIONSHIP BETWEEN A USER AND A CUSTODIAN.

25. "TRUSTEE" MEANS A FIDUCIARY WITH LEGAL TITLE TO PROPERTY UNDER AN AGREEMENT OR DECLARATION THAT CREATES A BENEFICIAL INTEREST IN ANOTHER. TRUSTEE INCLUDES A SUCCESSOR TRUSTEE.

26. "USER" MEANS A PERSON THAT HAS AN ACCOUNT WITH A CUSTODIAN.

27. "WILL" INCLUDES A CODICIL, TESTAMENTARY INSTRUMENT THAT ONLY APPOINTS AN EXECUTOR AND INSTRUMENT THAT REVOKES OR REVISES A TESTAMENTARY INSTRUMENT.

EXPLANATION OF BLEND
SECTION 14-13103

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13103 is blended in the form shown on the following page.

BLEND OF SECTION 14-13103
Laws 2016, Chapters 165 and 199

14-13103. Applicability

A. THIS CHAPTER APPLIES TO ALL OF THE FOLLOWING:

1. A FIDUCIARY ACTING UNDER A WILL OR POWER OF ATTORNEY EXECUTED BEFORE, ON OR AFTER AUGUST 6, 2016.

2. A PERSONAL REPRESENTATIVE ACTING FOR A DECEDENT WHO DIED BEFORE, ON OR AFTER AUGUST 6, 2016.

Chs. 165 and 199

3. A CONSERVATORSHIP PROCEEDING COMMENCED BEFORE, ON OR AFTER AUGUST 6, 2016.

4. A TRUSTEE ACTING UNDER A TRUST CREATED BEFORE, ON OR AFTER AUGUST 6, 2016.

B. THIS CHAPTER APPLIES TO A CUSTODIAN IF THE USER RESIDES IN THIS STATE OR RESIDED IN THIS STATE AT THE TIME OF THE USER'S DEATH.

C. THIS CHAPTER DOES NOT APPLY TO A DIGITAL ASSET OF AN EMPLOYER USED BY AN EMPLOYEE IN THE ORDINARY COURSE OF THE EMPLOYER'S BUSINESS.

EXPLANATION OF BLEND
SECTION 14-13104

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13104 is blended in the form shown on the following page.

BLEND OF SECTION 14-13104
Laws 2016, Chapters 165 and 199

14-13104. User direction for disclosure of digital assets

A. A USER MAY USE AN ONLINE TOOL TO DIRECT THE CUSTODIAN TO DISCLOSE TO A DESIGNATED RECIPIENT OR NOT TO DISCLOSE SOME OR ALL OF THE USER'S DIGITAL ASSETS, INCLUDING THE CONTENT OF ELECTRONIC COMMUNICATIONS. IF THE ONLINE TOOL ALLOWS THE USER TO MODIFY OR DELETE A DIRECTION AT ALL TIMES, A DIRECTION REGARDING DISCLOSURE USING AN ONLINE TOOL OVERRIDES A CONTRARY DIRECTION BY THE USER IN A WILL, TRUST, POWER OF ATTORNEY OR OTHER RECORD.

Chs. 165 and 199

B. IF A USER HAS NOT USED AN ONLINE TOOL TO GIVE DIRECTION UNDER SUBSECTION A OF THIS SECTION OR IF THE CUSTODIAN HAS NOT PROVIDED AN ONLINE TOOL, THE USER MAY ALLOW OR PROHIBIT IN A WILL, TRUST, POWER OF ATTORNEY OR OTHER RECORD DISCLOSURE TO A FIDUCIARY OF SOME OR ALL OF THE USER'S DIGITAL ASSETS, INCLUDING THE CONTENT OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY THE USER.

C. A USER'S DIRECTION UNDER SUBSECTION A OR B OF THIS SECTION OVERRIDES A CONTRARY PROVISION IN A TERMS-OF-SERVICE AGREEMENT THAT DOES NOT REQUIRE THE USER TO ACT AFFIRMATIVELY AND DISTINCTLY FROM THE USER'S ASSENT TO THE TERMS OF SERVICE.

EXPLANATION OF BLEND
SECTION 14-13105

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13105 is blended in the form shown on the following page.

BLEND OF SECTION 14-13105
Laws 2016, Chapters 165 and 199

14-13105. Terms-of-service agreement

A. THIS CHAPTER DOES NOT CHANGE OR IMPAIR A RIGHT OF A CUSTODIAN OR A USER UNDER A TERMS-OF-SERVICE AGREEMENT TO ACCESS AND USE DIGITAL ASSETS OF THE USER.

Chs. 165 and 199

B. THIS CHAPTER DOES NOT GIVE A FIDUCIARY OR DESIGNATED RECIPIENT ANY NEW OR EXPANDED RIGHTS OTHER THAN THOSE HELD BY THE USER FOR WHOM, OR FOR WHOSE ESTATE, THE FIDUCIARY OR DESIGNATED RECIPIENT ACTS OR REPRESENTS.

C. A FIDUCIARY'S OR DESIGNATED RECIPIENT'S ACCESS TO DIGITAL ASSETS MAY BE MODIFIED OR ELIMINATED BY A USER, BY FEDERAL LAW OR BY A TERMS-OF-SERVICE AGREEMENT IF THE USER HAS NOT PROVIDED DIRECTION UNDER SECTION 14-13104.

EXPLANATION OF BLEND
SECTION 14-13106

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13106 is blended in the form shown on the following page.

BLEND OF SECTION 14-13106
Laws 2016, Chapters 165 and 199

14-13106. Procedure for disclosing digital assets

A. WHEN DISCLOSING DIGITAL ASSETS OF A USER UNDER THIS CHAPTER, THE CUSTODIAN, AT ITS SOLE DISCRETION, MAY DO ANY OF THE FOLLOWING:

1. GRANT A FIDUCIARY OR DESIGNATED RECIPIENT FULL ACCESS TO THE USER'S ACCOUNT.

2. GRANT A FIDUCIARY OR DESIGNATED RECIPIENT PARTIAL ACCESS TO THE USER'S ACCOUNT SUFFICIENT TO PERFORM THE TASKS WITH WHICH THE FIDUCIARY OR DESIGNATED RECIPIENT IS CHARGED.

3. PROVIDE A FIDUCIARY OR DESIGNATED RECIPIENT A COPY IN A RECORD OF ANY DIGITAL ASSET THAT, ON THE DATE THE CUSTODIAN RECEIVED THE REQUEST FOR DISCLOSURE, THE USER COULD HAVE ACCESSED IF THE USER WERE ALIVE AND HAD FULL CAPACITY AND ACCESS TO THE ACCOUNT.

Chs. 165 and 199

B. A CUSTODIAN MAY ASSESS A REASONABLE ADMINISTRATIVE CHARGE FOR THE COST OF DISCLOSING DIGITAL ASSETS UNDER THIS CHAPTER.

C. A CUSTODIAN NEED NOT DISCLOSE UNDER THIS CHAPTER A DIGITAL ASSET DELETED BY A USER.

D. IF A USER DIRECTS OR A FIDUCIARY REQUESTS A CUSTODIAN TO DISCLOSE UNDER THIS CHAPTER SOME, BUT NOT ALL, OF THE USER'S DIGITAL ASSETS, THE CUSTODIAN NEED NOT DISCLOSE THE ASSETS IF SEGREGATION OF THE ASSETS WOULD IMPOSE AN UNDUE BURDEN ON THE CUSTODIAN. IF THE CUSTODIAN BELIEVES THE DIRECTION OR REQUEST IMPOSES AN UNDUE BURDEN, THE CUSTODIAN OR FIDUCIARY MAY SEEK AN ORDER FROM THE COURT TO DISCLOSE ANY OF THE FOLLOWING:

1. A SUBSET LIMITED BY DATE OF THE USER'S DIGITAL ASSETS.

2. ALL OF THE USER'S DIGITAL ASSETS TO THE FIDUCIARY OR DESIGNATED RECIPIENT.

3. NONE OF THE USER'S DIGITAL ASSETS.

4. ALL OF THE USER'S DIGITAL ASSETS TO THE COURT FOR REVIEW IN CAMERA.

EXPLANATION OF BLEND
SECTION 14-13107

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13107 is blended in the form shown on the following page.

BLEND OF SECTION 14-13107
Laws 2016, Chapters 165 and 199

14-13107. Disclosure of content of electronic communications of deceased user

IF A DECEASED USER CONSENTED OR A COURT DIRECTS DISCLOSURE OF THE CONTENTS OF ELECTRONIC COMMUNICATIONS OF THE USER, THE CUSTODIAN SHALL DISCLOSE TO THE PERSONAL REPRESENTATIVE OF THE ESTATE OF THE USER THE CONTENT OF AN ELECTRONIC COMMUNICATION SENT OR RECEIVED BY THE USER IF THE REPRESENTATIVE GIVES THE CUSTODIAN ALL OF THE FOLLOWING:

1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.

2. A CERTIFIED COPY OF THE DEATH CERTIFICATE OF THE USER.

3. A CERTIFIED COPY OF THE LETTERS TESTAMENTARY, A SMALL-ESTATE AFFIDAVIT OR A COURT ORDER.

4. UNLESS THE USER PROVIDED DIRECTION USING AN ONLINE TOOL, A COPY OF THE USER'S WILL, TRUST, POWER OF ATTORNEY OR OTHER RECORD EVIDENCING THE USER'S CONSENT TO DISCLOSURE OF THE CONTENT OF ELECTRONIC COMMUNICATIONS.

Chs. 165 and 199

5. IF REQUESTED BY THE CUSTODIAN, ANY OF THE FOLLOWING:

(a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE USER'S ACCOUNT.

(b) EVIDENCE LINKING THE ACCOUNT TO THE USER.

(c) A FINDING BY THE COURT OF ONE OR MORE OF THE FOLLOWING:

(i) THE USER HAD A SPECIFIC ACCOUNT WITH THE CUSTODIAN, IDENTIFIABLE BY THE INFORMATION SPECIFIED IN SUBDIVISION (a) OF THIS PARAGRAPH.

(ii) DISCLOSURE OF THE CONTENT OF ELECTRONIC COMMUNICATIONS OF THE USER WOULD NOT VIOLATE 18 UNITED STATES CODE SECTIONS 2701 THROUGH 2712, 47 UNITED STATES CODE SECTION 222 OR OTHER APPLICABLE LAW.

(iii) UNLESS THE USER PROVIDED DIRECTION USING AN ONLINE TOOL, THE USER CONSENTED TO DISCLOSURE OF THE CONTENT OF ELECTRONIC COMMUNICATIONS.

(iv) DISCLOSURE OF THE CONTENT OF ELECTRONIC COMMUNICATIONS OF THE USER IS REASONABLY NECESSARY FOR ADMINISTRATION OF THE ESTATE.

EXPLANATION OF BLEND
SECTION 14-13108

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13108 is blended in the form shown on the following page.

BLEND OF SECTION 14-13108
Laws 2016, Chapters 165 and 199

14-13108. Disclosure of other digital assets of deceased user

UNLESS THE USER PROHIBITED DISCLOSURE OF DIGITAL ASSETS OR THE COURT DIRECTS OTHERWISE, A CUSTODIAN SHALL DISCLOSE TO THE PERSONAL REPRESENTATIVE OF THE ESTATE OF A DECEASED USER A CATALOGUE OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY THE USER AND DIGITAL ASSETS, OTHER THAN THE CONTENT OF ELECTRONIC COMMUNICATIONS, OF THE USER, IF THE REPRESENTATIVE GIVES THE CUSTODIAN ALL OF THE FOLLOWING:

1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.

2. A CERTIFIED COPY OF THE DEATH CERTIFICATE OF THE USER.

3. A CERTIFIED COPY OF THE LETTERS TESTAMENTARY, A SMALL-ESTATE AFFIDAVIT OR A COURT ORDER.

Chs. 165 and 199

4. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:

(a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE USER'S ACCOUNT.

(b) EVIDENCE LINKING THE ACCOUNT TO THE USER.

(c) AN AFFIDAVIT STATING THAT DISCLOSURE OF THE USER'S DIGITAL ASSETS IS REASONABLY NECESSARY FOR ADMINISTRATION OF THE ESTATE.

(d) A FINDING BY THE COURT OF EITHER OF THE FOLLOWING:

(i) THE USER HAD A SPECIFIC ACCOUNT WITH THE CUSTODIAN, IDENTIFIABLE BY THE INFORMATION SPECIFIED IN SUBDIVISION (a) OF THIS PARAGRAPH.

(ii) DISCLOSURE OF THE USER'S DIGITAL ASSETS IS REASONABLY NECESSARY FOR ADMINISTRATION OF THE ESTATE.

EXPLANATION OF BLEND
SECTION 14-13109

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13109 is blended in the form shown on the following page.

BLEND OF SECTION 14-13109
Laws 2016, Chapters 165 and 199

14-13109. Disclosure of content of electronic communications of principal

TO THE EXTENT A POWER OF ATTORNEY EXPRESSLY GRANTS AN AGENT AUTHORITY OVER THE CONTENT OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY THE PRINCIPAL AND UNLESS DIRECTED OTHERWISE BY THE PRINCIPAL OR THE COURT, A CUSTODIAN SHALL DISCLOSE TO THE AGENT THE CONTENT IF THE AGENT GIVES THE CUSTODIAN ALL OF THE FOLLOWING:

1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.

Chs. 165 and 199

2. AN ORIGINAL OR COPY OF THE POWER OF ATTORNEY EXPRESSLY GRANTING THE AGENT AUTHORITY OVER THE CONTENT OF ELECTRONIC COMMUNICATIONS OF THE PRINCIPAL.

3. A CERTIFICATION BY THE AGENT, UNDER PENALTY OF PERJURY, THAT THE POWER OF ATTORNEY IS IN EFFECT.

4. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:

(a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE PRINCIPAL'S ACCOUNT.

(b) EVIDENCE LINKING THE ACCOUNT TO THE PRINCIPAL.

EXPLANATION OF BLEND
SECTION 14-13110

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13110 is blended in the form shown on the following page.

BLEND OF SECTION 14-13110
Laws 2016, Chapters 165 and 199

14-13110. Disclosure of other digital assets of principal

UNLESS OTHERWISE ORDERED BY THE COURT, DIRECTED BY THE PRINCIPAL OR PROVIDED BY A POWER OF ATTORNEY, A CUSTODIAN SHALL DISCLOSE TO AN AGENT WITH SPECIFIC AUTHORITY OVER DIGITAL ASSETS OR GENERAL AUTHORITY TO ACT ON BEHALF OF A PRINCIPAL A CATALOGUE OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY THE PRINCIPAL AND DIGITAL ASSETS, OTHER THAN THE CONTENT OF ELECTRONIC COMMUNICATIONS, OF THE PRINCIPAL IF THE AGENT GIVES THE CUSTODIAN ALL OF THE FOLLOWING:

Chs. 165 and 199

1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.

2. AN ORIGINAL OR A COPY OF THE POWER OF ATTORNEY THAT GIVES THE AGENT SPECIFIC AUTHORITY OVER DIGITAL ASSETS OR GENERAL AUTHORITY TO ACT ON BEHALF OF THE PRINCIPAL.

3. A CERTIFICATION BY THE AGENT, UNDER PENALTY OF PERJURY, THAT THE POWER OF ATTORNEY IS IN EFFECT.

4. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:

(a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE PRINCIPAL'S ACCOUNT.

(b) EVIDENCE LINKING THE ACCOUNT TO THE PRINCIPAL.

EXPLANATION OF BLEND
SECTION 14-13111

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13111 is blended in the form shown on the following page.

BLEND OF SECTION 14-13111
Laws 2016, Chapters 165 and 199

14-13111. Disclosure of digital assets held in trust when trustee is original user

Chs. 165 and 199

UNLESS OTHERWISE ORDERED BY THE COURT OR PROVIDED IN A TRUST, A CUSTODIAN SHALL DISCLOSE TO A TRUSTEE THAT IS AN ORIGINAL USER OF AN ACCOUNT ANY DIGITAL ASSET OF THE ACCOUNT HELD IN TRUST, INCLUDING A CATALOGUE OF ELECTRONIC COMMUNICATIONS OF THE TRUSTEE AND THE CONTENT OF ELECTRONIC COMMUNICATIONS.

EXPLANATION OF BLEND
SECTION 14-13112

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13112 is blended in the form shown on the following page.

BLEND OF SECTION 14-13112
Laws 2016, Chapters 165 and 199

14-13112. Disclosure of contents of electronic communications held in trust when trustee is not original user

UNLESS OTHERWISE ORDERED BY THE COURT, DIRECTED BY THE USER OR PROVIDED IN A TRUST, A CUSTODIAN SHALL DISCLOSE TO A TRUSTEE THAT IS NOT AN ORIGINAL USER OF AN ACCOUNT THE CONTENT OF AN ELECTRONIC COMMUNICATION SENT OR RECEIVED BY AN ORIGINAL OR SUCCESSOR USER AND CARRIED, MAINTAINED, PROCESSED, RECEIVED OR STORED BY THE CUSTODIAN IN THE ACCOUNT OF THE TRUST, IF THE TRUSTEE GIVES THE CUSTODIAN ALL OF THE FOLLOWING:

1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.

Chs. 165 and 199

2. A CERTIFIED COPY OF THE TRUST INSTRUMENT OR A CERTIFICATION OF THE TRUST UNDER SECTION 14-11013 THAT INCLUDES CONSENT TO DISCLOSURE OF THE CONTENT OF ELECTRONIC COMMUNICATIONS TO THE TRUSTEE.

3. A CERTIFICATION BY THE TRUSTEE, UNDER PENALTY OF PERJURY, THAT THE TRUST EXISTS AND THE TRUSTEE IS A CURRENTLY ACTING TRUSTEE OF THE TRUST.

4. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:

(a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE TRUST'S ACCOUNT.

(b) EVIDENCE LINKING THE ACCOUNT TO THE TRUST.

EXPLANATION OF BLEND
SECTION 14-13113

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13113 is blended in the form shown on the following page.

BLEND OF SECTION 14-13113
Laws 2016, Chapters 165 and 199

14-13113. Disclosure of other digital assets held in trust when trustee is not original user

UNLESS OTHERWISE ORDERED BY THE COURT, DIRECTED BY THE USER OR PROVIDED IN A TRUST, A CUSTODIAN SHALL DISCLOSE TO A TRUSTEE THAT IS NOT AN ORIGINAL USER OF AN ACCOUNT A CATALOGUE OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY AN ORIGINAL OR SUCCESSOR USER AND STORED, CARRIED OR MAINTAINED BY THE CUSTODIAN IN AN ACCOUNT OF THE TRUST AND ANY DIGITAL ASSETS, OTHER THAN THE CONTENT OF ELECTRONIC COMMUNICATIONS, IN WHICH THE TRUST HAS A RIGHT OR INTEREST IF THE TRUSTEE GIVES THE CUSTODIAN ALL OF THE FOLLOWING:

Chs. 165 and 199

1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.

2. A CERTIFIED COPY OF THE TRUST INSTRUMENT OR A CERTIFICATION OF THE TRUST UNDER SECTION 14-11013.

3. A CERTIFICATION BY THE TRUSTEE, UNDER PENALTY OF PERJURY, THAT THE TRUST EXISTS AND THE TRUSTEE IS A CURRENTLY ACTING TRUSTEE OF THE TRUST.

4. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:

(a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE TRUST'S ACCOUNT.

(b) EVIDENCE LINKING THE ACCOUNT TO THE TRUST.

EXPLANATION OF BLEND
SECTION 14-13114

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13114 is blended in the form shown on the following page.

BLEND OF SECTION 14-13114
Laws 2016, Chapters 165 and 199

14-13114. Disclosure of digital assets to conservator of protected person

A. AFTER AN OPPORTUNITY FOR A HEARING UNDER CHAPTER 5, ARTICLE 4 OF THIS TITLE, THE COURT MAY GRANT A CONSERVATOR ACCESS TO THE DIGITAL ASSETS OF A PROTECTED PERSON.

B. UNLESS OTHERWISE ORDERED BY THE COURT OR DIRECTED BY THE USER, A CUSTODIAN SHALL DISCLOSE TO A CONSERVATOR THE CATALOGUE OF ELECTRONIC COMMUNICATIONS SENT OR RECEIVED BY A PROTECTED PERSON AND ANY DIGITAL ASSETS, OTHER THAN THE CONTENT OF ELECTRONIC COMMUNICATIONS, IN WHICH THE PROTECTED PERSON HAS A RIGHT OR INTEREST IF THE CONSERVATOR GIVES THE CUSTODIAN ALL OF THE FOLLOWING:

1. A WRITTEN REQUEST FOR DISCLOSURE IN PHYSICAL OR ELECTRONIC FORM.

Chs. 165 and 199

2. A CERTIFIED COPY OF THE COURT ORDER THAT GIVES THE CONSERVATOR AUTHORITY OVER THE DIGITAL ASSETS OF THE PROTECTED PERSON.

3. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:

(a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE ACCOUNT OF THE PROTECTED PERSON.

(b) EVIDENCE LINKING THE ACCOUNT TO THE TRUST.

C. A CONSERVATOR WITH GENERAL AUTHORITY TO MANAGE THE ASSETS OF A PROTECTED PERSON MAY REQUEST A CUSTODIAN OF THE DIGITAL ASSETS OF THE PROTECTED PERSON TO SUSPEND OR TERMINATE AN ACCOUNT OF THE PROTECTED PERSON FOR GOOD CAUSE. A REQUEST MADE UNDER THIS SUBSECTION MUST BE ACCOMPANIED BY A CERTIFIED COPY OF THE COURT ORDER GIVING THE CONSERVATOR AUTHORITY OVER THE PROTECTED PERSON'S PROPERTY.

EXPLANATION OF BLEND
SECTION 14-13115

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13115 is blended in the form shown on the following page.

BLEND OF SECTION 14-13115
Laws 2016, Chapters 165 and 199

14-13115. Fiduciary duty and authority

A. THE LEGAL DUTIES IMPOSED ON A FIDUCIARY CHARGED WITH MANAGING TANGIBLE PROPERTY APPLY TO THE MANAGEMENT OF DIGITAL ASSETS, INCLUDING ALL OF THE FOLLOWING, IF APPLICABLE:

1. THE DUTY OF CARE.

2. THE DUTY OF LOYALTY.

3. THE DUTY OF CONFIDENTIALITY.

B. A FIDUCIARY'S OR DESIGNATED RECIPIENT'S AUTHORITY WITH RESPECT TO A DIGITAL ASSET OF A USER:

1. EXCEPT AS OTHERWISE PROVIDED IN SECTION 14-13104, IS SUBJECT TO THE APPLICABLE TERMS OF SERVICE.

2. IS SUBJECT TO OTHER APPLICABLE LAW, INCLUDING COPYRIGHT LAW.

3. IN THE CASE OF A FIDUCIARY, IS LIMITED BY THE SCOPE OF THE FIDUCIARY'S DUTIES.

4. MAY NOT BE USED TO IMPERSONATE THE USER.

C. A FIDUCIARY WITH AUTHORITY OVER THE PROPERTY OF A DECEDENT, PROTECTED PERSON, PRINCIPAL OR SETTLOR HAS THE RIGHT TO ACCESS ANY DIGITAL ASSET IN WHICH THE DECEDENT, PROTECTED PERSON, PRINCIPAL OR SETTLOR HAD A RIGHT OR INTEREST AND THAT IS NOT HELD BY A CUSTODIAN OR SUBJECT TO A TERMS-OF-SERVICE AGREEMENT.

D. A FIDUCIARY ACTING WITHIN THE SCOPE OF THE FIDUCIARY'S DUTIES IS AN AUTHORIZED USER OF THE PROPERTY OF THE DECEDENT, PROTECTED PERSON, PRINCIPAL OR SETTLOR FOR THE PURPOSE OF APPLICABLE COMPUTER-FRAUD AND UNAUTHORIZED-COMPUTER-ACCESS LAWS, INCLUDING SECTION 13-2316.

Chs. 165 and 199

E. A FIDUCIARY WITH AUTHORITY OVER THE TANGIBLE, PERSONAL PROPERTY OF A DECEDENT, PROTECTED PERSON, PRINCIPAL OR SETTLOR:

1. HAS THE RIGHT TO ACCESS THE PROPERTY AND ANY DIGITAL ASSET STORED IN IT.

2. IS AN AUTHORIZED USER FOR THE PURPOSE OF COMPUTER-FRAUD AND UNAUTHORIZED-COMPUTER-ACCESS LAWS, INCLUDING SECTION 13-2316.

F. A CUSTODIAN MAY DISCLOSE INFORMATION IN AN ACCOUNT TO A FIDUCIARY OF THE USER WHEN THE INFORMATION IS REQUIRED TO TERMINATE AN ACCOUNT USED TO ACCESS DIGITAL ASSETS LICENSED TO THE USER.

G. A FIDUCIARY OF A USER MAY REQUEST A CUSTODIAN TO TERMINATE THE USER'S ACCOUNT. A REQUEST FOR TERMINATION MUST BE IN WRITING, IN EITHER PHYSICAL OR ELECTRONIC FORM, AND ACCOMPANIED BY ALL OF THE FOLLOWING:

1. IF THE USER IS DECEASED, A CERTIFIED COPY OF THE DEATH CERTIFICATE OF THE USER.

2. A CERTIFIED COPY OF THE LETTERS TESTAMENTARY OF THE REPRESENTATIVE, SMALL-ESTATE AFFIDAVIT, COURT ORDER, POWER OF ATTORNEY OR TRUST GIVING THE FIDUCIARY AUTHORITY OVER THE ACCOUNT.

3. IF REQUESTED BY THE CUSTODIAN ANY OF THE FOLLOWING:

(a) A NUMBER, USERNAME, ADDRESS OR OTHER UNIQUE SUBSCRIBER OR ACCOUNT IDENTIFIER ASSIGNED BY THE CUSTODIAN TO IDENTIFY THE USER'S ACCOUNT.

(b) EVIDENCE LINKING THE ACCOUNT TO THE USER.

(c) A FINDING BY THE COURT THAT THE USER HAD A SPECIFIC ACCOUNT WITH THE CUSTODIAN, IDENTIFIABLE BY THE INFORMATION SPECIFIED IN SUBDIVISION (a) OF THIS PARAGRAPH.

EXPLANATION OF BLEND
SECTION 14-13116

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13116 is blended in the form shown on the following page.

BLEND OF SECTION 14-13116
Laws 2016, Chapters 165 and 199

14-13116. Custodian compliance and immunity

A. NOT LATER THAN SIXTY DAYS AFTER RECEIPT OF THE INFORMATION REQUIRED UNDER SECTION 14-13107, 14-13108, 14-13109, 14-13110, 14-13111, 14-13112, 14-13113, 14-13114 OR 14-13115, A CUSTODIAN SHALL COMPLY WITH A REQUEST UNDER THIS CHAPTER FROM A FIDUCIARY OR DESIGNATED RECIPIENT TO DISCLOSE DIGITAL ASSETS OR TERMINATE AN ACCOUNT. IF THE CUSTODIAN FAILS TO COMPLY, THE FIDUCIARY OR DESIGNATED RECIPIENT MAY APPLY TO THE COURT FOR AN ORDER DIRECTING COMPLIANCE.

B. AN ORDER UNDER SUBSECTION A OF THIS SECTION DIRECTING COMPLIANCE MUST CONTAIN A FINDING THAT COMPLIANCE IS NOT IN VIOLATION OF 18 UNITED STATES CODE SECTION 2702.

C. A CUSTODIAN MAY NOTIFY THE USER THAT A REQUEST FOR DISCLOSURE OR TO TERMINATE AN ACCOUNT WAS MADE UNDER THIS CHAPTER.

Chs. 165 and 199

D. A CUSTODIAN MAY DENY A REQUEST UNDER THIS CHAPTER FROM A FIDUCIARY OR DESIGNATED RECIPIENT FOR DISCLOSURE OF DIGITAL ASSETS OR TO TERMINATE AN ACCOUNT IF THE CUSTODIAN IS AWARE OF ANY LAWFUL ACCESS TO THE ACCOUNT FOLLOWING THE RECEIPT OF THE FIDUCIARY'S REQUEST.

E. THIS CHAPTER DOES NOT LIMIT A CUSTODIAN'S ABILITY TO OBTAIN OR REQUIRE A FIDUCIARY OR DESIGNATED RECIPIENT REQUESTING DISCLOSURE OR TERMINATION UNDER THIS CHAPTER TO OBTAIN A COURT ORDER THAT DOES ANY OF THE FOLLOWING:

1. SPECIFIES THAT AN ACCOUNT BELONGS TO THE PROTECTED PERSON OR PRINCIPAL.

2. SPECIFIES THAT THERE IS SUFFICIENT CONSENT FROM THE PROTECTED PERSON OR PRINCIPAL TO SUPPORT THE REQUESTED DISCLOSURE.

3. CONTAINS A FINDING REQUIRED BY LAW OTHER THAN THIS CHAPTER.

F. A CUSTODIAN AND ITS OFFICERS, EMPLOYEES AND AGENTS ARE IMMUNE FROM LIABILITY FOR AN ACT OR OMISSION DONE IN GOOD FAITH IN COMPLIANCE WITH THIS CHAPTER.

EXPLANATION OF BLEND
SECTION 14-13117

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13117 is blended in the form shown on the following page.

BLEND OF SECTION 14-13117
Laws 2016, Chapters 165 and 199

Chs. 165 and 199

14-13117. Uniformity of application and construction

IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

EXPLANATION OF BLEND
SECTION 14-13118

Laws 2016, Chapters 165 and 199

Laws 2016, Ch. 165, section 1	Effective August 6, 2016
Laws 2016, Ch. 199, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 165 and Ch. 199 language for section 14-13118 is blended in the form shown on the following page.

BLEND OF SECTION 14-13118
Laws 2016, Chapters 165 and 199

14-13118. Relation to electronic signatures in global and national commerce act

Chs. 165 and 199

THIS CHAPTER MODIFIES, LIMITS AND SUPERSEDES THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 UNITED STATES CODE SECTIONS 7001 THROUGH 7031, BUT DOES NOT MODIFY, LIMIT OR SUPERSEDE 15 UNITED STATES CODE SECTION 7001(c) OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN 15 UNITED STATES CODE SECTION 7003(b).

EXPLANATION OF BLEND
SECTION 15-101

Laws 2016, Chapters 124, 330 and 331

Laws 2016, Ch. 124, section 2	Effective August 6, 2016
Laws 2016, Ch. 330, section 1	Effective August 6, 2016
Laws 2016, Ch. 331, section 1	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 124, Ch. 330 and Ch. 331 text changes to section 15-101 are blended in the form shown on the following pages.

BLEND OF SECTION 15-101
Laws 2016, Chapters 124, 330 and 331

15-101. Definitions

In this title, unless the context otherwise requires:

1. "Accommodation school" means either:

(a) A school that is operated through the county board of supervisors and the county school superintendent and that the county school superintendent administers to serve a military reservation or territory that is not included within the boundaries of a school district.

(b) A school that provides educational services to homeless children or alternative education programs as provided in section 15-308, subsection B.

(c) A school that is established to serve a military reservation, the boundaries of which are coterminous with the boundaries of the military reservation on which the school is located.

2. "Assessed valuation" means the valuation derived by applying the applicable percentage as provided in title 42, chapter 15, article 1 to the full cash value or limited property value, whichever is applicable, of the property.

3. "Charter holder" means a person that enters into a charter with the state board for charter schools. For the purposes of this paragraph, "person" means an individual, partnership, corporation, association or public or private organization of any kind.

4. "Charter school" means a public school established by contract with Ch. 124 ~~a district governing board,~~ the state board of education, the state board for charter schools, a university under the jurisdiction of the Arizona board of regents, a community college district ~~with enrollment of more than fifteen thousand full-time equivalent students~~ or a group of community college Ch. 331 districts ~~with a combined enrollment of more than fifteen thousand full-time equivalent students~~ pursuant to article 8 of this chapter to provide learning that will improve pupil achievement.

5. "Child with a disability" means a child with a disability as defined in section 15-761.

6. "Class A bonds" means general obligation bonds approved by a vote of the qualified electors of a school district at an election held on or before December 31, 1998.

7. "Class B bonds" means general obligation bonds approved by a vote of the qualified electors of a school district at an election held from and after December 31, 1998.

8. "Competency" means a demonstrated ability in a skill at a specified performance level.

9. "Course" means organized subject matter in which instruction is offered within a given period of time and for which credit toward promotion, graduation or certification is usually given. A course consists of knowledge selected from a subject for instructional purposes in the schools.

10. "Course of study" means a list of required and optional subjects to be taught in the schools.

Chs. 124, 330 and 331

11. "Dual enrollment course" means a ~~college level~~ COLLEGE-LEVEL course that is conducted on the campus of a high school or on the campus of a joint technical education district, that is applicable to an established community college academic degree or certificate program and that is transferable to a university under the jurisdiction of the Arizona board of regents. A dual enrollment course that is applicable to a community college occupational degree or certificate program may be transferable to a university under the jurisdiction of the Arizona board of regents.

12. "Elementary grades" means kindergarten programs and grades one through eight.

13. "Fiscal year" means the year beginning July 1 and ending June 30.

14. "Governing board" means a body organized for the government and management of the schools within a school district or a county school superintendent in the conduct of an accommodation school.

15. "Lease" means an agreement for conveyance and possession of real or personal property.

16. "Limited property value" means the value determined pursuant to title 42, chapter 13, article 7. Limited property value shall be used as the basis for assessing, fixing, determining and levying primary property taxes.

Ch. 330

17. "NONTEST" MEANS NOT RELATING TO KNOWLEDGE OR SKILLS IN READING, WRITING, MATHEMATICS, SOCIAL STUDIES, SCIENCE OR ANY OTHER COURSE.

~~17.~~ 18. "Parent" means the natural or adoptive parent of a child or a person who has custody of a child.

~~18.~~ 19. "Person who has custody" means a parent or legal guardian of a child, a person to whom custody of the child has been given by order of a court or a person who stands in loco parentis to the child.

~~19.~~ 20. "Primary property taxes" means all ad valorem taxes except for secondary property taxes.

~~20.~~ 21. "Private school" means a nonpublic institution where instruction is imparted.

~~21.~~ 22. "School" or "public school" means any public institution established for the purposes of offering instruction to pupils in programs for preschool children with disabilities, kindergarten programs or any combination of elementary grades or secondary grades one through twelve.

~~22.~~ 23. "School district" means a political subdivision of this state with geographic boundaries organized for the purpose of the administration, support and maintenance of the public schools or an accommodation school.

~~23.~~ 24. "Secondary grades" means grades nine through twelve.

~~24.~~ 25. "Secondary property taxes" means ad valorem taxes used to pay the principal of and the interest and redemption charges on any bonded indebtedness or other lawful long-term obligation issued or incurred for a specific purpose by a school district or a community college district and amounts levied pursuant to an election to exceed a budget, expenditure or tax limitation.

~~25.~~ 26. "Subject" means a division or field of organized knowledge, such as English or mathematics, or a selection from an organized body of knowledge for a course or teaching unit, such as the English novel or elementary algebra.

EXPLANATION OF BLEND
SECTION 15-183

Laws 2016, Chapters 124 and 331

Laws 2016, Ch. 124, section 3	Effective August 6, 2016
Laws 2016, Ch. 331, section 5	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 124 and Ch. 331 text changes to section 15-183 are blended in the form shown on the following pages.

BLEND OF SECTION 15-183
Laws 2016, Chapters 124 and 331

15-183. Charter schools; application; requirements; immunity; exemptions; renewal of application; reprisal; fee; funds; annual reports

A. An applicant seeking to establish a charter school shall submit a written application to a proposed sponsor as prescribed in subsection C of this section. The application, application process and application time frames shall be posted on the sponsor's website and shall include the following, as specified in the application adopted by the sponsor:

1. A detailed educational plan.
2. A detailed business plan.
3. A detailed operational plan.
4. Any other materials required by the sponsor.

B. The sponsor of a charter school may contract with a public body, private person or private organization for the purpose of establishing a charter school pursuant to this article.

Ch. 124 — C. The sponsor of a charter school may be either ~~a school district governing board,~~ the state board of education, the state board for charter schools, a university under the jurisdiction of the Arizona board of regents, a community college district ~~with enrollment of more than fifteen thousand full-time equivalent students~~ or a group of community college districts ~~with a combined enrollment of more than fifteen thousand full-time equivalent students~~, subject to the following requirements:

Ch. 331 —

~~1. For charter schools that submit an application for sponsorship to a school district governing board:~~

~~(a) An applicant for a charter school may submit its application to a school district governing board, which shall either accept or reject sponsorship of the charter school within ninety days. An applicant may submit a revised application for reconsideration by the governing board. If the governing board rejects the application, the governing board shall notify the applicant in writing of the reasons for the rejection. The applicant may request, and the governing board may provide, technical assistance to improve the application.~~

Ch. 124 — ~~(b) In the first year that a school district is determined to be out of compliance with the uniform system of financial records, within fifteen days of the determination of noncompliance, the school district shall notify by certified mail each charter school sponsored by the school district that the school district is out of compliance with the uniform system of financial records. The notification shall include a statement that if the school district is determined to be out of compliance for a second consecutive year, the charter school will be required to transfer sponsorship to another entity pursuant to subdivision (c) of this paragraph.~~

~~(c) In the second consecutive year that a school district is determined to be out of compliance with the uniform system of financial~~

~~records, within fifteen days of the determination of noncompliance, the school district shall notify by certified mail each charter school sponsored by the school district that the school district is out of compliance with the uniform system of financial records. A charter school that receives a notification of school district noncompliance pursuant to this subdivision shall file a written sponsorship transfer application within forty-five days with the state board of education, the state board for charter schools or the school district governing board if the charter school is located within the geographic boundaries of that school district. A charter school that receives a notification of school district noncompliance may request an extension of time to file a sponsorship transfer application, and the state board of education, the state board for charter schools or a school district governing board may grant an extension of not more than an additional thirty days if good cause exists for the extension. The state board of education and the state board for charter schools shall approve a sponsorship transfer application pursuant to this paragraph.~~

Ch. 124

~~(d) A school district governing board shall not grant a charter to a charter school that is located outside the geographic boundaries of that school district.~~

~~(e) A school district that has been determined to be out of compliance with the uniform system of financial records during either of the previous two fiscal years shall not sponsor a new or transferring charter school.~~

~~(f) Notwithstanding any other law, a school district governing board shall not grant a charter to a new charter school that begins initial operations after June 30, 2013 or convert an existing district public school to a charter school that begins initial operations after June 30, 2013.~~

1. AN APPLICANT MAY NOT SUBMIT AN APPLICATION FOR SPONSORSHIP TO ANY PERSON OR ENTITY OTHER THAN THOSE PRESCRIBED IN THIS SUBSECTION.

2. The applicant may submit the application to the state board of education or the state board for charter schools. Notwithstanding any other law, neither the state board for charter schools nor the state board of education shall grant a charter to a school district governing board for a new charter school that begins initial operations after June 30, 2013 or for the conversion of an existing district public school to a charter school that begins initial operations after June 30, 2013. The state board of education or the state board for charter schools may approve the application if the application meets the requirements of this article and may approve the charter if the proposed sponsor determines, within its sole discretion, that the applicant is sufficiently qualified to operate a charter school and that the applicant is applying to operate as a separate charter holder by considering factors such as whether:

(a) The schools have separate governing bodies, governing body membership, staff, facilities and student population.

(b) Daily operations are carried out by different administrators.

(c) The applicant intends to have an affiliation agreement for the purpose of providing enrollment preferences.

(d) The applicant's charter management organization has multiple charter holders serving varied grade configurations on one physical site or nearby sites serving one community.

(e) It is reconstituting an existing school site population at the same or new site.

(f) It is reconstituting an existing grade configuration from a prior charter holder with at least one grade remaining on the original site with the other grade or grades moving to a new site. The state board of education or the state board for charter schools may approve any charter schools transferring charters. ~~The state board of education and the state board for charter schools shall approve any charter schools transferring charters from a school district that is determined to be out of compliance with the uniform system of financial records pursuant to this section, but may require the charter school to sign a new charter that is equivalent to the charter awarded by the former sponsor.~~ If the state board of education or the state board for charter schools rejects the preliminary application, the state board of education or the state board for charter schools shall notify the applicant in writing of the reasons for the rejection and of suggestions for improving the application. An applicant may submit a revised application for reconsideration by the state board of education or the state board for charter schools. The applicant may request, and the state board of education or the state board for charter schools may provide, technical assistance to improve the application.

Ch. 124

3. The applicant may submit the application to a university under the jurisdiction of the Arizona board of regents, a community college district or a group of community college districts. A university, a community college district or a group of community college districts shall not grant a charter to a school district governing board for a new charter school that begins initial operations after June 30, 2013 or for the conversion of an existing district public school to a charter school that begins initial operations after June 30, 2013. A university, a community college district or a group of community college districts may approve the application if it meets the requirements of this article and if the proposed sponsor determines, in its sole discretion, that the applicant is sufficiently qualified to operate a charter school.

4. Each applicant seeking to establish a charter school shall submit a full set of fingerprints to the approving agency for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. If an applicant will have direct contact with students, the applicant shall possess a valid fingerprint clearance card that is issued pursuant to title 41, chapter 12, article 3.1. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. The criminal records check shall be completed before the issuance of a charter.

5. All persons engaged in instructional work directly as a classroom, laboratory or other teacher or indirectly as a supervisory teacher, speech therapist or principal shall have a valid fingerprint clearance card that is issued pursuant to title 41, chapter 12, article 3.1, unless the person is a volunteer or guest speaker who is accompanied in the classroom by a person with a valid fingerprint clearance card. A charter school shall not employ a teacher whose certificate has been surrendered or revoked, unless the teacher's certificate has been subsequently reinstated by the state board of education. All other personnel shall be fingerprint checked pursuant to

section 15-512, or the charter school may require those personnel to obtain a fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1. Before employment, the charter school shall make documented, good faith efforts to contact previous employers of a person to obtain information and recommendations that may be relevant to a person's fitness for employment as prescribed in section 15-512, subsection F. The charter school shall notify the department of public safety if the charter school or sponsor receives credible evidence that a person who possesses a valid fingerprint clearance card is arrested for or is charged with an offense listed in section 41-1758.03, subsection B. Charter schools may hire personnel that have not yet received a fingerprint clearance card if proof is provided of the submission of an application to the department of public safety for a fingerprint clearance card and if the charter school that is seeking to hire the applicant does all of the following:

(a) Documents in the applicant's file the necessity for hiring and placement of the applicant before receiving a fingerprint clearance card.

(b) Ensures that the department of public safety completes a statewide criminal records check on the applicant. A statewide criminal records check shall be completed by the department of public safety every one hundred twenty days until the date that the fingerprint check is completed or the fingerprint clearance card is issued or denied.

(c) Obtains references from the applicant's current employer and the two most recent previous employers except for applicants who have been employed for at least five years by the applicant's most recent employer.

(d) Provides general supervision of the applicant until the date that the fingerprint card is obtained.

(e) Completes a search of criminal records in all local jurisdictions outside of this state in which the applicant has lived in the previous five years.

(f) Verifies the fingerprint status of the applicant with the department of public safety.

6. A charter school that complies with the fingerprinting requirements of this section shall be deemed to have complied with section 15-512 and is entitled to the same rights and protections provided to school districts by section 15-512.

7. If a charter school operator is not already subject to a public meeting or hearing by the municipality in which the charter school is located, the operator of a charter school shall conduct a public meeting at least thirty days before the charter school operator opens a site or sites for the charter school. The charter school operator shall post notices of the public meeting in at least three different locations that are within three hundred feet of the proposed charter school site.

8. A person who is employed by a charter school or who is an applicant for employment with a charter school, who is arrested for or charged with a nonappealable offense listed in section 41-1758.03, subsection B and who does not immediately report the arrest or charge to the person's supervisor or potential employer is guilty of unprofessional conduct and the person shall be immediately dismissed from employment with the charter school or immediately excluded from potential employment with the charter school.

9. A person who is employed by a charter school and who is convicted of any nonappealable offense listed in section 41-1758.03, subsection B or is convicted of any nonappealable offense that amounts to unprofessional conduct under section 15-550 shall immediately do all of the following:

(a) Surrender any certificates issued by the department of education.

(b) Notify the person's employer or potential employer of the conviction.

(c) Notify the department of public safety of the conviction.

(d) Surrender the person's fingerprint clearance card.

D. An entity that is authorized to sponsor charter schools pursuant to this article has no legal authority over or responsibility for a charter school sponsored by a different entity. This subsection does not apply to the state board of education's duty to exercise general supervision over the public school system pursuant to section 15-203, subsection A, paragraph 1.

E. The charter of a charter school shall do all of the following:

1. Ensure compliance with federal, state and local rules, regulations and statutes relating to health, safety, civil rights and insurance. The department of education shall publish a list of relevant rules, regulations and statutes to notify charter schools of their responsibilities under this paragraph.

2. Ensure that it is nonsectarian in its programs, admission policies and employment practices and all other operations.

3. Ensure that it provides a comprehensive program of instruction for at least a kindergarten program or any grade between grades one and twelve, except that a school may offer this curriculum with an emphasis on a specific learning philosophy or style or certain subject areas such as mathematics, science, fine arts, performance arts or foreign language.

4. Ensure that it designs a method to measure pupil progress toward the pupil outcomes adopted by the state board of education pursuant to section 15-741.01, including participation in the Arizona instrument to measure standards test and the nationally standardized norm-referenced achievement test as designated by the state board and the completion and distribution of an annual report card as prescribed in chapter 7, article 3 of this title.

5. Ensure that, except as provided in this article and in its charter, it is exempt from all statutes and rules relating to schools, governing boards and school districts.

6. Ensure that, except as provided in this article, it is subject to the same financial and electronic data submission requirements as a school district, including the uniform system of financial records as prescribed in chapter 2, article 4 of this title, procurement rules as prescribed in section 15-213 and audit requirements. The auditor general shall conduct a comprehensive review and revision of the uniform system of financial records to ensure that the provisions of the uniform system of financial records that relate to charter schools are in accordance with commonly accepted accounting principles used by private business. A school's charter may include exceptions to the requirements of this paragraph that are necessary as determined by ~~the district governing board,~~ the university, the community college district, the group of community college districts, the state board of education or the state board for charter schools. The department of

education or the office of the auditor general may conduct financial, program or compliance audits.

7. Ensure compliance with all federal and state laws relating to the education of children with disabilities in the same manner as a school district.

8. Ensure that it provides for a governing body for the charter school that is responsible for the policy decisions of the charter school. Notwithstanding section 1-216, if there is a vacancy or vacancies on the governing body, a majority of the remaining members of the governing body constitute a quorum for the transaction of business, unless that quorum is prohibited by the charter school's operating agreement.

9. Ensure that it provides a minimum of one hundred eighty instructional days before June 30 of each fiscal year unless it is operating on an alternative calendar approved by its sponsor. The superintendent of public instruction shall adjust the apportionment schedule accordingly to accommodate a charter school utilizing an alternative calendar.

Ch. 331

F. A charter school shall keep ~~on~~ IN THE PERSONNEL file ~~the resumes~~ of all current ~~and former~~ employees who provide instruction to pupils at the charter school~~. Resumes shall include an individual's~~ INFORMATION ABOUT THE EMPLOYEE'S educational and teaching background and experience in a particular academic content subject area. A charter school shall inform parents and guardians of the availability of the ~~resume~~ information and shall make the ~~resume~~ information available for inspection on request of parents and guardians of pupils enrolled at the charter school. This subsection does not require any charter school to release personally identifiable information in relation to any teacher or employee, including the teacher's or employee's address, salary, social security number or telephone number.

G. The charter of a charter school may be amended at the request of the governing body of the charter school and on the approval of the sponsor.

H. Charter schools may contract, sue and be sued.

I. The charter is effective for fifteen years from the first day of the fiscal year as specified in the charter, subject to the following:

1. At least eighteen months before the expiration of the charter, the sponsor shall notify the charter school that the charter school may apply for renewal and shall make the renewal application available to the charter school. A charter school that elects to apply for renewal shall file a complete renewal application at least fifteen months before the expiration of the charter. A sponsor shall give written notice of its intent not to renew the charter school's request for renewal to the charter school at least twelve months before the expiration of the charter. The sponsor shall make data used in making renewal decisions available to the school and the public and shall provide a public report summarizing the evidence basis for each decision. The sponsor may deny the request for renewal if, in its judgment, the charter holder has failed to do any of the following:

(a) Meet or make sufficient progress toward the academic performance expectations set forth in the performance framework.

(b) Meet the operational performance expectations set forth in the performance framework or any improvement plans.

(c) Complete the obligations of the contract.

(d) Comply with this article or any provision of law from which the charter school is not exempt.

2. A charter operator may apply for early renewal. At least nine months before the charter school's intended renewal consideration, the operator of the charter school shall submit a letter of intent to the sponsor to apply for early renewal. The sponsor shall review fiscal audits and academic performance data for the charter school that are annually collected by the sponsor, review the current contract between the sponsor and the charter school and provide the qualifying charter school with a renewal application. On submission of a complete application, the sponsor shall give written notice of its consideration of the renewal application. The sponsor may deny the request for early renewal if, in the sponsor's judgment, the charter holder has failed to do any of the following:

(a) Meet or make sufficient progress toward the academic performance expectations set forth in the performance framework.

(b) Meet the operational performance expectations set forth in the performance framework or any improvement plans.

(c) Complete the obligations of the contract.

(d) Comply with this article or any provision of law from which the charter school is not exempt.

3. A sponsor shall review a charter at five-year intervals using a performance framework adopted by the sponsor and may revoke a charter at any time if the charter school breaches one or more provisions of its charter or if the sponsor determines that the charter holder has failed to do any of the following:

(a) Meet or make sufficient progress toward the academic performance expectations set forth in the performance framework.

(b) Meet the operational performance expectations set forth in the performance framework or any improvement plans.

(c) Comply with this article or any provision of law from which the charter school is not exempt.

4. In determining whether to renew or revoke a charter holder, the sponsor must consider making sufficient progress toward the academic performance expectations set forth in the sponsor's performance framework as one of the most important factors.

5. At least sixty days before the effective date of the proposed revocation, the sponsor shall give written notice to the operator of the charter school of its intent to revoke the charter. Notice of the sponsor's intent to revoke the charter shall be delivered personally to the operator of the charter school or sent by certified mail, return receipt requested, to the address of the charter school. The notice shall incorporate a statement of reasons for the proposed revocation of the charter. The sponsor shall allow the charter school at least sixty days to correct the problems associated with the reasons for the proposed revocation of the charter. The final determination of whether to revoke the charter shall be made at a public hearing called for such purpose.

J. The charter may be renewed for successive periods of twenty years.

K. A charter school that is sponsored by the state board of education, the state board for charter schools, a university, a community college district or a group of community college districts may not be located on the

property of a school district unless the district governing board grants this authority.

L. A governing board or a school district employee who has control over personnel actions shall not take unlawful reprisal against another employee of the school district because the employee is directly or indirectly involved in an application to establish a charter school. A governing board or a school district employee shall not take unlawful reprisal against an educational program of the school or the school district because an application to establish a charter school proposes the conversion of all or a portion of the educational program to a charter school. For the purposes of this subsection, "unlawful reprisal" means an action that is taken by a governing board or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to another employee or an education program and:

1. With respect to a school district employee, results in one or more of the following:

(a) Disciplinary or corrective action.

(b) Detail, transfer or reassignment.

(c) Suspension, demotion or dismissal.

(d) An unfavorable performance evaluation.

(e) A reduction in pay, benefits or awards.

(f) Elimination of the employee's position without a reduction in force by reason of lack of monies or work.

(g) Other significant changes in duties or responsibilities that are inconsistent with the employee's salary or employment classification.

2. With respect to an educational program, results in one or more of the following:

(a) Suspension or termination of the program.

(b) Transfer or reassignment of the program to a less favorable department.

(c) Relocation of the program to a less favorable site within the school or school district.

(d) Significant reduction or termination of funding for the program.

M. Charter schools shall secure insurance for liability and property loss. The governing body of a charter school that is sponsored by the state board of education or the state board for charter schools may enter into an intergovernmental agreement or otherwise contract to participate in an insurance program offered by a risk retention pool established pursuant to section 11-952.01 or 41-621.01 or the charter school may secure its own insurance coverage. The pool may charge the requesting charter school reasonable fees for any services it performs in connection with the insurance program.

N. Charter schools do not have the authority to acquire property by eminent domain.

O. A sponsor, including members, officers and employees of the sponsor, is immune from personal liability for all acts done and actions taken in good faith within the scope of its authority.

P. Charter school sponsors and this state are not liable for the debts or financial obligations of a charter school or persons who operate charter schools.

Q. The sponsor of a charter school shall establish procedures to conduct administrative hearings on determination by the sponsor that grounds exist to revoke a charter. Procedures for administrative hearings shall be similar to procedures prescribed for adjudicative proceedings in title 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, final decisions of the state board of education and the state board for charter schools from hearings conducted pursuant to this subsection are subject to judicial review pursuant to title 12, chapter 7, article 6.

R. The sponsoring entity of a charter school shall have oversight and administrative responsibility for the charter schools that it sponsors. In implementing its oversight and administrative responsibilities, the sponsor shall ground its actions in evidence of the charter holder's performance in accordance with the performance framework adopted by the sponsor. The performance framework shall be publicly available, shall be placed on the sponsoring entity's website and shall include:

1. The academic performance expectations of the charter school and the measurement of sufficient progress toward the academic performance expectations.

2. The operational expectations of the charter school, including adherence to all applicable laws and obligations of the charter contract.

3. Intervention and improvement policies.

S. Charter schools may pledge, assign or encumber their assets to be used as collateral for loans or extensions of credit.

T. All property accumulated by a charter school shall remain the property of the charter school.

U. Charter schools may not locate a school on property that is less than one-fourth mile from agricultural land regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the charter school may locate a school within the affected buffer zone. The agreement may include any stipulations regarding the charter school, including conditions for future expansion of the school and changes in the operational status of the school that will result in a breach of the agreement.

V. A transfer of a charter to another sponsor, a transfer of a charter school site to another sponsor or a transfer of a charter school site to a different charter shall be completed before the beginning of the fiscal year that the transfer is scheduled to become effective. An entity that sponsors charter schools may accept a transferring school after the beginning of the fiscal year if the transfer is approved by the superintendent of public instruction. The superintendent of public instruction shall have the discretion to consider each transfer during the fiscal year on a case by case basis. ~~If a charter school is sponsored by a school district that is determined to be out of compliance with this title, the uniform system of financial records or any other state or federal law, the charter school may transfer to another sponsoring entity at any time during the fiscal year.~~ A charter holder seeking to transfer sponsors shall comply with the current charter terms regarding assignment of the charter. A charter holder

Ch. 124

transferring sponsors shall notify the current sponsor that the transfer has been approved by the new sponsor.

W. Notwithstanding subsection V of this section, a charter holder on an improvement plan must notify parents or guardians of registered students of the intent to transfer the charter and the timing of the proposed transfer. On the approved transfer, the new sponsor shall enforce the improvement plan but may modify the plan based on performance.

X. Notwithstanding subsection Y of this section, the state board for charter schools shall charge a processing fee to any charter school that amends its contract to participate in Arizona online instruction pursuant to section 15-808. The charter Arizona online instruction processing fund is established consisting of fees collected and administered by the state board for charter schools. The state board for charter schools shall use monies in the fund only for the processing of contract amendments for charter schools participating in Arizona online instruction. Monies in the fund are continuously appropriated.

Y. The sponsoring entity may not charge any fees to a charter school that it sponsors unless the sponsor has provided services to the charter school and the fees represent the full value of those services provided by the sponsor. On request, the value of the services provided by the sponsor to the charter school shall be demonstrated to the department of education.

Z. Charter schools may enter into an intergovernmental agreement with a presiding judge of the juvenile court to implement a law related education program as defined in section 15-154. The presiding judge of the juvenile court may assign juvenile probation officers to participate in a law related education program in any charter school in the county. The cost of juvenile probation officers who participate in the program implemented pursuant to this subsection shall be funded by the charter school.

AA. The sponsor of a charter school shall modify previously approved curriculum requirements for a charter school that wishes to participate in the board examination system prescribed in chapter 7, article 6 of this title.

BB. If a charter school decides not to participate in the board examination system prescribed in chapter 7, article 6 of this title, pupils enrolled at that charter school may earn a Grand Canyon diploma by obtaining a passing score on the same board examinations.

CC. Notwithstanding subsection Y of this section, a sponsor of charter schools may charge a new charter application processing fee to any applicant. The application fee shall fully cover the cost of application review and any needed technical assistance. Authorizers may approve policies that allow a portion of the fee to be returned to the applicant whose charter is approved.

DD. A charter school may choose to provide a preschool program for children with disabilities pursuant to section 15-771.

EE. Pursuant to the prescribed graduation requirements adopted by the state board of education, the governing body of a charter school operating a high school may approve a rigorous computer science course that would fulfill a mathematics course required for graduation from high school. The governing body may approve a rigorous computer science course only if the rigorous computer science course includes significant mathematics content and the governing body determines the high school where the rigorous computer science

course is offered has sufficient capacity, infrastructure and qualified staff, including competent teachers of computer science.

FF. A charter school may permit the use of school property, including school buildings, grounds, buses and equipment, by any person, group or organization for any lawful purpose, including a recreational, educational, political, economic, artistic, moral, scientific, social, religious or other civic or governmental purpose. The charter school may charge a reasonable fee for the use of the school property.

GG. A charter school and its employees, including the governing body, or chief administrative officer, are immune from civil liability with respect to all decisions made and actions taken to allow the use of school property, unless the charter school or its employees are guilty of gross negligence or intentional misconduct. This subsection does not limit any other immunity provisions that are prescribed by law.

HH. Sponsors authorized pursuant to this section shall submit an annual report to the auditor general on or before October 1 ~~of each year~~. The report shall include:

1. The current number of charters authorized and the number of schools operated by authorized charter holders.

Chs. 124 and 331

2. The academic and operational performance of the sponsor's charter portfolio as measured by the sponsor's adopted performance framework.

3. FOR THE PRIOR YEAR, the number of new charters approved, ~~and~~ the number of charter schools closed and THE reason for the closure ~~in the prior year~~.

4. The sponsor's application, amendment, renewal and revocation processes, charter contract template and current performance framework as required by this section.

II. The auditor general shall prescribe the format for the annual report required by subsection HH of this section and may require that the annual report be submitted electronically. The auditor general shall review the submitted annual reports to ensure that the reports include the required items in subsection HH of this section and shall make the annual reports available upon request. If the auditor general finds significant noncompliance or ~~a sponsor's failure~~ IF A SPONSOR FAILS to submit the annual report required by subsection HH of this section, on or before December 31 of each year the auditor general shall report to the governor, the president of the senate, the speaker of the house of representatives and the chairs of the senate and house education committees or their successor committees, and the legislature shall consider revoking the sponsor's authority to sponsor charter schools.

Chs. 124 and 331

EXPLANATION OF BLEND
SECTION 15-184

Laws 2016, Chapters 124 and 248

Laws 2016, Ch. 124, section 4 — Effective August 6, 2016

Laws 2016, Ch. 248, section 1 — Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 124 and Ch. 248 text changes to section 15-184 are blended in the form shown on the following pages.

The Laws 2016, Ch. 124 version of section 15-184 made a conforming change to an internal reference in subsection F. The Ch. 248 version made a different conforming change to that internal reference. Since this would not produce a substantive change, the blend version conforms the internal reference in subsection F to correspond to the subsection relettering changes resulting from the blend of the Ch. 124 and Ch. 248 versions.

BLEND OF SECTION 15-184
Laws 2016, Chapters 124 and 248

15-184. Charter schools; admissions requirements

A. A charter school shall enroll all eligible pupils who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building.

B. A charter school shall give enrollment preference to pupils returning to the charter school in the second or any subsequent year of its operation and to siblings of pupils already enrolled in the charter school.

Ch. 124

~~C. A charter school that is sponsored by a school district governing board shall give enrollment preference to eligible pupils who reside within the boundaries of the school district where the charter school is physically located.~~

Ch. 248

C. A CHARTER SCHOOL MAY GIVE ENROLLMENT PREFERENCE TO CHILDREN WHO ARE IN FOSTER CARE OR MEET THE DEFINITION OF UNACCOMPANIED YOUTH PRESCRIBED IN THE MCKINNEY-VENTO HOMELESS ASSISTANCE ACT (42 UNITED STATES CODE SECTION 11434a).

D. A charter school may give enrollment preference to and reserve capacity for pupils who either:

1. Are children, grandchildren or legal wards of any of the following:

(a) Employees of the school.

(b) Employees of the charter holder.

(c) Members of the governing body of the school.

(d) Directors, officers, partners or board members of the charter holder.

2. Attended another charter school or are the siblings of that pupil if the charter school previously attended by the pupil has the identical charter holder, board and governing board membership as the enrolling charter school or is managed by the same educational management organization, charter management organization or educational service provider as determined by the charter authorizer.

E. If remaining capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall select pupils through an equitable selection process such as a lottery except that preference shall be given to siblings of a pupil selected through an equitable selection process such as a lottery.

F. Except as provided in subsections A through D of this section, a charter school shall not limit admission based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language or athletic ability.

G. A charter school may limit admission to pupils within a given age group or grade level.

H. A charter school may provide instruction to pupils of a single gender with the approval of the sponsor of the charter school. An existing charter school may amend its charter to provide instruction to pupils of a single gender, and if approved by the sponsor of the charter school, may provide instruction to pupils of a single gender at the beginning of the next school year.

I. A charter school shall admit pupils who reside in the attendance area of a school or who reside in a school district that is under a court order of desegregation or that is a party to an agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination unless notice is received from the resident school that the admission would violate the court order or agreement. If a charter school admits a pupil after notice is received that the admission would constitute such a violation, the charter school is not allowed to include in its student count the pupils wrongfully admitted.

J. A charter school may refuse to admit any pupil who has been expelled from another educational institution or who is in the process of being expelled from another educational institution.

EXPLANATION OF BLEND
SECTION 15-203

Laws 2016, Chapters 138 and 325

Laws 2016, Ch. 138, section 3	Effective August 6, 2016
Laws 2016, Ch. 325, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 138 and Ch. 325 text changes to section 15-203 are blended in the form shown on the following pages.

BLEND OF SECTION 15-203
Laws 2016, Chapters 138 and 325

15-203. Powers and duties

A. The state board of education shall:

1. Exercise general supervision over and regulate the conduct of the public school system and adopt any rules and policies it deems necessary to accomplish this purpose.

2. Keep a record of its proceedings.

3. Make rules for its own government.

4. Determine the policy and work undertaken by it.

Ch. 138

5. Subject to title 41, chapter 4, article 4, employ staff ~~on the recommendation of the superintendent of public instruction~~.

6. Prescribe AND SUPERVISE the duties of its employees PURSUANT TO TITLE 41, CHAPTER 4, ARTICLE 4, if not OTHERWISE prescribed by statute.

7. Delegate to the superintendent of public instruction the execution of board policies and rules.

8. Recommend to the legislature changes or additions to the statutes pertaining to schools.

9. Prepare, publish and distribute reports concerning the educational welfare of this state.

10. Prepare a budget for expenditures necessary for proper maintenance of the board and accomplishment of its purposes and present the budget to the legislature.

11. Aid in the enforcement of laws relating to schools.

12. Prescribe a minimum course of study in the common schools, minimum competency requirements for the promotion of pupils from the third grade and minimum course of study and competency requirements for the promotion of pupils from the eighth grade. The state board of education shall prepare a fiscal impact statement of any proposed changes to the minimum course of study or competency requirements and, on completion, shall send a copy to the director of the joint legislative budget committee and the executive director of the school facilities board. The state board of education shall not adopt any changes in the minimum course of study or competency requirements in effect on July 1, 1998 that will have a fiscal impact on school capital costs.

13. Prescribe minimum course of study and competency requirements for the graduation of pupils from high school. The state board of education shall prepare a fiscal impact statement of any proposed changes to the minimum course of study or competency requirements and, on completion, shall send a copy to the director of the joint legislative budget committee and the executive director of the school facilities board. The state board of

education shall not adopt any changes in the minimum course of study or competency requirements in effect on July 1, 1998 that will have a fiscal impact on school capital costs.

14. Supervise and control the certification of persons engaged in instructional work directly as any classroom, laboratory or other teacher or indirectly as a supervisory teacher, speech therapist, principal or superintendent in a school district, including school district preschool programs, or any other educational institution below the community college, college or university level, and prescribe rules for certification, including rules for certification of teachers who have teaching experience and who are trained in other states, that are not unnecessarily restrictive and are substantially similar to the rules prescribed for the certification of teachers trained in this state. The rules:

(a) Shall allow a variety of alternative teacher and administrator preparation programs, with variations in program sequence and design, to apply for program approval. The state board shall adopt rules pursuant to this subdivision designed to allow for a variety of formats and shall not require a prescribed answer or design from the program provider in order to obtain approval from the state board. The state board shall evaluate each program provider based on the program's ability to prepare teachers and administrators and to recruit teachers and administrators with a variety of experiences and talents. The state board shall permit universities under the jurisdiction of the Arizona board of regents, community colleges in this state, private postsecondary institutions licensed by this state, school districts, charter schools and professional organizations to apply for program approval and shall create application procedures and certification criteria that are less restrictive than those for traditional preparation programs. Alternative preparation program graduates shall:

(i) Hold a bachelor's degree from an accredited postsecondary education institution.

(ii) Demonstrate professional knowledge and subject knowledge proficiency pursuant to section 15-533.

(iii) Obtain a fingerprint clearance card pursuant to section 15-534.

(iv) Complete training in structured English immersion as prescribed by the state board.

Ch. 138 (v) Complete training in ~~research-based~~ RESEARCH-BASED systematic phonics instruction as prescribed in subdivision (b) of this paragraph.

(vi) Demonstrate the required proficiency in the Constitutions of the United States and Arizona as prescribed in section 15-532.

(b) Shall require applicants for all certificates for common school instruction to complete a minimum of forty-five classroom hours or three college level credit hours, or the equivalent, of training in research-based systematic phonics instruction from a public or private provider.

(c) Shall not require a teacher to obtain a master's degree or to take any additional graduate courses as a condition of certification or recertification.

(d) Shall allow a general equivalency diploma to be substituted for a high school diploma in the certification of emergency substitute teachers.

(e) Shall allow but shall not require the superintendent of a school district to obtain certification from the state board of education.

(f) Shall provide for the issuance of a specialized teaching certificate to classroom teachers with expertise in either science, technology, engineering or mathematics. Teachers who are certified pursuant to this subdivision shall complete training in structured English immersion as prescribed by the state board. Teachers who are certified pursuant to this subdivision are exempt from the professional knowledge and subject knowledge proficiency requirements prescribed in section 15-533 and from the proficiency requirements prescribed in section 15-532 on the Constitutions of the United States and Arizona. A teacher who obtains a specialized teaching certificate pursuant to this subdivision may provide instruction in the teacher's field of expertise in grades six through twelve at any public school in this state. This subdivision does not require a teacher who has obtained another type of teaching certificate from the state board to obtain a specialized teaching certificate pursuant to this subdivision in order to provide instruction in grades six through twelve in a science, technology, engineering or mathematics course. A classroom teacher is eligible for a specialized teaching certificate pursuant to this subdivision if the teacher meets all of the following requirements:

(i) Has taught science, technology, engineering or mathematics courses for the last two consecutive years and for a total of at least three years at one or more regionally or nationally accredited public or private postsecondary institutions. An applicant shall demonstrate compliance with this requirement by providing the state board with written proof of employment for specific durations from one or more qualifying postsecondary institutions.

(ii) Has either a baccalaureate degree, a master's degree or a doctorate degree in an academic subject that is specific to science, technology, engineering or mathematics or has obtained a passing score on a statewide educator assessment in science, technology, engineering or mathematics that is recognized by the state board.

(iii) Obtains a valid fingerprint clearance card that is issued pursuant to title 41, chapter 12, article 3.1.

(g) Notwithstanding section 15-533, may exempt persons applying for a secondary education certificate from the subject knowledge portion of the proficiency examination if the state board determines that the person has work experience in science, technology, engineering or mathematics and can demonstrate adequate knowledge of a particular subject through a postsecondary education degree or twenty-four credit hours of relevant coursework.

Ch. 325 — (h) SHALL ALLOW FOR A STANDARD CERTIFICATE ISSUED TO A PERSON PURSUANT TO THIS SECTION TO BE RENEWED FOR AT LEAST EIGHT YEARS AND MAY NOT REQUIRE MORE THAN FIFTEEN HOURS OF CONTINUING EDUCATION CREDITS EACH YEAR IN ORDER TO RENEW ANY CERTIFICATE ISSUED PURSUANT TO THIS SECTION.

15. Adopt a list of approved tests for determining special education assistance to gifted pupils as defined in and as provided in chapter 7, article 4.1 of this title. The adopted tests shall provide separate scores for quantitative reasoning, verbal reasoning and nonverbal reasoning and

shall be capable of providing reliable and valid scores at the highest ranges of the score distribution.

16. Adopt rules governing the methods for the administration of all proficiency examinations.

17. Adopt proficiency examinations for its use. The state board of education shall determine the passing score for the proficiency ~~examination~~ EXAMINATIONS.

Ch. 138

18. Include within its budget the cost of contracting for the purchase, distribution and scoring of the examinations as provided in paragraphs 16 and 17 of this subsection.

19. Supervise and control the qualifications of professional nonteaching school personnel and prescribe standards relating to qualifications. The standards shall not require the business manager of a school district to obtain certification from the state board of education.

20. Impose such disciplinary action, including the issuance of a letter of censure, suspension, suspension with conditions or revocation of a certificate, ~~upon~~ ON a finding of immoral or unprofessional conduct.

Chs. 138 and 325

21. Establish an assessment, data gathering and reporting system for pupil performance as prescribed in chapter 7, article 3 of this title.

22. Adopt a rule to promote braille literacy pursuant to section 15-214.

23. Adopt rules prescribing procedures for the investigation by the department of education of every written complaint alleging that a certificated person has engaged in immoral conduct.

24. For purposes of federal law, serve as the state board for vocational and technological education and meet at least four times each year solely to execute the powers and duties of the state board for vocational and technological education.

25. Develop and maintain a handbook for use in the schools of this state that provides guidance for the teaching of moral, civic and ethical education. The handbook shall promote existing curriculum frameworks and shall encourage school districts to recognize moral, civic and ethical values within instructional and programmatic educational development programs for the general purpose of instilling character and ethical principles in pupils in kindergarten programs and grades one through twelve.

26. Require pupils to recite the following passage from the declaration of independence for pupils in grades four through six at the commencement of the first class of the day in the schools, except that a pupil shall not be required to participate if the pupil or the pupil's parent or guardian objects:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. . . .

27. Adopt rules that provide for educator certification reciprocity. The rules for issuance of a comparable reciprocal educator certificate shall include a requirement that the applicant possess a comparable valid certification from another state THAT INCLUDED PASSING THAT STATE'S SUBJECT KNOWLEDGE AND PROFESSIONAL EXAMS AND BE IN GOOD STANDING WITH THAT OTHER STATE. AN APPLICANT WHO POSSESSES A VALID CERTIFICATION FROM ANOTHER STATE AND A FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 15-534 AND WHO IS IN GOOD STANDING WITH THAT OTHER STATE SHALL BE ISSUED A STANDARD TEACHING CERTIFICATE WITHOUT ANY OTHER REQUIREMENTS FROM THE STATE BOARD OF EDUCATION OR THE DEPARTMENT OF EDUCATION. A PERSON WHO IS ISSUED A CERTIFICATE PURSUANT TO THIS PARAGRAPH IS NOT REQUIRED TO MEET ANY REQUIREMENT PRESCRIBED IN SECTION 15-533.

Ch. 325

28. Adopt rules that provide for the presentation of an honorary high school diploma to a person who has never obtained a high school diploma and who meets both of the following requirements:

(a) Currently resides in this state.

(b) Provides documented evidence from the department of veterans' services that the person enlisted in the armed forces of the United States and served in World War I, World War II, the Korean conflict or the Vietnam conflict.

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

30. Adopt rules to define and provide guidance to schools as to the activities that would constitute immoral or unprofessional conduct of certificated persons.

31. Adopt guidelines to encourage pupils in grades nine, ten, eleven and twelve to volunteer for twenty hours of community service before graduation from high school. A school district that complies with the guidelines adopted pursuant to this paragraph is not liable for damages resulting from a pupil's participation in community service unless the school district is found to have demonstrated wanton or reckless disregard for the safety of the pupil and other participants in community service. For the purposes of this paragraph, "community service" may include service learning. The guidelines shall include the following:

(a) A list of the general categories in which community service may be performed.

(b) A description of the methods by which community service will be monitored.

(c) A consideration of risk assessment for community service projects.

(d) Orientation and notification procedures of community service opportunities for pupils entering grade nine, including the development of a notification form. The notification form shall be signed by the pupil and the pupil's parent or guardian, except that a pupil shall not be required to participate in community service if the parent or guardian notifies the

principal of the pupil's school in writing that the parent or guardian does not wish the pupil to participate in community service.

(e) Procedures for a pupil in grade nine to prepare a written proposal that outlines the type of community service that the pupil would like to perform and the goals that the pupil hopes to achieve as a result of community service. The pupil's written proposal shall be reviewed by a faculty advisor, a guidance counselor or any other school employee who is designated as the community service program coordinator for that school. The pupil may alter the written proposal at any time before performing community service.

(f) Procedures for a faculty advisor, a guidance counselor or any other school employee who is designated as the community service program coordinator to evaluate and certify the completion of community service performed by pupils.

32. To facilitate the transfer of military personnel and their dependents to and from the public schools of this state, pursue, in cooperation with the Arizona board of regents, reciprocity agreements with other states concerning the transfer credits for military personnel and their dependents. A reciprocity agreement entered into pursuant to this paragraph shall:

(a) Address procedures for each of the following:

(i) The transfer of student records.

(ii) Awarding credit for completed coursework.

(iii) Permitting a student to satisfy the graduation requirements prescribed in section 15-701.01 through the successful performance on comparable exit-level assessment instruments administered in another state.

(b) Include appropriate criteria developed by the state board of education and the Arizona board of regents.

33. Adopt guidelines that school district governing boards shall use in identifying pupils who are eligible for gifted programs and in providing gifted education programs and services. The state board of education shall adopt any other guidelines and rules that it deems necessary in order to carry out the purposes of chapter 7, article 4.1 of this title.

34. For each of the alternative textbook formats of human-voiced audio, large-print and braille, designate alternative media producers to adapt existing standard print textbooks or to provide specialized textbooks, or both, for pupils with disabilities in this state. Each alternative media producer shall be capable of producing alternative textbooks in all relevant subjects in at least one of the alternative textbook formats. The board shall post the designated list of alternative media producers on its website.

35. Adopt a list of approved professional development training providers for use by school districts as provided in section 15-107, subsection J. The professional development training providers shall meet the training curriculum requirements determined by the state board of education in at least the areas of school finance, governance, employment, staffing, inventory and human resources, internal controls and procurement.

36. Adopt rules to prohibit a person who violates the notification requirements prescribed in section 15-183, subsection C, paragraph 8 or section 15-550, subsection C from certification pursuant to this title until the person is no longer charged or is acquitted of any offenses listed in

section 41-1758.03, subsection B. The board shall also adopt rules to prohibit a person who violates the notification requirements, certification surrender requirements or fingerprint clearance card surrender requirements prescribed in section 15-183, subsection C, paragraph 9 or section 15-550, subsection D from certification pursuant to this title for at least ten years after the date of the violation.

37. Adopt rules for the alternative certification of teachers of nontraditional foreign languages that allow for the passing of a nationally accredited test to substitute for the education coursework required for certification.

38. Adopt and maintain a model framework for a teacher and principal evaluation instrument that includes quantitative data on student academic progress that accounts for between thirty-three percent and fifty percent of the evaluation outcomes. The framework shall include four performance classifications, designated as highly effective, effective, developing and ineffective, and guidelines for school districts and charter schools to use in their evaluation instruments. The state board of education shall adopt best practices for professional development and evaluator training. The state board of education may periodically make adjustments to align the model framework for teacher and principal evaluations with assessment or data changes at the state level. School districts and charter schools shall use an instrument that meets the data requirements established by the state board of education to annually evaluate individual teachers and principals. School districts and charter schools shall adopt definitions for the performance classifications adopted by the state board of education in a public meeting and apply the performance classifications to their evaluation instruments in a manner designed to improve principal and teacher performance. For charter holders, the principal evaluation instrument applies to each charter school's instructional leader whose primary responsibility is to oversee the academic performance of the charter school. This paragraph does not apply to an officer, director, member or partner of the charter holder. The school district governing board shall discuss at a public meeting at least annually its aggregate performance classifications of principals and teachers.

39. Adopt rules to define competency-based educational pathways for college and career readiness that may be used by schools. The rules shall include the following components:

(a) The establishment of learning outcomes that will be expected for students in a particular subject.

(b) A process and criteria by which assessments may be identified or established to determine if students have reached the desired competencies in a particular subject.

(c) A mechanism to allow pupils in grades seven through twelve who have demonstrated competency in a subject to immediately obtain credit for the mastery of that subject. The rules shall include a list of applicable subjects, including the level of competency required for each subject.

40. In consultation with the department of health services, the department of education, medical professionals, school health professionals, school administrators and an organization that represents school nurses in this state, adopt rules ~~on or before January 1, 2014~~ that prescribe the following for school districts and charter schools:

Ch. 138

(a) Annual training in the administration of auto-injectable epinephrine, as directed on the prescription protocol, for designated medical and nonmedical school personnel. The annual training prescribed in this subdivision is optional during any fiscal year in which sufficient monies are not appropriated by the legislature during that fiscal year to provide for the purchase of two juvenile doses and two adult doses of ~~auto-injectable~~ epinephrine AUTO-INJECTORS at each public school in this state and if the school does not stock two juvenile doses and two adult doses of ~~auto-injectable~~ epinephrine AUTO-INJECTORS at the school during that fiscal year.

Ch. 138

(b) Annual training for all school site personnel on the recognition of anaphylactic shock symptoms and the procedures to follow when anaphylactic shock occurs, following the national guidelines of the American academy of pediatrics. The annual training prescribed in this subdivision is optional during any fiscal year in which sufficient monies are not appropriated by the legislature during that fiscal year to provide for the purchase of two juvenile doses and two adult doses of ~~auto-injectable~~ epinephrine AUTO-INJECTORS at each public school in this state and if the school does not stock two juvenile doses and two adult doses of ~~auto-injectable~~ epinephrine AUTO-INJECTORS at the school during that fiscal year.

Ch. 138

(c) Procedures for the administration of ~~auto-injectable~~ epinephrine AUTO-INJECTORS in emergency situations, as directed on the prescription protocol.

(d) Procedures for annually requesting a standing order for epinephrine auto-injectors pursuant to section 15-157 from the chief medical officer of the department of health services, the chief medical officer of a county health department, a doctor of medicine licensed pursuant to title 32, chapter 13 or a doctor of osteopathy licensed pursuant to title 32, chapter 17.

(e) Procedures for reporting the use of ~~auto-injectable~~ epinephrine AUTO-INJECTORS to the department of health services.

Ch. 138

B. The state board of education may:

1. Contract.

2. Sue and be sued.

3. Distribute and score the tests prescribed in chapter 7, article 3 of this title.

4. Provide for an advisory committee to conduct hearings and screenings to determine whether grounds exist to impose disciplinary action against a certificated person, whether grounds exist to reinstate a revoked or surrendered certificate and whether grounds exist to approve or deny an initial application for certification or a request for renewal of a certificate. The board may delegate its responsibility to conduct hearings and screenings to its advisory committee. Hearings shall be conducted pursuant to title 41, chapter 6, article 6.

5. Proceed with the disposal of any complaint requesting disciplinary action or with any disciplinary action against a person holding a certificate as prescribed in subsection A, paragraph 14 of this section after the suspension or expiration of the certificate or surrender of the certificate by the holder.

6. Assess costs and reasonable attorney fees against a person who files a frivolous complaint or who files a complaint in bad faith. Costs assessed pursuant to this paragraph shall not exceed the expenses incurred by the ~~state board~~ DEPARTMENT OF EDUCATION in the investigation of the complaint.

Ch. 138

Ch. 325

C. PLACEMENT DECISIONS OF TEACHING INTERN CERTIFICATE HOLDERS ISSUED PURSUANT TO SUBSECTION A, PARAGRAPH 14, SUBDIVISION (a) OF THIS SECTION AND SECTION 15-552 SHALL BE BASED ON AGREEMENTS BETWEEN THE TEACHER PREPARATION PROVIDER, THE PROVIDER'S PARTNER ORGANIZATIONS AND THE LOCAL EDUCATION AGENCY. THE PRACTICES OF THE DEPARTMENT OF EDUCATION AND THE RULES AND POLICIES OF THE STATE BOARD OF EDUCATION MAY NOT RESTRICT PLACEMENT OF TEACHING INTERN CERTIFICATION HOLDERS BASED ON LOCAL EDUCATION AGENCY INSTRUCTIONAL MODELS AND MAY ONLY CONSIDER THE ACADEMIC QUALITY OF THE SCHOOL, THE EFFECTIVENESS OF THE TEACHING INTERN CERTIFICATION HOLDER'S ON-SITE MENTOR AND THE OPPORTUNITY FOR A WIDE VARIETY OF SCHOOLS AND SCHOOL MODELS TO ACCESS TEACHING INTERN CERTIFICATION HOLDERS.

EXPLANATION OF BLEND
SECTION 15-211

Laws 2016, Chapters 226 and 245

Laws 2016, Ch. 226, section 1 — Effective August 6, 2016

Laws 2016, Ch. 245, section 1 — Effective May 12, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 226 and Ch. 245 text changes to section 15-211 are blended in the form shown on the following pages.

BLEND OF SECTION 15-211
Laws 2016, Chapters 226 and 245

15-211. K-3 reading program; receipt and use of monies; additional funding; program termination

A. The ~~state board of education, in collaboration with the~~ department of education~~,~~ shall ~~establish~~ ADMINISTER a K-3 reading program to improve the reading proficiency of pupils in kindergarten programs and grades one, two and three in the public schools of this state.

B. ~~On or before October 1, 2012,~~ Each school district and charter school shall submit to the ~~state board~~ DEPARTMENT of education a plan for improving the reading proficiency of its pupils in kindergarten programs and grades one, two and three. The plan shall include baseline data on the reading proficiency of its pupils in kindergarten programs and grades one, two and three and a budget for spending monies from both the K-3 support level weight and the K-3 reading support level weight established in section 15-943. ~~Beginning in fiscal year 2013-2014 and each fiscal year thereafter,~~ Each school district and charter school shall ANNUALLY submit to the ~~state board~~ DEPARTMENT of education on or before October 1 an updated K-3 reading program plan that includes data on program expenditures and results, EXCEPT THAT BEGINNING IN FISCAL YEAR 2016-2017, A SCHOOL DISTRICT OR CHARTER SCHOOL THAT IS ASSIGNED A LETTER GRADE OF A OR B PURSUANT TO SECTION 15-241 SHALL SUBMIT THIS PLAN ONLY IN ODD-NUMBERED YEARS.

Ch. 245

C. School districts and charter schools shall use monies generated by the K-3 reading support level weight established in section 15-943 only on reading programs for pupils in kindergarten programs and grades one, two and three with particular emphasis on pupils in kindergarten programs and grades one and two.

D. Each school district and charter school that is assigned a letter grade of C, D or F pursuant to section 15-241~~, subsection H~~ or that has more than ten ~~per cent~~ PERCENT of its pupils in grade three reading far below the third grade level according to the reading portion of the Arizona instrument to measure standards test, or a successor test, shall receive monies generated by the K-3 reading support level weight established in section 15-943 only after the K-3 reading program plan of the school district or charter school has been REVIEWED AND RECOMMENDED FOR APPROVAL BY THE DEPARTMENT OF EDUCATION AND approved by the state board of education.

Ch. 226

Chs. 226 and 245

Ch. 245

E. Pupils in a charter school that is in its first year of operation and that is sponsored by the state board of education, the state board for charter schools, a university under the jurisdiction of the Arizona board of regents, a community college district or a group of community college districts are eligible for the K-3 reading support level weight.

F. The department of education shall solicit gifts, grants and donations from any lawful public or private source in order to provide additional funding for the K-3 reading program.

G. THE STATE BOARD OF EDUCATION MAY ESTABLISH RULES AND POLICIES FOR THE K-3 READING PROGRAM, INCLUDING:

1. THE PROPER USE OF MONIES IN ACCORDANCE WITH SUBSECTION C OF THIS SECTION.

Ch. 245

2. THE DISTRIBUTION OF MONIES BY THE DEPARTMENT OF EDUCATION IN ACCORDANCE WITH SUBSECTION B OF THIS SECTION.

3. THE COMPLIANCE OF READING PROFICIENCY PLANS SUBMITTED PURSUANT TO SUBSECTION B OF THIS SECTION WITH SECTION 15-704.

~~G.~~ H. The program established by this section ends on July 1, 2022 pursuant to section 41-3102.

EXPLANATION OF BLEND
SECTION 15-341

Laws 2016, Chapters 212 and 331

Laws 2016, Ch. 212, section 1	Effective August 6, 2016
Laws 2016, Ch. 331, section 8	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 212 and Ch. 331 text changes to section 15-341 are blended in the form shown on the following pages.

EXPLANATION OF BLEND
SECTION 15-341

Laws 2016, Chapters 212 and 331

Laws 2016, Ch. 212, section 1	Effective August 6, 2016
Laws 2016, Ch. 331, section 8	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 212 and Ch. 331 text changes to section 15-341 are blended in the form shown on the following pages.

BLEND OF SECTION 15-341
Laws 2016, Chapters 212 and 331

15-341. General powers and duties; immunity; delegation

A. The governing board shall:

1. Prescribe and enforce policies and procedures for the governance of the schools, not inconsistent with law or rules prescribed by the state board of education.

2. Exclude from schools all books, publications, papers or audiovisual materials of a sectarian, partisan or denominational character. This paragraph shall not be construed to prohibit the elective course permitted by section 15-717.01.

3. Manage and control the school property within its district.

4. Acquire school furniture, apparatus, equipment, library books and supplies for the use of the schools.

5. Prescribe the curricula and criteria for the promotion and graduation of pupils as provided in sections 15-701 and 15-701.01.

6. Furnish, repair and insure, at full insurable value, the school property of the district.

7. Construct school buildings on approval by a vote of the district electors.

8. Make in the name of the district conveyances of property belonging to the district and sold by the board.

9. Purchase school sites when authorized by a vote of the district at an election conducted as nearly as practicable in the same manner as the election provided in section 15-481 and held on a date prescribed in section 15-491, subsection E, but such authorization shall not necessarily specify the site to be purchased and such authorization shall not be necessary to exchange unimproved property as provided in section 15-342, paragraph 23.

10. Construct, improve and furnish buildings used for school purposes when such buildings or premises are leased from the national park service.

11. Purchase school sites or construct, improve and furnish school buildings from the proceeds of the sale of school property only on approval by a vote of the district electors.

12. Hold pupils to strict account for disorderly conduct on school property.

13. Discipline students for disorderly conduct on the way to and from school.

14. Except as provided in section 15-1224, deposit all monies received by the district as gifts, grants and devises with the county treasurer who shall credit the deposits as designated in the uniform system of financial records. If not inconsistent with the terms of the gifts, grants and devises given, any balance remaining after expenditures for the intended purpose of the monies have been made shall be used for reduction of school district taxes for the budget year, except that in the case of accommodation schools

the county treasurer shall carry the balance forward for use by the county school superintendent for accommodation schools for the budget year.

15. Provide that, if a parent or legal guardian chooses not to accept a decision of the teacher as provided in section ~~15-521, paragraph 4~~ PARAGRAPH 42 OF THIS SUBSECTION, the parent or legal guardian may request in writing that the governing board review the teacher's decision. This paragraph shall not be construed to release school districts from any liability relating to a child's promotion or retention.

Ch. 331

16. Provide for adequate supervision over pupils in instructional and noninstructional activities by certificated or noncertificated personnel.

17. Use school monies received from the state and county school apportionment exclusively for payment of salaries of teachers and other employees and contingent expenses of the district.

18. Make an annual report to the county school superintendent on or before October 1 in the manner and form and on the blanks prescribed by the superintendent of public instruction or county school superintendent. The board shall also make reports directly to the county school superintendent or the superintendent of public instruction whenever required.

19. Deposit all monies received by school districts other than student activities monies or monies from auxiliary operations as provided in sections 15-1125 and 15-1126 with the county treasurer to the credit of the school district except as provided in paragraph 20 of this subsection and sections 15-1223 and 15-1224, and the board shall expend the monies as provided by law for other school funds.

20. Establish bank accounts in which the board during a month may deposit miscellaneous monies received directly by the district. The board shall remit monies deposited in the bank accounts at least monthly to the county treasurer for deposit as provided in paragraph 19 of this subsection and in accordance with the uniform system of financial records.

21. Prescribe and enforce policies and procedures for disciplinary action against a teacher who engages in conduct that is a violation of the policies of the governing board but that is not cause for dismissal of the teacher or for revocation of the certificate of the teacher. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters.

22. Prescribe and enforce policies and procedures for disciplinary action against an administrator who engages in conduct that is a violation of the policies of the governing board regarding duties of administrators but that is not cause for dismissal of the administrator or for revocation of the certificate of the administrator. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters. For violations that are

cause for dismissal, the provisions of notice, hearing and appeal in chapter 5, article 3 of this title shall apply. The filing of a timely request for a hearing suspends the imposition of a suspension without pay or a dismissal pending completion of the hearing.

23. Notwithstanding sections 13-3108 and 13-3120, prescribe and enforce policies and procedures that prohibit a person from carrying or possessing a weapon on school grounds unless the person is a peace officer or has obtained specific authorization from the school administrator.

24. Prescribe and enforce policies and procedures relating to the health and safety of all pupils participating in district sponsored practice sessions or games or other interscholastic athletic activities, including:

(a) The provision of water.

(b) Guidelines, information and forms, developed in consultation with a statewide private entity that supervises interscholastic activities, to inform and educate coaches, pupils and parents of the dangers of concussions and head injuries and the risks of continued participation in athletic activity after a concussion. The policies and procedures shall require that, before a pupil participates in an athletic activity, the pupil and the pupil's parent must sign an information form at least once each school year that states that the parent is aware of the nature and risk of concussion. The policies and procedures shall require that a pupil who is suspected of sustaining a concussion in a practice session, game or other interscholastic athletic activity be immediately removed from the athletic activity. A coach from the pupil's team or an official or a licensed health care provider may remove a pupil from play. A team parent may also remove the parent's own child from play. A pupil may return to play on the same day if a health care provider rules out a suspected concussion at the time the pupil is removed from play. On a subsequent day, the pupil may return to play if the pupil has been evaluated by and received written clearance to resume participation in athletic activity from a health care provider who has been trained in the evaluation and management of concussions and head injuries. A health care provider who is a volunteer and who provides clearance to participate in athletic activity on the day of the suspected injury or on a subsequent day is immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this subdivision, except in cases of gross negligence or wanton or wilful neglect. A school district, school district employee, team coach, official or team volunteer or a parent or guardian of a team member is not subject to civil liability for any act, omission or policy undertaken in good faith to comply with the requirements of this subdivision or for a decision made or an action taken by a health care provider. A group or organization that uses property or facilities owned or operated by a school district for athletic activities shall comply with the requirements of this subdivision. A school district and its employees and volunteers are not subject to civil liability for any other person or organization's failure or alleged failure to comply with the requirements of this subdivision. This subdivision does not apply to teams that are based in another state and that participate in an athletic activity in this state. For the purposes of this subdivision, athletic activity does not include dance, rhythmic gymnastics, competitions or exhibitions of academic skills or knowledge or other similar forms of physical noncontact

activities, civic activities or academic activities, whether engaged in for the purposes of competition or recreation. For the purposes of this subdivision, "health care provider" means a physician who is licensed pursuant to title 32, chapter 13 or 17, an athletic trainer who is licensed pursuant to title 32, chapter 41, a nurse practitioner who is licensed pursuant to title 32, chapter 15, and a physician assistant who is licensed pursuant to title 32, chapter 25.

Ch. 331

~~25. Prescribe and enforce policies and procedures regarding the smoking of tobacco within school buildings. The policies and procedures shall be adopted in consultation with school district personnel and members of the community and shall state whether smoking is prohibited in school buildings. If smoking in school buildings is not prohibited, the policies and procedures shall clearly state the conditions and circumstances under which smoking is permitted, those areas in a school building that may be designated as smoking areas and those areas in a school building that may not be designated as smoking areas.~~

~~26.~~ 25. Establish an assessment, data gathering and reporting system as prescribed in chapter 7, article 3 of this title.

~~27.~~ 26. Provide special education programs and related services pursuant to section 15-764, subsection A to all children with disabilities as defined in section 15-761.

~~28.~~ 27. Administer competency tests prescribed by the state board of education for the graduation of pupils from high school.

~~29.~~ 28. Ensure that insurance coverage is secured for all construction projects for purposes of general liability, property damage and workers' compensation and secure performance and payment bonds for all construction projects.

Ch. 331

~~30.~~ 29. Keep ~~on~~ IN THE PERSONNEL file ~~the resumes~~ of all current and former employees who provide instruction to pupils at a school. ~~Resumes shall include an individual's~~ INFORMATION ABOUT THE EMPLOYEE'S educational and teaching background and experience in a particular academic content subject area. A school district shall inform parents and guardians of the availability of the ~~resume~~ information and shall make the ~~resume~~ information available for inspection on request of parents and guardians of pupils enrolled at a school. This paragraph shall not be construed to require any school to release personally identifiable information in relation to any teacher or employee, including the teacher's or employee's address, salary, social security number or telephone number.

~~31.~~ 30. Report to local law enforcement agencies any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to employees, students or anyone on the property of the school. This paragraph does not limit or preclude the reporting by a school district or an employee of a school district of suspected crimes other than those required to be reported by this paragraph. For the purposes of this paragraph, "dangerous instrument", "deadly weapon" and "serious physical injury" have the same meanings prescribed in section 13-105.

~~32.~~ 31. In conjunction with local law enforcement agencies and ~~local medical facilities~~ EMERGENCY RESPONSE AGENCIES, develop an emergency response plan for each school in the school district in accordance with minimum standards developed jointly by the department of education and the division of emergency management within the department of emergency and military affairs.

Ch. 331

~~33.~~ 32. Provide written notice to the parents or guardians of all students ~~affected~~ ENROLLED in the school district at least ten days prior to a public meeting to discuss closing a school within the school district. The notice shall include the reasons for the proposed closure and the time and place of the meeting. The governing board shall fix a time for a public meeting on the proposed closure no less than ten days before voting in a public meeting to close the school. The school district governing board shall give notice of the time and place of the meeting. At the time and place designated in the notice, the school district governing board shall hear reasons for or against closing the school. The school district governing board is exempt from this paragraph if it is determined by the governing board that the school shall be closed because it poses a danger to the health or safety of the pupils or employees of the school. A governing board may consult with the school facilities board for technical assistance and for information on the impact of closing a school. The information provided from the school facilities board shall not require the governing board to take or not take any action.

~~34.~~ 33. Incorporate instruction on Native American history into appropriate existing curricula.

~~35.~~ 34. Prescribe and enforce policies and procedures:

(a) Allowing pupils who have been diagnosed with anaphylaxis by a health care provider licensed pursuant to title 32, chapter 13, 14, 17 or 25 or by a registered nurse practitioner licensed and certified pursuant to title 32, chapter 15 to carry and self-administer emergency medications, including ~~auto-injectable~~ epinephrine AUTO-INJECTORS, while at school and at school-sponsored activities. The pupil's name on the prescription label on the medication container or on the medication device and annual written documentation from the pupil's parent or guardian to the school that authorizes possession and self-administration is sufficient proof that the pupil is entitled to the possession and self-administration of the medication. The policies shall require a pupil who uses ~~auto-injectable~~ AN epinephrine AUTO-INJECTOR while at school and at school-sponsored activities to notify the nurse or the designated school staff person of the use of the medication as soon as practicable. A school district and its employees are immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this subdivision, except in cases of wanton or wilful neglect.

Ch. 212

(b) For the emergency administration of ~~auto-injectable~~ epinephrine AUTO-INJECTORS by a trained employee of a school district pursuant to section 15-157.

~~36.~~ 35. Allow the possession and self-administration of prescription medication for breathing disorders in handheld inhaler devices by pupils who have been prescribed that medication by a health care professional licensed pursuant to title 32. The pupil's name on the prescription label on the

medication container or on the handheld inhaler device and annual written documentation from the pupil's parent or guardian to the school that authorizes possession and self-administration shall be sufficient proof that the pupil is entitled to the possession and self-administration of the medication. A school district and its employees are immune from civil liability with respect to all decisions made and actions taken that are based on a good faith implementation of the requirements of this paragraph.

~~37.~~ 36. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops, at school-sponsored events and activities and through the use of electronic technology or electronic communication on school computers, networks, forums and mailing lists that include the following components:

(a) A procedure for pupils, parents and school district employees to confidentially report to school officials incidents of harassment, intimidation or bullying. The school shall make available written forms designed to provide a full and detailed description of the incident and any other relevant information about the incident.

(b) A requirement that school district employees report in writing suspected incidents of harassment, intimidation or bullying to the appropriate school official and a description of appropriate disciplinary procedures for employees who fail to report suspected incidents that are known to the employee.

(c) A requirement that, at the beginning of each school year, school officials provide all pupils with a written copy of the rights, protections and support services available to a pupil who is an alleged victim of an incident reported pursuant to this paragraph.

(d) If an incident is reported pursuant to this paragraph, a requirement that school officials provide a pupil who is an alleged victim of the incident with a written copy of the rights, protections and support services available to that pupil.

(e) A formal process for the documentation of reported incidents of harassment, intimidation or bullying and for the confidentiality, maintenance and disposition of this documentation. School districts shall maintain documentation of all incidents reported pursuant to this paragraph for at least six years. The school shall not use that documentation to impose disciplinary action unless the appropriate school official has investigated and determined that the reported incidents of harassment, intimidation or bullying occurred. If a school provides documentation of reported incidents to persons other than school officials or law enforcement, all individually identifiable information shall be redacted.

(f) A formal process for the investigation by the appropriate school officials of suspected incidents of harassment, intimidation or bullying, including procedures for notifying the alleged victim on completion and disposition of the investigation.

(g) Disciplinary procedures for pupils who have admitted or been found to have committed incidents of harassment, intimidation or bullying.

(h) A procedure that sets forth consequences for submitting false reports of incidents of harassment, intimidation or bullying.

(i) Procedures designed to protect the health and safety of pupils who are physically harmed as the result of incidents of harassment, intimidation and bullying, including, if appropriate, procedures to contact emergency medical services or law enforcement agencies, or both.

(j) Definitions of harassment, intimidation and bullying.

~~38.~~ 37. Prescribe and enforce policies and procedures regarding changing or adopting attendance boundaries that include the following components:

(a) A procedure for holding public meetings to discuss attendance boundary changes or adoptions that allows public comments.

(b) A procedure to notify the parents or guardians of the students affected.

(c) A procedure to notify the residents of the households affected by the attendance boundary changes.

(d) A process for placing public meeting notices and proposed maps on the school district's website for public review, if the school district maintains a website.

(e) A formal process for presenting the attendance boundaries of the affected area in public meetings that allows public comments.

(f) A formal process for notifying the residents and parents or guardians of the affected area as to the decision of the governing board on the school district's website, if the school district maintains a website.

(g) A formal process for updating attendance boundaries on the school district's website within ninety days of an adopted boundary change. The school district shall send a direct link to the school district's attendance boundaries website to the department of real estate.

Ch. 331 ~~(h) If the land that a school was built on was donated within the past five years, a formal process to notify the entity that donated the land affected by the decision of the governing board.~~

~~39.~~ 38. If the state board of education determines that the school district has committed an overexpenditure as defined in section 15-107, provide a copy of the fiscal management report submitted pursuant to section 15-107, subsection H on its website and make copies available to the public on request. The school district shall comply with a request within five business days after receipt.

Chs. 212 and 331 ~~40.~~ 39. Ensure that the contract for the superintendent is structured in a manner in which up to twenty ~~per cent~~ PERCENT of the total annual salary included for the superintendent in the contract is classified as performance pay. This paragraph shall not be construed to require school districts to increase total compensation for superintendents. Unless the school district governing board votes to implement an alternative procedure at a public meeting called for this purpose, the performance pay portion of the superintendent's total annual compensation shall be determined as follows:

Chs. 212 and 331 (a) Twenty-five ~~per cent~~ PERCENT of the performance pay shall be determined based on the percentage of academic gain determined by the department of education of pupils who are enrolled in the school district compared to the academic gain achieved by the highest ranking of the fifty largest school districts in this state. For the purposes of this subdivision, the department of education shall determine academic gain by the academic growth achieved by each pupil who has been enrolled at the same

school in a school district for at least five consecutive months measured against that pupil's academic results in the 2008-2009 school year. For the purposes of this subdivision, of the fifty largest school districts in this state, the school district with pupils who demonstrate the highest statewide percentage of overall academic gain measured against academic results for the 2008-2009 school year shall be assigned a score of 100 and the school district with pupils who demonstrate the lowest statewide percentage of overall academic gain measured against academic results for the 2008-2009 school year shall be assigned a score of 0.

Chs. 212 and 331 (b) Twenty-five ~~per cent~~ PERCENT of the performance pay shall be determined by the percentage of parents of pupils who are enrolled at the school district who assign a letter grade of "A" to the school on a survey of parental satisfaction with the school district. The parental satisfaction survey shall be administered and scored by an independent entity that is selected by the governing board and that demonstrates sufficient expertise and experience to accurately measure the results of the survey. The parental satisfaction survey shall use standard random sampling procedures and provide anonymity and confidentiality to each parent who participates in the survey. The letter grade scale used on the parental satisfaction survey shall direct parents to assign one of the following letter grades:

(i) A letter grade of "A" if the school district is excellent.

(ii) A letter grade of "B" if the school district is above average.

(iii) A letter grade of "C" if the school district is average.

(iv) A letter grade of "D" if the school district is below average.

(v) A letter grade of "F" if the school district is a failure.

Chs. 212 and 331 (c) Twenty-five ~~per cent~~ PERCENT of the performance pay shall be determined by the percentage of teachers who are employed at the school district and who assign a letter grade of "A" to the school on a survey of teacher satisfaction with the school. The teacher satisfaction survey shall be administered and scored by an independent entity that is selected by the governing board and that demonstrates sufficient expertise and experience to accurately measure the results of the survey. The teacher satisfaction survey shall use standard random sampling procedures and provide anonymity and confidentiality to each teacher who participates in the survey. The letter grade scale used on the teacher satisfaction survey shall direct teachers to assign one of the following letter grades:

(i) A letter grade of "A" if the school district is excellent.

(ii) A letter grade of "B" if the school district is above average.

(iii) A letter grade of "C" if the school district is average.

(iv) A letter grade of "D" if the school district is below average.

(v) A letter grade of "F" if the school district is a failure.

Chs. 212 and 331 (d) Twenty-five ~~per cent~~ PERCENT of the performance pay shall be determined by other criteria selected by the governing board.

~~41.~~ 40. Maintain and store permanent public records of the school district as required by law. Notwithstanding section 39-101, the standards adopted by the Arizona state library, archives and public records for the maintenance and storage of school district public records shall allow school districts to elect to satisfy the requirements of this paragraph by maintaining and storing these records either on paper or in an electronic format, or a combination of a paper and electronic format.

~~42.~~ 41. Adopt in a public meeting and implement by school year 2013-2014 policies for principal evaluations. Before the adoption of principal evaluation policies, the school district governing board shall provide opportunities for public discussion on the proposed policies. The policies shall describe:

(a) The principal evaluation instrument, including the four performance classifications adopted by the governing board pursuant to section 15-203, subsection A, paragraph 38.

(b) Alignment of professional development opportunities to the principal evaluations.

(c) Incentives for principals in one of the two highest performance classifications pursuant to section 15-203, subsection A, paragraph 38, which may include:

(i) Multiyear contracts pursuant to section 15-503.

(ii) Incentives to work at schools that are assigned a letter grade of D or F pursuant to section 15-241.

(d) Transfer and contract processes for principals designated in the lowest performance classification pursuant to section 15-203, subsection A, paragraph 38.

Ch. 331

42. PRESCRIBE AND ENFORCE POLICIES AND PROCEDURES THAT DEFINE THE DUTIES OF PRINCIPALS AND TEACHERS. THESE POLICIES AND PROCEDURES SHALL AUTHORIZE TEACHERS TO TAKE AND MAINTAIN DAILY CLASSROOM ATTENDANCE, MAKE THE DECISION TO PROMOTE OR RETAIN A PUPIL IN A GRADE IN COMMON SCHOOL OR TO PASS OR FAIL A PUPIL IN A COURSE IN HIGH SCHOOL, SUBJECT TO REVIEW BY THE GOVERNING BOARD IN THE MANNER PROVIDED IN SECTION 15-342, PARAGRAPH 11.

Ch. 212

43. PRESCRIBE AND ENFORCE POLICIES AND PROCEDURES FOR THE EMERGENCY ADMINISTRATION BY AN EMPLOYEE OF A SCHOOL DISTRICT PURSUANT TO SECTION 36-2267 OF NALOXONE HYDROCHLORIDE OR ANY OTHER OPIOID ANTAGONIST APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

B. Notwithstanding subsection A, paragraphs 7, 9 and 11 of this section, the county school superintendent may construct, improve and furnish school buildings or purchase or sell school sites in the conduct of an accommodation school.

C. If any school district acquires real or personal property, whether by purchase, exchange, condemnation, gift or otherwise, the governing board shall pay to the county treasurer any taxes on the property that were unpaid as of the date of acquisition, including penalties and interest. The lien for unpaid delinquent taxes, penalties and interest on property acquired by a school district:

1. Is not abated, extinguished, discharged or merged in the title to the property.

2. Is enforceable in the same manner as other delinquent tax liens.

D. The governing board may not locate a school on property that is less than one-fourth mile from agricultural land regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the school district may locate a school within the affected buffer zone. The agreement may include any stipulations

regarding the school, including conditions for future expansion of the school and changes in the operational status of the school that will result in a breach of the agreement.

E. A school district, its governing board members, its school council members and its employees are immune from civil liability for the consequences of adoption and implementation of policies and procedures pursuant to subsection A of this section and section 15-342. This waiver does not apply if the school district, its governing board members, its school council members or its employees are guilty of gross negligence or intentional misconduct.

F. A governing board may delegate in writing to a superintendent, principal or head teacher the authority to prescribe procedures that are consistent with the governing board's policies.

G. Notwithstanding any other provision of this title, a school district governing board shall not take any action that would result in a reduction of pupil square footage unless the governing board notifies the school facilities board established by section 15-2001 of the proposed action and receives written approval from the school facilities board to take the action. A reduction includes an increase in administrative space that results in a reduction of pupil square footage or sale of school sites or buildings, or both. A reduction includes a reconfiguration of grades that results in a reduction of pupil square footage of any grade level. This subsection does not apply to temporary reconfiguration of grades to accommodate new school construction if the temporary reconfiguration does not exceed one year. The sale of equipment that results in a reduction that falls below the equipment requirements prescribed in section 15-2011, subsection B is subject to commensurate withholding of school district district additional assistance monies pursuant to the direction of the school facilities board. Except as provided in section 15-342, paragraph 10, proceeds from the sale of school sites, buildings or other equipment shall be deposited in the school plant fund as provided in section 15-1102.

H. Subsections C through G of this section apply to a county board of supervisors and a county school superintendent when operating and administering an accommodation school.

EXPLANATION OF BLEND
SECTION 15-393

Laws 2016, Chapters 124 and 177

Laws 2016, Ch. 124, section 9	Effective August 6, 2016
Laws 2016, Ch. 177, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 124 and Ch. 177 text changes to section 15-393 are blended in the form shown on the following pages.

BLEND OF SECTION 15-393
Laws 2016, Chapters 124 and 177

15-393. Joint technical education district governing board; report; definitions

A. The management and control of the joint district are vested in the joint technical education district governing board, including the content and quality of the courses offered by the district, the quality of teachers who provide instruction on behalf of the district, the salaries of teachers who provide instruction on behalf of the district and the reimbursement of other entities for the facilities used by the district. Unless the governing boards of the school districts participating in the formation of the joint district vote to implement an alternative election system as provided in subsection B of this section, the joint board shall consist of five members elected from five single member districts formed within the joint district. The single member district election system shall be submitted as part of the plan for the joint district pursuant to section 15-392 and shall be established in the plan as follows:

1. The governing boards of the school districts participating in the formation of the joint district shall define the boundaries of the single member districts so that the single member districts are as nearly equal in population as is practicable, except that if the joint district lies in part in each of two or more counties, at least one single member district may be entirely within each of the counties comprising the joint district if this district design is consistent with the obligation to equalize the population among single member districts.

2. The boundaries of each single member district shall follow election precinct boundary lines, as far as practicable, in order to avoid further segmentation of the precincts.

3. A person who is a registered voter of this state and who is a resident of the single member district is eligible for election to the office of joint board member from the single member district. The terms of office of the members of the joint board shall be as prescribed in section 15-427, subsection B. An employee of a joint technical education district or the spouse of an employee shall not hold membership on a governing board of a joint technical education district by which the employee is employed. A member of one school district governing board or joint technical education district governing board is ineligible to be a candidate for nomination or election to or serve simultaneously as a member of any other governing board, except that a member of a governing board may be a candidate for nomination or election for any other governing board if the member is serving in the last year of a term of office. A member of a governing board shall resign the member's seat on the governing board before becoming a candidate for nomination or election to the governing board of any other school district or

joint technical education district, unless the member of the governing board is serving in the last year of a term of office.

4. Nominating petitions shall be signed by the number of qualified electors of the single member district as provided in section 16-322.

B. The governing boards of the school districts participating in the formation of the joint district may vote to implement any other alternative election system for the election of joint district board members. If an alternative election system is selected, it shall be submitted as part of the plan for the joint district pursuant to section 15-392, and the implementation of the system shall be as approved by the United States justice department.

C. The joint technical education district shall be subject to the following provisions of this title:

1. Chapter 1, articles 1 through 6.
2. Sections 15-208, 15-210, 15-213 and 15-234.
3. Articles 2, 3 and 5 of this chapter.
4. Section 15-361.
5. Chapter 4, articles 1, 2 and 5.
6. Chapter 5, articles 1, 2 and 3.
7. Sections 15-701.01, 15-722, 15-723, 15-724, 15-727, 15-728, 15-729 and 15-730.
8. Chapter 7, article 5.
9. Chapter 8, articles 1, 3 and 4.
10. Sections 15-828 and 15-829.
11. Chapter 9, article 1, article 6, except for section 15-995, and article 7.

Ch. 124 — 12. Sections 15-941, 15-943.01, ~~15-948,~~ 15-952, 15-953 and 15-973.

13. Sections 15-1101 and 15-1104.
14. Chapter 10, articles 2, 3, 4 and 8.

D. Notwithstanding subsection C of this section, the following apply to a joint technical education district:

1. A joint district may issue bonds for the purposes specified in section 15-1021 and in chapter 4, article 5 of this title to an amount in the aggregate, including the existing indebtedness, not exceeding one percent of the ~~taxable property used for secondary tax purposes, as determined pursuant to title 42, chapter 15, article 1,~~ NET ASSESSED VALUE OF THE FULL CASH VALUE OF THE PROPERTY within the joint technical education district ~~as ascertained by the last property tax assessment previous to issuing the bonds~~. FOR THE PURPOSES OF THIS PARAGRAPH, "FULL CASH VALUE" AND "NET ASSESSED VALUE" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 42-11001.

Ch. 177

2. The number of governing board members for a joint district shall be as prescribed in subsection A of this section.

3. The student count for the first year of operation of a joint technical education district as provided in this article shall be determined as follows:

(a) Determine the estimated student count for joint district classes that will operate in the first year of operation. This estimate shall be based on actual registration of pupils as of March 30 scheduled to attend classes that will be operated by the joint district. The student count for the district of residence of the pupils registered at the joint district

shall be adjusted. The adjustment shall cause the district of residence to reduce the student count for the pupil to reflect the courses to be taken at the joint district. The district of residence shall review and approve the adjustment of its own student count as provided in this subdivision before the pupils from the school district can be added to the student count of the joint district.

(b) The student count for the new joint district shall be the student count as determined in subdivision (a) of this paragraph.

(c) For the first year of operation, the joint district shall revise the student count to the actual average daily membership as prescribed in section 15-901, subsection A, paragraph 1 for students attending classes in the joint district. A joint district shall revise its student count, the base support level as provided in section 15-943.02, the revenue control limit as provided in section 15-944.01 and the district additional assistance as provided in section 15-962.01 prior to May 15. A joint district that overestimated its student count shall revise its budget prior to May 15. A joint district that underestimated its student count may revise its budget prior to May 15.

(d) After March 15 of the first year of operation, the district of residence shall adjust its student count by reducing it to reflect the courses actually taken at the joint district. The district of residence shall revise its student count, the base support level as provided in section 15-943, the revenue control limit as provided in section 15-944 and the district additional assistance as provided in section 15-962.01 prior to May 15. A district that underestimated the student count for students attending the joint district shall revise its budget prior to May 15. A district that overestimated the student count for students attending the joint district may revise its budget prior to May 15.

Ch. 124

~~(e) A joint district for the first year of operation shall not be eligible for adjustment pursuant to section 15-948.~~

~~(f)~~ (e) The procedures for implementing this paragraph shall be as prescribed in the uniform system of financial records.

~~(g)~~ (f) Pupils in an approved joint technical education district centralized program may generate an average daily membership of 1.0 during any day of the week and at any time between July 1 and June 30 of each fiscal year.

For the purposes of this paragraph, "district of residence" means the district that included the pupil in its average daily membership for the year before the first year of operation of the joint district and that would have included the pupil in its student count for the purposes of computing its base support level for the fiscal year of the first year of operation of the joint district if the pupil had not enrolled in the joint district.

4. A student includes any person enrolled in the joint district without regard to the person's age or high school graduation status, except that:

(a) A student in a kindergarten program or in grades one through nine who enrolls in courses offered by the joint technical education district shall not be included in the joint district's student count or average daily membership.

(b) A student in a kindergarten program or in grades one through nine who is enrolled in career and technical education courses shall not be funded in whole or in part with monies provided by a joint technical education district, except that a pupil in grade eight or nine may be funded with monies generated by the five cent qualifying tax rate authorized in subsection F of this section.

(c) Beginning July 1, 2016, a student who has graduated from high school or received a general equivalency diploma or who is over twenty-one years of age shall not be included in the student count of the joint district for the purposes of chapter 9, articles 3, 4 and 5 of this title. ~~A student who has yet to graduate or receive a general equivalency diploma and was lawfully enrolled in a joint technical education district program on January 1, 2016 may continue to participate in the program after the effective date of this amendment to this section.~~

Ch. 124

(d) A student who is enrolled in any internship course as part of a joint technical education district program shall not be included in the student count of the joint district for that internship course for the purposes of chapter 9, articles 3, 4 and 5 of this title.

5. A joint district may operate for more than one hundred eighty days per year, with expanded hours of service.

6. A joint district may use the carryforward provisions of section 15-943.01.

7. A school district that is part of a joint district shall use any monies received pursuant to this article to supplement and not supplant base year career and technical education courses, and directly related equipment and facilities, except that a school district that is part of a joint technical education district and that has used monies received pursuant to this article to supplant career and technical education courses that were offered before the first year that the school district participated in the joint district or the first year that the school district used monies received pursuant to this article or that used the monies for purposes other than for career and technical education courses shall use one hundred percent of the monies received pursuant to this article to supplement and not supplant base year career and technical education courses.

8. A joint technical education district shall use any monies received pursuant to this article to enhance and not supplant career and technical education courses and directly related equipment and facilities.

9. A joint technical education district or a school district that is part of a joint district or a charter school shall only include pupils in grades ten through twelve in the calculation of student count or average daily membership if the pupils are enrolled in courses that are approved jointly by the governing board of the joint technical education district and each participating school district or charter school for satellite courses taught within the participating school district or charter school, or approved solely by the joint technical education district for centrally located courses. Student count and average daily membership from courses that are not part of an approved program for career and technical education shall not be included in student count and average daily membership of a joint technical education district.

E. The joint board shall appoint a superintendent as the executive officer of the joint district.

F. Taxes may be levied for the support of the joint district as prescribed in chapter 9, article 6 of this title, except that a joint technical education district shall not levy a property tax pursuant to law that exceeds five cents per one hundred dollars assessed valuation except for bond monies pursuant to subsection D, paragraph 1 of this section. Except for the taxes levied pursuant to section 15-994, such taxes shall be obtained from a levy of taxes on the taxable property used for secondary tax purposes.

G. The schools in the joint district are available to all persons who reside in the joint district and to pupils whose district of residence within this state is paying tuition on behalf of the pupils to a district of attendance that is a member of the joint technical education district, subject to the rules for admission prescribed by the joint board.

H. The joint board may collect tuition for adult students and the attendance of pupils who are residents of school districts that are not participating in the joint district pursuant to arrangements made between the governing board of the district and the joint board.

I. The joint board may accept gifts, grants, federal monies, tuition and other allocations of monies to erect, repair and equip buildings and for the cost of operation of the schools of the joint district.

J. One member of the joint board shall be selected chairman. The chairman shall be selected annually on a rotation basis from among the participating school districts. The chairman of the joint board shall be a voting member.

K. A joint board and a community college district may enter into agreements for the provision of administrative, operational and educational services and facilities.

L. Beginning July 1, 2016, any agreement between the governing board of a joint technical education district and another joint technical education district, a school district, a charter school or a community college district shall be in the form of an intergovernmental agreement or other written contract. The auditor general shall modify the uniform system of financial records and budget forms in accordance with this subsection. The intergovernmental agreement or other written contract shall completely and accurately specify each of the following:

1. The financial provisions of the intergovernmental agreement or other written contract and the format for the billing of all services.

2. The accountability provisions of the intergovernmental agreement or other written contract.

3. The responsibilities of each joint technical education district, each school district, each charter school and each community college district that is a party to the intergovernmental agreement or other written contract.

4. The type of instruction that will be provided under the intergovernmental agreement or other written contract, including individualized education programs pursuant to section 15-763.

5. The quality of the instruction that will be provided under the intergovernmental agreement or other written contract.

6. The transportation services that will be provided under the intergovernmental agreement or other written contract and the manner in which transportation costs will be paid.

7. The amount that the joint technical education district will contribute to a course and the amount of support required by the school district or the community college.

8. That the services provided by the joint technical education district, the school district, the charter school or the community college district be proportionally calculated in the cost of delivering the service.

9. That the payment for services shall not exceed the cost of the services provided.

10. That the joint technical education district will provide the following minimum services for all member districts:

(a) Professional development of career and technical teachers in the joint district who are teaching programs or courses at a satellite campus.

(b) Ongoing evaluation and support of satellite campus programs and courses to ensure quality and compliance.

11. An itemized listing of other goods and services that are provided to the member district and that are paid for by the retention of satellite campus student funding.

M. A member school district or charter school may not submit requests for the approval or addition of satellite campus joint district programs or courses directly to the career and technical education division of the department of education, but shall submit all appropriate application documentation and materials for programs or courses to the joint district. On approval from the joint board, a joint district shall only submit requests for the approval or addition of satellite campus joint district programs or courses directly to the career and technical education division of the department of education. If the career and technical education division of the department of education determines that a course does not meet the criteria for approval as a joint technical education course, the governing board of the joint technical education district may appeal this decision to the state board of education acting as the state board of vocational education.

N. Notwithstanding any other law, the average daily membership for a pupil who is enrolled in a joint technical education course defined in section 15-391 and who does not meet the criteria specified in subsection P or Q of this section shall be 0.25 for each course, except the sum of the average daily membership shall not exceed the limits prescribed by subsection D, P or Q of this section, as applicable.

O. If a career and technical education course or program is provided on a satellite campus, the sum of the average daily membership, as provided in section 15-901, subsection A, paragraph 1, for that pupil in the school district or charter school and joint technical education district shall not exceed 1.25. The school district or charter school and the joint district shall determine the apportionment of the average daily membership for that pupil between the school district or charter school and the joint district. A pupil who attends a course or program at a satellite campus and who is not enrolled in the school district or charter school where the satellite campus is located may generate the average daily membership pursuant to this

subsection if the pupil is enrolled in a school district that is a member district in the same joint technical education district.

P. The sum of the average daily membership of a pupil who is enrolled in both the school district and joint technical education district course or program provided at a community college pursuant to subsection K of this section or at a centralized campus shall not exceed 1.75. The member school district and the joint district shall determine the apportionment of the average daily membership and student enrollment for that pupil between the member school district and the joint district, except that the amount apportioned shall not exceed 1.0 for either entity. Notwithstanding any other law, the average daily membership for a pupil in grade ten, eleven or twelve who is enrolled in a course that meets for at least one hundred fifty minutes per class period at a centralized campus shall be 0.75. To qualify for funding pursuant to this subsection, a centralized campus shall offer programs and courses to all eligible students in each member district of the joint technical education district.

Q. The average daily membership for a pupil in grade ten, eleven or twelve who is enrolled in a course that meets for at least one hundred fifty minutes per class period at a leased centralized campus shall not exceed 0.75. The sum of the average daily membership, as provided in section 15-901, subsection A, paragraph 1, of a pupil who is enrolled in both the school district and in joint technical education district courses provided at a leased centralized campus shall not exceed 1.75 if all of the following conditions are met:

1. The course qualifies as a joint technical education course as defined in section 15-391.

2. The course is offered to all eligible students in each member district of the joint technical education district and enrolls students from multiple high schools.

3. The joint technical education district program in which the course is included addresses a specific industry need and has been developed in cooperation with that industry, or the leased facility is a state or federal asset that would otherwise be unused or underutilized.

4. The lease is established at fair market value if the lease is executed for a facility located on the site of a member district and was approved by the joint committee on capital review, except that a lease that was executed or renewed before December 31, 2012 is not subject to approval by the joint committee on capital review.

R. A student who is enrolled in an accommodation school as defined in section 15-101 may be treated as a student of the school district in which the student physically resides for the purposes of enrollment in a joint technical education district and shall be included in the calculation of average daily membership for either the joint technical education district or the accommodation school, or both.

S. Notwithstanding any other law, the student count for a joint technical education district shall be equivalent to the joint technical education district's average daily membership.

T. A school district or charter school may not prohibit or discourage students who are enrolled in that school district or charter school from attending courses offered by a joint technical education district, including

Ch. 124

requiring students to generate a full 1.0 average daily membership or ~~enrolling~~ TO ENROLL in more courses than are needed ~~for a particular student~~ to graduate before enrolling IN and attending programs or courses offered by a joint district.

U. The governing board of the joint technical education district may contract with any charter school that is located within the boundaries of the joint technical education district to allow that charter school to offer career and technical education courses or programs as a satellite campus.

V. Beginning in 2020 and every five years thereafter, the career and technical education division of the department of education shall review joint technical education district programs and joint technical education courses to ensure compliance, quality and eligibility. Any program or course deemed to not meet the requirements set forth by law shall not be funded for the preceding school year and shall be removed from the approved program and course list. The career and technical education division may establish a staggered schedule for reviewing each joint technical education district.

W. For the purposes of this section:

1. "Base year" means the complete school year in which voters of a school district elected to join a joint technical education district.

2. "Centralized campus" means a facility that is owned and operated by a joint technical education district for the purpose of offering joint technical education district programs or joint technical education courses.

3. "Lease" means a written agreement in which the right of occupancy or use of real property is conveyed from one person or entity to another person or entity for a specified period of time.

4. "Leased centralized campus" means a facility that is leased and operated by a joint technical education district for the purpose of offering joint technical education district programs or joint technical education courses.

5. "Satellite campus" means a facility that is owned or operated by a school district or charter school for the purpose of offering joint technical education district programs or joint technical education courses.

EXPLANATION OF BLEND
SECTION 15-824

Laws 2016, Chapters 124 and 331

Laws 2016, Ch. 124, section 12	Effective August 6, 2016
Laws 2016, Ch. 331, section 15	Effective August 6, 2016 (Retroactive to July 1, 2014)

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 124 and Ch. 331 text changes to section 15-824 are blended in the form shown on the following pages.

BLEND OF SECTION 15-824
Laws 2016, Chapters 124 and 331

15-824. Admission of pupils of other school districts; homeless children; tuition charges; definitions

A. The governing board of a school district shall admit pupils from another school district or area as follows:

Chs. 124 and 331 — 1. ~~Upon~~ ON the presentation of a certificate of educational convenience issued by the county school superintendent pursuant to section 15-825.

Ch. 124 — 2. For three hundred fifty or fewer pupils, to a high school without the presentation of such A certificate, if the pupil is a resident of a common school district within this state that is not within a high school district and that does not offer instruction in the pupil's grade. The three hundred fifty or fewer pupil limitation prescribed in this paragraph does not apply to a small isolated school district as defined in section 15-901. Tuition shall be charged as prescribed in subsection E of this section for each pupil admitted pursuant to this paragraph, each pupil from a school district that provides only financing for pupils who are instructed by another school district and each pupil from a unified district that does not offer instruction in the pupil's grade. The school membership of such pupils is deemed, for the purpose of determining student count and for apportionment of state aid, to be enrollment in the school district of the pupil's residence.

B. The residence of the person having legal custody of the pupil is considered the residence of the pupil, except as provided in subsection C of this section and in section 15-825, subsection B.

C. The current residence of a homeless pupil who does not reside with the person having legal custody of the pupil is considered to be the residence of the homeless pupil if the person having legal custody of the pupil is a resident of the United States. For the purposes of this subsection, "homeless pupil" means a pupil who has a primary residence that is:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations.

2. An institution that provides a temporary residence for individuals intended to be institutionalized.

3. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

D. The school enrollment of a pupil who is a resident of this state or who is admitted to a school district under section 15-823, subsection B,

Ch. 331 — C[,] ~~or~~ E, F OR H is deemed, for the purpose of determining student count and for apportionment of state aid, to be enrollment in the school district of actual attendance, except as provided in section 15-825, subsection A, paragraph 1 and subsection A, paragraph 2 of this section and except for pupils for whom the superintendent of public instruction is charged tuition

pursuant to section 15-825, subsections B and D and section 15-976 or for whom another school district is charged tuition as provided in subsections E and G of this section.

E. If tuition is required to be charged for pupils attending school in a school district other than that of their residence, the tuition shall be determined and paid in the following manner:

1. The number of high school pupils for which tuition may be charged to a common school district that is not within a high school district is equal to the average daily membership in the district of attendance from the common school district for the prior fiscal year, except that for the first year in which a common school district not within a high school district stops teaching high school subjects, the district of attendance may charge tuition for the number of pupils ~~which~~ THAT is equal to the average daily membership for high school pupils in the common school district for the prior fiscal year. This number may be adjusted if the common school district increases its revenue control limit and district support level ~~or recomputes its revenue control limit as provided in section 15-948~~.

Chs. 124 and 331

Ch. 124

2. The tuition for pupils attending school in a school district other than that of their residence, except pupils provided for by section 15-825, subsections B and D and any pupils included in the definition of child with a disability in section 15-761, shall not exceed the cost per student count of the school district attended, as determined for the current school year. Tuition for pupils included in the definition of child with a disability in section 15-761 shall not exceed the actual cost of the school attended for each pupil as determined for the current year. The school district of attendance shall not include in the cost per student count a charge for transportation if no transportation is provided, and the charge for transportation shall not exceed the actual costs of providing transportation for the pupils served, as prescribed in the uniform system of financial records. The school district of attendance shall provide the school district of residence with the final tuition charge for the current year and with an estimate of the budget year's tuition charge by May 1 of the current year. The school district of residence shall pay at least one-fourth of the total amount of the estimated tuition by September 30, December 31 and March 31, and it shall pay the remaining amount it owes after adjustments are made by June 30.

3. Notwithstanding paragraph 2 of this subsection and subsection G of this section, if two school districts enter into a voluntary agreement for the payment of tuition, the agreement shall specify the method for computing the tuition amount and the timing of the payments. The agreement shall not be longer than five consecutive years. If two school districts enter into an agreement and choose to renew the agreement, each renewal shall not be longer than five consecutive years. The agreement shall specify that a parent or legal guardian of a pupil affected by a tuition agreement entered pursuant to this section or section 15-816.01 may choose not to send the pupil or pupils to a school district or school that is a party to the agreement.

4. Tuition of pupils as provided in section 15-825, subsection D shall not exceed the excess costs for group B children with disabilities minus the amount generated by the equalization base as determined in section 15-971, subsection A for these pupils. A school district may submit to the

superintendent of public instruction a record of actual excess costs to educate a group B child with a disability if the costs are higher than the calculated excess costs or if a pupil has been placed in a private school for special education services. The superintendent shall determine if the additional costs will be paid, and if the costs are paid, whether the additional costs will be paid by the state or the resident district.

5. The amount received representing contributions to capital outlay as provided in subsection G, paragraph 1, subdivision (b) of this section shall be applied to the capital outlay fund or the debt service fund of the school district.

6. The amount received representing contributions to debt service as provided in subsection G, paragraph 1, subdivisions (c) and (d) of this section shall be applied to the debt service fund of the school district if there is one. Otherwise ~~such~~ THE amount shall be credited to the capital outlay fund of the school district.

Ch. 124

F. A school district may submit to the superintendent of public instruction a record of actual costs paid by the school district to educate a pupil who qualifies for a certificate of educational convenience under section 15-825, subsection B. If the actual costs for that pupil exceed the costs per student count computed pursuant to subsection G of this section, the superintendent of public instruction shall reimburse the school district for these additional costs subject to legislative appropriation.

G. For the purposes of this section:

1. "Costs per student count" means the sum of the following for the common or high school portion of the school district attended, whichever is applicable to the pupil involved, as prescribed in the uniform system of financial records:

(a) The actual school district expenditures for the regular education program subsection of the maintenance and operation section of the budget divided by the school district's student count for the common or high school portion of the school district, whichever is applicable.

(b) The actual school district expenditures for the capital outlay section of the budget as provided in sections 15-903 and 15-905 excluding expenditures for transportation equipment and buildings if no transportation is provided and expenditures for the acquisition of building sites, divided by the school district's student count for the common or high school portion of the school district, whichever is applicable.

(c) The actual school district expenditures for debt service divided by the school district's student count for the common or high school portion of the school district, whichever is applicable.

(d) The result obtained in subdivision (c) of this paragraph shall not exceed:

(i) Seven hundred fifty dollars if the pupil's school district of residence pays tuition for seven hundred fifty or fewer pupils to other school districts or one hundred fifty dollars if the state pays tuition for seven hundred fifty or fewer pupils to a school district pursuant to section 15-825, subsection D or section 15-976.

(ii) Eight hundred dollars if the pupil's school district of residence pays tuition for one thousand or fewer, but more than seven hundred fifty, pupils to other school districts or two hundred dollars if the state pays

tuition for one thousand or fewer, but more than seven hundred fifty, pupils to a school district pursuant to section 15-825, subsection D or section 15-976.

(iii) The actual cost per student count if either the pupil's school district of residence or the state pays tuition for more than one thousand pupils to other school districts.

2. "Legal custody" means:

(a) Custody exercised by the natural or adoptive parents with whom a pupil resides.

(b) Custody granted by order of a court of competent jurisdiction to a person or persons with whom a pupil resides unless the primary purpose for which custody was requested was to circumvent the payment of tuition as provided in this section.

EXPLANATION OF BLEND
SECTION 15-914

Laws 2016, Chapters 235 and 331

Laws 2016, Ch. 235, section 1	Effective August 6, 2016
Laws 2016, Ch. 331, section 18	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 235 and Ch. 331 text changes to section 15-914 are blended in the form shown on the following pages.

BLEND OF SECTION 15-914
Laws 2016, Chapters 235 and 331

15-914. Financial and compliance audits

A. The governing board of a school district that is required to comply with the single audit act amendments of 1996 (P.L. 104-156; 110 Stat. 1396; 31 United States Code sections 7501 through 7507) shall contract for at least annual financial and compliance audits of financial transactions and accounts subject to the single audit act amendments of 1996 and kept by or for the school district. The governing board of a school district that is not required to comply with the single audit act and that has adopted an expenditure budget of two million dollars or more for the maintenance and operation fund pursuant to section 15-905 shall contract for an annual financial statement audit. The governing board of a school district that is not required to comply with the single audit act and that has adopted an expenditure budget of less than two million dollars but more than seven hundred thousand dollars for the maintenance and operation fund pursuant to section 15-905 shall contract for a biennial financial statement audit. An independent certified public accountant shall conduct the audit in accordance with generally accepted governmental auditing standards. To the extent permitted by federal law, a school district that is required to participate in an annual audit pursuant to this subsection may convert to a biennial audit schedule if the previous annual audit did not contain any significant negative findings. If a biennial audit of a school district conducted pursuant to this subsection contains any significant negative findings, the school district shall convert back to an annual audit schedule. If a school district is required to convert back to an annual audit schedule pursuant to this subsection because of significant negative findings, the school district may subsequently convert to a biennial audit schedule if the previous two annual audits did not contain any significant negative findings. For the purposes of this subsection, "significant negative finding" means a finding that results in the issuance of a letter of noncompliance from the auditor general.

B. The governing board of a charter school that is required to comply with the single audit act amendments of 1996 shall contract for an annual financial and compliance audit of financial transactions and accounts subject to the single audit act amendments of 1996 and kept by or for the charter school.

C. A charter school that is not subject to the single audit act amendments of 1996 shall contract for at least an annual financial statement audit conducted in accordance with generally accepted governmental auditing standards. An independent certified public accountant shall conduct the audit.

D. For all audits referred to in subsections A, B and C of this section, the independent certified public accountant shall submit a uniform system of financial records compliance questionnaire to the auditor general with the applicable audit reports. THE INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL ALSO SEND A PAPER COPY OR ELECTRONIC COPY OF THE APPLICABLE AUDIT REPORTS TO THE COUNTY SCHOOL SUPERINTENDENT OF THE COUNTY WHERE THE SCHOOL DISTRICT IS LOCATED.

Chs. 235 and 331

E. Contracts for all financial and compliance audits and financial statement audits and the completed audits shall be approved by the auditor general as provided in section 41-1279.21. Contracts for all financial and compliance audits and financial statement audits shall comply with the rules for competitive sealed proposals as prescribed by the state board of education in section 15-213.

F. If the school district or charter school will incur costs of financial and compliance audits for the budget year, the governing board of ~~a~~ THE school district or the governing body of the charter school may increase its base support level for the budget year by an amount equal to the amount expended for the district's or charter school's financial and compliance audits in the year before the current year, increased by the growth rate as prescribed by law, subject to appropriation. In determining the amount expended for the district's or charter school's financial and compliance audits, the school district or charter school shall include only the portion of the audit that must be paid from monies other than federal monies. The department of education and the auditor general shall prescribe a method for determining the increase in the base support level and shall include in the maintenance and operation section of the budget format, as provided in section 15-903, a separate line for financial and compliance audits expenditures.

Chs. 235 and 331

G. Every audit contract shall include a systematic review of average daily membership, as defined in section 15-901, using methodology that is consistent with guidelines established by the auditor general. The auditor general shall consider cost when establishing guidelines pursuant to this subsection and, to the extent possible, shall attempt to minimize the cost of the review. The purpose of the review is to determine whether the average daily membership reported by the charter school or school district is in compliance with the laws of this state and the uniform systems of financial records for charter schools and school districts.

EXPLANATION OF BLEND
SECTION 15-991

Laws 2016, Chapters 124 and 364

Laws 2016, Ch. 124, section 24	Effective August 6, 2016
Laws 2016, Ch. 364, section 5	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 124 and Ch. 364 text changes to section 15-991 are blended in the form shown on the following pages.

BLEND OF SECTION 15-991
Laws 2016, Chapters 124 and 364

15-991. Annual estimate by county school superintendent of monies for ensuing year; review and approval by property tax oversight commission

A. The county school superintendent shall recompute the equalization assistance for education for each school district pursuant to section 15-971, subsection A and compute the additional amount to be levied pursuant to section 15-992, subsection B using the property values provided by the county assessor under section 42-17052. The county school superintendent must certify in writing to the property tax oversight commission on or before July 25 of each year the amount of equalization assistance for education and the amount to be levied for each school district from the primary property tax pursuant to section 15-992.

B. The county school superintendent must prepare and file with the governing board of each school district in the county and the property tax oversight commission on or before July 25 of each year a written estimate of the amount of monies required by each school district for the ensuing school year based on the proposed budget adopted by each school district governing board. The estimate shall contain:

1. A statement of the student count of each school district.

2. The total amount to be received for the year by each school district from the county school fund and the special county school reserve fund.

~~3. The projected ending cash balance from the previous year adjusted for encumbrances and payables for each school district as provided by the school district and as certified by the president of the school district governing board. A governing board may delegate to a superintendent, head teacher or business manager the authority to certify the projected cash balance.~~

Ch. 364 — ~~4.~~ 3. The anticipated interest earnings for each school district.

~~5.~~ 4. Revenues equal to the amount included in the adopted budget for the maintenance and operation section of the budget permitted by section 15-947, subsection C, paragraph 2, subdivision (a), items (ii), (iii), (iv), (v) and (vi) and subdivision (c). The county school superintendent shall ~~subtract from each school district's budgeted expenditures the total amount of estimated revenues including the projected ending cash balance from the previous year adjusted for encumbrances and payables in order to~~ estimate the additional amounts needed for each school district from the primary property tax and the secondary property tax. The county school superintendent shall certify ~~such~~ THOSE amounts to the board of supervisors and the property tax oversight commission in writing at the time of filing the estimate. ~~When estimating the additional amount needed from the primary property tax for a school district that is not eligible for any equalization assistance as~~

Ch. 124 —

~~provided in section 15-971, the county school superintendent shall include the school district governing board's estimate of the increase in the revenue control limit as prescribed by section 15-948 for the applicable year, except that the percentage increase in average daily membership used to compute the estimated increase in the revenue control limit may not exceed the average of the percentage increase in average daily membership in the three years before the year for which the estimate is made.~~

Ch. 124

~~6.~~ 5. The calculation of the amount to be levied as prescribed by section 15-992 using the values provided by the county assessor under section 42-17052.

C. The property tax oversight commission must review the primary property tax calculations filed under subsection B, paragraph ~~6~~ 5 of this section.

Ch. 364

D. The county school superintendent must file in writing with the county board of supervisors and the property tax oversight commission on or before the third Monday in August of each year the amount that is required to be levied for each school district from both the primary property tax prescribed by section 15-992 and the secondary property tax.

E. On or before September 1, the governing board of a school district shall file with the county school superintendent an estimate of the amount of title VIII of the elementary and secondary education act of 1965 monies it is eligible to receive during the current year. On or before June 1, the governing board shall file with the county school superintendent and the superintendent of public instruction a statement of the actual amount of title VIII of the elementary and secondary education act of 1965 monies it received during the current year. This subsection does not apply to accommodation schools.

F. The department may collect any other similar or related information from school districts that the department may determine is necessary to carry out the purposes of this section.

EXPLANATION OF BLEND
SECTION 15-1024

Laws 2016, Chapters 189 and 364

Laws 2016, Ch. 189, section 7	Effective August 6, 2016
Laws 2016, Ch. 364, section 7	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 189 and Ch. 364 text changes to section 15-1024 are blended in the form shown on the following pages.

The Laws 2016, Ch. 364 version of section 15-1024 made a technical change in subsection D, paragraph 1. The Ch. 189 version struck subsection D, paragraph 1. Since this would not produce a substantive change, the blend version reflects the Ch. 189 version.

BLEND OF SECTION 15-1024
Laws 2016, Chapters 189 and 364

15-1024. Interest on bonds; sale; disposition of proceeds; definition

A. The bonds shall bear interest, payable semiannually at the rate or rates set by the accepted bid, which shall not exceed the maximum rate of interest set forth in the resolution calling the election. The bonds may be made payable at such place within the United States as the governing board of the school district directs and shall be sold in the manner prescribed by the governing board of the school district for not less than par.

B. The proceeds of the sale of the bonds shall be deposited in the county treasury to the credit of the bond building fund of the school district. Such deposits may be drawn out for the purposes authorized by this article as other school monies are drawn. If a balance remains in the bond building fund after the acquisition or construction of facilities is completed for which the bonds were issued and ~~upon~~ ON written request of the governing board:

Chs. 189 and 364

1. If the school district has outstanding bonded indebtedness, the balance remaining in the bond building fund shall be transferred to the debt service fund of the district.

2. If the district has no outstanding bonded indebtedness, the balance remaining in the bond building fund shall be ~~transferred to the general fund of the district~~ USED FOR REDUCTION OF SCHOOL DISTRICT TAXES.

Ch. 364

C. When bonds are sold and the proceeds are not required to be used for a period of ten days or more, such proceeds may be invested as provided by section 15-1025, subsection B. All monies earned as interest or otherwise derived from the investment of the proceeds of the sale of the bonds shall be credited to the debt service fund, except that ~~upon~~ ON the request of the district, the monies earned as interest shall be deposited to the bond building fund if federal laws or rules require the interest to be used for capital expenditures or the monies earned as interest shall be credited to the bond building fund if the voters authorized such use of the monies in a separate question at the bond election. The separate question shall inform the voters that the monies will be credited to the debt service fund, and may therefore reduce the amount of the secondary property tax, if the measure authorizing the monies to be credited to the bond building fund does not pass.

Chs. 189 and 364

D. The amount of net premium associated with a bond issue may ~~not exceed the greater of~~ BE USED ONLY FOR ONE OR MORE OF THE FOLLOWING:

~~1. Five per cent of the par value of the bond issue.~~

~~2. One hundred thousand dollars.~~

Ch. 189

~~E.~~ 1. TO PAY costs incurred in issuing the bonds, ~~may be paid from the net premium associated with a bond issue. Any net premium not used to pay the costs incurred in issuing the bonds shall be deposited~~ SUBJECT TO SECTIONS 15-491, SUBSECTION G AND 15-1465, SUBSECTION A.

2. AS A DEPOSIT in a debt service fund and used only to pay interest on the bonds.

3. FOR ANY OTHER PURPOSE, IF THE DISTRICT HAS VOTER AUTHORIZATION AND AVAILABLE CAPACITY UNDER ITS DEBT LIMITATIONS AND THE AMOUNT OF NET PREMIUM USED FOR SUCH PURPOSE WILL REDUCE IN AN EQUAL AMOUNT BOTH:

Ch. 189

(a) THE AVAILABLE AGGREGATE INDEBTEDNESS CAPACITY OF THE DISTRICT UNDER THE STATUTES AND CONSTITUTION OF THIS STATE.

(b) THE PRINCIPAL AMOUNT AUTHORIZED AT THE ELECTION FOR THE DISTRICT FROM WHICH THE ISSUE OF BONDS ARE BEING SOLD.

~~F.~~ E. For the purposes of this section, "net premium" means the difference between the par amount of the bond issue and the bond issue price determined pursuant to United States treasury regulations.

EXPLANATION OF BLEND
SECTION 15-1626

Laws 2016, Chapters 238 and 372

Laws 2016, Ch. 238, section 1	Effective August 6, 2016
Laws 2016, Ch. 372, section 4	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 238 and Ch. 372 text changes to section 15-1626 are blended in the form shown on the following pages.

Section 15-1626 was amended an additional time by Laws 2016, Ch. 130 with a delayed effective date that will require separate publication in addition to this blend.

BLEND OF SECTION 15-1626
Laws 2016, Chapters 238 and 372

15-1626. General administrative powers and duties of board; definition

A. The board shall:

1. Have and exercise the powers necessary for the effective governance and administration of the institutions under its control. To that end, the board may adopt, and authorize each university to adopt, such regulations, policies, rules or measures as are deemed necessary and may delegate in writing to its committees, to its university presidents, or their designees, or to other entities under its control, any part of its authority for the administration and governance of such institutions, including those powers enumerated in section 15-1625, subsection B, paragraphs 2 and 4, paragraphs 3, 4, 8, 9, 11 and 12 of this subsection and subsection B of this section. Any delegation of authority may be rescinded by the board at any time in whole or in part.

2. Appoint and employ and determine the compensation of presidents with such power and authority and for such purposes in connection with the operation of the institutions as the board deems necessary.

3. Appoint and employ and determine the compensation of vice-presidents, deans, professors, instructors, lecturers, fellows and such other officers and employees with such power and authority and for such purposes in connection with the operation of the institutions as the board deems necessary, or delegate its authority pursuant to paragraph 1 of this subsection.

4. Remove any officer or employee when the interests of education in this state so require in accordance with its personnel rules and policies.

5. Fix tuitions and fees to be charged and differentiate the tuitions and fees between institutions and between residents, nonresidents, undergraduate students, graduate students, students from foreign countries and students who have earned credit hours in excess of the credit hour threshold. For the purposes of this paragraph, the undergraduate credit hour threshold is one hundred forty-five hours for students who attend a university under the jurisdiction of the board. The undergraduate credit hour threshold shall be based on the actual full-time equivalent student enrollment counted on the forty-fifth day of every fall and spring semester, divided by two, and any budget adjustment based on student enrollment shall occur in the fiscal year following the actual full-time equivalent student enrollment count. The undergraduate credit hour threshold shall not apply to degree programs that require credit hours above the credit hour threshold, credits earned in the pursuit of up to two baccalaureate degrees, credits earned in the pursuit of up to two state regulated licensures or certificates, credits earned in the pursuit of teaching certification, credits transferred from a private institution of higher education, credits

transferred from an institution of higher education in another state, credits earned at another institution of higher education but that are not accepted as transfer credits at the university where the student is currently enrolled and credits earned by students who enroll at a university under the jurisdiction of the board more than twenty-four months after the end of that student's previous enrollment at a public institution of higher education in this state. On or before October 15 of each year, the board shall report to the joint legislative budget committee the number of in-state students and out-of-state students who were enrolled at universities under the jurisdiction of the board during the previous fiscal year who met or exceeded the undergraduate credit hour threshold prescribed in this paragraph. The amount of tuition, registration fees and other revenues included in the operating budget for the university adopted by the board as prescribed in paragraph 13 of this subsection shall be deposited, pursuant to sections 35-146 and 35-147. All other tuition and fee revenue shall be retained by each university for expenditure as approved by the board, except that the universities shall not use any tuition or fee revenue to fund or support an alumni association.

6. Except as provided in subsection I of this section, adopt rules to govern its tuition and fee setting process that provide for the following:

(a) At least one public hearing at each university as an opportunity for students and members of the public to comment on any proposed increase in tuition or fees.

(b) Publication of the notice of public hearing at least ten days ~~prior to~~ BEFORE the hearing in a newspaper of general circulation in Maricopa county, Coconino county and Pima county. The notice shall include the date, time and location of the public hearing.

Ch. 372

(c) Public disclosure by each university of any proposed increases in tuition or fees at least ten days ~~prior to~~ BEFORE the public hearing.

(d) Final board action on changes in tuition or fees shall be taken by roll call vote.

The procedural requirements of subdivisions (a), (b), (c) and (d) of this paragraph apply only to those changes in tuition or fees that require board approval.

7. Pursuant to section 35-115, submit a budget request for each institution under its jurisdiction that includes the estimated tuition and fee revenue available to support the programs of the institution as described in the budget request. The estimated available tuition and fee revenue shall be based on the tuition and registration fee rates in effect at the time the budget request is submitted with adjustments for projected changes in enrollment as provided by the board.

8. Establish curriculums and designate courses at the several institutions that in its judgment will best serve the interests of this state.

9. Award such degrees and diplomas on the completion of such courses and curriculum requirements as it deems appropriate.

10. Prescribe qualifications for admission of all students to the universities. The board shall establish policies for guaranteed admission that assure fair and equitable access to students in this state from public, private and charter schools and homeschools. For the purpose of determining

the qualifications of honorably discharged veterans, veterans are those persons who served in the armed forces for a minimum of two years and who were previously enrolled at a university or community college in this state. No prior failing grades received by the veteran at the university or community college in this state may be considered.

11. Adopt any energy conservation standards promulgated by the department of administration for the construction of new buildings.

12. Employ for such time and purposes as the board requires attorneys whose compensation shall be fixed and paid by the board. Litigation to which the board is a party and for which self-insurance is not provided may be compromised or settled at the direction of the board.

13. Adopt annually an operating budget for each university equal to the sum of appropriated general fund monies and the amount of tuition, registration fees and other revenues approved by the board and allocated to each university operating budget.

14. In consultation with the state board of education and other education groups, develop and implement a program to award honors endorsements to be affixed to the high school diplomas of qualifying high school pupils and to be included in the transcripts of pupils who are awarded endorsements. The board shall develop application procedures and testing criteria and adopt testing instruments and procedures to administer the program. In order to receive an honors endorsement, a pupil must demonstrate an extraordinary level of knowledge, skill and competency as measured by the testing instruments adopted by the board in mathematics, English, science and social studies. Additional subjects may be added at the determination of the board. The program is voluntary for pupils.

15. Require the publisher of each literary and nonliterary textbook used in the universities of this state to furnish computer software in a standardized format when software becomes available for nonliterary textbooks to the Arizona board of regents from which braille versions of the textbooks may be produced.

16. Require universities that provide a degree in education to require courses that are necessary to obtain a provisional structured English immersion endorsement as prescribed by the state board of education.

17. Acquire United States flags for each classroom that are manufactured in the United States and that are at least two feet by three feet and hardware to appropriately display the United States flags, acquire a legible copy of the Constitution of the United States and the Bill of Rights, display the flags in each classroom in accordance with title 4 of the United States Code and display a legible copy of the Constitution of the United States and the Bill of Rights adjacent to the flag.

18. To facilitate the transfer of military personnel and their dependents to and from the public schools of this state, pursue, in cooperation with the state board of education, reciprocity agreements with other states concerning the transfer credits for military personnel and their dependents. A reciprocity agreement entered into pursuant to this paragraph shall:

(a) Address procedures for each of the following:

(i) The transfer of student records.

(ii) Awarding credit for completed course work.

(iii) Permitting a student to satisfy the graduation requirements prescribed in section 15-701.01 through the successful performance on comparable exit-level assessment instruments administered in another state.

(b) Include appropriate criteria developed by the state board of education and the Arizona board of regents.

19. Require a university to publicly post notices of all of its employment openings, including the title and description, instructions for applying and relevant contact information.

20. In consultation with the community college districts in this state, develop and implement common equivalencies for specific levels of achievement on advanced placement examinations and international baccalaureate examinations in order to award commensurate postsecondary academic credits at community colleges and public universities in this state.

21. On or before August 1 of each year, report to the joint legislative budget committee the graduation rate by university campus during the previous fiscal year. The board shall also report the retention rate by university campus and by class, as determined by date of entry during the previous fiscal year.

B. The board shall adopt personnel policies for all employees of the board and the universities.

C. In conjunction with the auditor general, the board shall develop a uniform accounting and reporting system, which shall be reviewed by the joint legislative budget committee before final adoption by the board. The board shall require each university to comply with the uniform accounting and reporting system.

D. The board may employ legal assistance in procuring loans for the institutions from the United States government. Fees or compensation paid for such legal assistance shall not be a claim on the general fund of this state but shall be paid from funds of the institutions.

E. The board shall approve or disapprove any contract or agreement entered into by the university of Arizona hospital with the Arizona

Ch. 372 ~~health facilities~~ INDUSTRIAL DEVELOPMENT authority.

F. The board may adopt policies that authorize the institutions under its jurisdiction to enter into employment contracts with nontenured employees for periods of more than one year but not more than five years. The policies shall prescribe limitations on the authority of the institutions to enter into employment contracts for periods of more than one year but not more than five years, including the requirement that the board approve the contracts.

G. The board may adopt a plan or plans for employee benefits that allow for participation in a cafeteria plan that meets the requirements of the United States internal revenue code of 1986.

H. The board may establish a program for the exchange of students between the universities under the jurisdiction of the board and colleges and universities located in the state of Sonora, Mexico. Notwithstanding subsection A, paragraph 5 of this section, the program may provide for in-state tuition at the universities under the jurisdiction of the board for fifty Sonoran students in exchange for similar tuition provisions for up to fifty Arizona students enrolled or seeking enrollment in Sonoran colleges or universities. The board may direct the universities to work in conjunction

with the Arizona-Mexico commission to coordinate recruitment and admissions activities.

I. Subsection A, paragraph 6, subdivisions (a), (b), (c) and (d) of this section do not apply to fee increases that are set by individual universities and that do not require approval by the Arizona board of regents before the fee increase becomes effective.

J. The Arizona board of regents, in collaboration with the universities under its jurisdiction, shall adopt a performance funding model. The performance funding model shall use performance metrics that include the increase in degrees awarded, the increase in completed student credit hours and the increase in externally generated research and public service funding. The funding formula may give added weight to degrees related to science, technology, engineering and mathematics and other high-value degrees that are in short supply or that are essential to this state's long-term economic development strategy.

K. The Arizona board of regents shall use the performance funding model adopted pursuant to subsection J of this section in developing and submitting budget requests for the universities under its jurisdiction.

L. On or before November 1 of each year, the Arizona board of regents shall submit to the joint legislative budget committee and the governor's office of strategic planning and budgeting a report on university debt and obligations, including:

1. Long-term notes and obligations.

2. Certificates of participation and other obligations pursuant to any lease-purchase agreements.

3. Revenue bonds.

4. Bonds issued pursuant to section 15-1682.03.

Ch. 238 ——— 5. COMMERCIAL PAPER ISSUED PURSUANT TO SECTION 15-1696.

M. The report issued pursuant to subsection L of this section shall contain, for the most recent fiscal year:

1. The aggregate level of outstanding principal and the principal and interest payments, by type of debt or obligation.

2. An itemization, by campus and project, of the amount of yearly principal and interest to be paid in the most recent and the next five fiscal years.

N. The board may enter into an intergovernmental agreement pursuant to section 15-1747 to manage universities under its jurisdiction subject to the terms of the reciprocity agreement.

O. For the purposes of this section, "university debt and obligations" means debt and obligations, the principal and interest of which are paid in whole or in part with university monies.

EXPLANATION OF BLEND
SECTION 15-1861

Laws 2016, Chapters 249 and 250

Laws 2016, Ch. 249, section 2	Effective August 6, 2016
Laws 2016, Ch. 250, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 249 and Ch. 250 text changes to section 15-1861 are blended in the form shown on the following page.

BLEND OF SECTION 15-1861
Laws 2016, Chapters 249 and 250

15-1861. Definitions

In this article, unless the context otherwise requires:

1. "Community college" has the same meaning prescribed in section 15-1401.

Chs. 249 and 250

2. "Public forum" includes BOTH A TRADITIONAL PUBLIC FORUM, WHICH IS any open, outdoor area on the campus of a university or community college, and A DESIGNATED PUBLIC FORUM, WHICH IS any ~~facilities, buildings~~ FACILITY, BUILDING or ~~parts~~ PART of ~~buildings~~ A BUILDING that the university or community college has opened to students or student organizations for expression.

3. "University" means a university under the jurisdiction of the Arizona board of regents.

EXPLANATION OF BLEND
SECTION 15-1864

Laws 2016, Chapters 249 and 250

Laws 2016, Ch. 249, section 3	Effective August 6, 2016
Laws 2016, Ch. 250, section 2	Effective August 6, 2016

Explanation

Since the Ch. 250 version includes all of the changes made by the Ch. 249 version, the Laws 2016, Ch. 250 amendment of section 15-1864 is the blend of both the Laws 2016, Ch. 249 and Ch. 250 versions.

BLEND OF SECTION 15-1864
Laws 2016, Chapters 249 and 250

15-1864. Students' right to speak in a public forum; court actions

A. A university or community college shall not restrict a student's right to speak, including verbal speech, holding a sign or distributing fliers or other materials, in a public forum.

~~B. A university or community college may restrict a student's speech in a public forum only if it demonstrates that application of the burden to the student is both:~~

~~1. In furtherance of a compelling governmental interest.~~

~~2. The least restrictive means of furthering that compelling governmental interest.~~

Ch. 250

B. A UNIVERSITY OR COMMUNITY COLLEGE SHALL NOT IMPOSE RESTRICTIONS ON THE TIME, PLACE AND MANNER OF STUDENT SPEECH THAT:

1. OCCURS IN A PUBLIC FORUM.

2. IS PROTECTED BY THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION UNLESS THE RESTRICTIONS:

(a) ARE REASONABLE.

(b) ARE JUSTIFIED WITHOUT REFERENCE TO THE CONTENT OF THE REGULATED SPEECH.

(c) ARE NARROWLY TAILORED TO SERVE A SIGNIFICANT GOVERNMENTAL INTEREST.

(d) LEAVE OPEN AMPLE ALTERNATIVE CHANNELS FOR COMMUNICATION OF THE INFORMATION.

Chs. 249 and 250

C. THE FOLLOWING PERSONS MAY BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION TO ENJOIN ANY VIOLATION OF THIS SECTION OR TO RECOVER REASONABLE COURT COSTS AND REASONABLE ATTORNEY FEES:

1. THE ATTORNEY GENERAL.

2. A STUDENT WHOSE EXPRESSIVE RIGHTS WERE VIOLATED BY A VIOLATION OF THIS SECTION.

D. IN AN ACTION BROUGHT UNDER SUBSECTION C OF THIS SECTION, IF THE COURT FINDS THAT A VIOLATION OF THIS SECTION OCCURRED, THE COURT SHALL AWARD THE AGGRIEVED PERSON INJUNCTIVE RELIEF FOR THE VIOLATION AND SHALL AWARD REASONABLE COURT COSTS AND REASONABLE ATTORNEY FEES.

E. A PERSON SHALL BRING AN ACTION FOR A VIOLATION OF THIS SECTION WITHIN ONE YEAR AFTER THE DATE THE CAUSE OF ACTION ACCRUES. FOR THE PURPOSE OF CALCULATING THE ONE-YEAR LIMITATION PERIOD, EACH DAY THAT THE VIOLATION PERSISTS OR EACH DAY THAT A POLICY IN VIOLATION OF THIS SECTION REMAINS IN EFFECT CONSTITUTES A NEW VIOLATION OF THIS SECTION AND SHALL BE CONSIDERED A DAY THAT THE CAUSE OF ACTION HAS ACCRUED.

EXPLANATION OF BLEND
SECTION 15-2401

Laws 2016, Chapters 112 and 353

Laws 2016, Ch. 112, section 1	Effective August 6, 2016
Laws 2016, Ch. 353, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 112 and Ch. 353 text changes to section 15-2401 are blended in the form shown on the following pages.

BLEND OF SECTION 15-2401
Laws 2016, Chapters 112 and 353

15-2401. Definitions

In this chapter, unless the context otherwise requires:

Ch. 112

1. "ANNUAL EDUCATION PLAN" MEANS AN INITIAL INDIVIDUALIZED EVALUATION AND SUBSEQUENT ANNUAL REVIEWS THAT ARE DEVELOPED FOR A QUALIFIED STUDENT WHO MEETS THE CRITERIA SPECIFIED IN PARAGRAPH 7, SUBDIVISION (a), ITEM (i), (ii) OR (iii) OF THIS SECTION TO DETERMINE ONGOING ANNUAL ELIGIBILITY THROUGH THE SCHOOL YEAR IN WHICH THE QUALIFIED STUDENT REACHES TWENTY-TWO YEARS OF AGE AND WHETHER THE STUDENT MAY BE ELIGIBLE PURSUANT TO SECTION 36-2981 AND SHOULD BE REFERRED FOR ELIGIBILITY DETERMINATION.

Ch. 353

~~1.~~ 2. "Curriculum" means a complete course of study for ~~a particular~~ content ~~area~~ AREAS or grade ~~level~~ LEVELS, including any supplemental materials required by the curriculum, APPROVED BY THE DEPARTMENT.

~~2.~~ 3. "Department" means the department of education.

~~3.~~ 4. "Eligible postsecondary institution" means a community college as defined in section 15-1401, a university under the jurisdiction of the Arizona board of regents or an accredited private postsecondary institution.

~~4.~~ 5. "Parent" means a resident of this state who is the parent or legal guardian of a qualified student.

~~5.~~ 6. "Qualified school" means a nongovernmental primary or secondary school or a preschool for pupils with disabilities that is located in this state and that does not discriminate on the basis of race, color or national origin.

~~6.~~ 7. "Qualified student" means a resident of this state who:

(a) Is any of the following:

(i) Identified as having a disability under section 504 of the rehabilitation act of 1973 (29 United States Code section 794).

(ii) Identified by a school district or by an independent third party pursuant to section 15-2403, subsection I as a child with a disability as

Ch. 353

defined in section 15-731 OR 15-761.

(iii) A child with a disability who is eligible to receive services from a school district under section 15-763.

(iv) Attending a school or school district that has been assigned a letter grade of D or F pursuant to section 15-241 or who is currently eligible to attend kindergarten and who resides within the attendance boundary of a school that has been assigned a letter grade of D or F pursuant to section 15-241.

Ch. 353

(v) A previous recipient of a scholarship issued pursuant to section 15-891 or this section, UNLESS THE QUALIFIED STUDENT'S PARENT HAS BEEN REMOVED FROM ELIGIBILITY IN THE PROGRAM FOR FAILURE TO COMPLY PURSUANT TO SECTION 15-2403, SUBSECTION C.

(vi) A child of a parent who is a member of the armed forces of the United States and who is on active duty or was killed in the line of duty. A child who meets the requirements of this item is not subject to subdivision (b) of this paragraph.

~~(vii) A child with a guardian who is a member of the armed forces of the United States and who is on active duty or was killed in the line of duty. A child who meets the requirements of this item is not subject to subdivision (b) of this paragraph.~~ Ch. 353

~~(viii)~~ (vii) A child who is a ward of the juvenile court and who is residing with a prospective permanent placement pursuant to section 8-862 and the case plan is adoption or permanent guardianship.

~~(ix)~~ (viii) A child who was a ward of the juvenile court and who achieved permanency through adoption or permanent guardianship.

~~(x)~~ (ix) A child who is the sibling of a current or previous empowerment scholarship account recipient OR OF AN ELIGIBLE QUALIFIED STUDENT WHO ACCEPTS THE TERMS OF AND ENROLLS IN THE EMPOWERMENT SCHOLARSHIP PROGRAM.

~~(xi)~~ (x) A child who resides within the boundaries of an Indian reservation in this state AS DETERMINED BY THE DEPARTMENT OF EDUCATION OR A TRIBAL GOVERNMENT.

(xi) A CHILD OF A PARENT WHO IS LEGALLY BLIND PURSUANT TO SECTION 41-1973, SUBSECTION C OR DEAF OR HARD OF HEARING PURSUANT TO SECTION 36-1941.

(b) And, except as provided in subdivision (a), ~~items~~ ITEM (vi) ~~and (vii)~~ of this paragraph, who meets any of the following requirements:

(i) Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least the first one hundred days of the prior fiscal year and who transferred from a governmental primary or secondary school under a contract to participate in an empowerment scholarship account. FIRST, SECOND AND THIRD GRADE STUDENTS WHO ARE ENROLLED IN ARIZONA ONLINE INSTRUCTION MUST RECEIVE FOUR HUNDRED HOURS OF LOGGED INSTRUCTION TO BE ELIGIBLE PURSUANT TO THIS ITEM. FOURTH, FIFTH AND SIXTH GRADE STUDENTS WHO ARE ENROLLED IN ARIZONA ONLINE INSTRUCTION MUST RECEIVE FIVE HUNDRED HOURS OF LOGGED INSTRUCTION TO BE ELIGIBLE PURSUANT TO THIS ITEM. SEVENTH AND EIGHTH GRADE STUDENTS WHO ARE ENROLLED IN ARIZONA ONLINE INSTRUCTION MUST RECEIVE FIVE HUNDRED FIFTY HOURS OF LOGGED INSTRUCTION TO BE ELIGIBLE PURSUANT TO THIS ITEM. HIGH SCHOOL STUDENTS WHO ARE ENROLLED IN ARIZONA ONLINE INSTRUCTION MUST RECEIVE FIVE HUNDRED HOURS OF LOGGED INSTRUCTION TO BE ELIGIBLE PURSUANT TO THIS ITEM. Ch. 353

(ii) Previously participated in the empowerment scholarship account program.

(iii) Received a scholarship under section 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least ninety days of the prior fiscal year or one full semester prior to attending a qualified school.

(iv) Was eligible for an Arizona scholarship for pupils with disabilities and received monies from a school tuition organization pursuant to section 43-1505 or received an Arizona scholarship for pupils with disabilities but did not receive monies from a school tuition organization pursuant to section 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a

full-time student as defined in section 15-901 for at least ninety days of the prior fiscal year or one full semester prior to attending a qualified school.

(v) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state OR ATTENDED A PROGRAM FOR PRESCHOOL CHILDREN WITH DISABILITIES. Ch. 353

(vi) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a program for preschool children with disabilities in this state.

~~7.~~ 8. "Treasurer" means the office of the state treasurer.

EXPLANATION OF BLEND
SECTION 15-2402

Laws 2016, Chapters 112 and 353

Laws 2016, Ch. 112, section 2 — Effective August 6, 2016

Laws 2016, Ch. 353, section 2 — Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 112 and Ch. 353 text changes to section 15-2402 are blended in the form shown on the following pages.

The Laws 2016, Ch. 112 version of section 15-2402 made a conforming change in subsection B, paragraph 4, subdivision (c). The Ch. 353 version struck subdivision (c). Since this would not produce a substantive change, the blend version reflects the Ch. 353 version.

BLEND OF SECTION 15-2402
Laws 2016, Chapters 112 and 353

15-2402. Arizona empowerment scholarship accounts; funds

A. Arizona empowerment scholarship accounts are established to provide options for the education of students in this state.

B. To enroll a qualified student for an empowerment scholarship account, the parent of the qualified student must sign an agreement to do all of the following:

1. Use a portion of the empowerment scholarship account monies
Ch. 353 — allocated ~~each quarter~~ ANNUALLY to provide an education for the qualified student in at least the subjects of reading, grammar, mathematics, social studies and science, unless the empowerment scholarship account is allocated monies according to a transfer schedule other than quarterly transfers pursuant to section 15-2403, subsection F.

2. Not enroll the qualified student in a school district or charter school and release the school district from all obligations to educate the qualified student. This paragraph does not relieve the school district or charter school that the qualified student previously attended from the obligation to conduct an evaluation pursuant to section 15-766.

3. Not accept a scholarship from a school tuition organization pursuant to title 43 concurrently with an empowerment scholarship account for the qualified student in the same year a parent signs the agreement pursuant to this section.

4. Use the money deposited in the qualified student's Arizona empowerment scholarship account only for the following expenses of the qualified student:

(a) Tuition or fees at a qualified school.

(b) Textbooks required by a qualified school.

~~(c) Educational therapies or services from a licensed or accredited practitioner or provider, including licensed or accredited paraprofessionals or educational aides, if the qualified student meets any of the criteria specified in section 15-2401, paragraph 6, subdivision (a), item (i), (ii) or (iii) as determined by a school district or by an independent third party pursuant to section 15-2403, subsection I.~~

Ch. 353 — (c) IF THE QUALIFIED STUDENT MEETS ANY OF THE CRITERIA SPECIFIED IN SECTION 15-2401, PARAGRAPH 6, SUBDIVISION (a), ITEM (i), (ii) OR (iii) AS DETERMINED BY A SCHOOL DISTRICT OR BY AN INDEPENDENT THIRD PARTY PURSUANT TO SECTION 15-2403, SUBSECTION I, THE QUALIFIED STUDENT MAY USE THE FOLLOWING ADDITIONAL SERVICES:

(i) EDUCATIONAL THERAPIES FROM A LICENSED OR ACCREDITED PRACTITIONER OR PROVIDER.

(ii) A LICENSED OR ACCREDITED PARAPROFESSIONAL OR EDUCATIONAL AIDE.

(iii) TUITION FOR VOCATIONAL AND LIFE SKILLS EDUCATION APPROVED BY THE DEPARTMENT.

(iv) ASSOCIATED SERVICES THAT INCLUDE EDUCATIONAL AND PSYCHOLOGICAL EVALUATIONS, ASSISTIVE TECHNOLOGY RENTALS AND BRAILLE TRANSLATION SERVICES APPROVED BY THE DEPARTMENT. Ch. 353

(d) Tutoring or teaching services provided by an individual or facility accredited by a state, regional or national accrediting organization.

(e) ~~Curriculum~~ CURRICULA. Chs. 112 and 353

(f) Tuition or fees for a nonpublic online learning program.

(g) Fees for a nationally standardized norm-referenced achievement test, an advanced placement examination or any exams related to college or university admission.

(h) Contributions to a Coverdell education savings account established pursuant to 26 United States Code section 530 for the benefit of the qualified student, except that money used for elementary or secondary education expenses must be for expenses otherwise allowed under this section.

(i) Tuition or fees at an eligible postsecondary institution.

(j) Textbooks required by an eligible postsecondary institution.

(k) Fees for management of the empowerment scholarship account ~~by firms selected by the treasurer~~.

(l) Services provided by a public school, including individual classes and extracurricular programs. Ch. 353

(m) Insurance or surety bond payments ~~as required by the department of education~~.

(n) UNIFORMS PURCHASED FROM OR THROUGH A QUALIFIED SCHOOL.

(o) BEGINNING JANUARY 1, 2017, IF THE QUALIFIED STUDENT MEETS THE CRITERIA SPECIFIED IN SECTION 15-2401, PARAGRAPH 7, SUBDIVISION (a), ITEM (i), (ii) OR (iii) AND IF THE QUALIFIED STUDENT IS IN THE SECOND YEAR PRIOR TO THE FINAL YEAR OF A CONTRACT EXECUTED PURSUANT TO THIS ARTICLE, COSTS ASSOCIATED WITH AN ANNUAL EDUCATION PLAN CONDUCTED BY AN INDEPENDENT EVALUATION TEAM. THE DEPARTMENT SHALL PRESCRIBE MINIMUM QUALIFICATIONS FOR INDEPENDENT EVALUATION TEAMS PURSUANT TO THIS SUBDIVISION AND FACTORS THAT TEAMS MUST USE TO DETERMINE WHETHER THE QUALIFIED STUDENT SHALL BE ELIGIBLE TO CONTINUE TO RECEIVE MONIES PURSUANT TO THIS ARTICLE THROUGH THE SCHOOL YEAR IN WHICH THE QUALIFIED STUDENT REACHES TWENTY-TWO YEARS OF AGE. AN INDEPENDENT EVALUATION TEAM THAT PROVIDES AN ANNUAL EDUCATION PLAN PURSUANT TO THIS SUBDIVISION SHALL SUBMIT A WRITTEN REPORT THAT SUMMARIZES THE RESULTS OF THE EVALUATION TO THE PARENT OF THE QUALIFIED STUDENT AND TO THE DEPARTMENT ON OR BEFORE JULY 31. THE WRITTEN REPORT SUBMITTED BY THE INDEPENDENT EVALUATION TEAM IS VALID FOR ONE YEAR. IF THE DEPARTMENT DETERMINES THAT THE QUALIFIED STUDENT MEETS THE ELIGIBILITY CRITERIA PRESCRIBED IN THE ANNUAL EDUCATION PLAN, THE QUALIFIED STUDENT IS ELIGIBLE TO CONTINUE TO RECEIVE MONIES PURSUANT TO THIS ARTICLE UNTIL THE QUALIFIED STUDENT REACHES TWENTY-TWO YEARS OF AGE, SUBJECT TO ANNUAL REVIEW. A PARENT MAY APPEAL THE DEPARTMENT'S DECISION PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. AS AN ADDENDUM TO A QUALIFIED STUDENT'S FINAL-YEAR CONTRACT, THE DEPARTMENT SHALL PROVIDE THE FOLLOWING WRITTEN INFORMATION TO THE PARENT OF THE QUALIFIED STUDENT: Ch. 112

(i) THAT THE QUALIFIED STUDENT WILL NOT BE ELIGIBLE TO CONTINUE TO RECEIVE MONIES PURSUANT TO THIS ARTICLE UNLESS THE RESULTS OF AN ANNUAL EDUCATION PLAN CONDUCTED PURSUANT TO THIS SUBDIVISION DEMONSTRATE THAT THE

QUALIFIED STUDENT MEETS THE ELIGIBILITY CRITERIA PRESCRIBED IN THE ANNUAL EDUCATION PLAN.

(ii) THAT THE PARENT IS ENTITLED TO OBTAIN AN ANNUAL EDUCATION PLAN PURSUANT TO THIS SUBDIVISION TO DETERMINE WHETHER THE QUALIFIED STUDENT MEETS THE ELIGIBILITY CRITERIA PRESCRIBED IN THE ANNUAL EDUCATION PLAN.

Ch. 112

(iii) A LIST OF INDEPENDENT EVALUATION TEAMS THAT MEET THE MINIMUM QUALIFICATIONS PRESCRIBED BY THE DEPARTMENT PURSUANT TO THIS SUBDIVISION.

5. Not file an affidavit of intent to homeschool pursuant to section 15-802, subsection B, paragraph 2 or 3.

6. Not use monies deposited in the qualified student's account for any of the following:

(a) Computer hardware or other technological devices.

(b) Transportation of the pupil.

(c) Consumable educational supplies, including paper, pens or markers.

C. In exchange for the parent's agreement pursuant to subsection B of this section, the department shall transfer from the monies that would otherwise be allocated to a recipient's prior school district, or if the child is currently eligible to attend kindergarten, the monies that the department determines would otherwise be allocated to a recipient's expected school district of attendance, to the treasurer for deposit into an Arizona empowerment scholarship account an amount that is equivalent to ninety ~~per cent~~ PERCENT of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for that particular student if that student were attending a charter school. The department may retain up to five ~~per cent~~ PERCENT of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for each student with an empowerment scholarship account for deposit in the department of education empowerment scholarship account fund established in subsection D of this section, out of which the department shall transfer one ~~per cent~~ PERCENT of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for each student with an empowerment scholarship account to the state treasurer for deposit in the state treasurer empowerment scholarship account fund established in subsection E of this section.

Chs. 112 and 353

D. The department of education empowerment scholarship account fund is established consisting of monies retained by the department pursuant to subsection C of this section. The department shall administer the fund. Monies in the fund are subject to legislative appropriation. Monies in the fund shall be used for the department's costs in administering empowerment scholarship accounts under this chapter. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. If the number of empowerment scholarship accounts significantly increases after fiscal year 2012-2013, the department may request an increase in the amount appropriated to the fund in any subsequent fiscal year in the budget estimate submitted pursuant to section 35-113.

E. The state treasurer empowerment scholarship account fund is established consisting of monies transferred by the department to the state treasurer pursuant to subsection C of this section. The state treasurer shall administer the fund. Monies in the fund shall be used for the state treasurer's costs in administering the empowerment scholarship accounts under

this chapter. If the number of empowerment scholarship accounts significantly increases after fiscal year 2013-2014, the state treasurer may request an increase in the amount appropriated to the fund in any subsequent fiscal year in the budget estimate submitted pursuant to section 35-113. Monies in the fund are subject to legislative appropriation. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

F. A parent must renew the qualified student's empowerment scholarship account on an annual basis. Notwithstanding any changes to the student's multidisciplinary evaluation team plan, a student who has previously qualified for an empowerment scholarship account shall remain eligible to apply for renewal until the student finishes high school.

G. A signed agreement under this section constitutes school attendance required by section 15-802.

H. A qualified school or a provider of services purchased pursuant to subsection B, paragraph 4 of this section may not share, refund or rebate any Arizona empowerment scholarship account monies with the parent or qualified student in any manner.

I. On the qualified student's graduation from a postsecondary institution or after any period of four consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary institution, the qualified student's Arizona empowerment scholarship account shall be closed and any remaining funds shall be returned to the state.

J. Monies received pursuant to this article do not constitute taxable income to the parent of the qualified student.

EXPLANATION OF BLEND
SECTION 18-545

Laws 2016, Chapters 80 and 102

Laws 2016, Ch. 80, section 15	Effective August 6, 2016
Laws 2016, Ch. 102, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 80 and Ch. 102 text changes to section 18-545 are blended in the form shown on the following pages.

BLEND OF SECTION 18-545
Laws 2016, Chapters 80 and 102

18-545. Notification of breach of security system; enforcement; civil penalty; preemption; exceptions; definitions

A. When a person that conducts business in this state and that owns or licenses unencrypted computerized data that includes personal information becomes aware of an incident of unauthorized acquisition and access to unencrypted or unredacted computerized data that includes an individual's personal information, the person shall conduct a reasonable investigation to promptly determine if there has been a breach of the security system. If the investigation results in a determination that there has been a breach in the security system, the person shall notify the individuals affected. The notice shall be made in the most expedient manner possible and without unreasonable delay subject to the needs of law enforcement as provided in subsection C of this section and any measures necessary to determine the nature and scope of the breach, to identify the individuals affected or to restore the reasonable integrity of the data system.

B. A person that maintains unencrypted computerized data that includes personal information that the person does not own shall notify and cooperate with the owner or the licensee of the information of any breach of the security of the system following discovery of the breach without unreasonable delay. Cooperation shall include sharing information relevant to the breach of the security of the system with the owner or licensee. The person that owns or licenses the computerized data shall provide notice to the individual pursuant to this section. The person that maintained the data under an agreement with the owner or licensee is not required to provide notice to the individual pursuant to this section unless the agreement stipulates otherwise.

C. The notification required by subsection A of this section may be delayed if a law enforcement agency advises the person that the notification will impede a criminal investigation. The person shall make the notification after the law enforcement agency determines that it will not compromise the investigation.

D. The disclosure required by subsection A of this section shall be provided by one of the following methods:

1. Written notice.

2. Electronic notice if the person's primary method of communication with the individual is by electronic means or is consistent with the provisions regarding electronic records and signatures set forth in the electronic signatures in global and national commerce act (P.L. 106-229; 114 Stat. 464; 15 United States Code section 7001).

3. Telephonic notice.

4. Substitute notice if the person demonstrates that the cost of providing notice pursuant to paragraph 1, 2 or 3 of this subsection would exceed fifty thousand dollars or that the affected class of subject

individuals to be notified exceeds one hundred thousand persons, or the person does not have sufficient contact information. Substitute notice shall consist of all of the following:

(a) Electronic mail notice if the person has electronic mail addresses for the individuals subject to the notice.

Ch. 80 (b) Conspicuous posting of the notice on the ~~web site~~ WEBSITE of the person if the person maintains one.

(c) Notification to major statewide media.

E. A person who maintains the person's own notification procedures as part of an information security policy for the treatment of personal
Ch. 102 information and WHO is otherwise consistent with the requirements of this section shall be deemed to be in compliance with the notification requirements of this section if the person notifies subject individuals in accordance with the person's policies if a breach of the security system occurs.

F. A person that complies with the notification requirements or security breach procedures pursuant to the rules, regulations, procedures, guidance or guidelines established by the person's primary or functional federal regulator is deemed to be in compliance with this section.

G. A person is not required to disclose a breach of the security of the system if the person or a law enforcement agency, after a reasonable investigation, determines that a breach of the security of the system has not occurred or is not reasonably likely to occur.

H. This section may only be enforced by the attorney general. The attorney general may bring an action to obtain actual damages for a wilful and knowing violation of this section and a civil penalty not to exceed ten thousand dollars per breach of the security of the system or series of breaches of a similar nature that are discovered in a single investigation.

I. The state legislature determines that security system breach notification is a matter of statewide concern. The power to regulate security breach notification is preempted by this state and this section shall supersede and preempt all municipal and county laws, charters,
Ch. 80 ordinances and rules relating to issues regulated by this ~~chapter~~ SECTION.

Chs. 80 and 102 J. This section does not apply to either of the following:

1. A person subject to title V of the Gramm-Leach-Bliley act ~~of 1999~~ (P.L. 106-102; 113 Stat. 1338; 15 United States Code sections 6801 through 6809).

Ch. 102 2. Covered entities AND BUSINESS ASSOCIATES as defined under regulations implementing the health insurance portability and accountability act [OF 1996], 45 Code of Federal Regulations section 160.103 ~~(1996)~~ (2003). Ch. 80

K. The department of public safety, a county sheriff's department, a municipal police department, a prosecution agency and a court shall create and maintain an information security policy that includes notification procedures for a breach of the security system of the department of public safety, the county sheriff's department, the municipal police department, the prosecuting agency or the court.

L. For the purposes of this section:

1. "Breach", "breach of the security of the system", "breach of the security system" or "security breach" means an unauthorized acquisition of and access to unencrypted or unredacted computerized data that materially

compromises the security or confidentiality of personal information maintained by a person as part of a database of personal information regarding multiple individuals and that causes or is reasonably likely to cause substantial economic loss to an individual. Good faith acquisition of personal information by an employee or agent of the person for the purposes of the person is not a breach of the security system if the personal information is not used for a purpose unrelated to the person or subject to further wilful unauthorized disclosure.

2. "Court" means the supreme court, court of appeals, superior court, courts inferior to the superior court and justice courts.

3. "Encrypted" means use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.

4. "Individual" means a person that is a resident of this state as determined by a principal mailing address in this state as reflected in the records of the person conducting business in this state at the time of the breach.

5. "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency or any other legal or commercial entity. Person does not include the department of public safety, a county sheriff's department, a municipal police department, a prosecution agency or a court.

6. "Personal information":

(a) Means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when the data element is not encrypted, redacted or secured by any other method rendering the element unreadable or unusable:

(i) The individual's social security number.

(ii) The individual's number on a driver license issued pursuant to section 28-3166 or number on a nonoperating identification license issued pursuant to section 28-3165.

(iii) The individual's financial account number or credit or debit card number in combination with any required security code, access code or password that would permit access to the individual's financial account.

(b) Does not include publicly available information that is lawfully made available to the general public from federal, state or local government records or widely distributed media.

7. "Prosecution agency" means the attorney general, any county attorney or any municipal prosecutor.

8. "Redact" means alter or truncate data such that no more than the last four digits of a social security number, driver license number, nonoperating identification license number, financial account number or credit or debit card number is accessible as part of the personal information.

EXPLANATION OF BLEND
SECTION 19-121.01

Laws 2016, Chapters 79 and 296

Laws 2016, Ch. 79, section 23 — Effective November 5, 2016

Laws 2016, Ch. 296, section 2 — Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 79 and Ch. 296 text changes to section 19-121.01 are blended effective from and after November 4, 2016 in the form shown on the following pages. However, both the blend version and the Ch. 296 version of section 19-121.01 will be published since the Ch. 296 version becomes effective before the Ch. 79 version. The publisher will automatically delete the Ch. 296 version on publication of the appropriate pocket part.

BLEND OF SECTION 19-121.01
Laws 2016, Chapters 79 and 296

19-121.01. Secretary of state; removal of petition and ineligible signatures; sheets copies; random sample; presumption

A. Within twenty days, excluding Saturdays, Sundays and other legal
Ch. 79 — holidays, ~~of~~ AFTER the date of filing of an initiative or referendum petition and issuance of the receipt, the secretary of state shall:

1. Remove the following:

(a) Those sheets not attached to a copy of the complete title and text of the measure as prescribed in this chapter.

(b) The copy of the title and text from the remaining petition sheets.

(c) Those sheets not bearing the correct petition serial number in the lower right-hand corner of each side.

(d) Those sheets containing a circulator's affidavit that is not completed or signed or that has been modified.

(e) Those sheets on which the affidavit of the circulator is not notarized, the notary's signature is missing, the notary's commission has expired or the notary's seal is not affixed.

(f) Those sheets on which the signatures of the circulator or the notary are dated earlier than the dates on which the electors signed the face of the petition sheet.

(g) Those sheets that are circulated by a circulator who is prohibited from participating in any election, initiative, referendum or recall campaign pursuant to section 19-119.01.

(h) Those sheets on which the circulator is required to be registered with the secretary of state pursuant to section 19-118 and the circulator is not properly registered at the time the petitions were circulated.

2. After completing the steps in paragraph 1 of this subsection, review each sheet to determine the county of the majority of the signers and shall:

(a) Place a three or four letter abbreviation designating that county ~~in the upper right-hand corner of~~ ON the face of the petition.

(b) Remove all signatures of those not in the county of the majority on each sheet ~~by marking an "SS" in red ink in the margin to the right of~~ PLACING AN ADJACENT MARK OR STRIKING THROUGH the signature line.

(c) Cause all signature sheets to be grouped together by county of registration of the majority of those signing ~~and attach them to one or more copies of the title and text of the measure. If the sheets are too bulky for~~
Ch. 296 — ~~convenient grouping by the secretary of state in one volume by county, they may be bound in two or more volumes with those in each volume attached to a single printed copy of the measure~~. The ~~remaining~~ detached copies of the title and text of the measure shall be ~~delivered~~ MADE AVAILABLE to the applicant BUT MAY BE DISPOSED OF AFTER A REASONABLE PERIOD OF TIME.

3. After completing the steps in paragraph 2 of this subsection, remove the following signatures that are not eligible for verification by ~~marking an "SS" in red ink in the margin to the right of~~ PLACING AN ADJACENT MARK OR STRIKING THROUGH the signature line:

(a) If the signature of the qualified elector is missing.

(b) If the residence address or the description of residence location is missing.

(c) If the date on which the petitioner signed is missing, if the date on which the petitioner signed the petition is before the date that the Ch. 79 ~~statement of organization was filed for~~ SERIAL NUMBER WAS ASSIGNED TO the political committee that is filing the petition or if the date on which the petitioner signed the petition is after the date on which the affidavit was completed by the circulator and notarized.

(d) Signatures in excess of the fifteen signatures permitted per petition.

(e) Signatures withdrawn pursuant to section 19-113.

(f) Signatures for which the secretary of state determines that the petition circulator has printed the elector's first and last names or other information in violation of section 19-112.

4. After the removal of petition sheets and signatures, count the number of signatures for verification on the remaining petition sheets and note that number ~~in the upper right-hand corner of~~ ON the face of each petition sheet ~~immediately above the county designation~~.

5. Number the remaining petition sheets that were not previously Ch. 296 removed and that contain signatures eligible for verification in consecutive order on the front side of each petition sheet ~~in the upper left-hand corner~~.

6. Count all remaining petition sheets and signatures not previously removed and ~~issue a receipt to~~ NOTIFY the applicant of this total number eligible for verification.

B. If the total number of signatures for verification as determined pursuant to subsection A, paragraph 6 of this section equals or exceeds the Ch. 79 constitutional minimum, ~~the secretary of state,~~ during the same twenty day period provided in subsection A of this section, THE SECRETARY OF STATE shall select, at random, five percent of the total signatures eligible for verification by the county recorders of the counties in which the persons signing the petition claim to be qualified electors. The random sample of signatures to be verified shall be drawn in such a manner that every signature eligible for verification has an equal chance of being included in the sample. The random sample produced shall identify each signature selected by petition page and line number. The signatures selected shall be marked ~~according to the following procedure:~~ IN A CLEAR MANNER.

~~1. Using red ink, mark the selected signature by circling the line number and drawing a line from the base of the circle extending into the left~~ Ch. 296 ~~margin.~~

~~2.~~ C. If a signature line selected for the random sample is found to be blank or was removed from the verification process pursuant to subsection A of this section ~~and is marked with an "SS",~~ then the next line down, even if that requires going to the next petition sheet in sequence, on which an eligible signature appears shall be selected as a substitute if that line has not already been selected for the random sample. If the next eligible line is already being used in the random sample, the secretary of state shall proceed back up the page from the signature line originally selected for the random sample to the next previous signature line eligible for verification. If that line is already being used in the random sample, the secretary of

state shall continue moving down the page or to the next page from the line originally selected for the random sample and shall select the next eligible signature as its substitute for the random sample. The secretary of state shall use this process of alternately moving forward and backward until a signature eligible for verification and not already included in the random sample can be selected and substituted.

~~C.~~ D. After the selection of the random sample and the marking of the signatures selected on the ~~original~~ petition sheets pursuant to subsection B of this section, the secretary of state shall ~~reproduce~~ TRANSMIT a ~~facsimile~~ COPY of the front of each signature sheet on which a signature included in the random sample appears. The secretary of state shall clearly identify those signatures marked for verification ~~by color highlighting or other similar method~~ and shall transmit by personal delivery[,] ~~or~~ certified mail[,] ELECTRONIC MAIL OR OTHER ELECTRONIC TRANSFER METHOD to each county recorder a ~~facsimile sheet~~ COPY of each signature sheet on which a signature appears of any individual who claims to be a qualified elector of that county and whose signature was selected for verification as part of the random sample.

Ch. 296

~~D.~~ E. The secretary of state shall presume that the date noted on the petition for a petitioner's signature is the date on which the petitioner signed the petition, and any person seeking to establish a different date for the signature bears the burden of proof in overcoming the presumption.

~~E.~~ F. The secretary of state shall retain ~~in custody~~ AN ELECTRONIC COPY OF all signature sheets ~~removed pursuant to this section~~ except as otherwise prescribed in this title. AFTER THE TIME PERIOD FOR LEGAL CHALLENGES HAS ELAPSED, THE ORIGINAL SHEETS SHALL BE MADE AVAILABLE TO THE APPLICANT BUT MAY BE DISPOSED OF AFTER A REASONABLE PERIOD OF TIME.

Ch. 296

EXPLANATION OF BLEND
SECTION 23-101

Laws 2016, Chapters 327 and 356

Laws 2016, Ch. 327, section 1	Effective August 6, 2016
Laws 2016, Ch. 356, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 327 and Ch. 356 text changes to section 23-101 are blended in the form shown on the following page.

BLEND OF SECTION 23-101
Laws 2016, Chapters 327 and 356

23-101. Industrial commission; members; qualifications; appointment; terms; compensation; removal

A. There shall be an industrial commission of Arizona.

B. The commission shall be composed of five members appointed by the governor pursuant to section 38-211. Each member shall be appointed for a term of five years. ~~The terms of the members serving on the commission on the effective date of this section shall terminate January 8, 1969. Of the members of the commission first appointed, one shall serve for a term ending January 8, 1970, and one each for terms ending one, two, three, and four years thereafter. Thereafter one term shall~~ MEMBERS' TERMS expire on the third Monday in January of ~~each~~ THE APPROPRIATE year. Not more than three members of the commission shall belong to the same political party. The chairman of the commission shall be appointed by and serve at the pleasure of the governor. The members of the commission shall have been residents of the state for AT LEAST five years immediately preceding their original appointment.

Chs. 327 and 356

C. Each commissioner shall receive a salary of fifty dollars per day for each day in which ~~he performs his duties as a commissioner~~ THE COMMISSIONER PREPARES FOR OR ATTENDS A COMMISSION MEETING. TO RECEIVE THE SALARY PROVIDED IN THIS SUBSECTION, EACH COMMISSIONER SHALL PROVIDE DOCUMENTATION TO THE DIRECTOR OF THE COMMISSION THAT EXPLAINS WHAT COMMISSION DUTIES WERE COMPLETED FOR THE DAY IN WHICH THE COMMISSIONER IS SEEKING A SALARY.

D. The governor may remove a member of the commission for inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office.

EXPLANATION OF BLEND
SECTION 23-108

Laws 2016, Chapters 327 and 356

Laws 2016, Ch. 327, section 2	Effective August 6, 2016
Laws 2016, Ch. 356, section 2	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 327 and Ch. 356 text changes to section 23-108 are blended in the form shown on the following page.

The Laws 2016, Ch. 327 version of section 23-108, subsection A added "of this title". The Ch. 356 version struck the cross-reference to chapter 3, article 2 and left "of this title". Since this would not produce a substantive change, the blend version reflects the Ch. 356 version.

BLEND OF SECTION 23-108
Laws 2016, Chapters 327 and 356

23-108. Director; employees; compensation and expenses

A. The commission shall employ a director who is ~~subject to confirmation by the senate~~ APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 38-211 AND WHO SERVES AT THE PLEASURE OF THE GOVERNOR. Subject to title 41, chapter 4, article 4, the director may employ ~~such~~ personnel as deemed necessary by the provisions of THIS CHAPTER, [AND] chapters ~~1,~~ 2 and 6 [~~and article 2 of chapter 3~~ of this title.

Chs. 327 and 356

Ch. 356

B. The compensation of the director shall be as determined pursuant to section 38-611. The director shall have such administrative ability, education and training as the commission determines. ~~The director shall serve at the pleasure of the governor.~~

C. The compensation of the director and commission employees and payment of subsistence and travel expenses allowed by law shall be paid from the administrative fund.

EXPLANATION OF BLEND
SECTION 23-108.01

Laws 2016, Chapters 327 and 356

Laws 2016, Ch. 327, section 3	Effective August 6, 2016
Laws 2016, Ch. 356, section 3	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 327 and Ch. 356 text changes to section 23-108.01 are blended in the form shown on the following page.

The Laws 2016, Ch. 327 version of section 23-108.01, subsection A added "of this title". The Ch. 356 version struck the cross-reference to chapter 3, article 2 and left "of this title". Since this would not produce a substantive change, the blend version reflects the Ch. 356 version.

BLEND OF SECTION 23-108.01
Laws 2016, Chapters 327 and 356

23-108.01. Powers and duties of director

A. The director OF THE COMMISSION, under the supervision of the commission, shall administer the policies, powers and duties of the commission as prescribed by THIS CHAPTER, [AND] chapters ~~1,~~ 2 and 6 [~~and article 2] of chapter 3~~ of this title. **Ch. 356**

Chs. 327 and 356

B. THE DIRECTOR OF THE COMMISSION MAY DENY THE SALARY OF A COMMISSIONER IF THE COMMISSIONER DOES NOT PROVIDE DOCUMENTATION THAT EXPLAINS WHAT COMMISSION DUTIES WERE COMPLETED FOR THE DAY IN WHICH THE COMMISSIONER IS SEEKING A SALARY OR IF THE COMMISSION DUTIES WERE NOT RELATED TO PREPARING FOR OR ATTENDING A COMMISSION MEETING.

EXPLANATION OF BLEND
SECTION 26-102

Laws 2016, Chapters 147 and 308

Laws 2016, Ch. 147, section 1	Effective August 6, 2016
Laws 2016, Ch. 308, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 147 and Ch. 308 text changes to section 26-102 are blended in the form shown on the following pages.

BLEND OF SECTION 26-102
Laws 2016, Chapters 147 and 308

26-102. Powers and duties of the adjutant general

A. The adjutant general shall serve as head of the department. The governor as commander in chief shall administer and control the national guard, and the adjutant general is responsible to the governor for execution of all orders relating to the militia, organization, activation, reactivation, inactivation and allocation of units, recruiting of personnel, public relations and discipline and training of the national guard and those members of the militia inducted into the service of this state as provided in this chapter. The adjutant general shall act as military chief of staff to the governor and chief of all branches of the militia. The adjutant general may belong to the national association and other organizations for the betterment of the national guard, subscribe to and obtain periodicals, literature and magazines of such other organizations and pay dues and charges from monies of this state appropriated for that purpose. Except for the authority expressly reserved for the governor, the adjutant general is responsible for emergency management, and all emergency activities are subject to the approval of the adjutant general.

B. The adjutant general, as the military chief of staff, shall:

1. Act as military advisor to the governor and perform, as the governor prescribes, military duties not otherwise designated by law.

2. Adopt methods of administration for the national guard that are not inconsistent with laws and regulations of the United States department of defense or any subdivision of the United States department of defense.

3. Supervise and direct the organization, regulation, instruction and other activities of the national guard.

4. Attest and record all commissions issued by the governor and maintain a register of all commissioned personnel.

5. Keep a record of all orders and regulations pertaining to the national guard and all other writings and papers relating to reports and returns of units comprising the national guard and militia.

6. Superintend the preparation of returns, plans and estimates required by this state, by the department of the army, air force or navy and by the UNITED STATES secretary of defense.

7. Control the use of and care for, preserve and maintain all military property belonging to or issued to this state and pay from monies appropriated by the legislature for these purposes the necessary expenses for labor and material incurred in the repair of military property.

Chs. 147 and 308

8. Dispose of unserviceable military property belonging to this state, account for the proceeds and transmit ~~them~~ THE PROCEEDS to the morale, welfare and recreational fund established by section 26-153.

9. Authenticate with the seal of the office of the adjutant general all orders and copies of orders issued by the adjutant general's office. An authenticated copy has the same force and effect as the original.

10. Present to the governor before each regular session of the legislature, or as otherwise required, an estimate of the financial requirements for state monies for operation of the department and the national guard during the next fiscal year.

C. The adjutant general, as head of the department, shall:

1. Be the administrator of the department.

2. Coordinate the functions of the divisions and offices of the department.

3. Subject to title 41, chapter 4, article 4 and, as applicable, article 5, appoint, suspend, demote, promote or dismiss employees of the department. The adjutant general may delegate this authority.

4. Appoint an auditor for the department to conduct periodic financial and compliance audits of each division and office in the department and perform ~~such~~ other duties as prescribed by law. At least annually the auditor shall audit accounts that are open for more than twelve months. The auditor shall determine within the department compliance with purchase and bidding procedures prescribed by law.

Ch. 308

5. Adopt, with the approval of the governor, rules necessary for the operation of the department AND FOR THE ORGANIZATION, GOVERNANCE, ARMAMENT, EQUIPPING, INSTRUCTION AND COMPENSATION OF THE NATIONAL GUARD AND AUTHORIZED EMPLOYEES. RULES THAT ARE ADOPTED FOR THE NATIONAL GUARD AND AUTHORIZED EMPLOYEES PURSUANT TO THIS PARAGRAPH SHALL BE IN FORCE AND EFFECT WHEN APPROVED BY THE GOVERNOR.

6. Establish and administer accounts for federal, state or other monies made available to carry out the functions of the department.

7. As deemed necessary, appoint to peace officer status members of the Arizona national guard who have been awarded a United States army military occupational specialty as military policeman or a United States air force specialty code as security policeman OR WHO HAVE SERVED AS A LAW ENFORCEMENT OFFICER IN ANY BRANCH OF THE UNITED STATES ARMED FORCES OR AS A SPECIAL AGENT OF A MILITARY CRIMINAL INVESTIGATIVE ORGANIZATION WITHIN THE UNITED STATES DEPARTMENT OF DEFENSE. Before appointment as peace officers, ~~such~~ THE individuals must successfully complete a course of study to be prescribed by the Arizona peace officer standards and training board. Individuals appointed as peace officers pursuant to this ~~section~~ PARAGRAPH, when performing duties at facilities or on land operated or controlled by or under the jurisdiction of the adjutant general, have all the powers, privileges and immunities of peace officers provided by law. Individuals appointed as peace officers pursuant to this ~~section~~ PARAGRAPH are not eligible to participate in funding provided by the peace officers' training fund established by section 41-1825 or in the public safety personnel retirement system.

Ch. 147

Chs. 147 and 308

8. Establish, abolish or reorganize the positions or organizational structure within the department, subject to legislative appropriation, if, in the adjutant general's judgment, the modification would make the operation of the department more efficient, effective or economical.

9. Establish an educational program for persons who have previously dropped out of high school and who are under twenty years of age but who are not adjudicated delinquent. The educational program shall be designated "project challenge", and the program shall be conducted by the national guard of Arizona in a paramilitary environment. The goal of the educational

program is to provide persons WHO ARE enrolled in the program with the knowledge and skills necessary to become productive citizens and to obtain a general equivalency diploma. In addition to monies appropriated for the program, the adjutant general may accept and spend monies from any other lawful public or private source.

10. Submit to the governor, the president of the senate and the speaker of the house of representatives annually by September 1 a report for the department for the preceding fiscal year including:

(a) The strength and condition of the national guard.

(b) The business transactions of the department.

(c) A detailed statement of expenditures for all military and civilian purposes.

(d) The disposition of all military and civilian property on hand or issued.

(e) A description of the activity in the camp Navajo fund established by section 26-152.

(f) A detailed statement of the national guard postsecondary education reimbursement program pursuant to section 26-181, subsection D.

D. The adjutant general, with the approval of the governor, may:

1. Enter into contracts with individuals, this state, political subdivisions of this state or the federal government and its agencies for the purchase, acquisition, rental or lease of lands, buildings or military materiel and take title in the name of this state for the establishment and maintenance of armories, subject to legislative appropriation for these purposes.

2. Procure and contract for procurement of equipment and its issuance to members of the militia inducted into the service of this state.

3. Enter into agreements and plans with the state universities, community colleges or any educational institution supported by federal or state monies for promotion of the best interests of the national guard and military training of students of the institutions.

4. Lease property acquired under this chapter for any public purpose for a period of one year that is renewable.

5. Convey for any public purpose in the name of this state easements on real property acquired under this chapter.

6. Enter into contracts or agreements with the federal government that are deemed to be in the best interest of this state and the national guard.

7. Delegate the powers and duties in this section.

8. Adopt methods of security for the national guard reservations or facilities that are consistent with the laws, regulations or directives of the United States department of defense or any subdivision of the United States department of defense and the laws of this state.

EXPLANATION OF BLEND
SECTION 28-101

Laws 2016, Chapters 29, 171, 232, 263 and 276

Laws 2016, Ch. 29, section 1	Effective August 6, 2016
Laws 2016, Ch. 171, section 1	Effective August 6, 2016
Laws 2016, Ch. 232, section 33	Effective August 6, 2016
Laws 2016, Ch. 263, section 2	Effective August 6, 2016
Laws 2016, Ch. 276, section 1	Effective August 6, 2016

Explanation

Since these five enactments are not incompatible, the Laws 2016, Ch. 29, Ch. 171, Ch. 232, Ch. 263 and Ch. 276 text changes to section 28-101 are blended in the form shown on the following pages.

BLEND OF SECTION 28-101
Laws 2016, Chapters 29, 171, 232, 263 and 276

28-101. Definitions

In this title, unless the context otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.

2. "Alcohol concentration" if expressed as a percentage means either:

(a) The number of grams of alcohol per one hundred milliliters of blood.

(b) The number of grams of alcohol per two hundred ten liters of breath.

3. "All-terrain vehicle" means either of the following:

(a) A motor vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is fifty or fewer inches in width.

(iii) Has an unladen weight of one thousand two hundred pounds or less.

(iv) Travels on three or more nonhighway tires.

(v) Is operated on a public highway.

(b) A recreational off-highway vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is sixty-five or fewer inches in width.

(iii) Has an unladen weight of one thousand eight hundred pounds or less.

(iv) Travels on four or more nonhighway tires.

4. "Authorized emergency vehicle" means any of the following:

(a) A fire department vehicle.

(b) A police vehicle.

(c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.

(d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.

5. "Autocycle" means a three-wheeled motorcycle on which the driver and passengers ride in a ~~completely~~ FULLY OR PARTIALLY enclosed seating area that is equipped with a roll cage, safety belts for each occupant and antilock brakes and that is designed to be controlled with a steering wheel and pedals.

Ch. 29

6. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for

the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.

7. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:

(a) Two tandem wheels, either of which is more than sixteen inches in diameter.

(b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

8. "Board" means the transportation board.

9. "Bus" means a motor vehicle designed for carrying sixteen or more passengers, including the driver.

10. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any six hundred feet along the highway, including hotels, banks or office buildings, railroad stations and public buildings that occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

11. "CERTIFICATE OF OWNERSHIP" MEANS A PAPER OR AN ELECTRONIC RECORD THAT IS ISSUED IN ANOTHER STATE OR A FOREIGN JURISDICTION AND THAT INDICATES OWNERSHIP OF A VEHICLE.

Chs. 263 and 276

12. "CERTIFICATE OF TITLE" MEANS A PAPER DOCUMENT OR AN ELECTRONIC RECORD THAT IS ISSUED BY THE DEPARTMENT AND THAT INDICATES OWNERSHIP OF A VEHICLE.

~~11.~~ 13. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.

~~12.~~ 14. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.

~~13.~~ 15. "Conviction" means:

(a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.

(b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.

(c) A plea of guilty or no contest accepted by the court.

(d) The payment of a fine or court costs.

~~14.~~ 16. "County highway" means a public road that is constructed and maintained by a county.

~~15.~~ 17. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business AND HAS PAID FEES PURSUANT TO SECTION 28-4302.

Ch. 263

~~16.~~ 18. "Department" means the department of transportation acting directly or through its duly authorized officers and agents.

~~17.~~ 19. "Digital network or software application" has the same meaning prescribed in section 28-9551.

~~18.~~ 20. "Director" means the director of the department of transportation.

~~19.~~ 21. "Drive" means to operate or be in actual physical control of a motor vehicle.

~~20.~~ 22. "Driver" means a person who drives or is in actual physical control of a vehicle.

~~21.~~ 23. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.

~~22.~~ 24. "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device with an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

~~23.~~ 25. "Farm" means any lands primarily used for agriculture production.

~~24.~~ 26. "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

~~25.~~ 27. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

~~26.~~ 28. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than one thousand eight hundred pounds, that is designed to be and is operated at not more than twenty-five miles per hour and that is designed to carry not more than four persons including the driver.

~~27.~~ 29. "Hazardous material" means a material, and its mixtures or solutions, that the United States department of transportation determines under 49 Code of Federal Regulations is, or any quantity of a material listed as a select agent or toxin under 42 Code of Federal Regulations part 73 that is, capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

~~28.~~ 30. "Implement of husbandry" means a vehicle designed primarily for agricultural purposes and used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

~~29.~~ 31. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route

or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

~~30.~~ 32. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in section 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

~~31.~~ 33. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

~~32.~~ 34. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

~~33.~~ 35. "Moped" means a bicycle that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one percent grade.

~~34.~~ 36. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower.

~~35.~~ 37. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a motorized wheelchair, an electric personal assistive mobility device or a motorized skateboard. For the purposes of this subdivision:

(i) "Motorized skateboard" means a self-propelled device that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

~~36.~~ 38. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and

that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

~~37.~~ 39. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor and a moped.

~~38.~~ 40. "Motorized quadricycle" means a self-propelled motor vehicle to which all of the following apply:

(a) The vehicle is self-propelled by an emission-free electric motor and may include pedals operated by the passengers.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle seats at least eight passengers, including the driver.

(d) The vehicle is operable on a flat surface using solely the electric motor without assistance from the pedals or passengers.

(e) The vehicle is a commercial motor vehicle as defined in section 28-5201.

Chs. 29, 171, 232, 263 and 276

Chs. 171 and 232

(f) The vehicle is ~~licensed by the department [of weights and measures] to operate as~~ a limousine OPERATING UNDER A VEHICLE FOR HIRE COMPANY PERMIT ISSUED pursuant to section 28-9503.

(g) The vehicle is manufactured by a motor vehicle manufacturer that is licensed pursuant to chapter 10 of this title.

Chs. 29, 171, 232, 263 and 276

(h) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations ~~section~~ SECTIONS 571.3(b) and 571.500, respectively.

~~39.~~ 41. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~40.~~ 42. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

~~41.~~ 43. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

~~42.~~ 44. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

~~43.~~ 45. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.

(c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

~~44.~~ 46. "Pedestrian" means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle. For the purposes of this paragraph, "motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

~~45.~~ 47. "Power sweeper" means an implement, with or without motive power, that is only incidentally operated or moved on a street or highway and that is designed for the removal of debris, dirt, gravel, litter or sand whether by broom, vacuum or regenerative air system from asphaltic concrete or cement concrete surfaces, including parking lots, highways, streets and warehouses, and a vehicle on which the implement is permanently mounted.

~~46.~~ 48. "Public transit" means the transportation of passengers on scheduled routes by means of a conveyance on an individual passenger fare-paying basis excluding transportation by a sightseeing bus, school bus or taxi or a vehicle not operated on a scheduled route basis.

~~47.~~ 49. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

~~48.~~ 50. "Residence district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

~~49.~~ 51. "Right-of-way" when used within the context of the regulation of the movement of traffic on a highway means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

~~50.~~ 52. "School bus" means a motor vehicle that is designed for carrying more than ten passengers and that is either:

(a) Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis.

(b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.

~~51.~~ 53. "Semitrailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~52.~~ 54. "State" means a state of the United States and the District of Columbia.

~~53.~~ 55. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.

~~54.~~ 56. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

~~55.~~ 57. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

~~56.~~ 58. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, ~~that is registered as a taxi in this state or any other state,~~ that provides passenger services and that:

Chs. 171 and 232

(a) Does not primarily operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

Chs. 263 and 276

59. "TITLE TRANSFER FORM" MEANS A PAPER OR AN ELECTRONIC FORM THAT IS PRESCRIBED BY THE DEPARTMENT FOR THE PURPOSE OF TRANSFERRING A CERTIFICATE OF TITLE FROM ONE OWNER TO ANOTHER OWNER.

~~57.~~ 60. "Traffic survival school" means a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

~~58.~~ 61. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~59.~~ 62. "Transportation network company" has the same meaning prescribed in section 28-9551.

~~60.~~ 63. "Transportation network company vehicle" has the same meaning prescribed in section 28-9551.

~~61.~~ 64. "Transportation network service" has the same meaning prescribed in section 28-9551.

~~62.~~ 65. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

~~63.~~ 66. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

~~64.~~ 67. "Vehicle" means a device in, on or by which a person or property is or may be transported or drawn on a public highway, excluding devices moved by human power or used exclusively on stationary rails or tracks.

~~65.~~ 68. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.

EXPLANATION OF BLEND
SECTION 28-141

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 2	Effective August 6, 2016
Laws 2016, Ch. 232, section 34	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 171 and Ch. 232 text changes to section 28-141 are blended in the form shown on the following page.

BLEND OF SECTION 28-141
Laws 2016, Chapters 171 and 232

28-141. Prearranged ground transportation; applicability; definitions

Chs. 171 and 232

A. The department shall not require a ~~license~~ PERMIT or impose a fee on a motor vehicle providing prearranged ground transportation service if the motor carrier providing the service does all of the following:

1. Meets all applicable registration requirements for the interstate transportation of passengers under the ICC termination act of 1995 (P.L. 104-88; 109 Stat. 879; 49 United States Code sections 13901 through 13908).

2. Meets all applicable vehicle and intrastate passenger licensing requirements of the state in which the vehicle is domiciled or registered to do business.

3. Provides the service pursuant to a contract for either of the following:

(a) Transportation from this state, including intermediate stops, to a destination in another state.

(b) Transportation from this state, including intermediate stops in another state, to a destination in this state.

B. For the purposes of this section:

1. "Intermediate stop" means a pause in the transportation in order for one or more passengers to engage in personal or business activity, but only if the driver providing the transportation to the passenger does not, before resuming the transportation of the passenger or at least one of the passengers, provide transportation to any other person not included among the passengers being transported when the pause began.

2. "Prearranged ground transportation service" means transportation for a passenger or a group of passengers that is arranged in advance or that is operated on a regular route or between specified points.

EXPLANATION OF BLEND
SECTION 28-370

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 3	Effective August 6, 2016
Laws 2016, Ch. 276, section 2	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-370 are blended in the form shown on the following page.

BLEND OF SECTION 28-370
Laws 2016, Chapters 263 and 276

28-370. Oaths and acknowledgments; power of attorney; definition

A. The director and officers, agents and employees of the department the director designates may administer oaths and acknowledge signatures, without a fee, in any matter connected with the administration of a law the enforcement of which is vested in the director.

B. Notwithstanding title 14, chapter 5, article 5:

1. The director or an officer, agent or employee of the department designated by the director may witness a power of attorney to be used solely in the performance of vehicle title and registration activities.

2. For the purposes of executing a power of attorney in the performance of vehicle title and registration activities, the power of attorney is not required to be:

(a) Notarized if it is witnessed by the director or an officer, agent or employee of the department designated by the director.

(b) NOTARIZED IF IT IS INVOLVING A TOTAL LOSS VEHICLE SETTLEMENT AND AN INSURANCE COMPANY THAT IS LICENSED PURSUANT TO TITLE 20 SUBMITS IT ELECTRONICALLY TO THE DEPARTMENT IN A MANNER APPROVED BY THE DIRECTOR.

Chs. 263 and 276

~~(b)~~ (c) Witnessed if it is notarized.

C. For the purposes of this section, "agent" includes a motor vehicle dealer~~, a title service company or any other~~ OR A third party authorized pursuant to this title.

EXPLANATION OF BLEND
SECTION 28-453

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 4	Effective August 6, 2016
Laws 2016, Ch. 276, section 3	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-453 are blended in the form shown on the following page.

BLEND OF SECTION 28-453
Laws 2016, Chapters 263 and 276

28-453. Electronic transfer of information

The department may accept electronic communication, transfer or receipt of any abstract, affidavit, application information, copy, form, order, report, record or other information prescribed in this title ~~in accordance with rules adopted by the director~~.

Chs. 263 and 276

EXPLANATION OF BLEND
SECTION 28-1095

Laws 2016, Chapters 52 and 128

Laws 2016, Ch. 52, section 2	Effective August 6, 2016
Laws 2016, Ch. 128, section 20	Effective August 6, 2016 (Retroactive to July 1, 2016)

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 52 and Ch. 128 text changes to section 28-1095 are blended in the form shown on the following pages.

BLEND OF SECTION 28-1095
Laws 2016, Chapters 52 and 128

28-1095. Vehicle length; exceptions; permits; rules; definitions

A. A vehicle, including any load on the vehicle, shall not exceed a length of forty feet extreme overall dimension, including front and rear bumpers. This subsection does not apply to any of the following:

1. A semitrailer when used in combination with a truck or a truck tractor.

2. A truck that is equipped with a conveyor bed, that is used solely as a fiber and forage module mover and that does not exceed forty-eight feet in length.

3. An articulated bus or articulated trolley coach that does not exceed a length of sixty feet.

4. A bus that is not articulated and that does not exceed a length of forty-five feet.

5. A recreational vehicle, a power unit, a farm vehicle, a horse trailer or wheeled equipment as defined in section 28-2153 if used in combination with two units and if the combination does not exceed sixty-five feet in length.

Ch. 128 — 6. A recreational vehicle as defined in section ~~41-2142~~ 41-4001, paragraph 30, subdivision (b) that does not exceed a length of forty-five feet.

B. A vehicle transporter may draw only one semitrailer. A combination of vehicles, excluding a vehicle transporter and the semitrailer it draws, that is coupled together shall not consist of more than two units, except that a truck or a truck tractor and semitrailer may draw either one trailer or a forklift.

C. The following restrictions apply:

1. The length of a semitrailer operating in a truck tractor-semitrailer combination or a truck tractor-semitrailer-forklift combination shall not exceed fifty-seven feet six inches.

2. The length of a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination shall not exceed twenty-eight feet six inches.

3. The length of a trailer operating in a truck-trailer combination shall not exceed twenty-eight feet six inches.

4. If the length of a semitrailer is more than fifty-three feet, the overall length of a truck tractor-semitrailer combination shall not exceed sixty-five feet on all highways, except for the national intercity truck route network designated by the United States secretary of transportation as required by the surface transportation assistance act of 1982 or on a system of highways that is designated by a local authority. In designating the streets, the local authority shall consider any reasonable restriction including such safety restrictions as

structural hazards and street width and any other safety factors identified by the local authority as a hazard to the motoring public.

5. A vehicle transporter and the semitrailer it draws shall not exceed a length of ~~seventy-five~~ EIGHTY feet WITH A FRONT OVERHANG OF NOT MORE THAN FOUR FEET AND A REAR OVERHANG OF NOT MORE THAN SIX FEET. Ch. 52

6. A truck-semitrailer combination shall not exceed an overall length of sixty-five feet.

D. Subsection B and subsection C, paragraphs 1 through 6 of this section do not apply to damaged, disabled or abandoned vehicles or combinations of vehicles while being towed by a tow truck in compliance with section 41-1830.51.

E. Notwithstanding subsections B and C of this section, extensions of not more than three feet beyond the foremost part and six feet beyond the rear bed or body of a vehicle or combination of vehicles used to transport manufactured vehicles or fiber and forage shall not be included in measuring the length of the vehicle or combination of vehicles when loaded.

F. Pursuant to a permit issued pursuant to section 28-1103, a truck or a truck tractor-semitrailer may draw not more than two additional trailers or semitrailers. The department shall adopt rules governing the movement and safety of a combination of vehicles under this subsection and authorizing the issuance in advance of prepaid permits. The rules shall include the adoption of minimum speeds on grades, lighting, signing, identification and braking requirements and any other rules the department deems necessary. The permit issued pursuant to this subsection is limited to the following highways:

1. An interstate highway that connects with two states if both states allow such combinations of trailers or semitrailers and if the interstate highway does not exceed forty miles between the connecting states.

2. A state route or highway that is located within four miles of and extends to the border of this state and an adjacent state that allows such combinations of trailers or semitrailers.

3. A state route or highway that extends at least ten miles through an Indian reservation, that does not cross the Colorado river and that is located within twenty miles of and extends to the border of this state and an adjacent state that allows such combinations of trailers or semitrailers.

G. Notwithstanding subsections B and C of this section:

1. A motor vehicle may draw one single axle tow dolly on which a motor vehicle may be transported. A person shall secure the raised end of any motor vehicle being transported pursuant to this paragraph to the tow dolly by two separate chains, cables or equivalent devices adequate to prevent shifting or separation of the drawn vehicle and the tow dolly. For the purposes of this paragraph, "single axle tow dolly" means a vehicle drawn by a motor vehicle and designed and used exclusively to transport another motor vehicle by which the front or rear wheels of the drawn motor vehicle are mounted on the tow dolly while the other wheels of the drawn motor vehicle remain in contact with the ground.

2. A truck or a truck tractor may draw a trailer or semitrailer that does not exceed a length of fifty-seven feet only on an interstate highway or on a highway that is within ten miles of an interstate highway if the trailer or semitrailer is manufactured in this state and is traveling with or without a load from its place of manufacture to be delivered for use outside this state.

3. A recreational vehicle may pull two units if all of the following conditions are met:

(a) The middle unit is equipped with a fifth wheel and brakes. The middle unit may be a farm vehicle or a horse trailer and shall have a weight equal to or greater than the rear unit.

(b) If the rear unit has a gross weight of three thousand pounds or more, it is equipped with brakes.

(c) The total combined gross weight of the towed units does not exceed the manufacturer's stated gross vehicle weight of the towing unit.

4. A VEHICLE TRANSPORTER MAY TRANSPORT CARGO OR GENERAL FREIGHT ON A BACKHAUL IN COMPLIANCE WITH SECTION 28-1100.

Ch. 52

H. For the purposes of this section:

1. "BACKHAUL" MEANS THE RETURN TRIP OF A VEHICLE TRANSPORTER CARRYING CARGO OR GENERAL FREIGHT OVER ALL OR PART OF THE SAME ROUTE.

~~1.~~ 2. "Farm vehicle" has the same meaning prescribed in section 28-2514.

~~2.~~ 3. "Recreational vehicle" means a motor vehicle that is designed and customarily used for private pleasure, including vehicles commonly called motor homes, pickup trucks with campers and pickup trucks with a fifth wheel trailing device.

EXPLANATION OF BLEND
SECTION 28-1381

Laws 2016, Chapters 57 and 339

Laws 2016, Ch. 57, section 1	Effective January 1, 2017
Laws 2016, Ch. 339, section 2	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 57 and Ch. 339 text changes to section 28-1381 are blended effective from and after December 31, 2016 in the form shown on the following pages. However, both the blend version and the Ch. 339 version of section 28-1381 will be published since the Ch. 339 version becomes effective before the Ch. 57 version. The publisher will automatically delete the Ch. 339 version on publication of the appropriate pocket part.

BLEND OF SECTION 28-1381
Laws 2016, Chapters 57 and 339

28-1381. Driving or actual physical control while under the influence; trial by jury; presumptions; admissible evidence; sentencing; classification

A. It is unlawful for a person to drive or be in actual physical control of a vehicle in this state under any of the following circumstances:

1. While under the influence of intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances if the person is impaired to the slightest degree.

2. If the person has an alcohol concentration of 0.08 or more within two hours of driving or being in actual physical control of the vehicle and the alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the vehicle.

3. While there is any drug defined in section 13-3401 or its metabolite in the person's body.

4. If the vehicle is a commercial motor vehicle that requires a person to obtain a commercial driver license as defined in section 28-3001 and the person has an alcohol concentration of 0.04 or more.

B. It is not a defense to a charge of a violation of subsection A, paragraph 1 of this section that the person is or has been entitled to use the drug under the laws of this state.

C. A person who is convicted of a violation of this section is guilty of a class 1 misdemeanor.

D. A person using a drug as prescribed by a medical practitioner WHO IS licensed pursuant to title 32~~, chapter 7, 11, 13 or 17~~ AND WHO IS AUTHORIZED TO PRESCRIBE THE DRUG is not guilty of violating subsection A, paragraph 3 of this section.

Ch. 339

E. In any prosecution for a violation of this section, the state shall allege, for the purpose of classification and sentencing pursuant to this section, all prior convictions of violating this section, section 28-1382 or section 28-1383 occurring within the past thirty-six months, unless there is an insufficient legal or factual basis to do so.

F. At the arraignment, the court shall inform the defendant that the defendant may request a trial by jury and that the request, if made, shall be granted.

G. In a trial, action or proceeding for a violation of this section or section 28-1383 other than a trial, action or proceeding involving driving or being in actual physical control of a commercial vehicle, the defendant's alcohol concentration within two hours of the time of driving or being in actual physical control as shown by analysis of the defendant's blood, breath or other bodily substance gives rise to the following presumptions:

1. If there was at that time 0.05 or less alcohol concentration in the defendant's blood, breath or other bodily substance, it may be presumed that the defendant was not under the influence of intoxicating liquor.

2. If there was at that time in excess of 0.05 but less than 0.08 alcohol concentration in the defendant's blood, breath or other bodily substance, that fact shall not give rise to a presumption that the defendant was or was not under the influence of intoxicating liquor, but that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

3. If there was at that time 0.08 or more alcohol concentration in the defendant's blood, breath or other bodily substance, it may be presumed that the defendant was under the influence of intoxicating liquor.

H. Subsection G of this section does not limit the introduction of any other competent evidence bearing on the question of whether or not the defendant was under the influence of intoxicating liquor.

I. A person who is convicted of a violation of this section:

1. Shall be sentenced to serve not less than ten consecutive days in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served.

2. Shall pay a fine of not less than two hundred fifty dollars.

3. May be ordered by a court to perform community restitution.

4. Shall pay an additional assessment of five hundred dollars to be deposited by the state treasurer in the prison construction and operations fund established by section 41-1651. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

5. Shall pay an additional assessment of five hundred dollars to be deposited by the state treasurer in the public safety equipment fund established by section 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

Ch. 57

6. IF THE VIOLATION INVOLVED INTOXICATING LIQUOR, shall be required by the department, on report of the conviction, to equip any motor vehicle the person operates with a certified ignition interlock device pursuant to section 28-3319. In addition, the court may order the person to equip any motor vehicle the person operates with a certified ignition interlock device for more than twelve months beginning on the date of reinstatement of the person's driving privilege following a suspension or revocation or on the date of the department's receipt of the report of conviction, whichever occurs later. The person who operates a motor vehicle with a certified ignition interlock device under this paragraph shall comply with article 5 of this chapter.

J. Notwithstanding subsection I, paragraph 1 of this section, at the time of sentencing the judge may suspend all but one day of the sentence if

the person completes a court ordered alcohol or other drug screening, education or treatment program. If the person fails to complete the court ordered alcohol or other drug screening, education or treatment program and has not been placed on probation, the court shall issue an order to show cause to the defendant as to why the remaining jail sentence should not be served.

K. If within a period of eighty-four months a person is convicted of a second violation of this section or is convicted of a violation of this section and has previously been convicted of a violation of section 28-1382 or 28-1383 or an act in another jurisdiction that if committed in this state would be a violation of this section or section 28-1382 or 28-1383, the person:

1. Shall be sentenced to serve not less than ninety days in jail, thirty days of which shall be served consecutively, and is not eligible for probation or suspension of execution of sentence unless the entire sentence has been served.

2. Shall pay a fine of not less than five hundred dollars.

3. Shall be ordered by a court to perform at least thirty hours of community restitution.

4. Shall have the person's driving privilege revoked for one year. The court shall report the conviction to the department. On receipt of the report, the department shall revoke the person's driving privilege and, IF THE VIOLATION INVOLVED INTOXICATING LIQUOR, shall require the person to equip any motor vehicle the person operates with a certified ignition interlock device pursuant to section 28-3319. In addition, the court may order the person to equip any motor vehicle the person operates with a certified ignition interlock device for more than twelve months beginning on the date of reinstatement of the person's driving privilege following a suspension or revocation or on the date of the department's receipt of the report of conviction, whichever occurs later. The person who operates a motor vehicle with a certified ignition interlock device under this paragraph shall comply with article 5 of this chapter.

Ch. 57

5. Shall pay an additional assessment of one thousand two hundred fifty dollars to be deposited by the state treasurer in the prison construction and operations fund established by section 41-1651. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

6. Shall pay an additional assessment of one thousand two hundred fifty dollars to be deposited by the state treasurer in the public safety equipment fund established by section 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

L. Notwithstanding subsection K, paragraph 1 of this section, at the time of sentencing, the judge may suspend all but thirty days of the sentence if the person completes a court ordered alcohol or other drug screening, education or treatment program. If the person fails to complete the court ordered alcohol or other drug screening, education or treatment program and has not been placed on probation, the court shall issue an order to show cause as to why the remaining jail sentence should not be served.

M. In applying the eighty-four month provision of subsection K of this section, the dates of the commission of the offense shall be the determining factor, irrespective of the sequence in which the offenses were committed.

N. A second violation for which a conviction occurs as provided in this section shall not include a conviction for an offense arising out of the same series of acts.

O. After completing forty-five days of the revocation period prescribed by subsection K of this section, a person whose driving privilege is revoked for a violation of this section and who is sentenced pursuant to subsection K of this section is eligible for a special ignition interlock restricted driver license pursuant to section 28-1401.

Ch. 57

P. THE COURT MAY ORDER A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS SECTION THAT DOES NOT INVOLVE INTOXICATING LIQUOR TO EQUIP ANY MOTOR VEHICLE THE PERSON OPERATES WITH A CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT TO SECTION 28-3319. ON REPORT OF THE CONVICTION AND CERTIFIED IGNITION INTERLOCK DEVICE REQUIREMENT, THE DEPARTMENT SHALL REQUIRE THE PERSON TO EQUIP ANY MOTOR VEHICLE THE PERSON OPERATES WITH A CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT TO SECTION 28-3319. IN ADDITION, THE COURT MAY ORDER THE PERSON TO EQUIP ANY MOTOR VEHICLE THE PERSON OPERATES WITH A CERTIFIED IGNITION INTERLOCK DEVICE FOR MORE THAN TWELVE MONTHS BEGINNING ON THE DATE OF REINSTATEMENT OF THE PERSON'S DRIVING PRIVILEGE FOLLOWING A SUSPENSION OR REVOCATION OR ON THE DATE OF THE DEPARTMENT'S RECEIPT OF THE REPORT OF CONVICTION, WHICHEVER OCCURS LATER. THE PERSON WHO OPERATES A MOTOR VEHICLE WITH A CERTIFIED IGNITION INTERLOCK DEVICE UNDER THIS SUBSECTION SHALL COMPLY WITH ARTICLE 5 OF THIS CHAPTER.

EXPLANATION OF BLEND
SECTION 28-2008

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 5	Effective August 6, 2016
Laws 2016, Ch. 276, section 4	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2008 are blended in the form shown on the following page.

BLEND OF SECTION 28-2008
Laws 2016, Chapters 263 and 276

28-2008. Duplicate certificate of title, permit, registration card or license plates

A. If a ~~certificate of title,~~ permit, registration card or license plate is lost or mutilated or becomes illegible, the person entitled to the ~~certificate,~~ permit, card or plate shall immediately apply for and obtain a duplicate or substitute ~~certificate,~~ permit, card or plate by furnishing information satisfactory to the department.

Chs. 263 and 276

B. IF A PAPER CERTIFICATE OF TITLE IS LOST OR MUTILATED OR BECOMES ILLEGIBLE, THE PERSON ENTITLED TO THE CERTIFICATE OF TITLE MAY APPLY FOR A DUPLICATE OR SUBSTITUTE CERTIFICATE OF TITLE BY FURNISHING INFORMATION SATISFACTORY TO THE DEPARTMENT. THE DEPARTMENT MAY IMPLEMENT PROCEDURES RELATED TO THE ISSUANCE OF A DUPLICATE PAPER CERTIFICATE OF TITLE.

EXPLANATION OF BLEND
SECTION 28-2009

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 6	Effective August 6, 2016
Laws 2016, Ch. 276, section 5	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2009 are blended in the form shown on the following page.

BLEND OF SECTION 28-2009
Laws 2016, Chapters 263 and 276

28-2009. Certificate of title; validity

Chs. 263 and 276

The certificate of title is valid for the life of the vehicle as long as the vehicle is owned by the original holder of the title, unless it has been replaced ~~by a duplicate certificate of title~~ pursuant to section 28-2008.

EXPLANATION OF BLEND
SECTION 28-2011

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 7	Effective August 6, 2016
Laws 2016, Ch. 276, section 6	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2011 are blended in the form shown on the following page.

BLEND OF SECTION 28-2011
Laws 2016, Chapters 263 and 276

28-2011. Vehicle inspections

A. The department may conduct the following levels of motor vehicle inspections:

1. Level one. A level one inspection consists of matching the public vehicle identification number and a secondary vehicle identification number to the vehicle ownership documents to determine the identity of the vehicle.

2. Level two. A level two inspection consists of matching the public vehicle identification number, a secondary vehicle identification number and the confidential vehicle identification number to the vehicle ownership documents to determine the identity of the vehicle.

3. Level three. A level three inspection consists of a level two inspection plus verification of vehicle identification numbers on, at the discretion of the inspector, some or all component parts to determine the identity of the vehicle and that the vehicle is properly equipped for highway use.

B. A person who submits a motor vehicle to the department for inspection shall pay the following fees:

1. For a level two inspection, twenty dollars.

2. For a level three inspection, fifty dollars.

Chs. 263 and 276

C. The department shall deposit the inspection fees in the vehicle inspection and CERTIFICATE OF title enforcement fund established by section 28-2012.

D. An inspection fee is not required for an inspection of a motor vehicle owned by a foreign government, by a consul or any other representative of a foreign government, by the United States, by a state or political subdivision of a state or by an Indian tribal government.

EXPLANATION OF BLEND
SECTION 28-2012

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 8	Effective August 6, 2016
Laws 2016, Ch. 276, section 7	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2012 are blended in the form shown on the following page.

BLEND OF SECTION 28-2012
Laws 2016, Chapters 263 and 276

28-2012. Vehicle inspection and certificate of title enforcement fund

A. ~~A~~ THE vehicle inspection and CERTIFICATE OF title enforcement fund is established consisting of monies deposited pursuant to sections 28-2011 and 28-2013 and section 28-2095, subsection G.

Chs. 263 and 276

B. Monies in the vehicle inspection and CERTIFICATE OF title enforcement fund are subject to legislative appropriation to the department to be used by the department to defray the cost of investigations involving certificates of title, licensing fraud, registration enforcement and automobile theft related issues.

C. The vehicle inspection and CERTIFICATE OF title enforcement fund is exempt from the provisions of section 35-190 relating to lapsing of appropriations.

EXPLANATION OF BLEND
SECTION 28-2013

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 9	Effective August 6, 2016
Laws 2016, Ch. 276, section 8	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2013 are blended in the form shown on the following page.

BLEND OF SECTION 28-2013
Laws 2016, Chapters 263 and 276

28-2013. Disposition of property; deposit of proceeds

A. The department may receive monies from any department or agency of
Chs. 263 and 276 — the United States, this state or any political subdivision of this state, and may sell, transfer or otherwise dispose of all property seized and forfeited to the state, or otherwise awarded to the department, as a result of any investigation.

B. The department shall deposit, pursuant to sections 35-146 and 35-147, any proceeds resulting from subsection A of this section, except an investigation or prosecution conducted pursuant to article 3 of this chapter,
Chs. 263 and 276 — in the vehicle inspection and CERTIFICATE OF title enforcement fund established by section 28-2012.

EXPLANATION OF BLEND
SECTION 28-2051

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 10	Effective August 6, 2016
Laws 2016, Ch. 276, section 9	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2051 are blended in the form shown on the following pages.

BLEND OF SECTION 28-2051
Laws 2016, Chapters 263 and 276

28-2051. Application for certificate of title; vision screening test

A. A person shall apply to the department on a form prescribed or authorized by the department for a certificate of title to a motor vehicle, trailer or semitrailer. The person shall make the application within fifteen days after the purchase or transfer of the vehicle, trailer or semitrailer except that a licensed motor vehicle dealer shall make the application within thirty days after the purchase or transfer. All transferees shall sign the application, except that one transferee may sign the application if both of the following apply:

1. The application is for the purposes of converting an out-of-state certificate of title to a certificate of title issued pursuant to this article.

2. The ownership or legal status of the motor vehicle, trailer or semitrailer does not change.

B. The application shall contain:

1. The transferee's full name and either the driver license number of the transferee or a number assigned by the department.

2. The transferee's complete residence address.

Chs. 263 and 276

3. A brief description of the vehicle to be ~~titled~~ ISSUED A CERTIFICATE OF TITLE.

4. The name of the manufacturer of the vehicle.

5. The serial number of the vehicle.

6. The last license plate number if applicable and if known and the state in which the license plate number was issued.

7. If the application is for a certificate of title to a new vehicle, the date of sale by the manufacturer or dealer to the person first operating the vehicle.

8. If the application is in the name of a lessor:

(a) The lessor shown on the application as the owner or transferee.

(b) At the option of the lessor, the lessee shown on the application as the registrant.

(c) The address of either the lessor or lessee.

(d) The signature of the lessor.

9. If the application is for a certificate of title to a specially constructed, reconstructed or foreign vehicle, a statement of that fact. For the purposes of this paragraph, "specially constructed vehicle" means a vehicle not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles.

10. If an applicant rents or intends to rent the vehicle without a driver, a statement of that fact.

11. Other information required by the department.

Chs. 263 and 276

C. Unless subsection B, paragraph 8 of this section applies, on request of an applicant, the department shall allow the applicant to provide on the CERTIFICATE OF title of a motor vehicle, trailer or semitrailer a post office box address that is regularly used by the applicant.

D. A person shall submit the following information with an application for a certificate of title:

1. To a vehicle previously registered:

(a) The odometer mileage disclosure statement prescribed by section 28-2058.

(b) If the applicant is applying for A CERTIFICATE OF title pursuant to section 28-2060, the applicant's statement of the odometer reading as of the date of application.

Chs. 263 and 276

2. To a new vehicle:

(a) A MANUFACTURER'S certificate ~~or electronic title from the manufacturer~~ OF ORIGIN showing the date of sale to the dealer or person first receiving the vehicle from the manufacturer. Before the department issues a certificate of title to a new vehicle, a MANUFACTURER'S certificate ~~or electronic title from the manufacturer~~ OF ORIGIN shall be surrendered to the department.

(b) The name of the dealer or person.

(c) A description sufficient to identify the vehicle.

(d) A statement certifying that the vehicle was new when sold.

(e) If sold through a dealer, a statement by the dealer certifying that the vehicle was new when sold to the applicant.

E. The department may request that an applicant who appears in person for a certificate of title of a motor vehicle, trailer or semitrailer satisfactorily complete the vision screening test prescribed by the department.

EXPLANATION OF BLEND
SECTION 28-2052

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 11	Effective August 6, 2016
Laws 2016, Ch. 276, section 10	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2052 are blended in the form shown on the following page.

BLEND OF SECTION 28-2052
Laws 2016, Chapters 263 and 276

28-2052. Title and registration of foreign vehicles

A. Except as provided in subsection E of this section, the owner of a foreign vehicle that has been registered in another state or country and for which an application for a certificate of title is made shall surrender to the department the license plates assigned to the vehicle, the registration card, ~~the certificate of title,~~ the certificate of ownership or other evidence of foreign registration and satisfactory evidence of ownership showing that the applicant is the lawful owner or possessor of the vehicle.

Chs. 263 and 276

B. If in the course of interstate operation of a vehicle registered in another state or country it is desirable to retain registration of the vehicle in the other state or country, the applicant need not follow the requirements of subsection A of this section but shall submit evidence of the foreign registration and ownership for inspection. The department shall register the vehicle on a proper showing of evidence of registration but shall not issue a certificate of title for the vehicle.

Chs. 263 and 276

C. The department ~~shall~~ MAY inspect a foreign vehicle before ~~titling~~ ISSUING A CERTIFICATE OF TITLE or BEFORE registration, including examination and inspection to establish compliance with section 28-955, under conditions and standards as required by the director of environmental quality. The department may establish procedures to accept vehicle inspections completed in another state.

D. Before the department issues a certificate of title to a vehicle imported into this country, the owner shall obtain a certificate of compliance that states that the vehicle meets all federal vehicle equipment and emissions equipment requirements. This subsection does not apply to a golf cart manufactured or modified before June 17, 1998 or neighborhood electric vehicle manufactured or modified before June 17, 1998.

E. The department may establish procedures to accept evidence that the certificate of title or certificate of ownership has been voided or destroyed by another state.

EXPLANATION OF BLEND
SECTION 28-2053

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 12	Effective August 6, 2016
Laws 2016, Ch. 276, section 11	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2053 are blended in the form shown on the following page.

BLEND OF SECTION 28-2053
Laws 2016, Chapters 263 and 276

28-2053. Certificate of title without registration

A. The department may ONLY issue a vehicle certificate of title without registration FOR A VEHICLE THAT IS PHYSICALLY PRESENT IN THIS STATE for any of the following reasons:

1. The applicant for a certificate of title is a nonresident whose vehicle is not subject to vehicle registration in this state.

~~2. The owner will register the vehicle under article 7 or 8 of this chapter.~~

~~3.~~ 2. The applicant certifies that the vehicle was acquired for purposes other than highway use.

Chs. 263 and 276

~~4.~~ 3. The vehicle was acquired by operation of law.

~~5.~~ 4. The vehicle is an off-road recreational motor vehicle required to be ~~titled~~ ISSUED A CERTIFICATE OF TITLE pursuant to section 28-2061.

B. THE DEPARTMENT SHALL ISSUE A CERTIFICATE OF TITLE WITHOUT REGISTRATION FOR EITHER OF THE FOLLOWING REASONS:

1. THE OWNER WILL REGISTER THE VEHICLE UNDER ARTICLE 7 OR 8 OF THIS CHAPTER.

2. THE VEHICLE IS A TRAILER OR SEMITRAILER THAT WILL BE USED IN INTERSTATE COMMERCE AND THAT IS REGISTERED IN ANOTHER STATE.

EXPLANATION OF BLEND
SECTION 28-2058

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 14	Effective August 6, 2016
Laws 2016, Ch. 276, section 13	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2058 are blended in the form shown on the following pages.

BLEND OF SECTION 28-2058
Laws 2016, Chapters 263 and 276

28-2058. Transfer of title; odometer mileage disclosure statement

A. When the owner of a registered or unregistered vehicle transfers or assigns the owner's title or interest to the vehicle:

1. If the vehicle is registered:

(a) The owner shall endorse on the certificate of title ~~to the vehicle~~ OR TITLE TRANSFER FORM an assignment with the warranty of title ~~in the form printed on the certificate~~. (Chs. 263 and 276)

(b) Except as provided in section 28-2094, the owner shall deliver the certificate OF TITLE OR TITLE TRANSFER FORM to the purchaser or transferee at the time of delivery of the vehicle to the purchaser or transferee. (Chs. 263 and 276)

(c) The registration of the vehicle expires and the owner shall transfer the license plates, surrender the license plates to the department or an authorized third party or submit an affidavit of license plate destruction within thirty days after the owner transfers or assigns the owner's title or interest in the vehicle.

(d) Except as provided in section 28-2091, the acquiring owner shall apply for registration or A CERTIFICATE OF title, or both, within fifteen days after the relinquishing owner transfers or assigns the relinquishing owner's title or interest in the vehicle. The director may prorate the registration period as the director deems necessary to coincide with emissions inspection requirements. (Chs. 263 and 276)

(e) Except if the acquiring owner is an insurer who acquires the vehicle pursuant to a claim settlement, the acquiring owner shall display on the vehicle a temporary registration plate, another permit or a valid license plate as prescribed by the department until ownership of the vehicle is transferred in the department's records.

2. Regardless of whether or not the vehicle is registered:

(a) Except as provided in subsection B of this section, the owner shall deliver to the purchaser or transferee an odometer mileage disclosure statement in a form prescribed by the director.

(b) Except as provided in sections [28-2051,] 28-2060 and 28-2091, the purchaser or transferee shall present the certificate of title OR TITLE TRANSFER FORM to the department with the required fee within fifteen days after the transfer and: (Chs. 263 and 276)

(i) ~~Except as provided in section 28-2064,~~ The department shall issue a new certificate of title.

(ii) If required, the purchaser or transferee shall apply for and obtain registration, and the department shall issue new license plates to the purchaser or transferee.

B. The odometer disclosure requirement of subsection A of this section does not apply to:

1. A motor vehicle that is ten model years of age or older.

2. A motor vehicle that has a gross vehicle weight rating of sixteen thousand pounds or more.

3. A vehicle that is not self-propelled.

4. A motor vehicle that is sold directly by the manufacturer to an agency of the United States in conformity with contractual specifications.

5. A new motor vehicle that is purchased for resale and not for use by the purchaser.

EXPLANATION OF BLEND
SECTION 28-2059

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 15	Effective August 6, 2016
Laws 2016, Ch. 276, section 14	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2059 are blended in the form shown on the following page.

BLEND OF SECTION 28-2059
Laws 2016, Chapters 263 and 276

28-2059. Obtaining a certificate of title; revocation

A. If satisfactory proof of ownership is furnished to the director, the director may issue a certificate of title for a motor vehicle, trailer or semitrailer whether or not a certificate of title has ever been issued for that motor vehicle, trailer or semitrailer.

B. If the director determines that an applicant for a certificate of title to a motor vehicle, trailer or semitrailer is not entitled to a certificate of title, the director may refuse to issue a certificate OF TITLE or to register the vehicle[.] ~~and,~~ After notice and a hearing, the director may revoke a registration already acquired or an outstanding certificate of title. The director shall serve the notice in person or by ~~regular~~ FIRST CLASS mail. Within fifteen days after the date the notice is delivered or mailed, the applicant may request a hearing.

Chs. 263 and 276

EXPLANATION OF BLEND
SECTION 28-2060

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 16	Effective August 6, 2016
Laws 2016, Ch. 276, section 15	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2060 are blended in the form shown on the following pages.

BLEND OF SECTION 28-2060
Laws 2016, Chapters 263 and 276

28-2060. Transfer of ownership by operation of law

A. Except as provided in subsection F of this section, when the title or interest of an owner of a registered vehicle passes to another other than by voluntary transfer, the transferee shall obtain a transfer of registration within thirty days after the passing of the title or interest.

B. Within thirty days after passing of the title or interest of an owner of a registered or unregistered vehicle, the transferee of the vehicle shall obtain a new certificate of title on proper application and presentation of the last certificate of title, if available, and such instruments or documents of authority or certified copies of the instruments or documents that are sufficient or required by law to evidence or effect a transfer of title or interest in or to chattels that pass to another other than by voluntary transfer.

C. If a motor vehicle has been forfeited to the federal government and is sold at public auction pursuant to federal law, the purchaser at the sale takes title free of any liens or encumbrances if federal law so provides. If a motor vehicle has been forfeited to any local or state government entity, agency or political subdivision or to any federal law enforcement agency after the disposition of all claims under the laws of this state, the order of the court forfeiting the vehicle shall transfer good and sufficient title to the transferee and to any subsequent purchaser or transferee. The purchaser or transferee shall register the motor vehicle within thirty days after the sale or transfer, and the department shall issue a certificate of title to the purchaser or transferee on presentation of the evidence of title without any reference to liens or encumbrances.

Chs. 263 and 276

D. The transferee of a vehicle required to ~~be titled~~ HAVE A CERTIFICATE OF TITLE and BE registered under section 28-2153 or a mobile home required to ~~be titled~~ HAVE A CERTIFICATE OF TITLE under section 28-2063 may obtain a transfer of registration to the transferee and a new certificate of title if both of the following occur:

1. The title or interest of the owner of the vehicle passes to another either:

(a) Through notice and sale under the conditions contained in any security agreement, chattel mortgage, conditional sale or other evidence of lien or under the authority given by statute in cases arising under sections 33-1021 and 33-1022 or under section 33-1704.

(b) For a mobile home the lien on which is also a lien on real property, through a contract for conveyance of real property, deed of trust or mortgage.

2. Satisfactory evidence is presented to the director that the sale of the vehicle was fairly and lawfully conducted in conformity with all requirements of law after due notice to the former owner. In cases arising

under section 33-1704, a declaration that is signed by both the seller and the buyer and that sets forth compliance with section 33-1704 constitutes satisfactory evidence, and the director may rely on that declaration.

E. Any administrator, executor, trustee or other representative of the owner, a peace officer or a person repossessing a vehicle under the terms of any conditional sales contract, lease, chattel mortgage or other security agreement or a purchaser at a sale foreclosing a lien, or the assignee or legal representative of any such person, may operate a vehicle from the place of repossession or place where it was formerly kept to a garage or place of storage in the county or state where the contract was recorded or where the person repossessing the vehicle resides or to any other garage or place of storage that is not more than seventy-five miles from the place of repossession or place where the vehicle was formerly kept by the owner if either of the following conditions exists:

1. The license plates assigned to the vehicle are displayed on the vehicle.

2. If license plates are not displayed, a written permit has been obtained from the department or the local authorities having jurisdiction over the highways and a placard that bears the name and address of the person authorizing the movement and that is legible from a distance of one hundred feet during daylight is displayed in plain sight on the vehicle.

Chs. 263 and 276

F. If ownership of a motor vehicle ~~titled~~ FOR WHICH A CERTIFICATE OF TITLE HAS BEEN ISSUED in this state or another state reverts through operation of state law to a lienholder of record through repossession pursuant to the terms of a security agreement or through another similar instrument that is valid in such state, an affidavit by the lienholder of record stating that the vehicle was repossessed on default of the terms stated in the security agreement or similar instrument is proof of ownership, right of possession and right of transfer. IF THE LIENHOLDER OF RECORD IS A FINANCIAL INSTITUTION AS DEFINED IN SECTION 28-4301, THE LIENHOLDER OF RECORD SHALL ELECTRONICALLY SUBMIT THE REPOSSESSION AFFIDAVIT TO THE DEPARTMENT. The director shall prescribe the form and content of the affidavit. This state and its agencies, employees and agents are not liable for relying in good faith on the content of the affidavit.

EXPLANATION OF BLEND
SECTION 28-2061

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 17	Effective August 6, 2016
Laws 2016, Ch. 276, section 16	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2061 are blended in the form shown on the following page.

BLEND OF SECTION 28-2061
Laws 2016, Chapters 263 and 276

28-2061. All-terrain vehicles; off-highway vehicles; off-road recreational motor vehicles; certificates of title; exemption

A. On the retail sale of a new all-terrain vehicle, off-highway vehicle as defined in section 28-1171 or off-road recreational motor vehicle, the dealer or person first receiving the motor vehicle from the manufacturer shall apply, on behalf of the purchaser, to the department for a certificate of title to the motor vehicle in the name of the purchaser. If satisfied that the application is genuine and regular and that the applicant is entitled to a certificate OF TITLE, the department shall issue a certificate of title to the motor vehicle without requiring registration for the motor vehicle.

B. A person who owns an all-terrain vehicle, off-highway vehicle as defined in section 28-1171 or off-road recreational motor vehicle shall apply for and obtain a certificate of title required by this section in the manner prescribed in this chapter ~~on or before July 1, 2009~~. On the transfer of ownership of an all-terrain vehicle, off-highway vehicle as defined in section 28-1171 or off-road recreational motor vehicle for which a certificate of title is required by this section, a person shall apply for and obtain a new certificate OF TITLE in the manner prescribed in this chapter.

Chs. 263 and 276

C. A person participating in an off-highway vehicle special event as defined in section 28-1171 is exempt from the requirements of this section.

EXPLANATION OF BLEND
SECTION 28-2063

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 18	Effective August 6, 2016
Laws 2016, Ch. 276, section 17	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2063 are blended in the form shown on the following page.

BLEND OF SECTION 28-2063
Laws 2016, Chapters 263 and 276

28-2063. Mobile home certificate of title; exceptions; fee

A. THE DEPARTMENT SHALL ISSUE A CERTIFICATE OF TITLE FOR a mobile home that is customarily kept in this state ~~shall be titled with the department~~ and the fee required under section 28-2003 shall be paid except for:

1. A mobile home that is owned and held by a dealer solely for purposes of sale.

2. A mobile home that is owned and operated exclusively in the public service by the United States, by this state or by any political subdivision of this state, except that it shall ~~be titled~~ HAVE A CERTIFICATE OF TITLE.

3. A mobile home that is permanently affixed, as defined in section ~~33-1501 or~~ 42-15201, and for which an affidavit of affixture has been recorded PURSUANT TO SECTION 33-1501. The owner shall surrender the original certificates of title or manufacturer's statements of origin to permanently affixed mobile homes to the department in the manner prescribed by the department. The department shall issue a receipt for the documents surrendered pursuant to this paragraph.

Chs. 263 and 276

B. The issuance of a certificate of title for a mobile home shall be as provided by law for ~~titling~~ THE ISSUANCE OF A CERTIFICATE OF TITLE FOR motor vehicles, except that in the case of a mobile home that consists of two or more separate sections, each section shall have a separate certificate of title.

C. A mobile home is subject to all applicable provisions of this title, except those relating to registration.

D. If a CERTIFICATE OF title is applied for on a mobile home entering this state for sale or installation, a certificate of compliance or waiver issued by the office of manufactured housing is required and shall be submitted with the CERTIFICATE OF title application.

EXPLANATION OF BLEND
SECTION 28-2064

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 19	Effective August 6, 2016
Laws 2016, Ch. 276, section 18	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2064 are blended in the form shown on the following page.

BLEND OF SECTION 28-2064
Laws 2016, Chapters 263 and 276

28-2064. Electronic certificates of title system; applicability; rules

A. The director ~~shall~~ MAY establish a system to require recording of ~~vehicle~~ CERTIFICATE OF title information for newly issued, transferred and corrected certificates of title, including perfection and release of security interests, through electronic media in a cost-effective manner in lieu of the submission and maintenance of paper documents as provided in this chapter.

B. In the process of establishing the system, the director shall:

~~1. Research methods by which the department, lending institutions and sales finance companies may exchange and maintain information concerning the perfection and release of vehicle security interests without submitting or receiving a paper title document.~~

~~2. Develop methods by which lending institutions, sales finance companies and manufacturers may electronically submit updated information pertaining to the title record, including the addition, assignment or release of vehicle security interests.~~

Chs. 263 and 276

1. ESTABLISH PROCEDURES FOR ISSUING AND MAINTAINING AN ELECTRONIC CERTIFICATE OF TITLE SYSTEM THAT IS APPLICABLE TO ALL CERTIFICATE OF TITLE TRANSACTIONS PERFORMED IN THIS STATE.

2. DEVELOP METHODS TO ELECTRONICALLY SHARE INFORMATION RELATED TO APPLICATIONS FOR CERTIFICATES OF TITLE WITH LAW ENFORCEMENT AGENCIES AND ENTITIES LICENSED UNDER THIS TITLE.

C. Section 28-444, subsection B applies to certificates of title under the system established pursuant to this section.

D. This section does not apply to certificates of title for mobile homes.

E. THE DIRECTOR MAY ADOPT RULES AS NECESSARY TO IMPLEMENT THIS SECTION, INCLUDING THE CRITERIA FOR WHEN THE DEPARTMENT MAY ISSUE A PAPER CERTIFICATE OF TITLE.

EXPLANATION OF BLEND
SECTION 28-2065

Laws 2016, Chapters 80, 263 and 276

Laws 2016, Ch. 80, section 16	Effective August 6, 2016
Laws 2016, Ch. 263, section 20	Effective August 6, 2016
Laws 2016, Ch. 276, section 19	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 80, Ch. 263 and Ch. 276 text changes to section 28-2065 are blended in the form shown on the following page.

BLEND OF SECTION 28-2065
Laws 2016, Chapters 80, 263 and 276

28-2065. Electronic and digital signatures; documents

Chs. 80, 263 and 276 — A. ~~On or before January 1, 2009,~~ The director in cooperation with a statewide association of franchised new motor vehicle dealers shall establish a ~~schedule to develop a pilot~~ program to accept and use electronic or digital signatures.

Chs. 263 and 276 — B. In the process of developing the ~~pilot~~ program, the director shall research and develop methods to allow the department, authorized third parties, licensed financial institutions, licensed insurers or any other business or individual as determined by the director to accept, exchange and use electronic or digital signatures for any document or for any transaction prescribed in this chapter and sections 28-370, 28-444, 28-453 and 28-5111.

C. The participants shall ensure that adequate security measures are in place to prevent any illegal use of the signatures or other information exchanged pursuant to this section.

Chs. 263 and 276 — ~~D. Except for a statewide association of franchised new motor vehicle dealers, the director may limit the number of participants in the system but shall encourage authorized third parties and businesses of various sizes to participate.~~

~~E. After the system has been operating for twelve months, the director may expand the system if the director determines the system is successful.~~

~~F.~~ D. The director may determine and require reimbursement from ~~pilot~~ program participants for costs related to computer programming, hardware, development and personnel. The department shall deposit, pursuant to sections 35-146 and 35-147, all monies received pursuant to this section in a separate account of the state highway fund established by section 28-6991. Monies in the separate account are continuously appropriated. The director may transfer monies deposited pursuant to this subsection from the separate account to the operating budget of the department's motor vehicle division for the purpose of reimbursing the department's operating budget for expenditures made by the division pursuant to this section.

~~G.~~ E. This section does not limit the use of electronic and digital signatures used by state agencies, boards or commissions pursuant to section Ch. 80 — ~~41-132~~ 18-442.

Chs. 263 and 276 — ~~H.~~ F. The director ~~shall~~ MAY adopt ~~policies~~ RULES necessary to implement this section.

EXPLANATION OF BLEND
SECTION 28-2091

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 21	Effective August 6, 2016
Laws 2016, Ch. 276, section 20	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2091 are blended in the form shown on the following pages.

BLEND OF SECTION 28-2091
Laws 2016, Chapters 263 and 276

28-2091. Salvage certificate of title; stolen vehicle certificate of title; nonrepairable vehicle certificate of title; recovered vehicles; violation; classification; definitions

Chs. 263 and 276

A. If a vehicle that is subject to ~~titling~~ THE ISSUANCE OF A CERTIFICATE OF TITLE or registration pursuant to this chapter becomes a salvage vehicle, stolen vehicle or nonrepairable vehicle and is acquired by an insurance company as a result of a total loss insurance settlement, the insurance company or its authorized agent shall submit an application, as determined by the insurance company or its authorized agent, to the department within thirty days after the CERTIFICATE OF title is properly assigned by the owner to the insurance company, with all liens released, on a form prescribed by the department for either a salvage certificate of title, stolen vehicle certificate of title or nonrepairable vehicle certificate of title. The selected CERTIFICATE OF title shall include the following:

1. A properly endorsed certificate of title.
2. A lien satisfaction, if applicable.
3. The appropriate fees.

B. Within thirty days after oral or written acceptance by the owner of an offer in settlement of total loss, if an insurance company or its authorized agent is unable to obtain the documents prescribed by subsection A, paragraphs 1 and 2 of this section, the insurance company or its agent, on a form provided by the department, may submit an application to the department for a salvage certificate of title, stolen vehicle certificate of title or nonrepairable vehicle certificate of title. The application shall include evidence that the insurance company or its agent has made two or more written attempts to obtain the documents prescribed by subsection A, paragraphs 1 and 2 of this section. The application shall include the appropriate fees prescribed by subsection A, paragraph 3 of this section. The insurance company shall indemnify and hold harmless the department for any claims resulting from the issuance of a salvage certificate of title, stolen vehicle certificate of title or nonrepairable vehicle certificate of title pursuant to this subsection.

C. Except for vehicles registered pursuant to section 28-2482, 28-2483 or 28-2484, if the owner retains possession of a salvage vehicle or nonrepairable vehicle, the owner shall comply with this section before receiving a total loss settlement from the insurance company or otherwise disposing of the vehicle.

D. Any other owner of a vehicle that is a salvage vehicle or nonrepairable vehicle shall apply for a salvage certificate of title or nonrepairable vehicle certificate of title pursuant to this section.

E. On receipt of a proper application, the department shall issue a salvage certificate of title, stolen vehicle certificate of title or nonrepairable vehicle certificate of title for the vehicle.

F. If the department issues a nonrepairable vehicle certificate of title for a vehicle, the registration of the vehicle is cancelled. The front

of a nonrepairable vehicle certificate of title shall be branded with the word "nonrepairable". The ownership of a vehicle for which a nonrepairable vehicle certificate of title has been issued shall not be reassigned more than two times on that certificate of title OR A TITLE TRANSFER FORM. If a nonrepairable vehicle certificate of title is issued for a vehicle, the department shall not PERFORM ANY TITLE TRANSFERS OR issue any further PAPER certificate of title for that vehicle.

G. An owner of a vehicle that is not a salvage vehicle who sells the vehicle as scrap or for purposes of dismantling or destroying shall assign the certificate of title OR A TITLE TRANSFER FORM to the purchaser, and the purchaser shall comply with section 28-2094.

Chs. 263 and 276

H. On sale of the vehicle, an owner of a salvage vehicle for which a salvage certificate of title has been obtained or an owner of a nonrepairable vehicle for which a nonrepairable vehicle certificate of title has been obtained shall assign and deliver the salvage certificate of title or nonrepairable vehicle certificate of title OR A TITLE TRANSFER FORM to the purchaser and shall notify the department of the name and address of the purchaser.

I. Except as provided in subsection L of this section, the department shall issue a certificate of title to a vehicle that has been issued a salvage certificate of title or stolen vehicle certificate of title as a result of a total loss settlement by reason of theft if the vehicle is recovered and was not wrecked or stripped of essential parts and the insurance company or its authorized agent submits an affidavit to the department in a form prescribed by the department stating either of the following:

1. The vehicle is a recovered theft and both of the following:

(a) The vehicle was not wrecked or stripped of essential parts.

(b) To the insurance company's or its authorized agent's actual knowledge, no air bag or component part necessary to the proper function of the air bag system deployed in the vehicle or was removed from the vehicle.

2. The vehicle is a recovered theft and, to the insurance company's or its authorized agent's actual knowledge, an air bag or an air bag module deployed in the vehicle or was removed from the vehicle. The insurance company or its authorized agent shall list the location in the vehicle of each deployment or removal of an air bag or an air bag module.

J. On receipt of an affidavit submitted pursuant to subsection I, paragraph 2 of this section, the department shall mark its records to indicate the deployment or removal of the air bag or air bag module from the vehicle and the location of each deployment or removal.

K. The insurance company or its authorized agent shall give the purchaser of a vehicle that is a recovered theft, as described in subsection I of this section, a copy of the affidavit submitted pursuant to subsection I of this section.

L. If the vehicle is a recovered theft and components of the vehicle's air bag system, other than the air bag or the air bag module described in subsection I, paragraph 2 of this section, or other parts of the vehicle were removed compromising the functional integrity of the air bag system or the structural integrity of the vehicle, the insurance company or its authorized agent shall submit an affidavit to the department in a form prescribed by the

department stating that the vehicle is a recovered theft and that components of the vehicle's air bag system, other than the air bag or the air bag module described in subsection I, paragraph 2 of this section, or other parts of the vehicle were removed compromising the functional integrity of the air bag system or the structural integrity of the vehicle. The department shall not issue a certificate of title to the vehicle but may issue a restored salvage certificate of title pursuant to section 28-2095 if all of the following apply:

1. The vehicle is repairable.

2. The department successfully completes a level three inspection as prescribed in section 28-2011.

3. The vehicle meets other requirements the director prescribes.

M. Except as provided in subsection N of this section, any person who sells a vehicle that is issued a certificate of title pursuant to subsection I of this section and who has actual knowledge that an air bag, an air bag module or components of the vehicle's air bag system compromising the functional integrity of the air bag system deployed or were removed from the vehicle shall not fail to disclose the deployment or removal to the buyer before completion of the sale with the intention of concealing the deployment or removal. A person who violates this subsection is guilty of a class 1 misdemeanor.

N. Subsection M of this section does not apply to either of the following:

1. An insurance company or its authorized agent who issues an affidavit pursuant to subsection I of this section unless the insurance company or its authorized agent intentionally fails to disclose the deployment or removal of an air bag, an air bag module or components of the vehicle's air bag system that compromise the functional integrity of the air bag system.

2. A person who owns a vehicle that is issued a certificate of title pursuant to subsection I of this section if the person repairs or replaces the air bag or air bag module in the vehicle.

O. Any person who sells a vehicle for which a salvage certificate of title has been issued and who knows a salvage certificate of title has been issued for the vehicle shall disclose to the buyer before completion of the sale that the vehicle is a salvage vehicle.

P. If a vehicle that ~~is titled~~ HAS A CERTIFICATE OF TITLE as a salvage vehicle is to be scrapped, dismantled or destroyed, the owner or purchaser shall comply with section 28-2094.

Chs. 263 and 276

Q. The provisions of this chapter that refer to ~~titles~~ CERTIFICATES OF TITLE apply to salvage certificates of title, stolen vehicle certificates of title and nonrepairable vehicle certificates of title issued pursuant to this section unless they conflict with this section.

R. If a component part of a vehicle on which the vehicle identification number is affixed is to be replaced and if the vehicle is being repaired by a person other than its owner, the person shall notify the owner in writing and in the manner prescribed by the department that the part has been replaced, and the owner shall comply with section 28-2165. This subsection does not apply if the department has not issued a salvage certificate of title or a nonrepairable certificate of title and if the

vehicle manufacturer or the manufacturer's authorized agent meets all of the following conditions:

1. The frame is the component part replaced.

2. The frame replacement is performed by the vehicle manufacturer or the manufacturer's authorized agent.

3. If the original frame contained a vehicle identification number or serial number, the original vehicle identification number or serial number, in a similar size and style, is restamped in the replacement frame by the manufacturer or the manufacturer's authorized agent.

4. Any existing manufacturer warranties remaining on the vehicle are not voided.

5. The manufacturer or the manufacturer's authorized agent obliterates all vehicle identification numbers or serial numbers contained on the original frame.

S. Except as otherwise provided, a person who violates this section is guilty of a class 2 misdemeanor.

T. For the purposes of this section:

1. "Essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

Chs. 263 and 276

2. "Nonrepairable vehicle" means a vehicle of a type that is otherwise subject to ~~titling~~ THE ISSUANCE OF A CERTIFICATE OF TITLE and registration pursuant to this chapter and that either:

(a) Has no resale value except as a source of parts or scrap metal and the owner or insurer designates the vehicle solely as a source of parts or scrap metal.

(b) Is a completely stripped vehicle that is recovered from theft and that is missing the engine or motor, the transmission, all of the bolt-on sheet metal body panels, all of the doors and hatches, substantially all of the interior components and substantially all of the grill and light assemblies or that the owner designates has little or no resale value except its worth as a source of scrap metal or as a source of a vehicle identification number that could be used illegally.

(c) Is a completely burned vehicle that has been burned to the extent that there are no usable or repairable body or interior components, tires and wheels, engine or motor or transmission and that the owner irreversibly designates as having little or no resale value except as a source of scrap metal or as a source of a vehicle identification number that could be used illegally.

~~3. "Nonrepairable vehicle certificate of title" means a vehicle ownership document issued to the owner of a nonrepairable vehicle.~~

Chs. 263 and 276

~~4.~~ 3. "Salvage vehicle" means a vehicle, other than a nonrepairable vehicle, of a type that is subject to ~~titling~~ THE ISSUANCE OF A CERTIFICATE OF TITLE and registration pursuant to this chapter and that has been stolen, wrecked, destroyed, flood or water damaged or otherwise damaged to the extent that the owner, leasing company, financial institution or insurance company considers it uneconomical to repair the vehicle.

~~5.~~ 4. "Stolen vehicle certificate of title" means a vehicle ownership document issued to the owner of a vehicle that has been stolen and not recovered.

EXPLANATION OF BLEND
SECTION 28-2094

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 22	Effective August 6, 2016
Laws 2016, Ch. 276, section 21	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2094 are blended in the form shown on the following pages.

BLEND OF SECTION 28-2094
Laws 2016, Chapters 263 and 276

28-2094. Dismantling motor vehicle; application fee; certificate of title; exemption

A. An owner who sells a motor vehicle, trailer or semitrailer as scrap or for dismantling or destroying shall assign the certificate of title OR TITLE TRANSFER FORM of the vehicle to the purchaser. The purchaser shall deliver the following to the department:

1. An application for a dismantle certificate of title to scrap, dismantle or destroy the vehicle.

2. The certificate of title ~~to~~ OR TITLE TRANSFER FORM OF the vehicle purchased.

3. The registration card of the vehicle.

4. The license plate of the vehicle, if any.

5. A fee of four dollars.

B. ~~Except as provided in subsection G,~~ An owner who intends or desires to dismantle a vehicle shall first forward all of the following to the department:

1. An application for a dismantle certificate of title to dismantle or wreck the vehicle.

2. The certificate of title ~~to~~ OR TITLE TRANSFER FORM OF the vehicle.

3. The registration card of the vehicle.

Chs. 263 and 276

4. The license plate of the vehicle, if any.

5. A fee of four dollars.

C. If the registration card or license plate is lost or destroyed, the applicant shall state in a form prescribed by the department under penalty of perjury the circumstances of the loss or destruction. ~~Except as provided in subsection G,~~ On receipt of the documents and fee required by this section, the department shall issue a dismantle certificate of title to the applicant to dismantle or destroy the vehicle. The dismantle certificate of title OR TITLE TRANSFER FORM authorizes the person to transport or possess the vehicle or to transfer ownership by endorsement on the dismantle certificate of title OR TITLE TRANSFER FORM. The department shall not issue a certificate of title for the vehicle if it is dismantled or destroyed.

D. ~~Except as provided in subsection G,~~ A licensed automotive recycler who files with the application for a dismantle certificate of title under this section an Arizona certificate of title indicating that the vehicle is free of all liens or a valid release of any liens shown on the CERTIFICATE OF title may begin dismantling the vehicle five days after mailing or three days after delivery of the required documents and fee to the department unless notified by the department of the claim of lien or interest in the vehicle by some other person. If the department sends this notice, the licensed automotive recycler shall cease dismantling or sale of the vehicle and any of its parts until the rights of the other person are determined.

E. A licensed automotive recycler may dismantle a vehicle without obtaining a dismantle certificate of title in the licensed automotive recycler's name if the vehicle has previously been issued a dismantle certificate of title, a salvage certificate of title or a nonrepairable vehicle certificate of title. The dismantle certificate of title, salvage certificate of title or nonrepairable vehicle certificate of title must be the current title of record. ~~Except as provided in subsection G,~~ An automotive recycler shall file a written request to dismantle the vehicle in a form prescribed by the department. The automotive recycler may begin dismantling the vehicle ~~after completing the requirements imposed by the department pursuant to subsection G or~~ after mailing or delivering the request. If the department notifies the automotive recycler of a claim of lien or interest in the vehicle by some other person, the automotive recycler shall cease dismantling or sale of the vehicle and any of its parts until the rights of the other person are determined.

Chs. 263 and 276

F. An owner may dismantle a vehicle without obtaining a dismantle certificate of title if a nonrepairable vehicle certificate of title has been issued for the vehicle.

~~G. The director may establish an electronic title system to allow the voluntary recording of the information or documents required by this section through electronic media in a cost-effective manner in lieu of the submission of paper documents as provided in this section. A valid electronic dismantle certificate of title issued by the department to a person authorizes the person to possess, transport, dismantle or destroy the vehicle.~~

~~H. In the process of establishing the electronic title system, the director shall:~~

~~1. Research methods by which the department and licensed automotive recyclers may exchange and maintain information concerning the electronic completion of dismantle certificates of title without submitting or receiving a paper document.~~

~~2. Develop methods by which licensed automotive recyclers may electronically submit updated information pertaining to the vehicle record.~~

~~3. Develop methods to electronically share information related to applications for dismantle certificates with law enforcement agencies and licensed automotive recyclers for the purpose of identifying stolen vehicles and stolen vehicle parts.~~

~~I. The director may limit the number of licensed automotive recyclers participating in the electronic title system.~~

Chs. 263 and 276

~~J.~~ G. The director may adopt rules to implement this section.

~~K.~~ H. This section does not apply to the removal of a part for the purpose of replacement.

EXPLANATION OF BLEND
SECTION 28-2095

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 23	Effective August 6, 2016
Laws 2016, Ch. 276, section 22	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2095 are blended in the form shown on the following pages.

BLEND OF SECTION 28-2095
Laws 2016, Chapters 263 and 276

28-2095. Restored salvage certificate of title; inspections; definitions

A. If a salvage vehicle as defined in section 28-2091 is rebuilt or restored to operation, the owner of the motor vehicle shall not transfer the motor vehicle until a restored salvage certificate of title has been issued pursuant to this section.

B. On application for a restored salvage certificate of title, the department shall conduct a level two or level three inspection of the vehicle that is the subject of the application to determine its proper identity pursuant to section 28-2011. The inspection may include a review of bills of sale and invoices for component parts used in the reconstruction process. If the department is unable to conduct a level three inspection for a restored salvage certificate of title within twenty days after a request is made, the department shall conduct an inspection of the vehicle within forty-eight hours after the twenty day period.

C. The seller or agent of a seller of a salvage vehicle as defined in section 28-2091 shall inform the purchaser of a salvage vehicle that ownership documentation for certain replacement parts used in the repair of the salvage vehicle is required in connection with the inspection prescribed by this section.

D. A person who possesses a salvage vehicle as defined in section 28-2091 and who submits it for inspection as prescribed by this section shall submit to the department paperwork that is satisfactory to the director. Satisfactory paperwork may include copies of invoices, notarized bills of sale or other acceptable proof of ownership for component parts.

E. If proper ownership documentation for a component part is not submitted as required by this section, the department may seize the component part.

F. If the department finds a stolen component part in a vehicle while conducting an inspection provided for under this section, the department shall seize the component part pursuant to section 28-4594.

G. The department shall deposit, pursuant to sections 35-146 and 35-147, any proceeds resulting from the seizure and forfeiture of a component part pursuant to subsection E or F of this section in the vehicle inspection and CERTIFICATE OF title enforcement fund established by section 28-2012.

Chs. 263 and 276

H. Any person who sells a vehicle for which a restored salvage certificate of title has been issued and who knows a restored salvage certificate of title has been issued for the vehicle shall disclose to the buyer before completion of the sale that the vehicle is a restored salvage vehicle.

I. For the purposes of this section:

1. For passenger vehicles, "component parts" includes the cowl or firewall, front end assembly, rear clip, including the roof panel, the roof

panel if installed separately and the frame or any portion of the frame, or in the case of a unitized body, the supporting structure that serves as the frame, each door, the hood, each fender or quarter panel, the deck lid or hatchback, each bumper, transmissions or transaxles and an engine or motor. For the purposes of this paragraph:

(a) "Front end assembly" includes the hood, fenders, bumper, radiator and supporting members for these items. For vehicles with a unitized body, the front end assembly also includes the frame support members.

(b) "Rear clip" includes the roof, quarter panels, trunk lid, floor pan, rear bumper and support members for these items.

2. For trucks or truck-type or bus-type vehicles, "component parts" includes the cab, the frame or any portion of the frame, and in the case of a unitized body, the supporting structure that serves as a frame, the cargo compartment floor panel, the passenger compartment floor pan, the roof panel, transmissions or transaxles, engines or motors, each door, the hood, each fender or quarter panel, each bumper, the tailgate and all component parts that are included in paragraph 1 of this subsection and that are not listed in this paragraph if the part is replaced.

3. For motorcycles, "component parts" includes the engine or motor, transmission or transaxle, frame, front fork, crankcase and fairing and any other body molding.

Chs. 263 and 276

4. "Restored salvage ~~certificate of title~~ VEHICLE" means a ~~certificate of title issued to a~~ vehicle that has been restored and for which a salvage certificate of title or a dismantle certificate of title has been issued.

EXPLANATION OF BLEND
SECTION 28-2097

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 24	Effective August 6, 2016
Laws 2016, Ch. 276, section 23	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2097 are blended in the form shown on the following page.

BLEND OF SECTION 28-2097
Laws 2016, Chapters 263 and 276

28-2097. Modular motor homes; definition

A. Notwithstanding any other provision of this title:

1. If a refurbished coach or body component is remounted to a new cab and chassis power unit of a modular motor home, the department shall ISSUE A CERTIFICATE OF title FOR the modular motor home according to the make of the refurbished coach. The manufacturer's cab and chassis vehicle identification number determines the model year. The department shall conduct a level one inspection of the vehicle and shall brand the CERTIFICATE OF title refurbished.

Chs. 263 and 276

2. If a modular motor home is separated by removal of the coach or body component from the cab and chassis power unit and a cargo box, container or structure, if any, other than a motor home coach, is fitted to the cab and chassis unit, it ceases to be a modular motor home. The department shall conduct a level one inspection and shall ISSUE A CERTIFICATE OF title FOR the vehicle according to the body style determined by the inspection. The department shall use the make and model year of the cab and chassis for ~~titling purposes~~ THE PURPOSE OF ISSUING A CERTIFICATE OF TITLE and shall brand the CERTIFICATE OF title refurbished.

B. If a vehicle covered by this section is offered for sale, a person who sells the vehicle shall keep full and complete disclosure statements and present those statements to any person or entity that requests them at the time of a sale or purchase. For the purposes of this subsection, full and complete disclosure statements are documents that accurately reflect the history of the original manufacturer's cab and chassis, including vehicle identification numbers, dates of required inspections, odometer readings and other information prescribed by the director in rules.

C. For the purposes of this section, "modular motor home" means:

1. A type of motor home that is primarily designed as temporary living quarters, that satisfies the requirements prescribed in section 28-4301, paragraph 20, subdivision (b) and that is intended from inception through final assembly to consist of an incomplete cab and chassis power unit component and a coach or body component that are designed and engineered to be joined or separated without sheet metal modifications to the cab and chassis power unit component.

2. A vehicle that if joined to form a single unit consists of both:

(a) A cab and chassis power unit component that is purchased or acquired new from an original manufacturer.

(b) A coach or body component that is either purchased or acquired new from an original manufacturer or that is refurbished.

EXPLANATION OF BLEND
SECTION 28-2131

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 25	Effective August 6, 2016
Laws 2016, Ch. 276, section 24	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2131 are blended in the form shown on the following page.

BLEND OF SECTION 28-2131
Laws 2016, Chapters 263 and 276

28-2131. Liens and encumbrances; validity

The following, other than a lien dependent on possession, are not valid against the creditors of an owner acquiring a lien by levy or attachment or against subsequent purchasers or encumbrancers without notice until the requirements of this article are met:

1. Any security agreement, conditional sale contract, conditional lease, chattel mortgage or other lien or encumbrance.

Chs. 263 and 276

2. A CERTIFICATE OF title retention instrument or any other instrument affecting or evidencing title to, ownership of or reservation of title to a vehicle required to be ~~titled~~ ISSUED A CERTIFICATE OF TITLE and registered under section 28-2153 or a mobile home required to be ~~titled~~ ISSUED A CERTIFICATE OF TITLE under section 28-2063.

3. A contract for conveyance of real property, deed of trust or mortgage securing a lien on a mobile home and on real property.

EXPLANATION OF BLEND
SECTION 28-2132

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 26	Effective August 6, 2016
Laws 2016, Ch. 276, section 25	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2132 are blended in the form shown on the following page.

BLEND OF SECTION 28-2132
Laws 2016, Chapters 263 and 276

28-2132. Indication of lien or encumbrance

A. The department shall provide on the application for A CERTIFICATE OF title and the application for registration only a section that provides for the indication of a lien or encumbrance on the vehicle.

Chs. 263 and 276

B. The applicant's signature on the application for A CERTIFICATE OF title or the application for registration only is consent for the lien or encumbrance to be indicated by the department on its official CERTIFICATE OF title record for the vehicle.

C. Except as provided in subsection D OF THIS SECTION and on receipt of the application as provided in this section, the department shall endorse on the application the date and hour it was received at the registering office of the department.

D. The department shall not issue a new certificate of title if the outstanding certificate of title indicates an existing lien or encumbrance unless the lien or encumbrance has been satisfied or the lienor or encumbrancer has consented in writing or electronically to the transfer of title.

EXPLANATION OF BLEND
SECTION 28-2133

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 27	Effective August 6, 2016
Laws 2016, Ch. 276, section 26	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2133 are blended in the form shown on the following page.

BLEND OF SECTION 28-2133
Laws 2016, Chapters 263 and 276

28-2133. Index and filing of liens, encumbrances or instruments; constructive notice

A. The department shall maintain an appropriate index of all liens, encumbrances or title retention instruments filed as provided by this article.

B. The filing and issuance of a new certificate of title as provided in this article is constructive notice to creditors of the owner or to subsequent purchasers of all liens and encumbrances against the vehicle described in the certificate of title, except those that are authorized by law and that are dependent on possession. If the documents referred to in this article are delivered to a registering office or an authorized third party provider of the department within thirty days after the date of their execution, the constructive notice dates from the time of execution. Otherwise, the notice dates from the time of receipt and filing of the documents by the department as shown by its endorsement. For the purposes of this subsection, the time stamp on the documents that is administered by the registering officer or authorized third party provider of the department electronically or otherwise is conclusive as to the time and date of delivery of the documents.

C. The method provided in subsection B of this section for giving constructive notice of a lien or encumbrance on a vehicle required to be ~~titled~~ ISSUED A CERTIFICATE OF TITLE and registered under section 28-2153 or a mobile home required to be ~~titled~~ ISSUED A CERTIFICATE OF TITLE under section 28-2063 is exclusive, except for liens dependent on possession. A lien, encumbrance or title retention instrument or document that evidences any of them and that is filed as provided by this article is exempt from the provisions of law that otherwise require or relate to the recording or filing of instruments creating or evidencing title retention or other liens or encumbrances on vehicles of a type subject to registration under this chapter.

Chs. 263 and 276

D. Notwithstanding any other law and except as otherwise provided in this subsection, the failure of a motor vehicle dealer as defined in section 28-4301, a finance company or the department to complete the paperwork within thirty days as prescribed in subsection B of this section shall not result in the loss of the vehicle for either the lienholder or the person who purchased the vehicle. This subsection does not limit or negate the powers of a trustee under 11 United States Code section 547 or any successor statute.

EXPLANATION OF BLEND
SECTION 28-2134

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 28	Effective August 6, 2016
Laws 2016, Ch. 276, section 27	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2134 are blended in the form shown on the following pages.

BLEND OF SECTION 28-2134
Laws 2016, Chapters 263 and 276

28-2134. Satisfaction of lien or encumbrance; assignment of obligation by lienholder; civil penalty

A. When a holder of a lien or encumbrance receives payment in full satisfying a lien or encumbrance recorded under this article, the holder of the lien or encumbrance shall release the lien or encumbrance and ~~deliver the certificate of title to the next holder of a lien or encumbrance entitled to possession of the certificate of title or, if there is not another holder of a lien or encumbrance entitled to possession of the certificate of title, to~~ NOTIFY the owner of the vehicle at the address shown on the certificate of title or, if the holder of the lien or encumbrance has been previously notified of sale or transfer of the vehicle, ~~to~~ the person who is legally entitled to possession THAT THE DEPARTMENT HAS ISSUED A CERTIFICATE OF TITLE TO THE PERSON FOR THE VEHICLE.

Chs. 263 and 276

B. If a holder of a lien or encumbrance assigns the obligation and the holder lawfully has possession of the certificate of title, the holder shall deliver the certificate of title at the time of assignment to the holder's assignee. If a holder of a lien or encumbrance is not entitled to possession of the certificate of title when the holder assigns the obligation, the holder shall immediately deliver the certificate of title to the assignee when the holder becomes lawfully entitled to and obtains lawful possession of the certificate of title. The holder's assignee is entitled to hold the certificate of title until the obligation is satisfied. When the obligation is satisfied, the assignee shall deliver the certificate of title to the next holder of a lien or encumbrance entitled to possession of the certificate of title or, if there is not another holder of a lien or encumbrance entitled to possession of the certificate of title, to the owner of the vehicle as prescribed in subsection A of this section.

C. If a holder of a lien or encumbrance who possesses a certificate of title as provided in this article refuses or fails to surrender the certificate of title to the person who is legally entitled to possession of the certificate of title on that person's request and within fifteen business days after the holder receives payment in full satisfaction of the holder's lien or encumbrance, after an opportunity for an administrative hearing, the department may impose and collect a civil penalty from the holder of the lien or encumbrance to be deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the state highway fund established by section 28-6991 as follows:

Chs. 263 and 276

1. Fifty dollars if the certificate of title is surrendered in accordance with this subsection within three additional business days.

2. The penalty provided for in paragraph 1 of this subsection plus fifty dollars for each additional day exceeding eighteen business days that the certificate of title is not surrendered in accordance with this

subsection up to a maximum of five hundred dollars for each certificate of title.

D. The department may satisfy a lien or encumbrance on its records and on a certificate of title to a vehicle if the owner of the vehicle furnishes satisfactory proof of the payment in full of the underlying debt and an affidavit stating the following:

1. That the owner has made a diligent search to locate the holder of the lien or encumbrance.

2. With particularity the steps taken in the search.

3. That after the search the holder of the lien or encumbrance could not be found.

E. The department may satisfy a lien or encumbrance against a vehicle on its records by accepting a certificate of title to the vehicle issued by another jurisdiction if all of the following conditions exist:

1. The lien previously recorded in this state does not appear on the title presented from another jurisdiction.

Chs. 263 and 276

2. The CERTIFICATE OF title was issued by the other jurisdiction at least one year before the time it was presented to this state.

3. The law of the other jurisdiction requires a lien or encumbrance to be recorded on that state's certificate of title.

EXPLANATION OF BLEND
SECTION 28-2135

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 29	Effective August 6, 2016
Laws 2016, Ch. 276, section 28	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2135 are blended in the form shown on the following page.

BLEND OF SECTION 28-2135
Laws 2016, Chapters 263 and 276

28-2135. Perfection of security interest in inventory and mobile homes

Notwithstanding any other provision in this article:

1. A security interest in inventory, as defined in section 47-9102, consisting in whole or in part of vehicles required to be ~~titled~~ ISSUED A CERTIFICATE OF TITLE and registered under section 28-2153 or of mobile homes shall be perfected in accordance with the filing provisions of title 47, chapter 9, article 5 to the extent that those provisions are applicable by virtue of title 47, chapter 9, article 3.

Chs. 263 and 276

2. A lien on a mobile home for which an affidavit of affixture has been recorded pursuant to section 42-15203 shall be perfected either according to the laws governing perfection of liens on real property or according to the laws governing perfection of security interests in fixtures.

EXPLANATION OF BLEND
SECTION 28-2136

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 30	Effective August 6, 2016
Laws 2016, Ch. 276, section 29	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2136 are blended in the form shown on the following page.

BLEND OF SECTION 28-2136
Laws 2016, Chapters 263 and 276

28-2136. Unsatisfied liens

A. Except as provided in subsection B of this section, the department may remove from its records a lien on a vehicle required to be ~~titled~~ ISSUED A CERTIFICATE OF TITLE and registered under section 28-2153 if the lien remains on the records of the department as unsatisfied twelve years after filing with the department.

Chs. 263 and 276

B. This section applies only to noncommercial vehicles other than travel trailers, motor homes or mobile homes.

EXPLANATION OF BLEND
SECTION 28-2137

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 31	Effective August 6, 2016
Laws 2016, Ch. 276, section 30	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2137 are blended in the form shown on the following page.

BLEND OF SECTION 28-2137
Laws 2016, Chapters 263 and 276

28-2137. Restitution lien; removal

Chs. 263 and 276

A. Notwithstanding section 28-2132, after a hearing, the director may remove a restitution lien filed pursuant to section 13-805 or ~~section~~ 13-806 from a vehicle record if the director finds both of the following:

1. A person purchased the vehicle without any knowledge that the vehicle was subject to a filed restitution lien.

2. The person who sold the vehicle is an obligor under a filed restitution lien and sold the vehicle without disclosing to the purchaser that the vehicle was subject to a filed restitution lien.

B. If a restitution lien is removed as prescribed in subsection A of this section, the department shall place a code on the obligor's record that automatically restores the restitution lien on any vehicle that is

Chs. 263 and 276

subsequently ~~titled~~ ISSUED A CERTIFICATE OF TITLE or registered, or both, by the obligor.

C. If the lien, or any portion of the lien, was the result of an order to pay restitution, the party for whom restitution was ordered shall be provided with notice of any hearing held pursuant to this section and an opportunity to appear. The department shall provide notice of the hearing to the governmental agency that requested the lien be placed on the obligor's record. The governmental agency that requested the lien shall promptly provide notice to any party for whom restitution was ordered.

EXPLANATION OF BLEND
SECTION 28-2162

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 32	Effective August 6, 2016
Laws 2016, Ch. 276, section 31	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2162 are blended in the form shown on the following page.

BLEND OF SECTION 28-2162
Laws 2016, Chapters 263 and 276

28-2162. Delinquent registration; penalty; lien; failure to apply for certificate of title; waiver

Chs. 263 and 276 — A. If a vehicle is operated on a highway without payment of the registration or CERTIFICATE OF TITLE transfer fee, the fee is delinquent. If the fee is not paid before the date on which the vehicle is required to be registered for the current registration year, the department shall collect a penalty. The penalty is eight dollars for the first month of delinquency and four dollars for each additional month, not to exceed a total penalty of one hundred dollars. Registration of a vehicle in the name of the applicant for the year immediately preceding the year for which the application for registration is made is prima facie evidence that the vehicle has been operated on the highways during the year for which the application for registration is made.

B. Except as provided in section 28-5807, an applicant shall submit the total annual registration fee, the weight fee, any other required fee and the penalty prescribed in subsection A of this section with an application for registration of a vehicle that is submitted after the date the vehicle was required to be registered for the registration year in which registration of the vehicle for the next preceding year expired. If it is determined at the time of renewal, on proof satisfactory to the director, that the vehicle was not operated on the highways of this state before the filing of the application and the registration of the vehicle, the department shall refund or waive the penalty prescribed in subsection A of this section.

C. A registration fee and any penalty added to the fee are a lien on the vehicle on which they are due from the due date. The department may collect the fee and penalty by seizure of the vehicle from the person in possession of the vehicle, if any, and by sale as provided by law.

D. The director shall prescribe the method of readily identifying on the license plate the current registration date of the license plate.

E. A person who fails to apply for a certificate of title for any mobile home or other vehicle that is not registered under this title within thirty days after acquiring the mobile home or vehicle shall pay an additional fee equal to the penalty prescribed in subsection A of this section.

F. If a person who is licensed pursuant to chapter 10 of this title applies for a dismantle certificate of title for a vehicle pursuant to section 28-2094, the department shall waive any penalties that relate to the vehicle and that are imposed pursuant to this section.

EXPLANATION OF BLEND
SECTION 28-2165

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 33	Effective August 6, 2016
Laws 2016, Ch. 276, section 32	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-2165 are blended in the form shown on the following page.

BLEND OF SECTION 28-2165
Laws 2016, Chapters 263 and 276

28-2165. Special serial or identification number

A. If the manufacturer's serial or other identifying number of a motor vehicle, trailer or semitrailer is altered, removed, obliterated, defaced, omitted or otherwise missing or if the original manufacturer's serial or identification number on a major component part of a motor vehicle can be permanently restored after having been removed, defaced, altered or destroyed, the owner at the time of application for registration OF or ~~titling of~~ A CERTIFICATE OF TITLE TO the vehicle shall file an application with the department, on a form the department provides, that contains facts and information required by the director for the assignment of a special serial or identifying number.

Chs. 263 and 276

B. The form prescribed by subsection A of this section shall require, at a minimum, both of the following:

1. A sworn statement by the owner that the owner is the lawful owner of the vehicle and that sets forth the basis for the claim of ownership, including documentation such as purchase contracts, bills of sale, invoices and receipts for the original vehicle and any replacement parts that replaced damaged portions of the original vehicle that bore original manufacturer's serial or identification numbers.

2. A copy of police or law enforcement agency reports documenting the theft and recovery of the vehicle, a copy of a police or law enforcement agency accident report documenting the extent of damage to the vehicle, a certified copy of documents from an insurance company documenting the precise nature, extent and dollar amount of damage to the vehicle or a sworn statement by the owner, including full and complete supporting documentation, establishing the origin of the vehicle and each major component part of the vehicle.

C. If the director is satisfied that the applicant has provided the documentation required by this section and that the applicant is entitled to assignment of a special serial or identification number, the director shall designate the serial number and note it on the application, on a suitable record of the department and on the authorization of use of the number.

D. The director shall furnish to the applicant a serial plate together with the authorization of use that shall be immediately delivered to a department inspector or agent who shall permanently attach the serial plate to the item in a conspicuous position and certify the attachment on the authorization of use. After attachment and certification, the plate is the lawful serial or identification number and shall remain on the item during its existence.

E. Subsection A of this section does not apply if the provisions of section 28-2092, paragraph 1, subdivision (c) are met.

EXPLANATION OF BLEND
SECTION 28-2351

Laws 2016, Chapters 174 and 182

Laws 2016, Ch. 174, section 1	Effective August 6, 2016
Laws 2016, Ch. 182, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 174 and Ch. 182 text changes to section 28-2351 are blended in the form shown on the following page.

BLEND OF SECTION 28-2351
Laws 2016, Chapters 174 and 182

28-2351. License plate provided; design

A. The department shall provide to every owner one license plate for each vehicle registered. At the request of the owner and on payment of any required fee, the department shall provide either one or two license plates for a vehicle for which a special plate is requested pursuant to this chapter, except that the department shall provide one license plate if the special plate is issued pursuant to section 28-2416 or 28-2416.01.

B. The license plate shall display the number assigned to the vehicle and to the owner of the vehicle and the name of this state, which may be abbreviated. The director shall coat the license plate with a reflective material that is consistent with the determination of the department regarding the color and design of license plates and special plates. The director shall design the license plate and the letters and numerals on the license plate to be of sufficient size to be plainly readable during daylight from a distance of one hundred feet. In addition to the standard license plate issued for a trailer before August 12, 2005, the director shall issue a license plate for trailers that has a design that is similar to the standard size license plate for trailers but that is the same size as the license plate for motorcycles. The trailer owner shall notify the department which size license plate the owner wants for the trailer.

C. Notwithstanding any other law, the department shall not contract with a nongovernmental entity to purchase or secure reflective material for the plates issued by the department unless the department has made a reasonable effort to secure qualified bids or proposals from as many individual responsible respondents as possible.

D. The department shall determine the color and design of the license plate. All other plates issued by the department, except the plates issued pursuant to sections 28-2404, 28-2412, 28-2413, 28-2414, 28-2416, 28-2416.01, 28-2417 through ~~28-2455~~ 28-2459, 28-2472, 28-2473, 28-2474, 28-2475 and 28-4533 and article 14 of this chapter, shall be the same color as and similar in design to the license plate as determined by the department.

Chs. 174 and 182

E. A passenger motor vehicle rented without a driver shall receive the same type of license plate as issued for a private passenger motor vehicle.

EXPLANATION OF BLEND
SECTION 28-2401

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 3	Effective August 6, 2016
Laws 2016, Ch. 232, section 35	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 171 and Ch. 232 text changes to section 28-2401 are blended in the form shown on the following page.

BLEND OF SECTION 28-2401
Laws 2016, Chapters 171 and 232

28-2401. Definitions

In this article, unless the context otherwise requires:

1. "Immediate family member" means a spouse or a parent, child, brother or sister whether by adoption or blood.

Chs. 171 and 232

2. "Special plates" means plates issued pursuant to this article ~~or pursuant to section 28-2515~~.

EXPLANATION OF BLEND
SECTION 28-2403

Laws 2016, Chapters 174 and 182

Laws 2016, Ch. 174, section 2	Effective August 6, 2016
Laws 2016, Ch. 182, section 2	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 174 and Ch. 182 text changes to section 28-2403 are blended in the form shown on the following pages.

BLEND OF SECTION 28-2403
Laws 2016, Chapters 174 and 182

28-2403. Special plates; transfers; violation; classification

A. Except as otherwise provided in this article, the department shall issue or renew special plates in lieu of the regular license plates pursuant to the following conditions and procedures and only if the requirements prescribed by this article for the requested special plates are met:

1. Except as provided in sections 28-2416 and 28-2416.01, a person who is the registered owner of a vehicle registered with the department or who applies for an original or renewal registration of a vehicle may submit to the department a completed application form as prescribed by the department with the fee prescribed by section 28-2402 for special plates in addition to the registration fee prescribed by section 28-2003.

Chs. 174 and 182

2. Except for plates issued pursuant to sections 28-2404, 28-2412, 28-2413, 28-2414, 28-2416, 28-2416.01, 28-2417 through ~~28-2455~~ 28-2459, 28-2472, 28-2473, 28-2474 and 28-2475 and article 14 of this chapter, the special plates shall be the same color as and similar to the design of the regular license plates that is determined by the department.

3. Except as provided in section 28-2416, the department shall issue special plates only to the owner or lessee of a vehicle that is currently registered, including any vehicle that has a declared gross weight, as defined in section 28-5431, of twenty-six thousand pounds or less.

4. Except as provided in sections 28-2416 and 28-2416.01, the department shall charge the fee prescribed by section 28-2402 for each annual renewal of special plates in addition to the registration fee prescribed by section 28-2003.

B. Except as provided in sections 28-2416 and 28-2416.01, on notification to the department and on payment of the transfer fee prescribed by section 28-2402, a person who is issued special plates may transfer the special plates to another vehicle the person owns or leases. Persons who are issued special plates for hearing impaired persons pursuant to section 28-2408 and international symbol of access special plates pursuant to section 28-2409 are exempt from the transfer fee. If a person who is issued special plates sells, trades or otherwise releases ownership of the vehicle on which the plates have been displayed, the person shall immediately report the transfer of the plates to the department or the person shall surrender the plates to the department as prescribed by the director. It is unlawful for a person to whom the plates have been issued to knowingly permit them to be displayed on a vehicle except the vehicle authorized by the department.

C. The special plates shall be affixed to the vehicle for which registration is sought in lieu of the regular license plates.

D. A person is guilty of a class 3 misdemeanor who:

1. Violates subsection B of this section.

2. Fraudulently gives false or fictitious information in the application for or renewal of special plates or placards issued pursuant to this article.

3. Conceals a material fact or otherwise commits fraud in the application for or renewal of special plates or placards issued pursuant to this article.

EXPLANATION OF BLEND
SECTION 28-3511

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 34	Effective August 6, 2016
Laws 2016, Ch. 276, section 33	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-3511 are blended in the form shown on the following pages.

BLEND OF SECTION 28-3511
Laws 2016, Chapters 263 and 276

28-3511. Removal and immobilization or impoundment of vehicle; Arizona crime information center database

A. A peace officer shall cause the removal and either immobilization or impoundment of a vehicle if the peace officer determines that:

1. A person is driving the vehicle while any of the following applies:

(a) Except as otherwise provided in this ~~paragraph~~ SUBDIVISION, the person's driving privilege is suspended or revoked for any reason. A peace officer shall not cause the removal and either immobilization or impoundment of a vehicle pursuant to this ~~paragraph~~ SUBDIVISION if the person's privilege to drive is valid in this state.

(b) The person has not ever been issued a valid driver license or permit by this state and the person does not produce evidence of ever having a valid driver license or permit issued by another jurisdiction. This ~~paragraph~~ SUBDIVISION does not apply to the operation of an implement of husbandry.

Chs. 263 and 276

(c) The person is subject to an ignition interlock device requirement pursuant to chapter 4 of this title and the person is operating a vehicle without a functioning certified ignition interlock device. This ~~paragraph~~ SUBDIVISION does not apply to the operation of a vehicle due to a substantial emergency as defined in section 28-1464.

(d) In furtherance of the illegal presence of an alien in the United States and in violation of a criminal offense, the person is transporting or moving or attempting to transport or move an alien in this state in a vehicle if the person knows or recklessly disregards the fact that the alien has come to, has entered or remains in the United States in violation of law.

(e) The person is concealing, harboring or shielding or attempting to conceal, harbor or shield from detection an alien in this state in a vehicle if the person knows or recklessly disregards the fact that the alien has come to, entered or remains in the United States in violation of law.

Chs. 263 and 276

2. ~~A~~ THE vehicle is displayed for sale or for transfer of ownership with a vehicle identification number that has been destroyed, removed, covered, altered or defaced.

B. A peace officer shall cause the removal and impoundment of a vehicle if the peace officer determines that a person is driving the vehicle and if all of the following apply:

1. The person's driving privilege is canceled, suspended or revoked for any reason or the person has not ever been issued a driver license or permit by this state and the person does not produce evidence of ever having a driver license or permit issued by another jurisdiction.

2. The person is not in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

3. The person is driving a vehicle that is involved in an accident that results in either property damage or injury to or death of another person.

C. Except as provided in subsection D of this section, while a peace officer has control of the vehicle the peace officer shall cause the removal and either immobilization or impoundment of the vehicle if the peace officer has probable cause to arrest the driver of the vehicle for a violation of section 4-244, paragraph 34 or section 28-1382 or 28-1383.

D. A peace officer shall not cause the removal and either the immobilization or impoundment of a vehicle pursuant to subsection C of this section if all of the following apply:

1. The peace officer determines that the vehicle is currently registered and that the driver or the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

2. The spouse of the driver is with the driver at the time of the arrest.

3. The peace officer has reasonable grounds to believe that the spouse of the driver:

(a) Has a valid driver license.

(b) Is not impaired by intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances.

(c) Does not have any spirituous liquor in the spouse's body if the spouse is under twenty-one years of age.

4. The spouse notifies the peace officer that the spouse will drive the vehicle from the place of arrest to the driver's home or other place of safety.

5. The spouse drives the vehicle as prescribed by paragraph 4 of this subsection.

E. Except as otherwise provided in this article, a vehicle that is removed and either immobilized or impounded pursuant to subsection A, B or C of this section shall be immobilized or impounded for thirty days. An insurance company does not have a duty to pay any benefits for charges or fees for immobilization or impoundment.

F. The owner of a vehicle that is removed and either immobilized or impounded pursuant to subsection A, B or C of this section, the spouse of the owner and each person ~~identified on the department's record with an~~ WHO HAS PROVIDED THE DEPARTMENT WITH INDICIA OF OWNERSHIP AS PRESCRIBED IN SECTION 28-3514 OR OTHER interest in the vehicle THAT EXISTS immediately before the immobilization or impoundment shall be provided with an opportunity for an immobilization or poststorage hearing pursuant to section 28-3514.

Chs. 263 and 276

G. A law enforcement agency that employs the peace officer who removes and either immobilizes or impounds a vehicle pursuant to this section shall enter information about the removal and either immobilization or impoundment of the vehicle in the Arizona crime information center database within three business days after the removal and either immobilization or impoundment.

EXPLANATION OF BLEND
SECTION 28-3512

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 35	Effective August 6, 2016
Laws 2016, Ch. 276, section 34	Effective August 6, 2016

Explanation

Since the Ch. 263 version includes all of the changes made by the Ch. 276 version, the Laws 2016, Ch. 263 amendment of section 28-3512 is the blend of both the Laws 2016, Ch. 263 and Ch. 276 versions.

BLEND OF SECTION 28-3512
Laws 2016, Chapters 263 and 276

28-3512. Release of vehicle; civil penalties; definition

A. An immobilizing or impounding agency shall release a vehicle to the registered owner before the end of the thirty day immobilization or impoundment period under any of the following circumstances:

1. If the vehicle is a stolen vehicle.

2. If the vehicle is subject to bailment and is driven by an employee of a business establishment, including a parking service or repair garage, who is subject to section 28-3511, subsection A, B or C.

3. If the owner was operating the vehicle at the time of removal and either immobilization or impoundment and presents proof satisfactory to the immobilizing or impounding agency that the owner's driving privilege has been reinstated.

4. If all of the following apply:

(a) The owner or the owner's agent was not the person driving the vehicle pursuant to section 28-3511, subsection A.

(b) The owner or the owner's agent is in the business of renting motor vehicles without drivers.

(c) The vehicle is registered pursuant to section 28-2166.

(d) There was a rental agreement in effect at the time of the immobilization or impoundment.

5. For the spouse of the owner or any person who is identified as an owner of the vehicle on the records of the department at the time of removal and either immobilization or impoundment, if the spouse or person was not the driver of the vehicle at the time of removal and either immobilization or impoundment and the spouse or person enters into an agreement with the immobilizing or impounding agency that stipulates that if the spouse or person allows a driver who does not have a valid driving privilege or a driver who commits a violation that causes the spouse's or person's vehicle to be removed and either immobilized or impounded pursuant to this article within one year after any agreement is signed by an immobilizing or impounding agency, the spouse or person will not be eligible to obtain release of the spouse's or person's vehicle before the end of the thirty day immobilization or impoundment period.

6. IF THE VEHICLE IS OWNED BY A MOTOR VEHICLE DEALER [WHO HAS PAID FEES PURSUANT TO SECTION 28-4302] AND IS DRIVEN BY A CUSTOMER, POTENTIAL CUSTOMER OR EMPLOYEE OF THE MOTOR VEHICLE DEALER AND THE MOTOR VEHICLE DEALER HAS PROVIDED TO THE IMMOBILIZING OR IMPOUNDING AGENCY INDICIA OF THE MOTOR VEHICLE DEALER'S OWNERSHIP OF THE VEHICLE, INCLUDING A CERTIFICATE OF TITLE OR A MANUFACTURER-ISSUED CERTIFICATE OR STATEMENT OF ORIGIN. **Ch. 263**

Chs. 263 and 276

B. A vehicle shall not be released pursuant to subsection A of this section except pursuant to an immobilization or a poststorage hearing under section 28-3514 or if all of the following are presented to the immobilizing or impounding agency:

1. The owner's or owner's spouse's currently valid driver license issued by this state or the owner's or owner's spouse's state of domicile.

2. Proof of current vehicle registration or a valid salvage or dismantle certificate of title.

3. Proof that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

4. If the person is required by the department to install a certified ignition interlock device on the vehicle, proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow access during normal business hours to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall not charge any fee or require compensation for providing access to the vehicle or for the installation of the certified ignition interlock device.

C. The owner or the owner's spouse if the vehicle is released to the owner's spouse is responsible for paying all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to section 28-3513, unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.

D. Before the end of the thirty day immobilization or impoundment period, the immobilizing or impounding agency shall release a vehicle to a person, other than the owner, identified on the department's record as having an interest in the vehicle immediately before the immobilization or impoundment if all of the following conditions are met:

1. The person is either of the following:

(a) In the business of renting motor vehicles without drivers and the vehicle is registered pursuant to section 28-2166.

(b) A motor vehicle dealer, bank, credit union or acceptance corporation or any other licensed financial institution legally operating in this state or is another person who is not the owner and who holds a security interest in the vehicle immediately before the immobilization or impoundment.

2. The person pays all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to section 28-3513 unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency. If the vehicle is stolen and the theft was reported to the appropriate law enforcement agency, the operator of the vehicle at the time of immobilization or impoundment is responsible for all immobilization, towing, storage and administrative charges.

3. The person presents foreclosure documents or an affidavit of repossession of the vehicle.

4. The person requesting release of the vehicle was not the person driving the vehicle at the time of removal and immobilization or impoundment.

E. Before a person described in subsection D of this section releases the vehicle to the owner who was operating the vehicle at the time of removal and immobilization or impoundment, the person described in subsection D of this section shall require the owner to present and shall retain for a period of at least three years from the date of releasing the vehicle a copy of all of the following:

1. A driver license issued by this state or the owner's or owner's agent's state of domicile.

2. A current vehicle registration or a valid salvage or dismantle certificate of title.

3. Evidence that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

F. The person described in subsection D of this section may require the owner to pay charges that the person incurred in connection with obtaining custody of the vehicle, including all immobilization, towing and storage charges that are related to the immobilization or impoundment of the vehicle and any administrative charges that are established pursuant to section 28-3513.

G. A vehicle shall not be released after the end of the thirty day immobilization or impoundment period unless the owner or owner's agent presents all of the following to the impounding or immobilizing agency:

1. A valid driver license issued by this state or by the owner's or owner's agent's state of domicile.

2. A current vehicle registration or a valid salvage or dismantle certificate of title.

3. Evidence that the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

4. If the person is required by the department to install a certified ignition interlock device on the vehicle, proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow access during normal business hours to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall not charge any fee or require compensation for providing access to the vehicle or for the installation of the certified ignition interlock device.

H. The storage charges relating to the impoundment of a vehicle pursuant to this section shall be subject to a contractual agreement between the impounding agency and a towing firm for storage services pursuant to section 41-1830.51 and shall be fifteen dollars for each day of storage, including any time the vehicle remains in storage after the end of the thirty day impoundment period.

I. The immobilizing or impounding agency shall have no lien or possessory interest in a stolen vehicle if the theft was reported to the appropriate law enforcement agency. The immobilizing or impounding agency shall release the vehicle to the owner or person other than the owner as identified in subsection D of this section even if the operator at the time of immobilization or impoundment has not paid all immobilization, towing, storage and administrative charges.

J. A person who enters into an agreement pursuant to subsection A, paragraph 5 of this section and who allows another person to operate the vehicle in violation of the agreement is responsible for a civil traffic violation and shall pay a civil penalty of at least two hundred fifty dollars.

K. A person described in subsection D, paragraph 1 of this section who violates subsection E of this section is responsible for a civil traffic violation and shall pay a civil penalty of at least two hundred fifty dollars.

L. For the purposes of this section, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

EXPLANATION OF BLEND
SECTION 28-3514

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 36	Effective August 6, 2016
Laws 2016, Ch. 276, section 35	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-3514 are blended in the form shown on the following pages.

BLEND OF SECTION 28-3514
Laws 2016, Chapters 263 and 276

28-3514. Hearings; notice of immobilization or storage; definition

A. If a peace officer removes and either immobilizes or impounds a vehicle pursuant to section 28-3511, the immobilizing or impounding agency may provide the owner, the spouse of the owner and any other person

Chs. 263 and 276

~~identified on the department's record as having an~~ PROVIDING INDICIA OF OWNERSHIP OR OTHER interest in the vehicle immediately before the immobilization or impoundment with the opportunity for an immobilization or poststorage hearing to determine the validity of the immobilization or storage or consider any mitigating circumstances relating to the immobilization or storage or release of the vehicle before the end of the thirty day immobilization or impoundment period. If the immobilizing or impounding agency provides the opportunity for an immobilization or poststorage hearing, the immobilizing or impounding agency shall conduct the hearing in accordance with any of the following:

1. In the immobilizing or impounding agency's jurisdiction.
2. Telephonically.
3. Pursuant to procedures prescribed by the immobilizing or impounding agency to transfer the authority to conduct the immobilization or poststorage hearing to a law enforcement agency in the jurisdiction in which the owner, the spouse of the owner, the owner's agent or any person identified in the department's record as having an interest in the vehicle immediately before the immobilization or impoundment resides.

B. If the immobilizing or impounding agency does not provide an opportunity for an immobilization or poststorage hearing, a justice court shall conduct the immobilization or poststorage hearing. If an immobilization or poststorage hearing is conducted by a justice court, the immobilizing or impounding agency shall appear and show evidence. Immobilization or poststorage hearings conducted by a justice court shall be considered as civil filings for the purposes of judicial productivity credits.

C. Within three business days after immobilization or impoundment, excluding weekends and holidays, the immobilizing or impounding agency shall send a notice of storage by first class mail to each person, other than the owner, identified on the department's record as having an interest in the

Chs. 263 and 276

vehicle OR WHO HAS PROVIDED THE DEPARTMENT WITH INDICIA OF OWNERSHIP OR OTHER INTEREST IN THE VEHICLE THAT EXISTS immediately before the immobilization or impoundment. Service of notice of immobilization or storage is complete on mailing. If within three business days after immobilization or impoundment, excluding weekends and holidays, the immobilizing or impounding agency fails to notify a person, other than the owner, identified on the department's record as having an interest in the vehicle immediately before the immobilization or impoundment, the immobilizing agency or the person in possession of the vehicle shall not charge any administrative fees or more

than fifteen days' immobilization or impoundment when the person redeems the impounded vehicle or has the immobilization device removed from the vehicle.

D. Within three business days after immobilization or impoundment, excluding weekends and holidays, the immobilizing or impounding agency shall mail or personally deliver notice of immobilization or storage to the owner of the vehicle.

E. The notice of immobilization or storage shall include all of the following information:

1. A statement that the vehicle was immobilized or impounded.

2. The name, address and telephone number of the immobilizing or impounding agency providing the notice.

3. The name, address and telephone number of the immobilizing or impounding agency or justice court that will provide the immobilization or poststorage hearing.

4. The location of the place of storage and a description of the vehicle, including, if available, the manufacturer, model, license plate number and mileage of the vehicle.

5. A statement that in order to receive an immobilization or poststorage hearing the owner, the spouse of the owner, the owner's agent or the person identified in the department's record as having an interest in the vehicle immediately before the immobilization or impoundment, within ten days after the date on the notice, shall request an immobilization or poststorage hearing by contacting the immobilizing or impounding agency in person or in writing or by filing a request with the justice court if the impounding agency does not provide for a hearing and paying a fee equal to the fee established pursuant to section 22-281 for a small claims answer.

6. A statement that if the immobilizing or impounding agency does not provide the opportunity for an immobilization or poststorage hearing, the owner, the spouse of the owner, the owner's agent or any person identified in the department's record as having an interest in the vehicle OR A PERSON WHO HAS PROVIDED THE DEPARTMENT WITH INDICIA OF OWNERSHIP OR OTHER INTEREST IN THE VEHICLE THAT EXISTS immediately before the immobilization or impoundment may request that the immobilization or poststorage hearing be conducted by a justice court in the immobilizing or impounding agency's jurisdiction or the jurisdiction in which the owner, the spouse of the owner, the owner's agent or the person identified in the department's record as having an interest in the vehicle immediately before the immobilization or impoundment resides.

Chs. 263 and 276

F. The immobilization or poststorage hearing shall be conducted by the immobilizing or impounding agency or justice court within five business days, excluding weekends and holidays, after receipt of the request.

G. Failure of the owner, the spouse of the owner or other person or the other person's agent to request an immobilization or poststorage hearing within ten days after the date on the notice prescribed in subsection E of this section or to attend a scheduled hearing satisfies the immobilization or poststorage hearing requirement.

H. The immobilizing or impounding agency employing the person who directed the immobilization or storage is responsible for the costs incurred for immobilization, towing and storage if it is determined in the immobilization or poststorage hearing that reasonable grounds for the immobilization or impoundment and storage are not established.

I. In compliance with the requirements of this section, the vehicle owner, the vehicle owner's spouse or another person ~~having~~ WHO HAS an interest in the vehicle OR WHO HAS PROVIDED THE DEPARTMENT WITH INDICIA OF OWNERSHIP OR OTHER INTEREST IN THE VEHICLE THAT EXISTS immediately before the immobilization or impoundment shall have an opportunity for a single poststorage hearing for the release of the vehicle by either the immobilizing or impounding agency or a justice court but not both.

Chs. 263 and 276

J. FOR THE PURPOSES OF THIS SECTION, "INDICIA OF OWNERSHIP" INCLUDES A CERTIFICATE OF TITLE, A MANUFACTURER-ISSUED CERTIFICATE OR A STATEMENT OF ORIGIN OR OTHER SIMILAR DOCUMENT.

EXPLANATION OF BLEND
SECTION 28-4038

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 5	Effective August 6, 2016
Laws 2016, Ch. 232, section 37	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 171 and Ch. 232 text changes to section 28-4038 are blended in the form shown on the following pages.

BLEND OF SECTION 28-4038
Laws 2016, Chapters 171 and 232

28-4038. Transportation network services; financial responsibility requirements; survey

A. For a transportation network company that requires a transportation network company driver to accept rides that are booked and paid for exclusively through the transportation network company's digital network or software application and during the time in which the transportation network company driver is logged in to the transportation network company's digital network or software application to be a driver, but is not in the act of providing transportation network services, the following insurance coverage shall be maintained:

1. Before March 1, 2016, the transportation network company driver shall maintain a motor vehicle liability insurance policy that meets at least the requirements of section 28-4009. A transportation network company shall provide motor vehicle liability insurance coverage in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, subject to the limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident and twenty thousand dollars because of injury to or destruction of property of others in any one accident ~~coverage~~ in the event a transportation network company driver's policy excludes coverage according to the policy's terms.

Chs. 171 and 232

2. From and after February 29, 2016, the transportation network company driver or the transportation network company, or both, shall provide primary motor vehicle liability insurance coverage in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, subject to the limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident and twenty thousand dollars because of injury to or destruction of property of others in any one accident. Coverage shall be maintained through any of the following:

(a) A private passenger motor vehicle policy maintained by the transportation network company driver that expressly provides liability coverage while the driver is logged in to the transportation network company's digital network or software application to be a driver.

(b) A motor vehicle liability policy maintained by the transportation network company.

(c) A commercial motor vehicle liability policy.

B. For a transportation network company that requires a transportation network company driver to accept rides that are booked and paid for exclusively through the transportation network company's digital network or software application and during the time in which the transportation network company driver is providing transportation network services, the transportation network company driver or the transportation network company, or both, shall maintain the following insurance coverages:

1. Primary commercial motor vehicle liability insurance that covers the transportation network company driver's provision of transportation network services in a minimum amount of two hundred fifty thousand dollars per incident.

2. Commercial uninsured motorist coverage in a minimum amount of two hundred fifty thousand dollars per incident.

~~C. For a transportation network company that does not require a transportation network company driver to accept rides booked and paid for exclusively through a transportation network company's digital network or software application and during the time in which the transportation network company driver is logged in to the transportation network company's digital network or software application to be a driver, either the transportation network company driver or the transportation network company shall maintain the following insurance coverages:~~

~~1. During the time in which the driver is available to provide passenger transportation, but has not accepted a ride request and is not in the act of providing passenger transportation, primary commercial motor vehicle liability insurance coverage in the amount of twenty five thousand dollars because of bodily injury to or death of any one person in any one accident, subject to the limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident and twenty thousand dollars because of injury to or destruction of property of others in any one accident.~~

Chs. 171 and 232

~~2. After the driver has accepted a ride request through any communication, including a street hail, and during the time in which the driver is providing passenger transportation:~~

~~(a) Primary commercial motor vehicle liability insurance in a minimum amount of two hundred fifty thousand dollars per incident.~~

~~(b) Commercial uninsured motorist coverage in a minimum amount of two hundred fifty thousand dollars per incident.~~

~~D.~~ C. From and after February 29, 2016, unless an insurance policy expressly provides coverage or contains an amendment or endorsement that expressly provides coverage, the transportation network company driver's insurance policy and the motor vehicle owner's personal motor vehicle insurance policy shall not be required to provide coverage for the transportation network company vehicle, the transportation network company driver, the motor vehicle owner or any third party while a transportation network company driver is logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services.

Chs. 171 and 232

~~E.~~ D. Notwithstanding subsection ~~D~~ C of this section, an insurer may offer, for the period during which a transportation network company driver is logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services, one of the following:

1. A motor vehicle liability insurance policy expressly providing such coverage.

2. An amendment or endorsement to an existing motor vehicle liability insurance policy specifically providing such coverage.

~~F.~~ E. An insurance policy required by this section is deemed to satisfy the financial responsibility requirements for a motor vehicle insurance policy under this title.

~~G.~~ F. A transportation network company driver shall carry proof of insurance in the transportation network company vehicle at all times while logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services. If an accident occurs involving a transportation network company vehicle, the transportation network company driver shall provide proof of insurance to the parties involved in the accident at the time of the accident. The transportation network company driver shall also notify the transportation network company of the accident.

~~H.~~ G. In a claims coverage investigation, transportation network companies and any insurer providing coverage as prescribed in this section shall fully cooperate in the exchange of information, including the precise times that a transportation network company driver logged on and off of the transportation network company's digital network or software application in the twenty-four-hour period immediately preceding the accident, and shall disclose to each other a clear description of the coverage, exclusions and limits provided under any insurance policy each party issued or maintained.

~~I.~~ H. From and after February 29, 2016, this section and section 28-4009 do not create an obligation for an insurer that issues coverage to which section 20-1631 applies to offer, provide or issue a motor vehicle liability insurance policy or an endorsement or amendment that includes coverage for any liability arising while a transportation network company driver is logged in to the transportation network company's digital network or software application to be a driver or is providing transportation network services.

~~J.~~ I. An insurance policy required by this section may be placed with an insurer authorized to transact insurance in this state pursuant to title 20, chapter 2, article 1 or a surplus lines insurer pursuant to title 20, chapter 2, article 5.

~~K.~~ J. The department of insurance, as part of its annual survey of insurance companies, may request information from any property and casualty insurer authorized to write private passenger motor vehicle coverage in this state, including information regarding:

1. Whether the insurer offers for purchase a policy or an endorsement or amendment that covers transportation network company drivers while the driver is logged in to a transportation network company's digital network or software application to be a driver or is providing transportation network services.

2. The number of those policies, endorsements or amendments that have been purchased during the reporting period.

3. The number of those policies, endorsements or amendments that have been canceled during the reporting period.

EXPLANATION OF BLEND
SECTION 28-4302

Laws 2016, Chapters 263 and 277

Laws 2016, Ch. 263, section 37	Effective August 6, 2016
Laws 2016, Ch. 277, section 2	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 277 text changes to section 28-4302 are blended in the form shown on the following page.

BLEND OF SECTION 28-4302
Laws 2016, Chapters 263 and 277

28-4302. Fees; disposition

A. The following fees are required:

1. For filing each application for a dealer's, manufacturer's, importer's, distributor's, factory branch's, distributor branch's, automotive recycler's or wholesale motor vehicle dealer's license, fifteen dollars.

2. For filing each application for a provisional dealer's, automotive recycler's or wholesale motor vehicle dealer's license filed in conjunction with an application for a dealer's or automotive recycler's license, ten dollars.

3. For each filing ~~or continuation~~ of a dealer's, manufacturer's, distributor's, importer's, factory branch's, distributor branch's, automotive recycler's or wholesale motor vehicle dealer's license if issued annually, one hundred dollars EXCEPT THAT IF A DEALER HAS A CONTRACTUAL RELATIONSHIP WITH A THIRD-PARTY LENDER, THE FEE IS FOUR HUNDRED DOLLARS, OF WHICH THREE HUNDRED DOLLARS SHALL BE DEPOSITED PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE STATE GENERAL FUND AND ONE HUNDRED DOLLARS IN THE ARIZONA HIGHWAY USER REVENUE FUND.

Chs. 263 and 277

4. FOR EACH CONTINUATION OF A DEALER'S LICENSE IF ISSUED ANNUALLY, ONE HUNDRED DOLLARS, EXCEPT THAT IF A DEALER HAS A CONTRACTUAL RELATIONSHIP WITH A THIRD-PARTY LENDER, THE FEE IS TWO HUNDRED FIFTY DOLLARS, OF WHICH ONE HUNDRED FIFTY DOLLARS SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE STATE GENERAL FUND AND ONE HUNDRED DOLLARS IN THE ARIZONA HIGHWAY USER REVENUE FUND.

~~4.~~ 5. For filing or continuing a dealer's branch license if issued annually, fifty dollars.

~~5.~~ 6. For filing each application for a permit for the off-premises exhibition of motor vehicles, for a motor vehicle show or for a special event to exhibit new motor homes, twenty-five dollars.

~~6.~~ 7. For filing each application for a permit for the off-premises display and sale of motor vehicles, twenty-five dollars.

B. Except as otherwise provided by statute, the director shall immediately deposit, pursuant to sections 35-146 and 35-147, fees collected under this section in the Arizona highway user revenue fund.

EXPLANATION OF BLEND
SECTION 28-4335

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 38	Effective August 6, 2016
Laws 2016, Ch. 276, section 36	Effective August 6, 2016

Explanation

Since the Ch. 263 version includes all of the changes made by the Ch. 276 version, the Laws 2016, Ch. 263 amendment of section 28-4335 is the blend of both the Laws 2016, Ch. 263 and Ch. 276 versions.

BLEND OF SECTION 28-4335
Laws 2016, Chapters 263 and 276

28-4335. Wholesale motor vehicle dealer or broker

A. A wholesale motor vehicle dealer or a broker:

1. Is required to be licensed pursuant to this chapter [AND] PAY FEES PURSUANT TO SECTION 28-4302. (Ch. 263; Chs. 263 and 276)

2. IS REQUIRED [TO BE A LEGAL RESIDENT OF THIS STATE]. (Chs. 263 and 276)

~~2.~~ 3. Is not required to operate from an established place of business.

~~3.~~ 4. Shall maintain a place of business in which records of the business are kept.

B. If the licensee is a broker, the principal place of business shall not be a location that is zoned for residential use.

EXPLANATION OF BLEND
SECTION 28-4361

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 39	Effective August 6, 2016
Laws 2016, Ch. 276, section 37	Effective August 6, 2016

Explanation

Since the Ch. 263 version includes all of the changes made by the Ch. 276 version, the Laws 2016, Ch. 263 amendment of section 28-4361 is the blend of both the Laws 2016, Ch. 263 and Ch. 276 versions.

BLEND OF SECTION 28-4361
Laws 2016, Chapters 263 and 276

28-4361. License application; criminal records check; education and training

A. A person shall apply for a license to the director in writing on forms prescribed by the director. The person shall include with the application all documents and bonds required and the annual license fees prescribed by section 28-4302.

B. The application shall be verified and shall contain:

1. The name and residence of either:

(a) The applicant.

(b) If the applicant is a partnership, each partner.

(c) If the applicant is a corporation, each principal officer, director, agent or stockholder who owns twenty ~~per cent~~ PERCENT or more of the corporation and the name of the state in which the corporation was organized.

Chs. 263 and 276

2. The principal place of business of the applicant.

3. The established place of business or the place of business at or from which the applicant will conduct the business.

4. The make or makes of new motor vehicles, if any, that the applicant will sell or offer for sale in this state.

5. The business hours of the applicant.

6. Other information that the director requires.

C. Each applicant who owns twenty ~~per cent~~ PERCENT or more of an entity, and each partner or stockholder who owns twenty ~~per cent~~ PERCENT or more of an entity, and who seeks a new license shall provide:

Chs. 263 and 276

1. A full set of fingerprints to the department OF TRANSPORTATION 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.

2. A nonrefundable fee to be paid to the department of public safety for the criminal records check.

D. If a licensee adds or changes a partner or stockholder who owns twenty ~~per cent~~ PERCENT or more of the entity and who was not included in the criminal records check on a prior application, the licensee shall notify the department within thirty days of the change. At the time of notification, an application and, if applicable, a full set of fingerprints and the fee for a criminal records check shall be submitted to the department. If any individual who is added or changed by the licensee is found to be ineligible pursuant to section 28-4365, the director, on completion of the criminal records check, shall advise the licensee and the individual in writing that the license will be revoked, unless the individual is removed from the position, and of the grounds for the action.

Chs. 263 and 276

E. The requirement for a criminal records check:

1. Does not apply to a manufacturer, importer, factory branch or distributor or a person who is under eighteen years of age on the date the application is filed with the department.

2. May not apply if the application is for a subsequent license and each applicant who owns twenty ~~per cent~~ PERCENT or more of an entity, and each partner or stockholder who owns twenty ~~per cent~~ PERCENT or more of an entity, either:

(a) Have submitted to a criminal records check during the past five years.

(b) Are currently licensed under this section.

Chs. 263 and 276

Ch. 263

3. DOES NOT APPLY TO A NEW MOTOR VEHICLE DEALER [WHO HAS PAID FEES PURSUANT TO SECTION 28-4302].

F. THE DIRECTOR MAY ESTABLISH EDUCATION AND TRAINING FOR A PERSON APPLYING FOR AN INITIAL OR A RENEWAL OF A USED MOTOR VEHICLE DEALER OR WHOLESALE MOTOR VEHICLE DEALER LICENSE PURSUANT TO THIS SECTION. THE DIRECTOR MAY CONTRACT WITH A PRIVATE ENTITY TO PROVIDE THE EDUCATION AND TRAINING ESTABLISHED UNDER THIS SUBSECTION. THE PRIVATE ENTITY THAT CONTRACTS WITH THE DIRECTOR PURSUANT TO THIS SUBSECTION MAY CHARGE A FEE FOR THE EDUCATION AND TRAINING.

EXPLANATION OF BLEND
SECTION 28-4403

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 40	Effective August 6, 2016
Laws 2016, Ch. 276, section 38	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-4403 are blended in the form shown on the following pages.

BLEND OF SECTION 28-4403
Laws 2016, Chapters 263 and 276

28-4403. Record requirements; motor vehicle information; inspection; liability; electronic submission

A. A licensee shall keep and maintain at the licensee's established place of business, or place of business if the licensee is a broker or a wholesale motor vehicle dealer, a permanent record in the form prescribed by the director containing:

1. A particular description of each motor vehicle of a type subject to registration under the laws of this state that is bought, sold, brokered or exchanged by the licensee or received or accepted by the licensee for sale, brokering or exchange.

2. A particular description of each used motor vehicle body or chassis that is sold or otherwise disposed of.

3. A particular description of each motor vehicle that is bought or otherwise acquired and wrecked by the licensee.

4. The name and address of the person from whom a motor vehicle, motor vehicle body or motor vehicle chassis was purchased or otherwise acquired and the date it was purchased or acquired.

5. The name and address of the person to whom the motor vehicle, motor vehicle body or motor vehicle chassis was sold or otherwise disposed of, the date it was sold or disposed of and a sufficient description of the vehicle, body or chassis by name or identifying number or otherwise to identify it.

B. A licensed automotive recycler that has a vehicle in the automotive recycler's inventory shall:

1. At the same time have possession of a duly and regularly assigned salvage certificate of title, nonrepairable vehicle certificate of title or dismantle certificate of title to the vehicle.

2. Not offer for sale or sell a vehicle unless a salvage certificate of title, nonrepairable vehicle certificate of title or dismantle certificate of title to the vehicle has been obtained.

C. Each motor vehicle dealer shall give the customer a written contract and shall maintain a copy of the contract for three years at the dealer's established place of business.

D. Each record required by this section and all inventories relating to the records of a licensee shall be available at all times for physical inspection by agents of the department or members of the highway patrol division. The agents or members may enter on premises where the records or inventories are located during normal business hours for purposes of the inspection. The licensee or any designated employee or agent may accompany any person making the inspection while the person is on the licensee's premises.

E. The licensee is only liable to a person making an inspection under this section for an injury arising out of the condition of the premises that occurs while the person is on the licensee's premises if the licensee

knowingly allows the person to encounter a hidden peril or wantonly or wilfully causes the person harm.

Chs. 263 and 276

F. ~~Beginning January 1, 2014,~~ A wholesale motor vehicle dealer shall submit electronically to the department any documents that are requested by the department during the wholesale motor vehicle dealer's reported business hours and that are prescribed in this section. The wholesale motor vehicle dealer shall submit the requested documents within forty-eight hours after the request is transmitted.

EXPLANATION OF BLEND
SECTION 28-4409

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 41	Effective August 6, 2016
Laws 2016, Ch. 276, section 39	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-4409 are blended in the form shown on the following page.

BLEND OF SECTION 28-4409
Laws 2016, Chapters 263 and 276

28-4409. Evidence of ownership requirement; exception

A. Except as provided in section 28-4410:

1. Each dealer in motor vehicles, trailers and semitrailers, including manufacturers who sell to other than dealers, having possession of OR OFFERING FOR SALE a motor vehicle, trailer or semitrailer shall have at the same time either:

Chs. 263 and 276

(a) Possession of a duly and regularly assigned certificate of title to the vehicle.

(b) Reasonable indicia of ownership or right of possession as ~~provided in section 28-4410~~ APPROVED BY THE DIRECTOR.

2. A dealer or manufacturer shall not offer for sale or sell a motor vehicle, trailer or semitrailer until the dealer or manufacturer has obtained a certificate of title to the motor vehicle, trailer or semitrailer, except that a certificate of title is not required for a new motor vehicle sold by manufacturers to dealers.

B. A wholesale motor vehicle auction dealer is exempt from the requirement of having to possess a duly and regularly assigned certificate of title and from other requirements relating to the reassignment of CERTIFICATE OF title documents and disclosures to buyers. A wholesale motor vehicle auction dealer may buy or sell a motor vehicle at wholesale in the wholesale motor vehicle auction dealer's own name if the wholesale motor vehicle auction dealer complies with the provisions of this title relating to certificates of title, reassignments of CERTIFICATE OF title documents and disclosures to buyers.

Chs. 263 and 276

C. A wholesale motor vehicle dealer must APPLY FOR A CERTIFICATE OF title in the name of the wholesale motor vehicle dealer any vehicle that the wholesale motor vehicle dealer acquires before the wholesale motor vehicle dealer transfers the vehicle to another licensed motor vehicle dealer.

EXPLANATION OF BLEND
SECTION 28-4410

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 42	Effective August 6, 2016
Laws 2016, Ch. 276, section 40	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-4410 are blended in the form shown on the following page.

BLEND OF SECTION 28-4410
Laws 2016, Chapters 263 and 276

28-4410. Consignment contracts; definitions

A. A dealer in motor vehicles, trailers and semitrailers may possess and offer for sale a motor vehicle, trailer or semitrailer without having a duly or regularly assigned certificate of title OR TITLE TRANSFER FORM in the dealer's possession if the dealer possesses all of the following: Chs. 263 and 276

1. A consignment contract or dealer acquisition contract.

2. The most recent registration card for the vehicle.

3. A statement by the lienholder disclosing all unsatisfied liens, if applicable.

B. A dealer may complete the sale of a motor vehicle, trailer or semitrailer offered for sale under subsection A of this section when the dealer possesses verification that all liens on the motor vehicle, trailer or semitrailer have been satisfied by the dealer or assumed by the purchaser.

C. A dealer who offers a vehicle for sale on consignment shall inform a prospective customer that the vehicle is on consignment to the dealer.

D. The director shall adopt rules on the minimum form and content of consignment contracts and dealer acquisition contracts.

E. This chapter does not allow the consignment of motor vehicles from one licensee to another licensee.

F. A dealer in motor vehicles, trailers or semitrailers may offer for sale or sell a motor vehicle, trailer or semitrailer without having a duly or regularly assigned certificate of title in the dealer's possession if the dealer possesses a complete photocopy of the duly or regularly assigned certificate of title, the original of which has been delivered to a financial institution or a subsidiary of the financial institution pursuant to an inventory financing arrangement.

G. For the purposes of this section:

1. "Consignment contract" means an agreement executed by both the owner of a vehicle and a licensed motor vehicle dealer pursuant to which the vehicle is delivered to the dealer to sell for the owner.

2. "Dealer acquisition contract" means an agreement that both:

(a) Is executed by both the owner of a vehicle, the CERTIFICATE OF title for which is in possession of a lienholder in accordance with the laws of this state or another state, and a licensed motor vehicle dealer. Chs. 263 and 276

(b) Transfers ownership of the vehicle described in subdivision (a) OF THIS PARAGRAPH to a licensed dealer from a person other than a manufacturer, distributor, franchisor or dealer.

3. "Inventory financing arrangement" means an agreement under which a dealer grants a security interest to a financial institution under the provisions of title 47, chapter 9.

EXPLANATION OF BLEND
SECTION 28-4412

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 43	Effective August 6, 2016
Laws 2016, Ch. 276, section 41	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-4412 are blended in the form shown on the following page.

BLEND OF SECTION 28-4412
Laws 2016, Chapters 263 and 276

28-4412. Guaranty disclosure; used motor vehicles; definition

A. Before the consummation of the sale of a used motor vehicle, a motor vehicle dealer shall:

1. Provide each purchaser with a written statement that:

(a) Indicates whether or not an express warranty or guaranty is associated with the used motor vehicle.

(b) Is distinguished from the body of the sales agreement through the use of either bold-faced type or bold-faced type of a color other than that used in the body of the agreement.

(c) States "as is — not expressly warranted or guaranteed", if the used motor vehicle to be sold is not expressly warranted or guaranteed.

(d) Explicitly states the nature and extent of the express warranty or guaranty, if the used motor vehicle to be sold is expressly warranted or guaranteed.

(e) States "as is — not guaranteed to pass vehicle emissions inspection. Vehicle not eligible for certificate of waiver and must be repaired to meet emissions standards", if the used motor vehicle is a disabled vehicle that is offered for sale at a wholesale public auction with an auctioneer who is a licensed used motor vehicle dealer and if the vehicle does not comply with the requirements prescribed in section 49-542.

2. Direct the purchaser's attention to the written statement.

B. This section does not negate any implied warranties otherwise applicable to the sale of a used motor vehicle, including the implied warranty of merchantability described in section 44-1267.

Chs. 263 and 276

~~C. Before the seller attempts to sell a motor vehicle the seller shall possess the title to the motor vehicle and the title shall be in the seller's name.~~

~~D.~~ C. Notwithstanding any other provision of this section or title 12, chapter 6, article 9, a motor vehicle dealer that sells a used motor vehicle to another motor vehicle dealer or for the sole purpose of being legally destroyed or dismantled does not have a duty to inspect a used motor vehicle for defects or damage before the sale. This subsection does not negate any duties owed by a licensed motor vehicle dealer to its retail customers.

~~E.~~ D. For the purposes of this section, "disabled vehicle" means a motor vehicle that cannot operate on its own motive power.

EXPLANATION OF BLEND
SECTION 28-4421

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 44	Effective August 6, 2016
Laws 2016, Ch. 276, section 42	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-4421 are blended in the form shown on the following page.

BLEND OF SECTION 28-4421
Laws 2016, Chapters 263 and 276

28-4421. Selling dealer's duties

Chs. 263 and 276

A. For purposes of ISSUING A CERTIFICATE OF title, registration, warranties, rebates and incentives in a brokered sale of a new motor vehicle to a retail consumer, the selling new motor vehicle dealer and not the broker is responsible for:

1. Applying for A CERTIFICATE OF title in the name of the purchaser and securing vehicle registration and the license plates for the purchaser.

2. Securing the manufacturer's warranty in the name of the purchaser.

3. Making all applications for any manufacturer's rebates and incentives due the purchaser.

B. If there is a manufacturer's recall, the retail consumer shall be notified directly by the manufacturer.

EXPLANATION OF BLEND
SECTION 28-4423

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 45	Effective August 6, 2016
Laws 2016, Ch. 276, section 43	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-4423 are blended in the form shown on the following page.

BLEND OF SECTION 28-4423
Laws 2016, Chapters 263 and 276

28-4423. Wholesale motor vehicle auction dealers; sign; title stamp

Each wholesale motor vehicle auction dealer shall:

1. Conspicuously post at the wholesale motor vehicle auction dealer's established place of business a sign that contains the following statement:

> Arizona Revised Statutes section 28-4334 prohibits a person who purchases a vehicle from this wholesale motor vehicle auction dealer from selling the vehicle in this state unless the person is a licensed dealer in this state. A person who violates this statutory provision is guilty of a class 1 misdemeanor.

Chs. 263 and 276 2. Stamp "export only" on the CERTIFICATE OF title of any vehicle sold to a person who is licensed as a dealer by another country.

EXPLANATION OF BLEND
SECTION 28-4533

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 46	Effective August 6, 2016
Laws 2016, Ch. 276, section 44	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-4533 are blended in the form shown on the following pages.

BLEND OF SECTION 28-4533
Laws 2016, Chapters 263 and 276

28-4533. Dealer's certificate; dealer license plates; fees

A. A dealer may apply to the department, on a form provided for that purpose, for a dealer's certificate containing a general distinguishing number. If the applicant is a dealer in new motor vehicles, trailers or semitrailers, the applicant shall submit satisfactory proof that the applicant is a duly authorized distributor or dealer for a manufacturer.

B. The department may issue dealer license plates to each dealer as follows:

1. For new motor vehicle dealers, not more than thirty dealer license plates plus one additional license plate for every fifty motor vehicles that are sold based on reported sales in the previous license year.

2. For used motor vehicle dealers, not more than fifteen dealer license plates plus one additional license plate for every fifty vehicles that are sold based on reported sales in the previous license year.

3. For wholesale motor vehicle dealers, not more than two dealer license plates plus one additional license plate for every fifty vehicles that are sold based on reported sales in the previous license year. All of the following requirements apply to dealer license plates issued pursuant to this paragraph:

(a) Before the wholesale motor vehicle dealer's license continuation date, the wholesale motor vehicle dealer must submit evidence satisfactory to the department that the wholesale motor vehicle dealer has sold at least ten vehicles TO ONE OR MORE LICENSED NEW OR USED MOTOR VEHICLE DEALERS in the previous license year.

Chs. 263 and 276

(b) If the wholesale motor vehicle dealer does not submit the evidence prescribed in subdivision (a) of this paragraph, the department shall cancel the dealer license plates issued to the wholesale motor vehicle dealer.

(c) The department shall not issue more than ten dealer license plates to a wholesale motor vehicle dealer pursuant to this paragraph.

C. The department, on granting the application, shall issue to the applicant a certificate containing the applicant's name and address and the general distinguishing number assigned to the applicant and the dealer license plates for which the applicant applied on payment of the fee provided in this section.

D. The fee for each license plate or pair of license plates issued to a dealer is:

1. Thirty dollars, if the dealer is not a motorcycle dealer.

2. Ten dollars, if the dealer is a motorcycle dealer.

E. The director may recall, redesign and reissue dealer license plates pursuant to this article. The plate or pair of plates issued shall contain a number or symbol distinguishing them from every other plate or pair of plates issued to the same dealer. The director shall not allow a request for dealer license plates to be combined with a request for a personalized special plate

issued pursuant to section 28-2406. Reissued dealer license plates shall be distributed as determined by the director.

F. The right to use a dealer license plate issued terminates at midnight on the last day of the month in which the plate fees are due unless the plate fees for the following year are paid.

G. A dealer who applies for and obtains dealer license plates shall comply with chapter 9 of this title.

EXPLANATION OF BLEND
SECTION 28-4547

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 47	Effective August 6, 2016
Laws 2016, Ch. 276, section 45	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-4547 are blended in the form shown on the following page.

BLEND OF SECTION 28-4547
Laws 2016, Chapters 263 and 276

28-4547. Requirements for temporary registration plates

A. A dealer shall not:

1. Issue, assign or deliver temporary registration plates to anyone other than a bona fide purchaser of a vehicle that is not registered for the current year.

2. Issue temporary registration plates unless the purchaser files an application for a certificate of title and an application for annual registration of the vehicle before or at the time the plates are issued.

3. Issue temporary registration plates unless the application for a certificate of title is accompanied by either a manufacturer's certificate of origin properly assigned by a licensed new motor vehicle dealer, ~~or~~ a properly signed certificate of title OR A TITLE TRANSFER FORM.

Chs. 263 and 276

B. The dealer, as the agent of the purchaser, shall forward the application for a certificate of title, the application for registration and the prescribed fees for both applications to the department.

EXPLANATION OF BLEND
SECTION 28-4594

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 48	Effective August 6, 2016
Laws 2016, Ch. 276, section 46	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-4594 are blended in the form shown on the following pages.

BLEND OF SECTION 28-4594
Laws 2016, Chapters 263 and 276

28-4594. Altered serial or identification number; contraband; seizure; disposition

A. Except if a manufacturer's serial or identification number of a motor vehicle or major component part of a vehicle is removed, defaced, altered or destroyed with the permission of the department or if a special serial or identifying number issued by the department has been properly affixed to a vehicle pursuant to section 28-2165, a motor vehicle or major component part of the vehicle that has had the manufacturer's or department's serial or identification number removed, defaced, altered or destroyed and a serial or identification number so removed are contraband.

B. A law enforcement agency shall both:

1. Immediately seize and store the motor vehicle or major component part of a vehicle or serial or identification number that is contraband pursuant to subsection A of this section.

2. Attempt to restore the original manufacturer's serial or identification numbers on the item seized as follows:

(a) If the original identification numbers can be permanently restored and the last owner as identified on official title records maintained by the vehicle registration agency of the state, country or territory in which the vehicle was last ~~titled~~ ISSUED A CERTIFICATE OF TITLE or the person or entity to which A CERTIFICATE OF title was assigned by the last owner as identified on official title records can be found, the law enforcement agency shall return the motor vehicle or major component part of a vehicle to the person or entity.

Chs. 263 and 276

(b) If the original identification numbers can be temporarily restored and the last owner as identified on official title records maintained by the vehicle registration agency of the state, country or territory in which the vehicle was last ~~titled~~ ISSUED A CERTIFICATE OF TITLE or the person or entity to which A CERTIFICATE OF title was assigned by the last owner as identified on official title records can be found, the county attorney of the county in which the motor vehicle or major component part of a vehicle was seized or the attorney general, within sixty days after the date of seizure or such other reasonable time that is set by the court, shall file a petition or action in the superior court in the county in which the item was seized or in Maricopa county to forfeit the motor vehicle or major component part of a vehicle to this state for use or other appropriate disposition by the law enforcement agency that seized the item or for such other disposition as the state deems appropriate. The petition shall set forth probable cause that the item is contraband. A copy of the petition or notice of pending forfeiture shall be served as follows:

Chs. 263 and 276

(i) On the person from whom the item was seized by certified mail to the person's last known address.

(ii) On the last owner and any lienholders or interest holders identified on official title records by certified mail to the names and addresses identified on official title records.

(iii) On any other known interest holders by certified mail to each holder's last known address.

(iv) By publication in one issue of a newspaper of general circulation in the county in which the property was seized.

(c) If the original identification numbers cannot be permanently or temporarily restored or the last owner as identified on official title records cannot be found, the county attorney in the county in which the motor vehicle or major component part of a vehicle was seized or the attorney general, within sixty days after the date of seizure or such other reasonable time as is set by the court, shall file a petition or action in the superior court in the county in which the item was seized or in Maricopa county to forfeit the motor vehicle or major component part of a vehicle to this state for use or other appropriate disposition by the law enforcement agency that seized the item or for such other disposition as the state deems appropriate. The petition shall set forth probable cause that the item is contraband. A copy of the petition or notice of pending forfeiture shall be served on the person from whom the item was seized by certified mail to the person's last known address.

C. If a verified claim is not filed within the time period provided in section 28-4595, subsection A, the court shall declare the seized item to be contraband and shall sign an order forfeiting the seized item to the state for use or other appropriate disposition by the law enforcement agency that seized the item or for other disposition as the state deems appropriate.

EXPLANATION OF BLEND
SECTION 28-5101

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 49	Effective August 6, 2016
Laws 2016, Ch. 276, section 47	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-5101 are blended in the form shown on the following pages.

BLEND OF SECTION 28-5101
Laws 2016, Chapters 263 and 276

28-5101. Third party authorization

A. The director may authorize third parties to perform certain of the following functions:

1. Title and registration.

2. Motor carrier licensing and tax reporting.

3. Dealer licensing.

4. Driver licensing as prescribed in sections 28-5101.01, 28-5101.02 and 28-5101.03.

B. The director may authorize a person to be a third party electronic service provider or~~, beginning January 1, 2012,~~ to be a third party electronic service partner. An authorized third party electronic service provider shall meet all of the requirements established by the department. ~~Beginning January 1, 2012:~~

Chs. 263 and 276

~~1.~~ The written agreement between the department and the authorized third party electronic service provider may be for a limited number of services and may limit the persons that may receive the services.

~~2.~~ An authorized third party electronic service partner shall meet the requirements established by the department and shall be selected through a competitive bid process.

C. A person shall not engage in any business pursuant to this article unless the director authorizes the person to engage in the business.

D. The director may furnish necessary documents or license plates subject to this article.

E. Except as provided in subsection F of this section, an authorized third party or an authorized third party electronic service provider shall submit to the department all statutorily prescribed fees and taxes it collects. In addition to the statutorily prescribed fees and taxes, an authorized third party or an authorized third party electronic service provider may collect and retain a reasonable and commensurate fee for its services.

F. In addition to payment pursuant to section 28-374, the department shall reimburse the authorized third party or third party electronic service provider as follows:

1. One dollar of each initial, renewal, replacement or duplicate registration fee for a vehicle or an aircraft.

Chs. 263 and 276

2. One dollar of each initial, duplicate or transfer CERTIFICATE OF title fee for a vehicle or an aircraft.

3. An amount equal to two ~~per cent~~ PERCENT of each vehicle license tax payment or aircraft license tax payment the authorized third party collects and submits to the department or four dollars for each registration year or part of a registration year, whichever is more. The reimbursement amount shall not exceed the amount of vehicle license tax or aircraft license tax collected.

4. Four dollars for each initial, renewal, replacement or duplicate application that the third party processes and that relates to driver licenses, nonoperating identification licenses or permits. An authorized third party may add the cost for expedited processing of renewal, replacement or duplicate applications if requested by the applicant.

Chs. 263 and 276

5. An amount equal to two ~~per cent~~ PERCENT of each overweight or excess size vehicle registration or permit fee the third party collects and submits to the department or one dollar for each overweight or excess size vehicle registration or permit processed, whichever is more.

6. One dollar for each motor vehicle or special motor vehicle record, excluding motor vehicle records released to commercial recipients, including insurers and their authorized agents.

Chs. 263 and 276

7. Five dollars or one-fourth of one ~~per cent~~ PERCENT of the fuel taxes reported, whichever is greater, for each fuel tax report filed electronically. ~~In fiscal years 2008-2009 through 2012-2013, the maximum annual amount retained each year shall not exceed one million five hundred thousand dollars. Beginning in fiscal year 2013-2014,~~ The maximum annual amount retained each year shall not exceed four hundred eighty thousand dollars.

8. One dollar for each fuel tax permit.

9. One dollar for each nonsufficient funds or dishonored check payment.

10. One dollar for each abandoned vehicle report processed, except for applications for crushed vehicles.

11. One dollar for each abandoned vehicle payment.

12. Two dollars for each initial special or personalized license plate application.

13. One dollar for each initial, renewal or replacement vehicle dealer license plate.

14. Five dollars for each application for an initial vehicle dealer license or continuation of a vehicle dealer license.

15. One dollar of each twelve dollar fee paid pursuant to section 28-2356.

16. One dollar for each traffic survival school application and one dollar for each certificate of completion processed.

17. One dollar for each replacement license plate or tab.

G. For authorized third party electronic service partners, the amount of compensation and the amount of reimbursements for transactions shall be negotiated by the department and the authorized third party electronic service partner and shall be set forth in the written agreement authorizing the third party electronic service partner. If reimbursement is made for individual transactions, the reimbursements shall not exceed the amounts specified in subsections F, H and I of this section. Other forms of compensation or reimbursements for services may be specified in the written agreement. Compensation and reimbursements provided for by the written agreement may include the development and implementation of information technology and other automated systems and any necessary support for these systems.

H. The department's authorized third party electronic service provider may retain two dollars for processing documents electronically when the statutory fee pursuant to this title is two dollars or more.

I. The director may authorize the third party electronic service provider to process electronic fund transfers to the department for payment of motor vehicle taxes and fees. The third party electronic service provider may add a two dollar processing fee for each electronic funds transfer.

J. Each authorized third party that holds itself out as providing services to the general public shall post a sign in a conspicuous location in each facility of the authorized third party that contains all of the following:

1. The amount charged for each transaction performed by the authorized third party.

2. The amount charged by the department for the same transaction.

3. How to file a complaint or concern with the department about the authorized third party.

EXPLANATION OF BLEND
SECTION 28-5111

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 50	Effective August 6, 2016
Laws 2016, Ch. 276, section 48	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 28-5111 are blended in the form shown on the following page.

BLEND OF SECTION 28-5111
Laws 2016, Chapters 263 and 276

28-5111. Electronic transmission and recording of title, registration and driver license; program; authorized third party

Chs. 263 and 276

A. The director may establish a ~~pilot~~ program to measure and determine the effectiveness of the following in improving customer service, operations, capital cost reductions and security of information transmitted to the department:

1. The electronic transmission and recording of vehicle CERTIFICATE OF title and registration information between the department and an authorized third party or an authorized third party electronic service provider for the purpose of titling and registering vehicles entering this state from another jurisdiction in a cost-effective manner in lieu of the submission and maintenance of paper documents.

2. The electronic transmission and recording of driver license applications between the department and another state through an authorized third party or authorized third party electronic service provider for the purpose of issuing driver licenses in a cost-effective manner in lieu of the submission and maintenance of paper documents as provided in this chapter.

3. The electronic transmission and recording of vehicle accident data between the department, other states and law enforcement agencies within this state or within another state through an authorized third party or authorized third party electronic service provider.

B. In the process of establishing the system, the director shall:

1. Research methods the department and authorized third parties or authorized third party electronic service providers may use to exchange and maintain information relating to driver licenses and vehicle CERTIFICATES OF title and registration without submitting or receiving a paper document.

Chs. 263 and 276

2. Develop methods an authorized third party or an authorized third party electronic service provider may use to electronically submit updated information relating to the CERTIFICATE OF title and registration record or the driver license record.

C. The director may limit the number of other states and authorized third party electronic service providers participating in the system. ~~After the system has been operating for twelve months,~~ If the director determines the system is successful, the director may expand the system.

D. Chapter 2, article 5 of this title applies to certificates of title and driver license information under the system established pursuant to this section.

EXPLANATION OF BLEND
SECTION 28-6501

Laws 2016, Chapters 174 and 182

Laws 2016, Ch. 174, section 4	Effective August 6, 2016
Laws 2016, Ch. 182, section 4	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 174 and Ch. 182 text changes to section 28-6501 are blended in the form shown on the following page.

BLEND OF SECTION 28-6501
Laws 2016, Chapters 174 and 182

28-6501. Definition of highway user revenues

In this article, unless the context otherwise requires or except as otherwise provided by statute, "highway user revenues" means all monies received in this state from licenses, taxes, penalties, interest and fees authorized by the following:

1. Chapters 2, 7, 8 and 15 of this title, except for:

(a) The special plate administration fees prescribed in sections 28-2404, 28-2412 through ~~28-2455~~ 28-2459 and 28-2514.

Chs. 174 and 182

(b) The donations prescribed in sections 28-2404, 28-2412 through 28-2415, 28-2417 through ~~28-2455~~ 28-2459, 28-2473, 28-2474 and 28-2475.

2. Section 28-1177.

3. Chapters 10 and 11 of this title.

4. Chapter 16, articles 1, 2 and 4 of this title, except as provided in sections 28-5926 and 28-5927.

EXPLANATION OF BLEND
SECTION 28-6547

Laws 2016, Chapters 121 and 372

Laws 2016, Ch. 121, section 2	Effective August 6, 2016
Laws 2016, Ch. 372, section 7	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 121 and Ch. 372 text changes to section 28-6547 are blended in the form shown on the following pages.

BLEND OF SECTION 28-6547
Laws 2016, Chapters 121 and 372

28-6547. Safety enforcement and transportation infrastructure fund; subaccounts; exemption from lapsing

A. The safety enforcement and transportation infrastructure fund is established. The fund consists of monies deposited pursuant to sections 28-2321, 28-2324, 28-2325, 28-5474, 28-5739, 28-5863 and 28-5864. The department shall administer the fund.

Ch. 121

B. THE DEPARTMENT OF TRANSPORTATION SUBACCOUNT IS ESTABLISHED WITHIN THE SAFETY ENFORCEMENT AND TRANSPORTATION INFRASTRUCTURE FUND CONSISTING OF FIFTY-FIVE PERCENT OF THE MONIES THAT ARE DEPOSITED INTO THE FUND EACH MONTH. THE DEPARTMENT OF PUBLIC SAFETY SUBACCOUNT IS ESTABLISHED WITHIN THE SAFETY ENFORCEMENT AND TRANSPORTATION INFRASTRUCTURE FUND CONSISTING OF FORTY-FIVE PERCENT OF THE MONIES THAT ARE DEPOSITED INTO THE FUND EACH MONTH. MONIES IN THE SUBACCOUNTS ARE SUBJECT TO LEGISLATIVE APPROPRIATION.

~~B.~~ C. ~~Subject to legislative appropriation,~~ Monies in the fund shall be spent on the following:

1. Enforcement of vehicle safety requirements by the department of public safety and the department of transportation within twenty-five miles of the border between Arizona and Mexico.

2. Costs related to the procurement of electronic equipment, automated systems or improvements to existing electronic equipment or automated systems for relieving vehicle congestion at ports of entry on the border between this state and Mexico.

3. Construction, maintenance and upgrades of transportation facilities, including roads, streets and highways, approved by the board within twenty-five miles of the border between Arizona and Mexico.

4. As approved by the board, construction and maintenance of transportation facilities in the CANAMEX high priority corridor as defined in section 332 of the national highway system designation act of 1995 (P.L. 104-59; 109 Stat. 596-597).

5. Activities of the department that include the collection of transportation and trade data in the United States and Mexico for the purposes of constructing transportation facilities, improving public safety, improving truck processing time and relieving congestion at ports of entry on the border between Arizona and Mexico. The department may enter into an agreement with the Arizona-Mexico commission and provide funding to the commission for the purposes contained in this paragraph.

6. A commitment or investment necessary for the department or another agency of this state to obtain federal monies that are designated for expenditure pursuant to this section.

~~C.~~ D. If the department of transportation determines that activities proposed by the Arizona department of homeland security may improve traffic safety in this state, the department of transportation may enter into an agreement with, and provide, subject to legislative appropriation, ~~fund~~ DEPARTMENT OF TRANSPORTATION SUBACCOUNT monies to the Arizona department of homeland security for the purposes contained in this subsection.

Ch. 121

~~D. If the department determines that activities proposed by the Arizona international development authority for planning, development and construction of transportation facilities on the border between Arizona and Mexico may improve traffic safety in this state, the department may enter into an agreement with, and provide, subject to legislative appropriation, fund monies to the Arizona international development authority for the purposes contained in this subsection.~~

Ch. 372

E. On notice from the department, 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.

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

EXPLANATION OF BLEND
SECTION 28-6991

Laws 2016, Chapters 66, 174 and 182

Laws 2016, Ch. 66, section 1	Effective August 6, 2016
Laws 2016, Ch. 174, section 5	Effective August 6, 2016
Laws 2016, Ch. 182, section 5	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 66, Ch. 174 and Ch. 182 text changes to section 28-6991 are blended in the form shown on the following pages.

BLEND OF SECTION 28-6991
Laws 2016, Chapters 66, 174 and 182

28-6991. State highway fund; sources

A state highway fund is established that consists of:

1. Monies distributed from the Arizona highway user revenue fund pursuant to chapter 18 of this title.

2. Monies appropriated by the legislature.

3. Monies received from donations for the construction, improvement or maintenance of state highways or bridges. These monies shall be credited to a special account and shall be spent only for the purpose indicated by the donor.

4. Monies received from counties under cooperative agreements, including proceeds from bond issues. The state treasurer shall deposit these monies to the credit of the fund in a special account on delivery to the treasurer of a concise written agreement between the department and the county stating the purposes for which the monies are surrendered by the county, and these monies shall be spent only as stated in the agreement.

5. Monies received from the United States under an act of Congress to provide aid for the construction of rural post roads, but monies received on projects for which the monies necessary to be provided by this state are wholly derived from sources mentioned in paragraphs 2 and 3 of this section shall be allotted by the department and deposited by the state treasurer in the special account within the fund established for each project. On completion of the project, on the satisfaction and discharge in full of all obligations of any kind created and on request of the department, the treasurer shall transfer the unexpended balance in the special account for the project into the state highway fund, and the unexpended balance and any further federal aid thereafter received on account of the project may be spent under the general provisions of this title.

6. Monies in the custody of an officer or agent of this state from any source that is to be used for the construction, improvement or maintenance of state highways or bridges.

7. Monies deposited in the state general fund and arising from the disposal of state personal property belonging to the department.

8. Receipts from the sale or disposal of any or all other property held by the department and purchased with state highway monies.

9. Monies generated pursuant to section 28-410.

10. Monies distributed pursuant to section 28-5808, subsection B, paragraph 2, subdivision (d).

11. Monies deposited pursuant to sections 28-1143, 28-2353 and 28-3003.

12. Except as provided in section 28-5101, the following monies:

(a) Monies deposited pursuant to section 28-2206 and section 28-5808, subsection B, paragraph 2, subdivision (e).

(b) One dollar of each registration fee and one dollar of each title fee collected pursuant to section 28-2003.

(c) Two dollars of each late registration penalty collected by the director pursuant to section 28-2162.

(d) The air quality compliance fee collected pursuant to section 49-542.

(e) The special plate administration fees collected pursuant to sections 28-2404, 28-2412 through 28-2416, 28-2416.01, 28-2417 through ~~28-2455~~ 28-2459 and 28-2514.

Chs. 174 and 182

(f) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156 if the director is the registering officer.

13. Monies deposited pursuant to chapter 5, article 5 of this title.

14. Donations received pursuant to section 28-2269.

15. Dealer and registration monies collected pursuant to section 28-4304.

16. Abandoned vehicle administration monies deposited pursuant to section 28-4804.

17. Monies deposited pursuant to section 28-710, subsection D, paragraph 2.

18. Monies deposited pursuant to section 28-2065.

19. Monies deposited pursuant to section 28-7311.

20. Monies deposited pursuant to section 28-7059.

21. Monies deposited pursuant to section 28-1105.

22. Monies deposited pursuant to section 28-2448, subsection D.

23. Monies deposited pursuant to section 28-3415.

24. Monies deposited pursuant to section 28-3002, subsection A, paragraph 14.

Ch. 66

25. MONIES DEPOSITED PURSUANT TO SECTION 28-7316.

EXPLANATION OF BLEND
SECTION 28-6993

Laws 2016, Chapters 174 and 182

Laws 2016, Ch. 174, section 6	Effective August 6, 2016
Laws 2016, Ch. 182, section 6	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 174 and Ch. 182 text changes to section 28-6993 are blended in the form shown on the following pages.

BLEND OF SECTION 28-6993
Laws 2016, Chapters 174 and 182

28-6993. State highway fund; authorized uses

A. Except as provided in subsection B of this section and section 28-6538, the state highway fund shall be used for any of the following purposes in strict conformity with and subject to the budget as provided by this section and by sections 28-6997 through 28-7003:

1. To pay salaries, wages, necessary travel expenses and other expenses of officers and employees of the department and the incidental office expenses, including telegraph, telephone, postal and express charges and printing, stationery and advertising expenses.

2. To pay for both:

(a) Equipment, supplies, machines, tools, department offices and laboratories established by the department.

(b) The construction and repair of buildings or yards of the department.

3. To pay the cost of both:

(a) Engineering, construction, improvement and maintenance of state highways and parts of highways forming state routes.

(b) Highways under cooperative agreements with the United States that are entered into pursuant to this chapter and an act of Congress providing for the construction of rural post roads.

4. To pay land damages incurred by reason of establishing, opening, altering, relocating, widening or abandoning portions of a state route or state highway.

5. To reimburse the department revolving account.

6. To pay premiums on authorized indemnity bonds and on compensation insurance under the workers' compensation act.

7. To defray lawful expenses and costs required to administer and carry out the intent, purposes and provisions of this title, including repayment of obligations entered into pursuant to this title, payment of interest on obligations entered into pursuant to this title, repayment of loans and other financial assistance, including repayment of advances and interest on advances made to the department pursuant to section 28-7677, and payment of all other obligations and expenses of the board and department pursuant to chapter 21 of this title.

8. To pay lawful bills and charges incurred by the state engineer.

9. To acquire, construct or improve entry roads to state parks or roads within state parks.

10. To acquire, construct or improve entry roads to state prisons.

11. To pay the cost of relocating a utility facility pursuant to section 28-7156.

12. For the purposes provided in subsections C, D and E of this section and sections 28-1143, 28-2353 and 28-3003.

13. To pay the cost of issuing an Arizona centennial special plate pursuant to section 28-2448.

B. For each fiscal year, the department of transportation shall allocate and transfer monies in the state highway fund to the department of public safety for funding a portion of highway patrol costs in eight installments in each of the first eight months of a fiscal year that do not exceed ten million dollars.

C. Subject to legislative appropriation, the department may use the monies in the state highway fund as prescribed in section 28-6991, paragraph 12 to carry out the duties imposed by this title for registration or titling of vehicles, to operate joint title, registration and driver licensing offices, to cover the administrative costs of issuing the air quality compliance sticker, modifying the year validating tab and issuing the windshield sticker and to cover expenses and costs in issuing special plates pursuant to sections 28-2404, 28-2412 through ~~28-2455~~ 28-2459 and 28-2514.

Chs. 174 and 182

D. The department shall use monies deposited in the state highway fund pursuant to chapter 5, article 5 of this title only as prescribed by that article.

E. Monies deposited in the state highway fund pursuant to section 28-2269 shall be used only as prescribed by that section.

F. Monies deposited in the state highway fund pursuant to section 28-710, subsection D, paragraph 2 shall only be used for state highway work zone traffic control devices.

G. The department may exchange monies distributed to the state highway fund pursuant to section 28-6538, subsection A, paragraph 1 for local government surface transportation program federal monies suballocated to councils of government and metropolitan planning organizations if the local government scheduled to receive the federal monies concurs. An exchange of state highway fund monies pursuant to this subsection shall be in an amount that is at least equal to ninety percent of the federal obligation authority that exists in the project for which the exchange is proposed.

EXPLANATION OF BLEND
SECTION 28-9501

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 7	Effective August 6, 2016
Laws 2016, Ch. 232, section 40	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 171 and Ch. 232 text changes to section 28-9501 are blended in the form shown on the following page.

BLEND OF SECTION 28-9501
Laws 2016, Chapters 171 and 232

28-9501. Definitions

In this chapter, unless the context otherwise requires:

~~1. "Commercial device" means any measuring device that is used to determine the direct cost of things or used to establish a fee for service if the cost is based on measure.~~

~~2.~~ 1. "Taxi meter" means a ~~commercial~~ device that ~~meets the requirements of the national institute of standards and technology handbook 44 as prescribed by section 3-3413~~ AUTOMATICALLY CALCULATES AT A PREDETERMINED RATE THE CHARGE FOR THE HIRE OF A VEHICLE AND THAT INDICATES THE CHARGE.

Chs. 171 and 232

2. "VEHICLE FOR HIRE" MEANS A TAXI, LIVERY VEHICLE OR LIMOUSINE.

3. "VEHICLE FOR HIRE COMPANY" MEANS A COMPANY THAT OFFERS LOCAL TRANSPORTATION THROUGH USE OF A TAXI, LIVERY VEHICLE OR LIMOUSINE OR A COMBINATION OF TAXIS, LIVERY VEHICLES OR LIMOUSINES.

EXPLANATION OF BLEND
SECTION 28-9502

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 8	Effective August 6, 2016
Laws 2016, Ch. 232, section 41	Effective August 6, 2016

Explanation

Since the Ch. 171 version includes all of the changes made by the Ch. 232 version, the Laws 2016, Ch. 171 amendment of section 28-9502 is the blend of both the Laws 2016, Ch. 171 and Ch. 232 versions.

BLEND OF SECTION 28-9502
Laws 2016, Chapters 171 and 232

28-9502. Powers and duties

A. The department shall~~:~~

~~1.~~ adopt any rules necessary to carry out this chapter and adopt reasonable rules for the enforcement of this chapter. These rules have the force and effect of law and shall be adopted pursuant to title 41, chapter 6. ~~In adopting these rules, the director shall consider, as far as is practicable, the requirements established by other states and by authority of the United States, except that rules may not be made in conflict with this chapter.~~

B. THE DEPARTMENT MAY:

~~2.~~ 1. Investigate complaints made to the department concerning violations of this chapter and, on its own initiative, conduct investigations it deems appropriate in order to develop information relating to prevailing procedures [~~in~~] ~~commercial quantity~~ [FOR] TAXI METER RATE determination and possible violations of this chapter and to promote accuracy in the determination and representation of quantity in ~~commercial transactions~~ TAXI METER RATES. **Ch. 171** **Chs. 171 and 232**

~~3.~~ 2. Inspect and test taxi meters BY A RANDOM SYSTEMATIC METHOD DETERMINED BY THE DIRECTOR OR IN RESPONSE TO A COMPLAINT BY THE PUBLIC to determine whether the taxi meters meet the requirements ~~of the national institute of standards and technology handbook 44 [as]~~ prescribed by ~~section 3-3413~~ THE DEPARTMENT BY RULE. **Ch. 171**

~~4.~~ 3. Apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

~~5. Report to the governor on or before August 1 of each year and at such other times as may be required on the work accomplished under this chapter.~~

~~6.~~ 4. Subject to title 41, chapter 4, article 4, employ such personnel as needed to assist in administering this chapter.

~~B. Testing and inspection conducted pursuant to this chapter shall be done, to the extent practicable, without prior notice, by a random systematic method determined by the director or in response to a complaint by the public.~~

C. During the course of an investigation or an enforcement action by the department, information regarding the complainant is confidential and is exempt from title 39, chapter 1 unless the complainant authorizes the information to be public.

EXPLANATION OF BLEND
SECTION 28-9503

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 9 — Effective August 6, 2016

Laws 2016, Ch. 232, section 42 — Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 171 version and Ch. 232 text changes to section 28-9503 are blended in the form shown on the following pages.

BLEND OF SECTION 28-9503
Laws 2016, Chapters 171 and 232

28-9503. Vehicle for hire company permits; fees; violation; classification

~~A. A person may not use a commercial device unless the device is licensed as provided in this chapter.~~

~~B. A license shall be obtained annually from the department on forms prescribed and furnished by the department. The fee, as determined by the director by rule, shall be submitted with the prescribed form. A license shall be obtained not later than thirty days following the first day of commercial use for original installations. If the ownership of a licensed device is transferred, the ownership of the license may be transferred. On transfer of a license, new licensees shall notify the department of the licensee's name and address and the location of the device.~~

Chs. 171 and 232

A. A VEHICLE FOR HIRE COMPANY MAY NOT OPERATE IN THIS STATE UNLESS THE VEHICLE FOR HIRE COMPANY IS ISSUED A PERMIT BY THE DEPARTMENT. THE VEHICLE FOR HIRE COMPANY MAY APPLY TO THE DEPARTMENT ON FORMS PRESCRIBED BY THE DEPARTMENT. THE PERMIT IS VALID FOR THREE YEARS. THE DEPARTMENT SHALL CHARGE AND COLLECT AN APPLICATION FEE OF TWENTY-FOUR DOLLARS PER VEHICLE THAT IS USED AS A TAXI BY THE VEHICLE FOR HIRE COMPANY AT THE TIME OF APPLICATION, NOT TO EXCEED A TOTAL OF ONE THOUSAND DOLLARS PER APPLICANT.

B. THE DEPARTMENT SHALL ISSUE A PERMIT TO AN APPLICANT THAT MEETS THE REQUIREMENTS OF THIS ARTICLE.

C. A VEHICLE FOR HIRE COMPANY SHALL MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THIS STATE.

~~C.~~ D. If a fare is based on time or mileage or both time and mileage, a taxi shall have a ~~commercial device and shall obtain a license as prescribed by the department~~ TAXI METER, except that if the service offered by the taxi is a prearranged ground transportation service as prescribed in

Ch. 232 / Ch. 171

section 28-141 for a predetermined fare, ~~a~~ THE taxi is not required to use ~~a [commercial device]~~ THE [TAXI METER].

Chs. 171 and 232

~~D. The department may not issue a license for a taxi, livery vehicle or limousine unless the taxi, livery vehicle or limousine meets the requirements for both of the following:~~

~~1. Motor vehicle licensing as prescribed by the department.~~

~~2. Motor vehicle insurance as prescribed by section 28-4033.~~

Chs. 171 and 232

E. The department shall revoke a ~~license~~ PERMIT if the ~~taxi, livery vehicle or limousine~~ VEHICLE FOR HIRE COMPANY fails to maintain the requirements for either of the following:

1. Motor vehicle licensing as prescribed by the department.
2. Motor vehicle insurance as prescribed by section 28-4033.

F. A ~~taxi or livery~~ vehicle FOR HIRE shall have a ~~license~~ COPY OF THE PERMIT issued TO THE VEHICLE FOR HIRE COMPANY under this chapter ~~posted on the outside of the rear window as required by the department. A limousine shall carry a license issued under this chapter~~ inside the vehicle at all times.

Chs. 171 and 232

G. A taxi that is ~~licensed~~ ISSUED A PERMIT by the department and that offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as prescribed in section 28-141 for a predetermined fare is not required to ~~be additionally licensed~~ HAVE AN ADDITIONAL PERMIT as a livery vehicle.

H. A person or the person's agent who knowingly files with the department any notice, statement or other document required under this section that is false or that contains any material misstatement of fact is guilty of a class 2 misdemeanor.

EXPLANATION OF BLEND
SECTION 28-9506

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 10	Effective August 6, 2016
Laws 2016, Ch. 232, section 43	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 171 and Ch. 232 text changes to section 28-9506 are blended in the form shown on the following page.

BLEND OF SECTION 28-9506
Laws 2016, Chapters 171 and 232

28-9506. Taxi and livery vehicle signage

A. A taxi or livery vehicle shall display ~~interior signage that contains~~ ALL OF THE FOLLOWING INFORMATION EITHER ON AN INTERIOR SIGN THAT IS READILY VISIBLE AND THAT IS EITHER IN A PRINT OR AN ELECTRONIC FORMAT OR ON A DIGITAL NETWORK OR SOFTWARE APPLICATION:

1. The ~~licensee's~~ PERMITTEE'S business name and address. ~~and that is all of the following:~~

~~1. Permanent.~~

~~2. In letters at least one-half inch in height.~~

~~3. Readily visible.~~

~~4.~~ 2. ~~Accurately representative~~ AN ACCURATE REPRESENTATION of all fares and the fare computation method.

Chs. 171 and 232

~~B.~~ 3. ~~A taxi or livery vehicle shall display interior signage that contains~~ The driver's name ~~and is readily visible to passengers~~.

~~C.~~ B. AT A MINIMUM, a taxi is required to display READILY VISIBLE exterior ~~signage~~ TRADE DRESS AS DEFINED IN SECTION 28-9551 that contains the ~~licensee's business name and telephone number, that contains the~~ word "taxi" or "cab". ~~and that is all of the following:~~

~~1. Permanent.~~

~~2. In letters at least three inches in height.~~

~~3. Readily visible and a minimum of one inch in height for fare information.~~

~~4. Accurately representative of all fares and the fare computation method.~~

EXPLANATION OF BLEND
SECTION 28-9521

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 11	Effective August 6, 2016
Laws 2016, Ch. 232, section 45	Effective August 6, 2016

Explanation

Since the Ch. 232 version includes all of the changes made by the Ch. 171 version, the Laws 2016, Ch. 232 amendment of section 28-9521 is the blend of both the Laws 2016, Ch. 171 and Ch. 232 versions.

BLEND OF SECTION 28-9521
Laws 2016, Chapters 171 and 232

28-9521. Unlawful use of vehicle for hire; violation; classification

A. When any ~~commercial device~~ VEHICLE FOR HIRE specified in this chapter is in commercial use and a valid ~~license for the device~~ PERMIT has not been procured by the ~~owner, the owner's agent or the operator of the device~~ VEHICLE FOR HIRE COMPANY, the department, after giving notice of the ~~licensing~~ PERMIT requirements to the ~~owner, the owner's agent or the operator~~ VEHICLE FOR HIRE COMPANY, shall prohibit the further commercial use of the ~~unlicensed device~~ VEHICLE until the proper ~~license~~ PERMIT has been issued. ~~The department may employ and attach to the device such forms, notices or security seals as it considers necessary to prevent the continued unauthorized use of the device.~~

~~B. A registered service representative may also:~~

~~1. With approval of the department, remove an official rejection tag placed on a commercial device.~~

~~2. Place in service, until an official examination can be made, a commercial device that has been officially rejected or placed out of service.~~

~~3. Place in service, until an official examination can be made, a commercial device for which a commercial device application has been completed and submitted to the department.~~

Chs. 171 and 232

~~C.~~ B. The owner of any business who has not applied for and has not been issued a ~~license~~ PERMIT BY THE DEPARTMENT for the right to do business involving the use of a ~~commercial device by the department~~ VEHICLE FOR HIRE and who is found ~~selling or [offering] for sale or delivering or distributing~~ [OFFERING] VEHICLE FOR HIRE SERVICES to a consumer is guilty of a class 2 misdemeanor. ~~, and the department shall confiscate and seize the commercial device or any other such measuring device used by the business for the sale, delivery or distribution as evidence.~~ Ch. 232

~~D. The director and any other authorized personnel are not liable to the owner or any other persons, firms, partnerships, corporations, trusts or agencies for damages, directly or indirectly, caused by or resulting from the seizure.~~

~~E.~~ C. If a ~~commercial device licensed pursuant to this chapter~~ VEHICLE FOR HIRE is used contrary to any provision of this chapter or any rule adopted pursuant to this chapter, the department, in addition to any other penalty imposed by this chapter, shall suspend, revoke or refuse to renew the ~~license~~ PERMIT [OF THE VEHICLE FOR HIRE COMPANY]. Ch. 232

EXPLANATION OF BLEND
SECTION 28-9522

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 12	Effective August 6, 2016
Laws 2016, Ch. 232, section 46	Effective August 6, 2016

Explanation

Since the Ch. 171 version includes all of the changes made by the Ch. 232 version, the Laws 2016, Ch. 171 amendment of section 28-9522 is the blend of both the Laws 2016, Ch. 171 and Ch. 232 versions.

BLEND OF SECTION 28-9522
Laws 2016, Chapters 171 and 232

28-9522. Revocation or suspension of permits; procedure; judicial review

A. Except as otherwise provided by this section, any proceeding to revoke or suspend a ~~license~~ PERMIT issued pursuant to this chapter shall be conducted in accordance with title 41, chapter 6, article 10.

B. The director may initiate proceedings for revocation or suspension of a ~~license~~ PERMIT issued pursuant to this chapter on the director's own motion or on a verified complaint for noncompliance with or a violation of this chapter or of any rule adopted pursuant to this chapter.

Chs. 171 and 232

C. If, after having been served with the notice of hearing as provided for in title 41, chapter 6, article 10, the ~~licensee~~ PERMITTEE fails to appear at the hearing and defend, the department shall proceed to hear evidence against the ~~licensee~~ PERMITTEE and shall enter an order as justified by the evidence. The order is final unless the ~~licensee~~ PERMITTEE petitions for a review as provided in title 41, chapter 6, article 10.

Ch. 171

D. At all hearings, the attorney general ~~of this state~~, an assistant attorney general or a special assistant designated by the attorney general shall appear and represent the department.

E. Except as provided in section 41-1092.08, subsection H, any final administrative decision made pursuant to this chapter is subject to judicial review pursuant to title 12, chapter 7, article 6.

EXPLANATION OF BLEND
SECTION 28-9523

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 13	Effective August 6, 2016
Laws 2016, Ch. 232, section 47	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 171 and Ch. 232 text changes to section 28-9523 are blended in the form shown on the following pages.

BLEND OF SECTION 28-9523
Laws 2016, Chapters 171 and 232

28-9523. Violations; classification; jurisdiction

A. A person is guilty of a class 1 misdemeanor who:

1. Knowingly hinders, interferes with or obstructs in any way the director or any of the director's agents or inspectors in entering the premises where a ~~commercial device~~ TAXI METER may be kept for inspecting or testing or in the performance of the ~~director's~~ OFFICIAL DUTIES OF THE DIRECTOR or the director's ~~agent's~~ AGENTS or ~~inspector's official duties~~ INSPECTORS.

2. Impersonates in any way the director or any of the director's agents or inspectors by the use of the director's seal or a counterfeit of the director's seal or in any other manner.

3. Uses, or has in possession for the purpose of using for ~~any~~ A commercial purpose, ~~sells,~~ offers or exposes for sale or hire, or has in possession for the purpose of selling or hiring an incorrect ~~weight or measure or any device or instrument~~ TAXI METER used or calculated to falsify ~~any weight or measure~~ THE ACCURACY OF THE TAXI METER.

~~4. Sells, or offers or exposes for sale, less than the quantity the person represents of any commodity, thing or service.~~

~~5. Takes more than the quantity the person represents of any commodity, thing or service, when, as buyer, the person furnishes the weight or measure by means of which the amount of the commodity, thing or service is determined.~~

Chs. 171 and 232

B. A person is guilty of a class 2 misdemeanor who:

~~1. Uses, or has in possession for the purpose of current use for any commercial purpose, a weight or measure that does not bear a seal or mark of approval based on an inspection and test, unless the weight or measure has been exempted from testing by order of the department, or unless the device has been placed in service as provided in this chapter. Any person or persons making use of a commercial device that is subject to this chapter shall report to the director or the director's representatives, in writing, the number and location of the commercial device and shall promptly report the installation of any new commercial device.~~

~~2. Disposes of any rejected or condemned weight or measure in a manner contrary to law or rule.~~

~~3. Removes from any weight or measure, contrary to law or rule, any tag, seal or mark placed on the weight or measure by the appropriate authority pursuant to this chapter.~~

~~4. Keeps for the purpose of selling, advertising or offering or exposing for sale or sells any commodity, thing or service in a condition or manner contrary to law or rule.~~

~~5.~~ 1. Uses ~~in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure~~ A TAXI METER that is so positioned that its indications cannot be accurately read and the ~~weighing,~~ metering~~, measuring or counting~~ operation cannot be observed from some position that may reasonably be assumed by a customer.

~~6.~~ 2. Violates this chapter or rules adopted under this chapter. A continuing violation may be deemed to be a separate violation each day during which the violation is committed for the purpose of imposing a fine.

C. The provisions of this section are in addition to and not in limitation of any other provision of law.

Chs. 171 and 232

D. The attorney general and the county attorney ~~shall~~ have concurrent jurisdiction to prosecute violations of this chapter.

EXPLANATION OF BLEND
SECTION 28-9524

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 14	Effective August 6, 2016
Laws 2016, Ch. 232, section 48	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 171 and Ch. 232 text changes to section 28-9524 are blended in the form shown on the following page.

BLEND OF SECTION 28-9524
Laws 2016, Chapters 171 and 232

28-9524. Taxi meter; presumptive evidence of use

Chs. 171 and 232

When a ~~weight, measure, meter, counter or commercial device~~ TAXI METER is in or about any place in which or from which ~~buying or selling~~ A VEHICLE FOR HIRE TRANSACTION is commonly carried on, there ~~shall be~~ IS a rebuttable presumption that the ~~weight, measure, meter, counter or commercial device~~ TAXI METER is regularly used for the business purpose of the place.

EXPLANATION OF BLEND
SECTION 28-9525

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 15	Effective August 6, 2016
Laws 2016, Ch. 232, section 49	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 171 and Ch. 232 text changes to section 28-9525 are blended in the form shown on the following page.

The Laws 2016, Ch. 232 version of section 28-9525, subsection A added a period after "location". The Ch. 171 version retained the period after "~~period~~". Since this would not produce a substantive change, the blend version reflects the Ch. 171 version.

BLEND OF SECTION 28-9525
Laws 2016, Chapters 171 and 232

28-9525. Civil penalties

A. A person who violates this chapter, any rule of the department or any ~~license~~ PERMIT requirement is subject to a civil penalty imposed by the director. A person who violates this chapter, any rule of the department or any ~~license~~ PERMIT requirement may request a hearing to review a civil penalty imposed under this section. The department shall conduct the hearing in accordance with title 41, chapter 6, article 10. ~~Except as prescribed in subsection B of this section,~~ The civil penalty may not exceed one thousand FIVE HUNDRED dollars for each infraction ~~or more than ten thousand dollars for any thirty-day period~~ at each business location ~~or for each public weighmaster, provided that no person shall be assessed more than fifty thousand dollars per thirty-day period~~.

Chs. 171 and 232

Ch. 171

~~B. The director may double the maximum civil penalty if any of the following applies:~~

~~1. A commercial device is found to be in violation with results that favor the retailer at more than twice the allowable tolerance as stated in national institute of standards and technology handbook 44.~~

~~2. A package is found to exceed the maximum allowable variation for the labeled quantity allowed in national institute of standards and technology handbook 133 or the average error of the lot is twice the sample error limit in favor of the retailer.~~

~~3. A maximum civil penalty has been imposed on a retailer for a price posting or price verification violation and in a reinspection, if conducted within ninety days, the failure rate is ten percent or more and at least one error is in favor of the retailer.~~

Chs. 171 and 232

~~C.~~ B. The attorney general shall bring actions to recover civil penalties pursuant to this section in the superior court in the county in which the violation occurred or in a county where the agency has its office. All monies derived from civil penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

EXPLANATION OF BLEND
SECTION 28-9526

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 16	Effective August 6, 2016
Laws 2016, Ch. 232, section 50	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 171 and Ch. 232 text changes to section 28-9526 are blended in the form shown on the following page.

BLEND OF SECTION 28-9526
Laws 2016, Chapters 171 and 232

28-9526. Delinquent civil penalties and fees

In addition to any other penalty, if a civil penalty or any fee due pursuant to this chapter has not been paid within thirty days after the due date, the civil penalty or fee is delinquent and the department may refuse to issue a ~~license~~ PERMIT or may revoke a ~~license~~ PERMIT pursuant to this chapter until the civil penalty or fee is paid in full.

Chs. 171 and 232

EXPLANATION OF BLEND
SECTION 28-9527

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 17	Effective August 6, 2016
Laws 2016, Ch. 232, section 39	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 171 and Ch. 232 language for section 28-9527 is blended in the form shown on the following page.

BLEND OF SECTION 28-9527
Laws 2016, Chapters 171 and 232

28-9527. Transaction privilege tax prohibited

Chs. 171 and 232

A VEHICLE FOR HIRE OWNER, COMPANY OR DRIVER THAT HAS A PERMIT ISSUED PURSUANT TO ARTICLE 1 OF THIS CHAPTER IS EXEMPT FROM TRANSACTION PRIVILEGE TAX PURSUANT TO SECTIONS 42-5062 AND 42-6004 ON INCOME DERIVED FROM TRANSPORTING PERSONS FOR HIRE.

EXPLANATION OF BLEND
SECTION 28-9551

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 18	Effective August 6, 2016
Laws 2016, Ch. 232, section 51	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 171 and Ch. 232 text changes to section 28-9551 are blended in the form shown on the following pages.

BLEND OF SECTION 28-9551
Laws 2016, Chapters 171 and 232

28-9551. Definitions

In this article, unless the context otherwise requires:

1. "Digital network or software application" means any online-enabled application, software, website or system that is offered or used by a transportation network company and that enables a potential passenger to arrange a ride with a transportation network company driver.

~~2. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers, including the driver.~~

~~3. "Livery vehicle" means a motor vehicle that:~~

~~(a) Has a seating capacity not exceeding fifteen passengers, including the driver.~~

~~(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.~~

~~(c) Is available for hire on an exclusive or shared ride basis.~~

~~(d) May do any of the following:~~

~~(i) Operate on a regular route or between specified places.~~

~~(ii) Offer prearranged ground transportation service as defined in section 28-141.~~

Chs. 171 and 232

~~(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.~~

~~4. "Person" means both the plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations.~~

~~5. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that is registered as a taxi in this state or any other state, that provides passenger services and that:~~

~~(a) Does not primarily operate on a regular route or between specified places.~~

~~(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.~~

~~6.~~ 2. "Trade dress" means a removable and distinct logo, insignia or emblem attached to or visible from the exterior of EITHER OF THE FOLLOWING:

(a) A transportation network company vehicle during the performance of transportation network services.

(b) A TAXI WHILE PROVIDING VEHICLE FOR HIRE SERVICES.

~~7.~~ 3. "Transportation network company" means an entity that has been issued a permit pursuant to this article, that operates in this state, that uses a digital network or software application to connect passengers to transportation network services provided by transportation network company drivers and that may but is not deemed to own, operate or control a personal motor vehicle of a transportation network company driver. Transportation network company does not include the following:

(a) This state or a county, city, town or political subdivision of this state and any related entity, a nonprofit agency or any other public body that coordinates, operates, promotes or sponsors public transportation~~,~~ OR carpool or vanpool services.

Chs. 171 and 232

(b) A program that is in place to meet federal air quality standards pursuant to section 49-404.

(c) Any individual, company or activity that meets the requirements of a rental car agent or rental company as defined in section 20-331 if all of the following apply:

(i) Transportation is provided to another person or is arranged by the rental company but provided by another person.

(ii) The route is predetermined.

(iii) Any money exchanged between the provider of the transportation and the recipient does not exceed the cost of providing the transportation.

~~8.~~ 4. "Transportation network company driver" means an individual who receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company and who operates a motor vehicle that is both of the following:

(a) Owned, leased or otherwise authorized for use by the individual.

(b) Used to provide transportation network services.

~~9.~~ 5. "Transportation network company vehicle" means a motor vehicle that meets all of the following:

(a) Has a seating capacity not exceeding eight passengers, including the driver.

(b) Is authorized by a transportation network company.

(c) Is used by a transportation network company driver to provide transportation network services.

~~10.~~ 6. "Transportation network services" means the transportation of a passenger between points chosen by the passenger and arranged with a transportation network company driver through the use of a transportation network company's digital network or software application beginning when a transportation network company driver accepts a request for transportation network services received through the transportation network company's digital network or software application, continuing while the transportation network company driver provides transportation network services in a transportation network company vehicle and ending when the passenger exits the transportation network company vehicle or when the trip is canceled.

EXPLANATION OF BLEND
SECTION 28-9556

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 19	Effective August 6, 2016
Laws 2016, Ch. 232, section 53	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 171 and Ch. 232 text changes to section 28-9556 are blended in the form shown on the following page.

BLEND OF SECTION 28-9556
Laws 2016, Chapters 171 and 232

28-9556. Transportation network services; civil penalty; street hails prohibited; records

A. A transportation network company driver shall accept rides booked and paid for exclusively through a transportation network company's digital network or software application. The department may impose a civil penalty of not more than one thousand five hundred dollars per violation against any transportation network company driver who is found to be soliciting or accepting street hails.

Chs. 171 and 232

~~B. Subsection A of this section does not apply to a transportation network company driver of a transportation network company vehicle insured pursuant to section 28-4038, subsection C.~~

~~C.~~ B. A transportation network company shall maintain individual trip records for at least one year after the date each trip was provided and transportation network company driver records until the one-year anniversary of the date of the driver's activation on the transportation network company's digital network or software application has ended and shall make the records available to the department on request.

EXPLANATION OF BLEND
SECTION 32-101

Laws 2016, Chapters 167, 352 and 371

Laws 2016, Ch. 167, section 1	Effective August 6, 2016
Laws 2016, Ch. 352, section 3	Effective August 6, 2016
Laws 2016, Ch. 371, section 8	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 167, Ch. 352 and Ch. 371 text changes to section 32-101 are blended in the form shown on the following pages.

The Laws 2016, Ch. 352 and Ch. 371 versions of section 32-101 made technical changes in subsection B, paragraphs 7 and 31. The Ch. 167 version struck subsection B, paragraphs 7 and 31. Since this would not produce a substantive change, the blend version reflects the Ch. 167 version.

The Laws 2016, Ch. 167 version of section 32-101 made a technical change in subsection B, paragraph 10. The Ch. 352 and Ch. 371 versions of section 32-101 struck subsection B, paragraph 10. Since this would not produce a substantive change, the blend version reflects the Ch. 352 and Ch. 371 versions.

BLEND OF SECTION 32-101
Laws 2016, Chapters 167, 352 and 371

32-101. Purpose; definitions

A. The purpose of this chapter is to provide for the safety, health and welfare of the public through the promulgation and enforcement of standards of qualification for those individuals WHO ARE registered or certified and seeking registration or certification pursuant to this chapter.

Chs. 167, 352 and 371

B. In this chapter, unless the context otherwise requires:

1. "Advertising" includes business cards, signs or letterhead provided by a person to the public.

2. "Alarm" or "alarm system":

(a) Means any mechanical or electrical device that is designed to emit an audible alarm or transmit a signal or message if activated and that is used to detect an unauthorized entry into a building or other facility or alert other persons of the occurrence of a medical emergency or the commission of an unlawful act against a person or in a building or other facility.

(b) Includes a silent, panic, holdup, robbery, duress, burglary, medical alert or proprietor alarm that requires emergency personnel to respond.

(c) Does not include a telephone call diverter or a system that is designed to report environmental and other occurrences and that is not designed or used to alert or cause other persons to alert public safety personnel.

3. "Alarm agent":

(a) Means a person, whether an employee, an independent contractor or otherwise, who acts on behalf of an alarm business and who tests, maintains, services, repairs, sells, rents, leases or installs alarm systems.

(b) Does not include any action by a person that:

(i) Is performed in connection with an alarm system located on the person's own property or the property of the person's employer.

(ii) Is acting on behalf of an alarm business whose work duties do not include visiting the location where an alarm system installation occurs.

4. "Alarm business":

(a) Means any person who, either alone or through a third party, engages in the business of either of the following:

(i) Providing alarm monitoring services.

(ii) Selling, leasing, renting, maintaining, repairing or installing a nonproprietor alarm system or service.

(b) Does not include any of the following:

(i) A person or company that purchases, rents or uses an alarm that is affixed to a motor vehicle.

(ii) A person who owns or conducts a business of selling, leasing, renting, installing, maintaining or monitoring an alarm that is affixed to a motor vehicle.

(iii) A person who installs a nonmonitored proprietor alarm for a business that the person owns, is employed by or manages.

(iv) The installation or monitoring of fire alarm systems.

(v) An alarm system that is operated by a city or town.

5. "Alarm subscriber" means any person who:

(a) Leases, rents or purchases any monitored alarm system or service from an alarm business.

(b) Leases or rents an alarm system.

(c) Contracts with an alarm business for alarm monitoring, installation, repair or maintenance services.

6. "Architect" means a person who, by reason of knowledge of the mathematical and physical sciences and the principles of architecture and architectural engineering acquired by professional education and practical experience, is qualified to engage in the practice of architecture ~~as attested by registration as an architect~~ AND IS REGISTERED AS AN ARCHITECT PURSUANT TO THIS CHAPTER.

Ch. 167 ~~7. "Architect-in-training" means a candidate for registration as a professional architect who is a graduate of a school approved by the board or who has five years or more of education or experience, or both, in architectural work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the architect-in-training examination.~~

~~8.~~ 7. "Architectural practice" means any professional service or creative work requiring architectural education, training and experience, and the application of the mathematical and physical sciences and the principles of architecture and architectural engineering to such professional services or creative work as consultation, evaluation, design and review of construction for conformance with contract documents and design, in connection with any building, planning or site development. A person shall be deemed to practice or offer to practice architecture who in any manner represents that the person is an architect~~,~~ or is able to perform any architectural service or other services recognized by educational authorities as architecture.

Chs. 167, 352 and 371

Ch. 167, 352 and 371 ~~9. "Assayer" means a person who analyzes metals, ores, minerals[,] or alloys in order to ascertain the quantity of gold or silver or any other substance present in them. A person employed on a full-time basis as an assayer by an employer engaged in the business of developing, mining or treating ores or other minerals shall not be deemed to be engaged in assaying practice for the purposes of this chapter if the person engages in assaying practice exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any assaying services for anyone other than the person's employer.~~

Chs. 352 and 371 ~~10. "Assayer-in-training" means a candidate for registration as a professional assayer who is a graduate of a school and curriculum approved by the board or who has four years or more of education or experience, or both, in assaying work which meets standards specified by the board in its~~

~~rules. In addition, the candidate shall have passed the assayer-in-training examination.~~

~~11. "Assaying practice" means any professional service or work requiring assaying education, training and experience and the application of special knowledge of the mineral sciences to such service or work as consultation and the evaluation of minerals. A person is deemed to practice or offer to practice assaying who in any manner represents that the person is an assayer or is able to perform any assaying service or other services recognized by educational authorities as assaying.~~

Chs. 352 and 371

~~12.~~ 8. "Board" means the state board of technical registration.

~~13. "Certified remediation specialist" means a person who has been certified by the board to perform, supervise and review environmental remediations if the use of a certified remediation specialist is specifically authorized by title 49 and rules adopted pursuant to title 49.~~

~~14.~~ 9. "Controlling person":

(a) Means a person who is designated by an alarm business.

(b) Does not include an alarm agent.

~~15. "Drug laboratory site remediation firm" means a firm that is licensed by the registrar of contractors pursuant to chapter 10 of this title and that performs remediation of residual contamination from the manufacture of methamphetamine, ecstasy or LSD or the storage of chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD. For the purposes of this paragraph:~~

Ch. 352

~~(a) "Ecstasy" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.~~

~~(b) "LSD" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.~~

~~(c) "Methamphetamine" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.~~

~~16.~~ 10. "Engineer" means a person who, by reason of special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design acquired by professional education and practical experience, is qualified to practice engineering ~~as attested by registration as a professional engineer~~ AND IS REGISTERED AS A PROFESSIONAL ENGINEER PURSUANT TO THIS CHAPTER.

Ch. 167

~~17.~~ 11. "Engineering practice" means any professional service or creative work requiring engineering education, training and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, research investigation, evaluation, planning, surveying as defined in paragraph ~~27~~ 20, subdivisions (d) and (e) of this subsection, design, location, development, and review of construction for conformance with contract documents and design, in connection with any public or

Chs. 167, 352 and 371

private utility, structure, building, machine, equipment, process, work or project. Such services and work include plans and designs relating to the location, development, mining and treatment of ore and other minerals. A person shall be deemed to be practicing or offering to practice engineering if the person practices any branch of the profession of engineering, or by verbal claim, sign, advertisement, letterhead, card or any other manner represents that the person is a professional engineer, or is able to perform or does perform any engineering service or other service recognized by educational authorities as engineering. A person employed on a full-time basis as an engineer by an employer engaged in the business of developing, mining and treating ores and other minerals shall not be deemed to be practicing engineering for the purposes of this chapter if the person engages in the practice of engineering exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any engineering services for persons other than the person's employer.

Chs. 167 and 352

~~18.~~ 12. "Engineer-in-training" means a candidate for registration as a professional engineer who is a graduate in an approved engineering curriculum of four years or more of a school approved by the board or who has ~~had~~ four years or more of education or experience, or both, in engineering work ~~which~~ THAT meets standards specified by the board in its rules. In addition, the candidate shall have passed the engineer-in-training examination.

Chs. 167, 352 and 371

~~19.~~ 13. "Firm" means any individual or partnership, corporation or other type of association, including the association of a nonregistrant and a registrant who offers to the public professional services regulated by the board.

~~20.~~ 14. "Geological practice" means any professional service or work requiring geological education, training and experience, and the application of special knowledge of the earth sciences to such professional services as consultation, evaluation of mining properties, petroleum properties and groundwater resources, professional supervision of exploration for mineral natural resources including metallic and nonmetallic ores, petroleum and groundwater, and the geological phases of engineering investigations.

Chs. 167 and 352

~~21.~~ 15. "Geologist" means a person, not of necessity an engineer, who by reason of special knowledge of the earth sciences and the principles and methods of search for and appraisal of mineral or other natural resources acquired by professional education and practical experience is qualified to practice geology as attested by registration as a professional geologist. A person employed on a full-time basis as a geologist by an employer engaged in the business of developing, mining or treating ores and other minerals shall not be deemed to be engaged in geological practice for the purposes of this chapter if the person engages in geological practice exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any geological services for persons other than the person's employer.

~~22.~~ 16. "Geologist-in-training" means a candidate for registration as a professional geologist who is a graduate of a school approved by the

Chs. 167, 352 and 371

board or who has ~~had~~ four years or more of education or experience, or both, in geological work ~~which~~ THAT meets standards specified by the board in its rules. In addition, the candidate shall have passed the geologist-in-training examination.

~~23.~~ 17. "Home inspection" means a visual analysis for the purposes of providing a professional opinion of the building, any reasonably accessible installed components and the operation of the building's systems, including the controls normally operated by the owner, for the following components of a residential building of four units or less:

(a) Heating system.
(b) Cooling system.
(c) Plumbing system.
(d) Electrical system.
(e) Structural components.
(f) Foundation.
(g) Roof covering.
(h) Exterior and interior components.
(i) Site aspects as they affect the building.
(j) Pursuant to rules adopted by the board, swimming pool and spa.

~~24.~~ 18. "Home inspection report" means a written report that is prepared for compensation, that is issued after a home inspection and that clearly describes and identifies the inspected systems, structures and components of a completed dwelling and any visible major defects found to be in need of immediate major repair and any recommendations for additional evaluation by appropriate persons.

~~25.~~ 19. "Home inspector" means an individual who is certified pursuant to this chapter as a home inspector and who engages in the business of performing home inspections and writing home inspection reports.

Ch. 167

~~26. "Home inspector-in-training" means a candidate for certification as a home inspector who has completed a course of study approved by the board and who is participating in a training program that complies with standards recommended by the home inspector rules and standards committee and approved by the board.~~

~~27.~~ 20. "Land surveying practice" means the performance of one or more of the following professional services:

Chs. 167, 352 and 371

(a) Measurement of land to determine the position of any monument or reference point ~~which~~ THAT marks a property line, boundary or corner for the purpose of determining the area or description of the land.

(b) Location, relocation, establishment, reestablishment, setting, resetting or replacing of corner monuments or reference points which identify land boundaries, rights-of-way or easements.

(c) Platting or plotting of lands for the purpose of subdividing.

(d) Measurement by angles, distances and elevations of natural or artificial features in the air, on the surface and immediate subsurface of the earth, within underground workings and on the surface or within bodies of water for the purpose of determining or establishing their location, size, shape, topography, grades, contours or water surface and depths, and the preparation and perpetuation of field note records and maps depicting these features.

(e) Setting, resetting or replacing of points to guide the location of new construction.

~~28.~~ 21. "Land surveyor" means a person who by reason of knowledge of the mathematical and physical sciences, principles of land surveying and evidence gathering acquired by professional education or practical experience, or both, is qualified to practice land surveying as attested by registration as a land surveyor. A person employed on a full-time basis as a land surveyor by an employer engaged in the business of developing, mining or treating ores or other minerals shall not be deemed to be engaged in land surveying practice for purposes of this chapter if the person engages in land surveying practice exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any land surveying services for persons other than the person's employer.

~~29.~~ 22. "Land surveyor-in-training" means a candidate for registration as a professional land surveyor who is a graduate of a school and curriculum approved by the board~~,~~ or who has four years or more of education or experience, or both, in land surveying work ~~which~~ THAT meets standards specified by the board in its rules. In addition, the candidate shall have passed the land surveyor-in-training examination.

Chs. 167, 352 and 371

~~30.~~ 23. "Landscape architect" means a person who, by reason of professional education or practical experience, or both, is qualified to engage in the practice of landscape architecture as attested by registration as a landscape architect.

~~31. "Landscape architect-in-training" means a candidate for registration as a professional landscape architect who is a graduate of a school approved by the board or who has [had] four years or more of education or experience, or both, in landscape architectural work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the landscape architect-in-training examination.~~

Ch. 167

Chs. 167, 352 and 371

~~32.~~ 24. "Landscape architectural practice" means the performance of professional services such as consultations, investigation, reconnaissance, research, planning, design or responsible supervision in connection with the development of land and incidental water areas where, and to the extent that, the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings of and approaches to buildings, structures, facilities or other improvements, natural drainage and the consideration and the determination of inherent problems of the land relating to erosion, wear and tear, light or other hazards. This practice shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined in this paragraph but shall not include the making of cadastral surveys or final land plats for official recording or approval, nor mandatorily include planning for governmental subdivisions.

~~33.~~ 25. "Monitored alarm" means a device that is designed for the detection of an entry on any premises and that if activated generates a notification signal.

Ch. 352

~~34. "On-site supervisor" means the employee of a drug laboratory site remediation firm who is authorized to oversee on-site workers in the performance of their duties.~~

~~35. "On-site worker" means an employee of a drug laboratory site remediation firm who has on-site duties or who handles contaminated materials, chemicals or contaminated equipment.~~

~~36.~~ 26. "Person" means any individual, firm, partnership, corporation, association or other organization.

~~37.~~ 27. "Principal" means an individual who is an officer of the corporation or is designated by a firm as having full authority and responsible charge of the services offered by the firm.

~~38.~~ 28. "Proprietor alarm" means any alarm or alarm system that is owned by an alarm subscriber who has not contracted with an alarm business.

~~39.~~ 29. "Registrant" means a person registered or certified by the board.

~~40.~~ 30. "Registration" means a registration or certification issued by the board.

EXPLANATION OF BLEND
SECTION 32-102

Laws 2016, Chapters 167, 352 and 371

Laws 2016, Ch. 167, section 2	Effective August 6, 2016
Laws 2016, Ch. 352, section 4	Effective August 6, 2016
Laws 2016, Ch. 371, section 9	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 167, Ch. 352 and Ch. 371 text changes to section 32-102 are blended in the form shown on the following page.

BLEND OF SECTION 32-102
Laws 2016, Chapters 167, 352 and 371

32-102. State board of technical registration; vacancies; terms

Chs. 167 and 371

A. ~~A~~ THE state board of technical registration is established consisting of members WHO ARE appointed by the governor as follows:

1. Two architects.

Ch. 167

2. Three professional engineers, ONE OF WHOM IS A CIVIL ENGINEER AND two of whom are representatives of branches of engineering other than civil engineering and are registered in those branches pursuant to this chapter.

3. One public member.

4. One landscape architect.

Chs. 352 and 371

5. One geologist ~~or assayer~~.

6. One land surveyor.

Chs. 167 and 371

B. ~~Upon~~ ON the expiration of any of the terms[,] a successor~~,~~ WHO IS qualified pursuant to subsection A~~,~~ OF THIS SECTION shall be appointed for a full term of three years. The governor may remove a member of the board for misconduct, incapacity or neglect of duty. Appointment to fill a vacancy caused other than by expiration of term shall be for the unexpired portion of the term.

C. No member may serve more than two consecutive terms.

EXPLANATION OF BLEND
SECTION 32-103

Laws 2016, Chapters 352 and 371

Laws 2016, Ch. 352, section 5	Effective August 6, 2016
Laws 2016, Ch. 371, section 10	Effective August 6, 2016

Explanation

Since the Ch. 371 version includes all of the changes made by the Ch. 352 version, the Laws 2016, Ch. 371 amendment of section 32-103 is the blend of both the Laws 2016, Ch. 352 and Ch. 371 versions.

BLEND OF SECTION 32-103
Laws 2016, Chapters 352 and 371

32-103. Qualifications of members

A. Each professional member of the board shall:

1. Be at least twenty-five years of age.

Ch. 371 — 2. Have been a resident of ~~the~~ THIS state for at least three years immediately preceding appointment as a member.

Chs. 352 and 371 — B. Each member who is an architect, A geologist, ~~an assayer,~~ a landscape architect, a professional engineer or a land surveyor shall have

Ch. 371 — ~~had~~ at least five years' active professional experience as attested by registration under this chapter.

EXPLANATION OF BLEND
SECTION 32-122

Laws 2016, Chapters 352 and 371

Laws 2016, Ch. 352, section 9	Effective August 6, 2016
Laws 2016, Ch. 371, section 11	Effective August 6, 2016

Explanation

Since the Ch. 371 version includes all of the changes made by the Ch. 352 version, the Laws 2016, Ch. 371 amendment of section 32-122 is the blend of both the Laws 2016, Ch. 352 and Ch. 371 versions.

Section 32-122 was amended an additional time by Laws 2016, Ch. 167 that could not be blended because of a substantive conflict and that will require separate publication in addition to this blend.

BLEND OF SECTION 32-122
Laws 2016, Chapters 352 and 371

32-122. Qualifications for in-training registration

A. An applicant for in-training registration as an architect, engineer, geologist or landscape architect shall:

1. Be of good moral character and repute.

2. Be a graduate of a school approved by the board or have four years or more, or if an applicant for in-training registration as an architect, five years or more, of education or experience, or both, in work in the profession in which registration is sought that meets standards specified by the board in its rules.

3. Unless exempt under section 32-126, subsection D, pass the in-training examination in the profession in which registration is sought.

Chs. 352 and 371 B. An applicant for in-training registration as ~~an assayer or~~ A land surveyor shall:

Ch. 371 ~~1. Be of good moral character and repute.~~

~~2.~~ 1. Be a graduate of a school and curriculum approved by the board, or have four years or more of education or experience, or both, in work in the profession in which registration is sought that meets standards specified by the board in its rules.

~~3.~~ 2. Unless exempt under section 32-126, subsection D, pass the in-training examination in the profession in which registration is sought.

C. An applicant for in-training registration as a home

Chs. 352 and 371 inspector-in-training shall~~:~~

~~1. Be of good moral character and repute.~~

~~2.~~ meet the requirements of section 32-122.02, subsection A, paragraphs 1 through 7.

EXPLANATION OF BLEND
SECTION 32-122.01

Laws 2016, Chapters 167 and 371

Laws 2016, Ch. 167, section 6	Effective August 6, 2016
Laws 2016, Ch. 371, section 12	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 167 and Ch. 371 text changes to section 32-122.01 are blended in the form shown on the following page.

BLEND OF SECTION 32-122.01
Laws 2016, Chapters 167 and 371

32-122.01. Qualifications for professional registration

A. An applicant for professional registration as an architect, engineer, geologist or landscape architect shall:

1. Be of good moral character and repute.

2. Be actively engaged in education or experience, or both, in the profession for which registration is sought for at least eight years.

Ch. 167 — 3. Unless exempt under section 32-126, pass the APPLICABLE in-training and professional examinations in the profession in which registration is sought.

Ch. 371 — B. An applicant for professional registration as ~~an assayer or~~ A land surveyor shall:

1. Be of good moral character and repute.

2. Be actively engaged in education or experience, or both, in the profession for which registration is sought for at least six years.

3. Unless exempt under section 32-126, pass the in-training and professional examinations in the profession in which registration is sought.

C. In computing the period of active engagement required under this section:

Ch. 167 — 1. Each year of study THAT IS satisfactorily completed in an architectural, engineering, geological or landscape architectural school approved by the board is equivalent to one year of active engagement up to a maximum of five years. One year or more of teaching architectural, engineering, geological or landscape architectural subjects in a school approved by the board is equivalent to one year of active engagement.

Ch. 371 — 2. Each year of study satisfactorily completed in ~~an assaying or~~ A land surveying curriculum and school approved by the board is considered equivalent to one year of active engagement up to a maximum of four years. One year or more of teaching ~~assaying or~~ land surveying or other courses approved by the board as pertinent to the profession in which registration is sought in a school approved by the board is equivalent to one year of active engagement.

D. Except as provided in subsection E of this section, experience credited by the board under this section and sections 32-101, 32-122 and 32-126 must be attained under the direct supervision of a professional who is satisfactory to the board and registered in this state, another state or a foreign country in the profession in which the applicant is seeking registration, except that up to one year's experience may be attained under the direct supervision of a professional who is satisfactory to the board and registered in another profession regulated under this chapter in this state, another state or a foreign country.

Ch. 167 — E. By A two-thirds majority vote[,] the board may allow an applicant except for an architect applicant to meet the requirements of subsection D of this section by crediting comparable experience satisfactory to the board that the applicant attained without direct supervision of a registered professional.

EXPLANATION OF BLEND
SECTION 32-131

Laws 2016, Chapters 352 and 371

Laws 2016, Ch. 352, section 11	Effective August 6, 2016
Laws 2016, Ch. 371, section 13	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 352 and Ch. 371 language for section 32-131 is blended in the form shown on the following page.

BLEND OF SECTION 32-131
Laws 2016, Chapters 352 and 371

32-131. Assayer emeritus status

THE BOARD SHALL GRANT ASSAYER EMERITUS STATUS TO AN ASSAYER WHO IS REGISTERED BY THE BOARD PURSUANT TO THIS CHAPTER ON AUGUST 6, 2016 IF BOTH OF THE FOLLOWING APPLY:

Chs. 352 and 371

1. THE ASSAYER HAS NOT RECEIVED ANY COMPLAINTS DURING THE ASSAYER'S ACTIVE REGISTRATION.

2. THE ASSAYER ANALYZES METALS, ORES, MINERALS OR ALLOYS TO ASCERTAIN THE QUANTITY OF GOLD OR SILVER OR ANY OTHER SUBSTANCE PRESENT IN THE METALS, ORES, MINERALS OR ALLOYS.

EXPLANATION OF BLEND
SECTION 32-1121

Laws 2016, Chapters 128 and 221

Laws 2016, Ch. 128, section 27	Effective August 6, 2016 (Retroactive to July 1, 2016)
Laws 2016, Ch. 221, section 22	Effective August 6, 2016 (Retroactive to July 1, 2016)

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 128 and Ch. 221 text changes to section 32-1121 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1121
Laws 2016, Chapters 128 and 221

32-1121. Persons not required to be licensed; penalties; applicability

A. This chapter shall not be construed to apply to:

1. An authorized representative of the United States government, this state or any county, incorporated city or town, reclamation district, irrigation district or other municipality or political subdivision of this state.

2. Trustees of an express trust that is not formed for the purpose of conducting business as a contractor or officers of a court, if they are acting within the terms of their trust or office.

3. Public utilities operating under regulation of the corporation commission or construction, repair or operation incidental to discovering or producing petroleum or gas, or the drilling, testing, abandoning or other operation of a petroleum or gas well, if performed by an owner or lessee.

4. Any materialman, manufacturer or retailer who furnishes finished products, materials or articles of merchandise and who does not install or attach such items or installs or attaches such items if the total value of the sales contract or transaction involving such items and the cost of the installation or attachment of such items to a structure does not exceed one thousand dollars, including labor, materials and all other items, but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a
Ch. 221 ~~two pronged~~ TWO-PRONGED or ~~three pronged~~ THREE-PRONGED electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure. The materialman, manufacturer or retailer shall inform the purchaser that the installation may also be performed by a licensed contractor whose name and address the purchaser may request.

5. Owners of property who improve such property or who build or improve structures or appurtenances on such property and who do the work themselves, with their own employees or with duly licensed contractors, if the structure, group of structures or appurtenances, including the improvements thereto, are intended for occupancy solely by the owner and are not intended for occupancy by members of the public as the owner's employees or business visitors and the structures or appurtenances are not intended for sale or for rent. In all actions brought under this chapter, except an action against an owner-occupant as defined in section 33-1002, proof of the sale or rent or the offering for sale or rent of any such structure by the owner-builder within one year after completion or issuance of a certificate of occupancy is prima facie evidence that such project was undertaken for the purpose of sale or rent. For the purposes of this paragraph, "sale" or

"rent" includes any arrangement by which the owner receives compensation in money, provisions, chattels or labor from the occupancy or the transfer of the property or the structures on the property.

6. Owners of property who are acting as developers and who build structures or appurtenances to structures on their property for the purpose of sale or rent and who contract for such a project with a general contractor licensed pursuant to this chapter and owners of property who are acting as developers, who improve structures or appurtenances to structures on their property for the purpose of sale or rent and who contract for such a project with a general contractor or specialty contractors licensed pursuant to this chapter. To qualify for the exemption under this paragraph, the licensed contractors' names and license numbers shall be included in all sales documents.

7. Architects or engineers who are engaging in their professional practice as defined in chapter 1 of this title and who hire or offer to hire the services of a contractor for preconstruction activities relating to investigation and discovery, including:

(a) Subsurface utility location and designation services.

(b) Potholing.

(c) Drilling for any of the following:

(i) Soil samples.

(ii) Rock samples.

(iii) Pavement samples.

(d) Locating existing features of a building or structure, including existing electrical, mechanical, plumbing and structural members.

Ch. 221 — 8. A person licensed, certified or registered pursuant to TITLE 3, chapter ~~22 of this title~~ 20 or a person working under the direct supervision of a person certified or qualified pursuant to TITLE 3, chapter ~~22 of this title~~ 20 to the extent the person is engaged in pest management.

9. The sale or installation of finished products, materials or articles of merchandise that are not fabricated into and do not become a permanent fixed part of the structure. This exemption does not apply if a local building permit is required, if the total price of the finished product, material or article of merchandise, including labor but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a ~~two-pronged~~ TWO-PRONGED or ~~three-pronged~~ THREE-PRONGED electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, is more than one thousand dollars or if the removal of the finished product, material or article of merchandise causes damage to the structure or renders the structure unfit for its intended use.

Ch. 221

10. Employees of the owners of condominiums, townhouses, cooperative units or apartment complexes of four units or less or the owners' management agent or employees of the management agent repairing or maintaining structures owned by them.

11. Any person who engages in the activities regulated by this chapter, as an employee of an exempt property owner or as an employee with wages as the person's sole compensation.

12. A surety company or companies that are authorized to transact business in this state and that undertake to complete a contract on which they issued a performance or completion bond, provided all construction work is performed by duly licensed contractors.

13. Insurance companies that are authorized to transact business in this state and that undertake to perform repairs resulting from casualty losses pursuant to the provisions of a policy, provided all construction work is performed by duly licensed contractors.

14. Any person other than a licensed contractor engaging in any work or operation on one undertaking or project by one or more contracts, for which the aggregate contract price, including labor, materials and all other items, but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a
Ch. 221 ~~two-pronged~~ TWO-PRONGED or ~~three-pronged~~ THREE-PRONGED electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, is less than one thousand dollars. The work or operations that are exempt under this paragraph shall be of a casual or minor nature. This exemption does not apply:

(a) In any case in which the performance of the work requires a local building permit.

(b) In any case in which the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than one thousand dollars, excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household
Ch. 221 electrical outlet utilizing a ~~two-pronged~~ TWO-PRONGED or ~~three-pronged~~ THREE-PRONGED electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, for the purpose of evasion of this chapter or otherwise.

(c) To a person who utilizes any form of advertising to the public in which the person's unlicensed status is not disclosed by including the words "not a licensed contractor" in the advertisement.

15. A person who is licensed, certified or registered pursuant to
Ch. 128 title 41, chapter ~~16~~ 37, ARTICLE 4 and who is not otherwise required to be licensed under this chapter or an employee of such person.

16. A person who functions as a gardener by performing lawn, garden, shrub and tree maintenance.

17. Alarm agents as defined in section 32-101.

B. A person who is licensed to perform work in a particular trade pursuant to this chapter shall not be required to obtain and maintain a

separate license for mechanical or structural service work performed within the scope of such trade by such person.

C. Any person who does not have an exemption from licensure pursuant to subsection A, paragraph 14, subdivision (c) of this section is subject to prosecution for a violation of section 44-1522. The attorney general may investigate the act or practice and take appropriate action pursuant to title 44, chapter 10, article 7.

D. The exemptions from licensure pursuant to subsection A, paragraphs 4, 9 and 14 of this section do not apply to either of the following:

1. All fire safety and mechanical, electrical and plumbing work that is done in connection with fire safety installation and fire safety maintenance and repair. For the purposes of this paragraph, "fire safety installation" means hardwired or interconnected smoke alarms and fire sprinklers and does not include an individual device that is attached by a nail, screw or other fastening device to the frame or foundation of any residential unit. For the purposes of this paragraph, fire safety maintenance and repair does not include routine work that is conducted by an employee of an apartment or condominium complex AND that is incidental to the fire safety equipment.

Chs. 128 and 221

2. All work that is done, including the installation, maintenance and repair of devices, appliances or equipment, that involves the connecting to any supply of natural gas, propane or other petroleum or gaseous fuel. Nothing in this paragraph impacts the effect of section 36-1624.01.

EXPLANATION OF BLEND
SECTION 32-1401

Laws 2016, Chapters 77, 85 and 212

Laws 2016, Ch. 77, section 1	Effective August 6, 2016
Laws 2016, Ch. 85, section 2	Effective August 6, 2016
Laws 2016, Ch. 212, section 2	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 77, Ch. 85 and Ch. 212 text changes to section 32-1401 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1401
Laws 2016, Chapters 77, 85 and 212

32-1401. Definitions

In this chapter, unless the context otherwise requires:

1. "Active license" means a valid and existing license to practice medicine.

2. "Adequate records" means legible medical records, produced by hand or electronically, containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment.

3. "Advisory letter" means a nondisciplinary letter to notify a licensee that either:

(a) While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.

(b) The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

(c) While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.

4. "Approved hospital internship, residency or clinical fellowship program" means a program at a hospital that at the time the training occurred was legally incorporated and that had a program that was approved for internship, fellowship or residency training by the accreditation council for graduate medical education, the association of American medical colleges, the royal college of physicians and surgeons of Canada or any similar body in the United States or Canada approved by the board whose function is that of approving hospitals for internship, fellowship or residency training.

5. "Approved school of medicine" means any school or college offering a course of study that, on successful completion, results in the degree of doctor of medicine and whose course of study has been approved or accredited by an educational or professional association, recognized by the board, including the association of American medical colleges, the association of Canadian medical colleges or the American medical association.

6. "Board" means the Arizona medical board.

7. "Completed application" means that the applicant has supplied all required fees, information and correspondence requested by the board on forms and in a manner acceptable to the board.

8. "Direct supervision" means that a physician, physician assistant licensed pursuant to chapter 25 of this title or nurse practitioner certified pursuant to chapter 15 of this title is within the same room or office suite

as the medical assistant in order to be available for consultation regarding those tasks the medical assistant performs pursuant to section 32-1456.

9. "Dispense" means the delivery by a doctor of medicine of a prescription drug or device to a patient, except for samples packaged for individual use by licensed manufacturers or repackagers of drugs, and includes the prescribing, administering, packaging, labeling and security necessary to prepare and safeguard the drug or device for delivery.

10. "Doctor of medicine" means a natural person holding a license, registration or permit to practice medicine pursuant to this chapter.

Chs. 77, 85 and 212

11. "Full-time faculty member" means a physician WHO IS employed full time as a faculty member while holding the academic position of assistant professor or a higher position at an approved school of medicine.

12. "Health care institution" means any facility as defined in section 36-401, any person authorized to transact disability insurance, as defined in title 20, chapter 6, article 4 or 5, any person who is issued a certificate of authority pursuant to title 20, chapter 4, article 9 or any other partnership, association or corporation that provides health care to consumers.

13. "Immediate family" means the spouse, natural or adopted children, father, mother, brothers and sisters of the doctor and the natural or adopted children, father, mother, brothers and sisters of the doctor's spouse.

14. "Letter of reprimand" means a disciplinary letter that is issued by the board and that informs the physician that the physician's conduct violates state or federal law and may require the board to monitor the physician.

15. "Limit" means taking a nondisciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be mentally or physically unable to safely engage in the practice of medicine.

16. "Medical assistant" means an unlicensed person who meets the requirements of section 32-1456, has completed an education program approved by the board, assists in a medical practice under the supervision of a doctor of medicine, physician assistant or nurse practitioner and performs delegated procedures commensurate with the assistant's education and training but does not diagnose, interpret, design or modify established treatment programs or perform any functions that would violate any statute applicable to the practice of medicine.

17. "Medical peer review" means:

(a) The participation by a doctor of medicine in the review and evaluation of the medical management of a patient and the use of resources for patient care.

(b) Activities relating to a health care institution's decision to grant or continue privileges to practice at that institution.

18. "Medically incompetent" means a person who the board determines is incompetent based on a variety of factors, including:

(a) A lack of sufficient medical knowledge or skills, or both, to a degree likely to endanger the health of patients.

(b) When considered with other indications of medical incompetence, failing to obtain a scaled score of at least seventy-five percent on the written special purpose licensing examination.

19. "Medicine" means allopathic medicine as practiced by the recipient of a degree of doctor of medicine.

20. "Office based surgery" means a medical procedure conducted in a physician's office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center.

Chs. 77, 85 and 212

21. "Physician" means a doctor of medicine WHO IS licensed pursuant to this chapter.

22. "Practice of medicine" means the diagnosis, the treatment or the correction of or the attempt or the claim to be able to diagnose, treat or correct any and all human diseases, injuries, ailments, infirmities~~,~~ OR deformities, physical or mental, real or imaginary, by any means, methods, devices or instrumentalities, except as the same may be among the acts or persons not affected by this chapter. The practice of medicine includes the practice of medicine alone or the practice of surgery alone, or both.

23. "Restrict" means taking a disciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be medically incompetent or guilty of unprofessional conduct.

Chs. 77, 85 and 212

24. "Special purpose licensing examination" means an examination THAT IS developed by the national board of medical examiners on behalf of the federation of state medical boards for use by state licensing boards to test the basic medical competence of physicians who are applying for licensure and who have been in practice for a considerable period of time in another jurisdiction and to determine the competence of a physician WHO IS under investigation by a state licensing board.

Chs. 77, 85 and 212

25. "Teaching hospital's accredited graduate medical education program" means that the hospital is incorporated and has an internship, fellowship or residency training program that is accredited by the accreditation council for graduate medical education, the American medical association, the association of American medical colleges, the royal college of physicians and surgeons of Canada or a similar body in the United States or Canada THAT IS approved by the board AND whose function is that of approving hospitals for internship, fellowship or residency training.

26. "Teaching license" means a valid license to practice medicine as a full-time faculty member of an approved school of medicine or a teaching hospital's accredited graduate medical education program.

27. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:

(a) Violating any federal or state laws, rules or regulations applicable to the practice of medicine.

(b) Intentionally disclosing a professional secret or intentionally disclosing a privileged communication except as either act may otherwise be required by law.

(c) False, fraudulent, deceptive or misleading advertising by a doctor of medicine or the doctor's staff, employer or representative.

(d) Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

(e) Failing or refusing to maintain adequate records on a patient.

(f) Habitual intemperance in the use of alcohol or habitual substance abuse.

(g) Using controlled substances except if prescribed by another physician for use during a prescribed course of treatment.

(h) Prescribing or dispensing controlled substances to members of the physician's immediate family.

(i) Prescribing, dispensing or administering schedule II controlled substances as defined in section 36-2513 including amphetamines and similar schedule II sympathomimetic drugs in the treatment of exogenous obesity for a period in excess of thirty days in any one year, or the nontherapeutic use of injectable amphetamines.

(j) Prescribing, dispensing or administering any controlled substance or prescription-only drug for other than accepted therapeutic purposes.

(k) Signing a blank, undated or predated prescription form.

(l) Conduct that the board determines is gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient.

(m) Representing that a manifestly incurable disease or infirmity can be permanently cured, or that any disease, ailment or infirmity can be cured by a secret method, procedure, treatment, medicine or device, if this is not true.

(n) Refusing to divulge to the board on demand the means, method, procedure, modality of treatment or medicine used in the treatment of a disease, injury, ailment or infirmity.

(o) Action that is taken against a doctor of medicine by another licensing or regulatory jurisdiction due to that doctor's mental or physical inability to engage safely in the practice of medicine or the doctor's medical incompetence or for unprofessional conduct as defined by that jurisdiction and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken may include refusing, denying, revoking or suspending a license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on probation by that jurisdiction.

(p) Sanctions imposed by an agency of the federal government, including restricting, suspending, limiting or removing a person from the practice of medicine or restricting that person's ability to obtain financial remuneration.

(q) Any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.

(r) Violating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter.

(s) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision of this chapter.

(t) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or if applying for privileges or renewing an application for privileges at a health care institution.

(u) Charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement that has the same effect. This subdivision does not apply to payments from a medical researcher to a physician in connection with identifying and monitoring patients for a clinical trial regulated by the United States food and drug administration.

(v) Obtaining a fee by fraud, deceit or misrepresentation.

(w) Charging or collecting a clearly excessive fee. In determining ~~if~~ WHETHER a fee is clearly excessive, the board shall consider the fee or range of fees customarily charged in ~~the~~ THIS state for similar services in light of modifying factors such as the time required, the complexity of the service and the skill requisite to perform the service properly. This subdivision does not apply if there is a clear written contract for a fixed fee between the physician and the patient that has been entered into before the provision of THE service.

Chs. 77, 85 and 212

Ch. 77 (x) ~~Fetal experiments conducted~~ CONDUCT THAT IS in violation of section 36-2302.

(y) The use of experimental forms of diagnosis and treatment without adequate informed patient consent, and without conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee as approved by the ~~federal~~ UNITED STATES food and drug administration or its successor agency.

Chs. 77, 85 and 212

(z) Engaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee. For the purposes of this subdivision, "sexual conduct" includes:

(i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual.

(ii) Making sexual advances, requesting sexual favors or engaging in any other verbal conduct or physical contact of a sexual nature.

(iii) Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under current practice standards.

(aa) Procuring or attempting to procure a license to practice medicine or a license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

(bb) Representing or claiming to be a medical specialist if this is not true.

(cc) Maintaining a professional connection with or lending one's name to enhance or continue the activities of an illegal practitioner of medicine.

(dd) Failing to furnish information in a timely manner to the board or the board's investigators or representatives if legally requested by the board.

(ee) Failing to allow properly authorized board personnel on demand to examine and have access to documents, reports and records maintained by the

physician that relate to the physician's medical practice or medically related activities.

(ff) Knowingly failing to disclose to a patient on a form that is prescribed by the board and that is dated and signed by the patient or guardian acknowledging that the patient or guardian has read and understands that the doctor has a direct financial interest in a separate diagnostic or treatment agency or in nonroutine goods or services that the patient is being prescribed ~~and~~ if the prescribed treatment, goods or services are available on a competitive basis. This subdivision does not apply to a referral by one doctor of medicine to another doctor of medicine within a group of doctors of medicine practicing together.

Chs. 77 and 212

(gg) Using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy, with the exception of treatment of heavy metal poisoning, without:

(i) Adequate informed patient consent.

(ii) Conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee.

Chs. 77, 85 and 212

(iii) Approval by the ~~federal~~ UNITED STATES food and drug administration or its successor agency.

(hh) Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes.

(ii) Lack of or inappropriate direction, collaboration or direct supervision of a medical assistant or a licensed, certified or registered health care provider employed by, supervised by or assigned to the physician.

(jj) Knowingly making a false or misleading statement to the board or on a form required by the board or in a written correspondence, including attachments, with the board.

(kk) Failing to dispense drugs and devices in compliance with article 6 of this chapter.

(ll) Conduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient.

(mm) The representation by a doctor of medicine or the doctor's staff, employer or representative that the doctor is boarded or board certified if this is not true or the standing is not current or without supplying the full name of the specific agency, organization or entity granting this standing.

(nn) Refusing to submit to a body fluid examination or any other examination known to detect the presence of alcohol or other drugs as required by the board pursuant to section 32-1452 or pursuant to a board investigation into a doctor of medicine's alleged substance abuse.

(oo) Failing to report in writing to the Arizona medical board or the Arizona regulatory board of physician assistants any evidence that a doctor of medicine or a physician assistant is or may be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to safely practice medicine or to perform as a physician assistant.

(pp) The failure of a physician who is the chief executive officer, the medical director or the medical chief of staff of a health care institution to report in writing to the board that the hospital privileges of a doctor of medicine have been denied, revoked, suspended, supervised or limited because of actions by the doctor that appear to show that the doctor

is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be unable to engage safely in the practice of medicine.

Chs. 77, 85 and 212 (qq) Claiming to be a current member of the board, OR its staff or a board medical consultant if this is not true.

(rr) Failing to make patient medical records in the physician's possession promptly available to a physician assistant, a nurse practitioner, a person licensed pursuant to this chapter or a podiatrist, chiropractor, naturopathic physician, osteopathic physician or homeopathic physician licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper authorization to do so from the patient, a minor patient's parent, the patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.

(ss) Prescribing, dispensing or furnishing a prescription medication or a prescription-only device as defined in section 32-1901 to a person unless the licensee first conducts a physical or mental health status examination of that person or has previously established a doctor-patient relationship. The physical or mental health status examination may be conducted during a real-time telemedicine encounter with audio and video capability if the telemedicine audio and video capability meets the elements required by the centers for medicare and medicaid services, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This subdivision does not apply to:

(i) A physician who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.

(ii) Emergency medical situations as defined in section 41-1831.

(iii) Prescriptions written to prepare a patient for a medical examination.

(iv) Prescriptions written or prescription medications issued for use by a county or tribal public health department for immunization programs or emergency treatment or in response to an infectious disease investigation, public health emergency, infectious disease outbreak or act of bioterrorism. For the purposes of this item, "bioterrorism" has the same meaning prescribed in section 36-781.

(v) Prescriptions written or antimicrobials dispensed to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661 by the prescribing or dispensing physician.

(vi) Prescriptions written or prescription medications issued for administration of immunizations or vaccines listed in the United States centers for disease control and prevention's recommended immunization schedule to a household member of a patient.

(vii) Prescriptions for epinephrine auto-injectors written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-157 OR FOR AN AUTHORIZED ENTITY TO BE STOCKED PURSUANT TO SECTION 36-2226.01. Ch. 85

(viii) Prescriptions written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

Chs. 77, 85 and 212 (ix) Prescriptions for naloxone hydrochloride or any other ~~opiate~~ OPIOID antagonist approved by the United States food and drug administration that are written or dispensed for use pursuant to section **Ch. 212** 36-2228 OR 36-2266.

(tt) Performing office based surgery using sedation in violation of board rules.

(uu) Practicing medicine under a false or assumed name in this state.

EXPLANATION OF BLEND
SECTION 32-1854

Laws 2016, Chapters 77, 85 and 212

Laws 2016, Ch. 77, section 2	Effective August 6, 2016
Laws 2016, Ch. 85, section 3	Effective August 6, 2016
Laws 2016, Ch. 212, section 3	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 77, Ch. 85 and Ch. 212 text changes to section 32-1854 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1854
Laws 2016, Chapters 77, 85 and 212

32-1854. Definition of unprofessional conduct

For the purposes of this chapter, "unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:

1. Knowingly betraying a professional secret or wilfully violating a privileged communication except as either of these may otherwise be required by law. This paragraph does not prevent members of the board from exchanging information with the licensing and disciplinary boards of other states, territories or districts of the United States or with foreign countries or with osteopathic medical organizations located in this state or in any state, district or territory of this country or in any foreign country.

2. Committing a felony or a misdemeanor involving moral turpitude. In either case conviction by any court of competent jurisdiction is conclusive evidence of the commission of the offense.

3. Practicing medicine while under the influence of alcohol, a dangerous drug as defined in section 13-3401, narcotic or hypnotic drugs or any substance that impairs or may impair the licensee's ability to safely and skillfully practice medicine.

4. Being diagnosed by a physician licensed under this chapter or chapter 13 of this title or a psychologist licensed under chapter 19.1 of this title as excessively or illegally using alcohol or a controlled substance.

5. Prescribing, dispensing or administering controlled substances or prescription-only drugs for other than accepted therapeutic purposes.

6. Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard.

7. Impersonating another physician.

8. Acting or assuming to act as a member of the board if this is not true.

9. Procuring, renewing or attempting to procure or renew a license to practice osteopathic medicine by fraud or misrepresentation.

10. Having professional connection with or lending one's name to an illegal practitioner of osteopathic medicine or any of the other healing arts.

11. Representing that a manifestly incurable disease, injury, ailment or infirmity can be permanently cured or that a curable disease, injury, ailment or infirmity can be cured within a stated time, if this is not true.

12. Failing to reasonably disclose and inform the patient or the patient's representative of the method, device or instrumentality the licensee uses to treat the patient's disease, injury, ailment or infirmity.

13. Refusing to divulge to the board on demand the means, method, device or instrumentality used in the treatment of a disease, injury, ailment or infirmity.

14. Charging a fee for services not rendered or dividing a professional fee for patient referrals. This paragraph does not apply to payments from a medical researcher to a physician in connection with identifying and monitoring patients for clinical trial regulated by the United States food and drug administration.

15. Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or when applying for or renewing privileges at a health care institution or a health care program.

16. Advertising in a false, deceptive or misleading manner.

17. Representing or claiming to be an osteopathic medical specialist if the physician has not satisfied the applicable requirements of this chapter or board rules.

18. The denial of or disciplinary action against a license by any other state, territory, district or country, unless it can be shown that this occurred for reasons that did not relate to the person's ability to safely and skillfully practice osteopathic medicine or to any act of unprofessional conduct as provided in this section.

19. Any conduct or practice contrary to recognized standards of ethics of the osteopathic medical profession.

20. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any of the provisions of this chapter.

21. Failing or refusing to establish and maintain adequate records on a patient as follows:

(a) If the patient is an adult, for at least six years after the last date the licensee provided the patient with medical or health care services.

(b) If the patient is a child, either for at least three years after the child's eighteenth birthday or for at least six years after the last date the licensee provided that patient with medical or health care services, whichever date occurs later.

22. Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment.

23. Prescribing controlled substances to members of one's immediate family unless there is no other physician available within fifty miles to treat a member of the family and an emergency exists.

24. Nontherapeutic use of injectable amphetamines.

25. Violating a formal order, probation or a stipulation issued by the board under this chapter.

26. Charging or collecting an inappropriate fee. This paragraph does not apply to a fee that is fixed in a written contract between the physician and the patient and entered into before treatment begins.

27. Using experimental forms of therapy without adequate informed patient consent or without conforming to generally accepted criteria and complying with federal and state statutes and regulations governing experimental therapies.

28. Failing to make patient medical records in the physician's possession promptly available to a physician assistant, a nurse practitioner, a person licensed pursuant to this chapter or a podiatrist, chiropractor, naturopathic physician, physician or homeopathic physician licensed under

chapter 7, 8, 13, 14 or 29 of this title on receipt of proper authorization to do so from the patient, a minor patient's parent, the patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.

29. Failing to allow properly authorized board personnel to have, on presentation of a subpoena, access to any documents, reports or records that are maintained by the physician and that relate to the physician's medical practice or medically related activities pursuant to section 32-1855.01.

30. Signing a blank, undated or predated prescription form.

31. Obtaining a fee by fraud, deceit or misrepresentation.

32. Failing to report to the board an osteopathic physician and surgeon who is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine.

33. Referring a patient to a diagnostic or treatment facility or prescribing goods and services without disclosing that the physician has a direct pecuniary interest in the facility, goods or services to which the patient has been referred or prescribed. This paragraph does not apply to a referral by one physician to another physician within a group of physicians practicing together.

34. Lack of or inappropriate direction, collaboration or supervision of a licensed, certified or registered health care provider or office personnel employed by or assigned to the physician in the medical care of patients.

35. Violating a federal law, a state law or a rule applicable to the practice of medicine.

36. Prescribing or dispensing controlled substances or prescription-only medications without establishing and maintaining adequate patient records.

37. Failing to dispense drugs and devices in compliance with article 4 of this chapter.

38. Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

39. Any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so.

40. With the exception of heavy metal poisoning, using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy without adequate informed patient consent and without conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee.

41. Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes.

42. Engaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee. For the purposes of this paragraph, "sexual conduct" includes:

(a) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual.

(b) Making sexual advances, requesting sexual favors or engaging in any other verbal conduct or physical conduct of a sexual nature.

Ch. 77 — 43. ~~Fetal experiments conducted~~ CONDUCT THAT IS in violation of section 36-2302.

44. Conduct that the board determines constitutes gross negligence, repeated negligence or negligence that results in harm or death of a patient.

45. Conduct in the practice of medicine that evidences moral unfitness to practice medicine.

46. Engaging in disruptive or abusive behavior in a professional setting.

47. Failing to disclose to a patient that the licensee has a direct financial interest in a prescribed treatment, good or service if the treatment, good or service is available on a competitive basis. This paragraph does not apply to a referral by one licensee to another licensee within a group of licensees who practice together. A licensee meets the

Chs. 77, 85 and 212 — disclosure requirements of this paragraph if ~~all~~ BOTH of the following are true:

(a) The licensee makes the disclosure on a form prescribed by the board.

(b) The patient or the patient's guardian or parent acknowledges by signing the form that the licensee has disclosed the licensee's direct financial interest.

48. Prescribing, dispensing or furnishing a prescription medication or a prescription-only device to a person if the licensee has not conducted a physical or mental health status examination of that person or has not previously established a physician-patient relationship. The physical or mental health status examination may be conducted during a real-time telemedicine encounter with audio and video capability if the telemedicine audio and video capability meets the elements required by the centers for medicare and medicaid services, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This paragraph does not apply to:

(a) Emergencies.

(b) A licensee who provides patient care on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.

(c) Prescriptions written or antimicrobials dispensed to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661 by the prescribing or dispensing physician.

(d) Prescriptions for epinephrine auto-injectors written or dispensed for a school district or charter school to be stocked for emergency use

Ch. 85 — pursuant to section 15-157 OR FOR AN AUTHORIZED ENTITY TO BE STOCKED PURSUANT TO SECTION 36-2226.01.

(e) Prescriptions written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

Chs. 77, 85 and 212 — (f) Prescriptions for naloxone hydrochloride or any other ~~opiate~~ OPIOID antagonist approved by the United States food and drug administration that are written or dispensed for use pursuant to section

Ch. 212 — 36-2228 OR 36-2266.

49. If a licensee provides medical care by computer, failing to disclose the licensee's license number and the board's address and telephone number.

EXPLANATION OF BLEND
SECTION 32-1901

Laws 2016, Chapters 267, 274 and 284

Laws 2016, Ch. 267, section 1	Effective August 6, 2016
Laws 2016, Ch. 274, section 1	Effective August 6, 2016
Laws 2016, Ch. 284, section 1	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 267, Ch. 274 and Ch. 284 text changes to section 32-1901 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1901
Laws 2016, Chapters 267, 274 and 284

32-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means the direct application of a controlled substance, prescription-only drug, dangerous drug or narcotic drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a practitioner or by the practitioner's authorized agent or the patient or research subject at the direction of the practitioner.

2. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of drugs, devices, poisons or hazardous substances.

3. "Advisory letter" means a nondisciplinary letter to notify a licensee or permittee that either:

(a) While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee or permittee.

(b) The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

(c) While the licensee or permittee has demonstrated substantial compliance through rehabilitation, remediation or reeducation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee or permittee.

4. "Antiseptic", if a drug is represented as such on its label, means a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment or dusting powder or other use that involves prolonged contact with the body.

Chs. 267, 274 and 284

5. "Authorized officers of the law" means legally empowered peace officers, compliance officers of the ~~state~~ board of pharmacy and agents of the division of narcotics enforcement and criminal intelligence of the department of public safety.

6. "Board" or "board of pharmacy" means the Arizona state board of pharmacy.

Ch. 284

7. "CERTIFICATE OF COMPOSITION" MEANS A LIST OF A PRODUCT'S INGREDIENTS.

8. "CERTIFICATE OF FREE SALE" MEANS A DOCUMENT THAT AUTHENTICATES A PRODUCT THAT IS GENERALLY AND FREELY SOLD IN DOMESTIC OR INTERNATIONAL CHANNELS OF TRADE.

~~7.~~ 9. "Color additive" means a material that either:

(a) Is any dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from any vegetable, animal, mineral or other source.

(b) If added or applied to a drug, or to the human body or any part of the human body, is capable of imparting color, except that color additive does not include any material that has been or may be exempted under the federal act. Color includes black, white and intermediate grays.

~~8.~~ 10. "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug by a pharmacist or an intern or pharmacy technician under the pharmacist's supervision, for the purpose of dispensing to a patient based on a valid prescription order. Compounding includes the preparation of drugs in anticipation of prescription orders prepared on routine, regularly observed prescribing patterns and the preparation of drugs as an incident to research, teaching or chemical analysis or for administration by a medical practitioner to the medical practitioner's patient and not for sale or dispensing. Compounding does not include the preparation of commercially available products from bulk compounds or the preparation of drugs for sale to pharmacies, practitioners or entities for the purpose of dispensing or distribution.

~~9.~~ 11. "Compressed medical gas distributor" means a person who holds a current permit issued by the board to distribute compressed medical gases pursuant to a compressed medical gas order to compressed medical gas suppliers and other entities that are registered, licensed or permitted to use, administer or distribute compressed medical gases.

~~10.~~ 12. "Compressed medical gas order" means an order for compressed medical gases that is issued by a medical practitioner.

~~11.~~ 13. "Compressed medical gas supplier" means a person who holds a current permit issued by the board to supply compressed medical gases pursuant to a compressed medical gas order and only to the consumer or the patient.

~~12.~~ 14. "Compressed medical gases" means gases and liquid oxygen that a compressed medical gas distributor or manufacturer has labeled in compliance with federal law.

Chs. 267, 274 and 284

~~13.~~ 15. "Controlled substance" means a drug, substance or immediate precursor THAT IS identified, defined or listed in title 36, chapter 27, article 2.

~~14.~~ 16. "Corrosive" means any substance that when it comes in contact with living tissue will cause destruction of tissue by chemical action.

~~15.~~ 17. "Counterfeit drug" means a drug that, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness of these, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed that drug.

~~16.~~ 18. "Dangerous drug" has the same meaning prescribed in section 13-3401.

~~17.~~ 19. "Decree of censure" means an official action that is taken by the board and that may include a requirement for restitution of fees to a patient or consumer.

~~18.~~ 20. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship.

~~19.~~ 21. "Deputy director" means a pharmacist who is employed by the board and selected by the executive director to perform duties as prescribed by the executive director.

Ch. 284 ~~20.~~ 22. "Device", except as used in paragraph ~~15~~ 17 of this section, section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph 15 and subsection C, means instruments, apparatus and contrivances, including their components, parts and accessories, including all such items under the federal act, intended either:

(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(b) To affect the structure or any function of the human body or other animals.

~~21.~~ 23. "Direct supervision of a pharmacist" means the pharmacist is present. If relating to the sale of certain items, direct supervision of a pharmacist means that a pharmacist determines the legitimacy or advisability of a proposed purchase of those items.

~~22.~~ 24. "Director" means the director of the division of narcotics enforcement and criminal investigation of the department of public safety.

~~23.~~ 25. "Dispense" means to deliver to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare for that delivery.

~~24.~~ 26. "Dispenser" means a practitioner who dispenses.

~~25.~~ 27. "Distribute" means to deliver, other than by administering or dispensing.

~~26.~~ 28. "Distributor" means a person who distributes.

~~27.~~ 29. "Drug" means:

(a) Articles recognized, or for which standards or specifications are prescribed, in the official compendium.

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(c) Articles other than food intended to affect the structure or any function of the human body or other animals.

(d) Articles intended for use as a component of any articles specified in subdivision (a), (b) or (c) of this paragraph but does not include devices or their components, parts or accessories.

~~28.~~ 30. "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.

~~29.~~ 31. "Drug or device manufacturing" means the production, preparation, propagation or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis and includes any packaging or repackaging of substances or labeling or relabeling of its container and the promotion and marketing of the same. Drug or device manufacturing does not include compounding.

~~30.~~ 32. "Economic poison" means any substance that alone, in chemical combination or in formulation with one or more other substances is a pesticide within the meaning of the laws of this state or the federal insecticide, fungicide and rodenticide act and that is used in the production, storage or transportation of raw agricultural commodities.

Ch. 274

33. "ENTERAL FEEDING" MEANS NOURISHMENT PROVIDED BY MEANS OF A TUBE INSERTED INTO THE STOMACH OR INTESTINE.

~~31.~~ 34. "Established name", with respect to a drug or ingredient of a drug, means any of the following:

(a) The applicable official name.

(b) If there is no such name and the drug or ingredient is an article recognized in an official compendium, the official title in an official compendium.

(c) If neither subdivision (a) nor (b) of this paragraph applies, the common or usual name of such drug.

~~32.~~ 35. "Executive director" means the executive director of the board of pharmacy.

~~33.~~ 36. "Federal act" means the federal laws and regulations that pertain to drugs, devices, poisons and hazardous substances and that are official at the time any drug, device, poison or hazardous substance is affected by this chapter.

~~34.~~ 37. "Full service wholesale permittee" means a permittee who may distribute prescription-only drugs and devices, controlled substances and over-the-counter drugs and devices to pharmacies or other legal outlets from a place devoted in whole or in part to wholesaling these items.

Ch. 284

38. "GOOD MANUFACTURING PRACTICE" MEANS A SYSTEM FOR ENSURING THAT PRODUCTS ARE CONSISTENTLY PRODUCED AND CONTROLLED ACCORDING TO QUALITY STANDARDS AND COVERING ALL ASPECTS OF DESIGN, MONITORING AND CONTROL OF MANUFACTURING PROCESSES AND FACILITIES TO ENSURE THAT PRODUCTS DO NOT POSE ANY RISK TO THE CONSUMER OR PUBLIC.

~~35.~~ 39. "Graduate intern" means a person who has graduated from a college, school or program of pharmacy approved by the board and who meets the qualifications and experience for a pharmacy intern as provided in section 32-1923.

~~36.~~ 40. "Highly toxic" means any substance that falls within any of the following categories:

(a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered.

(b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, if inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided the concentration is likely to be encountered by humans if the substance is used in any reasonably foreseeable manner.

(c) Produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or less per kilogram of body weight, if administered by continuous contact with the bare skin for twenty-four hours or less.

If the board finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages or concentrations prescribed in this paragraph, the human data shall take precedence.

~~37.~~ 41. "Hospital" means any institution for the care and treatment of the sick and injured that is approved and licensed as a hospital by the department of health services.

~~38.~~ 42. "Intern" means a pharmacy intern and a graduate intern.

~~39.~~ 43. "Internship" means the practical, experiential, hands-on training of a pharmacy intern under the supervision of a preceptor.

~~40.~~ 44. "Irritant" means any substance, other than a corrosive, that on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.

Chs. 267, 274 and 284

~~41.~~ 45. "Jurisprudence examination" means a ~~board approved~~ BOARD-APPROVED pharmacy law examination that is written and administered in cooperation with the national association of boards of pharmacy or another ~~board approved~~ BOARD-APPROVED pharmacy law examination.

~~42.~~ 46. "Label" means a display of written, printed or graphic matter on the immediate container of any article that, unless easily legible through the outside wrapper or container, also appears on the outside wrapper or container of the article's retail package. For the purposes of this paragraph, the immediate container does not include package liners.

~~43.~~ 47. "Labeling" means all labels and other written, printed or graphic matter either:

(a) On any article or any of its containers or wrappers.

(b) Accompanying that article.

~~44.~~ 48. "Letter of reprimand" means a disciplinary letter that is a public document issued by the board and that informs a licensee or permittee that the licensee's or permittee's conduct violates state or federal law and may require the board to monitor the licensee or permittee.

~~45.~~ 49. "Limited service pharmacy" means a pharmacy that is approved by the board to practice a limited segment of pharmacy as indicated by the permit issued by the board.

~~46.~~ 50. "Manufacture" or "manufacturer" means every person who prepares, derives, produces, compounds, processes, packages or repackages or labels any drug in a place, other than a pharmacy, devoted to manufacturing the drug.

~~47.~~ 51. "Marijuana" has the same meaning prescribed in section 13-3401.

Chs. 267, 274 and 284

~~48.~~ 52. "Medical practitioner" means any medical doctor, doctor of osteopathy, dentist, podiatrist, veterinarian or other person WHO IS licensed and authorized by law to use and prescribe drugs and devices for the treatment of sick and injured human beings or animals or for the diagnosis or prevention of sickness in human beings or animals in this state or any state, territory or district of the United States.

~~49.~~ 53. "Medication order" means a written or verbal order from a medical practitioner or that person's authorized agent to administer a drug or device.

~~50.~~ 54. "Narcotic drug" has the same meaning prescribed in section 13-3401.

~~51.~~ 55. "New drug" means either:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling.

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but that has not, other than in the investigations, been used to a material extent or for a material time under those conditions.

~~52.~~ 56. "Nonprescription drug" or "over-the-counter drug" means any nonnarcotic medicine or drug that may be sold without a prescription and is prepackaged and labeled for use by the consumer in accordance with the requirements of the laws of this state and federal law. Nonprescription drug does not include:

(a) A drug that is primarily advertised and promoted professionally to medical practitioners and pharmacists by manufacturers or primary distributors.

Chs. 274 and 284

(b) A controlled substance.

(c) A drug that is required to bear a label that states "Rx only".~~"~~

Chs. 267, 274 and 284

(d) A drug THAT IS intended for human use by hypodermic injection.

~~53.~~ 57. "Nonprescription drug wholesale permittee" means a permittee who may distribute only over-the-counter drugs and devices to pharmacies or other lawful outlets from a place devoted in whole or in part to wholesaling these items.

~~54.~~ 58. "Notice" means personal service or the mailing of a copy of the notice by certified mail addressed either to the person at the person's latest address of record in the board office or to the person's attorney.

Ch. 274

59. "NUTRITIONAL SUPPLEMENTATION" MEANS VITAMINS, MINERALS AND CALORIC SUPPLEMENTATION. NUTRITIONAL SUPPLEMENTATION DOES NOT INCLUDE MEDICATION OR DRUGS.

~~55.~~ 60. "Official compendium" means the latest revision of the United States pharmacopeia and the national formulary or any current supplement.

~~56.~~ 61. "Other jurisdiction" means one of the other forty-nine states, the District of Columbia, the Commonwealth of Puerto Rico or a territory of the United States of America.

~~57.~~ 62. "Package" means a receptacle defined or described in the United States pharmacopeia and the national formulary as adopted by the board.

~~58.~~ 63. "Packaging" means the act or process of placing a drug item or device in a container for the purpose or intent of dispensing or distributing the item or device to another.

Ch. 274

64. "PARENTERAL NUTRITION" MEANS INTRAVENOUS FEEDING THAT PROVIDES A PERSON WITH FLUIDS AND ESSENTIAL NUTRIENTS THE PERSON NEEDS WHILE THE PERSON IS UNABLE TO RECEIVE ADEQUATE FLUIDS OR FEEDINGS BY MOUTH OR BY ENTERAL FEEDING.

~~59.~~ 65. "Person" means an individual, partnership, corporation and association, and their duly authorized agents.

~~60.~~ 66. "Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services.

Chs. 267, 274 and 284

~~61.~~ 67. "Pharmacist" means an individual WHO IS currently licensed by the board to practice the profession of pharmacy in this state.

~~62.~~ 68. "Pharmacist in charge" means the pharmacist who is responsible to the board for a licensed establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining to the practice of pharmacy, the manufacturing of drugs and the distribution of drugs and devices.

Chs. 267, 274 and 284

~~63.~~ 69. "Pharmacist licensure examination" means a ~~board approved~~ BOARD-APPROVED examination that is written and administered in cooperation with the national association of boards of pharmacy or any other ~~board approved~~ BOARD-APPROVED pharmacist licensure examination.

~~64.~~ 70. "Pharmacy" means any place:

(a) Where drugs, devices, poisons or related hazardous substances are offered for sale at retail.

(b) In which the profession of pharmacy is practiced or where prescription orders are compounded and dispensed.

(c) That has displayed on it or in it the words "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drugstore," "drugs" or "drug sundries" or any of these words or combinations of these words, or words of similar import either in English or any other language, or that is advertised by any sign containing any of these words.

(d) Where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" is exhibited.

(e) Or a portion of any building or structure that is leased, used or controlled by the permittee to conduct the business authorized by the board at the address for which the permit was issued and that is enclosed and secured when a pharmacist is not in attendance.

~~65.~~ 71. "Pharmacy intern" means a person who has all of the qualifications and experience prescribed in section 32-1923.

~~66.~~ 72. "Pharmacy technician" means a person who is licensed pursuant to this chapter.

~~67.~~ 73. "Pharmacy technician trainee" means a person who is licensed pursuant to this chapter.

~~68.~~ 74. "Poison" or "hazardous substance" includes, but is not limited to, any of the following if intended and suitable for household use or use by children:

(a) Any substance that, according to standard works on medicine, pharmacology, pharmacognosy or toxicology, if applied to, introduced into or developed within the body in relatively small quantities by its inherent action uniformly produces serious bodily injury, disease or death.

(b) A toxic substance.

(c) A highly toxic substance.

(d) A corrosive substance.

(e) An irritant.

(f) A strong sensitizer.

(g) A mixture of any of the substances described in this paragraph, if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

Chs. 267, 274 and 284

(h) A substance THAT IS designated by the board to be a poison or hazardous substance. This subdivision does not apply to radioactive substances, economic poisons subject to the federal insecticide, fungicide and rodenticide act or the state pesticide act, foods, drugs and cosmetics subject to state laws or the federal act or substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house. This subdivision applies to any substance or article that is not itself an economic poison within the meaning of the federal insecticide, fungicide and rodenticide act or the state pesticide act, but that is a poison or hazardous substance within the meaning of this paragraph by reason of bearing or containing an economic poison or hazardous substance.

Ch. 267

~~69.~~ 75. "Practice of pharmacy"[:]

(a) Means furnishing the following health care services as a medical professional:

~~(a)~~ (i) Interpreting, evaluating and dispensing prescription orders in the patient's best interests.

~~(b)~~ (ii) Compounding drugs pursuant to or in anticipation of a prescription order.

~~(c)~~ (iii) Labeling of drugs and devices in compliance with state and federal requirements.

~~(d)~~ (iv) Participating in drug selection and drug utilization reviews, drug administration, drug or drug-related research and drug therapy monitoring or management.

~~(e)~~ (v) Providing patient counseling necessary to provide pharmaceutical care.

~~(f)~~ (vi) Properly and safely storing drugs and devices in anticipation of dispensing.

~~(g)~~ (vii) Maintaining required records of drugs and devices.

~~(h)~~ (viii) Offering or performing of acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy.

~~(i)~~ (ix) ~~Implementing~~ INITIATING, monitoring and modifying drug therapy pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 32-1970.

Ch. 267

~~(j)~~ (x) Initiating and administering immunizations or vaccines pursuant to section 32-1974.

(b) DOES NOT INCLUDE INITIATING A PRESCRIPTION ORDER FOR ANY MEDICATION, DRUG OR OTHER SUBSTANCE USED TO INDUCE OR CAUSE A MEDICATION ABORTION AS DEFINED IN SECTION 36-2151.

~~70.~~ 76. "Practitioner" means any physician, dentist, veterinarian, scientific investigator or other person who is licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state, or any pharmacy, hospital or other institution that is licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

~~71.~~ 77. "Preceptor" means a pharmacist who is serving as the practical instructor of an intern and complies with section 32-1923.

~~72.~~ 78. "Precursor chemical" means a substance that is:

(a) The principal compound that is commonly used or that is produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(b) Listed in section 13-3401, paragraph 26 or 27.

~~73.~~ 79. "Prescription" means either a prescription order or a prescription medication.

~~74.~~ 80. "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

~~75.~~ 81. "Prescription-only device" includes:

(a) Any device that is limited by the federal act to use under the supervision of a medical practitioner.

(b) Any device required by the federal act to bear on its label essentially the legend "Rx only".

~~76.~~ 82. "Prescription-only drug" does not include a controlled substance but does include:

(a) Any drug that because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug, other than a controlled substance, required by the federal act to bear on its label the legend "Rx only".

~~77.~~ 83. "Prescription order" means any of the following:

(a) An order to a pharmacist for drugs or devices issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.

(b) An order transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone or other means of communication shall be maintained by the pharmacist pursuant to section 32-1964, and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This

paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.

(c) An order initiated by a pharmacist pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 32-1970, or immunizations or vaccines administered by a pharmacist pursuant to section 32-1974.

Ch. 274 — (d) A DIET ORDER OR AN ORDER FOR ENTERAL FEEDING, NUTRITIONAL SUPPLEMENTATION OR PARENTERAL NUTRITION THAT IS INITIATED BY A REGISTERED DIETITIAN OR OTHER QUALIFIED NUTRITION PROFESSIONAL IN A HOSPITAL PURSUANT TO SECTION 36-416.

~~78.~~ 84. "Professionally incompetent" means:

(a) Incompetence based on a variety of factors, including a lack of sufficient pharmaceutical knowledge or skills or experience to a degree likely to endanger the health of patients.

(b) When considered with other indications of professional incompetence, a pharmacist, pharmacy intern or graduate intern who fails to

Chs. 267, 274 and 284 — obtain a passing score on a ~~board approved~~ BOARD-APPROVED pharmacist licensure examination or a pharmacy technician or pharmacy technician trainee who fails to obtain a passing score on a ~~board approved~~ BOARD-APPROVED pharmacy technician licensure examination.

~~79.~~ 85. "Radioactive substance" means a substance that emits ionizing radiation.

~~80.~~ 86. "Safely engage in employment duties" means that a permittee or the permittee's employee is able to safely engage in employment duties related to the manufacture, sale, distribution or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals.

Chs. 267, 274 and 284 — ~~81.~~ 87. "Symbol" means the characteristic symbols that have historically identified pharmacy, including ~~"~~show globes~~",~~ AND ~~"~~mortar and pestle,~~"~~ and the sign "Rx".

~~82.~~ 88. "Toxic substance" means a substance, other than a radioactive substance, that has the capacity to produce injury or illness in humans through ingestion, inhalation or absorption through any body surface.

~~83.~~ 89. "Ultimate user" means a person who lawfully possesses a drug or controlled substance for that person's own use, for the use of a member of that person's household or for administering to an animal owned by that person or by a member of that person's household.

EXPLANATION OF BLEND
SECTION 32-1901.01

Laws 2016, Chapters 85 and 212

Laws 2016, Ch. 85, section 4	Effective August 6, 2016
Laws 2016, Ch. 212, section 4	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 85 and Ch. 212 text changes to section 32-1901.01 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1901.01
Laws 2016, Chapters 85 and 212

32-1901.01. Definition of unethical and unprofessional conduct; permittees; licensees

A. In this chapter, unless the context otherwise requires, for the purposes of disciplining a permittee, "unethical conduct" means the following, whether occurring in this state or elsewhere:

1. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

2. Committing an act that is substantially related to the qualifications, functions or duties of a permittee and that demonstrates either a lack of good moral character or an actual or potential unfitness to hold a permit in light of the public's safety.

3. Working under the influence of alcohol or other drugs.

4. Addiction to the use of alcohol or other drugs to such a degree as to render the permittee unfit to perform the permittee's employment duties.

5. Violating a federal or state law or administrative rule relating to the manufacture, sale or distribution of drugs, devices, poisons, hazardous substances or precursor chemicals.

6. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals.

7. Violating state or federal reporting or recordkeeping requirements on transactions relating to precursor chemicals.

8. Failing to report in writing to the board any evidence that a pharmacist, pharmacy intern or graduate intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of pharmacy.

9. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.

10. Failing to report in writing to the board any evidence that appears to show that a permittee or permittee's employee is or may be guilty of unethical conduct, is or may be mentally or physically unable safely to engage in employment duties related to manufacturing, selling, distributing or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals or is or may be in violation of this chapter or a rule adopted under this chapter.

11. Intending to sell, transfer or distribute, or to offer for sale, transfer or distribution, or selling, transferring, distributing or

dispensing or offering for sale, transfer or distribution an imitation controlled substance, imitation over-the-counter drug or imitation prescription-only drug as defined in section 13-3451.

12. Denial or discipline of a permittee's permit to manufacture, sell, distribute or dispense drugs, devices, poisons, hazardous substances or precursor chemicals in another jurisdiction and the permit was not reinstated.

13. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.

14. Obtaining or attempting to obtain a permit or a permit renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

15. Wilfully making a false report or record required by this chapter, required by federal or state laws pertaining to drugs, devices, poisons, hazardous substances or precursor chemicals or required for the payment for drugs, devices, poisons or hazardous substances or precursor chemicals or for services pertaining to such drugs or substances.

16. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.

17. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.

18. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, this chapter.

19. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.

20. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.

Chs. 85 and 212

21. Failing to provide the board, OR its employees or agents or an authorized federal or state official conducting a site investigation, inspection or audit with access to any place for which a permit has been issued or for which an application for a permit has been submitted.

22. Failing to notify the board of a change of ownership, management or pharmacist in charge.

23. Failing to promptly produce on the request of the official conducting a site investigation, inspection or audit any book, record or document.

24. Overruling or attempting to overrule a pharmacist in matters of pharmacy ethics or interpreting laws pertaining to the practice of pharmacy or the distribution of drugs or devices.

25. Distributing premiums or rebates of any kind in connection with the sale of prescription medication, other than to the prescription medication recipient.

26. Failing to maintain effective controls against the diversion of precursor chemicals to unauthorized persons or entities.

27. Fraudulently claiming to have performed a service.

28. Fraudulently charging a fee for a service.

29. Advertising drugs or devices, or services pertaining to drugs or devices, in a manner that is untrue or misleading in any particular, and that is known, or that by the exercise of reasonable care should be known, to be untrue or misleading.

B. In this chapter, unless the context otherwise requires, for the purposes of disciplining a pharmacist, pharmacy intern or graduate intern, "unprofessional conduct" means the following, whether occurring in this state or elsewhere:

1. Addiction to the use of alcohol or other drugs to such a degree as to render the licensee unfit to practice the profession of pharmacy.

2. Violating any federal or state law, rule or regulation relating to the manufacture or distribution of drugs and devices or the practice of pharmacy.

3. Dispensing a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the express permission in each case of the orderer, or in the case of a prescription order, the medical practitioner. The conduct prohibited by this paragraph does not apply to substitutions authorized pursuant to section 32-1963.01.

4. Obtaining or attempting to obtain a license to practice pharmacy or a license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

5. Denial or discipline of a licensee's license to practice pharmacy in another jurisdiction and the license was not reinstated.

6. Claiming professional superiority in compounding or dispensing prescription orders.

7. Failing to comply with the mandatory continuing professional pharmacy education requirements of sections 32-1936 and 32-1937 and rules adopted by the board.

8. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

9. Working under the influence of alcohol or other drugs.

10. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when determined by the board or by conviction in a federal or state court.

11. Knowingly dispensing a drug without a valid prescription order as required pursuant to section 32-1968, subsection A.

12. Knowingly dispensing a drug on a prescription order that was issued in the course of the conduct of business of dispensing drugs pursuant to diagnosis by mail or the internet, unless the order was any of the following:

(a) Made by a physician who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.

(b) Made in an emergency medical situation as defined in section 41-1831.

(c) Written to prepare a patient for a medical examination.

(d) Written or the prescription medications were issued for use by a county or tribal public health department for immunization programs or emergency treatment or in response to an infectious disease investigation, a public health emergency, an infectious disease outbreak or an act of bioterrorism. For the purposes of this subdivision, "bioterrorism" has the same meaning prescribed in section 36-781.

(e) Written or antimicrobials were dispensed by the prescribing or dispensing physician to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661.

(f) Written or the prescription medications were issued for administration of immunizations or vaccines listed in the United States centers for disease control and prevention's recommended immunization schedule to a household member of a patient.

(g) For epinephrine auto-injectors that are written or dispensed for a school district or charter school and that are to be stocked for emergency use pursuant to section 15-157 OR FOR AN AUTHORIZED ENTITY TO BE STOCKED PURSUANT TO SECTION 36-2226.01.

Ch. 85

(h) Written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

(i) Written pursuant to a physical or mental health status examination that was conducted during a real-time telemedicine encounter with audio and video capability that meets the elements required by the centers for medicare and medicaid services.

Chs. 85 and 212

(j) For naloxone hydrochloride or any other ~~opiate~~ OPIOID antagonist approved by the United States food and drug administration and written or dispensed for use pursuant to section 36-2228 OR 36-2266.

Ch. 212

13. Failing to report in writing to the board any evidence that a pharmacist, pharmacy intern or graduate intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of pharmacy.

14. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.

15. Failing to report in writing to the board any evidence that a permittee or a permittee's employee is or may be guilty of unethical conduct or is or may be in violation of this chapter or a rule adopted under this chapter.

16. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.

17. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.

18. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.

19. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate, this chapter.

20. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.

21. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.

22. Refusing without just cause to allow authorized agents of the board to examine documents that are required to be kept pursuant to this chapter or title 36.

23. Participating in an arrangement or agreement to allow a prescription order or a prescription medication to be left at, picked up from, accepted by or delivered to a place that is not licensed as a pharmacy. This paragraph does not prohibit a pharmacist or a pharmacy from using an employee or a common carrier to pick up prescription orders at or deliver prescription medications to the office or home of a medical practitioner, the residence of a patient or a patient's hospital.

24. Paying rebates or entering into an agreement for the payment of rebates to a medical practitioner or any other person in the health care field.

25. Providing or causing to be provided to a medical practitioner prescription order blanks or forms bearing the pharmacist's or pharmacy's name, address or other means of identification.

26. Fraudulently claiming to have performed a professional service.

27. Fraudulently charging a fee for a professional service.

28. Failing to report a change of the licensee's home address or employer as required pursuant to section 32-1926.

29. Failing to report a change in the licensee's residency status as required pursuant to section 32-1926.01.

C. In this chapter, unless the context otherwise requires, for the purposes of disciplining a pharmacy technician or pharmacy technician trainee, "unprofessional conduct" means the following, whether occurring in this state or elsewhere:

1. Addiction to the use of alcohol or other drugs to such a degree as to render the licensee unfit to perform the licensee's employment duties.

2. Violating a federal or state law or administrative rule relating to the manufacture or distribution of drugs or devices.

3. Obtaining or attempting to obtain a pharmacy technician or pharmacy technician trainee license or a pharmacy technician license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.

4. Denial or discipline of a licensee's license to practice as a pharmacy technician in another jurisdiction and the license was not reinstated.

5. Failing to comply with the mandatory continuing professional education requirements of section 32-1925, subsection I and rules adopted by the board.

6. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

7. Working under the influence of alcohol or other drugs.

8. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when determined by the board or by conviction in a federal or state court.

9. Failing to report in writing to the board any evidence that a pharmacist, pharmacy intern or graduate intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of pharmacy.

10. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.

11. Failing to report in writing to the board any evidence that a permittee or a permittee's employee is or may be guilty of unethical conduct or is or may be in violation of this chapter or a rule adopted under this chapter.

12. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.

13. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.

14. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.

15. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate, this chapter.

16. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.

17. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.

18. Failing to report a change of the licensee's home address or employer as required pursuant to section 32-1926.

19. Failing to report a change in the licensee's residency status as required pursuant to section 32-1926.01.

EXPLANATION OF BLEND
SECTION 32-1904

Laws 2016, Chapters 284 and 288

Laws 2016, Ch. 284, section 2	Effective August 6, 2016
Laws 2016, Ch. 288, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 284 and Ch. 288 text changes to section 32-1904 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1904
Laws 2016, Chapters 284 and 288

32-1904. Powers and duties of board; immunity

A. The board shall:

1. Make bylaws and adopt rules that are necessary for the protection of the public and that pertain to the practice of pharmacy, the manufacturing, wholesaling or supplying of drugs, devices, poisons or hazardous substances, the use of pharmacy technicians and support personnel and the lawful performance of its duties.

2. Fix standards and requirements for the registration and reregistration of pharmacies, except as otherwise specified.

3. Investigate compliance as to the quality, label and labeling of all drugs, devices, poisons or hazardous substances and take action necessary to prevent the sale of these if they do not conform to the standards prescribed in this chapter, the official compendium or the federal act.

4. Enforce its rules. In so doing, the board or its agents have free access at all reasonable hours to any pharmacy, manufacturer, wholesaler, nonprescription drug permittee or other establishment in which drugs, devices, poisons or hazardous substances are manufactured, processed, packed or held, or to enter any vehicle being used to transport or hold such drugs, devices, poisons or hazardous substances for the purpose of:

(a) Inspecting the establishment or vehicle to determine if any provisions of this chapter or the federal act are being violated.

(b) Securing samples or specimens of any drug, device, poison or hazardous substance after paying or offering to pay for such sample.

(c) Detaining or embargoing a drug, device, poison or hazardous substance in accordance with section 32-1994.

5. Examine and license as pharmacists and pharmacy interns all qualified applicants as provided by this chapter.

6. Require each applicant for an initial license ~~to submit to the board a full set of fingerprints for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation~~ TO APPLY FOR A FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 41-1758.03. IF AN APPLICANT IS ISSUED A VALID FINGERPRINT CLEARANCE CARD, THE APPLICANT SHALL SUBMIT THE VALID FINGERPRINT CLEARANCE CARD TO THE BOARD WITH THE COMPLETED APPLICATION. IF AN APPLICANT APPLIES FOR A FINGERPRINT CLEARANCE CARD AND IS DENIED, THE APPLICANT MAY REQUEST THAT THE BOARD CONSIDER THE APPLICATION FOR LICENSURE NOTWITHSTANDING THE ABSENCE OF A VALID FINGERPRINT CLEARANCE CARD. THE BOARD, IN ITS DISCRETION, MAY APPROVE AN APPLICATION FOR LICENSURE DESPITE THE DENIAL OF A VALID FINGERPRINT CLEARANCE CARD IF THE BOARD DETERMINES THAT THE APPLICANT'S CRIMINAL HISTORY INFORMATION ON WHICH THE DENIAL WAS BASED DOES NOT ALONE DISQUALIFY THE APPLICANT FROM LICENSURE.

Ch. 288

7. Issue duplicates of lost or destroyed permits on the payment of a fee as prescribed by the board.

8. Adopt rules for the rehabilitation of pharmacists and pharmacy interns as provided by this chapter.

9. At least once every three months, notify pharmacies regulated pursuant to this chapter of any modifications on prescription writing privileges of podiatrists, dentists, doctors of medicine, registered nurse practitioners, osteopathic physicians, veterinarians, physician assistants, optometrists and homeopathic physicians of which it receives notification from the board of podiatry examiners, board of dental examiners, Arizona medical board, board of nursing, board of osteopathic examiners in medicine and surgery, veterinary medical examining board, Arizona regulatory board of physician assistants, board of optometry or board of homeopathic and integrated medicine examiners.

B. The board may:

1. Employ chemists, compliance officers, clerical help and other employees subject to title 41, chapter 4, article 4 and provide laboratory facilities for the proper conduct of its business.

2. Provide, by education of and information to the licensees and to the public, assistance in the curtailment of abuse in the use of drugs, devices, poisons and hazardous substances.

3. Approve or reject the manner of storage and security of drugs, devices, poisons and hazardous substances.

4. Accept monies and services to assist in the enforcement of this chapter from other than licensees:

(a) For performing inspections and other board functions.

(b) For the cost of copies of the pharmacy and controlled substances laws, the annual report of the board and other information from the board.

5. Adopt rules for professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession of pharmacy.

6. Grant permission to deviate from a state requirement for experimentation and technological advances.

7. Adopt rules for the training and practice of pharmacy interns, pharmacy technicians and support personnel.

8. Investigate alleged violations of this chapter, conduct hearings in respect to violations, subpoena witnesses and take such action as it deems necessary to revoke or suspend a license or a permit, place a licensee or permittee on probation or warn a licensee or permittee under this chapter or to bring notice of violations to the county attorney of the county in which a violation took place or to the attorney general.

9. By rule, approve colleges or schools of pharmacy.

10. By rule, approve programs of practical experience, clinical programs, internship training programs, programs of remedial academic work and preliminary equivalency examinations as provided by this chapter.

11. Assist in the continuing education of pharmacists and pharmacy interns.

12. Issue inactive status licenses as provided by this chapter.

13. Accept monies and services from the federal government or others for educational, research or other purposes pertaining to the enforcement of this chapter.

14. By rule, except from the application of all or any part of this chapter any material, compound, mixture or preparation containing any stimulant or depressant substance included in section 13-3401, paragraph 6, subdivision (c) or (d) from the definition of dangerous drug if the material, compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, provided that such admixtures are included in such combinations, quantity, proportion or concentration as to vitiate the potential for abuse of the substances that do have a stimulant or depressant effect on the central nervous system.

15. Adopt rules for the revocation, suspension or reinstatement of licenses or permits or the probation of licensees or permittees as provided by this chapter.

16. ISSUE A CERTIFICATE OF FREE SALE TO ANY PERSON THAT IS LICENSED BY THE BOARD AS A MANUFACTURER FOR THE PURPOSE OF MANUFACTURING OR DISTRIBUTING FOOD SUPPLEMENTS OR DIETARY SUPPLEMENTS AS DEFINED IN RULE BY THE BOARD AND THAT WANTS TO SELL FOOD SUPPLEMENTS OR DIETARY SUPPLEMENTS DOMESTICALLY OR INTERNATIONALLY. THE APPLICATION SHALL CONTAIN ALL OF THE FOLLOWING:

(a) THE APPLICANT'S NAME, ADDRESS, E-MAIL ADDRESS, TELEPHONE AND FAX NUMBER.

(b) THE PRODUCT'S FULL, COMMON OR USUAL NAME.

(c) A COPY OF THE LABEL FOR EACH PRODUCT LISTED. IF THE PRODUCT IS TO BE EXPORTED IN BULK AND A LABEL IS NOT AVAILABLE, THE APPLICANT SHALL INCLUDE A CERTIFICATE OF COMPOSITION.

Ch. 284

(d) THE COUNTRY OF EXPORT, IF APPLICABLE.

(e) THE NUMBER OF CERTIFICATES OF FREE SALE REQUESTED.

17. ESTABLISH AN INSPECTION PROCESS FOR THE ISSUANCE OF CERTIFICATES OF FREE SALE OR GOOD MANUFACTURING PRACTICE CERTIFICATIONS. THE BOARD SHALL ESTABLISH IN RULE:

(a) A FEE FOR THE ISSUANCE OF CERTIFICATES OF FREE SALE.

(b) A FEE FOR THE ISSUANCE OF GOOD MANUFACTURING PRACTICE CERTIFICATIONS.

(c) AN ANNUAL INSPECTION FEE.

C. The executive director and other personnel or agents of the board are not subject to civil liability for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of this chapter.

EXPLANATION OF BLEND
SECTION 32-2811

Laws 2016, Chapters 39 and 98

Laws 2016, Ch. 39, section 2	Effective August 6, 2016
Laws 2016, Ch. 98, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 39 and Ch. 98 text changes to section 32-2811 are blended in the form shown on the following page.

BLEND OF SECTION 32-2811
Laws 2016, Chapters 39 and 98

32-2811. Prohibitions and limitations; exceptions

A. No person may use ionizing radiation on a human being unless the person is a licensed practitioner or the holder of a certificate as provided in this chapter.

B. A person holding a certificate may use ionizing radiation on human beings only for diagnostic or therapeutic purposes while operating in each particular case at the direction of a licensed practitioner, EXCEPT THAT A PERSON HOLDING A CERTIFICATE MAY USE IONIZING RADIATION ON HUMAN BEINGS FOR DIAGNOSTIC PURPOSES ONLY WHILE OPERATING IN EACH PARTICULAR CASE AT THE DIRECTION OF A LICENSED PRACTITIONER WHO IS LICENSED IN ANY OTHER STATE, TERRITORY OR DISTRICT OF THE UNITED STATES. The application of ionizing radiation and the direction to apply ionizing radiation are limited to those persons or parts of the human body specified in the law under which the practitioner is licensed. The provisions of the technologist's certificate govern the extent of application of ionizing radiation.

Ch. 98

C. Nothing in ~~the provisions of~~ this chapter relating to technologists shall be construed to limit, enlarge or affect in any respect the practice of their respective professions by duly licensed practitioners.

D. The requirement of a certificate shall not apply to:

1. A hospital resident specializing in radiology who is not a licensed practitioner in this state or a student enrolled in and attending a school or college of medicine, osteopathy, podiatry, dentistry, ~~naturopathy~~ NATUROPATHIC MEDICINE, chiropractic or radiologic technology who applies ionizing radiation to a human being while under the specific direction of a licensed practitioner.

2. A person engaged in performing the duties of a technologist in ~~such~~ THAT person's employment by an agency, bureau or division of the government of the United States.

Chs. 39 and 98

3. Dental hygienists licensed in the state of Arizona and dental assistants holding a valid certificate in dental radiology from a course approved by the ~~Arizona~~ state board of dental examiners.

4. Persons providing assistance during an ionizing radiation procedure, apart from such procedures conducted in a health care institution, under the direction of a person licensed for the use of an ionizing radiation machine.

5. A PERSON WHO IS EMPLOYED BY OR ACTING ON BEHALF OF THE STATE DEPARTMENT OF CORRECTIONS OR A COUNTY JAIL AND WHO USES A LOW-DOSE IONIZING RADIATION BODY SCANNING DEVICE TO DETECT CONTRABAND, AS DEFINED IN SECTION 13-2501, IN OR ON AN INMATE.

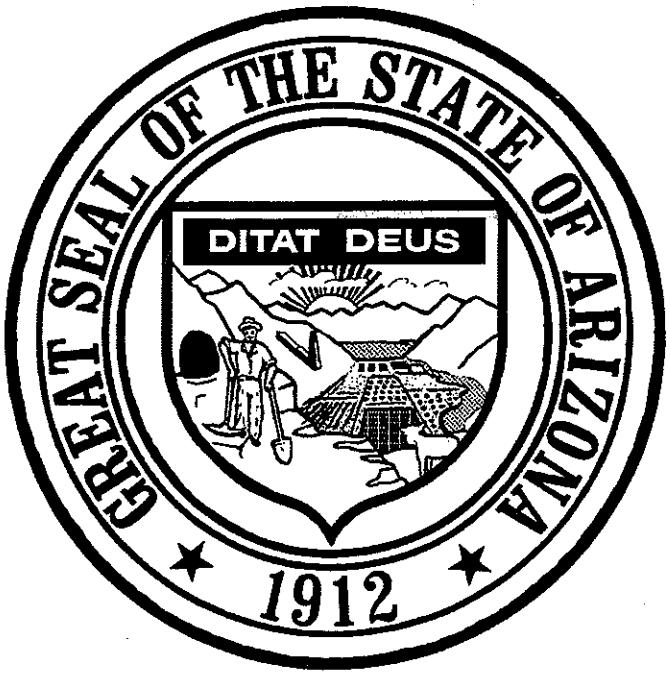
Ch. 39

Ch. 98

E. ~~The provisions of~~ Subsection B of this section ~~do~~ DOES not apply to ionizing radiation ordered by a licensed practitioner for other than diagnostic or therapeutic purposes pursuant to section 13-2505, subsection E.

2016 BLENDS

PART II



Arizona Legislative Council

EXPLANATION OF BLEND
SECTION 32-3021 (as amended by Laws 2015, Ch. 262, section 20)

Laws 2016, Chapters 241 and 371

Laws 2016, Ch. 241, section 2	Effective August 6, 2016
Laws 2016, Ch. 371, section 25	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 241 and Ch. 371 text changes to section 32-3021 (as amended by Laws 2015, Ch. 262, section 20) are blended in the form shown on the following pages.

BLEND OF SECTION 32-3021 (as amended by Laws 2015, Ch. 262, section 20)
Laws 2016, Chapters 241 and 371

32-3021. Private vocational program license; qualifications; provision of information; exemptions

A. A person shall not operate a private vocational program unless the person holds a private vocational program license issued pursuant to this chapter. Each program offered by a private vocational program licensee shall be authorized on a private vocational program license. The board shall prescribe the manner in which the programs shall be identified on the license.

B. An applicant for a private vocational program license shall meet all of the following requirements:

1. Furnish a letter of credit, surety bond or cash deposit as provided in section 32-3023.

2. Make specific information concerning educational programs, including statements of purpose, objectives, course of study, policies, fees and other pertinent information, available to prospective students and the general public.

3. Be financially responsible and have management capability.

4. Maintain a qualified faculty.

5. Maintain facilities, equipment and materials that are appropriate for the stated program. All facilities shall meet applicable state and local health and safety laws.

6. Maintain appropriate records as the board prescribes that are properly safeguarded and preserved.

7. Use only advertisements that are consistent with the information made available as provided in paragraph 2 of this subsection.

8. Provide courses of instruction that meet stated objectives.

9. Provide a grievance procedure for students.

10. Comply with all federal and state laws relating to the operation of a private postsecondary educational institution.

11. Other requirements the board deems necessary.

C. An applicant for a private vocational program license shall submit evidence of meeting the requirements prescribed in subsection B of this section to the board. The board shall verify the evidence submitted. Verification shall include on-site verification.

D. The filing of an application grants the board the authority to obtain information from any of the following:

1. A licensing board or agency in any state, district, territory or county of the United States or any foreign country.

2. The Arizona criminal justice information system as defined in section 41-1750.

3. The federal bureau of investigation.

E. The board, on application, may issue a private vocational program license to a new educational institution as provided in this section, except that the board shall establish separate minimum standards

for licensure requirements of new educational institutions. These minimum standards may include the modification of licensure requirements as provided in subsection B, paragraphs 3, 5, 6, 7 and 8 of this section to meet the circumstances of new educational institutions. THE BOARD, ON APPLICATION, MAY ISSUE A PRIVATE VOCATIONAL PROGRAM LICENSE TO AN EDUCATIONAL INSTITUTION OTHERWISE EXEMPT UNDER SUBSECTION F OF THIS SECTION. The board shall monitor the new educational institution to ensure compliance with the licensure requirements. The board shall issue a private vocational program license as provided in this subsection one time only to new educational institutions.

Ch. 241

F. This section does not apply to any of the following:

1. A school licensed pursuant to chapter 3 or 5 of this title.

2. An instructional program or course sponsored by a bona fide trade association solely for its members.

3. Privately owned academic schools engaged in the process of general education that is designed to produce a level of development equivalent to that necessary to meet the requirements for entrance into a public community college or public university in this state and that may incidentally offer technical and vocational courses as part of the curriculum.

4. Schools or private instruction conducted by any person engaged in training, tutoring or teaching individuals or groups, if the instruction is related to hobbies, avocations, academic improvement or recreation and may only incidentally lead to gainful employment ~~and if the instruction is for a period of under forty hours and costs less than one thousand dollars~~.

Ch. 241

5. Schools conducted by any person solely for training the person's own employees.

6. An instructional program or course offered solely for employees and for the purpose of improving the employees in their employment if both of the following apply:

(a) The employee is not charged a fee.

(b) The employer provides or funds the program or course pursuant to a valid written contract between the employer and a program or course provider.

7. Training conducted pursuant to 14 Code of Federal Regulations part 141.

8. A school that solely provides an instructional program for certified nursing assistants and licensed nursing assistants and is licensed by the nursing board pursuant to section 32-1606, subsection B, paragraph 11.

9. A professional driving training school licensed by the department of transportation pursuant to chapter 23, articles 1, 2 and 3 of this title.

10. A training program approved by the board of examiners of nursing care institution administrators and assisted living facility managers that solely provides training for managers and caregivers of assisted living facilities.

Ch. 371

11. A YOGA TEACHER TRAINING COURSE OR PROGRAM OR A YOGA INSTRUCTIONAL COURSE OR PROGRAM.

EXPLANATION OF BLEND
SECTION 33-1242

Laws 2016, Chapters 128, 172 and 230

Laws 2016, Ch. 128, section 38	Effective August 6, 2016 (Retroactive to July 1, 2016)
Laws 2016, Ch. 172, section 1	Effective August 6, 2016
Laws 2016, Ch. 230, section 1	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 128, Ch. 172 and Ch. 230 text changes to section 33-1242 are blended in the form shown on the following pages.

BLEND OF SECTION 33-1242
Laws 2016, Chapters 128, 172 and 230

33-1242. Powers of unit owners' association; notice to unit owner of violation

A. Subject to the provisions of the declaration, the association may:

1. Adopt and amend bylaws and rules.

2. Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from unit owners.

3. Hire and discharge managing agents and other employees, agents and independent contractors.

4. Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium.

5. Make contracts and incur liabilities.

6. Regulate the use, maintenance, repair, replacement and modification of common elements.

7. Cause additional improvements to be made as a part of the common elements.

8. Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, except that common elements may be conveyed or subjected to a security interest only pursuant to section 33-1252.

9. Grant easements, leases, licenses and concessions through or over the common elements.

10. Impose and receive any payments, fees or charges for the use, rental or operation of the common elements other than limited common elements described in section 33-1212, paragraphs 2 and 4 and for services provided to unit owners.

Ch. 172 — 11. Impose charges for late payment of assessments AFTER THE ASSOCIATION HAS PROVIDED NOTICE THAT THE ASSESSMENT IS OVERDUE OR PROVIDED NOTICE THAT THE ASSESSMENT IS CONSIDERED OVERDUE AFTER A CERTAIN DATE and, after notice and an opportunity to be heard, impose reasonable monetary penalties ~~upon~~ ON unit owners for violations of the declaration, bylaws and rules of the association.

Chs. 128, 172 and 230

12. Impose reasonable charges for the preparation and recordation of amendments to the declaration or statements of unpaid assessments.

13. Provide for the indemnification of its officers and executive board of directors and maintain directors' and officers' liability insurance.

14. Assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly provides.

15. Be a member of a master association or other entity owning, maintaining or governing in any respect any portion of the common elements or other property benefitting or related to the condominium or the unit owners in any respect.

16. Exercise any other powers conferred by the declaration or bylaws.

17. Exercise all other powers that may be exercised in this state by legal entities of the same type as the association.

18. Exercise any other powers necessary and proper for the governance and operation of the association.

B. A unit owner who receives a written notice that the condition of the property owned by the unit owner is in violation of a requirement of the condominium documents without regard to whether a monetary penalty is imposed by the notice may provide the association with a written response by sending the response by certified mail within ~~ten business~~ TWENTY-ONE CALENDAR days after the date of the notice. The response shall be sent to the address identified in the notice.

Ch. 230

C. Within ten business days after receipt of the certified mail containing the response from the unit owner, the association shall respond to the unit owner with a written explanation regarding the notice that shall provide at least the following information unless previously provided in the notice of violation:

1. The provision of the condominium documents that has allegedly been violated.

2. The date of the violation or the date the violation was observed.

3. The first and last name of the person or persons who observed the violation.

4. The process the unit owner must follow to contest the notice.

D. Unless the information required in subsection C, paragraph 4 of this section is provided in the notice of violation, the association shall not proceed with any action to enforce the condominium documents, including the collection of attorney fees, before or during the time prescribed by subsection C of this section regarding the exchange of information between the association and the unit owner AND SHALL GIVE THE UNIT OWNER WRITTEN NOTICE OF THE UNIT OWNER'S OPTION TO PETITION FOR AN ADMINISTRATIVE HEARING ON THE MATTER IN THE DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY PURSUANT TO SECTION 41-2198.01. At any time before or after completion of the exchange of information pursuant to this section, the unit owner may petition for a hearing pursuant to section ~~41-2198.01~~ 32-2199.01 if the dispute is within the jurisdiction of the STATE REAL ESTATE department ~~of fire, building and life safety~~ as prescribed in section ~~41-2198.01, subsection B~~ 32-2199.01.

Ch. 172

Ch. 128

EXPLANATION OF BLEND
SECTION 33-1452

Laws 2016, Chapters 253 and 315

Laws 2016, Ch. 253, section 2	Effective August 6, 2016 (Retroactive to May 31, 2016)
Laws 2016, Ch. 315, section 2	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 253 and Ch. 315 text changes to section 33-1452 are blended in the form shown on the following pages.

BLEND OF SECTION 33-1452
Laws 2016, Chapters 253 and 315

33-1452. Rules and regulations

A. A landlord shall adopt written rules or regulations, however described, concerning the tenant's use and occupancy of the premises. Such rules or regulations are enforceable against the tenant only if:

1. Their purpose is to promote the convenience, safety or welfare of the tenants on the premises, preserve the landlord's property from abusive use, preserve or upgrade the quality of the mobile home park or make a fair distribution of services and facilities held out for the tenants generally.

2. They are reasonably related to the purpose for which adopted.

3. They apply to all tenants on the premises in a fair manner.

4. They are sufficiently explicit in prohibition, direction or limitation of the tenant's conduct to fairly inform the tenant of what must or must not be done to comply.

5. They are not for the purpose of evading the obligations of the landlord.

6. The prospective tenant has a copy of the current rules and regulations before the prospective tenant enters into the rental agreement.

Ch. 253 — B. BEGINNING MAY 31, 2016, A NEW RULE ADOPTED AFTER THE EXECUTION OF THE TENANT'S INITIAL RENTAL AGREEMENT THAT IMPOSES A REOCCURRING FINANCIAL OBLIGATION ON A TENANT IS NOT ENFORCEABLE AGAINST THE TENANT.

~~B.~~ C. A new tenant who brings a mobile home into a mobile home park or who purchases an existing mobile home in a mobile home park shall comply with all current statements of policy and rules or regulations, including those pertaining to the size, condition and appearance of the mobile home, and exterior materials with which the mobile home has been constructed.

~~C.~~ D. A new tenant who purchases an existing mobile home in a mobile home park shall comply with all current statements of policy and rules and regulations, including those pertaining to the size, condition and appearance of the mobile home and exterior materials with which the mobile home has been constructed, except that the landlord shall not require the replacement of the siding and skirting on a mobile home unless the replacement siding and skirting will significantly change or improve the appearance of the mobile home.

~~D.~~ E. If any mobile home park owner adds, changes, deletes or amends any rule, notice in writing of all such additions, changes, deletions or amendments shall be furnished to all mobile home tenants thirty days before they become effective by first class or certified mail.

Ch. 315 — Any rule or condition of occupancy ~~which~~ THAT is unfair and deceptive or ~~which~~ THAT does not conform to the requirements of this chapter shall be

unenforceable. A rule or regulation adopted after the tenant enters into the rental agreement is enforceable against the tenant only if it does not work a substantial modification of the rental agreement.

~~E.~~ F. A person who owns or operates a mobile home park shall not:

1. Deny rental unless the mobile home does not meet the requirements of the rules and regulations of the landlord and the statements of policy prescribed pursuant to section 33-1436 or the park resident or prospective resident cannot conform to park rules and regulations.

2. Require any person as a precondition to renting, leasing or otherwise occupying a space for a mobile home in a mobile home park to pay an entrance or exit fee of any kind unless for services actually rendered or pursuant to a written agreement.

3. Deny any resident of a mobile home park the right to sell the resident's mobile home at a price of the resident's own choosing during the term of the tenant's rental agreement, but the landlord may reserve the right to approve the purchaser of such mobile home as a tenant but such permission may not be unreasonably withheld, except that the landlord may require, notwithstanding paragraph 6 of this subsection, in order to preserve or upgrade the quality of the mobile home park, that any mobile home not in compliance with the landlord's current rules and regulations and statements of policy, in a rundown condition or in disrepair be removed from the park within sixty days. Within ten days of a written request by the seller or prospective purchaser, a landlord shall notify the seller and the prospective purchaser in writing of any reasons for withholding approval of a purchaser pursuant to this paragraph. The notice to the prospective purchaser shall identify the reasons for disapproval with reasonable specificity. The notice to the seller shall identify the reasons in summary fashion consistent with applicable federal and state consumer protection laws and shall inform the seller that the seller should consult with the prospective purchaser for more specific details.

4. Exact a commission or fee with respect to the price realized by the tenant selling the mobile home, unless the park owner or operator has acted as agent for the mobile home owner pursuant to a written agreement.

5. Require a tenant or prospective tenant to use any specific sales agency, manufacturer, retailer or broker.

6. Notwithstanding section 33-1436, subsection C, require an existing tenant to furnish permanent improvements ~~which~~ THAT cannot be removed without damage thereto or to the mobile home space by a tenant at the expiration of the rental agreement. If the landlord includes any requirements for permanent improvements in the rules or statements of policy, these requirements shall not apply to any mobile home already existing in the mobile home park.

Ch. 315

7. Prohibit a tenant from advertising the sale or exchange of the tenant's mobile home, including the display of a "for sale" or "open house" sign on the dwelling or in the window of the mobile home stating the name, address and telephone number of the owner or agent of the mobile home. The sign may be no larger than twelve inches wide and eighteen inches long. In addition to the display of a sign in the window, the

tenants may display the signs on a central posting board in the park ~~which~~ THAT is reasonably accessible to the public seven days a week during daylight hours.

Ch. 315 — 8. REQUIRE A TENANT TO PLACE ANY ADDITIONAL PERSON'S NAME ON THE TITLE TO THE MOBILE HOME AS A CONDITION OF TENANCY OR RESIDENCY FOR THAT ADDITIONAL PERSON OR PAY A FEE OR OTHER FORM OF PENALTY FOR FAILING TO PLACE AN ADDITIONAL PERSON'S NAME ON THE TITLE TO THE MOBILE HOME.

~~F.~~ G. The landlord or manager of a mobile home park shall include, in rules and regulations, an emergency number to be called when the park is left unattended, regardless of the size of the park.

~~G.~~ H. The landlord shall not prohibit or adopt a rule that prohibits tenants or a tenant association from meeting with permission of the tenant in the tenant's mobile home, assembling at common facilities or areas within the park or meeting with or without invited visiting speakers in the mobile home park to discuss issues relating to mobile home living and affairs including the forming of a tenant association. Such meetings shall be allowed in common facilities if such meetings are held during normal operating hours of the common facility and when the facility is not otherwise in use. The tenant or tenant association shall be allowed to post notice of a meeting on a bulletin board in the mobile home park used for similar ~~notice~~ NOTICES and shall be allowed to include notice of a meeting in a park newsletter. Meeting notices and meetings prescribed in this subsection shall not constitute a solicitation. For the purposes of this subsection, "common facilities" means a recreation hall, A clubhouse, A community center and any outdoor common area meeting location that is utilized by the tenants.

Chs. 253 and 315

~~H.~~ I. Any improvements made by a tenant such as plants, vines, edgings, gravel, stone or other additions made for the benefit of the tenancy may be removed by the tenant, or by agreement of both parties the landlord may retain the improvements by paying the tenant for their actual cost.

~~I.~~ J. If a tenant dies, any surviving joint tenant or cotenant continues as tenant with the same rights, privileges and liabilities as if the surviving tenant were the original tenant, with the additional right to terminate the rental agreement by giving sixty days' written notice to the landlord within sixty days after the death of the tenant.

~~J.~~ K. If a tenant who was sole owner of the mobile home dies during the term of the rental agreement, the tenant's heirs or legal representative have the right to cancel the lease by giving thirty days' written notice to the landlord with the same rights, privileges and liabilities of the original tenant.

~~K.~~ L. This section does not prohibit a landlord from requiring removal of a mobile home from the mobile home park within sixty days after the sale by a tenant if the mobile home does not meet the current requirements of the rules and regulations and statements of policy, including those pertaining to the size, condition and appearance of the mobile home, and exterior materials with which the mobile home has been constructed.

~~L.~~ M. On the sale of a mobile home that was manufactured after June 15, 1976 to a tenant who is otherwise qualified for tenancy, a landlord shall not require removal of that mobile home from the mobile home park solely because of the age of the mobile home. A landlord may require the removal of a mobile home on the sale of the mobile home solely because of the age of the mobile home if the mobile home was manufactured on or before June 15, 1976. This subsection shall not be construed to preclude a landlord from prohibiting a mobile home from being moved into a mobile home park solely because of the age of the mobile home without regard to its date of manufacture.

EXPLANATION OF BLEND
SECTION 33-1803

Laws 2016, Chapters 128, 172 and 230

Laws 2016, Ch. 128, section 48	Effective August 6, 2016 (Retroactive to July 1, 2016)
Laws 2016, Ch. 172, section 3	Effective August 6, 2016
Laws 2016, Ch. 230, section 2	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 128, Ch. 172 and Ch. 230 text changes to section 33-1803 are blended in the form shown on the following pages.

BLEND OF SECTION 33-1803
Laws 2016, Chapters 128, 172 and 230

33-1803. Assessment limitation; penalties; notice to member of violation

A. Unless limitations in the community documents would result in a lower limit for the assessment, the association shall not impose a regular assessment that is more than twenty percent greater than the immediately preceding fiscal year's assessment without the approval of the majority of the members of the association. Unless reserved to the members of the association, the board of directors may impose reasonable charges for the late payment of assessments. A payment by a member is deemed late if it is unpaid fifteen or more days after its due date, unless the community documents provide for a longer period. Charges for the late payment of assessments are limited to the greater of fifteen dollars or ten percent of the amount of the unpaid assessment AND MAY BE IMPOSED ONLY AFTER THE ASSOCIATION HAS PROVIDED NOTICE THAT THE ASSESSMENT IS OVERDUE OR PROVIDED NOTICE THAT THE ASSESSMENT IS CONSIDERED OVERDUE AFTER A CERTAIN DATE. Any monies paid by the member for an unpaid assessment shall be applied first to the principal amount unpaid and then to the interest accrued.

Ch. 172

B. After notice and an opportunity to be heard, the board of directors may impose reasonable monetary penalties on members for violations of the declaration, bylaws and rules of the association. Notwithstanding any provision in the community documents, the board of directors shall not impose a charge for a late payment of a penalty that exceeds the greater of fifteen dollars or ten percent of the amount of the unpaid penalty. A payment is deemed late if it is unpaid fifteen or more days after its due date, unless the declaration, bylaws or rules of the association provide for a longer period. Any monies paid by a member for an unpaid penalty shall be applied first to the principal amount unpaid and then to the interest accrued. Notice pursuant to this subsection shall include information pertaining to the manner in which the penalty shall be enforced.

C. A member who receives a written notice that the condition of the property owned by the member is in violation of the community documents without regard to whether a monetary penalty is imposed by the notice may provide the association with a written response by sending the response by certified mail within ~~ten business~~ TWENTY-ONE CALENDAR days after the date of the notice. The response shall be sent to the address identified in the notice.

Ch. 230

D. Within ten business days after receipt of the certified mail containing the response from the member, the association shall respond to the member with a written explanation regarding the notice that shall provide at least the following information unless previously provided in the notice of violation:

1. The provision of the community documents that has allegedly been violated.

2. The date of the violation or the date the violation was observed.

3. The first and last name of the person or persons who observed the violation.

4. The process the member must follow to contest the notice.

E. Unless the information required in subsection D, paragraph 4 of this section is provided in the notice of violation, the association shall not proceed with any action to enforce the community documents, including the collection of attorney fees, before or during the time prescribed by subsection D of this section regarding the exchange of information between the association and the member AND SHALL GIVE THE MEMBER WRITTEN NOTICE OF THE MEMBER'S OPTION TO PETITION FOR AN ADMINISTRATIVE HEARING ON THE MATTER IN THE DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY PURSUANT TO SECTION 41-2198.01. At any time before or after completion of the exchange of information pursuant to this section, the member may petition for a hearing pursuant to section ~~41-2198.01~~ 32-2199.01 if the dispute is within the jurisdiction of the STATE REAL ESTATE department ~~of fire, building and life safety~~ as prescribed in section ~~41-2198.01, subsection B~~ 32-2199.01.

Ch. 172

Ch. 128

EXPLANATION OF BLEND
SECTION 33-1817

Laws 2016, Chapters 83 and 254

Laws 2016, Ch. 83, section 1	Effective August 6, 2016
Laws 2016, Ch. 254, section 2	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 83 and Ch. 254 text changes to section 33-1817 are blended in the form shown on the following pages.

BLEND OF SECTION 33-1817
Laws 2016, Chapters 83 and 254

33-1817. Declaration amendment; design, architectural committees; review

A. EXCEPT DURING THE PERIOD OF DECLARANT CONTROL, OR IF DURING THE PERIOD OF DECLARANT CONTROL WITH THE WRITTEN CONSENT OF THE DECLARANT IN EACH INSTANCE, THE FOLLOWING APPLY TO AN AMENDMENT TO A DECLARATION:

1. THE DECLARATION MAY BE AMENDED BY THE ASSOCIATION, IF ANY, OR, IF THERE IS NO ASSOCIATION OR BOARD, THE OWNERS OF THE PROPERTY THAT IS SUBJECT TO THE DECLARATION, BY AN AFFIRMATIVE VOTE OR WRITTEN CONSENT OF THE NUMBER OF OWNERS OR ELIGIBLE VOTERS SPECIFIED IN THE DECLARATION, INCLUDING THE ASSENT OF ANY INDIVIDUALS OR ENTITIES THAT ARE SPECIFIED IN THE DECLARATION.

2. AN AMENDMENT TO A DECLARATION MAY APPLY TO FEWER THAN ALL OF THE LOTS OR LESS THAN ALL OF THE PROPERTY THAT IS BOUND BY THE DECLARATION AND AN AMENDMENT IS DEEMED TO CONFORM TO THE GENERAL DESIGN AND PLAN OF THE COMMUNITY, IF BOTH OF THE FOLLOWING APPLY:

(a) THE AMENDMENT RECEIVES THE AFFIRMATIVE VOTE OR WRITTEN CONSENT OF THE NUMBER OF OWNERS OR ELIGIBLE VOTERS SPECIFIED IN THE DECLARATION, INCLUDING THE ASSENT OF ANY INDIVIDUALS OR ENTITIES THAT ARE SPECIFIED IN THE DECLARATION. Ch. 254

(b) THE AMENDMENT RECEIVES THE AFFIRMATIVE VOTE OR WRITTEN CONSENT OF ALL OF THE OWNERS OF THE LOTS OR PROPERTY TO WHICH THE AMENDMENT APPLIES.

3. WITHIN THIRTY DAYS AFTER THE ADOPTION OF ANY AMENDMENT PURSUANT TO THIS SECTION, THE ASSOCIATION OR, IF THERE IS NO ASSOCIATION OR BOARD, AN OWNER THAT IS AUTHORIZED BY THE AFFIRMATIVE VOTE ON OR THE WRITTEN CONSENT TO THE AMENDMENT SHALL PREPARE, EXECUTE AND RECORD A WRITTEN INSTRUMENT SETTING FORTH THE AMENDMENT.

4. NOTWITHSTANDING ANY PROVISION IN THE DECLARATION THAT PROVIDES FOR PERIODIC RENEWAL OF THE DECLARATION, AN AMENDMENT TO THE DECLARATION IS EFFECTIVE IMMEDIATELY ON RECORDATION OF THE INSTRUMENT IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

B. Notwithstanding any provision in the community documents:

1. Membership on a design review committee, an architectural committee or a committee that performs similar functions, however denominated, for the planned community shall include at least one member of the board of directors who shall serve as chairperson of the committee.

2. For new construction of the main residential structure on a lot or for rebuilds of the main residential structure on a lot and only in a planned community that has enacted design guidelines, architectural guidelines or other similar rules, however denominated, and if the association documents permit the association to charge the member a security deposit and the association requires the member to pay a security deposit to secure completion of the member's construction project or compliance with approved plans, all of the following apply:

(a) The deposit shall be placed in a trust account with the following instructions:

(i) The cost of the trust account shall be shared equally between the association and the member.

(ii) If the construction project is abandoned, the board of directors may determine the appropriate use of any deposit monies.

(iii) Any interest earned on the refundable security deposit shall become part of the security deposit.

(b) The association or the design review committee must hold a final design approval meeting for the purpose of issuing approval of the plans, and the member or member's agent must have the opportunity to attend the meeting. If the plans are approved, the association's design review representative shall provide written acknowledgement that the approved plans, including any approved amendments, are in compliance with all rules and guidelines in effect at the time of the approval and that the refund of the deposit requires that construction be completed in accordance with those approved plans.

(c) The association must provide for at least two on-site formal reviews during construction for the purpose of determining compliance with the approved plans. The member or member's agent shall be provided the opportunity to attend both formal reviews. Within five business days after the formal reviews, the association shall cause a written report to be provided to the member or member's agent specifying any deficiencies, violations or unapproved variations from the approved plans[,] as amended[,] that have come to the attention of the association.

Chs. 83 and 254

(d) Within thirty business days after the second formal review, the association shall provide to the member a copy of the written report specifying any deficiencies, violations or unapproved variations from the approved plans[,] as amended[,] that have come to the attention of the association. If the written report does not specify any deficiencies, violations or unapproved variations from the approved plans, as amended, that have come to the attention of the association, the association shall promptly release the deposit monies to the member. If the report identifies any deficiencies, violations or unapproved variations from the approved plans, as amended, the association may hold the deposit for one hundred eighty days or until receipt of a subsequent report of construction compliance, whichever is less. If a report of construction compliance is received before the one hundred eightieth day, the association shall promptly release the deposit monies to the member. If a compliance report is not received within one hundred eighty days, the association shall release the deposit monies promptly from the trust account to the association.

Ch. 83

(e) Neither the approval of the plans nor the approval of the actual construction by the association or the design review committee shall constitute a representation or warranty that the plans or construction comply with applicable governmental requirements or applicable engineering, design or safety standards. The association in its discretion may release all or any part of the deposit to the member before receiving a compliance report. Release of the deposit to the member does not constitute a representation or warranty from the association that the construction complies with the approved plans.

Ch. 83

3. APPROVAL OF A CONSTRUCTION PROJECT'S ARCHITECTURAL DESIGNS, PLANS AND AMENDMENTS SHALL NOT UNREASONABLY BE WITHHELD.

EXPLANATION OF BLEND
SECTION 34-461

Laws 2016, Chapters 128 and 234

Laws 2016, Ch. 128, section 50	Effective August 6, 2016 (Retroactive to July 1, 2016)
Laws 2016, Ch. 234, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 128 and Ch. 234 text changes to section 34-461 are blended in the form shown on the following pages.

BLEND OF SECTION 34-461
Laws 2016, Chapters 128 and 234

34-461. Applicability of local codes; exceptions; definition

A. Public buildings shall be constructed in compliance with the state fire code ~~unless a~~ OR, IF AT THE REQUEST OF A SCHOOL DISTRICT OR CHARTER SCHOOL, THE STATE FIRE MARSHAL MAY AUTHORIZE THROUGH AN INTERGOVERNMENTAL AGREEMENT WITH A CITY, TOWN, COUNTY OR FIRE DISTRICT IN WHICH THE SCHOOL DISTRICT OR CHARTER SCHOOL BUILDING IS LOCATED TO IMPOSE THE fire code ~~has been~~ adopted by the city, town, county or fire district ~~in which the building is located~~ ON SCHOOL DISTRICT OR CHARTER SCHOOL BUILDINGS. AN INTERGOVERNMENTAL AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION MAY ALLOW THE CITY, TOWN, COUNTY OR FIRE DISTRICT TO CONDUCT REGULARLY SCHEDULED FIRE SAFETY INSPECTIONS. Public buildings shall be constructed in compliance with applicable building, plumbing, electrical, fire ~~prevention~~ and mechanical codes adopted by the city, town, county or fire district in which the building is located. The owner of the public building is subject to the same fees required of other persons. Public buildings are subject to inspection during construction pursuant to these codes to determine compliance.

B. If a public building is built in an area that has not adopted local codes, the building shall be designed or constructed according to the state fire code adopted by the state fire marshal and the building, plumbing, electrical~~, fire prevention~~ and mechanical codes that apply in the largest city in the county in which the building is located.

C. Public buildings are subject to those codes that apply and are in effect when the building is designed or constructed and to the currently adopted codes when a building is found to be structurally unsafe, without adequate egress or a fire hazard or is otherwise dangerous to human life.

D. Subsections A and B of this section do not apply to state owned buildings except for the application of the fire code in effect where a state owned building is located. In complying with the applicable codes pursuant to subsections A and B of this section, the permitting process and fees do not apply to a public school district owned building in a county with a population of more than seven hundred fifty thousand persons but less than two million persons except for the application of the design and permitting process and any fee required of a fire code in effect where such a public school district owned building is located. State department of corrections facilities are exempt from the application of the local fire code in the absence of an intergovernmental agreement between the state department of corrections and the governmental entity responsible for enforcing any local fire code.

E. Notwithstanding subsection A of this section, cities prescribed in section ~~41-2163~~ 37-1383, subsection A, paragraph ~~2~~ 5 do not have authority that supersedes and are not exempt from the state fire ~~safety committee's~~ MARSHAL'S established fire code in state or county owned buildings ~~and public schools~~ wherever located throughout the state.

F. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, BUILDINGS AND PROPERTIES OWNED BY THE ARIZONA BOARD OF REGENTS OR A UNIVERSITY UNDER ITS

JURISDICTION ARE EXEMPT FROM ANY CITY, TOWN, COUNTY OR FIRE DISTRICT FIRE CODE IN THE ABSENCE OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE ARIZONA BOARD OF REGENTS OR THE UNIVERSITY AND THE CITY, TOWN, COUNTY OR FIRE DISTRICT.

G. IF THE STATE FIRE MARSHAL ENTERS INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO SUBSECTION A OF THIS SECTION, A SCHOOL DISTRICT OR CHARTER SCHOOL MAY CHOOSE TO HAVE THE PLAN REVIEW, PERMITTING AND ANY RELATED INSPECTIONS OR ANY REGULARLY SCHEDULED FIRE SAFETY INSPECTIONS COMPLETED BY EITHER THE STATE FIRE MARSHAL OR THE CITY, TOWN, COUNTY OR FIRE DISTRICT. IF THE SCHOOL DISTRICT OR CHARTER SCHOOL CHOOSES TO HAVE THE CITY, TOWN, COUNTY OR FIRE DISTRICT PERFORM THE PLAN REVIEW, PERMITTING AND ANY RELATED INSPECTIONS OR THE REGULARLY SCHEDULED FIRE SAFETY INSPECTIONS THE CITY, TOWN, COUNTY OR FIRE DISTRICT SHALL INFORM THE SCHOOL DISTRICT OR CHARTER SCHOOL OF ANY FEES ASSOCIATED WITH THE INSPECTION PROCESS.

Ch. 234

~~F.~~ H. This section does not preclude a public school district in a county with a population of more than seven hundred fifty thousand persons but less than two million persons from submitting, at its discretion, to the building design or construction permitting process of the appropriate local government entity for any given project. A public school district making such a decision is subject to subsections A and B of this section and the permit and code compliance requirements of the local government entity, including inspections and fee payments that may be required, for the duration of the project that the district submitted to the local government entity.

~~G.~~ I. Public school districts in a county with a population of more than seven hundred fifty thousand persons but less than two million persons shall adopt policies to provide requirements to be followed by licensed or registered contractors or employees in order to ensure THAT construction projects are in compliance with the applicable codes pursuant to subsections A and B of this section and that records required by code or law for a given project are completed and maintained by the applicable district. At a minimum, these policies shall:

Chs. 128 and 234

1. Include the method by which the public school district will notify the appropriate local government unit or units, and retain a record of the notification, that the public school district will not be using the permitting process for a given project pursuant to subsection D of this section.

2. Prohibit a construction contractor from serving as a district's inspector and code compliance official on the same project for which the contractor is providing construction services.

Chs. 128 and 234

3. Require the architect of record for a given district project TO be responsible for signing the certificate of occupancy when such a certificate is required for that particular project.

~~H.~~ J. For the purposes of this section, "public building" means a building or appurtenance to a building that is built in whole or in part with public monies.

EXPLANATION OF BLEND
SECTION 35-458

Laws 2016, Chapters 189 and 334

Laws 2016, Ch. 189, section 9	Effective August 6, 2016
Laws 2016, Ch. 334, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 189 and Ch. 334 text changes to section 35-458 are blended in the form shown on the following page.

BLEND OF SECTION 35-458
Laws 2016, Chapters 189 and 334

35-458. Levy of tax for payment of bonds; security

A. After the bonds are issued, the governing body or board shall enter on its minutes a record of the bonds sold and their numbers and dates, and shall annually levy and cause to be collected a tax, at the same time and in the same manner as other taxes are levied and collected on all taxable property in such political subdivision, sufficient to pay the annual interest on the bonds when due, and shall likewise annually levy a tax sufficient to redeem the bonds when they mature. The annual levy ~~for both the principal and interest payment, including a reasonable tax delinquency factor,~~ shall not exceed the net amount necessary to ~~make the~~ MEET annual ~~payment and the~~ PAYMENTS OF PRINCIPAL AND INTEREST, PROJECTED PAYMENTS OF PRINCIPAL AND INTEREST ON NEW DEBT PLANNED FOR THE ENSUING YEAR, A reasonable delinquency factor, including an amount necessary to correct prior year errors OR SHORTAGES in the levy, if applicable, and any expenses and fees required in conjunction with the authorization pursuant to section 35-512.

Ch. 334

B. Monies derived from the levy of the tax when collected shall constitute a fund for payment of interest and the bonds. The fund shall be kept separately and shall be known as the "interest fund" and "redemption fund" or the two funds may be combined into a single "interest and redemption fund."

C. ALL BONDS, WHENEVER ISSUED, ARE SECURED BY A LIEN ON ALL REVENUES RECEIVED PURSUANT TO THE TAX LEVY. THE LIEN ARISES AUTOMATICALLY WITHOUT THE NEED FOR ANY ACTION OR AUTHORIZATION BY THE POLITICAL SUBDIVISION OR THE POLITICAL SUBDIVISION'S GOVERNING BODY OR BOARD. THE LIEN IS VALID AND BINDING FROM THE TIME OF THE ISSUANCE OF THE BONDS. THE REVENUES RECEIVED PURSUANT TO THE LEVY OF THE TAX ARE IMMEDIATELY SUBJECT TO THE LIEN. THE LIEN ATTACHES IMMEDIATELY TO THE REVENUES AND IS EFFECTIVE, BINDING AND ENFORCEABLE AGAINST THE POLITICAL SUBDIVISION, THE POLITICAL SUBDIVISION'S SUCCESSORS, TRANSFEREES AND CREDITORS AND ALL OTHER PARTIES ASSERTING RIGHTS IN THE REVENUES, IRRESPECTIVE OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN, WITHOUT THE NEED FOR ANY PHYSICAL DELIVERY, RECORDATION, FILING OR FURTHER ACT.

Ch. 189

EXPLANATION OF BLEND
SECTION 36-136

Laws 2016, Chapters 54, 200 and 243

Laws 2016, Ch. 54, section 1	Effective August 6, 2016
Laws 2016, Ch. 200, section 1	Effective August 6, 2016
Laws 2016, Ch. 243, section 1	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 54, Ch. 200 and Ch. 243 text changes to section 36-136 are blended in the form shown on the following pages.

BLEND OF SECTION 36-136
Laws 2016, Chapters 54, 200 and 243

36-136. Powers and duties of director; compensation of personnel; rules

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.

2. Perform all duties necessary to carry out the functions and responsibilities of the department.

3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.

4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.

6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.

7. Prepare sanitary and public health rules.

8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.

2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to ~~assure~~ ENSURE the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.

Chs. 54 and 200

E. The compensation of all personnel shall be as determined pursuant to section 38-611.

F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.

H. The director, by rule, shall:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, THAT ARE reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.

Chs. 54 and 200

2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.

Chs. 54 and 200

3. Define and prescribe reasonably necessary procedures THAT ARE not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.

4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to ~~assure~~ ENSURE that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:

Ch. 54

(a) Served at a noncommercial social event ~~that takes place at a workplace,~~ such as a potluck.

(b) Prepared at a cooking school that is conducted in an owner-occupied home.

(c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.

(d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.

(e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.

(f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous.

(g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by

the United States food and drug administration, as modified and incorporated by reference by the department by rule.

Ch. 243 (h) A WHOLE FRUIT OR VEGETABLE GROWN IN A PUBLIC SCHOOL GARDEN THAT IS WASHED AND CUT ON-SITE FOR IMMEDIATE CONSUMPTION.

Chs. 54 and 200 5. Prescribe reasonably necessary measures to ~~assure~~ ENSURE that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

Chs. 54 and 200 6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to ~~assure~~ ENSURE that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

Chs. 54 and 200 7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to ~~assure~~ ENSURE that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any

premises or facilities that do not comply with the rules. PRIMITIVE CAMP AND PICNIC GROUNDS OFFERED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE ARE EXEMPT FROM RULES ADOPTED PURSUANT TO THIS PARAGRAPH BUT ARE SUBJECT TO APPROVAL BY A COUNTY HEALTH DEPARTMENT UNDER SANITARY REGULATIONS ADOPTED PURSUANT TO SECTION 36-183.02. FOR THE PURPOSES OF THIS PARAGRAPH, "PRIMITIVE CAMP AND PICNIC GROUNDS" MEANS CAMP AND PICNIC GROUNDS THAT ARE REMOTE IN NATURE AND WITHOUT ACCESSIBILITY TO PUBLIC INFRASTRUCTURE SUCH AS WATER, ELECTRICITY AND SEWER.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.

13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.

I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of

agriculture within the area delegated to each shall adopt rules that are not in conflict.

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (f) of this section, food and drink ~~is~~ ARE exempt from the rules prescribed in subsection H of this section if offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous, without a limitation on its display area.

Chs. 54 and 200

N. UNTIL THE DEPARTMENT ADOPTS EXEMPTIONS BY RULE AS REQUIRED BY SUBSECTION H, PARAGRAPH 4, SUBDIVISION (h) OF THIS SECTION, A WHOLE FRUIT OR VEGETABLE GROWN IN A PUBLIC SCHOOL GARDEN THAT IS WASHED AND CUT ON-SITE FOR IMMEDIATE CONSUMPTION IS EXEMPT FROM THE RULES PRESCRIBED IN SUBSECTION H OF THIS SECTION.

Ch. 243

EXPLANATION OF BLEND
SECTION 36-2902.01

Laws 2016, Chapters 151 and 190

Laws 2016, Ch. 151, section 2	Effective August 6, 2016
Laws 2016, Ch. 190, section 1	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 151 and Ch. 190 text changes to section 36-2902.01 are blended in the form shown on the following pages.

BLEND OF SECTION 36-2902.01
Laws 2016, Chapters 151 and 190

36-2902.01. Arizona advisory council on Indian health care; membership; compensation; meetings

A. The ARIZONA advisory council on Indian health care is established ~~consisting~~ TO GIVE TRIBAL GOVERNMENTS, TRIBAL ORGANIZATIONS AND URBAN INDIAN HEALTH CARE ORGANIZATIONS IN THIS STATE REPRESENTATION IN SHAPING MEDICAID AND HEALTH CARE POLICIES AND LAWS THAT IMPACT THE POPULATIONS THEY SERVE.

B. THE COUNCIL CONSISTS of the following members:

~~1. Twenty members appointed by the governor. Each Arizona Indian tribe may submit recommendations to the governor. There shall be no more than one representative from each Arizona Indian tribe. Each member shall represent an Arizona Indian tribe and shall be nominated by his tribal governing body. The governor shall make appointments from the following areas:~~

~~(a) Five tribal members who represent health care agencies. At least one of the appointees shall have experience in serving elderly clients or clients with physical disabilities.~~

~~(b) Five tribal members who represent social service agencies. At least one of the appointees shall have experience in serving elderly clients or clients with physical disabilities.~~

~~(c) Five tribal members who represent agencies serving the persons with developmental disabilities.~~

Chs. 151 and 190

~~(d) Two tribal members who represent tribal organizations or metropolitan Indian centers.~~

~~(e) Three tribal members serving at large.~~

1. TWENTY-TWO REPRESENTATIVES OF THE FEDERALLY RECOGNIZED AMERICAN INDIAN TRIBES IN THIS STATE WHO ARE APPOINTED BY THE GOVERNOR. EACH FEDERALLY RECOGNIZED AMERICAN INDIAN TRIBE IN THIS STATE MAY RECOMMEND TO THE GOVERNOR NAMES OF PERSONS TO REPRESENT THE TRIBE ON AND FOR APPOINTMENT TO THE COUNCIL. REPRESENTATIVES SHALL BE APPOINTED FROM THOSE NAMES SUBMITTED BY THE TRIBES. RECOMMENDED REPRESENTATIVES MAY HAVE EXPERIENCE SERVING THE ELDERLY, YOUTH, CHILDREN OR FAMILIES OR PERSONS WITH DISABILITIES.

2. ONE REPRESENTATIVE FROM THE INTER TRIBAL COUNCIL OF ARIZONA WHO IS RECOMMENDED BY THE PRESIDENT OF THE INTER TRIBAL COUNCIL OF ARIZONA AND WHO IS APPOINTED BY GOVERNOR.

3. ONE REPRESENTATIVE FROM AN URBAN INDIAN HEALTH ORGANIZATION IN THIS STATE THAT RECEIVES INDIAN HEALTH SERVICES FUNDING PURSUANT TO 25 UNITED STATES CODE CHAPTER 18 WHO IS RECOMMENDED JOINTLY BY THE URBAN INDIAN HEALTH ORGANIZATIONS AND WHO IS APPOINTED BY THE GOVERNOR.

~~2.~~ 4. One representative from the Arizona health care cost containment system WHO IS appointed by the director.

~~3.~~ 5. One representative from the department of health services WHO IS appointed by the director of the department of health services.

~~4.~~ 6. One representative from the department of economic security WHO IS appointed by the director of the department of economic security.

7. ONE REPRESENTATIVE FROM THE ARIZONA EARLY CHILDHOOD DEVELOPMENT AND HEALTH BOARD WHO IS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE ARIZONA EARLY CHILDHOOD DEVELOPMENT AND HEALTH BOARD.

C. A MAJORITY OF THE COUNCIL MEMBERS SHALL BE MEMBERS OF FEDERALLY RECOGNIZED AMERICAN INDIAN TRIBES IN THIS STATE. THE COUNCIL SHALL CONTACT EACH TRIBE TO SOLICIT NAMES OF PERSONS TO RECOMMEND FOR EXPIRED TERMS UNDER SUBSECTION B, PARAGRAPH 1.

~~B.~~ D. THE COUNCIL SHALL INVITE federal representatives of the centers for medicare and medicaid services, the Indian health service, the ~~bureau of Indian affairs,~~ UNITED STATES SOCIAL SECURITY ADMINISTRATION AND the United States department of veterans affairs ~~and the executive office of management and budget shall be invited by the governor~~ to serve as technical advisors to the council. THESE REPRESENTATIVES SHALL BE EX OFFICIO MEMBERS AND MAY SERVE A THREE-YEAR TERM ON THE COUNCIL.

~~C.~~ E. Except as provided in subsection ~~A~~ B, paragraphs ~~2, 3 and~~ 4, 5, 6 AND 7 OF THIS SECTION, ~~no~~ A member of the council may NOT be an employee of this state.

~~D.~~ F. Members of the council are not eligible to receive compensation, but ~~members appointed pursuant to subsection A, paragraphs 1 and 2~~ are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

Chs. 151 and 190

~~E.~~ G. Members WHO ARE appointed pursuant to subsection ~~A~~ B, ~~paragraph~~ PARAGRAPHS 1, 2 AND 3 shall serve staggered ~~two year~~ THREE-YEAR terms. A ~~tribal~~ member who is absent without notice from three consecutive meetings vacates ~~his~~ THE INDIVIDUAL'S membership. The governor ~~shall~~ MAY appoint a new member within thirty days ~~from~~ AFTER the third unexcused absence. Vacancies occurring on the council shall be filled for the balance of the term.

~~F.~~ H. The council shall elect, FROM PERSONS APPOINTED PURSUANT TO SUBSECTION B, PARAGRAPH 1, 2 OR 3 OF THIS SECTION, a ~~chairman and vice-chairman from its membership~~ CHAIRPERSON AND VICE CHAIRPERSON. The ~~chairman and vice-chairman~~ CHAIRPERSON AND VICE CHAIRPERSON shall be members of a federally recognized ~~Arizona~~ AMERICAN Indian tribe IN THIS STATE. The election shall be held the ~~first~~ SECOND Monday in ~~October of each~~ JULY EVERY OTHER year. The term of office shall be ~~one year~~ TWO YEARS. The council shall meet at least six times a year and may meet more often at the call of the ~~chairman or vice-chairman~~ CHAIRPERSON OR VICE CHAIRPERSON. A majority of ~~the~~ SEATED council MEMBERS constitutes a quorum.

~~G.~~ I. ~~A~~ AN EX OFFICIO member serving pursuant to subsection ~~B~~ D OF THIS SECTION is not eligible to vote and is not a member for purposes of determining whether a quorum is present.

~~H.~~ J. Meetings are open to the public and minutes of each meeting are open for public inspection.

EXPLANATION OF BLEND
SECTION 36-2902.02

Laws 2016, Chapters 151 and 190

Laws 2016, Ch. 151, section 3	Effective August 6, 2016
Laws 2016, Ch. 190, section 2	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 151 and Ch. 190 text changes to section 36-2902.02 are blended in the form shown on the following pages.

BLEND OF SECTION 36-2902.02
Laws 2016, Chapters 151 and 190

36-2902.02. Arizona advisory council on Indian health care; duties; appropriation request

A. The ARIZONA advisory council on Indian health care shall:

1. Hire and employ a director who shall hire and employ staff, subject to legislative appropriation, for purposes relating to the functions of the ~~advisory~~ council. The staff shall provide technical assistance to tribal governments on tribal health care initiatives. The director, on behalf of the council, shall annually notify the director of the Arizona health care cost containment system administration of the amount of appropriation required by the council for the following fiscal year.

2. ASSIST TRIBES AND URBAN INDIAN HEALTH ORGANIZATIONS TO develop ~~a~~ comprehensive MEDICAL AND PUBLIC health care delivery and financing ~~system for American Indians, specific to each Arizona Indian tribe, with a focus on creating Indian health care demonstration projects pursuant to title XIX of the social security act~~ SYSTEMS TO MEET THE NEEDS OF AMERICAN INDIAN TRIBES IN THIS STATE. In performing this duty, the ~~advisory~~ council shall:

~~(a) Develop a comprehensive health care delivery and financing system, specific to each Arizona Indian tribe, that uses title XIX funds and builds on currently available private, state and federal funds.~~

~~(b)~~ (a) ~~Develop~~ RECOMMEND new title XIX AND XXI PROGRAMS, SERVICES, FUNDING OPTIONS, POLICIES AND demonstration projects~~, specific to each Arizona~~ TO MEET THE NEEDS OF AMERICAN Indian ~~tribe~~ TRIBES AND URBAN INDIAN HEALTH ORGANIZATIONS, both on and off reservations, in cooperation with this state and the federal government.

Chs. 151 and 190

~~(c)~~ (b) Facilitate communications, planning, ADVOCACY and discussion among tribes~~,~~ AND URBAN INDIAN HEALTH ORGANIZATIONS IN THIS STATE AND WITH this state and federal agencies regarding operations, financing, policy and legislation relating to Indian MEDICAL AND PUBLIC health care.

~~(d)~~ (c) Recommend and advocate tribal, state and federal policy and legislation that ~~supports~~ SUPPORT the design and implementation of MEDICAL AND PUBLIC health care delivery and financing systems ~~specific to each Arizona Indian tribe~~ FOR TRIBES AND URBAN INDIAN HEALTH ORGANIZATIONS IN THIS STATE.

(d) CONDUCT AND COMMISSION STUDIES AND RESEARCH TO FURTHER THE PURPOSE OF THE COUNCIL AND TO ADDRESS IDENTIFIED INDIAN HEALTH CARE DISPARITIES IN THIS STATE.

(e) CONDUCT PERIODIC PUBLIC HEARINGS TO GATHER INPUT AND RECOMMENDATIONS FROM TRIBAL POPULATIONS ON THEIR HEALTH CARE ISSUES AND CONCERNS.

(f) APPLY FOR AND SEEK GRANTS, CONTRACTS AND FUNDING TO FURTHER THE PURPOSE OF THE COUNCIL. THE FUNDING SHALL SUPPLEMENT AND NOT DIMINISH ANNUAL APPROPRIATIONS FOR THE COUNCIL.

~~(e)~~ (g) Notwithstanding section 36-2903.01, subsection B, in conjunction with the administration AND A TRIBE THAT OPERATES A TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM, request a federal waiver from the

United States department of health and human services that allows tribal governments that perform eligibility determinations for temporary assistance for needy families programs to perform the medicaid eligibility determinations for persons who apply for services pursuant to section 36-2901, paragraph 6, subdivision (a). If the waiver is approved, the state shall provide the state matching monies for the administrative costs associated with the medicaid eligibility based on federal guidelines. As part of the waiver, the administration shall recoup from a tribal government all federal fiscal sanctions that result from inaccurate eligibility determinations.

~~(f)~~ (h) Perform other duties as requested by the legislature.

Chs. 151 and 190

B. The director, on notification by the ~~advisory~~ council, shall include the amount of the COUNCIL'S appropriation request in the ~~administration's~~ AGENCY'S annual appropriations request.

EXPLANATION OF BLEND
SECTION 36-2907

Laws 2016, Chapters 122 and 312

Laws 2016, Ch. 122, section 10 — Effective August 6, 2016

Laws 2016, Ch. 312, section 5 — Effective August 6, 2016
(Retroactive to July 1, 2016)

Explanation

Since the Ch. 122 version includes all of the changes made by the Ch. 312 version, the Laws 2016, Ch. 122 amendment of section 36-2907 is the blend of both the Laws 2016, Ch. 122 and Ch. 312 versions.

BLEND OF SECTION 36-2907
Laws 2016, Chapters 122 and 312

36-2907. Covered health and medical services; modifications; related delivery of service requirements; definition

A. Subject to the limitations and exclusions specified in this section, contractors shall provide the following medically necessary health and medical services:

1. Inpatient hospital services that are ordinarily furnished by a hospital for the care and treatment of inpatients and that are provided under the direction of a physician or a primary care practitioner. For the purposes of this section, inpatient hospital services exclude services in an institution for tuberculosis or mental diseases unless authorized under an approved section 1115 waiver.

2. Outpatient health services that are ordinarily provided in hospitals, clinics, offices and other health care facilities by licensed health care providers. Outpatient health services include services provided by or under the direction of a physician or a primary care practitioner.

3. Other laboratory and x-ray services ordered by a physician or a primary care practitioner.

4. Medications that are ordered on prescription by a physician or a dentist licensed pursuant to title 32, chapter 11. Persons who are dually eligible for title XVIII and title XIX services must obtain available medications through a medicare licensed or certified medicare advantage prescription drug plan, a medicare prescription drug plan or any other entity authorized by medicare to provide a medicare part D prescription drug benefit.

5. Medical supplies, durable medical equipment, insulin pumps and prosthetic devices ordered by a physician or a primary care practitioner. Suppliers of durable medical equipment shall provide the administration with complete information about the identity of each person who has an ownership or controlling interest in their business and shall comply with federal bonding requirements in a manner prescribed by the administration.

6. For persons who are at least twenty-one years of age, treatment of medical conditions of the eye, excluding eye examinations for prescriptive lenses and the provision of prescriptive lenses.

7. Early and periodic health screening and diagnostic services as required by section 1905(r) of title XIX of the social security act for members who are under twenty-one years of age.

8. Family planning services that do not include abortion or abortion counseling. If a contractor elects not to provide family planning services, this election does not disqualify the contractor from delivering all other covered health and medical services under this chapter. In that event, the administration may contract directly with another contractor, including an outpatient surgical center or a noncontracting provider, to deliver family

planning services to a member who is enrolled with the contractor that elects not to provide family planning services.

Ch. 122

9. Podiatry services THAT ARE PERFORMED BY A PODIATRIST WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 7 AND ordered by a primary care physician or primary care practitioner.

10. Nonexperimental transplants approved for title XIX reimbursement.

11. Ambulance and nonambulance transportation, except as provided in subsection G of this section.

12. Hospice care.

13. Orthotics, if all of the following apply:

(a) The use of the orthotic is medically necessary as the preferred treatment option consistent with medicare guidelines.

(b) The orthotic is less expensive than all other treatment options or surgical procedures to treat the same diagnosed condition.

(c) The orthotic is ordered by a physician or primary care practitioner.

B. The limitations and exclusions for health and medical services provided under this section are as follows:

1. Circumcision of newborn males is not a covered health and medical service.

2. For eligible persons who are at least twenty-one years of age:

(a) Outpatient health services do not include occupational therapy or speech therapy.

Chs. 122 and 312

(b) Prosthetic devices do not include hearing aids, dentures, ~~bone anchored~~ BONE-ANCHORED hearing aids or cochlear implants. Prosthetic devices, except prosthetic implants, may be limited to twelve thousand five hundred dollars per contract year.

Ch. 122

(c) Percussive vests ~~and orthotics~~ are not covered health and medical services.

(d) Durable medical equipment is limited to items covered by medicare.

~~(e) Podiatry services do not include services performed by a podiatrist.~~

Chs. 122 and 312

~~(f)~~ (e) Nonexperimental transplants do not include ~~pancreas only~~ PANCREAS-ONLY transplants.

~~(g)~~ (f) Bariatric surgery procedures, including laparoscopic and open gastric bypass and restrictive procedures, are not covered health and medical services.

C. The system shall pay noncontracting providers only for health and medical services as prescribed in subsection A of this section and as prescribed by rule.

D. The director shall adopt rules necessary to limit, to the extent possible, the scope, duration and amount of services, including maximum limitations for inpatient services that are consistent with federal regulations under title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)). To the extent possible and practicable, these rules shall provide for the prior approval of medically necessary services provided pursuant to this chapter.

E. The director shall make available home health services in lieu of hospitalization pursuant to contracts awarded under this article. For the purposes of this subsection, "home health services" means the provision of

nursing services, home health aide services or medical supplies, equipment and appliances that are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on the orders of a physician or a primary care practitioner. Home health agencies shall comply with the federal bonding requirements in a manner prescribed by the administration.

F. The director shall adopt rules for the coverage of behavioral health services for persons who are eligible under section 36-2901, paragraph 6, subdivision (a). ~~The administration shall contract with the department of health services for the delivery of all medically necessary behavioral health services to persons who are eligible under rules adopted pursuant to this subsection. The division of behavioral health in the department of health services~~ THE ADMINISTRATION ACTING THROUGH THE REGIONAL BEHAVIORAL HEALTH AUTHORITIES shall establish a diagnostic and evaluation program to which other state agencies shall refer children who are not already enrolled pursuant to this chapter and who may be in need of behavioral health services. In addition to an evaluation, the ~~division of behavioral health~~ ADMINISTRATION ACTING THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES shall also identify children who may be eligible under section 36-2901, paragraph 6, subdivision (a) or section 36-2931, paragraph 5 and shall refer the children to the appropriate agency responsible for making the final eligibility determination.

Chs. 122 and 312

G. The director shall adopt rules for the provision of transportation services and rules providing for copayment by members for transportation for other than emergency purposes. Subject to approval by the centers for medicare and medicaid services, nonemergency medical transportation shall not be provided except for stretcher vans and ambulance transportation. Prior authorization is required for transportation by stretcher van and for medically necessary ambulance transportation initiated pursuant to a physician's direction. Prior authorization is not required for medically necessary ambulance transportation services rendered to members or eligible persons initiated by dialing telephone number 911 or other designated emergency response systems.

H. The director may adopt rules to allow the administration, at the director's discretion, to use a second opinion procedure under which surgery may not be eligible for coverage pursuant to this chapter without documentation as to need by at least two physicians or primary care practitioners.

I. If the director does not receive bids within the amounts budgeted or if at any time the amount remaining in the Arizona health care cost containment system fund is insufficient to pay for full contract services for the remainder of the contract term, the administration, on notification to system contractors at least thirty days in advance, may modify the list of services required under subsection A of this section for persons defined as eligible other than those persons defined pursuant to section 36-2901, paragraph 6, subdivision (a). The director may also suspend services or may limit categories of expense for services defined as optional pursuant to title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)) for persons defined pursuant to section

36-2901, paragraph 6, subdivision (a). Such reductions or suspensions do not apply to the continuity of care for persons already receiving these services.

J. Additional, reduced or modified hospitalization and medical care benefits may be provided under the system to enrolled members who are eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c), (d) or (e).

K. All health and medical services provided under this article shall be provided in the geographic service area of the member, except:

1. Emergency services and specialty services provided pursuant to section 36-2908.

2. That the director may permit the delivery of health and medical services in other than the geographic service area in this state or in an adjoining state if the director determines that medical practice patterns justify the delivery of services or a net reduction in transportation costs can reasonably be expected. Notwithstanding the definition of physician as prescribed in section 36-2901, if services are procured from a physician or primary care practitioner in an adjoining state, the physician or primary care practitioner shall be licensed to practice in that state pursuant to licensing statutes in that state similar to title 32, chapter 13, 15, 17 or 25 and shall complete a provider agreement for this state.

L. Covered outpatient services shall be subcontracted by a primary care physician or primary care practitioner to other licensed health care providers to the extent practicable for purposes including, but not limited to, making health care services available to underserved areas, reducing costs of providing medical care and reducing transportation costs.

M. The director shall adopt rules that prescribe the coordination of medical care for persons who are eligible for system services. The rules shall include provisions for the transfer of patients, the transfer of medical records and the initiation of medical care.

N. For the purposes of this section, "ambulance" has the same meaning prescribed in section 36-2201.

EXPLANATION OF BLEND
SECTION 36-2939

Laws 2016, Chapters 122 and 286

Laws 2016, Ch. 122, section 12	Effective August 6, 2016
Laws 2016, Ch. 286, section 16	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 122 and Ch. 286 text changes to section 36-2939 are blended in the form shown on the following pages.

BLEND OF SECTION 36-2939
Laws 2016, Chapters 122 and 286

36-2939. Long-term care system services

Chs. 122 and 286

A. The following services shall be provided by the program contractors to members WHO ARE determined to need institutional services pursuant to this article:

1. Nursing facility services other than services in an institution for tuberculosis or mental disease.

2. Notwithstanding any other law, behavioral health services if these services are not duplicative of long-term care services provided as of January 30, 1993 under this subsection and are authorized by the program contractor through the long-term care case management system. If the administration is the program contractor, the administration may authorize these services.

3. Hospice services. For the purposes of this paragraph, "hospice" means a program of palliative and supportive care for terminally ill members and their families or caregivers.

4. Case management services as provided in section 36-2938.

5. Health and medical services as provided in section 36-2907.

Ch. 122

6. DENTAL SERVICES IN AN ANNUAL AMOUNT OF NOT MORE THAN ONE THOUSAND DOLLARS PER MEMBER.

B. In addition to the services prescribed in subsection A of this section, the department, as a program contractor, shall provide the following services if appropriate to members who have a developmental disability as defined in section 36-551 and are determined to need institutional services pursuant to this article:

1. Intermediate care facility services for a member who has a developmental disability as defined in section 36-551. For purposes of this article, a facility shall meet all federally approved standards and may only include the Arizona training program facilities, a state owned and operated service center, state owned or operated community residential settings and

Ch. 286

private ~~state licensed~~ facilities that contract with the department.

2. Home and community based services that may be provided in a member's home, at an alternative residential setting as prescribed in section 36-591 or at other behavioral health alternative residential facilities licensed by the department of health services and approved by the director of the Arizona health care cost containment system administration and that may include:

Ch. 122

(a) Home health, which means the provision of nursing services[,] ~~or~~ home health aide services or medical supplies, equipment and appliances, that are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on a physician's orders and in accordance with federal law. Physical therapy, occupational therapy, or speech and audiology services provided by a home health agency may be provided in accordance with federal law. Home health agencies shall comply

with federal bonding requirements in a manner prescribed by the administration.

(b) Home health aide, which means a service that provides intermittent health maintenance, continued treatment or monitoring of a health condition and supportive care for activities of daily living provided within a member's residence.

(c) Homemaker, which means a service that provides assistance in the performance of activities related to household maintenance within a member's residence.

(d) Personal care, which means a service that provides assistance to meet essential physical needs within a member's residence.

(e) Day care for persons with developmental disabilities, which means a service that provides planned care supervision and activities, personal care, activities of daily living skills training and habilitation services in a group setting during a portion of a continuous ~~twenty-four hour~~ TWENTY-FOUR-HOUR period.

Chs. 122 and 286

(f) Habilitation, which means the provision of physical therapy, occupational therapy, speech or audiology services or training in independent living, special developmental skills, sensory-motor development, behavior intervention, and orientation and mobility in accordance with federal law.

(g) Respite care, which means a service that provides short-term care and supervision available on a ~~twenty-four hour~~ TWENTY-FOUR-HOUR basis.

(h) Transportation, which means a service that provides or assists in obtaining transportation for the member.

(i) Other services or licensed or certified settings approved by the director.

C. In addition to services prescribed in subsection A of this section, home and community based services may be provided in a member's home, in an adult foster care home as prescribed in section 36-401, in an assisted living home or assisted living center as defined in section 36-401 or in a level one or level two behavioral health alternative residential facility approved by the director by program contractors to all members who do not have a developmental disability as defined in section 36-551 and are determined to need institutional services pursuant to this article. Members residing in an assisted living center must be provided the choice of single occupancy. The director may also approve other licensed residential facilities as appropriate on a ~~case by case~~ CASE-BY-CASE basis for traumatic brain injured members. Home and community based services may include the following:

Chs. 122 and 286

1. Home health, which means the provision of nursing services, home health aide services or medical supplies, equipment and appliances, that are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on a physician's orders and in accordance with federal law. Physical therapy, occupational therapy, or speech and audiology services provided by a home health agency may be provided in accordance with federal law. Home health agencies shall comply with federal bonding requirements in a manner prescribed by the administration.

2. Home health aide, which means a service that provides intermittent health maintenance, continued treatment or monitoring of a health condition and supportive care for activities of daily living provided within a member's residence.

3. Homemaker, which means a service that provides assistance in the performance of activities related to household maintenance within a member's residence.

4. Personal care, which means a service that provides assistance to meet essential physical needs within a member's residence.

5. Adult day health, which means a service that provides planned care supervision and activities, personal care, personal living skills training, meals and health monitoring in a group setting during a portion of a continuous ~~twenty-four-hour~~ TWENTY-FOUR-HOUR period. Adult day health may also include preventive, therapeutic and restorative health related services that do not include behavioral health services.

Chs. 122 and 286

6. Habilitation, which means the provision of physical therapy, occupational therapy, speech or audiology services or training in independent living, special developmental skills, sensory-motor development, behavior intervention, and orientation and mobility in accordance with federal law.

7. Respite care, which means a service that provides short-term care and supervision available on a ~~twenty-four-hour~~ TWENTY-FOUR-HOUR basis.

8. Transportation, which means a service that provides or assists in obtaining transportation for the member.

Chs. 122 and 286

9. Home delivered meals, which means a service that provides for a nutritious meal ~~containing~~ THAT CONTAINS at least one-third of the recommended dietary allowance for an individual and ~~which~~ THAT is delivered to the member's residence.

10. Other services or licensed or certified settings approved by the director.

D. The amount of money expended by program contractors on home and community based services pursuant to subsection C of this section shall be limited by the director in accordance with the federal monies made available to this state for home and community based services pursuant to subsection C of this section. The director shall establish methods for the allocation of monies for home and community based services to program contractors and shall monitor expenditures on home and community based services by program contractors.

E. Notwithstanding subsections A, B, C and F of this section, no service may be provided that does not qualify for federal monies available under title XIX of the social security act or the section 1115 waiver.

F. In addition to services provided pursuant to subsections A, B and C of this section, the director may implement a demonstration project to provide home and community based services to special populations, including persons with disabilities who are eighteen years of age or younger, ARE medically fragile, reside at home and would be eligible for supplemental security income for the aged, blind or disabled or the state supplemental payment program, except for the amount of their parent's income or resources. In implementing this project, the director may provide for parental contributions for the care of their child.

Chs. 122 and 286

G. Subject to section 36-562, the administration by rule shall prescribe a deductible schedule for programs provided to members who are eligible pursuant to subsection B of this section, except that the administration shall implement a deductible based on family income. In determining deductible amounts and whether a family is required to have deductibles, the department shall use adjusted gross income. Families whose adjusted gross income is at least four hundred ~~per cent~~ PERCENT and less than or equal to five hundred ~~per cent~~ PERCENT of the federal poverty guidelines shall have a deductible of two ~~per cent~~ PERCENT of adjusted gross income. Families whose adjusted gross income is more than five hundred ~~per cent~~ PERCENT of adjusted gross income shall have a deductible of four ~~per cent~~ PERCENT of adjusted gross income. Only families whose children are under eighteen years of age and who are members who are eligible pursuant to subsection B of this section may be required to have a deductible for services. For the purposes of this subsection, "deductible" means an amount a family, whose children are under eighteen years of age and who are members who are eligible pursuant to subsection B of this section, pays for services, other than departmental case management and acute care services, before the department will pay for services other than departmental case management and acute care services.

Chs. 122 and 286

EXPLANATION OF BLEND
SECTION 37-1305

Laws 2016, Chapters 128 and 219

Laws 2016, Ch. 128, section 61 — Effective August 6, 2016 (Retroactive to July 1, 2016)

Laws 2016, Ch. 219, section 2 — Effective May 12, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 128 and Ch. 219 text changes to section 37-1305 are blended in the form shown on the following pages.

BLEND OF SECTION 37-1305
Laws 2016, Chapters 128 and 219

37-1305. Emergencies; prohibiting fireworks; liabilities and expenses; fire suppression revolving fund

A. On request of the state forester, the governor may authorize the state forester to incur liabilities for suppressing wildland fires and responding to other unplanned all[-]risk activities from unrestricted monies in the state general fund whether or not the legislature is in session. Ch. 219

B. The state forester has the authority to prohibit the use of fireworks during times of high fire potential in the unincorporated areas of the state.

C. The state forester or the state forester's designee shall review all liabilities incurred and expenditures made under this section and shall report the expenditures to the department of administration for audit according to department of administration rules. The state forester shall transmit a copy of the report to the state emergency council.

D. Liabilities incurred under this section are subject to the following limitations:

1. Wildland fire suppression or other unplanned all[-]risk emergency liabilities shall not exceed three million dollars of state general fund monies pursuant to subsection A of this section in a fiscal year for costs associated with suppressing wildland fires, supporting other unplanned all[-]risk activities such as fire, flood, earthquake, wind and hazardous material responses and preparing for periods of extreme fire danger and pre-position equipment and other fire suppression resources to provide for enhanced initial attack on wildland fires. The state forester shall not incur nonreimbursable liabilities for support of nonfire all[-]risk activities. The governor shall determine when periods of extreme fire danger exist and must approve any expenditure for pre-positioning activities. Ch. 219

2. If the funding authorization in paragraph 1 of this subsection is exhausted, or if the nonreimbursable liabilities incurred exceed the cash balance of the fire suppression revolving fund, the state forester shall not incur additional liabilities without the consent of a majority of the state emergency council as authorized by section 35-192.

E. The state forester shall process and pay claims for reimbursement for wildland fire suppression services, INCLUDING CLAIMS FOR PERSONNEL HOURS, USED SUPPLIES AND REASONABLE AND NEGOTIATED COSTS OF DAMAGE TO EQUIPMENT THAT EXCEEDS NORMAL WEAR AND TEAR, as follows: Ch. 219

1. Except as provided by paragraph 2 of this subsection, within thirty days after receiving a complete and correct claim for wildland fire suppression services, the state forester shall pay the claim from available monies that have not been committed to the payment of other wildfire expenses.

2. Within thirty days after receiving a complete and correct claim for wildland fire suppression services on federal lands, the state forester shall complete the processing of the claim and forward the claim to the appropriate federal agency.

3. For any valid claim other than for federal reimbursement, if there is insufficient funding in the fire suppression revolving fund, the holder of the unpaid claim shall be issued a certificate pursuant to section 35-189.

Ch. 219 — 4. FOR ANY VALID CLAIM FOR FEDERAL REIMBURSEMENT, THE STATE FORESTER SHALL CERTIFY THE CLAIM TO THE STATE TREASURER WHO SHALL PAY THE CLAIM, INCLUDING CLAIMS FOR PERSONNEL HOURS, USED SUPPLIES AND REASONABLE AND NEGOTIATED COSTS OF DAMAGE TO EQUIPMENT THAT EXCEEDS NORMAL WEAR AND TEAR, FROM MONIES APPROPRIATED FROM THE BUDGET STABILIZATION FUND PURSUANT TO SECTION 35-144, SUBSECTION A, PARAGRAPH 3. THE STATE FORESTER SHALL REIMBURSE THE STATE TREASURER WITHIN FORTY-FIVE DAYS AFTER PAYMENT OF THE CLAIM BY A FEDERAL AGENCY AND THE STATE TREASURER SHALL DEPOSIT THOSE MONIES IN THE BUDGET STABILIZATION FUND ESTABLISHED BY SECTION 35-144.

F. Monies received for suppressing wildland fires, pre-positioning equipment and firefighting resources and other unplanned all[-]risk
Ch. 128 — activities may be used for the purposes of section ~~37-623~~ 37-1303 and this section.

G. The state forester shall adopt rules for administering the wildland fire suppression monies authorized under this section, subject to approval of the governor.

H. The state forester may require reimbursement from cities and other political subdivisions of this state and state and federal agencies for costs incurred in the suppression of wildland fires, pre-suppression or unplanned all[-]risk activities. Reimbursement shall be based on the terms and conditions in cooperative agreements, land ownership or negligence. The state forester may require reimbursement from individuals or businesses only for costs incurred in the suppression of wildland fires or unplanned all[-]risk activities caused by their negligence or criminal acts.

Ch. 219 — I. The fire suppression revolving fund is established consisting of civil penalties collected pursuant to section 36-1610 and monies received by the state forester for wildland fire suppression and pre-positioning equipment and resources and for payment for activities related to combating wildland fires and supporting other unplanned all[-]risk activities such as fire, flood, earthquake, wind and hazardous material responses. The state forester shall not incur nonreimbursable liabilities for support of nonfire all[-]risk activities. The state forester shall administer the fund, and all monies received for these activities shall be deposited, pursuant to sections 35-146 and 35-147, in the fund. Monies in the fire suppression revolving fund are continuously appropriated to the state forester, except that if the unobligated balance of the fund exceeds two million dollars at the end of any calendar year, the excess shall be transferred to the state general fund. Monies in the fire suppression revolving fund are otherwise exempt from the provisions of section 35-190 relating to lapsing of appropriations.

EXPLANATION OF BLEND
SECTION 37-1383

Laws 2016, Chapters 128 and 234

Laws 2016, Ch. 128, section 65	Effective August 6, 2016 (Retroactive to July 1, 2016)
Laws 2016, Ch. 234, section 2	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 128 and Ch. 234 text changes to section 37-1383 are blended in the form shown on the following pages.

BLEND OF SECTION 37-1383
Laws 2016, Chapters 128 and 234

37-1383. Powers and duties; arson investigators

A. UNDER THE AUTHORITY AND DIRECTION OF THE STATE FORESTER, the state fire marshal or a deputy fire marshal or an assistant fire inspector acting at the direction of the fire marshal shall~~, under the authority and direction of the director~~:

1. Assist in the enforcement of state laws and ordinances of cities and counties relating to fire prevention and fire protection.

2. ADOPT BY RULE A STATE FIRE CODE ESTABLISHING MINIMUM STANDARDS FOR:

(a) SAFEGUARDING LIFE AND PROPERTY FROM FIRE AND FIRE HAZARDS.

(b) THE PREVENTION OF FIRES AND ALLEVIATION OF FIRE HAZARDS.

(c) THE STORAGE, SALE, DISTRIBUTION AND USE OF DANGEROUS CHEMICALS, COMBUSTIBLES, FLAMMABLE LIQUIDS, EXPLOSIVES AND RADIOACTIVE MATERIALS.

(d) THE INSTALLATION, MAINTENANCE AND USE OF FIRE ESCAPES, FIRE PROTECTION EQUIPMENT, FIRE ALARM SYSTEMS, SMOKE DETECTORS AND FIRE EXTINGUISHING EQUIPMENT.

(e) THE MEANS AND ADEQUACY OF FIRE PROTECTION AND EXIT IN CASE OF FIRE IN PLACES IN WHICH NUMBERS OF PERSONS WORK, LIVE OR CONGREGATE, EXCLUDING FAMILY DWELLINGS THAT HAVE FEWER THAN FIVE RESIDENTIAL DWELLING UNITS. Ch. 128

(f) OTHER MATTERS RELATING TO FIRE PREVENTION AND CONTROL THAT ARE CONSIDERED NECESSARY BY THE STATE FIRE MARSHAL.

3. ADOPT RULES AND A SCHEDULE OF FEES FOR PERMITS, PLAN SUBMISSIONS, PLAN REVIEWS AND REINSPECTIONS THAT ARE PAYABLE BY PERSONS REGULATED UNDER ARTICLE 4 OF THIS CHAPTER.

4. ADOPT RULES FOR THE ALLOCATION OF MONIES FROM THE ARSON DETECTION REWARD FUND ESTABLISHED BY SECTION 37-1387. THE RULES SHALL BE CONSISTENT WITH THE PURPOSES SET FORTH IN SECTION 37-1387 AND SHALL PROMOTE THE EFFECTIVE AND EFFICIENT USE OF THE FUND MONIES.

~~2.~~ 5. Enforce compliance with the fire code adopted ~~by the state fire safety committee~~ PURSUANT TO THIS SUBSECTION throughout [~~the~~ THIS] state except in any city having a population of one hundred thousand persons or more that has in effect a nationally recognized fire code, whether modified or unmodified, and that has enacted an ordinance to assume such jurisdiction from the state fire ~~safety committee~~ MARSHAL. Such cities do not have authority that supersedes and are not exempt from the state ~~fire safety committee's established~~ fire code ESTABLISHED PURSUANT TO THIS SUBSECTION in state or county owned buildings ~~and public schools~~ wherever located throughout the state. Ch. 234

~~3.~~ 6. Cooperate and coordinate with other state agencies in the administration of the state fire code.

~~4.~~ 7. Establish a regularly scheduled fire safety inspection program for all state and county owned public buildings and all public and private school buildings wherever located throughout the state, except for private

school buildings in cities with a population of one hundred thousand or more persons ~~according to the last decennial census~~.

~~5.~~ 8. Inspect as necessary all other occupancies located throughout this state, except family dwellings having fewer than five residential dwelling units and occupancies located in cities with a population of one hundred thousand or more persons ~~according to the last decennial census~~. Chs. 128 and 234

~~6.~~ 9. At the written request of county or municipal authorities, make and provide to them a written report of the examination made by the state fire marshal of any fire within their jurisdiction.

~~7.~~ 10. Compile, update as necessary and make available to the public a fully indexed and cross-referenced list of all rules adopted by state agencies and departments and agencies and departments of political subdivisions of this state relating to the control of all hazardous materials as defined in section 28-5201 and all federal regulations relating to the control of hazardous materials as defined in section 28-5201 for which there is no state regulation.

~~8.~~ 11. Establish and maintain a library of all rules and regulations identified in the index required by paragraph ~~7~~ 10 of this subsection and support the regulated industry's request for information through research or referral to the agency adopting the specific rule for technical information or other assistance as circumstances dictate.

~~9.~~ 12. Administer the arson detection reward fund established by section ~~41-2167~~ 37-1387.

B. The state fire marshal and this state are not liable for damages caused by information that is omitted from the rules and federal regulations compiled pursuant to subsection A, paragraph ~~7~~ 10 of this section.

Ch. 128 C. All plans and specifications for new construction, remodeling, alterations and additions for state, county and public school buildings and grounds shall be submitted to the ~~director~~ STATE FORESTER for review and approval by the state fire marshal or as authorized to a deputy fire marshal or an assistant fire inspector acting at the direction of the fire marshal before construction. The plans and specifications shall be reviewed and approved or disapproved within sixty days ~~of~~ AFTER submission. [~~No~~] Ch. 234 Construction shall [NOT] commence until the plans have been approved and a permit has been issued.

D. UNDER THE AUTHORITY AND DIRECTION OF THE STATE FORESTER, the state fire marshal or a deputy fire marshal or an assistant fire inspector acting at the direction of the state fire marshal may~~, under the authority and direction of the director~~:

1. Conduct or participate in investigations of causes, origins and circumstances of fires, including cases of possible arson.

2. Prescribe a uniform system of reporting fires and their causes and effects.

Chs. 128 and 234 3. Provide and coordinate training in ~~fire fighting~~ FIREFIGHTING and fire prevention and cooperate with educational institutions to provide and further such training.

4. Impound necessary evidence in conjunction with investigations of causes, origins and circumstances of fires~~, in the event~~ IF that ~~such~~ evidence might be lost, destroyed or otherwise altered if not ~~so~~ impounded. Ch. 234

5. Employ specialized testing services to evaluate evidence and conditions involved in fire investigations.

6. Designate certain members of the state fire marshal's staff or a deputy fire marshal or an assistant fire inspector as arson investigators.

E. The primary duty of investigators designated pursuant to subsection D, paragraph 6 of this section is the investigation, detection and apprehension of persons who have violated or are suspected of violating any provision of title 13, chapter 17. A person designated as an arson investigator, while engaged in arson investigation in this state, possesses and may exercise law enforcement powers of peace officers of this state. This subsection does not grant any powers of peace officers of this state to arson investigators other than those necessary for the investigation, detection and apprehension authority granted by this subsection. Any individual designated as an arson investigator shall have law enforcement training under section 41-1822.

EXPLANATION OF BLEND
SECTION 38-544

Laws 2016, Chapters 79 and 80

Laws 2016, Ch. 79, section 27 — Effective November 5, 2016

Laws 2016, Ch. 80, section 20 — Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 79 and Ch. 80 text changes to section 38-544 are blended effective from and after November 4, 2016 in the form shown on the following page. However, both the blend version and the Ch. 80 version of section 38-544 will be published since the Ch. 80 version becomes effective before the Ch. 79 version. The publisher will automatically delete the Ch. 80 version on publication of the appropriate pocket part.

BLEND OF SECTION 38-544
Laws 2016, Chapters 79 and 80

38-544. Violation; classification

A. Any public officer, local public officer or candidate who knowingly fails to file a financial disclosure statement required pursuant to section

Ch. 80 — ~~38-542~~ 18-444, 38-543 or 38-545, who knowingly files an incomplete financial disclosure statement or who knowingly files a false financial disclosure statement is guilty of a class 1 misdemeanor.

B. Any public officer, local public officer or candidate who violates this chapter is subject to a civil penalty of fifty dollars for each day of noncompliance but not more than five hundred dollars that may be imposed as

Ch. 79 — prescribed in ~~section 16-924~~ SECTIONS 16-937 AND 16-938.

EXPLANATION OF BLEND
SECTION 38-612

Laws 2016, Chapters 78 and 318

Laws 2016, Ch. 78, section 1 — Effective August 6, 2016

Laws 2016, Ch. 318, section 1 — Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 78 and Ch. 318 text changes to section 38-612 are blended in the form shown on the following pages.

BLEND OF SECTION 38-612
Laws 2016, Chapters 78 and 318

38-612. Administration of payroll salary deductions

A. There shall be no payroll salary deductions from the compensation of state officers or employees except as specifically authorized by federal law or regulation or by a statute of this state. ~~No~~ AN administrative agency of this state may NOT authorize any other deduction.

Ch. 318 — B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, REDUCTIONS TO RETROACTIVE PAYROLL COMPENSATION ARE AUTHORIZED PURSUANT TO SECTION 38-1106, SUBSECTION J, PARAGRAPH 5.

~~B.~~ C. In addition to those payroll salary deductions required by federal law or regulation or by statute, state officers or employees may authorize deductions to be made from their salaries or wages for the payment of:

1. Premiums on any health benefits, disability plans or group life plans provided for by statute and any existing insurance programs already provided by payroll deduction.

2. Shares or obligations to any state or federally chartered credit union established primarily for the purpose of serving state officers and employees and their families.

Ch. 318 — 3. Dues in a recognized association ~~comprised~~ COMPOSED principally of employees and former employees of agencies of this state, subject to the following criteria:

(a) When ~~comprised~~ COMPOSED of at least one thousand state employees other than employees of the state universities, the department of public safety and academic personnel of the Arizona state schools for the deaf and the blind.

Chs. 78 and 318 — (b) When ~~comprised~~ COMPOSED of at least twenty-five ~~per cent~~ PERCENT of the academic personnel or of the nonacademic employees of any state university.

(c) When ~~comprised~~ COMPOSED of at least twenty-five ~~per cent~~ PERCENT of the academic personnel of the Arizona state schools for the deaf and the blind.

(d) When ~~comprised~~ COMPOSED of at least [~~five hundred~~ FOUR HUNDRED] — Ch. 318 state employees who are certified as peace officers by the Arizona peace officer standards and training board established by section 41-1821.

Ch. 318 — (e) WHEN COMPOSED OF A COMBINED TOTAL OF AT LEAST EIGHT HUNDRED STATE EMPLOYEES DESCRIBED IN SUBDIVISION (d) OF THIS PARAGRAPH, STATE EMPLOYEES OF THE STATE DEPARTMENT OF CORRECTIONS AND STATE EMPLOYEES WHO ARE LAW ENFORCEMENT OFFICERS.

4. Deferred compensation or tax sheltered annuity salary reductions when made under approved plans.

5. Federal savings bond plans.

6. Recurrent fees, charges or other payments payable to a state agency under a collection plan approved by the director of the department of administration.

Ch. 78 7. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, contributions made to a charitable organization:

(a) Organized and operated exclusively for charitable purposes and selected by the presidents of the state universities. Employees of the state universities shall be advised by form of the charitable organizations to

Ch. 318 which ~~they~~ THE EMPLOYEES may contribute through payroll salary deductions. The advisory provided under this subdivision shall be substantially similar to the following and prominently printed:

"You may contribute to any charitable organization registered under internal revenue code section 501(c)(3), tax exempt status.

_____

Charitable organization name"

This subdivision applies only to academic personnel and nonacademic employees of the state universities.

(b) Organized and operated exclusively for charitable purposes, provided a fund drive by such an organization shall be applicable to all state agencies except the state universities covered under subdivision (a) of this paragraph and no state officer or employee of state agencies subject to this subdivision may authorize more than one deduction for charitable purposes to be in effect at the same time. This subdivision applies to all state agencies except the universities covered under subdivision (a) of this paragraph.

8. Contributions made for the purpose of contributing to a fund raising campaign for a university or a club for faculty or staff, or both, which is recognized by the university president and authorized by the Arizona board of regents. This paragraph applies only to academic personnel and nonacademic employees of the state universities.

9. Charges payable for transportation expenses pursuant to section 41-710.01.

10. Payments ordered by courts of competent jurisdiction within this state.

11. Automobile or homeowner's insurance premiums.

Ch. 318 12. Premiums for the following ~~state sponsored~~ STATE-SPONSORED group benefits that are established primarily for the purpose of serving state officers and employees and their families:

(a) Long-term care insurance.

(b) Critical care insurance.

(c) Prepaid legal services.

(d) Identity theft protection services.

13. A computer system as defined in section 13-2301 for personal use.

~~C.~~ D. In order for the department of administration to establish and

Ch. 318 maintain a dues deduction pursuant to subsection ~~B~~ C, paragraph 3 of this section, the department of administration may establish and maintain the deduction without the appropriation of any additional monies or technological improvements. The department of administration shall track all personnel hours dedicated to dues deduction. The department of administration may charge a fee to a recognized association that qualifies under subsection

~~B.~~ C, paragraph 3 of this section for establishing the automatic dues deduction and anytime changes are needed in the automatic dues deduction system as a result of an increase or decrease in association dues. If the membership criteria of a recognized association falls below the criteria set forth in subsection ~~B.~~ C, paragraph 3 of this section, the recognized association shall be on probation for one year. If the membership of a recognized association falls below the criteria set forth in subsection ~~B.~~ C, paragraph 3 of this section for more than one year, or if the members of the association engage in a work slowdown or work stoppage, the dues deduction authorized by this section shall immediately be discontinued.

Ch. 318

~~D.~~ E. For those state officers and employees under payroll systems ~~which~~ THAT are under the direction of the director of the department of administration, the director shall provide for the administration of payroll deductions for the purposes set forth in this section. For all other state officers and employees and for persons receiving allowances or benefits under other state payroll and retirement systems, the appropriate state officer shall provide for such administration of payroll deductions. Such administration shall operate without cost or contribution from the state other than the incidental expense of making the deductions and remittances to the payees. If any payee requests additional services, the director of the department of administration or any other appropriate state officer may require payment for the additional cost of providing such services.

~~E.~~ F. As a means of readily identifying the employee from whom payroll deductions are to be made, the state officer administering payroll deductions may request an employee to enter such employee's social security identification number on the payroll deduction authorization. Such number shall not be used for any other purpose.

G. THERE SHALL BE NO PAYROLL SALARY DEDUCTIONS FROM THE COMPENSATION OF STATE OFFICERS OR EMPLOYEES FOR CONTRIBUTIONS MADE TO A CHARITABLE ORGANIZATION THAT PERFORMS A NONFEDERALLY QUALIFIED ABORTION OR MAINTAINS OR OPERATES A FACILITY WHERE A NONFEDERALLY QUALIFIED ABORTION IS PERFORMED FOR THE PROVISION OF FAMILY PLANNING SERVICES. FOR THE PURPOSES OF THIS SUBSECTION, "NONFEDERALLY QUALIFIED ABORTION" HAS THE SAME MEANING PRESCRIBED IN SECTION 35-196.05.

Ch. 78

~~F.~~ H. The state, the director of the department of administration or any other appropriate state officer shall be relieved of any liability to employees authorizing deductions or organizations receiving deductions that may result from authorizations pursuant to this section.

EXPLANATION OF BLEND
SECTION 38-714

Laws 2016, Chapters 121, 304 and 321

Laws 2016, Ch. 121, section 5	Effective August 6, 2016
Laws 2016, Ch. 304, section 1	Effective August 6, 2016
Laws 2016, Ch. 321, section 1	Effective August 6, 2016 (Retroactive to January 1, 1987)

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 121, Ch. 304 and Ch. 321 text changes to section 38-714 are blended in the form shown on the following pages.

BLEND OF SECTION 38-714
Laws 2016, Chapters 121, 304 and 321

38-714. Powers and duties of ASRS and board

A. ASRS shall have the powers and privileges of a corporation, shall have an official seal and shall transact all business in the name "Arizona state retirement system", and in that name may sue and be sued.

B. The board is responsible for supervising the administration of this article by the director of ASRS.

C. The board is responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the retirement trust fund established by section 38-712.

D. The board shall not advocate for or against legislation providing for benefit modifications, except that the board shall provide technical and administrative information regarding the impact of benefit modification legislation.

E. The board may:

1. Determine the rights, benefits or obligations of any person under this article and afford any person dissatisfied with a determination a hearing on the determination. THE BOARD MAY DELEGATE THE DUTY AND AUTHORITY TO ACT ON THE BOARD'S BEHALF TO A COMMITTEE OF THE BOARD FOR THE PURPOSES OF THIS PARAGRAPH AND TITLE 41, CHAPTER 6, ARTICLE 10 RELATING TO ANY DECISION MADE UNDER THIS PARAGRAPH BY THAT COMMITTEE OF THE BOARD. Ch. 304

2. Determine the amount, manner and time of payment of any benefits under this article.

3. Recommend amendments to this article and articles 2.1 and 7 of this chapter that are required for efficient and effective administration.

4. Adopt, amend or repeal rules for the administration of the plan, this article and articles 2.1 and 7 of this chapter.

F. Beginning June 30, 2016, the board shall determine which of the generally accepted actuarial cost methods shall be used in the annual actuarial valuation of the plan.

G. THE BOARD AND ASRS ARE NOT SUBJECT TO TITLE 41, CHAPTER 6, EXCEPT TITLE 41, CHAPTER 6, ARTICLE 10, FOR ACTUARIAL ASSUMPTIONS AND CALCULATIONS, INVESTMENT STRATEGY AND DECISIONS AND ACCOUNTING METHODOLOGY. Ch. 321

~~G.~~ H. The board shall submit to the governor and legislature for each fiscal year no later than eight months after the close of the fiscal year a report of its operations and the operations of ASRS. The report shall follow generally accepted accounting principles and generally accepted financial reporting standards and shall include:

1. A report on an actuarial valuation of ASRS assets and liabilities.

2. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of ASRS and the results of board operations.

3. On request of the governor or the legislature, a list of investments owned. This list shall be provided in AN electronic format.

Ch. 121

4. AN ESTIMATE OF THE AGGREGATE FEES PAID FOR PRIVATE EQUITY INVESTMENTS, INCLUDING MANAGEMENT FEES AND PERFORMANCE FEES.

~~H.~~ I. The board shall:

1. Prepare and publish a synopsis of the annual report for the information of ASRS members.

2. Contract for a study of the mortality, disability, service and other experiences of the members and employers participating in ASRS. The study shall be conducted for fiscal year 1990-1991 and for at least every fifth fiscal year thereafter. A report of the study shall be completed

Ch. 321

within eight months ~~of~~ AFTER the close of the applicable fiscal year and shall be submitted to the governor and the legislature.

3. Conduct an annual actuarial valuation of ASRS assets and liabilities.

~~I.~~ J. The auditor general may make an annual audit of ASRS and transmit the results to the governor and the legislature.

EXPLANATION OF BLEND
SECTION 38-848

Laws 2016, Chapters 2, 121 and 178

Laws 2016, Ch. 2, section 11	Effective August 6, 2016
Laws 2016, Ch. 121, section 6	Effective August 6, 2016
Laws 2016, Ch. 178, section 8	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 2, Ch. 121 and Ch. 178 text changes to section 38-848 are blended in the form shown on the following pages.

BLEND OF SECTION 38-848
Laws 2016, Chapters 2, 121 and 178

38-848. Board of trustees; powers and duties; independent trust fund; administrator; agents and employees; advisory committee

A. BEGINNING JANUARY 1, 2017, the board of trustees shall consist of ~~seven~~ NINE members and shall have the rights, powers and duties that are set forth in this section. The term of office of members shall be five years to expire on the third Monday in January of the appropriate year. THE BOARD SHALL SELECT A CHAIRPERSON FROM AMONG ITS MEMBERS EACH CALENDAR YEAR. Members are eligible to receive compensation in an amount of fifty dollars a day, but not to exceed one thousand dollars in any one fiscal year, and are eligible for reimbursement of expenses pursuant to chapter 4, article 2 of this title. BEGINNING JANUARY 1, 2017, the board consists of the following members appointed ~~by the governor pursuant to section 38-211~~ AS FOLLOWS:

~~1. Two elected members from a local board to represent the employees.~~

~~2. One member to represent this state as an employer of public safety personnel. This member shall have the qualifications prescribed in subsection T of this section.~~

~~3. One member to represent the cities as employers of public safety personnel.~~

~~4. An elected county or state official or a judge of the superior court, court of appeals or supreme court.~~

~~5. Two public members. These members shall have the qualifications prescribed in subsection T of this section.~~

Ch. 2

1. TWO MEMBERS REPRESENTING LAW ENFORCEMENT, ONE OF WHOM IS APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE OF WHOM IS APPOINTED BY THE GOVERNOR. A STATEWIDE ASSOCIATION REPRESENTING LAW ENFORCEMENT IN THIS STATE SHALL FORWARD NOMINATIONS TO THE APPOINTING ELECTED OFFICIALS, PROVIDING AT LEAST THREE NOMINEES FOR EACH POSITION. AT LEAST ONE OF THE MEMBERS APPOINTED UNDER THIS PARAGRAPH SHALL BE AN ELECTED LOCAL BOARD MEMBER.

2. TWO MEMBERS REPRESENTING FIREFIGHTERS, ONE OF WHOM IS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE OF WHOM IS APPOINTED BY THE GOVERNOR. A STATEWIDE ASSOCIATION REPRESENTING FIREFIGHTERS IN THIS STATE SHALL FORWARD NOMINATIONS TO THE APPOINTING ELECTED OFFICIALS, PROVIDING AT LEAST THREE NOMINEES FOR EACH POSITION. AT LEAST ONE OF THE MEMBERS APPOINTED UNDER THIS PARAGRAPH SHALL BE AN ELECTED LOCAL BOARD MEMBER.

3. THREE MEMBERS REPRESENTING CITIES AND TOWNS IN THIS STATE, ONE OF WHOM IS APPOINTED BY THE PRESIDENT OF THE SENATE, ONE OF WHOM IS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE OF WHOM IS APPOINTED BY THE GOVERNOR. AN ASSOCIATION REPRESENTING CITIES AND TOWNS IN THIS STATE SHALL FORWARD NOMINATIONS TO THE APPOINTING ELECTED OFFICIALS, PROVIDING AT LEAST THREE NOMINEES FOR EACH POSITION. THESE NOMINEES SHALL REPRESENT TAXPAYERS OR EMPLOYERS AND MAY NOT BE MEMBERS OF THE SYSTEM.

4. ONE MEMBER WHO REPRESENTS COUNTIES IN THIS STATE AND WHO IS APPOINTED BY THE GOVERNOR. AN ASSOCIATION REPRESENTING COUNTY SUPERVISORS IN THIS STATE SHALL FORWARD NOMINATIONS TO THE GOVERNOR, PROVIDING AT LEAST THREE NOMINEES FOR THE POSITION. THESE NOMINEES SHALL REPRESENT TAXPAYERS OR EMPLOYERS AND MAY NOT BE MEMBERS OF THE SYSTEM.

5. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE NOMINEES FORWARDED BY THE BOARD. THE BOARD SHALL SELECT THE NOMINEES TO FORWARD TO THE GOVERNOR FROM A LIST OF AT LEAST FIVE NOMINEES RECEIVED FROM THE ADVISORY COMMITTEE.

B. EACH APPOINTMENT MADE PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE CHOSEN FROM THE LIST OF NOMINEES PROVIDED TO THE APPOINTING ELECTED OFFICIAL. A BOARD MEMBER MAY BE REAPPOINTED. NOTWITHSTANDING SECTION 38-295, A BOARD MEMBER MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE BY THE APPOINTING POWER OR BECAUSE THE BOARD MEMBER HAS VACATED THE MEMBER'S SEAT ON THE BOARD. A BOARD MEMBER WHO IS REMOVED FOR CAUSE SHALL BE PROVIDED WRITTEN NOTICE AND AN OPPORTUNITY FOR A RESPONSE. THE APPOINTING POWER MAY REMOVE A BOARD MEMBER BASED ON WRITTEN FINDINGS THAT SPECIFY THE REASON FOR REMOVAL. ANY VACANCY THAT OCCURS OTHER THAN BY EXPIRATION OF A TERM SHALL BE FILLED FOR THE BALANCE OF THE TERM. ALL VACANCIES SHALL BE FILLED IN THE SAME MANNER AS THE INITIAL APPOINTMENT. A BOARD MEMBER VACATES THE OFFICE IF THE MEMBER EITHER:

1. IS ABSENT WITHOUT EXCUSE FROM THREE CONSECUTIVE REGULAR MEETINGS OF THE BOARD.

Ch. 2

2. RESIGNS, DIES OR BECOMES UNABLE TO PERFORM BOARD MEMBER DUTIES.

C. THE MEMBERS OF THE BOARD WHO ARE APPOINTED PURSUANT TO SUBSECTION A OF THIS SECTION AND WHO ARE NOT MEMBERS OF THE SYSTEM SHALL BE INDEPENDENT, QUALIFIED PROFESSIONALS WHO ARE RESPONSIBLE FOR THE PERFORMANCE OF FIDUCIARY DUTIES AND OTHER RESPONSIBILITIES REQUIRED TO PRESERVE AND PROTECT THE FUND AND SHALL HAVE AT LEAST TEN YEARS' SUBSTANTIAL EXPERIENCE AS ANY ONE OR A COMBINATION OF THE FOLLOWING:

1. A PORTFOLIO MANAGER ACTING IN A FIDUCIARY CAPACITY.

2. A SECURITIES ANALYST.

3. A SENIOR EXECUTIVE OR PRINCIPAL OF A TRUST INSTITUTION, INVESTMENT ORGANIZATION OR ENDOWMENT FUND ACTING EITHER IN A MANAGEMENT OR AN INVESTMENT-RELATED CAPACITY.

4. A CHARTERED FINANCIAL ANALYST IN GOOD STANDING AS DETERMINED BY THE CHARTERED FINANCIAL ANALYST INSTITUTE.

5. A CURRENT OR FORMER PROFESSOR OR INSTRUCTOR AT THE COLLEGE OR UNIVERSITY LEVEL IN THE FIELD OF ECONOMICS, FINANCE, ACTUARIAL SCIENCE, ACCOUNTING OR PENSION-RELATED SUBJECTS.

6. AN ECONOMIST.

7. ANY OTHER SENIOR EXECUTIVE ENGAGED IN THE FIELD OF PUBLIC OR PRIVATE FINANCES OR WITH EXPERIENCE WITH PUBLIC PENSION SYSTEMS.

8. A SENIOR EXECUTIVE IN INSURANCE, BANKING, UNDERWRITING, AUDITING, HUMAN RESOURCES OR RISK MANAGEMENT.

~~B.~~ D. All monies in the fund shall be deposited and held in a public safety personnel retirement system depository. Monies in the fund shall be disbursed from the depository separate and apart from all monies or funds of this state and the agencies, instrumentalities and subdivisions of this state, except that the board may commingle the assets of the fund and the

assets of all other plans entrusted to its management in one or more group trusts, subject to the crediting of receipts and earnings and charging of payments to the appropriate employer, system or plan. The monies shall be secured by the depository in which they are deposited and held to the same extent and in the same manner as required by the general depository law of this state. For purposes of making the decision to invest in securities owned by the fund or any plan or trust administered by the board, the fund and assets of the plans and the plans' trusts are subject to the sole management of the board for the purpose of this article except that, on the board's election to invest in a particular security or make a particular investment, the assets comprising the security or investment may be chosen and managed by third parties approved by the board. The board may invest in portfolios of securities chosen and managed by a third party. The board's decision to invest in securities such as mutual funds, commingled investment funds, exchange traded funds, private equity or venture capital limited partnerships, real estate limited partnerships or limited liability companies and real estate investment trusts whose assets are chosen and managed by third parties does not constitute an improper delegation of the board's investment authority.

~~C.~~ E. All contributions under this system and other retirement plans that the board administers shall be forwarded to the board and shall be held, invested and reinvested by the board as provided in this article. All property and monies of the fund and other retirement plans that the board administers, including income from investments and from all other sources, shall be retained for the exclusive benefit of members, as provided in the system and other retirement plans that the board administers, and shall be used to pay benefits to members or their beneficiaries or to pay expenses of operation and administration of the system and fund and other retirement plans that the board administers.

~~D.~~ F. The board shall have the full power in its sole discretion to invest and reinvest, alter and change the monies accumulated under the system and other retirement plans and trusts that the board administers as provided in this article. In addition to its power to make investments managed by others, the board may delegate the authority the board deems necessary and prudent to investment management pursuant to section 38-848.03, as well as to the administrator, employed by the board pursuant to subsection ~~K~~ M, paragraph 6 of this section, and any assistant administrators to invest the monies of the system and other retirement plans and trusts that the board administers if the administrator, investment management and any assistant administrators follow the investment policies that are adopted by the board. The board may commingle securities and monies of the fund, the elected officials' retirement plan, the corrections officer retirement plan and other plans or monies entrusted to its care, subject to the crediting of receipts and earnings and charging of payments to the account of the appropriate employer, system or plan. In making every investment, the board shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income from their funds as well as the probable safety of their capital, provided:

Ch. 2

1. That not more than eighty ~~per cent~~ PERCENT of the combined assets of the system or other plans that the board manages shall be invested at any given time in corporate stocks, based on cost value of such stocks irrespective of capital appreciation.

Chs. 2, 121 and 178

2. That no more than five ~~per cent~~ PERCENT of the combined assets of the system or other plans that the board manages shall be invested in corporate stock issued by any one corporation, other than corporate stock issued by corporations chartered by the United States government or corporate stock issued by a bank or insurance company.

3. That not more than five ~~per cent~~ PERCENT of the voting stock of any one corporation shall be owned by the system and other plans that the board administers, except that this limitation does not apply to membership interests in limited liability companies.

4. That corporate stocks and exchange traded funds eligible for direct purchase shall be restricted to stocks and exchange traded funds that, except for bank stocks, insurance stocks, stocks acquired for coinvestment in connection with the system's or the plans' or trusts' commingled investments and interests in limited liability companies and mutual funds, are either:

(a) Listed or approved on issuance for listing on an exchange registered under the securities exchange act of 1934, as amended (15 United States Code sections 78a through ~~78ll~~ 78pp).

Ch. 178

(b) Designated or approved on notice of issuance for designation on the national market system of a national securities association registered under the securities exchange act of 1934, as amended (15 United States Code sections 78a through ~~78ll~~ 78pp).

(c) Listed or approved on issuance for listing on an exchange registered under the laws of this state or any other state.

(d) Listed or approved on issuance for listing on an exchange of a foreign country with which the United States is maintaining diplomatic relations at the time of purchase, except that no more than twenty ~~per cent~~ PERCENT of the combined assets of the system and other plans that the board manages shall be invested in foreign securities, based on the cost value of the stocks irrespective of capital appreciation.

Chs. 2, 121 and 178

(e) An exchange traded fund that is recommended by the chief investment officer of the system, that is registered under the investment company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and that is both traded on a public exchange and based on a publicly recognized index.

~~E.~~ G. Notwithstanding any other law, the board shall not be required to invest in any type of investment that is dictated or required by any entity of the federal government and that is intended to fund economic development projects, public works or social programs, but may consider such economically targeted investments pursuant to its fiduciary responsibility. The board, on behalf of the system and all other plans or trusts the board administers, may invest in, lend monies to or guarantee the repayment of monies by a limited liability company, limited partnership, joint venture, partnership, limited liability partnership or trust in which the system and plans or trusts have a financial interest, whether the entity is closely held or publicly traded and that, in turn, may be engaged in any lawful activity, including venture capital, private equity, the ownership, development,

management, improvement or operation of real property and any improvements or businesses on real property or the lending of monies.

~~F.~~ H. Conference call meetings of the board that are held for investment purposes only are not subject to chapter 3, article 3.1 of this title, except that the board shall maintain minutes of these conference call meetings and make them available for public inspection within twenty-four hours after the meeting. The board shall review the minutes of each conference call meeting and shall ratify all legal actions taken during each conference call meeting at the next scheduled meeting of the board.

~~G.~~ I. The board shall not be held liable for the exercise of more than ordinary care and prudence in the selection of investments and performance of its duties under the system and shall not be limited to so-called "legal investments for trustees", but all monies of the system and other plans that the board administers shall be invested subject to all of the conditions, limitations and restrictions imposed by law.

Ch. 2 ~~H.~~ J. Except as provided in subsection ~~D~~ F of this section, the board may:

1. Invest and reinvest the principal and income of all assets that the board manages without distinction between principal and income.

2. Sell, exchange, convey, transfer or otherwise dispose of any investments made on behalf of the system or other plans the board administers in the name of the system or plans by private contract or at public auction.

3. Also:

(a) Vote on any stocks, bonds or other securities.

(b) Give general or special proxies or powers of attorney with or without power of substitution.

(c) Exercise any conversion privileges, subscription rights or other options and make any payments incidental to the exercise of the conversion privileges, subscription rights or other options.

(d) Consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities, delegate discretionary powers and pay any assessments or charges in connection therewith.

(e) Generally exercise any of the powers of an owner with respect to stocks, bonds, securities or other investments held in or owned by the system or other plans whose assets the board administers.

4. Make, execute, acknowledge and deliver any other instruments that may be necessary or appropriate to carry out the powers granted in this section.

5. Register any investment held by the system or other plans whose assets the board administers in the name of the system or plan or in the name of a nominee or trust.

6. At the expense of the system or other plans that the board administers, enter into an agreement with any bank or banks for the safekeeping and handling of securities and other investments coming into the possession of the board. The agreement shall be entered into under terms and conditions that secure the proper safeguarding, inventory, withdrawal and handling of the securities and other investments. No access to and no deposit or withdrawal of the securities from any place of deposit selected by the board shall be permitted or made except as the terms of the agreement may provide.

7. Appear before local boards and the courts of this state and political subdivisions of this state through counsel or appointed representative to protect the fund or the assets of other plans that the board administers. The board is not responsible for the actions or omissions
Ch. 121 — of the local boards under this system but may seek A review or rehearing of actions or omissions of local boards. The board does not have a duty to review actions of the local boards but may do so in its discretion in order to protect the fund. No limitations period precludes the board or administrator from contesting, or requires the board or administrator to implement or comply with, a local board decision that violates the internal revenue code or that threatens to impair the tax qualified status of the system or any plan administered by the board or administrator.

8. Empower the fund administrator to take actions on behalf of the board that are necessary for the protection and administration of the fund or the assets of other plans that the board administers pursuant to the guidelines of the board.

9. Do all acts, whether or not expressly authorized, that may be deemed necessary or proper for the protection of the investments held in the fund or owned by other plans or trusts that the board administers.

10. Settle threatened or actual litigation against any system or plan that the board administers.

~~I.~~ K. Investment expenses and operation and administrative expenses of the board shall be accounted for separately and allocated against investment income.

~~J.~~ L. The board, as soon as possible within a period of six months following the close of any fiscal year, shall transmit to the governor and the legislature a comprehensive annual financial report on the operation of the system and other plans that the board administers containing, among other things:

1. A balance sheet.

2. A statement of income and expenditures for the year.

3. A report on an actuarial valuation of its assets and liabilities.

Chs. 2, 121 and 178 — 4. A list of investments owned.

5. The total rate of return, yield on cost, and ~~per cent~~ PERCENT of cost to market value of the fund and the assets of other plans that the board administers.

6. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of the system and other plans that the board administers and the results of their operations. A synopsis of the annual report shall be published for the information of members of the system, the elected officials' retirement plan or the corrections officer retirement plan.

Chs. 2, 121 and 178 — 7. An analysis of the long-term level ~~per cent~~ PERCENT of employer contributions and compensation structure and whether the funding methodology is sufficient to pay one hundred ~~per cent~~ PERCENT of the unfunded accrued liability under the elected officials' retirement plan.

8. An estimate of the aggregate employer contribution rate for the public safety personnel retirement system for the next ten fiscal years and an estimate of the aggregate employer contribution rate for the corrections officer retirement plan for the next ten fiscal years.

9. An estimate of the employer contribution rates for the next ten fiscal years for each of the following employers within the public safety personnel retirement system:

(a) Department of liquor licenses and control.
(b) Department of public safety.
(c) Northern Arizona university.
(d) University of Arizona.
(e) Arizona state university.
(f) Arizona game and fish department.
(g) Department of law.
(h) Department of emergency and military affairs.
(i) Arizona state parks board.

10. An estimate of the employer contribution rates for the next ten fiscal years for each of the following employers within the corrections officer retirement plan:

(a) State department of corrections.
(b) Department of public safety.
(c) The judiciary.
(d) Department of juvenile corrections.

Ch. 121 — 11. AN ESTIMATE OF THE AGGREGATE FEES PAID FOR PRIVATE EQUITY INVESTMENTS, INCLUDING MANAGEMENT FEES AND PERFORMANCE FEES.

~~K.~~ M. The board shall:

1. Maintain the accounts of the system and other plans that the board administers and issue statements to each employer annually and to each member who may request it.

2. Report the results of the actuarial valuations to the local boards and employers.

3. Contract on a fee basis with an independent investment counsel to advise the board in the investment management of the fund and assets of other plans that the board administers and with an independent auditing firm to audit the board's accounting.

Ch. 121 — 4. Permit the auditor general to make an annual audit and TRANSMIT the results ~~shall be transmitted~~ to the governor and the legislature.

5. Contract on a fee basis with an actuary who shall make actuarial valuations of the system and other plans that the board administers, be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of the system, the elected officials' retirement plan, the corrections officer retirement plan and the ~~firefighter, peace officer and corrections officer~~ PUBLIC SAFETY cancer insurance policy program and perform other duties required in connection therewith. The actuary must be a member of a nationally recognized association or society of actuaries.

Ch. 178

6. Employ, as administrator, a person, state department or other body to serve at the pleasure of the board.

7. Establish procedures and guidelines for contracts with actuaries, auditors, investment counsel and legal counsel and for safeguarding of securities.

~~L.~~ N. The administrator, under the direction of the board, shall:

1. Administer this article.

2. Be responsible for the recruitment, hiring and day-to-day management of employees.

Ch. 121 3. Invest the ~~funds~~ MONIES of the system and other plans that the board administers as the board deems necessary and prudent as provided in Ch. 2 subsections ~~D~~ F and ~~H~~ J of this section and subject to the investment policies and fund objectives adopted by the board.

4. Establish and maintain an adequate system of accounts and records for the system and other plans that the board administers, which shall be integrated with the accounts, records and procedures of the employers so that the system and other plans that the board administers operates most effectively and at minimum expense and that duplication of records and accounts is avoided.

5. In accordance with the board's governance policy and procedures and the budget adopted by the board, hire such employees and services the administrator deems necessary and prescribe their duties, including the hiring of one or more assistant administrators to manage the system's operations, investments and legal affairs.

6. Be responsible for income, the collection of the income and the accuracy of all expenditures.

7. Recommend to the board annual contracts for the system's actuary, auditor, investment counsel, legal counsel and safeguarding of securities.

8. Perform additional duties and powers prescribed by the board and delegated to the administrator.

~~M.~~ O. The system is an independent trust fund and the board is not subject to title 41, chapter 6. Contracts for goods and services approved by the board are not subject to title 41, chapter 23. As an independent trust Ch. 121 fund whose assets are separate and apart from all other ~~funds~~ MONIES of this state, the system and the board are not subject to the restrictions prescribed in section 35-154 or article IX, sections 5 and 8, Constitution of Arizona. Loans, guarantees, investment management agreements and investment contracts that are entered into by the board are contracts memorializing obligations or interests in securities that the board has concluded, after thorough due diligence, do not involve investments in Sudan or Iran or otherwise provide support to terrorists or in any way facilitate illegal immigration into the United States. These contracts do not involve the procurement, supply or provision of goods, equipment, labor, materials or services that would require the warranties required by section 41-4401.

~~N.~~ P. The board, the administrator, the assistant administrators and all persons employed by them are subject to title 41, chapter 4, article 4. The administrator, assistant administrators and other employees of the board are entitled to receive compensation pursuant to section 38-611.

~~O.~~ Q. In consultation with the director of the department of administration, the board may enter into employment agreements and establish the terms of those agreements with persons holding any of the following system positions:

1. Administrator.
2. Deputy or assistant administrator.
3. Chief investment officer.
4. Deputy chief investment officer.
5. Fiduciary or investment counsel.

~~P.~~ R. The attorney general or an attorney approved by the attorney general and paid by the fund shall be the attorney for the board and shall represent the board in any legal proceeding or forum that the board deems appropriate. The board, administrator, assistant administrators and employees of the board are not personally liable for any acts done in their official capacity in good faith reliance on the written opinions of the board's attorney.

~~Q.~~ S. At least once in each five-year period after the effective date, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the system and other plans that the board administers and shall make a special valuation of the assets and liabilities of the monies of the system and plans. Taking into account the results of the investigation and special valuation, the board shall adopt for the system and other plans that the board administers those mortality, service and other tables deemed necessary.

~~R.~~ T. On the basis of the tables the board adopts, the actuary shall make a valuation of the assets and liabilities of the funds of the system and other plans that the board administers not less frequently than every year. By November 1 of each year the board shall provide a preliminary report and by December 15 of each year provide a final report to the governor, the speaker of the house of representatives and the president of the senate on the contribution rate for the ensuing fiscal year.

~~S.~~ U. Neither the board nor any member or employee of the board shall directly or indirectly, for himself or as an agent, in any manner use the monies or deposits of the fund except to make current and necessary payments, nor shall the board or any member or employee become an endorser or surety or in any manner an obligor for monies loaned by or borrowed from the fund or the assets of any other plans that the board administers.

~~T. The members of the board who are appointed pursuant to subsection A, paragraphs 2 and 5 of this section shall have at least ten years' substantial experience as any one or a combination of the following:~~

~~1. A portfolio manager acting in a fiduciary capacity.~~

~~2. A securities analyst.~~

~~3. An employee or principal of a trust institution, investment organization or endowment fund acting either in a management or an investment related capacity.~~

Ch. 2

~~4. A chartered financial analyst in good standing as determined by the association for investment management and research.~~

~~5. A professor at the university level teaching economics or investment related subjects.~~

~~6. An economist.~~

~~7. Any other professional engaged in the field of public or private finances.~~

~~U.~~ V. Financial or commercial information that is provided to the board, employees of the board and attorneys of the board in connection with investments in which the board has invested or investments the board has considered for investment is confidential, proprietary and not a public record if the information is information that would customarily not be released to the public by the person or entity from whom the information was obtained.

W. A PERSON WHO IS A DEALER AS DEFINED IN SECTION 44-1801 AND WHO IS INVOLVED IN SECURITIES OR INVESTMENTS RELATED TO THE BOARD'S INVESTMENTS IS NOT ELIGIBLE TO SERVE ON THE BOARD.

X. BEGINNING JANUARY 1, 2017, THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ADVISORY COMMITTEE IS ESTABLISHED AND SHALL SERVE AS A LIAISON BETWEEN THE BOARD AND THE MEMBERS AND EMPLOYERS OF THE SYSTEM. THE COMMITTEE SHALL BE APPOINTED BY THE CHAIRPERSON OF THE BOARD FROM NAMES SUBMITTED TO THE CHAIRPERSON BY ASSOCIATIONS REPRESENTING LAW ENFORCEMENT, FIREFIGHTERS, STATE GOVERNMENT, COUNTIES, CITIES AND TOWNS AND TRIBAL GOVERNMENTS. THE COMMITTEE SHALL SELECT A CHAIRPERSON FROM AMONG ITS MEMBERS EACH CALENDAR YEAR. THE COMMITTEE SHALL CONSIST OF THE FOLLOWING TEN MEMBERS:

Ch. 2

1. A MEMBER WHO IS A LAW ENFORCEMENT OFFICER.
2. A MEMBER WHO IS A FIREFIGHTER.
3. A MEMBER OF THE ELECTED OFFICIALS' RETIREMENT PLAN.
4. A MEMBER OF THE CORRECTIONS OFFICER RETIREMENT PLAN.
5. A RETIREE FROM THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.
6. A REPRESENTATIVE FROM A CITY OR TOWN IN THIS STATE.
7. A REPRESENTATIVE FROM A COUNTY IN THIS STATE.
8. A REPRESENTATIVE FROM A FIRE DISTRICT IN THIS STATE.
9. A REPRESENTATIVE FROM A STATE EMPLOYER.
10. A REPRESENTATIVE FROM A TRIBAL GOVERNMENT LOCATED IN THIS STATE.

EXPLANATION OF BLEND
SECTION 41-178

Laws 2016, Chapters 94 and 119

Laws 2016, Ch. 94, section 11	Effective August 6, 2016
Laws 2016, Ch. 119, section 5	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 94 and Ch. 119 text changes to section 41-178 are blended in the form shown on the following page.

BLEND OF SECTION 41-178
Laws 2016, Chapters 94 and 119

41-178. Distribution of notary bond fees

The state treasurer shall transmit, distribute or deposit all monies received pursuant to section 41-126, subsection A, paragraphs 11 and 12 as follows:

Ch. 119 — 1. 1.31 [~~per cent~~ PERCENT] for deposit in the ~~drug and gang enforcement account~~ RESOURCE CENTER FUND established by ~~section 41-2402~~ AND for the purposes of section 41-2402, subsection G. — Chs. 94 and 119

Ch. 94 — 2. 8.87 [~~per cent~~ PERCENT] for deposit in the domestic violence ~~shelter~~ SERVICES fund established by section 36-3002.

3. 1.93 ~~per cent~~ PERCENT for deposit in the child abuse prevention fund established by section 8-550.01.

4. 7.62 ~~per cent~~ PERCENT for proportional deposit in each county's law library fund established by section 12-305, based on the number of notaries commissioned per county.

Chs. 94 and 119 — 5. 0.35 ~~per cent~~ PERCENT for deposit in the alternative dispute resolution fund established by section 12-135.

6. 23.79 ~~per cent~~ PERCENT for deposit in the elected officials' retirement plan fund established by section 38-802, which shall be distributed to the fund pursuant to section 38-810.

7. 17.07 ~~per cent~~ PERCENT for deposit in the judicial collection enhancement fund established by section 12-113.

8. 0.26 ~~per cent~~ PERCENT for deposit in the confidential intermediary and fiduciary fund established by section 8-135.

9. 31.29 ~~per cent~~ PERCENT for deposit in the notary bond fund established by section 41-314.

10. 7.51 ~~per cent~~ PERCENT shall be distributed to the county where the notary is commissioned in the same manner as the seven dollars of the time payment fee prescribed by section 12-116, subsection B.

EXPLANATION OF BLEND
SECTION 41-619.51

Laws 2016, Chapters 288 and 371

Laws 2016, Ch. 288, section 3	Effective August 6, 2016
Laws 2016, Ch. 371, section 26	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 288 and Ch. 371 text changes to section 41-619.51 are blended in the form shown on the following pages.

The Laws 2016, Ch. 371 version of section 41-619.51, paragraph 1 added the word "or" after "managers". The Ch. 288 version added a comma after "managers". Since this would not produce a substantive change, the blend version reflects the Ch. 288 version.

BLEND OF SECTION 41-619.51
Laws 2016, Chapters 288 and 371

41-619.51. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department, the ~~state board of appraisal~~ DEPARTMENT OF FINANCIAL INSTITUTIONS, the Arizona game and fish department[,] ~~or~~ the board of examiners of nursing care institution administrators and assisted living facility managers[,] THE STATE BOARD OF DENTAL EXAMINERS [OR THE ARIZONA STATE BOARD OF PHARMACY]. (Chs. 288 and 371 / Ch. 288)

2. "Board" means the board of fingerprinting.

3. "Central registry exception" means notification to the department of economic security, the department of child safety or the department of health services, as appropriate, pursuant to section 41-619.57 that the person is not disqualified because of a central registry check conducted pursuant to section 8-804.

4. "Expedited review" means an examination, in accordance with board rule, of the documents an applicant submits by the board or its hearing officer without the applicant being present.

5. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

6. "Person" means a person who is required to be fingerprinted pursuant to this article or who is subject to a central registry check and any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-463.
(d) Section 8-509.
(e) Section 8-802.
(f) Section 8-804.
(g) Section 15-183.
(h) Section 15-503.
(i) Section 15-512.
(j) Section 15-534.
(k) Section 15-763.01.
(l) Section 15-782.02.
(m) Section 15-1330.
(n) Section 15-1881.
(o) Section 17-215.
(p) Section 28-3413.
(q) Section 32-1232.

Chs. 288 and 371

(r) SECTION 32-1284.

(s) SECTION 32-1297.01.

Ch. 288

(t) SECTION 32-1904.

~~(r)~~ (u) Section 32-2108.01.

~~(s)~~ (v) Section 32-2123.

~~(t)~~ (w) Section 32-2371.

Ch. 371

~~(u) Section 32-2372.~~

~~(v)~~ (x) Section 32-3620.

~~(w)~~ (y) Section 32-3668.

~~(x)~~ (z) Section 32-3669.

~~(y)~~ (aa) Section 36-207.

~~(z)~~ (bb) Section 36-411.

~~(aa)~~ (cc) Section 36-425.03.

~~(bb)~~ (dd) Section 36-446.04.

~~(cc)~~ (ee) Section 36-594.01.

~~(dd)~~ (ff) Section 36-594.02.

~~(ee)~~ (gg) Section 36-882.

~~(ff)~~ (hh) Section 36-883.02.

~~(gg)~~ (ii) Section 36-897.01.

~~(hh)~~ (jj) Section 36-897.03.

~~(ii)~~ (kk) Section 36-3008.

~~(jj)~~ (ll) Section 41-619.53.

~~(kk)~~ (mm) Section 41-1964.

~~(ll)~~ (nn) Section 41-1967.01.

~~(mm)~~ (oo) Section 41-1968.

~~(nn)~~ (pp) Section 41-1969.

~~(oo)~~ (qq) Section 41-2814.

~~(pp)~~ (rr) Section 46-141, subsection A.

~~(qq)~~ (ss) Section 46-321.

EXPLANATION OF BLEND
SECTION 41-1002

Laws 2016, Chapters 209 and 365

Laws 2016, Ch. 209, section 3	Effective August 6, 2016
Laws 2016, Ch. 365, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 209 and Ch. 365 text changes to section 41-1002 are blended in the form shown on the following page.

BLEND OF SECTION 41-1002
Laws 2016, Chapters 209 and 365

41-1002. Applicability and relation to other law; preapplication authorization; definitions

A. This article and articles 2 through 5 of this chapter apply to all agencies and all proceedings not expressly exempted.

B. This chapter creates only procedural rights and imposes only procedural duties. They are in addition to those created and imposed by other statutes. To the extent that any other statute would diminish a right created or duty imposed by this chapter, the other statute is superseded by this chapter, unless the other statute expressly provides otherwise.

C. An agency may grant procedural rights to persons in addition to those conferred by this chapter so long as rights conferred on other persons by any provision of law are not substantially prejudiced.

D. Unless specifically authorized by statute, an agency shall avoid duplication of other laws that do not enhance regulatory clarity and shall avoid dual permitting to the extent practicable.

Ch. 365

E. UNLESS SPECIFICALLY AUTHORIZED BY STATUTE, AN AGENCY MAY NOT REQUIRE PREAPPLICATION AUTHORIZATION OR REQUIRE PREAPPLICATION CONFERENCES AS A REQUIREMENT TO FILING AN APPLICATION THAT IS OTHERWISE ALLOWED BY STATUTE. IF PREAPPLICATION PROCEDURES ARE REQUIRED BY STATUTE, AN AGENCY SHALL CONSIDER THE PREAPPLICATION REQUIREMENTS OR PROCEDURES AS THE BEGINNING OF THE LICENSING TIME FRAME FOR THE PURPOSES OF ARTICLE 7.1 OF THIS CHAPTER. AN AGENCY MAY OFFER VOLUNTARY PREAPPLICATION PROCEDURES WITHOUT SPECIFIC STATUTORY AUTHORITY IF THE AGENCY COMMUNICATES TO AN APPLICANT THAT THE PREAPPLICATION PROCEDURES ARE NOT MANDATORY. IF PREAPPLICATION PROCEDURES ARE OFFERED BY AN AGENCY, THE AGENCY SHALL CONSIDER THE COSTS AND DELAYS THAT MAY BE IMPOSED ON AN APPLICANT AND SHALL SEEK TO MINIMIZE THOSE IMPACTS.

F. UNLESS AUTHORIZED BY FEDERAL OR STATE LAW, AN AGENCY MAY NOT TAKE ANY ACTION THAT MATERIALLY INCREASES THE REGULATORY BURDENS ON A BUSINESS UNLESS THERE IS A THREAT TO THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC THAT HAS NOT BEEN ADDRESSED BY LEGISLATION OR INDUSTRY REGULATION WITHIN THE PROPOSED REGULATED FIELD.

G. UNLESS AUTHORIZED BY FEDERAL OR STATE LAW, AN AGENCY MAY NOT APPLY A REGULATION TO A QUALIFIED MARKETPLACE PLATFORM IF THE PURPOSE OF THAT REGULATION IS TO REGULATE A BUSINESS THAT PROVIDES GOODS OR SERVICES DIRECTLY TO THE CUSTOMER.

H. FOR THE PURPOSES OF THIS SECTION:

Ch. 209

1. "QUALIFIED MARKETPLACE CONTRACTOR" MEANS ANY PERSON OR ORGANIZATION, INCLUDING AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, SOLE PROPRIETOR OR OTHER ENTITY, THAT ENTERS INTO AN AGREEMENT WITH A QUALIFIED MARKETPLACE PLATFORM TO USE THE QUALIFIED MARKETPLACE PLATFORM'S DIGITAL PLATFORM TO PROVIDE GOODS OR SERVICES TO THIRD-PARTY INDIVIDUALS OR ENTITIES SEEKING THOSE SERVICES.

2. "QUALIFIED MARKETPLACE PLATFORM" MEANS AN ORGANIZATION, INCLUDING A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, SOLE PROPRIETOR OR ANY OTHER ENTITY, THAT OPERATES A DIGITAL PLATFORM THAT FACILITATES THE PROVISION OF GOODS OR SERVICES BY QUALIFIED MARKETPLACE CONTRACTORS TO THIRD-PARTY INDIVIDUALS OR ENTITIES SEEKING THOSE GOODS OR SERVICES.

EXPLANATION OF BLEND
SECTION 41-1502

Laws 2016, Chapters 114 and 372

Laws 2016, Ch. 114, section 1	Effective August 6, 2016
Laws 2016, Ch. 372, section 34	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 114 and Ch. 372 text changes to section 41-1502 are blended in the form shown on the following pages.

BLEND OF SECTION 41-1502
Laws 2016, Chapters 114 and 372

41-1502. Arizona commerce authority; board of directors; conduct of office; audit

A. The Arizona commerce authority is established. The mission of the authority is to provide private sector leadership in growing and diversifying the economy of this state, creating high quality employment in this state through expansion, attraction and retention of businesses and marketing this state for the purpose of expansion, attraction and retention of businesses.

B. The authority shall be governed by a board of directors consisting of:

1. The governor, who serves as chairperson.

2. The chief executive officer.

3. Seventeen private sector business leaders who are chief executive officers of private, for-profit enterprises. None of these members may be an elected official of any government entity. These members must be appointed from geographically diverse areas of this state and not all from the same county. These members shall serve staggered three-year terms of office beginning and ending on the third Monday in January. These members shall be appointed as follows:

(a) Nine members who are appointed by the governor.

(b) Four members who are appointed by the president of the senate.

(c) Four members who are appointed by the speaker of the house of representatives.

4. The following as ex officio members without the power to vote:

(a) The president of the senate.

(b) The speaker of the house of representatives.

(c) The president of the Arizona board of regents.

(d) The president of each state university under the jurisdiction of the Arizona board of regents.

(e) One president of a community college who is appointed by a statewide organization of community college presidents.

(f) The chairperson of the governor's council on small business, or its successor.

Ch. 372 — (g) The chairperson of the ~~governor's council on workforce policy~~ WORKFORCE ARIZONA COUNCIL, if established by executive order pursuant to section ~~41-1542~~ 41-5401.

(h) One member of the rural business development advisory council established by section 41-1505 who is appointed by the governor.

(i) The president of a statewide organization of incorporated cities and towns who is appointed by the governor.

(j) The president of a statewide organization of county boards of supervisors who is appointed by the governor.

C. The following shall serve as technical advisors to the board to enhance collaboration among state agencies to meet infrastructure needs and facilitate growth opportunities throughout this state:

1. The director of environmental quality.
2. The state land commissioner.
3. The director of the department of revenue.
4. The director of the office of tourism.
5. The director of the department of transportation.
6. The director of water resources.
7. The director of the department of financial institutions.
8. The director of the Arizona-Mexico commission in the governor's office.

9. THE DIRECTOR OF THE OFFICE OF ECONOMIC OPPORTUNITY.

D. The governor shall appoint a cochairperson of the board of directors from among the voting members. The board may establish an executive committee consisting of the chairperson, the cochairperson, the chief executive officer, and additional voting members of the board elected by the board. The chairperson may appoint subcommittees as necessary.

E. The board may request assistance from representatives of other state agencies to maximize economic development opportunities by leveraging their access to strategic assets and planning processes.

F. Board members serve without compensation but are eligible for reimbursement of expenses pursuant to section 41-1504, subsection E, paragraph 1.

G. A majority of the voting members, which must include the chairperson and the chief executive officer, constitute a quorum for the purpose of an official meeting for conducting business. An affirmative vote of a majority of the members present at an official meeting is sufficient for any action to be taken.

H. The board of directors shall keep and maintain a complete and accurate record of all of its proceedings. Public access to the board's records is subject to section 41-1504, subsection L.

I. The board of directors, executive committee, subcommittees and advisory councils are subject to title 38, chapter 3, article 3.1, relating to public meetings, except as follows:

1. In addition to section 38-431.03, the board of directors, executive committee and subcommittees may meet in executive session for discussion about potential business development opportunities and strategies, which, if made public, could potentially harm the applicant's, the potential applicant's or this state's competitive position.

2. Social and travel events related to the expansion, attraction and retention of businesses are not public meetings if no legal action involving a final vote or decision is taken.

3. Activities and events held in public for the purpose of announcing the expansion, attraction and retention of projects are not public meetings.

J. The board of directors and the officers and employees of the authority are subject to title 38, chapter 3, article 8, relating to conflicts of interest.

K. The board of directors shall adopt written policies, procedures and guidelines for standards of conduct, including a gift policy, for members of the board and for officers and employees of the authority.

Ch. 114

L. THE COMPENSATION OF ALL OFFICERS AND EMPLOYEES IS CONSIDERED A PUBLIC RECORD PURSUANT TO TITLE 39, CHAPTER 1.

~~L.~~ M. The authority shall operate on the state fiscal year. The board of directors shall cause an annual audit to be conducted on or before October 31 of each of the authority's public funds established by this chapter by an independent certified public accountant. 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 chapter 7, article 10.1 of this title. If the auditor general takes no further action within thirty days after the audit is filed, the audit is considered to be sufficient.

~~M.~~ N. All state agencies shall cooperate with the authority and make available data pertaining to the functions of the authority as requested by the authority.

EXPLANATION OF BLEND
SECTION 41-1504

Laws 2016, Chapters 80, 114, 185 and 372

Laws 2016, Ch. 80, section 24	Effective August 6, 2016
Laws 2016, Ch. 114, section 2	Effective August 6, 2016
Laws 2016, Ch. 185, section 6	Effective August 6, 2016
Laws 2016, Ch. 372, section 35	Effective August 6, 2016

Explanation

Since these four enactments are not incompatible, the Laws 2016, Ch. 80, Ch. 114, Ch. 185 and Ch. 372 text changes to section 41-1504 are blended in the form shown on the following pages.

BLEND OF SECTION 41-1504
Laws 2016, Chapters 80, 114, 185 and 372

41-1504. Powers and duties; e-verify requirement

A. The board of directors, on behalf of the authority, may:

1. Adopt and use a corporate seal.

2. Sue and be sued.

3. Enter into contracts as necessary to carry out the purposes and requirements of this chapter, including intergovernmental agreements pursuant to title 11, chapter 7, article 3 and interagency service agreements as provided by section 35-148.

4. Lease real property and improvements to real property for the purposes of the authority. Leases by the authority are exempt from chapter 4, article 7 of this title, relating to management of state properties.

5. Employ or retain legal counsel and other consultants as necessary to carry out the purposes of the authority.

6. Develop and use written policies, procedures and guidelines for the terms and conditions of employing officers and employees of the authority and may include background checks of appropriate personnel.

B. The board of directors, on behalf of the authority, shall:

1. Develop comprehensive long-range strategic economic plans for this state and submit the plans to the governor.

2. Annually update a strategic economic plan for submission to the governor.

3. Accept gifts, grants and loans and enter into contracts and other transactions with any federal or state agency, municipality, private organization or other source.

C. The authority shall:

1. Assess and collect fees for processing applications and administering incentives. The board shall adopt the manner of computing the amount of each fee to be assessed. Within thirty days after proposing fees for adoption, the chief executive officer shall submit a schedule of the fees for review by the joint legislative budget committee. It is the intent of the legislature that a fee shall not exceed one ~~per cent~~ PERCENT of the amount of the incentive.

Chs. 80, 114, 185 and 372

2. Determine and collect registry fees for the administration of the allocation of federal tax exempt industrial development bonds and student loan bonds authorized by the authority. Such monies collected by the authority shall be deposited, pursuant to sections 35-146 and 35-147, in an authority bond fund. Monies in the fund shall be used, subject to annual appropriation by the legislature, by the authority to administer the allocations provided in this paragraph and are exempt from the provisions of section 35-190 relating to the lapsing of appropriations.

3. Determine and collect security deposits for the allocation, for the extension of allocations and for the difference between allocations and principal amounts of federal tax exempt industrial development bonds and

student loan bonds authorized by the authority. Security deposits forfeited to the authority shall be deposited in the state general fund.

4. At the direction of the board, establish and supervise the operations of full-time or part-time offices in other states and foreign countries for the purpose of expanding direct investment and export trade opportunities for businesses and industries in this state if, based on objective research, the authority determines that the effort would be beneficial to the economy of this state.

5. Establish a program by which entrepreneurs become aware of permits, licenses or other authorizations needed to establish, expand or operate in this state.

Ch. 185 ~~6. Be the state registration agency for apprenticeship functions prescribed by the federal government.~~

6. POST ON ITS WEBSITE ON AN ANNUAL BASIS A REPORT CONTAINING AT LEAST THE FOLLOWING INFORMATION:

(a) THE CUMULATIVE PROGRESS MADE TOWARD ITS GOALS FOR JOB CREATION, CAPITAL INVESTMENT AND HIGHER AVERAGE WAGES.

(b) TO THE EXTENT NOT PROHIBITED BY LAW, INFORMATION ON EACH INCENTIVE APPLICATION APPROVED BY THE AUTHORITY IN THE FISCAL YEAR, INCLUDING THE AMOUNT OF THE INCENTIVE APPROVED OR AWARDED AND THE APPLICANT'S ACTIVITY THAT IS PROJECTED OR HAS BEEN ACHIEVED, WHICHEVER IS APPLICABLE, TO QUALIFY FOR THE INCENTIVE.

Ch. 114

7. DEVELOP AND IMPLEMENT WRITTEN POLICIES AND PROCEDURES RELATING TO THE ADMINISTRATION OF GRANTS FROM THE ARIZONA COMPETES FUND ESTABLISHED BY SECTION 41-1545.01, INCLUDING THE FOLLOWING ELEMENTS:

(a) PROCEDURES FOR DOCUMENTING GRANTEE SELECTION AND DUE DILIGENCE.

(b) PROCEDURES FOR VERIFICATION OF INFORMATION SUBMITTED BY GRANTEES.

(c) PROCEDURES FOR EVALUATING REQUESTS TO AMEND GRANT TERMS AND FOR DOCUMENTING DECISIONS RELATING TO THOSE REQUESTS.

Ch. 372

8. NOTWITHSTANDING ANY OTHER LAW, ON REQUEST OF THE OFFICE OF ECONOMIC OPPORTUNITY, DISCLOSE TO THE OFFICE OF ECONOMIC OPPORTUNITY APPLICANT INFORMATION FOR INCENTIVES ADMINISTERED, IN WHOLE OR IN PART, BY THE AUTHORITY. ANY CONFIDENTIALITY REQUIREMENTS PROVIDED BY LAW APPLICABLE TO THE INFORMATION DISCLOSED PURSUANT TO THIS PARAGRAPH APPLY TO THE OFFICE OF ECONOMIC OPPORTUNITY.

D. The authority, through the chief executive officer, may:

1. Contract and incur obligations reasonably necessary or desirable within the general scope of the authority's activities and operations to enable the authority to adequately perform its duties.

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

3. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for the conduct of programs that are consistent with the general purposes and objectives of this chapter.

4. Assess business fees for promotional services provided to businesses that export products and services from this state. The fees shall not exceed the actual costs of the services provided.

5. Establish and maintain one or more accounts in banks or other depositories, for public or private monies of the authority, from which operational activities, including payroll, vendor and grant payments, may be conducted. Individual funds that are established by law under the jurisdiction of the authority may be maintained in separate accounts in banks or other depositories, but shall not be commingled with any other monies or funds of the authority.

E. The chief executive officer shall:

1. Hire employees and prescribe the terms and conditions of their employment as necessary to carry out the purposes of the authority. The board of directors shall adopt written policies, procedures and guidelines, similar to those adopted by the department of administration, regarding officer and employee compensation, observed holidays, leave and reimbursement of travel expenses and health and accident insurance. The officers and employees of the authority are exempt from any laws regulating state employment, including:

(a) Chapter 4, articles 5 and 6 of this title, relating to state service.

(b) Title 38, chapter 4, article 1 and chapter 5, article 2, relating to state personnel compensation, leave and retirement.

(c) Title 38, chapter 4, article 2, relating to reimbursement of state employee expenses.

(d) Title 38, chapter 4, article 4, relating to health and accident insurance.

2. On a quarterly basis, provide public record data in a manner prescribed by the department of administration related to the authority's revenues and expenditures for inclusion in the comprehensive database of receipts and expenditures of state monies pursuant to section 41-725.

F. In addition to any other requirement, in order to qualify for any grant, loan, reimbursement, tax incentive or other economic development incentive pursuant to this chapter, an applicant that is an employer must register with and participate in the e-verify program in compliance with section 23-214. The authority shall require verification of compliance with this subsection as part of any application process.

G. Notwithstanding any other law, the authority is subject to chapter 3.1, article 1 of this title, relating to risk management.

Ch. 80 — H. The authority is exempt from TITLE 18, chapter ~~32~~ 1, articles 1 and 2 ~~of this title~~, relating to statewide information technology. The authority shall adopt policies, procedures and guidelines regarding information technology.

I. The authority is exempt from state general accounting and finance practices and rules adopted pursuant to chapter 4, article 3 of this title, but the board shall adopt written accounting practices, systems and procedures for the economic and efficient operation of the authority.

Chs. 80, 114, 185 and 372 — J. The authority is exempt from section 41-712, relating to the installation and maintenance of ~~telecommunications~~ TELECOMMUNICATION systems.

K. The authority may lease or purchase motor vehicles for use by employees to conduct business activities. The authority is exempt from section 41-803, relating to the state motor vehicle fleet, and title 38, chapter 3, article 10, relating to vehicle usage and markings.

L. Any tangible or intangible record submitted to or compiled by the board or the authority in connection with its work, including the award of monies, is subject to title 39, chapter 1, unless an applicant shows, or the board or authority determines, that specific information meets either of the following:

1. If made public, the information would divulge the applicant's or potential applicant's trade secrets, as defined in section 44-401.

Chs. 80, 114, 185 and 372

2. If made public, the information could potentially harm the applicant's, THE potential applicant's or this state's competitive position relating to potential business development opportunities and strategies.

M. The authority is exempt from chapter 25, article 1 of this title, relating to government competition with private enterprise.

EXPLANATION OF BLEND
SECTION 41-1512

Laws 2016, Chapters 30 and 372

Laws 2016, Ch. 30, section 6	Effective August 6, 2016
Laws 2016, Ch. 372, section 36	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 30 and Ch. 372 text changes to section 41-1512 are blended in the form shown on the following pages.

BLEND OF SECTION 41-1512
Laws 2016, Chapters 30 and 372

41-1512. Qualified facility income tax credits; qualification; definitions

A. For taxable years beginning from and after December 31, 2012, income tax credits are allowed for expanding or locating a qualified facility in this state pursuant to sections 43-1083.03 and 43-1164.04. Only capital investments in a qualified facility that are made on or after July 1, 2012 are included in the computation of the credit.

B. To be eligible for the income tax credits, a taxpayer must apply to the authority, on a form prescribed by the authority, for preapproval of the business as qualifying for the credits. The application must include:

1. The applicant's name, address, telephone number and federal taxpayer identification number or numbers.

2. The name, address, telephone number and e-mail address of a contact person for the applicant.

3. The address of the site where the qualified facility will be located.

4. A detailed description of the qualified facility and fixed capital assets.

5. An estimate of the capital investment and number of employment positions at the qualified facility, including:

(a) A schedule of qualifying investments.

(b) A list of full-time employment positions, the estimated number of employees to be hired for the positions each year during the first five years of operation and the annual wages for each position, calculated without employee-related benefits.

6. A nonrefundable processing fee in an amount determined by the authority.

7. Other information as required by the authority to determine eligibility for the income tax credits and the amount of income tax credits, as prescribed by this section.

8. An affirmation, signed by an authorized executive representing the business, that the applicant:

(a) Agrees to furnish records of expenditures for qualifying investments to the authority on request.

(b) Will continue in business at the qualified facility for five full calendar years after postapproval for the credit, other than for reasons beyond the control of the applicant.

(c) Agrees to furnish to the authority information regarding the amount of income tax credits claimed each year.

(d) Authorizes the department of revenue to provide tax information to the authority pursuant to section 42-2003 for the purpose of determining any inconsistency in information furnished by the applicant.

(e) Agrees to allow site visits and audits to verify the applicant's continuing qualification and the accuracy of information submitted to the authority.

(f) Consents to the adjustment or recapture of any amount of income tax credit due to noncompliance with this section.

9. Letters of good standing from the department of revenue stating that the applicant is not delinquent in the payment of taxes.

C. The applicant may qualify for the income tax credits pursuant to section 43-1083.03 or 43-1164.04, as applicable, if:

1. The applicant makes new capital investment in this state after June 30, 2012 in a qualified facility that is completed in a taxable year beginning from and after December 31, 2012.

Chs. 30 and 372

2. At least fifty-one [~~per cent~~ PERCENT] of the net new full-time employment positions at the qualified facility pay a wage that equals or exceeds one hundred twenty-five [~~per cent~~ PERCENT], OR ONE HUNDRED PERCENT IN THE CASE OF A QUALIFIED FACILITY IN A RURAL LOCATION, of the median annual wage FOR PRODUCTION OCCUPATIONS in this state, as determined by the most recent annual Arizona commerce authority occupational wage and employment estimates issued before the preapproval is issued pursuant to subsection I of this section.

Ch. 372

3. All net new full-time employment positions include health insurance coverage for the employees for which the applicant pays at least ~~eighty~~ [~~per cent~~] SIXTY-FIVE [PERCENT] of the premium or membership cost.

Chs. 30 and 372

D. Final eligibility for an income tax credit is subject to any additional requirements prescribed by section 43-1083.03 or 43-1164.04, as applicable.

E. An applicant may separately apply and qualify with respect to investments for separate expansions of a qualified facility.

Chs. 30 and 372

F. The amount of the income tax credit to be preapproved by the authority to a qualifying applicant is ten ~~per cent~~ PERCENT of the lesser of:

1. The amount the applicant has projected in total qualifying investment in the qualified facility.

2. Two hundred thousand dollars for each net new full-time employment position projected by the applicant at a qualified facility.

G. Beginning with income tax credits allocated for 2013, an approved credit:

1. Must be claimed on a timely filed original income tax return, including extensions.

2. Must be claimed in five equal installments as provided by section 43-1083.03 or 43-1164.04.

H. The authority shall establish a process for qualifying and preapproving applicants for the income tax credits. The authority shall not preapprove applicants as qualifying for credits under this section for any

Ch. 372

taxable year beginning from and after December 31, ~~2019~~ 2022. Preapproval is based on:

1. Priority placement established by the date that the applicant files its initial application with the authority.

2. The availability of income tax credit capacity under the dollar limit prescribed by section 41-1511, subsection J.

I. Within thirty days after receiving a complete and correct application, the authority shall review the application to determine whether the applicant satisfies all of the criteria prescribed by this section and either preapprove the project as qualifying for the purposes of an income tax credit or provide reasons for its denial. The authority shall send copies of each preapproval to the department of revenue.

J. The authority shall not preapprove income tax credits under this section and section 41-1511 that combined would exceed the limits prescribed by section 41-1511, subsection J. A preapproved amount applies against the dollar limit for the year in which the application was submitted regardless of whether the initial preapproval period extends into the following year or years. A business shall not be preapproved for credits under both this section and section 41-1511 for the same capital investment. The authority shall not preapprove income tax credits under this section for any taxpayer in excess of thirty million dollars in any calendar year.

K. The authority shall reallocate the amount of income tax credits that are voluntarily relinquished under subsection L of this section, that lapse under subsection M of this section or that lapse under subsection P of this section. The reallocation shall be to other businesses that applied under this section or section 41-1511 in the original credit year based on priority placement. Once reallocated, the amount of the credit applies against the dollar limit of the original credit year regardless of the year in which the reallocation occurs.

L. A taxpayer may voluntarily relinquish unused credit amounts in writing to the authority.

M. Preapproval under this section lapses, the application is void and the amount of the preapproved income tax credits does not apply against the dollar limit prescribed by section 41-1511, subsection J if, within twelve months after preapproval, the business fails to provide to the authority documentation of its expenditure of two hundred fifty thousand dollars in qualifying investment or, if the period over which the qualifying investment will be made exceeds twelve months, documentation of additional expenditures as required in this subsection for each twelve-month period.

N. After October 31 of each year, if the authority has preapproved the maximum calendar year income tax credit amount pursuant to section 41-1511, subsection J, the authority may accept initial applications for the next calendar year, but the preapproval of any application pursuant to this subsection shall not be effective before the first business day of the following calendar year.

O. Before an applicant applies for postapproval under subsection P of this section, the applicant must enter into a written managed review agreement with the chief executive officer of the authority that establishes the requirements of a managed review to be conducted under this subsection at the applicant's expense. The managed review must be conducted by a certified public accountant who is selected by the applicant, who is licensed in this
Ch. 30— state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725 and who is approved by the chief executive officer. The certified public accountant and the firm the certified public accountant is affiliated with shall not regularly perform services for the applicant or its affiliates. The managed review shall include an analysis of the applicant's invoices,

checks, accounting records and other documents and information to verify its base investment and other requirements prescribed by section 43-1083.03 or 43-1164.04 to confirm the amount of credit. The certified public accountant shall furnish written findings of the managed review to the chief executive officer. The chief executive officer shall review the findings and may examine records and perform other reviews that the chief executive officer considers necessary to verify that the managed review substantially conforms to the terms of the managed review agreement. The chief executive officer shall accept or reject the findings of the managed review. If the chief executive officer rejects all or part of the managed review, the chief executive officer shall provide written reasons for the rejection.

P. When the qualified facility begins operations, a business that was preapproved for income tax credits under this section shall apply to the authority in writing for postapproval of the credits and submit documentation certifying the total amount and dates of the qualifying investments and identifying the fixed capital assets associated with the qualified facility incurred after June 30, 2012 through the date of application for postapproval. For taxable years beginning from and after December 31, 2012, the authority shall provide postapproval to a business that has met the eligibility requirements of this section and shall notify the department of revenue that the business may claim an income tax credit pursuant to section 43-1083.03 or 43-1164.04. If the amount of qualifying investment actually spent is less than the amount preapproved for income tax credits, the preapproved amount not incurred lapses and does not apply against the dollar limit prescribed by section 41-1511, subsection J for that year. The department of revenue shall not allow an income tax credit under section 43-1083.03 or 43-1164.04 that exceeds the amount of the postapproval for the project under this subsection. For the purposes of this subsection, "begins operations" means the qualified facility opens for public business.

Q. The authority may rescind an applicant's postapproval if the business no longer meets the terms and conditions required for qualifying for the credit. The authority may give special consideration, or allow temporary exemption from recapture of the credit, in the case of extraordinary hardship due to factors beyond the control of the qualifying business.

R. If the authority rescinds an applicant's preapproval or postapproval under subsection Q of this section, it shall notify the department of revenue of the action and the conditions of noncompliance. If the department of revenue obtains information indicating a possible failure to qualify and comply, it shall provide that information to the authority. The department of revenue may require the business to file appropriate amended tax returns reflecting any recapture of the credit under section 43-1083.03 or 43-1164.04.

S. Preapproval and postapproval of an applicant for the purposes of income tax credits under this section do not constitute or imply compliance with any other provision of law or any regulatory rule, order, procedure, permit or other measure required by law. To maintain qualification for a credit under this section, a business must separately comply with all environmental, employment and other regulatory measures.

T. For five years after postapproval of an income tax credit under this section, in any action involving the liquidation of the business assets or relocation out of state, this state claims the position of a secured creditor of the business in the amount of the credit the business received pursuant to section 43-1083.03 or 43-1164.04. The transfer of part or all of a company's assets that are then leased back by the company is not considered a liquidation under this section.

U. Any information gathered from a business for the purposes of this section is considered to be confidential taxpayer information and shall be disclosed only as provided in section 42-2003, subsection B, paragraph 12, except that the authority shall publish the following information in its annual report:

1. The name of each business and the amount of income tax credits preapproved for each qualifying investment.

2. The amount of income tax credits postapproved with respect to each qualifying investment.

V. The authority shall:

1. Keep annual records of the information provided on applications for qualified facilities. These records shall reflect a percentage comparison of the annual amount of monies credited to qualified facilities to the estimated amount of monies spent in this state in the form of qualifying investments.

2. Maintain annual data on growth in this state of qualified facilities and related employment and wages.

3. Not later than April 30 following each calendar year, prepare and publish a report summarizing the information collected pursuant to this subsection. The authority shall make copies of the annual report available to the public on request.

W. The authority shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The authority and the department of revenue shall collaborate in adopting rules as necessary to avoid duplication and inconsistencies while accomplishing the intent and purposes of this section.

X. For the purposes of this section:

1. "Capital investment" means an expenditure to acquire, lease or improve property that is used in operating a business, including land, buildings, machinery, equipment and fixtures.

2. "Facility" means a single parcel or contiguous parcels of owned or leased land in this state, the structures and personal property contained on the land or any part of the structures occupied by the owner. Parcels that are separated only by a public thoroughfare or right-of-way are considered to be contiguous.

3. "Headquarters" means a principal central administrative office where primary headquarters related functions and services are performed, including financial, personnel, administrative, legal, planning and similar business functions.

4. "Manufacturing" means fabricating, producing or manufacturing raw or prepared materials into usable products, imparting new forms, qualities, properties and combinations. Manufacturing does not include generating electricity.

Chs. 30 and 372

5. "Qualified facility" means a facility in this state that devotes at least eighty ~~per cent~~ PERCENT of the property and payroll at the facility to one or more of the following:

(a) Qualified manufacturing.

(b) Qualified headquarters.

(c) Qualified research.

6. "Qualified headquarters" means a global, national or regional headquarters for a taxpayer that is involved in manufacturing and that derives at least sixty-five ~~per cent~~ PERCENT of its revenue from out-of-state sales.

7. "Qualified manufacturing" means manufacturing tangible products in this state if at least sixty-five ~~per cent~~ PERCENT of the product will be sold out-of-state.

Chs. 30 and 372

8. "Qualified research" has the same meaning prescribed by section 41(d) of the internal revenue code, as defined by section 43-105, except that the research must be conducted by a taxpayer involved in manufacturing that derives at least sixty-five ~~per cent~~ PERCENT of its revenue from out-of-state sales.

9. "Qualifying investment" means investment in land, buildings, machinery, equipment and fixtures for expansion of an existing qualified facility or establishment of a new qualified facility in this state after June 30, 2012 for a facility completed in a taxable year beginning from and after December 31, 2012. IF THE QUALIFIED FACILITY IS A BUILD-TO-SUIT FACILITY LEASED TO THE TAXPAYER, QUALIFYING INVESTMENT INCLUDES THE COSTS PRESCRIBED IN THIS PARAGRAPH THAT ARE SPENT BY THE THIRD-PARTY DEVELOPER WITH RESPECT TO THE QUALIFIED FACILITY. Qualifying investment does not include relocating an existing qualified facility in this state to another location in this state without additional capital investment of at least two hundred fifty thousand dollars.

Ch. 372

10. "RURAL LOCATION" MEANS A LOCATION THAT IS WITHIN THE BOUNDARIES OF TRIBAL LANDS OR A CITY OR TOWN WITH A POPULATION OF LESS THAN FIFTY THOUSAND PERSONS OR A COUNTY WITH A POPULATION OF LESS THAN EIGHT HUNDRED THOUSAND PERSONS.

EXPLANATION OF BLEND
SECTION 41-1750

Laws 2016, Chapters 95 and 138

Laws 2016, Ch. 95, section 4 — Effective January 1, 2017

Laws 2016, Ch. 138, section 9 — Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 95 and Ch. 138 text changes to section 41-1750 are blended effective from and after December 31, 2016 in the form shown on the following pages. However, both the blend version and the Ch. 138 version of section 41-1750 will be published since the Ch. 138 version becomes effective before the Ch. 95 version. The publisher will automatically delete the Ch. 138 version on publication of the appropriate pocket part.

BLEND OF SECTION 41-1750
Laws 2016, Chapters 95 and 138

41-1750. Central state repository; department of public safety; duties; funds; accounts; definitions

A. The department is responsible for the effective operation of the central state repository in order to collect, store and disseminate complete and accurate Arizona criminal history records and related criminal justice information. The department shall:

1. Procure from all criminal justice agencies in this state accurate and complete personal identification data, fingerprints, charges, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for, convicted of or summoned to court as a criminal defendant for a felony offense or an offense involving domestic violence as defined in section 13-3601 or a violation of title 13, chapter 14 or title 28, chapter 4.

2. Collect information concerning the number and nature of offenses known to have been committed in this state and of the legal steps taken in connection with these offenses, such other information that is useful in the study of crime and in the administration of criminal justice and all other information deemed necessary to operate the statewide uniform crime reporting program and to cooperate with the federal government uniform crime reporting program.

3. Collect information concerning criminal offenses that manifest evidence of prejudice based on race, color, religion, national origin, sexual orientation, gender or disability.

4. Cooperate with the central state repositories in other states and with the appropriate agency of the federal government in the exchange of information pertinent to violators of the law.

5. Ensure the rapid exchange of information concerning the commission of crime and the detection of violators of the law among the criminal justice agencies of other states and of the federal government.

6. Furnish assistance to peace officers throughout this state in crime scene investigation for the detection of latent fingerprints and in the comparison of latent fingerprints.

7. Conduct periodic operational audits of the central state repository and of a representative sample of other agencies that contribute records to or receive criminal justice information from the central state repository or through the Arizona criminal justice information system.

8. Establish and enforce the necessary physical and system safeguards to ensure that the criminal justice information maintained and disseminated by the central state repository or through the Arizona criminal justice information system is appropriately protected from unauthorized inquiry, modification, destruction or dissemination as required by this section.

9. Aid and encourage coordination and cooperation among criminal justice agencies through the statewide and interstate exchange of criminal justice information.

10. Provide training and proficiency testing on the use of criminal justice information to agencies receiving information from the central state repository or through the Arizona criminal justice information system.

11. Operate and maintain the Arizona automated fingerprint identification system established by section 41-2411.

12. Provide criminal history record information to the fingerprinting division for the purpose of screening applicants for fingerprint clearance cards.

B. The director may establish guidelines for the submission and retention of criminal justice information as deemed useful for the study or prevention of crime and for the administration of criminal justice.

C. The chief officers of criminal justice agencies of this state or its political subdivisions shall provide to the central state repository fingerprints and information concerning personal identification data, descriptions, crimes for which persons are arrested, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for, convicted of or summoned to court as criminal defendants for felony offenses or offenses involving domestic violence as defined in section 13-3601 or violations of title 13, chapter 14 or title 28, chapter 4 that have occurred in this state.

D. The chief officers of law enforcement agencies of this state or its political subdivisions shall provide to the department such information as necessary to operate the statewide uniform crime reporting program and to cooperate with the federal government uniform crime reporting program.

E. The chief officers of criminal justice agencies of this state or its political subdivisions shall comply with the training and proficiency testing guidelines as required by the department to comply with the federal national crime information center mandates.

F. The chief officers of criminal justice agencies of this state or its political subdivisions also shall provide to the department information concerning crimes that manifest evidence of prejudice based on race, color, religion, national origin, sexual orientation, gender or disability.

G. The director shall authorize the exchange of criminal justice information between the central state repository, or through the Arizona criminal justice information system, whether directly or through any intermediary, only as follows:

1. With criminal justice agencies of the federal government, Indian tribes, this state or its political subdivisions and other states, on request by the chief officers of such agencies or their designated representatives, specifically for the purposes of the administration of criminal justice and for evaluating the fitness of current and prospective criminal justice employees.

2. With any noncriminal justice agency pursuant to a statute, ordinance or executive order that specifically authorizes the noncriminal justice agency to receive criminal history record information for the purpose of evaluating the fitness of current or prospective licensees, employees, contract employees or volunteers, on submission of the subject's fingerprints

and the prescribed fee. Each statute, ordinance, or executive order that authorizes noncriminal justice agencies to receive criminal history record information for these purposes shall identify the specific categories of licensees, employees, contract employees or volunteers, and shall require that fingerprints of the specified individuals be submitted in conjunction with such requests for criminal history record information.

3. With the board of fingerprinting for the purpose of conducting good cause exceptions pursuant to section 41-619.55 and central registry exceptions pursuant to section 41-619.57.

4. With any individual for any lawful purpose on submission of the subject of record's fingerprints and the prescribed fee.

5. With the governor, if the governor elects to become actively involved in the investigation of criminal activity or the administration of criminal justice in accordance with the governor's constitutional duty to ensure that the laws are faithfully executed or as needed to carry out the other responsibilities of the governor's office.

6. With regional computer centers that maintain authorized computer-to-computer interfaces with the department, that are criminal justice agencies or under the management control of a criminal justice agency and that are established by a statute, ordinance or executive order to provide automated data processing services to criminal justice agencies specifically for the purposes of the administration of criminal justice or evaluating the fitness of regional computer center employees who have access to the Arizona criminal justice information system and the national crime information center system.

7. With an individual who asserts a belief that criminal history record information relating to the individual is maintained by an agency or in an information system in this state that is subject to this section. On submission of fingerprints, the individual may review this information for the purpose of determining its accuracy and completeness by making application to the agency operating the system. Rules adopted under this section shall include provisions for administrative review and necessary correction of any inaccurate or incomplete information. The review and challenge process authorized by this paragraph is limited to criminal history record information.

8. With individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement if the agreement specifically authorizes access to data, limits the use of data to purposes for which given and ensures the security and confidentiality of the data consistent with this section.

9. With individuals and agencies for the express purpose of research, evaluative or statistical activities pursuant to an agreement with a criminal justice agency if the agreement specifically authorizes access to data, limits the use of data to research, evaluative or statistical purposes and ensures the confidentiality and security of the data consistent with this section.

10. With the auditor general for audit purposes.

11. With central state repositories of other states for noncriminal justice purposes for dissemination in accordance with the laws of those states.

12. On submission of the fingerprint card, with the department of child safety and a tribal social services agency to provide criminal history record information on prospective adoptive parents for the purpose of conducting the preadoption certification investigation under title 8, chapter 1, article 1 if the department of economic security is conducting the investigation, or with an agency or a person appointed by the court, if the agency or person is conducting the investigation. Information received under this paragraph shall only be used for the purposes of the preadoption certification investigation.

13. With the department of child safety, a tribal social services agency and the superior court for the purpose of evaluating the fitness of custodians or prospective custodians of juveniles, including parents, relatives and prospective guardians. Information received under this paragraph shall only be used for the purposes of that evaluation. The information shall be provided on submission of either:

(a) The fingerprint card.

(b) The name, date of birth and social security number of the person.

14. On submission of a fingerprint card, provide criminal history record information to the superior court for the purpose of evaluating the fitness of investigators appointed under section 14-5303 or 14-5407, guardians appointed under section 14-5206 or 14-5304 or conservators appointed under section 14-5401.

15. With the supreme court to provide criminal history record information on prospective fiduciaries pursuant to section 14-5651.

16. With the department of juvenile corrections to provide criminal history record information pursuant to section 41-2814.

17. On submission of the fingerprint card, provide criminal history record information to the Arizona peace officer standards and training board or a board certified law enforcement academy to evaluate the fitness of prospective cadets.

Ch. 138 — 18. With the internet sex offender ~~web site~~ WEBSITE database established pursuant to section 13-3827.

19. With licensees of the United States nuclear regulatory commission for the purpose of determining whether an individual should be granted unescorted access to the protected area of a commercial nuclear generating station on submission of the subject of record's fingerprints and the prescribed fee.

Ch. 138 — 20. With the ~~state board~~ DEPARTMENT of education for the purpose of evaluating the fitness of a certificated teacher or administrator or an applicant for a teaching or an administrative certificate provided that the ~~state board~~ DEPARTMENT of education or its employees or agents have reasonable suspicion that the certificated person engaged in conduct that would be a criminal violation of the laws of this state or was involved in immoral or unprofessional conduct or that the applicant engaged in conduct that would warrant disciplinary action if the applicant were certificated at the time of the alleged conduct. The information shall be provided on the submission of either:

(a) The fingerprint card.

(b) The name, date of birth and social security number of the person.

21. With each school district and charter school in this state. The state board of education and the state board for charter schools shall provide the department of public safety with a current list of e-mail addresses for each school district and charter school in this state and shall periodically provide the department of public safety with updated e-mail addresses. If the department of public safety is notified that a person who is required to have a fingerprint clearance card to be employed by or to engage in volunteer activities at a school district or charter school has been arrested for or convicted of an offense listed in section 41-1758.03, subsection B or has been arrested for or convicted of an offense that amounts to unprofessional conduct under section 15-550, the department of public safety shall notify each school district and charter school in this state that the person's fingerprint clearance card has been suspended or revoked.

22. With a tribal social services agency and the department of child safety as provided by law, which currently is the Adam Walsh child protection and safety act of 2006 (42 United States Code section 16961), for the purposes of investigating or responding to reports of child abuse, neglect or exploitation. Information received pursuant to this paragraph from the national crime information center, the interstate identification index and the Arizona criminal justice information system network shall only be used for the purposes of investigating or responding as prescribed in this paragraph. The information shall be provided on submission to the department of public safety of either:

(a) The fingerprints of the person being investigated.

(b) The name, date of birth and social security number of the person.

23. With a nonprofit organization that interacts with children or vulnerable adults for the lawful purpose of evaluating the fitness of all current and prospective employees, contractors and volunteers of the organization. The criminal history record information shall be provided on submission of the applicant fingerprint card and the prescribed fee.

24. With the superior court for the purpose of determining an individual's eligibility for substance abuse and treatment courts in a family or juvenile case.

H. The director shall adopt rules necessary to execute this section.

I. The director, in the manner prescribed by law, shall remove and destroy records that the director determines are no longer of value in the detection or prevention of crime.

J. The director shall establish a fee in an amount necessary to cover the cost of federal noncriminal justice fingerprint processing for criminal history record information checks that are authorized by law for noncriminal justice employment, licensing or other lawful purposes. An additional fee may be charged by the department for state noncriminal justice fingerprint processing. Fees submitted to the department for state noncriminal justice fingerprint processing are not refundable.

K. The director shall establish a fee in an amount necessary to cover the cost of processing copies of department reports, eight by ten inch black and white photographs or eight by ten inch color photographs of traffic accident scenes.

L. Except as provided in subsection O of this section, each agency authorized by this section may charge a fee, in addition to any other fees prescribed by law, in an amount necessary to cover the cost of state and federal noncriminal justice fingerprint processing for criminal history record information checks that are authorized by law for noncriminal justice employment, licensing or other lawful purposes.

M. A fingerprint account within the records processing fund is established for the purpose of separately accounting for the collection and payment of fees for noncriminal justice fingerprint processing by the department. Monies collected for this purpose shall be credited to the account, and payments by the department to the United States for federal noncriminal justice fingerprint processing shall be charged against the account. Monies in the account not required for payment to the United States shall be used by the department in support of the department's noncriminal justice fingerprint processing duties. At the end of each fiscal year, any balance in the account not required for payment to the United States or to support the department's noncriminal justice fingerprint processing duties reverts to the state general fund.

N. A records processing fund is established for the purpose of separately accounting for the collection and payment of fees for department reports and photographs of traffic accident scenes processed by the department. Monies collected for this purpose shall be credited to the fund and shall be used by the department in support of functions related to providing copies of department reports and photographs. At the end of each fiscal year, any balance in the fund not required for support of the functions related to providing copies of department reports and photographs reverts to the state general fund.

O. The department of child safety may pay from appropriated monies the cost of federal fingerprint processing or federal criminal history record information checks that are authorized by law for employees and volunteers of the department, guardians pursuant to section 8-453, subsection A, paragraph 6, the licensing of foster parents or the certification of adoptive parents.

P. The director shall adopt rules that provide for:

1. The collection and disposition of fees pursuant to this section.

2. The refusal of service to those agencies that are delinquent in paying these fees.

Q. The director shall ensure that the following limitations are observed regarding dissemination of criminal justice information obtained from the central state repository or through the Arizona criminal justice information system:

1. Any criminal justice agency that obtains criminal justice information from the central state repository or through the Arizona criminal justice information system assumes responsibility for the security of the information and shall not secondarily disseminate this information to any individual or agency not authorized to receive this information directly from the central state repository or originating agency.

2. Dissemination to an authorized agency or individual may be accomplished by a criminal justice agency only if the dissemination is for criminal justice purposes in connection with the prescribed duties of the agency and not in violation of this section.

3. Criminal history record information disseminated to noncriminal justice agencies or to individuals shall be used only for the purposes for which it was given. Secondary dissemination is prohibited unless otherwise authorized by law.

4. The existence or nonexistence of criminal history record information shall not be confirmed to any individual or agency not authorized to receive the information itself.

5. Criminal history record information to be released for noncriminal justice purposes to agencies of other states shall only be released to the central state repositories of those states for dissemination in accordance with the laws of those states.

6. Criminal history record information shall be released to noncriminal justice agencies of the federal government pursuant to the terms of the federal security clearance information act (P.L. 99-169).

R. This section and the rules adopted under this section apply to all agencies and individuals collecting, storing or disseminating criminal justice information processed by manual or automated operations if the collection, storage or dissemination is funded in whole or in part with monies made available by the law enforcement assistance administration after July 1, 1973, pursuant to title I of the crime control act of 1973, and to all agencies that interact with or receive criminal justice information from or through the central state repository and through the Arizona criminal justice information system.

S. This section does not apply to criminal history record information contained in:

1. Posters, arrest warrants, announcements or lists for identifying or apprehending fugitives or wanted persons.

2. Original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or long-standing custom to be made public if these records are organized on a chronological basis.

3. Transcripts or records of judicial proceedings if released by a court or legislative or administrative proceedings.

4. Announcements of executive clemency or pardon.

5. Computer databases, other than the Arizona criminal justice information system, that are specifically designed for community notification of an offender's presence in the community pursuant to section 13-3825 or for public informational purposes authorized by section 13-3827.

T. Nothing in this section prevents a criminal justice agency from disclosing to the public criminal history record information that is reasonably contemporaneous to the event for which an individual is currently within the criminal justice system, including information noted on traffic accident reports concerning citations, blood alcohol tests or arrests made in connection with the traffic accident being investigated.

U. In order to ensure that complete and accurate criminal history record information is maintained and disseminated by the central state repository:

1. The ~~arresting authority~~ BOOKING AGENCY shall take legible ten-print fingerprints of all persons who are arrested for offenses listed in subsection C of this section. ~~including persons who are arrested and released pursuant to section 13-3903, subsection C. The arresting authority may transfer an arrestee to a booking agency for ten-print fingerprinting. If the booking agency cannot determine whether legible ten-print fingerprints were taken from the arrestee, the booking agency shall take the arrestee's ten-print fingerprints.~~ The ~~arresting authority or~~ booking agency shall obtain a process control number and provide to the person fingerprinted a document that indicates proof of the fingerprinting and that informs the person that the document must be presented to the court.

2. EXCEPT AS PROVIDED IN PARAGRAPH 3 OF THIS SUBSECTION, IF A PERSON IS SUMMONED TO COURT AS A RESULT OF AN INDICTMENT OR COMPLAINT FOR AN OFFENSE LISTED IN SUBSECTION C OF THIS SECTION, THE COURT SHALL ORDER THE PERSON TO APPEAR BEFORE THE COUNTY SHERIFF AND PROVIDE LEGIBLE TEN-PRINT FINGERPRINTS. THE COUNTY SHERIFF SHALL OBTAIN A PROCESS CONTROL NUMBER AND PROVIDE A DOCUMENT TO THE PERSON FINGERPRINTED THAT INDICATES PROOF OF THE FINGERPRINTING AND THAT INFORMS THE PERSON THAT THE DOCUMENT MUST BE PRESENTED TO THE COURT. FOR THE PURPOSE OF THIS SUBSECTION "SUMMONED" INCLUDES A WRITTEN PROMISE TO APPEAR BY THE DEFENDANT ON A UNIFORM TRAFFIC TICKET AND COMPLAINT.

Ch. 95

3. IF A PERSON IS ARRESTED FOR A MISDEMEANOR OFFENSE LISTED IN SUBSECTION C OF THIS SECTION BY A CITY OR TOWN LAW ENFORCEMENT AGENCY, THE PERSON SHALL APPEAR BEFORE THE LAW ENFORCEMENT AGENCY THAT ARRESTED THE DEFENDANT AND PROVIDE LEGIBLE TEN-PRINT FINGERPRINTS. THE LAW ENFORCEMENT AGENCY SHALL OBTAIN A PROCESS CONTROL NUMBER AND PROVIDE A DOCUMENT TO THE PERSON FINGERPRINTED THAT INDICATES PROOF OF THE FINGERPRINTING AND THAT INFORMS THE PERSON THAT THE DOCUMENT MUST BE PRESENTED TO THE COURT.

~~2.~~ 4. The mandatory fingerprint compliance form shall contain the following information:

(a) Whether ten-print fingerprints have been obtained from the person.

(b) Whether a process control number was obtained.

(c) The offense or offenses for which the process control number was obtained.

(d) Any report number of the arresting authority.

(e) Instructions on reporting for ten-print fingerprinting, including available times and locations for reporting for ten-print fingerprinting.

(f) Instructions that direct the person to provide the form to the court at the person's next court appearance.

~~3.~~ 5. Within ten days after a person is fingerprinted, the arresting authority or agency that took the fingerprints shall forward the fingerprints to the department in the manner or form required by the department.

~~4.~~ 6. On the issuance of a summons for a defendant who is charged with an offense listed in subsection C of this section, the summons shall direct the defendant to provide ten-print fingerprints to the appropriate law enforcement agency.

~~5.~~ 7. At the initial appearance or on the arraignment of a summoned defendant who is charged with an offense listed in subsection C of this section, if the person does not present a completed mandatory fingerprint compliance form to the court or if the court has not received the process

control number, the court shall order that within twenty calendar days the defendant be ten-print fingerprinted at a designated time and place by the appropriate law enforcement agency.

~~6.~~ 8. If the defendant fails to present a completed mandatory fingerprint compliance form or if the court has not received the process control number, the court, on its own motion, may remand the defendant into custody for ten-print fingerprinting. If otherwise eligible for release, the defendant shall be released from custody after being ten-print fingerprinted.

~~7.~~ 9. In every criminal case in which the defendant is incarcerated or fingerprinted as a result of the charge, an originating law enforcement agency or prosecutor, within forty days of the disposition, shall advise the central state repository of all dispositions concerning the termination of criminal proceedings against an individual arrested for an offense specified in subsection C of this section. This information shall be submitted on a form or in a manner required by the department.

~~8.~~ 10. Dispositions resulting from formal proceedings in a court having jurisdiction in a criminal action against an individual who is arrested for an offense specified in subsection C of this section or section 8-341, subsection V, paragraph 3 shall be reported to the central state repository within forty days of the date of the disposition. This information shall be submitted on a form or in a manner specified by rules approved by the supreme court.

~~9.~~ 11. The state department of corrections or the department of juvenile corrections, within forty days, shall advise the central state repository that it has assumed supervision of a person convicted of an offense specified in subsection C of this section or section 8-341, subsection V, paragraph 3. The state department of corrections or the department of juvenile corrections shall also report dispositions that occur thereafter to the central state repository within forty days of the date of the dispositions. This information shall be submitted on a form or in a manner required by the department of public safety.

~~10.~~ 12. Each criminal justice agency shall query the central state repository before dissemination of any criminal history record information to ensure the completeness of the information. Inquiries shall be made before any dissemination except in those cases in which time is of the essence and the repository is technically incapable of responding within the necessary time period. If time is of the essence, the inquiry shall still be made and the response shall be provided as soon as possible.

V. The director shall adopt rules specifying that any agency that collects, stores or disseminates criminal justice information that is subject to this section shall establish effective security measures to protect the information from unauthorized access, disclosure, modification or dissemination. The rules shall include reasonable safeguards to protect the affected information systems from fire, flood, wind, theft, sabotage or other natural or man-made hazards or disasters.

W. The department shall make available to agencies that contribute to, or receive criminal justice information from, the central state repository or through the Arizona criminal justice information system a continuing training program in the proper methods for collecting, storing and disseminating information in compliance with this section.

X. Nothing in this section creates a cause of action or a right to bring an action including an action based on discrimination due to sexual orientation.

Y. For the purposes of this section:

1. "Administration of criminal justice" means performance of the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision or rehabilitation of criminal offenders. Administration of criminal justice includes enforcement of criminal traffic offenses and civil traffic violations, including parking violations, when performed by a criminal justice agency. Administration of criminal justice also includes criminal identification activities and the collection, storage and dissemination of criminal history record information.

2. "Administrative records" means records that contain adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency and that are designed to furnish information to protect the rights of this state and of persons directly affected by the agency's activities.

3. "Arizona criminal justice information system" or "system" means the statewide information system managed by the director for the collection, processing, preservation, dissemination and exchange of criminal justice information and includes the electronic equipment, facilities, procedures and agreements necessary to exchange this information.

Ch. 95 — 4. "BOOKING AGENCY" MEANS THE COUNTY SHERIFF OR, IF A PERSON IS BOOKED INTO A MUNICIPAL JAIL, THE MUNICIPAL LAW ENFORCEMENT AGENCY.

~~4.~~ 5. "Central state repository" means the central location within the department for the collection, storage and dissemination of Arizona criminal history records and related criminal justice information.

~~5.~~ 6. "Criminal history record information" and "criminal history record" means information that is collected by criminal justice agencies on individuals and that consists of identifiable descriptions and notations of arrests, detentions, indictments and other formal criminal charges, and any disposition arising from those actions, sentencing, formal correctional supervisory action and release. Criminal history record information and criminal history record do not include identification information to the extent that the information does not indicate involvement of the individual in the criminal justice system or information relating to juveniles unless they have been adjudicated as adults.

~~6.~~ 7. "Criminal justice agency" means either:

(a) A court at any governmental level with criminal or equivalent jurisdiction, including courts of any foreign sovereignty duly recognized by the federal government.

(b) A government agency or subunit of a government agency that is specifically authorized to perform as its principal function the administration of criminal justice pursuant to a statute, ordinance or executive order and that allocates more than fifty percent of its annual budget to the administration of criminal justice. This subdivision includes agencies of any foreign sovereignty duly recognized by the federal government.

~~7.~~ 8. "Criminal justice information" means information that is collected by criminal justice agencies and that is needed for the performance

of their legally authorized and required functions, such as criminal history record information, citation information, stolen property information, traffic accident reports, wanted persons information and system network log searches. Criminal justice information does not include the administrative records of a criminal justice agency.

~~8.~~ 9. "Disposition" means information disclosing that a decision has been made not to bring criminal charges or that criminal proceedings have been concluded or information relating to sentencing, correctional supervision, release from correctional supervision, the outcome of an appellate review of criminal proceedings or executive clemency.

~~9.~~ 10. "Dissemination" means the written, oral or electronic communication or transfer of criminal justice information to individuals and agencies other than the criminal justice agency that maintains the information. Dissemination includes the act of confirming the existence or nonexistence of criminal justice information.

~~10.~~ 11. "Management control":

(a) Means the authority to set and enforce:

(i) Priorities regarding development and operation of criminal justice information systems and programs.

(ii) Standards for the selection, supervision and termination of personnel involved in the development of criminal justice information systems and programs and in the collection, maintenance, analysis and dissemination of criminal justice information.

(iii) Policies governing the operation of computers, circuits and telecommunications terminals used to process criminal justice information to the extent that the equipment is used to process, store or transmit criminal justice information.

(b) Includes the supervision of equipment, systems design, programming and operating procedures necessary for the development and implementation of automated criminal justice information systems.

~~11.~~ 12. "Process control number" means the Arizona automated fingerprint identification system number that attaches to each arrest event at the time of fingerprinting and that is assigned to the arrest fingerprint card, disposition form and other pertinent documents.

~~12.~~ 13. "Secondary dissemination" means the dissemination of criminal justice information from an individual or agency that originally obtained the information from the central state repository or through the Arizona criminal justice information system to another individual or agency.

~~13.~~ 14. "Sexual orientation" means consensual homosexuality or heterosexuality.

~~14.~~ 15. "Subject of record" means the person who is the primary subject of a criminal justice record.

EXPLANATION OF BLEND
SECTION 41-1758

Laws 2016, Chapters 288 and 371

Laws 2016, Ch. 288, section 4	Effective August 6, 2016
Laws 2016, Ch. 371, section 27	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 288 and Ch. 371 text changes to section 41-1758 are blended in the form shown on the following pages.

The Laws 2016, Ch. 371 version of section 41-1758, paragraph 1 added the word "or" after "managers". The Ch. 288 version added a comma after "managers". Since this would not produce a substantive change, the blend version reflects the Ch. 288 version.

BLEND OF SECTION 41-1758
Laws 2016, Chapters 288 and 371

41-1758. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department, the ~~state board of appraisal~~ DEPARTMENT OF FINANCIAL INSTITUTIONS, the board of fingerprinting, the Arizona game and fish department[,] ~~or~~ the board of examiners of nursing care institution administrators and assisted living facility managers[,] Ch. 288 THE STATE BOARD OF DENTAL EXAMINERS [OR THE ARIZONA STATE BOARD OF PHARMACY]. Chs. 288 and 371

2. "Division" means the fingerprinting division in the department of public safety.

3. "Electronic or internet-based fingerprinting services" means a secure system for digitizing applicant fingerprints and transmitting the applicant data and fingerprints of a person or entity submitting fingerprints to the department of public safety for any authorized purpose under this title. For the purposes of this paragraph, "secure system" means a system that complies with the information technology security policy approved by the department of public safety.

4. "Good cause exception" means the issuance of a fingerprint clearance card to an applicant pursuant to section 41-619.55.

5. "Person" means a person who is required to be fingerprinted pursuant to any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-463.
(d) Section 8-509.
(e) Section 8-802.
(f) Section 15-183.
(g) Section 15-503.
(h) Section 15-512.
(i) Section 15-534.
(j) Section 15-763.01.
(k) Section 15-782.02.
(l) Section 15-1330.
(m) Section 15-1881.
(n) Section 17-215.
(o) Section 28-3413.
(p) Section 32-1232.

Chs. 288 and 371 (q) SECTION 32-1284.
(r) SECTION 32-1297.01.
Ch. 288 (s) SECTION 32-1904.
~~(q)~~ (t) Section 32-2108.01.
~~(r)~~ (u) Section 32-2123.
~~(s)~~ (v) Section 32-2371.
Ch. 371 ~~(t) Section 32-2372.~~
~~(u)~~ (w) Section 32-3620.
~~(v)~~ (x) Section 32-3668.
~~(w)~~ (y) Section 32-3669.
~~(x)~~ (z) Section 36-207.
~~(y)~~ (aa) Section 36-411.
~~(z)~~ (bb) Section 36-425.03.
~~(aa)~~ (cc) Section 36-446.04.
~~(bb)~~ (dd) Section 36-594.01.
~~(cc)~~ (ee) Section 36-594.02.
~~(dd)~~ (ff) Section 36-882.
~~(ee)~~ (gg) Section 36-883.02.
~~(ff)~~ (hh) Section 36-897.01.
~~(gg)~~ (ii) Section 36-897.03.
~~(hh)~~ (jj) Section 36-3008.
~~(ii)~~ (kk) Section 41-619.52.
~~(jj)~~ (ll) Section 41-619.53.
~~(kk)~~ (mm) Section 41-1964.
~~(ll)~~ (nn) Section 41-1967.01.
~~(mm)~~ (oo) Section 41-1968.
~~(nn)~~ (pp) Section 41-1969.
~~(oo)~~ (qq) Section 41-2814.
~~(pp)~~ (rr) Section 46-141, subsection A.
~~(qq)~~ (ss) Section 46-321.

6. "Vulnerable adult" has the same meaning prescribed in section 13-3623.

EXPLANATION OF BLEND
SECTION 41-1758.01

Laws 2016, Chapters 288 and 371

Laws 2016, Ch. 288, section 5	Effective August 6, 2016
Laws 2016, Ch. 371, section 28	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 288 and Ch. 371 text changes to section 41-1758.01 are blended in the form shown on the following pages.

BLEND OF SECTION 41-1758.01
Laws 2016, Chapters 288 and 371

41-1758.01. Fingerprinting division; powers and duties

A. The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215, 28-3413, 32-1232, [32-1284,] 32-1297.01,] [32-1904,] 32-2108.01, 32-2123, 32-2371, ~~32-2372,~~ 32-3620, 32-3668, 32-3669, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

Chs. 288 and 371 / Ch. 371 / Ch. 288

2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.

3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies collected in the board of fingerprinting fund.

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the right to petition the board of fingerprinting for a good cause exception pursuant to section 41-1758.03, 41-1758.04 or 41-1758.07.

5. If after conducting a state and federal criminal history records check the division determines that it is not authorized to issue a fingerprint clearance card to a person, inform the person in writing that the division is not authorized to issue a fingerprint clearance card. The notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

6. Notify the person in writing if the division suspends, revokes or places a driving restriction notation on a fingerprint clearance card pursuant to section 41-1758.04. The notice shall include the criminal history information on which the suspension, revocation or placement of the driving restriction notation was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

7. Administer and enforce this article.

B. The fingerprinting division may contract for electronic or internet-based fingerprinting services through an entity or entities for the acquisition and transmission of applicant fingerprint and data submissions to

the department, including identity verified fingerprints pursuant to section 15-106. The entity or entities contracted by the department of public safety may charge the applicant a fee for services provided pursuant to this article. The entity or entities contracted by the department of public safety shall comply with:

1. All information privacy and security measures and submission standards established by the department of public safety.

2. The information technology security policy approved by the department of public safety.

EXPLANATION OF BLEND
SECTION 41-2053

Laws 2016, Chapters 150 and 205

Laws 2016, Ch. 150, section 8	Effective August 6, 2016
Laws 2016, Ch. 205, section 1	Effective August 6, 2016

Explanation

Since the Ch. 150 version includes all of the changes made by the Ch. 205 version, the Laws 2016, Ch. 150 amendment of section 41-2053 is the blend of both the Laws 2016, Ch. 150 and Ch. 205 versions.

BLEND OF SECTION 41-2053
Laws 2016, Chapters 150 and 205

41-2053. Indian nations and tribes legislative day

A. The ~~Arizona commission of Indian affairs~~ GOVERNOR'S OFFICE ON TRIBAL RELATIONS, in cooperation with representatives from [~~the~~ THIS] state's Indian nations, shall annually facilitate an Indian nations and tribes legislative day on [~~Tuesday~~ WEDNESDAY] of the [~~second~~ FIRST] week of each regular legislative session. THE OFFICE SHALL COORDINATE THE PLANNING AND PREPARATION OF THE LEGISLATIVE DAY WITH THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND LEGISLATORS WHO ARE NATIVE AMERICAN. THE SENATE SHALL HOST THE LEGISLATIVE DAY IN ODD-NUMBERED YEARS AND THE HOUSE OF REPRESENTATIVES SHALL HOST THE LEGISLATIVE DAY IN EVEN-NUMBERED YEARS. THE HOSTING CHAMBER SHALL HOLD A JOINT SESSION OF THE LEGISLATURE. The ~~commission~~ OFFICE shall invite the legislature~~, governor~~ and other elected officials to pay tribute to the history and culture of the American Indian peoples and their contributions to the prosperity and cultural diversity of the United States. The ~~commission~~ OFFICE shall schedule activities and discussions between state and Indian nations and tribal leaders on issues in which the state and Indian nations and tribes share a common interest or jurisdiction.

B. Indian nations and tribes legislative day is not a legal holiday.

Chs. 150 and 205

Ch. 150

EXPLANATION OF BLEND
SECTION 41-2402

Laws 2016, Chapters 24 and 119

Laws 2016, Ch. 24, section 1	Effective August 6, 2016
Laws 2016, Ch. 119, section 9	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 24 and Ch. 119 text changes to section 41-2402 are blended in the form shown on the following pages.

BLEND OF SECTION 41-2402
Laws 2016, Chapters 24 and 119

41-2402. Drug and gang enforcement fund; resource center fund; uses

Chs. 24 and 119

A. [~~A~~ THE] drug and gang enforcement ~~account~~ FUND is established ~~within the criminal justice enhancement fund consisting~~ AND CONSISTS of monies appropriated ~~to the account~~ by the legislature and any other monies available from other sources, public or private. ~~, to be used for the purpose of enhancing~~ MONIES IN THE FUND SHALL BE USED TO ENHANCE efforts to deter, investigate, prosecute, adjudicate and punish drug offenders and members of criminal street gangs as defined in section 13-105. THE ARIZONA CRIMINAL JUSTICE COMMISSION SHALL ADMINISTER THE FUND.

Ch. 119

B. The Arizona criminal justice commission shall distribute monies from the drug and gang enforcement ~~account~~ FUND in the following manner:

1. Up to fifty ~~per cent~~ PERCENT to fund law enforcement agencies approved by the commission to enhance both:

(a) The investigation of drug and gang offenses and related criminal activity.

Chs. 24 and 119

(b) Drug and gang education and prevention programs.

2. Up to fifty ~~per cent~~ PERCENT to fund programs and agencies approved by the commission to enhance the state, county, city or town prosecution of drug and gang offenses and related criminal activity.

3. Up to thirty ~~per cent~~ PERCENT to fund programs and agencies approved by the commission for the purpose of enhancing the ability of the courts to process drug and gang offenses and related criminal cases, either through the appointment of judges pro tempore or the establishment of additional divisions of the courts only for the purposes of this section, enhancing defense and probation services, including treatment, and funding the drug testing program.

4. Up to thirty ~~per cent~~ PERCENT to fund programs by county sheriffs and the state department of corrections, as approved by the commission, to enhance drug offender treatment programs and the jail operations and facilities available to detain and incarcerate drug offenders and members of criminal street gangs as defined in section 13-105.

Chs. 24 and 119

5. Up to thirty ~~per cent~~ PERCENT to fund programs and agencies, as approved by the commission, to enhance the integration of criminal justice records relating to drug and gang offenders and their related criminal activity.

C. Any state agency that receives monies allocated from ~~this account~~ THE DRUG AND GANG ENFORCEMENT FUND shall not include [~~such~~ THE] monies as part of ~~its~~ THE STATE AGENCY'S continuation budget base for the purpose of requesting appropriations for the following fiscal year.

Chs. 24 and 119

Ch. 119

D. All the monies allocated from ~~this account~~ THE DRUG AND GANG ENFORCEMENT FUND shall be dedicated solely to the purpose of enhancing efforts to deter, investigate, prosecute, adjudicate and punish drug and gang

and related criminal offenders, except those monies allocated pursuant to subsection G of this section.

E. Notwithstanding the limitations prescribed in subsection B of this section, any federal monies or matching state monies in the drug and gang enforcement ~~account~~ FUND may only be allocated by the commission pursuant to a plan approved by the federal government.

F. The auditor general shall annually perform a full and complete audit of the DRUG AND GANG ENFORCEMENT fund or the commission shall annually contract with an accounting firm to perform the audit and deliver a report to the governor and the legislature. The audit shall be charged to the drug and gang enforcement ~~account~~ FUND. Chs. 24 and 119

G. [~~A~~ THE] resource center fund is established consisting of monies Ch. 119 received pursuant to section 12-284.03, subsection A, paragraph 1 and section 41-178 and all monies received from public or private gifts, grants or other sources, excluding federal monies and monies to be passed through to other entities, to be used solely for ~~the purpose of~~ funding the Arizona youth survey [AND ARIZONA STATISTICAL ANALYSIS CENTER]. Ch. 24 THE ARIZONA CRIMINAL JUSTICE COMMISSION SHALL ADMINISTER THE FUND. Monies in the fund are subject to legislative appropriation. Any monies unexpended or unencumbered on June 30 of each year shall not be subsequently expended or encumbered unless reappropriated. [~~No~~] Monies in the drug and gang enforcement ~~account except those received pursuant to this subsection~~ FUND shall [NOT] be used to fund the Arizona youth survey. ~~Monies that are expended pursuant to this subsection are subject to the reporting requirements prescribed in section 41-617.01.~~ Chs. 24 and 119 Ch. 24

EXPLANATION OF BLEND
SECTION 41-2501

Laws 2016, Chapters 214 and 312

Laws 2016, Ch. 214, section 2 — Effective August 6, 2016

Laws 2016, Ch. 312, section 7 — Effective August 6, 2016 (Retroactive to July 1, 2016)

Explanation

Since the Ch. 214 version includes all of the changes made by the Ch. 312 version, the Laws 2016, Ch. 214 amendment of section 41-2501 is the blend of both the Laws 2016, Ch. 214 and Ch. 312 versions.

Section 41-2501 was amended an additional time by Laws 2016, Ch. 341 with a delayed effective date that will require separate publication in addition to this blend.

BLEND OF SECTION 41-2501
Laws 2016, Chapters 214 and 312

41-2501. Applicability

A. This chapter applies only to procurements initiated after January 1, 1985 unless the parties agree to its application to procurements initiated before that date.

B. This chapter applies to every expenditure of public monies, including federal assistance monies except as otherwise specified in section 41-2637, by this state, acting through a state governmental unit as defined in this chapter, under any contract, except that this chapter does not apply to either grants as defined in this chapter, or contracts between this state and its political subdivisions or other governments, except as provided in chapter 24 of this title and in article 10 of this chapter. This chapter also applies to the disposal of state materials. This chapter and rules adopted under this chapter do not prevent any state governmental unit or political subdivision from complying with the terms of any grant, gift, bequest or cooperative agreement.

C. All political subdivisions and other local public agencies of this state may adopt all or any part of this chapter and the rules adopted pursuant to this chapter.

D. Notwithstanding any other law, sections 41-2517 and 41-2546 apply to any agency as defined in section 41-1001, including the office of the governor.

E. The Arizona board of regents and the legislative and judicial branches of state government are not subject to this chapter except as prescribed in subsection F of this section.

F. The Arizona board of regents and the judicial branch shall adopt rules prescribing procurement policies and procedures for themselves and institutions under their jurisdiction. The rules must be substantially equivalent to the policies and procedures prescribed in this chapter.

G. The Arizona state lottery commission is exempt from this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets and related materials. The executive director of the Arizona state lottery commission shall adopt rules substantially equivalent to the policies and procedures in this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets or related materials. All other procurement shall be as prescribed by this chapter.

H. The Arizona health care cost containment system administration is exempt from this chapter for provider contracts pursuant to section 36-2904, subsection A and contracts for goods and services, including program contractor contracts pursuant to title 36, chapter 29, articles 2 and 3 AND CONTRACTS WITH REGIONAL BEHAVIORAL HEALTH AUTHORITIES PURSUANT TO TITLE 36, CHAPTER 34. All other procurement, including contracts for the statewide

Chs. 214 and 312

administrator of the program pursuant to section 36-2903, subsection B, shall be as prescribed by this chapter.

I. Arizona industries for the blind is exempt from this chapter for purchases of finished goods from members of national industries for the blind and for purchases of raw materials for use in the manufacture of products for sale pursuant to section 41-1972. All other procurement shall be as prescribed by this chapter.

J. Arizona correctional industries is exempt from this chapter for purchases of raw materials, components and supplies that are used in the manufacture or production of goods or services for sale entered into pursuant to section 41-1622. All other procurement shall be as prescribed by this chapter.

K. The state transportation board and the director of the department of transportation are exempt from this chapter other than section 41-2586 for the procurement of construction or reconstruction, including engineering services, of transportation facilities or highway facilities and any other services that are directly related to land titles, appraisals, real property acquisition, relocation, property management or building facility design and construction for highway development and that are required pursuant to title 28, chapter 20.

L. The Arizona highways magazine is exempt from this chapter for contracts for the production, promotion, distribution and sale of the magazine and related products and for contracts for sole source creative works entered into pursuant to section 28-7314, subsection A, paragraph 5. All other procurement shall be as prescribed by this chapter.

M. The secretary of state is exempt from this chapter for contracts entered into pursuant to section 41-1012 to publish and sell the administrative code. All other procurement shall be as prescribed by this chapter.

N. This chapter is not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which this state is or may become a party or to contract for special investigative services for law enforcement purposes.

O. The head of any state governmental unit, in relation to any contract exempted by this section from this chapter, has the same authority to adopt rules, procedures or policies as is delegated to the director pursuant to this chapter.

P. Agreements negotiated by legal counsel representing this state in settlement of litigation or threatened litigation are exempt from this chapter.

Q. This chapter is not applicable to contracts entered into by the department of economic security:

1. With a provider licensed or certified by an agency of this state to provide child day care services.

2. With area agencies on aging created pursuant to the older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001 through 3058ff).

3. For services pursuant to title 36, chapter 29, article 2.

4. With an eligible entity as defined by Public Law 105-285, section 673(1)(A)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.

Chs. 214 and 312

R. The ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM may not require that persons with whom it contracts follow this chapter for the purposes of subcontracts entered into for the provision of the following:

1. Mental health services pursuant to section 36-189, subsection B.

2. Services for the seriously mentally ill pursuant to title 36, chapter 5, article 10.

3. Drug and alcohol services pursuant to section 36-141.

Chs. 214 and 312

~~4.~~ S. THE DEPARTMENT OF HEALTH SERVICES MAY NOT REQUIRE THAT PERSONS WITH WHOM IT CONTRACTS FOLLOW THIS CHAPTER FOR THE PURPOSE OF SUBCONTRACTS ENTERED INTO FOR THE PROVISION OF domestic violence services pursuant to title 36, chapter 30, article 1.

~~S.~~ T. The department of health services is exempt from this chapter for contracts for services of physicians at the Arizona state hospital.

~~T.~~ U. Contracts for goods and services approved by the board of trustees of the public safety personnel retirement system are exempt from this chapter.

~~U.~~ V. The Arizona department of agriculture is exempt from this chapter with respect to contracts for private labor and equipment to effect cotton or cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2, article 1.

~~V.~~ W. The Arizona state parks board is exempt from this chapter for purchases of guest supplies and items for resale such as food, linens, gift items, sundries, furniture, china, glassware and utensils for the facilities located in the Tonto natural bridge state park.

~~W.~~ X. The Arizona state parks board is exempt from this chapter for the purchase, production, promotion, distribution and sale of publications, souvenirs and sundry items obtained and produced for resale.

~~X.~~ Y. The Arizona state schools for the deaf and the blind are exempt from this chapter for the purchase of textbooks and when purchasing products through a cooperative that is organized and operates in accordance with state law if such products are not available on a statewide contract and are related to the operation of the schools or are products for which special discounts are offered for educational institutions.

~~Y.~~ Z. Expenditures of monies in the morale, welfare and recreational fund established by section 26-153 are exempt from this chapter.

~~Z.~~ AA. Notwithstanding section 41-2534, the director of the state department of corrections may contract with local medical providers in counties with a population of less than four hundred thousand persons for the following purposes:

1. To acquire hospital and professional medical services for inmates who are incarcerated in state department of corrections facilities that are located in those counties.

2. To ensure the availability of emergency medical services to inmates in all counties by contracting with the closest medical facility that offers emergency treatment and stabilization.

~~AA.~~ BB. The department of environmental quality is exempt from this chapter for contracting for procurements relating to the water quality assurance revolving fund program established pursuant to title 49, chapter 2, article 5. The department shall engage in a source selection process that is similar to the procedures prescribed by this chapter. The department may contract for remedial actions with a single selection process. The exclusive remedy for disputes or claims relating to contracting pursuant to this subsection is as prescribed by article 9 of this chapter and the rules adopted pursuant to that article. All other procurement by the department shall be as prescribed by this chapter.

~~BB.~~ CC. The motor vehicle division of the department of transportation is exempt from this chapter for third-party authorizations pursuant to title 28, chapter 13, only if all of the following conditions exist:

1. The division does not pay any public monies to an authorized third party.

2. Exclusivity is not granted to an authorized third party.

3. The director has complied with the requirements prescribed in title 28, chapter 13 in selecting an authorized third party.

~~CC.~~ DD. This section does not exempt third-party authorizations pursuant to title 28, chapter 13 from any other applicable law.

~~DD.~~ EE. The state forester is exempt from this chapter for purchases and contracts relating to wildland fire suppression and pre-positioning equipment resources and for other activities related to combating wildland fires and other unplanned risk activities, including fire, flood, earthquake, wind and hazardous material responses. All other procurement by the state forester shall be as prescribed by this chapter.

~~EE.~~ FF. The cotton research and protection council is exempt from this chapter for procurements.

~~FF.~~ GG. Expenditures of monies in the Arizona agricultural protection fund established by section 3-3304 are exempt from this chapter.

~~GG.~~ HH. The Arizona commerce authority is exempt from this chapter, except article 10 for the purpose of cooperative purchases. The authority shall adopt policies, procedures and practices, in consultation with the department of administration, that are similar to and based on the policies and procedures prescribed by this chapter for the purpose of increased public confidence, fair and equitable treatment of all persons engaged in the process and fostering broad competition while accomplishing flexibility to achieve the authority's statutory requirements. The authority shall make its policies, procedures and practices available to the public. The authority may exempt specific expenditures from the policies, procedures and practices.

~~HH.~~ II. The Arizona exposition and state fair board is exempt from this chapter for contracts for professional entertainment.

~~II.~~ JJ. This chapter does not apply to the purchase of water, gas or electric utilities.

~~JJ.~~ KK. This chapter does not apply to professional certifications, professional memberships and conference registrations.

~~KK.~~ LL. The department of gaming is exempt from this chapter for problem gambling treatment services contracts with licensed behavioral health professionals.

~~LL.~~ MM. This chapter does not apply to contracts for credit reporting services.

~~MM.~~ NN. This chapter does not apply to contracts entered into by the department of child safety:

1. With a provider of family foster care pursuant to section 8-503.

2. With an eligible entity as defined by Public Law 105-285, section 673(1)(A)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.

Ch. 214 — OO. THIS CHAPTER DOES NOT APPLY TO CONTRACTS ENTERED INTO BY THE DEPARTMENT OF ECONOMIC SECURITY WITH A FINANCIAL INSTITUTION TO SERVE AS A PROGRAM MANAGER AND DEPOSITORY UNDER SECTION 46-903.

EXPLANATION OF BLEND
SECTION 41-4039

Laws 2016, Chapters 128, 236 and 253

Laws 2016, Ch. 128, section 107	Effective August 6, 2016 (Retroactive to July 1, 2016)
Laws 2016, Ch. 236, section 2	Effective August 6, 2016
Laws 2016, Ch. 253, section 3	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 128, Ch. 236 and Ch. 253 text changes to section 41-4039 are blended in the form shown on the following pages.

BLEND OF SECTION 41-4039
Laws 2016, Chapters 128, 236 and 253

41-4039. Grounds for disciplinary action

Ch. 128 — The ~~deputy~~ director may, on the ~~deputy~~ director's own motion, and shall, on the complaint in writing of any person, cause to be investigated by the office the acts of any manufacturer, dealer, broker, salesperson or installer licensed with the office and may temporarily suspend or permanently revoke any license issued under this article, impose an administrative penalty or place on probation any licensee, if the holder of the license, while a licensee, is guilty of or commits any of the following acts or omissions:

1. Failure in any material respect to comply with this article or article ~~2~~ 3 of this chapter.

2. Violation of any rule that is adopted by the board and that pertains to the construction of any unit or of any rule that is adopted by the board and that is necessary to effectively carry out the intent of this article, article ~~2~~ 3 of this chapter or the laws of the United States or of this state.

3. Misrepresentation of a material fact by the applicant in obtaining a license.

Ch. 128 — 4. Aiding or abetting an unlicensed person or knowingly combining or conspiring with an unlicensed person to evade this article or article ~~2~~ 3 of this chapter, or allowing one's license to be used by an unlicensed person or acting as an agent, partner or associate of an unlicensed person with intent to evade this article or article ~~2~~ 3 of this chapter.

5. Conviction of a felony.

6. The doing of a wrongful or fraudulent act by a licensee that relates to this article or article ~~2~~ 3 of this chapter, including, beginning July 1, 2012, failure to comply with section ~~41-2180~~ 41-4030, subsection A[,] OR THE DOING OF ANY OTHER WRONGFUL OR FRAUDULENT ACT IN

Ch. 236 — CONJUNCTION WITH THE SALE, TRANSFER OR RELOCATION OF A MOBILE HOME IN THIS STATE.

7. Departure from or disregard of any code or any rule adopted by the board.

8. Failure to disclose or subsequent discovery by the office of facts that, if known at the time of issuance of a license or the renewal of a license, would have been grounds to deny the issuance or renewal of a license.

9. Knowingly entering into a contract with a person not duly licensed in the required classification for work to be performed for which a license is required.

10. Acting in the capacity of a licensee under any license issued under this article in a name other than as set forth on the license.

11. Acting as a licensee while the license is under suspension or in any other invalid status.

12. Failure to respond relative to a verified complaint after notice of such complaint.

13. Violation of title 28, chapter 10 or rules adopted pursuant to title 28, chapter 10, except for the licensing requirements of sections 28-4334, 28-4335, 28-4361, 28-4362, 28-4364, 28-4401 and 28-4402.

14. False, misleading or deceptive sales practices by a licensee in the sale or offer of sale of any unit regulated by this article or article ~~2~~ 3 of this chapter.

Ch. 128

15. Failure to remit the consumer recovery fund fee pursuant to section ~~41-2189~~ 41-4042.

16. Acting as a salesperson while not employed by a dealer or broker.

17. As a salesperson, representing or attempting to represent a dealer or broker other than by whom the salesperson is employed.

18. Failure by a salesperson to promptly place all cash, checks and other items of value and any related documents received in connection with a sales transaction in the care of the employing dealer or broker.

19. Failure to provide all agreed on goods and services.

20. Failure to manufacture or install in a workmanlike manner all subassemblies, units and accessory structures that are suitable for their intended purpose.

21. Failure of the licensee to work only within the scope of the license held.

22. An action by a licensee, who is also a mobile home park owner, manager, agent or representative, that restricts a resident's or prospective resident's access to buyers, sellers or licensed dealers or brokers in connection with the sale of a home or the rental of a space, that the department finds constitutes a violation of section 33-1434, subsection B or section 33-1452, subsection ~~E~~ F or that violates any law or regulation relating to fair housing or credit practices.

Ch. 253

EXPLANATION OF BLEND
SECTION 42-2003

Laws 2016, Chapters 128 and 208

Laws 2016, Ch. 128, section 117	Effective August 6, 2016 (Retroactive to July 1, 2016)
Laws 2016, Ch. 208, section 4	Effective January 1, 2017

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 128 and Ch. 208 text changes to section 42-2003 are blended effective from and after December 31, 2016 in the form shown on the following pages. However, both the blend version and the Ch. 128 version of section 42-2003 will be published since the Ch. 128 version becomes effective before the Ch. 208 version. The publisher will automatically delete the Ch. 128 version on publication of the appropriate pocket part.

BLEND OF SECTION 42-2003
Laws 2016, Chapters 128 and 208

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

1. A taxpayer may be disclosed to the taxpayer, its successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer. A principal corporate officer of a parent corporation may execute a written authorization for a controlled subsidiary.

2. A corporate taxpayer may be disclosed to any principal officer, any person designated by a principal officer or any person designated in a resolution by the corporate board of directors or other similar governing body.

3. A partnership may be disclosed to any partner of the partnership. This exception does not include disclosure of confidential information of a particular partner unless otherwise authorized.

4. An estate may be disclosed to the personal representative of the estate and to any heir, next of kin or beneficiary under the will of the decedent if the department finds that the heir, next of kin or beneficiary has a material interest ~~which~~ THAT will be affected by the confidential information.

Ch. 208

5. A trust may be disclosed to the trustee or trustees, jointly or separately, and to the grantor or any beneficiary of the trust if the department finds that the grantor or beneficiary has a material interest that will be affected by the confidential information.

6. Any taxpayer may be disclosed if the taxpayer has waived any rights to confidentiality either in writing or on the record in any administrative or judicial proceeding.

7. The name and taxpayer identification numbers of persons issued direct payment permits may be publicly disclosed.

B. Confidential information may be disclosed to:

1. Any employee of the department whose official duties involve tax administration.

2. The office of the attorney general solely for its use in preparation for, or in an investigation that may result in, any proceeding involving tax administration before the department or any other agency or board of this state, or before any grand jury or any state or federal court.

3. The department of liquor licenses and control for its use in determining whether a spirituous liquor licensee has paid all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor, as defined in section 4-101, at the licensed establishment and imposed on the licensed establishments by this state and its political subdivisions.

4. Other state tax officials whose official duties require the disclosure for proper tax administration purposes if the information is sought in connection with an investigation or any other proceeding conducted

by the official. Any disclosure is limited to information of a taxpayer who is being investigated or who is a party to a proceeding conducted by the official.

5. The following agencies, officials and organizations, if they grant substantially similar privileges to the department for the type of information being sought, pursuant to statute and a written agreement between the department and the foreign country, agency, state, Indian tribe or organization:

(a) The United States internal revenue service, alcohol and tobacco tax and trade bureau of the United States treasury, United States bureau of alcohol, tobacco, firearms and explosives of the United States department of justice, United States drug enforcement agency and federal bureau of investigation.

(b) A state tax official of another state.

(c) An organization of states, federation of tax administrators or multistate tax commission that operates an information exchange for tax administration purposes.

(d) An agency, official or organization of a foreign country with responsibilities that are comparable to those listed in subdivision (a), (b) or (c) of this paragraph.

(e) An agency, official or organization of an Indian tribal government with responsibilities comparable to the responsibilities of the agencies, officials or organizations identified in subdivision (a), (b) or (c) of this paragraph.

6. The auditor general, in connection with any audit of the department subject to the restrictions in section 42-2002, subsection D.

7. Any person to the extent necessary for effective tax administration in connection with:

(a) The processing, storage, transmission, destruction and reproduction of the information.

(b) The programming, maintenance, repair, testing and procurement of equipment for purposes of tax administration.

(c) The collection of the taxpayer's civil liability.

8. The office of administrative hearings relating to taxes administered by the department pursuant to section 42-1101, but the department shall not disclose any confidential information:

(a) Regarding income tax or withholding tax.

(b) On any tax issue relating to information associated with the reporting of income tax or withholding tax.

9. The United States treasury inspector general for tax administration for the purpose of reporting a violation of internal revenue code section 7213A (26 United States Code section 7213A), unauthorized inspection of returns or return information.

10. The financial management service of the United States treasury department for use in the treasury offset program.

11. The United States treasury department or its authorized agent for use in the state income tax levy program and in the electronic federal tax payment system.

12. The Arizona commerce authority for its use in:

(a) Qualifying renewable energy operations for the tax incentives under sections 42-12006, 43-1083.01 and 43-1164.01.

(b) Qualifying businesses with a qualified facility for income tax credits under sections 43-1083.03 and 43-1164.04.

(c) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V and section 41-1512, subsections U and V.

(d) Certifying computer data centers for tax relief under section 41-1519.

13. A prosecutor for purposes of section 32-1164, subsection C.

14. The state fire marshal for use in determining compliance with and enforcing title ~~41~~ 37, chapter ~~16~~ 9, article ~~3.1~~ 5.

15. The department of transportation for its use in administering taxes, surcharges and penalties prescribed by title 28.

16. The Arizona health care cost containment system administration for its use in administering nursing facility provider assessments.

C. Confidential information may be disclosed in any state or federal judicial or administrative proceeding pertaining to tax administration pursuant to the following conditions:

1. One or more of the following circumstances must apply:

(a) The taxpayer is a party to the proceeding.

(b) The proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability, with respect to any tax imposed under this title or title 43.

(c) The treatment of an item reflected on the taxpayer's return is directly related to the resolution of an issue in the proceeding.

(d) Return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer and directly affects the resolution of an issue in the proceeding.

2. Confidential information may not be disclosed under this subsection if the disclosure is prohibited by section 42-2002, subsection C or D.

D. Identity information may be disclosed for purposes of notifying persons entitled to tax refunds if the department is unable to locate the persons after reasonable effort.

E. The department, on the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, verify whether or not a person has a privilege license and number, a tobacco product distributor's license and number or a withholding license and number or disclose the information to be posted on the department's website or otherwise publicly accessible pursuant to section 42-1124, subsection F and section 42-3401.

F. A department employee, in connection with the official duties relating to any audit, collection activity or civil or criminal investigation, may disclose return information to the extent that disclosure is necessary to obtain information that is not otherwise reasonably available. These official duties include the correct determination of and liability for tax, the amount to be collected or the enforcement of other state tax revenue laws.

G. If an organization is exempt from this state's income tax as provided in section 43-1201 for any taxable year, the name and address of the

organization and the application filed by the organization on which the department made its determination for exemption together with any papers submitted in support of the application and any letter or document issued by the department concerning the application are open to public inspection.

H. Confidential information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax and any other tax collected by the department on behalf of any jurisdiction may be disclosed to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by a county, city or town or who may be subject to audit by the department pursuant to section 42-6002. Any taxpayer information released by the department to the county, city or town:

1. May only be used for internal purposes, including audits.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The county, city or town shall agree in writing with the department that any release of confidential information that violates the confidentiality standards adopted by the department will result in the immediate suspension of any rights of the county, city or town to receive taxpayer information under this subsection.

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. The department may disclose statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer, to:

1. The state treasurer in order to comply with the requirements of section 42-5029, subsection A, paragraph 3.

2. The joint legislative income tax credit review committee, the joint legislative budget committee staff and the legislative staff in order to comply with the requirements of section 43-221.

J. The department may disclose the aggregate amounts of any tax credit, tax deduction or tax exemption enacted after January 1, 1994. Information subject to disclosure under this subsection shall not be disclosed if a taxpayer demonstrates to the department that such information would give an unfair advantage to competitors.

K. Except as provided in section 42-2002, subsection C, confidential information, described in section 42-2001, paragraph 1, subdivision (a), item (ii), may be disclosed to law enforcement agencies for law enforcement purposes.

L. The department may provide transaction privilege tax license information to property tax officials in a county for the purpose of identification and verification of the tax status of commercial property.

M. The department may provide transaction privilege tax, luxury tax, use tax, property tax and severance tax information to the ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

N. Except as provided in section 42-2002, subsection D, a court may order the department to disclose confidential information pertaining to a party to an action. An order shall be made only ~~upon~~ ON a showing of good cause and that the party seeking the information has made demand ~~upon~~ ON the taxpayer for the information.

Ch. 208

O. This section does not prohibit the disclosure by the department of any information or documents submitted to the department by a bingo licensee. Before disclosing the information the department shall obtain the name and address of the person requesting the information.

P. If the department is required or permitted to disclose confidential information, it may charge the person or agency requesting the information for the reasonable cost of its services.

Q. Except as provided in section 42-2002, subsection D, the department of revenue shall release confidential information as requested by the department of economic security pursuant to section 42-1122 or 46-291. Information disclosed under this subsection is limited to the same type of information that the United States internal revenue service is authorized to disclose under section 6103(l)(6) of the internal revenue code.

R. Except as provided in section 42-2002, subsection D, the department of revenue shall release confidential information as requested by the courts and clerks of the court pursuant to section 42-1122.

S. To comply with the requirements of section 42-5031, the department may disclose to the state treasurer, to the county stadium district board of directors and to any city or town tax official that is part of the county stadium district confidential information attributable to a taxpayer's business activity conducted in the county stadium district.

T. The department shall release to the attorney general confidential information as requested by the attorney general for purposes of determining compliance with or enforcing any of the following:

1. Any public health control law relating to tobacco sales as provided under title 36, chapter 6, article 14.

2. Any law relating to reduced cigarette ignition propensity standards
Ch. 128 — as provided under title ~~41~~ 37, chapter ~~16~~ 9, article ~~3.1~~ 5.

3. Sections 44-7101 and 44-7111, the master settlement agreement referred to in those sections and all agreements regarding disputes under the master settlement agreement.

U. For proceedings before the department, the office of administrative hearings, the board of tax appeals or any state or federal court involving penalties that were assessed against a return preparer, an electronic return preparer or a payroll service company pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential information may be disclosed only before the judge or administrative law judge adjudicating the proceeding, the parties to the proceeding and the parties' representatives in the proceeding prior to its introduction into evidence in the proceeding. The confidential information may be introduced as evidence in the proceeding only if the taxpayer's name, the names of any dependents listed on the return, all social security numbers, the taxpayer's address, the taxpayer's signature and any attachments containing any of the foregoing information are redacted and if either:

1. The treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding.

Ch. 208 — 2. Such A return or THE return information relates or may relate to a transactional relationship between a person who is a party to the proceeding and the taxpayer ~~which~~ THAT directly affects the resolution of an issue in the proceeding.

3. The method of payment of the taxpayer's withholding tax liability or the method of filing the taxpayer's withholding tax return is an issue for the period.

V. The department and attorney general may share the information specified in subsection T of this section with any of the following:

1. Federal, state or local agencies for the purposes of enforcement of corresponding laws of other states.

2. A court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential.

W. The department may provide the name and address of qualifying hospitals and qualifying health care organizations, as defined in section 42-5001, to a business classified and reporting transaction privilege tax under the utilities classification.

X. The department may disclose to an official of any city, town or county in a current agreement or considering a prospective agreement with the department as described in section 42-5032.02, subsection F any information relating to amounts subject to distribution required by section 42-5032.02. Information disclosed by the department under this subsection:

1. May only be used by the city, town or county for internal purposes.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The city, town or county must agree with the department in writing that any release of confidential information that violates the confidentiality standards will result in the immediate suspension of any rights of the city, town or county to receive information under this subsection.

Ch. 208

Y. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT MAY NOT DISCLOSE INFORMATION PROVIDED BY AN ONLINE LODGING MARKETPLACE, AS DEFINED IN SECTION 42-5076, WITHOUT THE WRITTEN CONSENT OF THE ONLINE LODGING MARKETPLACE, AND THE INFORMATION MAY BE DISCLOSED ONLY PURSUANT TO SUBSECTION A, PARAGRAPHS 1 THROUGH 6, SUBSECTION B, PARAGRAPHS 1, 2, 7 AND 8 AND SUBSECTIONS C AND D OF THIS SECTION. SUCH INFORMATION:

1. IS NOT SUBJECT TO DISCLOSURE PURSUANT TO TITLE 39, RELATING TO PUBLIC RECORDS.

2. MAY NOT BE DISCLOSED TO ANY AGENCY OF THIS STATE OR OF ANY COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

EXPLANATION OF BLEND
SECTION 42-5009

Laws 2016, Chapters 156, 361 and 374

Laws 2016, Ch. 156, section 9	Effective August 6, 2016
Laws 2016, Ch. 361, section 3	Effective August 6, 2016
Laws 2016, Ch. 374, section 1	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 156, Ch. 361 and Ch. 374 text changes to section 42-5009 are blended in the form shown on the following pages. However, two blend versions of section 42-5009 will be published because of the multiple effective dates. The publisher will automatically delete the first blend version on publication of the appropriate pocket part.

Section 42-5009 was amended an additional time by Laws 2016, Ch. 367 with a delayed effective date that will require separate publication in addition to these two blends.

BLEND OF SECTION 42-5009
Laws 2016, Chapters 156, 361 and 374

42-5009. Certificates establishing deductions; liability for making false certificate

A. A person who conducts any business classified under article 2 of this chapter may establish entitlement to the allowable deductions from the tax base of that business by both:

1. Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the tax base.

2. Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the appropriate deduction and the tax license number of the purchaser to the extent the deduction depends on the purchaser conducting business classified under article 2 of this chapter and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the seller has reason to believe that the information contained in the certificate is not accurate or complete.

B. A person who does not comply with subsection A of this section may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

C. The department may prescribe a form for the certificate described in subsection A of this section. Under such rules as it may prescribe, the department may also describe transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided for in subsection A of this section but must instead obtain such additional information as required by the rules in order to be entitled to the deduction.

D. If a seller is entitled to a deduction by complying with subsection A of this section, the department may require the purchaser that caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection A of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

E. If a seller is entitled to a deduction by complying with subsection B of this section, the department may require the purchaser to establish the accuracy and completeness of the information provided to the seller that entitled the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection B of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

F. The department may prescribe a form for a certificate used to establish entitlement to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3. Under rules the department may prescribe, the department may also require additional information for the seller to be entitled to the deduction. If a seller is entitled to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

G. If a seller claims a deduction under section 42-5061, subsection A, paragraph 25 and establishes entitlement to the deduction with an exemption letter that the purchaser received from the department and the exemption letter was based on a contingent event, the department may require the purchaser that received the exemption letter to establish the satisfaction of the contingent event within a reasonable time. If the purchaser cannot establish the satisfaction of the event, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not been furnished the exemption letter. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029. For the purposes of this subsection, "reasonable time" means a time limitation that the department determines and that does not exceed the time limitations pursuant to section 42-1104.

H. The department shall prescribe forms for certificates used to establish the satisfaction of the criteria necessary to qualify the sale of a motor vehicle for the deductions described in section 42-5061, subsection A, paragraph 14, paragraph 28, subdivision (a) and paragraph 44

and subsection U. Except as provided in subsection J of this section, to establish entitlement to these deductions, a motor vehicle dealer shall retain:

1. A valid certificate as prescribed by this subsection completed by the purchaser and obtained prior to the issuance of the nonresident registration permit authorized by section 28-2154.

2. A copy of the nonresident registration permit authorized by section 28-2154.

3. A legible copy of a current valid driver license issued to the purchaser by another state or foreign country that indicates an address outside of this state. For the sale of a motor vehicle to a nonresident entity, the entity's representative must have a current valid driver license issued by the same jurisdiction as that in which the entity is located.

4. For the purposes of the deduction provided by section 42-5061, subsection A, paragraph 14, a certificate documenting the delivery of the motor vehicle to an out-of-state location.

I. Notwithstanding subsection A, paragraph 2 of this section, if a motor vehicle dealer has established entitlement to a deduction by complying with subsection H of this section, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that entitled the motor vehicle dealer to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer would have been required to pay under this article and under articles IV and V of the model city tax code as defined in section 42-6051. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and any tax imposed under article VI of the model city tax code as defined in section 42-6051. The amount shall be treated as tax revenues collected from the motor vehicle dealer in order to designate the distribution base for purposes of section 42-5029.

J. To establish entitlement to the deduction described in section 42-5061, subsection A, paragraph 44, a public consignment auction dealer as defined in section 28-4301 shall submit the valid certificate prescribed by subsection H of this section to the department and retain a copy for its records.

K. Notwithstanding any other law, compliance with subsection H of this section by a motor vehicle dealer entitles the motor vehicle dealer to the exemption provided in section 42-6004, subsection A, paragraph 4.

L. The department shall prescribe a form for a certificate to be used by a person that is not subject to tax under section 42-5075 when the person is engaged by a contractor that is subject to tax under section 42-5075 for a project that is taxable under section 42-5075. The certificate permits the person purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement to provide documentation to a retailer that the sale of tangible personal property qualifies for the deduction under section 42-5061, subsection A, paragraph 27, subdivision (b). A

prime contractor shall obtain the certificate from the department and shall provide a copy to any such person working on the project. The prime contractor shall obtain a new certificate for each project to which this subsection applies. For the purposes of this subsection, the following apply:

1. The person that is not subject to tax under section 42-5075 may use the certificate issued pursuant to this subsection only with respect to tangible personal property that will be incorporated into a project for which the gross receipts are subject to tax under section 42-5075.

2. The department shall issue the certificate to the prime contractor on receiving sufficient documentation to establish that the prime contractor meets the requirements of this subsection.

3. If any person uses the certificate provided under this subsection to purchase tangible personal property to be used in a project that is not subject to tax under section 42-5075, the person is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection A of this section. Payment of the amount under this section exempts the person from liability for any tax imposed under article 4 of this chapter. The amount shall be sourced under section 42-5040, subsection A, paragraph 2.

M. Notwithstanding any other law, compliance with subsection L of this section by a person that is not subject to tax under section 42-5075 entitles the person to the exemption allowed by section 465, subsection (k) of the model city tax code when purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement.

N. THE REQUIREMENTS OF SUBSECTIONS A AND B OF THIS SECTION DO NOT APPLY TO OWNERS, PROPRIETORS OR TENANTS OF AGRICULTURAL LANDS OR FARMS WHO SELL LIVESTOCK OR POULTRY FEED THAT IS GROWN OR RAISED ON THEIR LANDS TO ANY OF THE FOLLOWING:

Ch. 361

1. PERSONS WHO FEED THEIR OWN LIVESTOCK OR POULTRY.

2. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF PRODUCING LIVESTOCK OR POULTRY COMMERCIALLY.

3. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF FEEDING LIVESTOCK OR POULTRY COMMERCIALLY OR WHO BOARD LIVESTOCK NONCOMMERCIALLY.

O. A VENDOR WHO HAS REASON TO BELIEVE THAT A CERTIFICATE PRESCRIBED BY THIS SECTION IS NOT ACCURATE OR COMPLETE WILL NOT BE RELIEVED OF THE BURDEN OF PROVING ENTITLEMENT TO THE EXEMPTION. A VENDOR THAT ACCEPTS A CERTIFICATE IN GOOD FAITH WILL BE RELIEVED OF THE BURDEN OF PROOF AND THE PURCHASER MAY BE REQUIRED TO ESTABLISH THE ACCURACY OF THE CLAIMED EXEMPTION. IF THE PURCHASER CANNOT ESTABLISH THE ACCURACY AND COMPLETENESS OF THE INFORMATION PROVIDED IN THE CERTIFICATE, THE PURCHASER IS LIABLE FOR AN AMOUNT EQUAL TO THE TRANSACTION PRIVILEGE TAX, PENALTY AND INTEREST THAT THE VENDOR WOULD HAVE BEEN REQUIRED TO PAY IF THE VENDOR HAD NOT ACCEPTED THE CERTIFICATE.

Chs. 156 and 374

EXPLANATION OF BLEND
SECTION 42-5009

Laws 2016, Chapters 156, 208, 361 and 374

Laws 2016, Ch. 156, section 9	Effective August 6, 2016
Laws 2016, Ch. 208, section 6	Effective January 1, 2017
Laws 2016, Ch. 361, section 3	Effective August 6, 2016
Laws 2016, Ch. 374, section 1	Effective August 6, 2016

Explanation

Since these four enactments are not incompatible, the Laws 2016, Ch. 156, Ch. 208, Ch. 361 and Ch. 374 text changes to section 42-5009 are blended effective from and after December 31, 2016 in the form shown on the following pages. However, two blend versions of section 42-5009 will be published because of the multiple effective dates. The publisher will automatically delete the first blend version on publication of the appropriate pocket part.

Section 42-5009 was amended an additional time by Laws 2016, Ch. 367 with a delayed effective date that will require separate publication in addition to these two blends.

BLEND OF SECTION 42-5009
Laws 2016, Chapters 156, 208, 361 and 374

42-5009. Certificates establishing deductions; liability for making false certificate

A. A person who conducts any business classified under article 2 of this chapter may establish entitlement to the allowable deductions from the tax base of that business by both:

1. Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the tax base.

2. Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the appropriate deduction and the tax license number of the purchaser to the extent the deduction depends on the purchaser conducting business classified under article 2 of this chapter and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the seller has reason to believe that the information contained in the certificate is not accurate or complete.

B. A person who does not comply with subsection A of this section may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

C. The department may prescribe a form for the certificate described in subsection A of this section. Under such rules as it may prescribe, the department may also describe transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided for in subsection A of this section but must instead obtain such additional information as required by the rules in order to be entitled to the deduction.

D. If a seller is entitled to a deduction by complying with subsection A of this section, the department may require the purchaser that caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection A of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

E. If a seller is entitled to a deduction by complying with subsection B of this section, the department may require the purchaser to establish the accuracy and completeness of the information provided to the seller that entitled the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection B of this section. Payment of the amount

under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

F. The department may prescribe a form for a certificate used to establish entitlement to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3. Under rules the department may prescribe, the department may also require additional information for the seller to be entitled to the deduction. If a seller is entitled to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

G. If a seller claims a deduction under section 42-5061, subsection A, paragraph 25 and establishes entitlement to the deduction with an exemption letter that the purchaser received from the department and the exemption letter was based on a contingent event, the department may require the purchaser that received the exemption letter to establish the satisfaction of the contingent event within a reasonable time. If the purchaser cannot establish the satisfaction of the event, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not been furnished the exemption letter. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029. For the purposes of this subsection, "reasonable time" means a time limitation that the department determines and that does not exceed the time limitations pursuant to section 42-1104.

H. The department shall prescribe forms for certificates used to establish the satisfaction of the criteria necessary to qualify the sale of a motor vehicle for the deductions described in section 42-5061, subsection A, paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and subsection U. Except as provided in subsection J of this section, to establish entitlement to these deductions, a motor vehicle dealer shall retain:

1. A valid certificate as prescribed by this subsection completed by the purchaser and obtained prior to the issuance of the nonresident registration permit authorized by section 28-2154.

2. A copy of the nonresident registration permit authorized by section 28-2154.

3. A legible copy of a current valid driver license issued to the purchaser by another state or foreign country that indicates an address outside of this state. For the sale of a motor vehicle to a nonresident entity, the entity's representative must have a current valid driver license issued by the same jurisdiction as that in which the entity is located.

4. For the purposes of the deduction provided by section 42-5061, subsection A, paragraph 14, a certificate documenting the delivery of the motor vehicle to an out-of-state location.

I. Notwithstanding subsection A, paragraph 2 of this section, if a motor vehicle dealer has established entitlement to a deduction by complying with subsection H of this section, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that entitled the motor vehicle dealer to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer would have been required to pay under this article and under articles IV and V of the model city tax code as defined in section 42-6051. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and any tax imposed under article VI of the model city tax code as defined in section 42-6051. The amount shall be treated as tax revenues collected from the motor vehicle dealer in order to designate the distribution base for purposes of section 42-5029.

J. To establish entitlement to the deduction described in section 42-5061, subsection A, paragraph 44, a public consignment auction dealer as defined in section 28-4301 shall submit the valid certificate prescribed by subsection H of this section to the department and retain a copy for its records.

K. Notwithstanding any other law, compliance with subsection H of this section by a motor vehicle dealer entitles the motor vehicle dealer to the exemption provided in section 42-6004, subsection A, paragraph 4.

L. The department shall prescribe a form for a certificate to be used by a person that is not subject to tax under section 42-5075 when the person is engaged by a contractor that is subject to tax under section 42-5075 for a project that is taxable under section 42-5075. The certificate permits the person purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement to provide documentation to a retailer that the sale of tangible personal property qualifies for the deduction under section 42-5061, subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain the certificate from the department and shall provide a copy to any such person working on the project. The prime contractor shall obtain a new certificate for each project to which this subsection applies. For the purposes of this subsection, the following apply:

1. The person that is not subject to tax under section 42-5075 may use the certificate issued pursuant to this subsection only with respect

to tangible personal property that will be incorporated into a project for which the gross receipts are subject to tax under section 42-5075.

2. The department shall issue the certificate to the prime contractor on receiving sufficient documentation to establish that the prime contractor meets the requirements of this subsection.

3. If any person uses the certificate provided under this subsection to purchase tangible personal property to be used in a project that is not subject to tax under section 42-5075, the person is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection A of this section. Payment of the amount under this section exempts the person from liability for any tax imposed under article 4 of this chapter. The amount shall be sourced under section 42-5040, subsection A, paragraph 2.

M. Notwithstanding any other law, compliance with subsection L of this section by a person that is not subject to tax under section 42-5075 entitles the person to the exemption allowed by section 465, subsection (k) of the model city tax code when purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement.

N. THE REQUIREMENTS OF SUBSECTIONS A AND B OF THIS SECTION DO NOT APPLY TO OWNERS, PROPRIETORS OR TENANTS OF AGRICULTURAL LANDS OR FARMS WHO SELL LIVESTOCK OR POULTRY FEED THAT IS GROWN OR RAISED ON THEIR LANDS TO ANY OF THE FOLLOWING:

Ch. 361

1. PERSONS WHO FEED THEIR OWN LIVESTOCK OR POULTRY.

2. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF PRODUCING LIVESTOCK OR POULTRY COMMERCIALLY.

3. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF FEEDING LIVESTOCK OR POULTRY COMMERCIALLY OR WHO BOARD LIVESTOCK NONCOMMERCIALLY.

O. A VENDOR WHO HAS REASON TO BELIEVE THAT A CERTIFICATE PRESCRIBED BY THIS SECTION IS NOT ACCURATE OR COMPLETE WILL NOT BE RELIEVED OF THE BURDEN OF PROVING ENTITLEMENT TO THE EXEMPTION. A VENDOR THAT ACCEPTS A CERTIFICATE IN GOOD FAITH WILL BE RELIEVED OF THE BURDEN OF PROOF AND THE PURCHASER MAY BE REQUIRED TO ESTABLISH THE ACCURACY OF THE CLAIMED EXEMPTION. IF THE PURCHASER CANNOT ESTABLISH THE ACCURACY AND COMPLETENESS OF THE INFORMATION PROVIDED IN THE CERTIFICATE, THE PURCHASER IS LIABLE FOR AN AMOUNT EQUAL TO THE TRANSACTION PRIVILEGE TAX, PENALTY AND INTEREST THAT THE VENDOR WOULD HAVE BEEN REQUIRED TO PAY IF THE VENDOR HAD NOT ACCEPTED THE CERTIFICATE.

Chs. 156 and 374

P. NOTWITHSTANDING ANY OTHER LAW, AN ONLINE LODGING OPERATOR, AS DEFINED IN SECTION 42-5076, SHALL BE ENTITLED TO AN EXCLUSION FROM ANY APPLICABLE TAXES FOR ANY ONLINE LODGING TRANSACTION, AS DEFINED IN SECTION 42-5076, FACILITATED BY AN ONLINE LODGING MARKETPLACE, AS DEFINED IN SECTION 42-5076, FOR WHICH THE ONLINE LODGING OPERATOR HAS OBTAINED FROM THE ONLINE LODGING MARKETPLACE WRITTEN NOTICE THAT THE ONLINE LODGING MARKETPLACE IS REGISTERED WITH THE DEPARTMENT TO COLLECT APPLICABLE TAXES FOR ALL ONLINE LODGING TRANSACTIONS FACILITATED BY THE ONLINE LODGING MARKETPLACE, AND TRANSACTION HISTORY DOCUMENTING TAX COLLECTED BY THE ONLINE LODGING MARKETPLACE, PURSUANT TO SECTION 42-5005, SUBSECTION L.

Ch. 208

EXPLANATION OF BLEND
SECTION 42-5061

Laws 2016, Chapters 181, 361, 368 and 369

Laws 2016, Ch. 181, section 1	Effective August 6, 2016 (Retroactive to April 18, 1985)
Laws 2016, Ch. 361, section 5	Effective August 6, 2016
Laws 2016, Ch. 368, section 1	Effective August 6, 2016
Laws 2016, Ch. 369, section 2	Effective August 6, 2016 (Retroactive to September 13, 2013)

Explanation

Since these four enactments are not incompatible, the Laws 2016, Ch. 181, Ch. 361, Ch. 368 and Ch. 369 text changes to section 42-5061 are blended in the form shown on the following pages.

Section 42-5061 was amended an additional time by Laws 2016, Ch. 367 with a delayed effective date that will require separate publication in addition to this blend.

BLEND OF SECTION 42-5061
Laws 2016, Chapters 181, 361, 368 and 369

42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses that involve sales or transfers of tangible personal property only as inconsequential elements.

2. Services rendered in addition to selling tangible personal property at retail.

3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

6. Business activity that is properly included in any other business classification that is taxable under this article.

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

Chs. 361, 368 and 369

9. Prosthetic appliances as defined in section 23-501 AND AS prescribed or recommended by a health professional who is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

12. Hearing aids as defined in section 36-1901.

13. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

14. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

16. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

17. Textbooks by any bookstore that are required by any state university or community college.

18. Food and drink to a person that is engaged in a business that is classified under the restaurant classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

19. Articles of food, drink or condiment and accessory tangible personal property to a school district or charter school if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district or on the premises of the charter school during school hours.

20. Lottery tickets or shares pursuant to title 5, chapter 5.1, article 1.

21. The sale of cash equivalents and the sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax and the gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this article is subject to the tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

(i) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

(ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection P of this section.

(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

22. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel that are subject to the tax imposed under section 28-8344 and sales of jet fuel that are subject to the tax imposed under article 8 of this chapter.

23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:

(a) A qualifying hospital as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.

(d) A qualifying community health center as defined in section 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(g) A qualifying health sciences educational institution as defined in section 42-5001.

(h) Any person representing or working on behalf of another person described in subdivisions (a) through (g) of this paragraph if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to:

(a) A person that is subject to tax under this article by reason of being engaged in business classified under section 42-5075 or to a subcontractor working under the control of a person engaged in business classified under section 42-5075, if the property so sold is any of the following:

(i) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection O.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section

36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

36. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

37. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

38. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

39. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

40. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

41. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

42. SALES OF:

(a) LIVESTOCK AND POULTRY TO PERSONS ENGAGING IN THE BUSINESSES OF FARMING, RANCHING OR PRODUCING LIVESTOCK OR POULTRY.

(b) Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons ~~who are engaged~~ FOR USE OR CONSUMPTION BY THEIR OWN LIVESTOCK OR POULTRY, FOR USE OR CONSUMPTION in THE BUSINESSES OF FARMING, RANCHING AND producing OR FEEDING livestock, poultry, or livestock or poultry products or ~~who are engaged in feeding livestock or poultry commercially~~ FOR USE OR CONSUMPTION IN NONCOMMERCIAL BOARDING OF LIVESTOCK. For the purposes of this paragraph, "poultry" includes ratites.

Ch. 361

43. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, that are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

46. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

47. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

48. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

49. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

50. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

51. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

52. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

53. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

54. Sales of motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

55. Sales of repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

56. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

Ch. 369

57. Computer data center equipment ~~purchased by~~ SOLD TO the owner, operator or qualified colocation tenant of ~~the~~ A computer data center THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in ~~a~~ THE QUALIFIED computer data center ~~that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction.~~ For the purposes of this paragraph,

"computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

58. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

59. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

Ch. 368

60. SALES OF WORKS OF FINE ART, AS DEFINED IN SECTION 44-1771, AT AN ART AUCTION OR GALLERY IN THIS STATE TO NONRESIDENTS OF THIS STATE FOR USE OUTSIDE THIS STATE IF THE VENDOR SHIPS OR DELIVERS THE WORK OF FINE ART TO A DESTINATION OUTSIDE THIS STATE.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

Ch. 181 ——— 13. New machinery and equipment consisting of AGRICULTURAL AIRCRAFT, tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and

floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery and equipment that have never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce

contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in the performance of a contract.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

G. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

H. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed,

as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to[:]

Ch. 361

1. AGRICULTURAL PRODUCERS WHO ARE OWNERS, PROPRIETORS OR TENANTS OF AGRICULTURAL LANDS, ORCHARDS, FARMS OR GARDENS WHERE AGRICULTURAL PRODUCTS ARE GROWN, RAISED OR PREPARED FOR MARKET AND WHO ARE MARKETING THEIR OWN AGRICULTURAL PRODUCTS.

2. Businesses classified under the:

~~1.~~ (a) Transporting classification.

~~2.~~ (b) Utilities classification.

~~3.~~ (c) Telecommunications classification.

~~4.~~ (d) Pipeline classification.

~~5.~~ (e) Private car line classification.

~~6.~~ (f) Publication classification.

~~7.~~ (g) Job printing classification.

~~8.~~ (h) Prime contracting classification.

~~9.~~ (i) Restaurant classification.

I. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.

2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection I of this section.

K. The department shall require every person claiming a deduction provided by subsection I or J of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

L. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

M. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

N. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

O. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

P. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

Q. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

R. For the purposes of this section, the transfer of title or possession of coal from an owner or operator of a power plant to a person in the business of refining coal is not a sale of coal if both of the following apply:

1. The transfer of title or possession of the coal is for the purpose of refining the coal.

2. The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this paragraph, "coal refining process" means the application of a coal additive system that aids in the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest ~~which~~ THAT the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this

Chs. 361, 368 and 369

section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

T. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

U. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

Ch. 181 — 1. "AGRICULTURAL AIRCRAFT" MEANS AN AIRCRAFT THAT IS BUILT FOR AGRICULTURAL USE FOR THE AERIAL APPLICATION OF PESTICIDES OR FERTILIZER OR FOR AERIAL SEEDING.

~~1.~~ 2. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

~~2.~~ 3. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

~~3.~~ 4. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

W. For the purposes of subsection I of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be included in the retail classification, and that are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

EXPLANATION OF BLEND
SECTION 42-5062

Laws 2016, Chapters 171 and 232

Laws 2016, Ch. 171, section 20	Effective September 1, 2016
Laws 2016, Ch. 232, section 55	Effective September 1, 2016

Explanation

Since the Ch. 232 version includes all of the changes made by the Ch. 171 version, the Laws 2016, Ch. 232 amendment of section 42-5062 is the blend of both the Laws 2016, Ch. 171 and Ch. 232 versions.

The Laws 2016, Ch. 232 version of section 42-5062, subsection A, paragraph 1, subdivision (e) added the word "permits". The Ch. 171 version added the words "a permit". Since this would not produce a substantive change, the blend version reflects the Ch. 232 version.

BLEND OF SECTION 42-5062
Laws 2016, Chapters 171 and 232

42-5062. Transporting classification

A. The transporting classification is comprised of the business of transporting for hire persons, freight or property by motor vehicle, railroads or aircraft from one point to another point in this state. The transporting classification does not include:

1. Transporting for hire persons, freight or property by[:]

(a) Motor carriers subject to a fee prescribed in title 28, chapter 16, article 4. ~~or by~~

(b) Light motor vehicles subject to a fee under title 28, chapter 15, article 4. ~~,~~

(c) Transportation network companies subject to a fee prescribed ~~by~~ PURSUANT TO section 28-9552. ~~or~~ **Chs. 171 and 232**

(d) Transportation network company drivers on transactions involving transportation network services as defined in section 28-9551. **Ch. 232**

(e) VEHICLE FOR HIRE COMPANIES [THAT ARE] ISSUED PERMITS PURSUANT TO SECTION 28-9503.

(f) VEHICLE FOR HIRE DRIVERS OPERATING UNDER A COMPANY PERMIT ISSUED PURSUANT TO SECTION 28-9503 ON TRANSACTIONS INVOLVING VEHICLE FOR HIRE SERVICES.

2. The business of transporting for hire persons traveling in air commerce by aircraft if taxation of the business is preempted by federal law.

3. Ambulances or ambulance services provided under title 48 or certified pursuant to title 36, chapter 21.1 or provided by a city or town in a county with a population of less than one hundred fifty thousand persons as determined in the most recent United States decennial census.

4. Public transportation program services for the dial-a-ride programs and special needs transportation services.

5. Transporting freight or property for hire by a railroad operating exclusively in this state if the transportation comprises a portion of a single shipment of freight or property, involving more than one railroad, either from a point in this state to a point outside this state or from a point outside this state to a point in this state. For the purposes of this paragraph, "a single shipment" means the transportation that begins at the point at which one of the railroads first takes possession of the freight or property and continues until the point at which one of the railroads relinquishes possession of the freight or property to a party other than one of the railroads.

6. Arranging transportation as a convenience or service to a person's customers if that person is not otherwise engaged in the business of transporting persons, freight or property for hire. This exception does not apply to businesses that dispatch vehicles pursuant to customer orders and send the billings and receive the payments associated with that

activity, including when the transportation is performed by third-party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

B. The tax base for the transporting classification is the gross proceeds of sales or gross income derived from the business, except that the following shall be deducted from the tax base:

1. The gross proceeds of sales or gross income derived from transporting for hire persons, freight or property by a railroad pursuant to a contract with another railroad that is also considered to be engaged in the businesses of transporting persons, freight or property for hire if the other railroad is liable for the tax on gross proceeds of sales or gross income attributable to the transportation.

2. The gross proceeds of sales or gross income derived from business activity that is properly included in any other business classification under this article and that is taxable to the person engaged in that classification, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

3. The gross proceeds of sales or gross income derived from a business activity that is arranged by the person who is subject to tax under this section and that is not taxable to the person conducting the activity due to an exclusion, exemption or deduction under this section or section 42-5073, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

4. The gross proceeds of sales or gross income derived from business activity that is arranged by a person who is subject to tax under this section and that is taxable to another person under this section who conducts the activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

5. The gross proceeds of sales or gross income derived from transporting fertilizer by a railroad from a point in this state to another point in this state.

EXPLANATION OF BLEND
SECTION 42-5063

Laws 2016, Chapters 357 and 359

Laws 2016, Ch. 357, section 1	Effective August 6, 2016
Laws 2016, Ch. 359, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 357 and Ch. 359 text changes to section 42-5063 are blended in the form shown on the following pages. However, two blend versions of section 42-5063 will be published because of the multiple effective dates. The publisher will automatically delete the first blend version on publication of the appropriate pocket part.

BLEND OF SECTION 42-5063
Laws 2016, Chapters 357 and 359

42-5063. Utilities classification; definitions

A. The utilities classification is comprised of the business of:

1. Producing and furnishing or furnishing to consumers natural or artificial gas and water.

2. Providing to retail electric customers ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity.

B. The utilities classification does not include:

1. Sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity, gas or water to a person who resells the services.

2. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

3. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

4. Sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services that are related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

5. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

6. The leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in business under this section.

(b) To a person that is engaged in business under this section or section 42-5064 or that is a cable operator.

C. The tax base for the utilities classification is the gross proceeds of sales or gross income derived from the business, but the following shall be deducted from the tax base:

1. Revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

3. Gross proceeds of sales or gross income derived from sales to:

(a) Qualifying hospitals as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

4. The portion of gross proceeds of sales or gross income that is derived from sales to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 of a utility product and that is used directly in environmental technology manufacturing, producing or processing. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of a qualified environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

5. The portion of gross proceeds of sales or gross income attributable to transfers of electricity by any retail electric customer owning a solar photovoltaic energy generating system to an electric distribution system, if the electricity transferred is generated by the customer's system.

6. Gross proceeds of sales or gross income derived from sales of electricity, ~~or~~ natural gas OR LIQUEFIED PETROLEUM GAS to a business that is principally engaged in manufacturing or smelting operations and that uses at least fifty-one percent of the electricity, ~~or~~ natural gas OR LIQUEFIED PETROLEUM GAS in the manufacturing or smelting operations. This paragraph ~~does not apply~~ APPLIES to gas transportation services. For the purposes of this paragraph:

Ch. 359

Ch. 357

(a) "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

(b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include processing, fabricating, job printing, mining, generating electricity or operating a restaurant.

(c) "Principally engaged" means at least fifty-one percent of the business is a manufacturing or smelting operation.

(d) "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

7. Gross proceeds of sales or gross income derived from sales of electricity or natural gas to a business that operates an international operations center in this state and that is certified by the Arizona commerce authority pursuant to section 41-1520.

D. For the purposes of this section:

1. "Ancillary services" means those services so designated in federal energy regulatory commission order 888 adopted in 1996 that include the services necessary to support the transmission of electricity from resources to loads while maintaining reliable operation of the transmission system according to good utility practice.

2. "Cable operator" has the same meaning prescribed in section 9-505.

3. "Electric distribution service" means distributing electricity to retail electric customers through the use of electric distribution facilities.

4. "Electric generation service" means providing electricity for sale to retail electric customers but excluding electric distribution or transmission services.

5. "Electric transmission service" means transmitting electricity to retail electric customers or to electric distribution facilities so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.

6. "Other services" includes metering, meter reading services, billing and collecting services.

7. "Retail electric customer" means a person who purchases electricity for that person's own use, including use in that person's trade or business and not for resale, redistribution or retransmission.

8. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

EXPLANATION OF BLEND
SECTION 42-5063

Laws 2016, Chapters 357, 359 and 374

Laws 2016, Ch. 357, section 1	Effective August 6, 2016
Laws 2016, Ch. 359, section 1	Effective August 6, 2016
Laws 2016, Ch. 374, section 2	Effective January 1, 2017

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 357, Ch. 359 and Ch. 374 text changes to section 42-5063 are blended effective from and after December 31, 2016 in the form shown on the following pages. However, two blend versions of section 42-5063 will be published because of the multiple effective dates. The publisher will automatically delete the first blend version on publication of the appropriate pocket part.

The Laws 2016, Ch. 359 version of section 42-5063 made a conforming change in subsection C, paragraph 6 that the Ch. 374 version struck. Since this would not produce a substantive change, the blend version reflects the Ch. 374 version.

BLEND OF SECTION 42-5063
Laws 2016, Chapters 357, 359 and 374

42-5063. Utilities classification; definitions

A. The utilities classification is comprised of the business of:

1. Producing and furnishing or furnishing to consumers natural or artificial gas and water.

2. Providing to retail electric customers ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity.

B. The utilities classification does not include:

1. Sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity, gas or water to a person who resells the services.

2. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

3. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

4. Sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services that are related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

5. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

6. The leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in business under this section.

(b) To a person that is engaged in business under this section or section 42-5064 or that is a cable operator.

C. The tax base for the utilities classification is the gross proceeds of sales or gross income derived from the business, but the following shall be deducted from the tax base:

1. Revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

3. Gross proceeds of sales or gross income derived from sales to:

(a) Qualifying hospitals as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

4. The portion of gross proceeds of sales or gross income that is derived from sales to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 of a utility product and that is used directly in environmental technology manufacturing, producing or processing. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of a qualified environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

5. The portion of gross proceeds of sales or gross income attributable to transfers of electricity by any retail electric customer owning a solar photovoltaic energy generating system to an electric distribution system, if the electricity transferred is generated by the customer's system.

6. Gross proceeds of sales or gross income derived from sales of electricity[, ~~or~~] natural gas [OR LIQUEFIED PETROLEUM GAS] to a ~~business that is principally engaged in~~ QUALIFIED manufacturing or smelting ~~operations and that uses at least fifty-one percent of the electricity or natural gas in the manufacturing or smelting operations~~ BUSINESS. A UTILITY THAT CLAIMS THIS DEDUCTION SHALL REPORT EACH MONTH, ON A FORM PRESCRIBED BY THE DEPARTMENT, THE NAME AND ADDRESS OF EACH QUALIFIED MANUFACTURING OR SMELTING BUSINESS FOR WHICH THIS DEDUCTION IS TAKEN. This paragraph [~~does not apply~~ APPLIES] to gas transportation services. For the purposes of this paragraph: Ch. 359 Ch. 374 Ch. 357

(a) "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

(b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include ~~processing, fabricating,~~ job printing, PUBLISHING, PACKAGING, mining, generating electricity or operating a restaurant.

~~(c) "Principally engaged" means at least fifty-one percent of the business is a manufacturing or smelting operation.~~ Ch. 374

(c) "QUALIFIED MANUFACTURING OR SMELTING BUSINESS" MEANS ONE OF THE FOLLOWING:

(i) A BUSINESS THAT MANUFACTURES OR SMELTS TANGIBLE PRODUCTS IN THIS STATE, OF WHICH AT LEAST FIFTY-ONE PERCENT OF THE MANUFACTURED OR SMELTED PRODUCTS WILL BE EXPORTED OUT OF STATE FOR INCORPORATION INTO ANOTHER PRODUCT OR SOLD OUT OF STATE FOR A FINAL SALE.

(ii) A BUSINESS THAT DERIVES AT LEAST FIFTY-ONE PERCENT OF ITS GROSS INCOME FROM THE SALE OF MANUFACTURED OR SMELTED PRODUCTS MANUFACTURED OR SMELTED BY THE BUSINESS.

(iii) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF ITS SQUARE FOOTAGE IN THIS STATE FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

(iv) A BUSINESS THAT EMPLOYS AT LEAST FIFTY-ONE PERCENT OF ITS WORKFORCE IN THIS STATE IN MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

(v) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF THE VALUE OF ITS CAPITALIZED ASSETS IN THIS STATE, AS REFLECTED ON THE BUSINESS'S BOOKS AND RECORDS, FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

(d) "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

7. Gross proceeds of sales or gross income derived from sales of electricity or natural gas to a business that operates an international operations center in this state and that is certified by the Arizona commerce authority pursuant to section 41-1520.

D. For the purposes of this section:

1. "Ancillary services" means those services so designated in federal energy regulatory commission order 888 adopted in 1996 that include the services necessary to support the transmission of electricity from resources to loads while maintaining reliable operation of the transmission system according to good utility practice.

2. "Cable operator" has the same meaning prescribed in section 9-505.

3. "Electric distribution service" means distributing electricity to retail electric customers through the use of electric distribution facilities.

4. "Electric generation service" means providing electricity for sale to retail electric customers but excluding electric distribution or transmission services.

5. "Electric transmission service" means transmitting electricity to retail electric customers or to electric distribution facilities so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.

6. "Other services" includes metering, meter reading services, billing and collecting services.

7. "Retail electric customer" means a person who purchases electricity for that person's own use, including use in that person's trade or business and not for resale, redistribution or retransmission.

8. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

EXPLANATION OF BLEND
SECTION 42-5071

Laws 2016, Chapters 156 and 223

Laws 2016, Ch. 156, section 11	Effective August 6, 2016
Laws 2016, Ch. 223, section 1	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 156 and Ch. 223 text changes to section 42-5071 are blended in the form shown on the following pages.

BLEND OF SECTION 42-5071
Laws 2016, Chapters 156 and 223

42-5071. Personal property rental classification; definitions

A. The personal property rental classification is comprised of the business of leasing or renting tangible personal property for a consideration. The tax does not apply to:

1. Leasing or renting films, tapes or slides used by theaters or movies, which are engaged in business under the amusement classification, or used by television stations or radio stations.

2. Activities engaged in by the Arizona exposition and state fair board or county fair commissions in connection with events sponsored by such entities.

3. Leasing or renting tangible personal property by a parent corporation to a subsidiary corporation or by a subsidiary corporation to another subsidiary of the same parent corporation if taxes were paid under this chapter on the gross proceeds or gross income accruing from the initial sale of the tangible personal property. For the purposes of this paragraph, "subsidiary" means a corporation of which at least eighty percent of the voting shares are owned by the parent corporation.

4. Operating coin-operated washing, drying and dry cleaning machines or coin-operated car washing machines at establishments for the use of such machines.

5. Leasing or renting tangible personal property for incorporation into or comprising any part of a qualified environmental technology facility as described in section 41-1514.02. This paragraph shall apply for ten full consecutive calendar or fiscal years following the initial lease or rental by each qualified environmental technology manufacturer, producer or processor.

6. Leasing or renting aircraft, flight simulators or similar training equipment to students or staff by nonprofit, accredited educational institutions that offer associate or baccalaureate degrees in aviation or aerospace related fields.

7. Leasing or renting photographs, transparencies or other creative works used by this state on internet websites, in magazines or in other publications that encourage tourism.

8. Leasing or renting certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

9. The leasing or renting of space to make attachments to utility poles, as follows:

(a) By a person that is engaged in business under section 42-5063 or 42-5064 or that is a cable operator.

(b) To a person that is engaged in business under section 42-5063 or 42-5064 or that is a cable operator.

Ch. 223 — 10. LEASING OR RENTING BILLBOARDS THAT ARE DESIGNED, INTENDED OR USED TO ADVERTISE OR INFORM AND THAT ARE VISIBLE FROM ANY STREET, ROAD OR OTHER HIGHWAY.

B. The tax base for the personal property rental classification is the gross proceeds of sales or gross income derived from the business, but the gross proceeds of sales or gross income derived from the following shall be deducted from the tax base:

1. Reimbursements by the lessee to the lessor of a motor vehicle for payments by the lessor of the applicable fees and taxes imposed by sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15, article 2 and article IX, section 11, Constitution of Arizona, to the extent such amounts are separately identified as such fees and taxes and are billed to the lessee.

2. Leases or rentals of tangible personal property that, if it had been purchased instead of leased or rented by the lessee, would have been exempt under:

(a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 49 or 53.

(b) Section 42-5061, subsection B, except that a lease or rental of new machinery or equipment is not exempt pursuant to:

~~(i)~~ section 42-5061, subsection B, paragraph 13 if the lease is for less than two years.

~~(ii) Section 42-5061, subsection B, paragraph 21.~~

Ch. 156

(c) Section 42-5061, subsection I, paragraph 1.

(d) Section 42-5061, subsection M.

3. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739 and sales of aviation fuel that are subject to the tax imposed under section 28-8344.

4. Leasing or renting a motor vehicle subject to and on which the fee has been paid under title 28, chapter 16, article 4.

5. Amounts received by a motor vehicle dealer for the first month of a lease payment if the lease and the lease payment for the first month of the lease are transferred to a third-party leasing company.

C. Sales of tangible personal property to be leased or rented to a person engaged in a business classified under the personal property rental classification are deemed to be resale sales.

D. In computing the tax base, the gross proceeds of sales or gross income from the lease or rental of a motor vehicle does not include any amount attributable to the car rental surcharge under section 5-839, 28-5810 or 48-4234.

E. Until December 31, 1988, leasing or renting animals for recreational purposes is exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from leasing or renting animals for recreational purposes is subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the monies paid as taxes will be returned to the customer.

F. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed by section 9-505.

2. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

EXPLANATION OF BLEND
SECTION 42-5075

Laws 2016, Chapters 128, 156 and 371

Laws 2016, Ch. 128, section 119	Effective August 6, 2016 (Retroactive to July 1, 2016)
Laws 2016, Ch. 156, section 12	Effective August 6, 2016
Laws 2016, Ch. 371, section 30	Effective August 6, 2016

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 128, Ch. 156 and Ch. 371 text changes to section 42-5075 are blended in the form shown on the following pages.

BLEND OF SECTION 42-5075
Laws 2016, Chapters 128, 156 and 371

42-5075. Prime contracting classification; exemptions; definitions

A. The prime contracting classification is comprised of the business of prime contracting and the business of manufactured building dealer. Sales for resale to another manufactured building dealer are not subject to tax. Sales for resale do not include sales to a lessor of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter.

B. The tax base for the prime contracting classification is sixty-five percent of the gross proceeds of sales or gross income derived from the business. The following amounts shall be deducted from the gross proceeds of sales or gross income before computing the tax base:

1. The sales price of land, which shall not exceed the fair market value.

2. Sales and installation of groundwater measuring devices required under section 45-604 and groundwater monitoring wells required by law, including monitoring wells installed for acquiring information for a permit required by law.

3. The sales price of furniture, furnishings, fixtures, appliances and attachments that are not incorporated as component parts of or attached to a manufactured building or the setup site. The sale of such items may be subject to the taxes imposed by article 1 of this chapter separately and distinctly from the sale of the manufactured building.

4. The gross proceeds of sales or gross income received from a contract entered into for the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace products within an active military reuse zone after the zone is initially established or renewed under section 41-1531. To be eligible to qualify for this deduction, before beginning work under the contract, the prime contractor must have applied for a letter of qualification from the department of revenue.

5. The gross proceeds of sales or gross income derived from a contract to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02, and from subsequent construction and installation contracts that begin within ten years after the start of initial construction. To qualify for this deduction, before beginning work under the contract, the prime contractor must obtain a letter of qualification from the department of revenue. This paragraph shall apply for ten full consecutive calendar or fiscal years after the start of initial construction.

6. The gross proceeds of sales or gross income from a contract to provide for one or more of the following actions, or a contract for site preparation, constructing, furnishing or installing machinery, equipment or other tangible personal property, including structures necessary to protect exempt incorporated materials or installed machinery or equipment, and tangible personal property incorporated into the project, to perform one or more of the following actions in response to a release or suspected release of a hazardous substance, pollutant or contaminant from a facility to the environment, unless the release was authorized by a permit issued by a governmental authority:

(a) Actions to monitor, assess and evaluate such a release or a suspected release.

(b) Excavation, removal and transportation of contaminated soil and its treatment or disposal.

(c) Treatment of contaminated soil by vapor extraction, chemical or physical stabilization, soil washing or biological treatment to reduce the concentration, toxicity or mobility of a contaminant.

(d) Pumping and treatment or in situ treatment of contaminated groundwater or surface water to reduce the concentration or toxicity of a contaminant.

(e) The installation of structures, such as cutoff walls or caps, to contain contaminants present in groundwater or soil and prevent them from reaching a location where they could threaten human health or welfare or the environment.

This paragraph does not include asbestos removal or the construction or use of ancillary structures such as maintenance sheds, offices or storage facilities for unattached equipment, pollution control equipment, facilities or other control items required or to be used by a person to prevent or control contamination before it reaches the environment.

7. The gross proceeds of sales or gross income that is derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or that is exempt from use tax under section 42-5159, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair,

maintenance or removal of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or exempt from use tax under section 42-5159, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other similar nonpermanent connections to either real property or real property improvements.

8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

(a) Section 42-5061, subsection A, paragraph 25, 29, 57 or 59.

(b) Section 42-5061, subsection B.

(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.

(d) Section 42-5159, subsection B.

9. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the modification of any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 16.

12. For taxable periods beginning from and after June 30, 2001, the gross proceeds of sales or gross income derived from a contract entered into for the construction of a residential apartment housing facility that qualifies for a federal housing subsidy for low income persons over sixty-two

years of age and that is owned by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

13. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

14. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a launch site, as defined in 14 Code of Federal Regulations section 401.5.

15. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

16. The gross proceeds of sales or gross income derived from contracts to perform postconstruction treatment of real property for termite and general pest control, including wood destroying organisms.

17. The gross proceeds of sales or gross income received from contracts entered into before July 1, 2006 for constructing a state university research infrastructure project if the project has been reviewed by the joint committee on capital review before the university enters into the construction contract for the project. For the purposes of this paragraph, "research infrastructure" has the same meaning prescribed in section 15-1670.

18. The gross proceeds of sales or gross income received from a contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516 if actual construction begins before January 1, 2024. To qualify for this deduction, the prime contractor must obtain a letter of qualification from the Arizona commerce authority before beginning work under the contract.

19. Any amount of the gross proceeds of sales or gross income attributable to development fees that are incurred in relation to a contract for construction, development or improvement of real property and that are paid by a prime contractor or subcontractor. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the prime contractor or subcontractor, and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

20. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a mixed waste processing facility that is located on a municipal solid waste landfill and that is constructed for the purpose of recycling solid waste or producing renewable energy from landfill waste. For the purposes of this paragraph:

(a) "Mixed waste processing facility" means a solid waste facility that is owned, operated or used for the treatment, processing or disposal of solid waste, recyclable solid waste, conditionally exempt small quantity generator waste or household hazardous waste. For the purposes of this subdivision, "conditionally exempt small quantity generator waste", "household hazardous waste" and "solid waste facility" have the same meanings prescribed in section 49-701, except that solid waste facility does include a site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material.

(b) "Municipal solid waste landfill" has the same meaning prescribed in section 49-701.

(c) "Recycling" means collecting, separating, cleansing, treating and reconstituting recyclable solid waste that would otherwise become solid waste, but does not include incineration or other similar processes.

(d) "Renewable energy" has the same meaning prescribed in section 41-1511.

C. Entitlement to the deduction pursuant to subsection B, paragraph 7 of this section is subject to the following provisions:

1. A prime contractor may establish entitlement to the deduction by both:

(a) Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the base.

(b) Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the deductibility of the property under section 42-5061, subsection B, and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the prime contractor has reason to believe that the information contained in the certificate is not accurate or complete.

2. A person who does not comply with paragraph 1 of this subsection may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

3. The department may prescribe a form for the certificate described in paragraph 1, subdivision (b) of this subsection. The department may also adopt rules that describe the transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided in paragraph 1, subdivision (b) of this subsection but must instead

obtain such additional information as required in order to be entitled to the deduction.

4. If a prime contractor is entitled to a deduction by complying with paragraph 1 of this subsection, the department may require the purchaser who caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the prime contractor to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the prime contractor would have been required to pay under article 1 of this chapter if the prime contractor had not complied with paragraph 1 of this subsection. Payment of the amount under this paragraph exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as a transaction privilege tax to the purchaser and as tax revenues collected from the prime contractor in order to designate the distribution base for purposes of section 42-5029.

D. Subcontractors or others who perform modification activities are not subject to tax if they can demonstrate that the job was within the control of a prime contractor or contractors or a dealership of manufactured buildings and that the prime contractor or dealership is liable for the tax on the gross income, gross proceeds of sales or gross receipts attributable to the job and from which the subcontractors or others were paid.

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person providing the certificate is a prime contractor and is liable for the tax under article 1 of this chapter. The department shall prescribe the form of the certificate. If the contractor has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. If the person who provides the certificate is not liable for the tax as a prime contractor, that person is nevertheless deemed to be the prime contractor in lieu of the contractor and is subject to the tax under this section on the gross receipts or gross proceeds received by the contractor.

F. Every person engaging or continuing in this state in the business of prime contracting or dealership of manufactured buildings shall present to the purchaser of such prime contracting or manufactured building a written receipt of the gross income or gross proceeds of sales from such activity and shall separately state the taxes to be paid pursuant to this section.

G. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the prime contracting classification from any prime contractor engaged in the preparation or construction of a multipurpose facility, and related infrastructure, that is owned, operated or leased by the tourism and sports authority pursuant to title 5, chapter 8.

H. For the purposes of section 42-5032.02, from and after September 30, 2013, the department shall separately account for revenues reported and collected under the prime contracting classification from any prime contractor engaged in the construction of any buildings and associated

improvements that are for the benefit of a manufacturing facility. For the purposes of this subsection, "associated improvements" and "manufacturing facility" have the same meanings prescribed in section 42-5032.02.

I. The gross proceeds of sales or gross income derived from a contract for lawn maintenance services are not subject to tax under this section if the contract does not include landscaping activities. Lawn maintenance service is a service pursuant to section 42-5061, subsection A, paragraph 1, and includes lawn mowing and edging, weeding, repairing sprinkler heads or drip irrigation heads, seasonal replacement of flowers, refreshing gravel, lawn de-thatching, seeding winter lawns, leaf and debris collection and removal, tree or shrub pruning or clipping, garden and gravel raking and applying pesticides, as defined in section 3-361, and fertilizer materials, as defined in section 3-262.

J. Except as provided in subsection O of this section, the gross proceeds of sales or gross income derived from landscaping activities are subject to tax under this section. Landscaping includes installing lawns, grading or leveling ground, installing gravel or boulders, planting trees and other plants, felling trees, removing or mulching tree stumps, removing other imbedded plants, building irrigation berms, installing railroad ties and installing underground sprinkler or watering systems.

K. The portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

L. Operating a landfill or a solid waste disposal facility is not subject to taxation under this section, including filling, compacting and creating vehicle access to and from cell sites within the landfill. Constructing roads to a landfill or solid waste disposal facility and constructing cells within a landfill or solid waste disposal facility may be deemed prime contracting under this section.

M. The following apply in determining the taxable situs of sales of manufactured buildings:

1. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site or to perform the setup in this state, the taxable situs is the setup site.

2. For sales in this state where the manufactured building dealer does not contract to deliver the building to a setup site or does not perform the setup, the taxable situs is the location of the dealership where the building is delivered to the buyer.

3. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site that is outside this state, the situs is outside this state and the transaction is excluded from tax.

N. The gross proceeds of sales or gross income attributable to a written contract for design phase services or professional services, executed before modification begins and with terms, conditions and pricing of all of these services separately stated in the contract from those for construction phase services, is not subject to tax under this section, regardless of whether the services are provided sequential to or concurrent with prime

contracting activities that are subject to tax under this section. This subsection does not include the gross proceeds of sales or gross income attributable to construction phase services. For the purposes of this subsection:

1. "Construction phase services" means services for the execution and completion of any modification, including the following:

(a) Administration or supervision of any modification performed on the project, including team management and coordination, scheduling, cost controls, submittal process management, field management, safety program, close-out process and warranty period services.

(b) Administration or supervision of any modification performed pursuant to a punch list. For the purposes of this subdivision, "punch list" means minor items of modification work performed after substantial completion and before final completion of the project.

(c) Administration or supervision of any modification performed pursuant to change orders. For the purposes of this subdivision, "change order" means a written instrument issued after execution of a contract for modification work, providing for all of the following:

(i) The scope of a change in the modification work, contract for modification work or other contract documents.

(ii) The amount of an adjustment, if any, to the guaranteed maximum price as set in the contract for modification work. For the purposes of this item, "guaranteed maximum price" means the amount guaranteed to be the maximum amount due to a prime contractor for the performance of all modification work for the project.

(iii) The extent of an adjustment, if any, to the contract time of performance set forth in the contract.

(d) Administration or supervision of any modification performed pursuant to change directives. For the purposes of this subdivision, "change directive" means a written order directing a change in modification work before agreement on an adjustment of the guaranteed maximum price or contract time.

(e) Inspection to determine the dates of substantial completion or final completion.

(f) Preparation of any manuals, warranties, as-built drawings, spares or other items the prime contractor must furnish pursuant to the contract for modification work. For the purposes of this subdivision, "as-built drawing" means a drawing that indicates field changes made to adapt to field conditions, field changes resulting from change orders or buried and concealed installation of piping, conduit and utility services.

(g) Preparation of status reports after modification work has begun detailing the progress of work performed, including preparation of any of the following:

(i) Master schedule updates.

(ii) Modification work cash flow projection updates.

(iii) Site reports made on a periodic basis.

(iv) Identification of discrepancies, conflicts or ambiguities in modification work documents that require resolution.

(v) Identification of any health and safety issues that have arisen in connection with the modification work.

(h) Preparation of daily logs of modification work, including documentation of personnel, weather conditions and on-site occurrences.

(i) Preparation of any submittals or shop drawings used by the prime contractor to illustrate details of the modification work performed.

(j) Administration or supervision of any other activities for which a prime contractor receives a certificate for payment or certificate for final payment based on the progress of modification work performed on the project.

2. "Design phase services" means services for developing and completing a design for a project that are not construction phase services, including the following:

(a) Evaluating surveys, reports, test results or any other information on-site conditions for the project, including physical characteristics, legal limitations and utility locations for the site.

(b) Evaluating any criteria or programming objectives for the project to ascertain requirements for the project, such as physical requirements affecting cost or projected utilization of the project.

(c) Preparing drawings and specifications for architectural program documents, schematic design documents, design development documents, modification work documents or documents that identify the scope of or materials for the project.

(d) Preparing an initial schedule for the project, excluding the preparation of updates to the master schedule after modification work has begun.

(e) Preparing preliminary estimates of costs of modification work before completion of the final design of the project, including an estimate or schedule of values for any of the following:

(i) Labor, materials, machinery and equipment, tools, water, heat, utilities, transportation and other facilities and services used in the execution and completion of modification work, regardless of whether they are temporary or permanent or whether they are incorporated in the modifications.

(ii) The cost of labor and materials to be furnished by the owner of the real property.

(iii) The cost of any equipment of the owner of the real property to be assigned by the owner to the prime contractor.

(iv) The cost of any labor for installation of equipment separately provided by the owner of the real property that has been designed, specified, selected or specifically provided for in any design document for the project.

(v) Any fee paid by the owner of the real property to the prime contractor pursuant to the contract for modification work.

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

(viii) Any contingency fees for the prime contractor that may be used before final completion of the project.

(f) Reviewing and evaluating cost estimates and project documents to prepare recommendations on site use, site improvements, selection of materials, building systems and equipment, modification feasibility, availability of materials and labor, local modification activity as related to schedules and time requirements for modification work.

(g) Preparing the plan and procedures for selection of subcontractors, including any prequalification of subcontractor candidates.

3. "Professional services" means architect services, ~~assayer services,~~ engineer services, geologist services, land surveying services or landscape architect services that are within the scope of those services as provided in title 32, chapter 1 and for which gross proceeds of sales or gross income has not otherwise been deducted under subsection K of this section.

O. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property is not subject to tax under this section if the contract does not include modification activities, except as specified in this subsection. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax under this section. For the purposes of this subsection:

1. Tangible personal property that is incorporated or fabricated into a project described in this subsection may be subject to the amount prescribed in section 42-5008.01.

2. Each contract is independent of any other contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this chapter, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

P. Notwithstanding subsection O of this section, a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is taxable under this section, even if the contract also includes vertical improvements. Agencies that are subject to procurement processes under those provisions shall include in the request for proposals a notice to bidders when those projects are subject to this section. This subsection does not apply to contracts with:

1. Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts, regional attraction districts or revitalization districts.

2. Any special taxing district not specified in paragraph 1 of this subsection if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

Q. Notwithstanding subsection R, paragraph 10 of this section, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who receives a consideration for the modifications is considered a prime contractor solely for purposes of taxing the gross proceeds of sale

or gross income received for the modifications made subsequent to the transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

1. If any part of the contract for sale of the property specifies amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title, the amounts are included in the original owner's gross proceeds of sale or gross income under this section. Proceeds from the sale of the property that are received after transfer of title and that are unrelated to the modifications made subsequent to the transfer of title are not considered gross proceeds of sale or gross income from the modifications.

2. If the original owner enters into an agreement separate from the contract for sale of the real property providing for amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title to the property, the amounts are included in the original owner's gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title.

3. If the original owner is responsible to the new owner for modifications made to the property in the period subsequent to the transfer of title and derives any gross proceeds of sale or gross income from the project subsequent to the transfer of title other than a delayed disbursement from escrow unrelated to the modifications, it is presumed that the amounts are received for the modifications made subsequent to the transfer of title unless the contrary is established by the owner through its books, records and papers kept in the regular course of business.

4. The tax base of the original owner is computed in the same manner as a prime contractor under this section.

R. For the purposes of this section:

1. "Alteration" means an activity or action that causes a direct physical change to existing property. For the purposes of this paragraph:

(a) For existing property that is properly classified as class two property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2, subdivision (c) and that is used for residential purposes, class three property under section 42-12003 or class four property under 42-12004, this paragraph does not apply if the contract amount is more than twenty-five percent of the most recent full cash value established under chapter 13, article 2 of this title as of the date of any bid for the work or the date of the contract, whichever value is higher.

(b) For all existing property other than existing property described in subdivision (a) of this paragraph, this paragraph does not apply if any of the following is true:

(i) The contract amount is more than seven hundred fifty thousand dollars.

(ii) The scope of work directly relates to more than forty percent of the existing square footage of the existing property.

(iii) The scope of work involves expanding the square footage of more than ten percent of the existing property.

(c) Project elements may not be artificially separated from a contract to cause a project to qualify as an alteration. The department has the burden of proof that project elements have been artificially separated from a contract.

(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.

(e) A change order that directly relates to the scope of work of the original contract shall be treated as part of the original contract, and the contract amount shall include any amount attributable to a change order that directly relates to the scope of work of the original contract.

(f) Alteration does not include maintenance, repair or replacement.

2. "Contracting" means engaging in business as a contractor.

3. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such contractor is acting in fulfillment of a contract.

4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section ~~41-2142~~ 41-4001.

Ch. 128 —

5. "Manufactured building dealer" means a dealer who either:

(a) Is licensed pursuant to title 41, chapter ~~16~~ 37, ARTICLE 4 and who sells manufactured buildings to the final consumer.

(b) Supervises, performs or coordinates the excavation and completion of site improvements or the setup ~~or moving~~ of a manufactured building[,] including the contracting, if any, with any subcontractor or specialty contractor for the completion of the contract.

Ch. 156 —
Chs. 156 — and 371

6. "Modification" means construction, grading and leveling ground, wreckage or demolition. Modification does not include:

(a) Any project described in subsection O of this section.

(b) Any wreckage or demolition of existing property, or any other activity that is a necessary component of a project described in subsection O of this section.

(c) Any mobilization or demobilization related to a project described in subsection O of this section, such as the erection or removal of temporary facilities to be used by those persons working on the project.

7. "Modify" means to make a modification or cause a modification to be made.

8. "Owner" means the person that holds title to the real property or improvements to real property that is the subject of the work, as well as an agent of the title holder and any person with the authority to perform or authorize work on the real property or improvements, including a tenant and a property manager. For the purposes of subsection O of this section, a person who is hired by a general contractor that is hired by an owner, or a subcontractor of a general contractor that is hired by an owner, is considered to be hired by the owner.

9. "Prime contracting" means engaging in business as a prime contractor.

10. "Prime contractor" means a contractor who supervises, performs or coordinates the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement[,] including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract. Except as provided in subsections E and Q of this section, a person who owns real property, who engages one or more contractors to modify that real property and who does not itself modify that real property is not a prime contractor within the meaning of this paragraph regardless of the existence of a contract for sale or the subsequent sale of that real property.

Chs. 156 and 371

11. "Replacement" means the removal from service of one component or system of existing property or tangible personal property installed in existing property, including machinery or equipment, and the installation of a new component or system or new tangible personal property, including machinery or equipment, that provides the same similar or upgraded design or functionality, regardless of the contract amount and regardless of whether the existing component or system or existing tangible personal property is physically removed from the existing property.

12. "Sale of a used manufactured building" does not include a lease of a used manufactured building.

EXPLANATION OF BLEND
SECTION 42-5159

Laws 2016, Chapters 156, 181, 357, 359, 361 and 369

Laws 2016, Ch. 156, section 13	Effective August 6, 2016
Laws 2016, Ch. 181, section 2	Effective August 6, 2016 (Retroactive to April 18, 1985)
Laws 2016, Ch. 357, section 2	Effective August 6, 2016
Laws 2016, Ch. 359, section 2	Effective August 6, 2016
Laws 2016, Ch. 361, section 6	Effective August 6, 2016
Laws 2016, Ch. 369, section 3	Effective August 6, 2016 (Retroactive to September 13, 2013)

Explanation

Since these six enactments are not incompatible, the Laws 2016, Ch. 156, Ch. 181, Ch. 357, Ch. 359, Ch. 361 and Ch. 369 text changes to section 42-5159 are blended in the form shown on the following pages. However, two blend versions of section 42-5159 will be published because of the multiple effective dates. The publisher will automatically delete the first blend version on publication of the appropriate pocket part.

Section 42-5159 was amended an additional time by Laws 2016, Ch. 367 with a delayed effective date that will require separate publication in addition to these two blends.

BLEND OF SECTION 42-5159
Laws 2016, Chapters 156, 181, 357, 359, 361 and 369

42-5159. Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

Ch. 156 — 1. Tangible personal property[,] sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

Chs. 156, 359, 361 and 369 — 2. Tangible personal property[,] the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing or to the extent that the rate or imposition of tax is unconstitutional under the laws of the United States.

4. Tangible personal property that directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under title 28, chapter 16, article 1, use fuel that is sold to or used by a person holding a valid single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in this state is subject to the tax imposed under section 28-8344, and jet fuel, the sales, distribution or use of which in this state is subject to the tax imposed under article 8 of this chapter.

6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged in producing livestock, poultry, or livestock or poultry products, or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

8. PURCHASES OF:

(a) LIVESTOCK AND POULTRY TO PERSONS ENGAGING IN THE BUSINESSES OF FARMING, RANCHING OR PRODUCING LIVESTOCK OR POULTRY.

Ch. 361 (b) Livestock~~,~~ AND poultry FEED, supplies, ~~feed,~~ salts, vitamins and other additives SOLD TO PERSONS for use or consumption in the businesses of farming, ranching and PRODUCING OR feeding livestock or poultry~~, not including fertilizers, herbicides and insecticides~~ OR FOR USE OR CONSUMPTION IN NONCOMMERCIAL BOARDING OF LIVESTOCK. For the purposes of this paragraph, "poultry" includes ratites.

9. Seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

10. Tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

11. Advertising supplements that are intended for sale with newspapers published in this state and that have already been subjected to an excise tax under the laws of another state in the United States that equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under this chapter by reason of being engaged in business classified under section 42-5075, or a subcontractor working under the control of a person that is engaged in business classified under section 42-5075, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the person into a structure, project, development or improvement in fulfillment of a contract.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection O.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(h) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate described in section 42-5009, subsection L, if the property purchased is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

(i) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(j) A qualifying community health center as defined in section 42-5001.

(k) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(l) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(m) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(n) A qualifying health sciences educational institution as defined in section 42-5001.

(o) A person representing or working on behalf of any person described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) or (n) of this paragraph, if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

22. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

23. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

24. Food and drink provided without monetary charge by a taxpayer that is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property that are acquired for use by or provided to a school district or charter school if they are to be either served or prepared and served to persons for consumption on the premises of a public school in the school district or on the premises of the charter school during school hours.

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5.1, article 1.

28. Textbooks, sold by a bookstore, that are required by any state university or community college.

29. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) Public educational institutions.

(c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any exemption for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

38. Tangible personal property that is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, that is used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air

transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of:

(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

(b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

51. Motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

52. Repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

53. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the

corporation commission or governing body of a public power entity to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

Ch. 369

54. Computer data center equipment ~~purchased by~~ SOLD TO the owner, operator or qualified colocation tenant of ~~the~~ A computer data center THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in ~~a~~ THE QUALIFIED computer data center ~~that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction.~~ For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

55. Coal acquired from an owner or operator of a power plant by a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

56. Tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

Ch. 156

57. CASH EQUIVALENTS, PRECIOUS METAL BULLION AND MONETIZED BULLION PURCHASED BY THE ULTIMATE CONSUMER, BUT COINS OR OTHER FORMS OF MONEY FOR MANUFACTURE INTO JEWELRY OR WORKS OF ART ARE SUBJECT TO TAX, AND TANGIBLE PERSONAL PROPERTY THAT IS PURCHASED THROUGH THE REDEMPTION OF ANY CASH EQUIVALENT BY THE HOLDER AS A MEANS OF PAYMENT FOR GOODS THAT ARE SUBJECT TO TAX UNDER THIS ARTICLE IS SUBJECT TO TAX. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) "CASH EQUIVALENTS" MEANS ITEMS, WHETHER OR NOT NEGOTIABLE, THAT ARE SOLD TO ONE OR MORE PERSONS, THROUGH WHICH A VALUE DENOMINATED IN MONEY IS PURCHASED IN ADVANCE AND THAT MAY BE REDEEMED IN FULL OR IN PART FOR TANGIBLE PERSONAL PROPERTY, INTANGIBLES OR SERVICES. CASH EQUIVALENTS INCLUDE GIFT CARDS, STORED VALUE CARDS, GIFT CERTIFICATES, VOUCHERS, TRAVELER'S CHECKS, MONEY ORDERS OR OTHER TANGIBLE INSTRUMENTS OR ORDERS. CASH EQUIVALENTS DO NOT INCLUDE EITHER OF THE FOLLOWING:

(i) ITEMS THAT ARE SOLD TO ONE OR MORE PERSONS AND THROUGH WHICH A VALUE IS NOT DENOMINATED IN MONEY.

(ii) PREPAID CALLING CARDS FOR TELECOMMUNICATIONS SERVICES.

(b) "MONETIZED BULLION" MEANS COINS AND OTHER FORMS OF MONEY THAT ARE MANUFACTURED FROM GOLD, SILVER OR OTHER METALS AND THAT HAVE BEEN OR ARE USED AS A MEDIUM OF EXCHANGE IN THIS OR ANOTHER STATE, THE UNITED STATES OR A FOREIGN NATION.

(c) "PRECIOUS METAL BULLION" MEANS PRECIOUS METAL, INCLUDING GOLD, SILVER, PLATINUM, RHODIUM AND PALLADIUM, THAT HAS BEEN SMELTED OR REFINED SO THAT ITS VALUE DEPENDS ON ITS CONTENTS AND NOT ON ITS FORM.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor

units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

Ch. 181 — 13. New machinery and equipment consisting of AGRICULTURAL AIRCRAFT, tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment that has never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and

development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or

research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state[,] ~~and that~~ INCLUDING PRODUCTION BY A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN SECTION 42-5075, SUBSECTION O, IF THE MACHINERY AND EQUIPMENT are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

Ch. 156

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the Arizona commerce authority at the time of purchase.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or tangible personal property used by a contractor in the performance of a contract.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

E. The tax levied by this article does not apply to the purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. The tax levied by this article does not apply to the purchase price of electricity[,] ~~or~~ natural gas OR LIQUEFIED PETROLEUM GAS by:

Ch. 359

1. A business that is principally engaged in manufacturing or smelting operations and that uses at least fifty-one percent of the electricity, ~~or~~ natural gas OR LIQUEFIED PETROLEUM GAS in the manufacturing or smelting operations. This paragraph ~~does not apply~~ APPLIES to gas transportation services. For the purposes of this paragraph:

Ch. 357

(a) "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

(b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include processing, fabricating, job printing, mining, generating electricity or operating a restaurant.

(c) "Principally engaged" means at least fifty-one percent of the business is a manufacturing or smelting operation.

(d) "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

2. A business that operates an international operations center in this state and that is certified by the Arizona commerce authority pursuant to section 41-1520.

H. For the purposes of subsection B of this section:

Ch. 181 — 1. "AGRICULTURAL AIRCRAFT" MEANS AN AIRCRAFT THAT IS BUILT FOR AGRICULTURAL USE FOR THE AERIAL APPLICATION OF PESTICIDES OR FERTILIZER OR FOR AERIAL SEEDING.

~~1.~~ 2. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

~~2.~~ 3. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

I. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

EXPLANATION OF BLEND
SECTION 42-5159

Laws 2016, Chapters 156, 181, 357, 359, 361, 369 and 374

Laws 2016, Ch. 156, section 13	Effective August 6, 2016
Laws 2016, Ch. 181, section 2	Effective August 6, 2016 (Retroactive to April 18, 1985)
Laws 2016, Ch. 357, section 2	Effective August 6, 2016
Laws 2016, Ch. 359, section 2	Effective August 6, 2016
Laws 2016, Ch. 361, section 6	Effective August 6, 2016
Laws 2016, Ch. 369, section 3	Effective August 6, 2016 (Retroactive to September 13, 2013)
Laws 2016, Ch. 374, section 3	Effective January 1, 2017

Explanation

Since these seven enactments are not incompatible, the Laws 2016, Ch. 156, Ch. 181, Ch. 357, Ch. 359, Ch. 361, Ch. 369 and Ch. 374 text changes to section 42-5159 are blended effective from and after December 31, 2016 in the form shown on the following pages. However, two blend versions of section 42-5159 will be published because of the multiple effective dates. The publisher will automatically delete the first blend version on publication of the appropriate pocket part.

Section 42-5159 was amended an additional time by Laws 2016, Ch. 367 with a delayed effective date that will require separate publication in addition to these two blends.

The Laws 2016, Ch. 359 version of section 42-5159 made a conforming change in subsection G, paragraph 1 that the Ch. 374 version struck. Since this would not produce a substantive change, the blend version reflects the Ch. 374 version.

BLEND OF SECTION 42-5159
Laws 2016, Chapters 156, 181, 357, 359, 361, 369 and 374

42-5159. Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

Ch. 156 — 1. Tangible personal property[,] sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

Chs. 156, 359, 361 and 369 — 2. Tangible personal property[,] the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing or to the extent that the rate or imposition of tax is unconstitutional under the laws of the United States.

4. Tangible personal property that directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under title 28, chapter 16, article 1, use fuel that is sold to or used by a person holding a valid single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in this state is subject to the tax imposed under section 28-8344, and jet fuel, the sales, distribution or use of which in this state is subject to the tax imposed under article 8 of this chapter.

6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged in producing livestock, poultry, or livestock or poultry products, or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

Ch. 361

8. PURCHASES OF:

(a) LIVESTOCK AND POULTRY TO PERSONS ENGAGING IN THE BUSINESSES OF FARMING, RANCHING OR PRODUCING LIVESTOCK OR POULTRY.

(b) Livestock~~,~~ AND poultry FEED, supplies, ~~feed,~~ salts, vitamins and other additives SOLD TO PERSONS for use or consumption in the businesses of farming, ranching and PRODUCING OR feeding livestock or poultry~~, not including fertilizers, herbicides and insecticides~~ OR FOR USE OR CONSUMPTION IN NONCOMMERCIAL BOARDING OF LIVESTOCK. For the purposes of this paragraph, "poultry" includes ratites.

9. Seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

10. Tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

11. Advertising supplements that are intended for sale with newspapers published in this state and that have already been subjected to an excise tax under the laws of another state in the United States that equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under this chapter by reason of being engaged in business classified under section 42-5075, or a subcontractor working under the control of a person that is engaged in business classified under section 42-5075, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the person into a structure, project, development or improvement in fulfillment of a contract.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection O.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(h) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate described in section 42-5009, subsection L, if the property purchased is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

(i) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(j) A qualifying community health center as defined in section 42-5001.

(k) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(l) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(m) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(n) A qualifying health sciences educational institution as defined in section 42-5001.

(o) A person representing or working on behalf of any person described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) or (n) of this paragraph, if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

22. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

23. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

24. Food and drink provided without monetary charge by a taxpayer that is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property that are acquired for use by or provided to a school district or charter school if they are to be either served or prepared and served to persons for consumption on the premises of a public school in the school district or on the premises of the charter school during school hours.

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5.1, article 1.

28. Textbooks, sold by a bookstore, that are required by any state university or community college.

29. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) Public educational institutions.

(c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any exemption for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

38. Tangible personal property that is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, that is used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air

transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of:

(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

(b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

51. Motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

52. Repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

53. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the

corporation commission or governing body of a public power entity to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

54. Computer data center equipment ~~purchased by~~ SOLD TO the owner, operator or qualified colocation tenant of ~~the~~ A computer data center THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in ~~a~~ THE QUALIFIED computer data center Ch. 369 ~~that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction.~~ For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

55. Coal acquired from an owner or operator of a power plant by a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

56. Tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

57. CASH EQUIVALENTS, PRECIOUS METAL BULLION AND MONETIZED BULLION PURCHASED BY THE ULTIMATE CONSUMER, BUT COINS OR OTHER FORMS OF MONEY FOR MANUFACTURE INTO JEWELRY OR WORKS OF ART ARE SUBJECT TO TAX, AND TANGIBLE Ch. 156 PERSONAL PROPERTY THAT IS PURCHASED THROUGH THE REDEMPTION OF ANY CASH EQUIVALENT BY THE HOLDER AS A MEANS OF PAYMENT FOR GOODS THAT ARE SUBJECT TO TAX UNDER THIS ARTICLE IS SUBJECT TO TAX. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) "CASH EQUIVALENTS" MEANS ITEMS, WHETHER OR NOT NEGOTIABLE, THAT ARE SOLD TO ONE OR MORE PERSONS, THROUGH WHICH A VALUE DENOMINATED IN MONEY IS PURCHASED IN ADVANCE AND THAT MAY BE REDEEMED IN FULL OR IN PART FOR TANGIBLE PERSONAL PROPERTY, INTANGIBLES OR SERVICES. CASH EQUIVALENTS INCLUDE GIFT CARDS, STORED VALUE CARDS, GIFT CERTIFICATES, VOUCHERS, TRAVELER'S CHECKS, MONEY ORDERS OR OTHER TANGIBLE INSTRUMENTS OR ORDERS. CASH EQUIVALENTS DO NOT INCLUDE EITHER OF THE FOLLOWING:

(i) ITEMS THAT ARE SOLD TO ONE OR MORE PERSONS AND THROUGH WHICH A VALUE IS NOT DENOMINATED IN MONEY.

Ch. 156

(ii) PREPAID CALLING CARDS FOR TELECOMMUNICATIONS SERVICES.

(b) "MONETIZED BULLION" MEANS COINS AND OTHER FORMS OF MONEY THAT ARE MANUFACTURED FROM GOLD, SILVER OR OTHER METALS AND THAT HAVE BEEN OR ARE USED AS A MEDIUM OF EXCHANGE IN THIS OR ANOTHER STATE, THE UNITED STATES OR A FOREIGN NATION.

(c) "PRECIOUS METAL BULLION" MEANS PRECIOUS METAL, INCLUDING GOLD, SILVER, PLATINUM, RHODIUM AND PALLADIUM, THAT HAS BEEN SMELTED OR REFINED SO THAT ITS VALUE DEPENDS ON ITS CONTENTS AND NOT ON ITS FORM.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor

units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

Ch. 181 — 13. New machinery and equipment consisting of AGRICULTURAL AIRCRAFT, tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment that has never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and

development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or

research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state[,] ~~and that~~ INCLUDING PRODUCTION BY A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN SECTION 42-5075, SUBSECTION O, IF THE MACHINERY AND EQUIPMENT are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

Ch. 156

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the Arizona commerce authority at the time of purchase.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or tangible personal property used by a contractor in the performance of a contract.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

E. The tax levied by this article does not apply to the purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. The tax levied by this article does not apply to the purchase price
Ch. 359 — of electricity[,] ~~or~~ natural gas OR LIQUEFIED PETROLEUM GAS by:

1. A ~~business that is principally engaged in~~ QUALIFIED manufacturing or smelting ~~operations and that uses at least fifty-one percent of the electricity or natural gas in the manufacturing or smelting operations~~ BUSINESS. A UTILITY THAT CLAIMS THIS DEDUCTION SHALL REPORT EACH MONTH, ON A FORM PRESCRIBED BY THE DEPARTMENT, THE NAME AND ADDRESS OF EACH QUALIFIED MANUFACTURING OR SMELTING BUSINESS FOR WHICH THIS DEDUCTION IS TAKEN. This
Ch. 374 — Ch. 357 — paragraph ~~does not apply~~ APPLIES to gas transportation services. For the purposes of this paragraph:

(a) "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

(b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character

or use. Manufacturing does not include ~~processing, fabricating,~~ job printing, PUBLISHING, PACKAGING, mining, generating electricity or operating a restaurant.

~~(c) "Principally engaged" means at least fifty-one percent of the business is a manufacturing or smelting operation.~~

(c) "QUALIFIED MANUFACTURING OR SMELTING BUSINESS" MEANS ONE OF THE FOLLOWING:

(i) A BUSINESS THAT MANUFACTURES OR SMELTS TANGIBLE PRODUCTS IN THIS STATE, OF WHICH AT LEAST FIFTY-ONE PERCENT OF THE MANUFACTURED OR SMELTED PRODUCTS WILL BE EXPORTED OUT OF STATE FOR INCORPORATION INTO ANOTHER PRODUCT OR SOLD OUT OF STATE FOR A FINAL SALE.

(ii) A BUSINESS THAT DERIVES AT LEAST FIFTY-ONE PERCENT OF ITS GROSS INCOME FROM THE SALE OF MANUFACTURED OR SMELTED PRODUCTS MANUFACTURED OR SMELTED BY THE BUSINESS.

Ch. 374

(iii) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF ITS SQUARE FOOTAGE IN THIS STATE FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

(iv) A BUSINESS THAT EMPLOYS AT LEAST FIFTY-ONE PERCENT OF ITS WORKFORCE IN THIS STATE IN MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

(v) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF THE VALUE OF ITS CAPITALIZED ASSETS IN THIS STATE, AS REFLECTED ON THE BUSINESS'S BOOKS AND RECORDS, FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

(d) "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

2. A business that operates an international operations center in this state and that is certified by the Arizona commerce authority pursuant to section 41-1520.

H. For the purposes of subsection B of this section:

1. "AGRICULTURAL AIRCRAFT" MEANS AN AIRCRAFT THAT IS BUILT FOR AGRICULTURAL USE FOR THE AERIAL APPLICATION OF PESTICIDES OR FERTILIZER OR FOR AERIAL SEEDING.

Ch. 181

~~1.~~ 2. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

~~2.~~ 3. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

I. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

EXPLANATION OF BLEND
SECTION 42-6004

Laws 2016, Chapters 171, 232, 369 and 373

Laws 2016, Ch. 171, section 21	Effective September 1, 2016
Laws 2016, Ch. 232, section 56	Effective September 1, 2016
Laws 2016, Ch. 369, section 4	Effective August 6, 2016 (Retroactive to September 13, 2013)
Laws 2016, Ch. 373, section 2	Effective August 6, 2016 (Retroactive)

Explanation

Since these four enactments are not incompatible, the Laws 2016, Ch. 171, Ch. 232, Ch. 369 and Ch. 373 text changes to section 42-6004 are blended in the form shown on the following pages.

The Laws 2016, Ch. 232 version of section 42-6004, subsection C, paragraph 9 added the word "permits". The Ch. 171 version added the words "a permit". Since this would not produce a substantive change, the blend version reflects the Ch. 232 version.

BLEND OF SECTION 42-6004
Laws 2016, Chapters 171, 232, 369 and 373

42-6004. Exemption from municipal tax; definitions

A. A city, town or special taxing district shall not levy a transaction privilege, sales, use or other similar tax on:

1. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

2. Interstate telecommunications services, which include that portion of telecommunications services, such as subscriber line service, allocable by federal law to interstate telecommunications service.

3. Sales of warranty or service contracts.

4. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination outside this state.

5. Interest on finance contracts.

6. Dealer documentation fees on the sales of motor vehicles.

7. Sales of food or other items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786) but may impose such a tax on other sales of food. If a city, town or special taxing district exempts sales of food from its tax or imposes a different transaction privilege rate on the gross proceeds of sales or gross income from sales of food and nonfood items, it shall use the definition of food prescribed by rule adopted by the department pursuant to section 42-5106.

8. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

9. Sales of internet access services to the person's subscribers and customers. For the purposes of this paragraph:

(a) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.

(b) "Internet access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.

10. The gross proceeds of sales or gross income retained by the Arizona exposition and state fair board from ride ticket sales at the annual Arizona state fair.

Chs. 369 and 373

~~11. Through August 31, 2014, sales of Arizona centennial medallions by the historical advisory commission.~~

~~12.~~ 11. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:

(a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.

(b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.

(c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

(d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.

(e) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

~~13.~~ 12. The gross proceeds of sales or gross income derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is described in section 42-5061, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property described in section 42-5061, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

~~14.~~ 13. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

~~15.~~ 14. Computer data center equipment ~~purchased, by~~ SOLD TO the owner, operator or qualified colocation tenant of ~~the~~ A computer data center THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in ~~a~~ THE QUALIFIED computer data center. ~~that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction.~~ For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

Ch. 369

~~16.~~ 15. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:

(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this ~~chapter~~ PARAGRAPH, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

Chs. 171, 232, 369 and 373

(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.

(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:

(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts, regional attraction districts or revitalization districts.

(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

~~17.~~ 16. Monitoring services relating to an alarm system as defined in section 32-101.

~~18.~~ 17. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or licensed for use to or by, a qualifying health sciences educational institution as defined in section 42-5001.

~~19.~~ 18. The transfer of title or possession of coal back and forth between an owner or operator of a power plant and a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

~~20.~~ 19. The gross proceeds of sales or gross income from sales of low or reduced cost articles of food or drink to eligible elderly or homeless persons or persons with a disability by a business subject to tax under section 42-5074 that contracts with the department of economic security and that is approved by the food and nutrition service of the United States department of agriculture pursuant to the supplemental nutrition assistance program established by the food and nutrition act of 2008 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the purchases are made with the benefits issued pursuant to the supplemental nutrition assistance program.

Chs. 369 and 373

~~21.~~ 20. Tangible personal property incorporated or fabricated into a project described in paragraph ~~16~~ 15 of this subsection, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of that Indian tribe.

~~22.~~ 21. The charges for the leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

(b) To a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

22. UNTIL MARCH 1, 2017, THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM ENTRY FEES PAID BY PARTICIPANTS FOR EVENTS THAT CONSIST OF A RUN, WALK, SWIM OR BICYCLE RIDE OR A SIMILAR EVENT, OR ANY COMBINATION OF THESE EVENTS.

Ch. 373

23. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM ENTRY FEES PAID BY PARTICIPANTS FOR EVENTS THAT ARE OPERATED OR CONDUCTED BY NONPROFIT ORGANIZATIONS THAT ARE EXEMPT FROM TAXATION UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE AND OF WHICH NO PART OF THE ORGANIZATION'S NET EARNINGS INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL, IF THE EVENT CONSISTS OF A RUN, WALK, SWIM OR BICYCLE RIDE OR A SIMILAR EVENT, OR ANY COMBINATION OF THESE EVENTS.

B. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, on natural gas or liquefied petroleum gas used to propel a motor vehicle.

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:

1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.

2. Leasing, renting or licensing a motor vehicle subject to and on which the fee has been paid under title 28, chapter 16, article 4.

3. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing, renting or licensing such property.

4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state.

5. Transporting for hire persons, freight or property by light motor vehicles subject to a fee under title 28, chapter 15, article 4.

6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

7. ANY AMOUNT ATTRIBUTABLE TO FEES COLLECTED BY TRANSPORTATION NETWORK COMPANIES ISSUED A PERMIT PURSUANT TO SECTION 28-9552.

8. TRANSPORTING FOR HIRE PERSONS BY TRANSPORTATION NETWORK COMPANY DRIVERS ON TRANSACTIONS INVOLVING TRANSPORTATION NETWORK SERVICES AS DEFINED IN SECTION 28-9551.

Chs. 171 and 232

9. TRANSPORTING FOR HIRE PERSONS BY VEHICLE FOR HIRE COMPANIES [THAT ARE] ISSUED PERMITS PURSUANT TO SECTION 28-9503.

Ch. 232

10. TRANSPORTING FOR HIRE PERSONS BY VEHICLE FOR HIRE DRIVERS ON TRANSACTIONS INVOLVING VEHICLE FOR HIRE SERVICES AS DEFINED IN SECTION 28-9501.

D. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, in excess of one-tenth of one percent of the value of the entire product mined, smelted, extracted, refined, produced or prepared for sale, profit or commercial use, on persons engaged in the business of mineral processing, except to the extent that the tax is computed on the gross proceeds or gross income from sales at retail.

E. In computing the tax base, any city, town or other taxing jurisdiction shall not include in the gross proceeds of sales or gross income:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

F. A city or town shall not levy a use tax on the storage, use or consumption of tangible personal property in the city or town by a school district or charter school.

G. For the purposes of this section:

Chs. 369 and 373

1. "Cable operator" has the same meaning prescribed ~~by~~ IN section 9-505.

2. "Electrical services" means transmitting or distributing electricity, electric lights, current or power over lines, wires or cables.

3. "Telecommunication services" means transmitting or relaying sound, visual image, data, information, images or material over lines,

Ch. 369

wires or cables by radio signal, light beam, telephone, telegraph or ~~any~~ other electromagnetic means.

4. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

EXPLANATION OF BLEND
SECTION 42-6012

Laws 2016, Chapters 357 and 359

Laws 2016, Ch. 357, section 3	Effective August 6, 2016
Laws 2016, Ch. 359, section 3	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 357 and Ch. 359 text changes to section 42-6012 are blended in the form shown on the following page. However, two blend versions of section 42-6012 will be published because of the multiple effective dates. The publisher will automatically delete the first blend version on publication of the appropriate pocket part.

BLEND OF SECTION 42-6012
Laws 2016, Chapters 357 and 359

42-6012. Municipal transaction privilege tax; sales of electricity, natural gas or liquefied petroleum gas

A city or town that levies a transaction privilege, sales, gross receipts, use, franchise or other similar fee or tax, however denominated, on the business of producing, providing or furnishing electricity, electric lights, current, power[,] ~~or~~ natural gas OR LIQUEFIED PETROLEUM GAS shall either tax or exempt in whole the gross proceeds of sales or gross income from sales by those businesses to either of the following businesses: Ch. 359

1. Businesses that use at least fifty-one percent of the electricity, electric lights, current, power[,] ~~or~~ natural gas OR LIQUEFIED PETROLEUM GAS in a manufacturing or smelting operation located in that city or town. This paragraph ~~does not apply~~ APPLIES to gas transportation services. For the purposes of this paragraph: Ch. 357

(a) "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

(b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include processing, fabricating, job printing, mining, generating electricity or operating a restaurant.

(c) "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

2. Businesses that operate an international operations center in this state and that are certified by the Arizona commerce authority pursuant to section 41-1520.

EXPLANATION OF BLEND
SECTION 42-6012

Laws 2016, Chapters 357, 359 and 374

Laws 2016, Ch. 357, section 3	Effective August 6, 2016
Laws 2016, Ch. 359, section 3	Effective August 6, 2016
Laws 2016, Ch. 374, section 4	Effective January 1, 2017

Explanation

Since these three enactments are not incompatible, the Laws 2016, Ch. 357, Ch. 359 and Ch. 374 text changes to section 42-6012 are blended effective from and after December 31, 2016 in the form shown on the following pages. However, two blend versions of section 42-6012 will be published because of the multiple effective dates. The publisher will automatically delete the first blend version on publication of the appropriate pocket part.

The Laws 2016, Ch. 359 version of section 42-6012 made a conforming change in paragraph 1 that the Ch. 374 version struck. Since this would not produce a substantive change, the blend version reflects the Ch. 374 version.

BLEND OF SECTION 42-6012
Laws 2016, Chapters 357, 359 and 374

42-6012. Municipal transaction privilege tax; sales of electricity, natural gas or liquefied petroleum gas

A city or town that levies a transaction privilege, sales, gross receipts, use, franchise or other similar fee or tax, however denominated, on the business of producing, providing or furnishing electricity, electric lights, current, power[,] ~~or~~ natural gas OR LIQUEFIED PETROLEUM GAS shall either tax or exempt in whole the gross proceeds of sales or gross income from sales by those businesses to either of the following businesses:

Ch. 359

1. ~~Businesses that use at least fifty-one percent of the electricity, electric lights, current, power or natural gas in~~ A QUALIFIED manufacturing or smelting ~~operation~~ BUSINESS located in that city or town. A UTILITY THAT CLAIMS THIS DEDUCTION SHALL REPORT EACH MONTH, ON A FORM PRESCRIBED BY THE DEPARTMENT, THE NAME AND ADDRESS OF EACH QUALIFIED MANUFACTURING OR SMELTING BUSINESS FOR WHICH THIS DEDUCTION IS TAKEN.

Ch. 374

Ch. 357

This paragraph ~~does not apply~~ APPLIES to gas transportation services. For the purposes of this paragraph:

(a) "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

(b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include processing, fabricating, job printing, mining, generating electricity or operating a restaurant.

(c) "QUALIFIED MANUFACTURING OR SMELTING BUSINESS" MEANS ONE OF THE FOLLOWING:

(i) A BUSINESS THAT MANUFACTURES OR SMELTS TANGIBLE PRODUCTS IN THIS STATE, OF WHICH AT LEAST FIFTY-ONE PERCENT OF THE MANUFACTURED OR SMELTED PRODUCTS WILL BE EXPORTED OUT OF STATE FOR INCORPORATION INTO ANOTHER PRODUCT OR SOLD OUT OF STATE FOR A FINAL SALE.

Ch. 374

(ii) A BUSINESS THAT DERIVES AT LEAST FIFTY-ONE PERCENT OF ITS GROSS INCOME FROM THE SALE OF MANUFACTURED OR SMELTED PRODUCTS MANUFACTURED OR SMELTED BY THE BUSINESS.

(iii) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF ITS SQUARE FOOTAGE IN THIS STATE FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

(iv) A BUSINESS THAT EMPLOYS AT LEAST FIFTY-ONE PERCENT OF ITS WORKFORCE IN THIS STATE IN MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

Ch. 374 — (v) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF THE VALUE OF ITS CAPITALIZED ASSETS IN THIS STATE, AS REFLECTED ON THE BUSINESS'S BOOKS AND RECORDS, FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

~~(c)~~ (d) "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

2. Businesses that operate an international operations center in this state and that are certified by the Arizona commerce authority pursuant to section 41-1520.

EXPLANATION OF BLEND
SECTION 43-1021

Laws 2016, Chapters 156 and 214

Laws 2016, Ch. 156, section 17	Effective August 6, 2016
Laws 2016, Ch. 214, section 3	Effective August 6, 2016 (Retroactive to January 1, 2016)

Explanation

Since the Ch. 214 version includes all of the changes made by the Ch. 156 version, the Laws 2016, Ch. 214 amendment of section 43-1021 is the blend of both the Laws 2016, Ch. 156 and Ch. 214 versions.

BLEND OF SECTION 43-1021
Laws 2016, Chapters 156 and 214

43-1021. Addition to Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

1. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 increases the beneficiary's Arizona gross income.

2. An amount equal to the ordinary income portion of a lump sum distribution that was excluded from federal adjusted gross income pursuant to the special rule for individuals who attained fifty years of age before January 1, 1986 under Public Law 99-514, section 1122(h)(3).

3. The amount of interest income received on obligations of any state, territory or possession of the United States, or any political subdivision thereof, located outside the state of Arizona, reduced, for tax years beginning from and after December 31, 1996, by the amount of any interest on indebtedness and other related expenses that were incurred or continued to purchase or carry those obligations and that are not otherwise deducted or subtracted in arriving at Arizona gross income.

4. The excess of a partner's share of partnership taxable income required to be included under chapter 14, article 2 of this title over the income required to be reported under section 702(a)(8) of the internal revenue code.

5. The excess of a partner's share of partnership losses determined pursuant to section 702(a)(8) of the internal revenue code over the losses allowable under chapter 14, article 2 of this title.

6. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to the internal revenue code exceeds the adjusted basis of such property computed pursuant to this title and the income tax act of 1954, as amended. This paragraph shall apply to all property that is held for the production of income and that is sold or otherwise disposed of during the taxable year, except depreciable property used in a trade or business.

7. Any amount of agricultural water conservation expenses that were deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1084.

8. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1080 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

9. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1080 and that is sold or otherwise disposed of during the taxable

year exceeds the adjusted basis of the property computed under section 43-1080.

10. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under either section 43-1081 or 43-1081.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

11. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1074.02, 43-1081 or 43-1081.01 and that is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1074.02, 43-1081 or 43-1081.01, as applicable.

12. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

13. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F.

14. Any amount deducted in computing Arizona gross income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1090.

15. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1087 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

16. The amount of any depreciation allowance allowed pursuant to section 167(a) of the internal revenue code to the extent not previously added.

17. With respect to property for which an expense deduction was taken pursuant to section 179 of the internal revenue code in a taxable year beginning before January 1, 2013, the amount in excess of twenty-five thousand dollars.

18. The amount of a nonqualified withdrawal, as defined in section 15-1871, from a college savings plan established pursuant to section 529 of the internal revenue code that is made to a distributee to the extent the amount is not included in computing federal adjusted gross income, except that the amount added under this paragraph shall not exceed the difference between the amount subtracted under section 43-1022 in prior taxable years and the amount added under this section in any prior taxable years.

19. The amount of discharge of indebtedness income that is deferred and excluded from the computation of federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

20. The amount of any previously deferred original issue discount that was deducted in computing federal adjusted gross income in the current year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to

the extent that the amount was previously subtracted from Arizona gross income pursuant to section 43-1022, paragraph 24.

Chs. 156 and 214

~~21. For taxable years beginning from and after December 31, 2011 through December 31, 2014, the amount of any deduction that is claimed in computing federal adjusted gross income for health insurance premiums or contributions to a health savings account for which a credit is claimed under section 43-1087.01.~~

~~22.~~ 21. Amounts that are considered to be income under section 43-1032, subsection D because the amount is withdrawn from a long-term health care savings account and not used to pay the taxpayer's long-term health care expenses.

Ch. 214

22. THE AMOUNT OF A WITHDRAWAL THAT IS NOT A QUALIFIED DISABILITY EXPENSE AS DEFINED IN 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION FROM AN ACHIEVING A BETTER LIFE EXPERIENCE ACT ACCOUNT ESTABLISHED PURSUANT TO 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION THAT IS MADE TO A DISTRIBUTEE TO THE EXTENT THE AMOUNT IS NOT INCLUDED IN COMPUTING FEDERAL ADJUSTED GROSS INCOME, EXCEPT THAT THE AMOUNT ADDED UNDER THIS PARAGRAPH SHALL NOT EXCEED THE DIFFERENCE BETWEEN THE AMOUNT SUBTRACTED UNDER SECTION 43-1022 IN PRIOR TAXABLE YEARS AND THE AMOUNT ADDED UNDER THIS SECTION IN ANY PRIOR TAXABLE YEARS.

EXPLANATION OF BLEND
SECTION 43-1022

Laws 2016, Chapters 118 and 214

Laws 2016, Ch. 118, section 1	Effective August 6, 2016
Laws 2016, Ch. 214, section 4	Effective August 6, 2016 (Retroactive to January 1, 2016)

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 118 and Ch. 214 text changes to section 43-1022 are blended in the form shown on the following pages.

BLEND OF SECTION 43-1002
Laws 2016, Chapters 118 and 214

43-1022. Subtractions from Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.

2. Benefits, annuities and pensions in an amount totaling not more than two thousand five hundred dollars received from one or more of the following:

(a) The United States government service retirement and disability fund, retired or retainer pay of the uniformed services of the United States, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law.

(b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.

3. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 decreases the beneficiary's Arizona gross income.

4. Interest income received on obligations of the United States, less any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, which were incurred or continued to purchase or carry such obligations.

5. The excess of a partner's share of income required to be included under section 702(a)(8) of the internal revenue code over the income required to be included under chapter 14, article 2 of this title.

6. The excess of a partner's share of partnership losses determined pursuant to chapter 14, article 2 of this title over the losses allowable under section 702(a)(8) of the internal revenue code.

7. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to this title and the income tax act of 1954, as amended, exceeds the adjusted basis of such property computed pursuant to the internal revenue code. This paragraph shall apply to all property that is held for the production of income and that is sold or otherwise disposed of during the taxable year other than depreciable property used in a trade or business.

8. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.

9. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

10. The amount of prizes or winnings less than five thousand dollars in a single taxable year from any of the state lotteries established and operated pursuant to title 5, chapter 5.1, article 1.

11. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a taxable year ending before January 1, 1990 and for which a subtraction has not previously been made. The subtraction shall be made on a ratable basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.

12. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.

13. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the national guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.

14. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed three thousand dollars. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed three thousand dollars. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

15. The amount authorized by section 43-1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

16. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

17. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income.

18. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.

19. The amount authorized by section 43-1030 relating to holocaust survivors.

20. For property placed in service:

(a) In taxable years beginning before December 31, 2012, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(2)(D)(iii) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

(b) In taxable years beginning from and after December 31, 2012 through December 31, 2013, an amount determined in the year the asset was placed in service based on the calculation in subdivision (a) of this paragraph. In the first taxable year beginning from and after December 31, 2013, the taxpayer may elect to subtract the amount necessary to make the

depreciation claimed to date for the purposes of this title the same as it would have been if subdivision (c) of this paragraph had applied for the entire time the asset was in service. Subdivision (c) of this paragraph applies for the remainder of the asset's life. If the taxpayer does not make the election under this subdivision, subdivision (a) of this paragraph applies for the remainder of the asset's life.

(c) In taxable years beginning from and after December 31, 2013 THROUGH DECEMBER 31, 2015, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been ten [~~per cent~~ PERCENT] of the amount allowed pursuant to section 168(k) of the internal revenue code. **Chs. 118 and 214**

(d) IN TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2015 THROUGH DECEMBER 31, 2016, AN AMOUNT EQUAL TO THE DEPRECIATION ALLOWABLE PURSUANT TO SECTION 167(a) OF THE INTERNAL REVENUE CODE FOR THE TAXABLE YEAR AS COMPUTED AS IF THE ADDITIONAL ALLOWANCE FOR DEPRECIATION HAD BEEN FIFTY-FIVE PERCENT OF THE AMOUNT ALLOWED PURSUANT TO SECTION 168(k) OF THE INTERNAL REVENUE CODE. **Ch. 118**

(e) IN TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2016, AN AMOUNT EQUAL TO THE DEPRECIATION ALLOWABLE PURSUANT TO SECTION 167(a) OF THE INTERNAL REVENUE CODE FOR THE TAXABLE YEAR AS COMPUTED AS IF THE ADDITIONAL ALLOWANCE FOR DEPRECIATION HAD BEEN THE FULL AMOUNT ALLOWED PURSUANT TO SECTION 168(k) OF THE INTERNAL REVENUE CODE.

21. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 16 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

22. With respect to property for which an adjustment was made under section 43-1021, paragraph 17, an amount equal to one-fifth of the amount of the adjustment pursuant to section 43-1021, paragraph 17 in the year in which the amount was adjusted under section 43-1021, paragraph 17 and in each of the following four years.

23. The amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted shall not exceed:

(a) Two thousand dollars for a single individual or a head of household.

(b) Four thousand dollars for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed four thousand dollars.

24. The amount of any original issue discount that was deferred and not allowed to be deducted in computing federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

25. The amount of previously deferred discharge of indebtedness income that is included in the computation of federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was previously added to Arizona gross income pursuant to section 43-1021, paragraph 19.

26. The portion of the net operating loss carryforward that would have been allowed as a deduction in the current year pursuant to section 172 of the internal revenue code if the election described in section 172(b)(1)(H) of the internal revenue code had not been made in the year of the loss that exceeds the actual net operating loss carryforward that was deducted in arriving at federal adjusted gross income. This subtraction only applies to taxpayers who made an election under section 172(b)(1)(H) of the internal revenue code as amended by section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

27. For taxable years beginning from and after December 31, 2013, the amount of any net capital gain included in federal adjusted gross income for the taxable year derived from investment in a qualified small business as determined by the Arizona commerce authority pursuant to section 41-1518.

28. An amount of any net long-term capital gain included in federal adjusted gross income for the taxable year that is derived from an investment in an asset acquired after December 31, 2011, as follows:

(a) For taxable years beginning from and after December 31, 2012 through December 31, 2013, ten ~~per cent~~ PERCENT of the net long-term capital gain included in federal adjusted gross income.

Chs. 118 and 214

(b) For taxable years beginning from and after December 31, 2013 through December 31, 2014, twenty ~~per cent~~ PERCENT of the net long-term capital gain included in federal adjusted gross income.

(c) For taxable years beginning from and after December 31, 2014, twenty-five ~~per cent~~ PERCENT of the net long-term capital gain included in federal adjusted gross income.

For the purposes of this paragraph, a transferee that receives an asset by gift or at the death of a transferor is considered to have acquired the asset when the asset was acquired by the transferor. If the date an asset is acquired cannot be verified, a subtraction under this paragraph is not allowed.

29. If an individual is not claiming itemized deductions pursuant to section 43-1042, the amount of premium costs for long-term care insurance, as defined in section 20-1691.

30. With respect to a long-term health care savings account established pursuant to section 43-1032, the amount deposited by the taxpayer in the account during the taxable year to the extent that the taxpayer's contributions are included in the taxpayer's federal adjusted gross income.

Ch. 214

31. ANY AMOUNT OF QUALIFIED DISABILITY EXPENSES THAT IS DISTRIBUTED FROM A QUALIFIED ABLE PROGRAM DETERMINED PURSUANT TO 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION AND THAT IS INCLUDED IN INCOME IN COMPUTING FEDERAL ADJUSTED GROSS INCOME. FOR THE PURPOSES OF THIS PARAGRAPH, "QUALIFIED DISABILITY EXPENSES" HAS THE SAME MEANING PRESCRIBED IN SECTION 46-901.

EXPLANATION OF BLEND
SECTION 43-1088

Laws 2016, Chapters 109 and 309

Laws 2016, Ch. 109, section 1 — Effective August 6, 2016 (Retroactive to January 1, 2016)

Laws 2016, Ch. 309, section 1 — Effective August 6, 2016 (Retroactive to January 1, 2016)

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 109 and Ch. 309 text changes to section 43-1088 are blended in the form shown on the following pages.

BLEND OF SECTION 43-1088
Laws 2016, Chapters 109 and 309

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

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

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

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

B. A SEPARATE CREDIT IS ALLOWED FOR VOLUNTARY CASH CONTRIBUTIONS DURING THE TAXABLE YEAR TO A QUALIFYING FOSTER CARE CHARITABLE ORGANIZATION. A CONTRIBUTION TO A QUALIFYING FOSTER CARE CHARITABLE ORGANIZATION DOES NOT QUALIFY FOR, AND SHALL NOT BE INCLUDED IN, ANY CREDIT AMOUNT UNDER SUBSECTION A OF THIS SECTION. If the voluntary cash contribution by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G is to a qualifying foster care charitable organization, the credit shall not exceed:

Ch. 109

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

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

C. SUBSECTIONS A AND B OF THIS SECTION PROVIDE SEPARATE CREDITS AGAINST TAXES IMPOSED BY THIS TITLE DEPENDING ON THE RECIPIENTS OF THE CONTRIBUTIONS. A TAXPAYER, INCLUDING A MARRIED COUPLE FILING A JOINT RETURN, IN THE SAME TAXABLE YEAR, MAY EITHER OR BOTH:

1. CONTRIBUTE TO A QUALIFYING CHARITABLE ORGANIZATION, OTHER THAN A QUALIFYING FOSTER CARE CHARITABLE ORGANIZATION, AND CLAIM A CREDIT UNDER SUBSECTION A OF THIS SECTION.

2. CONTRIBUTE TO A QUALIFYING FOSTER CARE CHARITABLE ORGANIZATION AND CLAIM A CREDIT UNDER SUBSECTION B OF THIS SECTION.

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

E. FOR THE PURPOSES OF THIS SECTION, A CONTRIBUTION FOR WHICH A CREDIT IS CLAIMED AND THAT IS MADE ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR MAY BE APPLIED TO EITHER THE CURRENT OR PRECEDING TAXABLE YEAR AND IS CONSIDERED TO HAVE BEEN MADE ON THE LAST DAY OF THAT TAXABLE YEAR.

Ch. 309

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

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

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

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

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

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

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

(a) Receive temporary assistance for needy families benefits.

(b) Are low-income residents of this state.

(c) Are children who have a chronic illness or physical disability.

3. A statement that the organization plans to continue spending at least fifty percent of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low-income residents of this state or who are children who have a chronic illness or physical disability.

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

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

~~J.~~ L. For the purposes of this section:

1. "Children who have a chronic illness or physical disability" has the same meaning prescribed in section 36-260.

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

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

4. "Qualifying foster care charitable organization" means a qualifying charitable organization that each operating year provides services to at least two hundred qualified individuals in this state and spends at least fifty percent of its budget on services to qualified individuals in this state. For the purposes of this paragraph, "qualified individual" means a foster child as defined in section 8-501 or a person who is under twenty-one years of age and who is participating in a transitional independent living program as prescribed by section 8-521.01.

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

EXPLANATION OF BLEND
SECTION 43-1089.01

Laws 2016, Chapters 216 and 331

Laws 2016, Ch. 216, section 2	Effective August 6, 2016 (Retroactive to January 1, 2016)
Laws 2016, Ch. 331, section 22	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 216 and Ch. 331 text changes to section 43-1089.01 are blended in the form shown on the following pages.

BLEND OF SECTION 43-1089.01
Laws 2016, Chapters 216 and 331

43-1089.01. Tax credit; public school fees and contributions; definitions

A. A credit is allowed against the taxes imposed by this title for the amount of any fees PAID or cash contributions MADE by a taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G during the taxable year to a public school located in this state for ~~the support of~~ THE FOLLOWING ACTIVITIES OR PROGRAMS OF THE PUBLIC SCHOOL:

1. Standardized testing ~~fees~~ for college credit or readiness offered by a widely recognized and accepted educational testing organization. ~~;~~

2. The career and technical education industry certification assessment. ~~;~~

3. Preparation courses and materials for standardized testing. ~~;~~

Ch. 216

4. CARDIOPULMONARY RESUSCITATION TRAINING PURSUANT TO SECTION 15-718.01.

5. Extracurricular activities. ~~or~~

6. Character education programs. ~~of the public school, but not exceeding:~~

B. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED:

1. Two hundred dollars for a single individual or a head of household.

~~2. Three hundred dollars in taxable year 2005 for a married couple filing a joint return.~~

~~3.~~ 2. Four hundred dollars ~~in taxable year 2006 and any subsequent taxable year~~ for a married couple filing a joint return.

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

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

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

~~E.~~ F. The site council of the public school that receives contributions that are not designated for a specific purpose shall determine how the contributions are used at the school site. If a charter school does not have a site council, the principal, director or chief administrator of the charter school shall determine how the contributions that are not designated for a specific purpose are used at the school site. If at the end of a fiscal year a public school has unspent contributions that were previously designated for a specific purpose or program and that purpose or program has been discontinued or has not been used for two consecutive fiscal

years, these contributions shall be considered undesignated in the following fiscal year for the purposes of this subsection.

~~F.~~ G. A public school that receives fees or a cash contribution pursuant to subsection A of this section shall report to the department, in a form prescribed by the department, by February 28 of each year the following information:

1. The total number of fee and cash contribution payments received during the previous calendar year.

2. The total dollar amount of fees and contributions received during the previous calendar year.

3. The total dollar amount of fees and contributions spent by the school during the previous calendar year, categorized by specific standardized testing, preparation courses and materials for standardized testing, extracurricular activity or character education program.

~~G.~~ H. For the purposes of this section, a contribution for which a credit is claimed and that is made on or before the fifteenth day of the fourth month following the close of the taxable year may be applied to either the current or preceding taxable year and is considered to have been made on the last day of that taxable year.

~~H.~~ I. For the purposes of this section:

1. "Career and technical education industry certification assessment" means an assessment for career and technical preparation programs for pupils.

2. "Character education programs" means a program described in section 15-719.

3. "Extracurricular activities" means school-sponsored activities that
Ch. 331 —— MAY require enrolled students to pay a fee in order to participate, including fees for:

(a) Band uniforms.

(b) Equipment or uniforms for varsity athletic activities.

(c) Scientific laboratory materials.

(d) In-state or out-of-state trips that are solely for competitive events. Extracurricular activities do not include any senior trips or events that are recreational, amusement or tourist activities.

4. "Public school" means a school that is part of a school district, a joint technical education district or a charter school.

5. "Standardized testing for college credit or readiness" includes the SAT, PSAT, ACT, advanced placement and international baccalaureate diploma tests and other similar tests.

6. "Widely recognized and accepted educational testing organization" means the college board, the ACT, the international baccalaureate and other organizations that are widely recognized and accepted by colleges and universities in the United States and that offer college credit and readiness examinations.

EXPLANATION OF BLEND
SECTION 44-281

Laws 2016, Chapters 263 and 277

Laws 2016, Ch. 263, section 51	Effective August 6, 2016
Laws 2016, Ch. 277, section 3	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 277 text changes to section 44-281 are blended in the form shown on the following pages.

BLEND OF SECTION 44-281
Laws 2016, Chapters 263 and 277

44-281. Definitions

In this article, unless the context otherwise requires:

1. "Administrator" means the superintendent of financial institutions.

2. "Cash sale price" means the price stated in a retail installment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle which is the subject matter of the retail installment contract, if such sale had been a sale for cash instead of a retail installment transaction. The cash sale price may include charges for accessories and their installation and for delivery, and servicing, repairing or improving the motor vehicle, and for charges for other costs that are necessary or incidental to the transaction and that the seller furnishes or agrees to pay on behalf of the buyer, including taxes, assessor's fees, license fees and fees for filing, recording or otherwise perfecting or releasing a reserved title or lien, and may include a reasonable charge for the seller's services.

Chs. 263 and 277

~~3. "Dealer" means any person who in any year sells on a noncash basis three or more motor vehicles at retail.~~

~~4.~~ 3. "Finance charge" means the amount agreed upon between the buyer and the seller, as limited herein, which in determining the cost of the motor vehicle is added to the aggregate of the following: The cash sale price and the amount, if any, included for insurance and other benefits where a separate cost is assigned thereto.

~~5.~~ 4. "Holder" of a retail installment contract means the retail seller of the motor vehicle under or subject to the contract or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee.

~~6.~~ 5. "Motor vehicle" means any self-propelled device in or by which any person or property is or may be transported or drawn on a public highway, except:

(a) Devices that move upon or are guided by a track or travel through the air.

(b) The following, if not designed primarily for highway transportation, but which may incidentally be operated on a public highway:

(i) Tractors.

(ii) Buses.

(iii) Trucks.

(iv) Power shovels.

(v) Road machinery.

(vi) Agricultural machinery.

~~7.~~ 6. "Person" means an individual, partnership, association, trust, corporation, or other legal entity.

~~8.~~ 7. "Retail buyer" or "buyer" means a person who buys a motor vehicle from a retail seller, not for the purpose of resale, and who executes a retail installment contract in connection therewith.

~~9.~~ 8. "Retail installment contract" or "contract":

(a) Means an agreement, entered into in this state, pursuant to which the title to or a lien upon the motor vehicle, which is the subject matter of

a retail installment transaction, is retained or taken by a retail seller from a retail buyer as security for the buyer's obligation.

(b) Includes:

(i) A conditional sales contract and a contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the motor vehicle for no other or a nominal consideration upon full compliance with the provisions of the contract.

(ii) A secondary motor vehicle finance transaction.

~~10.~~ 9. "Retail installment transaction" means any transaction evidenced by a retail installment contract entered into between a retail buyer and a retail seller wherein the retail buyer buys a motor vehicle from the retail seller at a cost payable in one or more deferred installments. The cash sale price of the motor vehicle, the amount included for insurance if a separate charge is made and the finance charge shall together constitute the cost of the motor vehicle.

~~11.~~ 10. "Retail seller" or "seller" means a person who sells a motor vehicle to a retail buyer for purposes other than resale under or subject to a retail installment contract. For the purposes of paragraph ~~13~~ 12 of this section "seller" means a person who sells and retains the use of the motor vehicle.

Chs. 263 and 277

~~12.~~ 11. "Sales finance company":

(a) Means a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more retail sellers.

(b) Includes a person engaged, in whole or in part, in the business of creating or holding retail installment contracts that exceed a total aggregate outstanding indebtedness of fifty thousand dollars.

(c) Does not include:

(i) The pledgee of an aggregate number of retail installment contracts to secure a bona fide loan thereon.

(ii) A MOTOR VEHICLE dealer who creates retail installment contracts and assigns the retail installment contracts to third party lenders or financial institutions ~~unless the dealer holds retail installment contracts that exceed a total aggregate outstanding indebtedness of fifty thousand dollars~~.

Chs. 263 and 277

~~13.~~ 12. "Secondary motor vehicle finance transaction":

(a) Means any contract that includes provisions for either:

(i) Obtaining a security interest in or lien on a motor vehicle other than in connection with the sale of that motor vehicle.

(ii) The sale or conditional sale of a motor vehicle and the seller's right to retain use of the motor vehicle after the sale or conditional sale.

(b) Includes any conditional sales contract or contract for the bailment or leasing of a motor vehicle in which the bailee or lessee agrees to pay for use of the motor vehicle and the bailee or lessee is required to become or has the option of becoming the owner of the vehicle for any or no compensation.

(c) Does not include any commercial transaction as defined in section 44-291.

EXPLANATION OF BLEND
SECTION 44-282

Laws 2016, Chapters 263 and 277

Laws 2016, Ch. 263, section 52	Effective August 6, 2016
Laws 2016, Ch. 277, section 4	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 263 and Ch. 277 text changes to section 44-282 are blended in the form shown on the following pages.

BLEND OF SECTION 44-282
Laws 2016, Chapters 263 and 277

44-282. Licensing of sales finance companies required; penalty

A. No person shall engage in the business of a sales finance company in this state without a license therefor as provided in this article. ~~No dealer shall engage in business in this state without a license issued by the administrator. No~~ A MOTOR VEHICLE dealer shall NOT sell or transfer any contract to a person in Arizona not licensed under the terms of this chapter.

Chs. 263 and 277

B. The application for a license shall be in writing, under oath and in the form prescribed by the administrator. The application shall contain the name of the applicant, the date of incorporation if incorporated, the address where the business is or is to be conducted and similar information as to any branch office of the applicant, the name and resident address of the owners or partners or, if a corporation or association, of the directors, trustees and principal officers, and such other pertinent information the administrator may require.

C. The license fee for a sales finance company is the fee prescribed in section 6-126. ~~The license fee for each dealer is the fee prescribed in section 6-126.~~

Chs. 263 and 277

D. To coincide with the licensing of motor vehicle dealers pursuant to title 28, chapter 10, the administrator may issue a sales finance company license ~~or a dealer license, or both,~~ pursuant to this article with staggered continuation dates to distribute the continuation workload as uniformly as practicable throughout the twelve months of the calendar year. In order to initiate a staggered license continuation system, the administrator may issue a license for more or less than a twelve month period, but not more than eighteen months, and may prorate the license fee.

E. A licensee shall submit its renewal application and applicable renewal fees to the department of financial institutions on or before the license continuation date. For the purposes of renewal, the license continuation date is as follows:

1. If the licensee is also a licensed motor vehicle dealer pursuant to title 28, chapter 10, the date prescribed by the initial licensing department, either the department of transportation or the department of financial institutions.

2. If the licensee is not also a licensed motor vehicle dealer pursuant to title 28, chapter 10, the date prescribed by the department of financial institutions.

F. A penalty of twenty-five dollars per day shall be assessed against any licensee for each day after the license continuation date that the licensee's renewal application and fee are not received by the department of financial institutions. Licenses not renewed within thirty days after their license continuation date expire.

G. A license shall be obtained for each separate place of business at or from which a licensee transacts business. Each license shall specify the

location of the office or branch and must be conspicuously displayed there. In case such location is changed, the administrator shall endorse the change of location on the license on the payment of the fee prescribed in section 6-126, subsection A~~, paragraph 25~~.

Chs 263 and 277

H. On the filing of the application and the payment of the required fee the administrator shall issue a license to the applicant to engage in the business of a sales finance company ~~or dealer~~ under and in accordance with this article. All licenses issued under this article shall remain in full force and effect until surrendered, revoked, suspended or canceled by failure to renew under this article. No licensee shall transact any business provided for by this article under any other name.

I. A license is not transferable or assignable and control of a licensee may not be acquired through a stock purchase or any other device without the prior written consent of the administrator. Written consent shall not be given if the administrator finds that any of the grounds for denial, revocation or suspension of a license as set forth in section 44-283 are applicable to the acquiring person. For the purposes of this subsection, "control" means the power to vote more than twenty ~~per cent~~ PERCENT of the outstanding voting shares of a licensed corporation, partnership, association or trust.

Chs. 263 and 277

J. A person doing business under the laws of this state or the United States as a bank, savings bank, savings and loan association or credit union is exempt from the licensing requirements of this section but shall comply with all other requirements of this chapter, except that affiliates of banks, savings banks, savings and loan associations or credit unions shall comply with this section. For the purposes of this subsection, "affiliate" means an entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the entity specified.

EXPLANATION OF BLEND
SECTION 44-294

Laws 2016, Chapters 263 and 277

Laws 2016, Ch. 263, section 53	Effective August 6, 2016
Laws 2016, Ch. 277, section 5	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 277 text changes to section 44-294 are blended in the form shown on the following page.

BLEND OF SECTION 44-294
Laws 2016, Chapters 263 and 277

Chs. 263 and 277

44-294. Records

Every ~~dealer,~~ holder~~,~~ or sales finance company shall maintain in its office, for a period of not less than one year after date of final payment or entry therein, a copy of all retail installment contracts or retail installment transactions entered into under the terms of this chapter.

EXPLANATION OF BLEND
SECTION 44-1844

Laws 2016, Chapters 31, 53, 67 and 329

Laws 2016, Ch. 31, section 1	Effective August 6, 2016
Laws 2016, Ch. 53, section 1	Effective August 6, 2016
Laws 2016, Ch. 67, section 1	Effective August 6, 2016
Laws 2016, Ch. 329, section 1	Effective August 6, 2016

Explanation

Since these four enactments are not incompatible, the Laws 2016, Ch. 31, Ch. 53, Ch. 67 and Ch. 329 text changes to section 44-1844 are blended in the form shown on the following pages.

BLEND OF SECTION 44-1844
Laws 2016, Chapters 31, 53, 67 and 329

44-1844. Exempt transactions

A. Except as provided in subsections B and C of this section, sections 44-1841 and 44-1842, section 44-1843.02, subsections B and C and sections 44-3321 and 44-3325 do not apply to any of the following classes of transactions:

1. Transactions by an issuer not involving any public offering.

2. The sale of securities by an executor, administrator, guardian or conservator or by a bank the business of which is supervised and regulated by an agency of this state or of the United States, as trustee under a will or trust agreement, or by a receiver or trustee in insolvency or bankruptcy approved by a court of competent jurisdiction of this state or the United States.

3. The sale in good faith and not for the purpose of avoiding the provisions of this chapter by a pledgee of securities pledged for a bona fide debt.

4. The sale in good faith and not for the purpose of avoiding the provisions of this chapter of securities, INCLUDING SECURITIES THAT WHEN ORIGINALLY ISSUED WERE EXEMPT PURSUANT TO SUBSECTION D OF THIS SECTION, by the bona fide owner of such securities, other than an issuer or underwriter, in an isolated transaction, in which the securities are sold either directly or through a dealer as agent for the owner but where the sales are not made in the course of repeated or successive transactions of similar character by the owner and are not made directly or indirectly for the benefit of the issuer or an underwriter of the securities. FOR THE PURPOSES OF THIS PARAGRAPH, THE SALE IS NOT CONSIDERED TO BE MADE IN THE COURSE OF REPEATED OR SUCCESSIVE TRANSACTIONS OF SIMILAR CHARACTER BY THE OWNER IF BOTH OF THE FOLLOWING APPLY:

Ch. 31

(a) THE SALE IS OF A SECURITY THAT WHEN ORIGINALLY ISSUED WAS EXEMPT PURSUANT TO SUBSECTION D OF THIS SECTION.

(b) AT LEAST NINE MONTHS HAVE PASSED FROM THE DATE OF THE LAST SALE OF THE SECURITY BY THE ISSUER TO A RESIDENT OF THIS STATE.

5. The distribution by a corporation of capital stock or other securities to its stockholders or other security holders as a stock dividend or other distribution out of retained earnings.

6. Any transaction or series of transactions incident to a statutory or judicially approved reorganization, merger, triangular merger, consolidation, or sale of assets, incident to a vote by securities holders pursuant to the articles of incorporation, the applicable corporate statute or other controlling statute, a partnership agreement or the controlling agreement among securities holders.

7. The exchange of securities by an issuer with its existing security holders exclusively, where no commission or remuneration is paid or given, directly or indirectly, for soliciting the exchange, if such exchange has been duly authorized and has been approved by the holders of not less than a majority of the outstanding securities of each class affected by the exchange.

8. An offer or sale of securities to a bank, a savings institution, a trust company, an insurance company, an investment company as defined in the investment company act of 1940, a pension or profit sharing trust or other financial institution or institutional buyer or a dealer whether the purchaser is acting for itself or in a fiduciary capacity.

9. The issuance and delivery of securities in exchange for other securities of the same issuer pursuant to a right of conversion entitling the holder of the securities surrendered in exchange to make such conversion.

Ch. 67

10. The issuance and delivery of securities of a corporation, LIMITED LIABILITY COMPANY OR LIMITED PARTNERSHIP to the original incorporators, ORGANIZERS OR GENERAL PARTNERS, not exceeding ten in number, where the securities are not acquired by the incorporators, ORGANIZERS OR GENERAL PARTNERS for the purpose of sale to others and are not directly or indirectly sold to a third party within twenty-four months unless an incorporator, ORGANIZER OR GENERAL PARTNER experiences a bona fide change of financial circumstances within such time period, providing original incorporators, ORGANIZERS OR GENERAL PARTNERS are notified of their right pursuant to title 10 OR 29 to review the financial books and records of the corporation, LIMITED LIABILITY COMPANY OR LIMITED PARTNERSHIP at reasonable times.

11. A nonissuer transaction in an outstanding security, including the sale by a dealer, including an underwriter no longer acting as an underwriter in respect to the securities involved, of securities sold and distributed to the public, but not including securities constituting an unsold allotment to or subscription by the dealer as a participant in the distribution of the securities by the issuer or by or through an underwriter, if the class of security has been outstanding in the hands of the public for not less than ninety days preceding the date of the transaction and a recognized manual of securities designated by the commission by rule or order at the time of sale contains the names of the issuer's officers and directors, a statement of financial condition of the issuer as of a date within eighteen months of the date of the sale and a statement of income or operations for each of the two fiscal years next before the date of the statement of financial condition or for the period from the commencement of the issuer's existence to the date of the statement of financial condition if the period is less than two years.

12. The sale by a dealer, including an underwriter no longer acting as an underwriter in respect to the securities involved, of securities of an issue sold and distributed to the public, but not including securities constituting an unsold allotment to or subscription by the dealer as a participant in the distribution of the securities by the issuer or by or through an underwriter, if securities of such issue have been registered by description under sections 44-1871 through 44-1875 or registered by qualification under sections 44-1891 through 44-1902.

13. The sale of commodity investment contracts traded on a commodities exchange recognized by the commission at the time of sale.

14. The sale or issuance of any investment contract or other security in connection with an employee's pension, profit sharing, stock purchase, stock bonus, savings, thrift, stock option or other similar employee benefit plan that meets the requirements for qualification under the United States internal revenue code.

15. Transactions within the exclusive jurisdiction of the commodity futures trading commission as granted under the commodity exchange act.

Chs. 31, 53, 67 and 329

16. Transactions involving the purchase of one or more precious metals ~~THAT~~ require, and under which the purchaser receives, within seven calendar days after the payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased by such payment. For the purposes of this paragraph, physical delivery is deemed to have occurred if, within such seven day period, the quantity of precious metals purchased by such payment is delivered, whether in specifically segregated or fungible bulk form, into the possession of a depository other than the seller which is a financial institution, a depository the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the commodity futures trading commission or a storage facility licensed or regulated by the United States or any agency of the United States and such depository or other person that qualifies as a depository issues and the purchaser receives a certificate, document of title, confirmation or other instrument evidencing that such quantity of precious metals has been delivered to the depository and is being and will continue to be held by the depository on the purchaser's behalf, free and clear of all liens and encumbrances, other than liens of the purchaser, tax liens, liens agreed to by the purchaser, or liens of the depository for fees and expenses, that have previously been disclosed to the purchaser. For the purposes of this paragraph, "financial institution" means a bank, savings institution or trust company organized under, or supervised pursuant to, the laws of the United States or of this state.

17. Transactions involving a commodity investment contract solely between persons engaged in producing, processing, using commercially or handling as merchants each commodity subject to the contract or any by-product.

18. A nonissuer transaction in an outstanding security, including the sale by a dealer, including an underwriter no longer acting as an underwriter in respect to the securities involved, of securities sold and distributed to the public, but not including securities constituting an unsold allotment to or subscription by the dealer as a participant in the distribution of the securities by the issuer or by or through an underwriter if both of the following apply:

(a) The class of security has been outstanding in the hands of the public for not less than ninety days preceding the date of the transaction.

(b) The securities are listed on an automated quotation system of a national securities association registered under the securities exchange act of 1934.

19. Transactions involving the sale of securities to persons who are not residents of this state and are not present in this state if all of the following conditions are met:

(a) The securities being offered are not blind pool offerings.

(b) At least ten days before the offering date:

(i) The issuer certifies that the securities being offered will be offered and sold in compliance with the securities act of 1933 and the laws and regulations of those states in which the offers and sales will be made.

(ii) The issuer files as a notice filing one copy of any offering materials that may be required by the SEC or the laws and rules of those states in which the offers and sales will be made.

(iii) The issuer submits a filing fee of two hundred dollars.

(c) Within ten working days of completion of the offering the issuer files a description of the actions taken as to compliance with the securities act of 1933 and the laws and rules of those states in which the offers and sales were made.

(d) The transaction complies with any rule adopted by the commission further restricting the exemption created by this paragraph to prevent any fraudulent practices.

20. Transactions involving offers or sales of one or more promissory notes directly secured by a first lien on a single parcel of real estate on which is located a dwelling or other residential or commercial structure and participation interest in those notes that are exempt under section 4(5) of the securities act of 1933.

21. OFFERINGS OF SECURITIES OF NOT MORE THAN ONE MILLION DOLLARS OR THE LIMIT ESTABLISHED UNDER 17 CODE OF FEDERAL REGULATIONS SECTION 230.504 AS FOLLOWS:

(a) AN UNLIMITED NUMBER OF SOPHISTICATED PURCHASERS MAY BE INVOLVED.

(b) WRITTEN OFFERING DOCUMENTS PROVIDING FULL AND ADEQUATE DISCLOSURE OF MATERIAL FACTS MUST BE PROVIDED TO EACH PURCHASER.

(c) ADVERTISING IS NOT ALLOWED WITHOUT A WAIVER FROM THE DIRECTOR.

(d) THE SUM OF THE FOLLOWING AMOUNTS MAY NOT EXCEED THE GREATER OF ONE MILLION DOLLARS OR THE LIMIT ESTABLISHED UNDER 17 CODE OF FEDERAL REGULATIONS SECTION 230.504:

(i) THE DOLLAR VALUE FOR THE AMOUNT OF SECURITIES BEING OFFERED.

(ii) THE AGGREGATE OFFERING PRICE OF ALL SECURITIES OF THE ISSUER SOLD WITHIN THE TWELVE MONTHS BEFORE THE DATE OF THE OFFERING.

(iii) THE AGGREGATE OFFERING PRICE OF ALL SECURITIES OF THE ISSUER SOLD DURING THE COURSE OF THE OFFERING IF THE SECURITIES WERE SOLD IN RELIANCE ON 15 UNITED STATES CODE SECTION 77c(b) OR IN VIOLATION OF 15 UNITED STATES CODE SECTION 77e(a).

(e) PROVISIONS ON OFFERINGS TO SOPHISTICATED PURCHASERS ARE AS FOLLOWS:

Ch. 329

(i) AN OFFERING TO SOPHISTICATED PURCHASERS UNDER THIS SECTION ALLOWS SALES TO EITHER AN ACCREDITED INVESTOR AS DEFINED IN 17 CODE OF FEDERAL REGULATIONS SECTION 230.501 OR A PERSON, ACTING ALONE OR WITH A PURCHASER REPRESENTATIVE, WHO THE DEALER REASONABLY BELIEVES HAS THE KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS TO BE CAPABLE OF EVALUATING THE MERITS AND RISKS OF THE PROPOSED INVESTMENT. THE DEALER MUST REASONABLY BELIEVE THAT THE PERSON HAS KNOWLEDGE AND EXPERIENCE BEFORE A PERSON BECOMES A PURCHASER.

(ii) THE ISSUER SHALL DISPLAY THE FOLLOWING NOTICE ON THE COVER PAGE OF THE DISCLOSURE DOCUMENT IN A CONSPICUOUS MANNER IN AT LEAST TWELVE-POINT BOLDFACE TYPE:

> IN MAKING AN INVESTMENT DECISION, INVESTORS SHALL RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE

SECURITIES COMMISSION OR DIVISION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD, EXCEPT AS ALLOWED BY 17 CODE OF FEDERAL REGULATIONS AND APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION FROM REGISTRATION. INVESTORS MUST BE AWARE THAT THEY ARE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

(f) ONE COPY OF THE NOTICE ON FORM D FILED WITH THE SEC IS FILED WITH THE COMMISSION NOT LATER THAN FIFTEEN CALENDAR DAYS AFTER THE FIRST SALE OF SECURITIES IN OR FROM THIS STATE.

(g) AN OFFERING TO PURCHASERS UNDER THIS SECTION ALLOWS ALL OF THE FOLLOWING:

(i) SALES TO BE MADE ONLY BY A DEALER WHO IS NOT THE ISSUER AND WHO IS REGISTERED IN THIS STATE.

(ii) THE DEALER TO CONDUCT THE SALES IF THE DEALER REASONABLY BELIEVES THAT ADEQUATE DILIGENCE AND REVIEW HAVE BEEN APPLIED IN CONNECTION WITH THE OFFERING AND THE DEALER ADEQUATELY DETERMINES THE SUITABILITY OF THE OFFERING TO A PURCHASER.

(iii) SALES IF THE DEALER REASONABLY BELIEVES THAT THE SECURITY IS SUITABLE FOR THE PURCHASER AFTER REASONABLE INQUIRY CONCERNING THE PURCHASER'S INVESTMENT OBJECTIVES, FINANCIAL SITUATION AND NEEDS AND AFTER CONSIDERATION OF ANY OTHER INFORMATION KNOWN BY THE DEALER.

(h) THE EXEMPTION MAY NOT BE USED IF AN ISSUER OR PERSON AFFILIATED WITH THE ISSUER OR OFFERING IS SUBJECT TO DISQUALIFICATION PURSUANT TO ANY OF THE FOLLOWING:

(i) THIS CHAPTER.

(ii) A RULE OR ORDER OF THE COMMISSION.

(iii) THE SECURITIES ACT OF 1933 (15 UNITED STATES CODE SECTION 77c(a)(11)).

(iv) THE SECURITIES ACT OF 1933, 17 CODE OF FEDERAL REGULATIONS SECTION 230.262.

(i) THE COMMISSION MAY SET ASIDE DISQUALIFICATION IF:

(i) ON A SHOWING OF GOOD CAUSE AND WITHOUT PREJUDICE TO ANY OTHER ACTION BY THE COMMISSION, THE COMMISSION DETERMINES THAT IT IS NOT NECESSARY THAT AN EXEMPTION BE DENIED UNDER THE CIRCUMSTANCES.

(ii) THE ISSUER ESTABLISHES THAT IT MADE A FACTUAL INQUIRY INTO WHETHER ANY DISQUALIFICATION EXISTED UNDER SUBDIVISION (h) OF THIS PARAGRAPH BUT DID NOT KNOW AND COULD NOT HAVE KNOWN WITH THE EXERCISE OF REASONABLE CARE THAT A DISQUALIFICATION EXISTED. THE NATURE AND SCOPE OF THE REQUISITE INQUIRY WILL VARY BASED ON THE CIRCUMSTANCES OF THE SUBJECT ISSUER AND THE OTHER OFFERING PARTICIPANTS.

B. Subsection A, paragraph 11 of this section does not apply to either of the following:

1. Sales by a dealer or salesman who is not registered in this state.

2. Solicited sales to or purchases from a resident of this state by a dealer who does not have, before the initial solicitation, a written new

account form signed by the resident or a customer agreement signed by the resident and a previous sale or purchase of a security with the resident.

C. The commission may by order revoke or suspend the exemption under subsection A, paragraph 11 or 18 of this section with respect to any securities or the use of the exemption under subsection A, paragraph 11 of this section by any dealer if it finds that the further sale in this state of the securities or by the dealer would work, or tend to work, a fraud or deceit on the purchaser.

D. Sections 44-1841 and 44-1842, section 44-1843.02, subsections B and C and sections 44-3321 and 44-3325 do not apply to the offer or sale of a security by the issuer of the security if all of the following apply:

1. The issuer of the security is:

(a) A business entity organized under the laws of this state.

(b) Authorized to do business in this state.

(c) Doing business in this state pursuant to the securities act of 1933, 17 Code of Federal Regulations section 230.147(c).

2. The transaction meets the requirement of the federal exemption for intrastate offerings in the securities act of 1933 (15 United States Code section 77c(a)(11)) and 17 Code of Federal Regulations section 230.147.

3. The aggregate offering price of the securities complies with the following:

(a) If the issuer has not undergone and made available to each prospective purchaser and the commission the opinion letter and applicable documentation resulting from a financial audit of its most recently completed fiscal year that complies with generally accepted accounting principles, the sum of all cash and other consideration to be received for all sales of securities in reliance on this exemption may not exceed one million dollars in a twelve-month period.

(b) If the issuer has undergone and made available to each prospective purchaser and the commission the opinion letter and applicable documentation resulting from a financial audit of its most recently completed fiscal year that complies with generally accepted accounting principles, the sum of all cash and other consideration to be received for all sales of securities in reliance on this exemption may not exceed two million five hundred thousand dollars in a twelve-month period.

(c) An offer or sale to an officer, director, partner, trustee or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning ten percent or more of the outstanding shares of any class or classes of securities of the issuer ~~may~~ DOES not count toward the monetary limitations prescribed in this paragraph.

Chs. 31, 53, 67 —— ~~may~~ and 329

4. All sales that are part of the same offering, made in reliance on this exemption, meet all of the terms and conditions of this exemption. Offers and sales that are made more than six months before the start of an offering or are made more than six months after completion of an offering may not be considered part of the offering if during those six-month periods there are no offers or sales of securities by or for the issuer that are of the same or a similar class as those offered or sold under this exemption, other than offers and sales to individuals identified in the disclosure document.

5. The issuer does not accept more than ten thousand dollars from any single purchaser unless the purchaser is an accredited investor as defined by the securities act of 1933, 17 Code of Federal Regulations section 230.501.

6. Unless waived by written consent of the director, not less than ten days before the commencement of an offering of securities, pursuant to this exemption, the issuer submits all of the following to the commission:

(a) A notice filing on a form prescribed by the commission.

(b) A copy of the disclosure document to be provided to prospective purchasers pursuant to paragraph 16 of this subsection.

(c) A copy of the escrow agreement entered into pursuant to paragraph 7 of this subsection.

(d) Any other documents or information the commission may require to administer and enforce this exemption.

7. All cash and other consideration paid for securities sold pursuant to an offering pursuant to this exemption are directed to and deposited into a single escrow account maintained by a bank, credit union or other depository financial institution in this state that is authorized to do business in this state and that maintains deposit or share insurance on its deposits or shares. The escrow agent for the escrow account shall maintain the records necessary to obtain pass-through insurance for the escrowed funds. The commission may request information from the financial institution necessary to ensure compliance with this paragraph. Any information received by the commission is confidential and not subject to disclosure, unless the director authorizes the disclosure of the information as not contrary to the public interest. The bank, regulated trust company or corporate fiduciary, savings bank, savings and loan association or credit union in which the investor monies are deposited is only responsible to act at the direction of the party establishing the escrow agreement and does not have any duty or liability, contractual or otherwise, to any investor or other person.

8. Offers made pursuant to this exemption state a target offering amount and an offering deadline. The offering deadline may not be less than twenty-one days and not more than one year from the date the offer is made.

9. The sum of all cash and other consideration received and held in escrow, as required by paragraph 7 of this subsection, may not be less than eighty percent of the target offering amount on expiration of the offering deadline or the early closing of the offering, pursuant to paragraph 11 of this subsection, and if this requirement is not met the transaction is void and the escrow agent shall return all funds deposited into the escrow account to the purchasers.

10. A purchaser is permitted to cancel the purchaser's commitment to invest at any time before forty-eight hours before expiration of the offering deadline if notice of cancellation is delivered electronically or physically in writing to the individual or addresses identified in the disclosure document. If a purchaser is given notice of an early closing, pursuant to paragraph 11 of this subsection, the purchaser may cancel the commitment within seventy-two hours of delivery of the notice.

11. If an issuer closes an offering before the offering deadline, the issuer delivers notice of the closing to each purchaser pursuant to the notice provisions set forth in the disclosure document prescribed by paragraph 16 of this subsection and posts the notice conspicuously on each

internet website on which the offer was posted, at least five days before the early closing.

12. Before or as a result of the offering, the issuer is not any of the following:

Chs. 31, 67 and 329

(a) An investment company, as defined by the investment company act of 1940 (15 United States Code section ~~80a-3[(c)]~~ 80a-3[(a)]).

Ch. 53

(b) An entity that would be an investment company but for the exclusions provided in the investment company act of 1940 (15 United States Code section 80a-3(c).

(c) Subject to the reporting requirements of the securities exchange act of 1934 (15 United States Code section 78o(d)).

(d) A company that has not yet defined its business operations, that does not have a business plan or a stated investment goal for the funds being raised or that plans to engage in a merger or acquisition with an unspecified business entity.

13. The issuer informs all prospective purchasers of securities that the securities have not been registered under federal or state securities laws and that the securities are subject to limitations on resale. The issuer shall display the following notice on the cover page of the disclosure document in a conspicuous manner in at least twelve-point boldface type:

> In making an investment decision, investors shall rely on their own examination of the issuer and the terms of the offering, including the merits and risks involved. These securities have not been recommended by any federal or state securities commission or division or regulatory authority. Furthermore, the foregoing authorities have not confirmed the accuracy or determined the adequacy of this document. Any representation to the contrary is a criminal offense. These securities are subject to restrictions on transferability and resale and may not be transferred or resold, except as permitted by 17 Code of Federal Regulations section 230.147(e) and the applicable state securities laws, pursuant to registration or exemption therefrom. Investors shall be aware that they will be required to bear the financial risks of this investment for an indefinite period of time.

14. The issuer requires each purchaser to certify in writing or electronically as follows:

> I understand and acknowledge that I am investing in a high-risk, speculative business venture. I may lose all of my investment, or under some circumstances more than my investment, and I can afford this loss. This offering has not been reviewed or approved by any state or federal securities commission or division or other regulatory authority and no such person or authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering. The securities I am acquiring in this offering are illiquid, there is no ready market for the sale of such securities, it may be difficult or impossible for me to sell or otherwise dispose of this investment~~,~~ and[,] accordingly, I may be required to hold this investment indefinitely. I may be subject to tax on my

Chs. 67 and 329

share of the taxable income and losses of the company, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the company.

15. The issuer obtains from each prospective purchaser evidence that the prospective purchaser is a resident of this state and, if applicable, is an accredited investor. A prospective purchaser's residence shall be determined in accordance with the securities act of 1933, 17 Code of Federal Regulations section 230.147(d). An affirmative representation made by an individual that the individual is a resident of this state and proof of at least one of the following is sufficient evidence that the individual is a resident of this state:

(a) A valid driver license or nonoperating identification license issued pursuant to title 28.

(b) A current voter registration for this state.

(c) General property tax records showing that the individual owns and occupies property in this state as the individual's principal residence.

16. The issuer shall provide a disclosure document to each prospective purchaser at the time the offer of securities is made that contains all of the following:

(a) A description of the company, its type of entity, the address and telephone number of its principal office, its history, its business plan and the intended use of the offering proceeds, including any amounts to be paid as compensation or otherwise to any owner, executive officer, director, managing member or other person occupying a similar status with the company or performing similar functions on behalf of the issuer.

(b) The identity of all persons owning more than ten percent of the ownership interests of any class of securities of the company.

(c) The identity of the executive officers, directors, managing members and other persons occupying a similar status or performing similar functions in the name of and on behalf of the issuer, including their titles and prior experience.

(d) The terms and conditions of the securities being offered and of any outstanding securities of the company.

(e) The offering deadline and the target offering amount.

(f) Any conditions on which the issuer may exercise its right to close an offering before the offering deadline, including the notice that will be provided to both purchasers and potential purchasers if the offering is closed before the offering deadline and the method in which the notice will be delivered.

(g) Either the percentage ownership of the company represented by the offered securities or the valuation of the company implied by the price of the offered securities.

(h) The price per share, unit or interest of the securities being offered.

(i) Any restrictions on transfer of the securities being offered.

(j) A disclosure of any anticipated future issuance of securities that might dilute the value of securities being offered.

(k) The identity of any person who has been or will be retained by the issuer to assist the issuer in conducting the offering and sale of the securities, including any internet website operator. This subdivision does

not apply to persons acting solely as accountants, attorneys or employees whose primary job responsibilities involve operating the business of the issuer except that the identity of any person assisting the issuer in raising capital must be disclosed.

(l) A description of the consideration being paid to any person identified in subdivision (k) of this paragraph, for such assistance to the issuer.

(m) A description of any litigation, legal proceedings or pending regulatory action involving the company or its management.

(n) The names and addresses, including the uniform resource locator, of each internet website that the issuer will use to offer or sell securities pursuant to this exemption.

(o) The name of the individual and addresses to which purchasers may deliver cancellations pursuant to paragraph 10 of this subsection. Issuers shall provide the name of at least one individual with both an electronic and a physical address to which cancellations may be delivered.

(p) Current financial statements certified by the principal executive officer shall be true and complete in all material respects. If applicable, the documentation required by paragraph 3, subdivision (b) of this subsection shall also be provided.

(q) Any additional information material to the offering including, if appropriate, a written statement of significant factors that make the offering speculative or risky. This statement shall be concise and organized logically and shall not be limited to risks that could apply to any issuer or any offering.

17. The exemption is not used if an issuer or person affiliated with the issuer or offering is subject to disqualification pursuant to:

(a) This chapter.

(b) A rule or order of the commission.

(c) The securities act of 1933 (15 United States Code section 77c(a)(11)).

(d) The securities act of 1933, 17 Code of Federal Regulations section 230.262.

18. The commission may set aside disqualification if:

(a) On a showing of good cause and without prejudice to any other action by the commission, the commission determines that it is not necessary that an exemption be denied under the circumstances.

(b) The issuer establishes that it made a factual inquiry into whether any disqualification existed under this subsection but did not know and could not have known in the exercise of reasonable care that a disqualification existed. The nature and scope of the requisite inquiry will vary based on the circumstances of the subject issuer and the other offering participants.

19. The sale is made exclusively through one or more internet websites
Ch. 53 — that are operated by THE ISSUER OF THE SECURITIES SOLD, a dealer who is registered pursuant to article 9 of this chapter or by a person who does not receive a commission or remuneration, directly or indirectly, for the offer or sale of the security and who makes a notice filing pursuant to paragraph 6 of this subsection. Each issuer and website operator shall comply with the following:

(a) Before any offer or sale of securities, the issuer shall provide to the website operator evidence that the issuer is organized under the laws of this state and is authorized to do business in this state.

(b) The website operator shall limit website access to the offer or sale of securities only to residents of this state.

(c) The website operator may not be a purchaser in any offering made pursuant to this exemption. THIS SUBDIVISION DOES NOT APPLY IF THE WEBSITE OPERATOR IS THE ISSUER OF THE SECURITIES OFFERED OR SOLD PURSUANT TO THIS EXEMPTION.

Ch. 53

(d) The website operator may not hold an interest in or be affiliated with or under common control with any issuer making an offer or sale pursuant to this exemption. THIS SUBDIVISION DOES NOT APPLY IF THE WEBSITE OPERATOR IS THE ISSUER OF THE SECURITIES OFFERED OR SOLD PURSUANT TO THIS EXEMPTION.

(e) Before and throughout the term of any offering, the website operator shall give the commission access to the internet website on which any offering is made pursuant to this exemption.

(f) The issuer may distribute a limited notice stating that the issuer is conducting an offering pursuant to this exemption, the name of the website operator through which the offer is being conducted and a link directing potential purchasers to the internet website of the website operator. The notice shall contain a disclaimer that states that the offering is limited to residents of this state.

20. The issuer makes and keeps all accounts, correspondence, memoranda, papers, books and other records that the commission prescribes by rule or order. All required records shall be:

Chs. 31, 53, 67 and 329

(a) Preserved for three years unless the commission prescribes otherwise for particular types of ~~record~~ RECORDS, by administrative rule or order.

(b) Maintained within this state, or at the request of the commission be made available at any time for examination by the commission in the issuer's principal office or by production of exact copies in this state.

21. The issuer provides, free of charge, a quarterly report to the issuer's purchasers until no securities issued under this exemption are outstanding. The issuer may satisfy this reporting requirement by making the information available on an internet website if the information is made available within forty-five days after the end of each fiscal quarter and remains available until the succeeding quarterly report is issued. The issuer shall also provide a written copy of the report to any purchaser on request. The report shall contain all of the following:

(a) Any compensation received by each director or executive officer, including cash compensation earned since the previous report and on an annual basis, any bonuses, stock options or other rights to receive securities of the issuer or any affiliate of the issuer and payments that reduce personal living expenses such as A company vehicle, free housing, meals or club dues.

Chs. 31, 53, 67 and 329

(b) An analysis by the issuer's management of the business operations and financial condition of the issuer.

E. THE DIRECTOR MAY ADOPT RULES BASED ON 17 CODE OF FEDERAL REGULATIONS SECTION 230.504 AND REVISE THE RULES AS NECESSARY TO KEEP THEM CURRENT WITH THE FEDERAL LAW.

Ch. 329

EXPLANATION OF BLEND
SECTION 47-9311

Laws 2016, Chapters 263 and 276

Laws 2016, Ch. 263, section 54	Effective August 6, 2016
Laws 2016, Ch. 276, section 49	Effective August 6, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 263 and Ch. 276 text changes to section 47-9311 are blended in the form shown on the following page.

BLEND OF SECTION 47-9311
Laws 2016, Chapters 263 and 276

47-9311. Perfection of security interests in property subject to certain statutes, regulations and treaties

A. Except as otherwise provided in subsection D of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

1. A statute, regulation or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section 47-9310, subsection A;

2. A statute of this state that provides for central filing of or that requires indication on a certificate of title of a security interest in the property, including title 28, chapter 7, article 4, and that requires indication of the security interest on a certificate of title for a vehicle required to be ~~titled~~ ISSUED A CERTIFICATE OF TITLE and registered under section 28-2153 and for a mobile home required to be titled under section 28-2063; or

Chs. 263 and 276

3. A statute of another jurisdiction that provides for a security interest to be indicated on a certificate of title as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

B. Compliance with the requirements of a statute, regulation or treaty described in subsection A of this section for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this chapter. Except as otherwise provided in subsection D of this section and section 47-9313 and section 47-9316, subsections D and E for goods covered by a certificate of title, a security interest in property subject to a statute, regulation or treaty described in subsection A of this section may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

C. Except as otherwise provided in subsection D of this section and section 47-9316, subsections D and E, duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation or treaty described in subsection A of this section are governed by the statute, regulation or treaty. In other respects, the security interest is subject to this chapter.

D. During any period in which collateral subject to a statute specified in subsection A, paragraph 2 of this section is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

EXPLANATION OF BLEND
SECTION 48-805.02

Laws 2016, Chapters 183 and 219

Laws 2016, Ch. 183, section 1 — Effective August 6, 2016 (Retroactive to July 1, 2016)

Laws 2016, Ch. 219, section 3 — Effective May 12, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 183 and Ch. 219 text changes to section 48-805.02 are blended in the form shown on the following pages.

BLEND OF SECTION 48-805.02
Laws 2016, Chapters 183 and 219

48-805.02. Fire district annual budget; levy; requirements

A. A fire district shall prepare an annual budget that contains detailed estimated expenditures for each fiscal year and that clearly shows salaries payable to employees of the district. The budget summary shall be posted in three public places and a complete copy of the budget shall be published on the district's official website for twenty days before a public hearing at a meeting called by the board to adopt the budget. Copies of the budget shall also be available to members of the public on written request to the district. Following the public hearing, the district board shall adopt a budget. A complete copy of the adopted budget shall be posted in a prominent location on the district's official website within seven business days after final adoption and shall be retained on the website for at least sixty months. For any fire district that does not maintain an official website, the fire district may comply with this subsection by posting on a website of an association of fire districts in this state.

B. Not more than ten days after the organization of a fire district and not later than August 1 of each year thereafter, the chairman of the district board shall submit to the county board of supervisors a budget estimate that contains certifications by item and that specifies the amount of money required for the maintenance and operation of the district for the ensuing year.

C. Based on the budget submitted by the district, the board of supervisors shall levy the tax as prescribed in section 48-807, subsection ~~E~~ F.

Chs. 183 and 219

D. Every budget adopted by a fire district shall include the following:

1. A certification by the chairman and clerk of the district board as to both of the following:

(a) That the district has not incurred any debt or liability in excess of taxes levied and to be collected and the money actually available and unencumbered at that time in the district general fund, except for those liabilities as prescribed in section 48-805, subsection B, paragraph 2 and sections 48-806 and 48-807.

(b) That the district complies with subsection F of this section.

2. For each of the items listed in the budget summary approved pursuant to subsection A of this section, the district shall estimate the revenue or expense for the next two fiscal years. Estimates shall be based on the average increase or decrease of the item for the previous two fiscal years unless more certain information is available to the district. Estimates shall include any applicable levy or rate limitations.

3. If a district's total estimate of expenses exceeds its total estimate of revenues for any fiscal year, the district shall undertake a study of merger, consolidation or joint operating alternatives. The study required by this paragraph shall be presented to the fire district board in a special public meeting called for the sole purpose of evaluating the study. The study shall include an identification of districts available for merger, consolidation or joint operations, an analysis of the level of service and cost of service that may be provided to the residents of a merged, consolidated or jointly operated district as compared to the level and cost of service to the residents of the districts without any merger, consolidation or joint operations.

E. For any district that amends its budget after its initial adoption, the district board shall hold at least two hearings on the revision of the budget and the revised budget must be considered and adopted in a special meeting that is called for the adoption of the revised budget. The special meeting must be held one week after the consideration of the revision of the budget at a regularly scheduled meeting of the board of directors of the district. This subsection does not apply to a district organized pursuant to article 3 of this chapter.

F. When a fire district has adopted a budget and the board of supervisors has levied a fire district tax as provided in subsection C of this section and the district has insufficient monies in its general fund with the county treasurer to operate the district, the chairman of the fire district board of directors, on or after August 1 of each year, may draw warrants for the purposes prescribed in section 48-805 on the county treasurer, payable on November 1 of that year or on April 1 of the succeeding year. The aggregate amounts of the warrants may not exceed ninety percent of the taxes levied by the county for the district's current fiscal year. If the treasurer cannot pay a warrant for lack of monies in the fire district general fund, the warrant shall be endorsed, be registered, bear interest and be redeemed as provided by law for county warrants, except that the warrants are payable only from the fire district general fund.

G. Any audit, report or review of a fire district made pursuant to section 48-253 shall be presented to the district board by the auditor telephonically or in another live electronic format during a public meeting of the board or, as directed by the board, in person at a public meeting of the board. The district board shall take formal action at the public meeting to review and receive the audit, report or review. The audit, report or review shall include an attestation by the auditor of the district as to all of the following:

1. That the district has not incurred any debt or liability in excess of taxes levied and to be collected and the monies actually available and unencumbered at that time in the district general fund except for those liabilities as prescribed in section 48-805, subsection B, paragraph 2 and sections 48-806 and 48-807.

2. That the district complies with subsection F of this section.

3. Whether the audit, report or review disclosed any information contrary to the certification made as prescribed by subsection D, paragraph 1 of this section.

EXPLANATION OF BLEND
SECTION 48-807

Laws 2016, Chapters 183 and 219

Laws 2016, Ch. 183, section 2	Effective August 6, 2016 (Retroactive to July 1, 2016)
Laws 2016, Ch. 219, section 4	Effective May 12, 2016

Explanation

Since these two enactments are identical, the Laws 2016, Ch. 183 and Ch. 219 text changes to section 48-807 are blended in the form shown on the following pages.

BLEND OF SECTION 48-807
Laws 2016, Chapters 183 and 219

48-807. County fire district assistance tax; annual budget; override

A. The board of supervisors of a county shall levy, at the time of levying other property taxes, a county fire district assistance tax on the taxable property in the county of not more than ten cents per one hundred dollars of assessed valuation. The tax levy provided for in this subsection shall be a levy of secondary property taxes and shall not be subject to title 42, chapter 17, article 2. The county treasurer shall pay to each fire district, including a fire district formed pursuant to section 48-851, in the county from the proceeds of the tax an amount equal to twenty percent of the property tax levy adopted by the district for the fiscal year in which the tax will be levied, except that:

1. The amount of assistance from the county to a fire district shall be reduced as follows:

(a) Through the fiscal year that ends June 30, 2012, by the dollar amount that the fire district receives from the fire district assistance tax that exceeds three hundred thousand dollars from and after June 30 of each fiscal year.

(b) Beginning with the fiscal year that starts July 1, 2012, by the dollar amount that the fire district receives from the fire district assistance tax that exceeds four hundred thousand dollars from and after June 30 of each fiscal year, without regard to whether the district is located in more than one county.

(c) Except as provided in paragraph 2 of this subsection, if the total amount to be paid to all districts in the county under this paragraph exceeds the amount to be raised by the levy of ten cents per one hundred dollars assessed valuation, then the county treasurer shall pay an amount less than twenty percent of the property tax levy of each district. The amount to be paid by the county treasurer to each district shall be determined by multiplying the proceeds of the county fire district assistance tax against the proportion that twenty percent of the property tax levy of each district bears to the total of twenty percent of the property tax levies of all fire districts in the county.

2. For fiscal years beginning from and after July 1, 1992, the amount of assistance from the county to a fire district shall not be less than the assistance provided from and after June 30, 1991 through June 30, 1992, if, for the fiscal year in which the tax will be levied, the district levies a tax, in addition to any tax levied under section 48-806, of three dollars per one hundred dollars of assessed valuation and the assessed valuation is at least ninety percent of the assessed valuation for the 1991 tax year. This paragraph does not apply to fire districts subject to paragraph 1, subdivision (a) or (b) of this subsection.

B. For the purpose of subsection A of this section, the property tax levy of the fire district shall include in lieu contributions pursuant to chapter 1, article 8 of this title but shall not include property tax levies to be applied to the payment of principal and interest on bonds issued pursuant to section 48-806.

C. Beginning with the fiscal year that starts July 1, ~~2012~~ 2016, a consolidated district shall not receive more than ~~four hundred thousand dollars~~ THE MAXIMUM ALLOWABLE AMOUNT in fire district assistance tax monies AS PRESCRIBED IN SUBSECTION D OF THIS SECTION, without regard to whether the consolidated district is located in more than one county.

D. Beginning with the fiscal year that starts July 1, ~~2012~~ 2016, ~~if~~ FOR ANY two or more fire districts THAT merge OR CONSOLIDATE to form a consolidated district ~~and the total of the amounts received by each fire district from the fire district assistance tax is less than four hundred thousand dollars~~ ON OR AFTER JULY 1, 2014, the consolidated district may continue to receive monies ~~until its receipts total four hundred thousand dollars,~~ IN AN AMOUNT NOT TO EXCEED THE SUM OF THE AVERAGE OF THE AMOUNT OF FIRE DISTRICT ASSISTANCE TAX MONIES RECEIVED BY EACH OF THE CONSOLIDATING OR MERGING DISTRICTS IN THE FIVE FISCAL YEARS IMMEDIATELY PRECEDING THE MERGER OR CONSOLIDATION as prescribed in subsection A of this section, without regard to whether the consolidated district is located in more than one county.

E. FOR A CONSOLIDATED DISTRICT THAT IS FORMED IN ANY FISCAL YEAR BEGINNING JULY 1, 2014 OR LATER AND THAT IS RECEIVING FIRE DISTRICT ASSISTANCE TAX MONIES THAT ARE REDUCED AS PRESCRIBED IN SUBSECTION A, PARAGRAPH 1, SUBDIVISION (c) OF THIS SECTION, IF THE TOTAL AMOUNT OF FIRE DISTRICT ASSISTANCE TAX MONIES THAT WOULD BE PAID TO ALL DISTRICTS IN THE COUNTY PURSUANT TO SUBSECTION A OF THIS SECTION IS LESS THAN THE AMOUNT OF MONIES THAT WOULD BE RAISED BY THE LEVY OF TEN CENTS PER ONE HUNDRED DOLLARS ASSESSED VALUATION, THE TREASURER SHALL PAY THE CONSOLIDATED DISTRICT THE AMOUNT OF FIRE DISTRICT ASSISTANCE TAX MONIES PRESCRIBED BY SUBSECTION A OF THIS SECTION THAT WOULD HAVE BEEN PAID TO THE DISTRICTS AT THE TIME THE DISTRICTS MERGED OR CONSOLIDATED.

Chs. 183 and 219

~~E.~~ F. The board, based on the budget submitted by the district, shall levy, in addition to any tax levied as provided in section 48-806, a tax not to exceed three dollars twenty-five cents per one hundred dollars of assessed valuation, or the amount of the levy in the preceding tax year multiplied by 1.08, whichever levy is less, and minus any amounts required to reduce the levy pursuant to subsection ~~H~~ I of this section, against all property situated within the district boundaries and appearing on the last assessment roll. The levy shall be made and the taxes collected in the manner, at the time and by the officers provided by law for the collection of general county taxes.

~~F.~~ G. The qualified electors of the district, voting in an election as prescribed by subsection ~~G~~ H of this section, may authorize the board to levy a tax exceeding the limits prescribed by subsection ~~E~~ F of this section under one, but not both, of the following options:

1. The electors may authorize a permanent override allowing annual levies without reference to the levy in the preceding tax year, but remaining subject to the tax rate limit of three dollars twenty-five cents

per one hundred dollars of assessed valuation. An election for the purposes of this paragraph must be held at a regularly scheduled general election held on the first Tuesday following the first Monday in November as prescribed by section 16-204, subsection F.

2. If the net assessed valuation of all property in the district declines by a combined total of twenty percent or more over two consecutive valuation years, the electors voting at the next regularly scheduled general election held on the first Tuesday following the first Monday in November as prescribed by section 16-204, subsection F may authorize an override for five consecutive tax years allowing annual levies that are exempt from the tax rate limit of three dollars twenty-five cents, but subject to an annual levy limit of the amount of the levy in the preceding tax year multiplied by 1.05. After the fifth tax year, the district is again subject to the limits prescribed by subsection ~~E~~ F of this section, computed by multiplying the levy beginning in the year preceding the override by 1.08 for each year through the current tax year.

~~G.~~ H. The call for an override election held for the purposes of subsection ~~F~~ G of this section must state:

1. The purpose for requesting additional secondary property tax revenue for the district.

Chs. 183 and 219

2. If the voters approve the levy:

(a) The maximum dollar amount of secondary property tax that may be collected in the first year compared to the existing maximum secondary property tax levy prescribed in subsection ~~E~~ F of this section.

(b) The estimated secondary property tax rate to fund the proposed levy under subdivision (a) of this paragraph in the first tax year compared to the secondary property tax rate levied in the current year.

~~H.~~ I. If the district annexes additional territory, the limit under subsection ~~E~~ F of this section shall be adjusted by applying the district's tax rate to the assessed valuation of the annexed property in the preceding tax year. If districts are merged or consolidated under this chapter, the limitation under this subsection in the first year after the districts are merged or consolidated is the total of the levies of the merged or consolidated districts in the preceding tax year multiplied by 1.08 or the amount of the levies allowed by the maximum rate prescribed by subsection ~~E~~ F of this section, whichever is less.

~~I.~~ J. The district shall maintain any property tax revenues collected in excess of the sum of the amounts of taxes collectible pursuant to section 42-17054 and the allowable levy determined under subsection ~~E~~ F of this section in a separate fund and used to reduce the property tax levy in the following tax year.

Chs. 183 and 219

~~J.~~ K. The levy limit under this section is considered to be increased each year to the maximum limit permissible under subsection ~~E~~ F of this section regardless of whether the district actually levies taxes up to the maximum permissible amount in that year.

~~K.~~ L. The county treasurer shall keep the money received from taxes levied pursuant to subsection ~~E~~ F of this section in a separate fund known as the "fire district general fund" of the district for which collected. Any surplus remaining in the fire district general fund at the

end of the fiscal year shall be credited to the fire district general fund of the district for which it was collected for the succeeding fiscal year and after subtraction of accounts payable and encumbrances, shall be used to reduce the property tax levy in the following tax year.

~~L.~~ M. A fire district may maintain separate accounts with a financial institution that is authorized to do business in this state for the purpose of operating a payroll account or for holding special revenues or ambulance revenues, or both, as necessary to fulfill the district's fiduciary responsibilities.

~~M.~~ N. A fire district, through the county treasurer, shall establish the relevant governmental funds necessary for the proper management and fiscal accountability of district monies from property taxes, grants, contributions and donations, as defined by the government accounting standards board. Unless the monies received are legally restricted by contract, agreement or law, those monies may be transferred between fund accounts according to the original or amended budget of the fire district.

~~N.~~ O. A fire district shall reconcile all balance sheet accounts for accounts for each calendar month of the fiscal year within thirty days after the end of that calendar month. The fire district board shall review the reconciled balance sheet accounts monthly, except that for a fire district that is governed by a three-member board, the board may review the reconciled balance sheet accounts every two months.

~~O.~~ P. A fire district shall produce monthly financial reports to include a register of checks, warrants and deposits, a statement of financial activities and a statement of net assets for each calendar month. A fire district shall produce a cash flow projection report for each fiscal year. The cash flow projection report shall be updated monthly with the actual revenues and expenditures from the preceding month. Each month, the fire district board shall review the financial reports, the updated cash flow projections report and all month-end fund statements and reports of the preceding month to include those reports provided by the county treasurer and each of the financial institutions in which the district maintains an account, except that for a fire district that is governed by a three-member board, the board may review the reports and statements prescribed by this subsection every two months. Any financial report or cash flow projection report that would indicate that the district is likely to violate section 48-805.02, subsection D, paragraph 1 or that would indicate an adverse impact on the ongoing operations or liquidity of the district shall be reported by the fire district board chairman in writing and delivered by certified mail to the county treasurer and the county board of supervisors within ten days after the discovery.

~~P.~~ Q. Notwithstanding section 11-605, a fire district may register warrants only if separate accounts are maintained by the county treasurer for each governmental fund of a fire district. Warrants may only be registered on the maintenance and operation account, the unrestricted capital outlay account and the special revenue account, and only if the total cash balance of all three accounts is insufficient to pay the

warrants and after any revolving line of credit has been expended as prescribed in section 11-635.

Chs. 183 and 219

~~Q.~~ R. When a fire district has adopted a budget and the board of supervisors has levied a fire district tax as provided in subsection ~~E~~ F of this section and the district has insufficient money in its general fund with the county treasurer to operate the district, the chairman of the board, on or after August 1 of each year, may draw warrants for the purposes prescribed in section 48-805 on the county treasurer, payable on November 1 of that year or on April 1 of the succeeding year. The aggregate amounts of the warrants may not exceed ninety percent of the taxes levied by the county for the district's current fiscal year. If the treasurer cannot pay a warrant for lack of funds in the fire district general fund, the warrant shall be endorsed, be registered, bear interest and be redeemed as provided by law for county warrants, except that the warrants are payable only from the fire district general fund.

EXPLANATION OF BLEND
SECTION 49-353

Laws 2016, Chapters 128 and 192

Laws 2016, Ch. 128, section 122	Effective August 6, 2016 (Retroactive to July 1, 2016)
Laws 2016, Ch. 192, section 3	Effective August 6, 2016

Explanation

Since these two enactments are not incompatible, the Laws 2016, Ch. 128 and Ch. 192 text changes to section 49-353 are blended in the form shown on the following pages.

BLEND OF SECTION 49-353
Laws 2016, Chapters 128 and 192

49-353. Duties of director; rules; prohibited lead use

A. The director shall:

1. Exercise general supervision over all matters related to water quality control of public water systems throughout this state.

2. Prescribe rules regarding the production, treatment, distribution and testing of potable water by public water systems, except that such rules shall not apply to irrigation, industrial or similar systems where the water is used for nonpotable purposes. The rules shall comply with at least the following:

(a) The requirements established by the United States environmental protection agency for state primary enforcement responsibility of the safe drinking water act, including the requirements of 40 Code of Federal Regulations parts 141 and 142.

(b) Require that the plans and specifications for all public water systems, including water treatment plants, distribution systems, distribution system extensions, water treatment methods and devices and all appurtenances and devices for sale to be used in water supplies and public water systems be submitted with a fee for review to the department. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section. Monies collected from the fees shall be deposited in the water quality fee fund established by section 49-210. The director may require that plans and specifications for public water systems include programs to meet future needs for drinking water and to supply specified minimum quantities of drinking water. The director shall:

(i) Require that a new public water system demonstrate that the system possesses adequate managerial and financial capacity to operate in compliance with this article and the rules adopted pursuant to this article.

(ii) Accept adequate findings of other public authorities regarding the adequate managerial and financial capacity of a public water system to operate in compliance with this article and the rules adopted pursuant to this article.

(c) Provide that no public water system, including a water treatment plant, distribution system, distribution system extension, water treatment method or device, appurtenance and device used in water supplies or public water systems be constructed, reconstructed, installed or initiated before compliance with the standards and rules has been demonstrated by approval of the plans and specifications by the department. The rules shall prescribe minimum standards for the bacteriological, physical and chemical quality of water distributed through public water systems. The director of environmental quality may consult with the director of the department of health services in developing these standards.

(d) Provide for a simplified administrative procedure for approving structural revisions, additions, extensions or modifications to existing small public water systems for potable water serving a population of three thousand three hundred or fewer persons.

(e) Exempt from the plan review requirements of this paragraph, including any requirements for approval to construct or approval of construction, any structural revisions, additions, extensions or modifications to public water systems which are in compliance with the department's rules applicable to those systems or which are making satisfactory progress towards compliance under a schedule approved by the department if either of the following conditions is satisfied:

(i) The revision, addition, extension or modification has a project cost of twelve thousand five hundred dollars or less.

(ii) The revision, addition, extension or modification is made to a water line which is not for a subdivision requiring plat approval by a city, town or county, and has a project cost of more than twelve thousand five hundred dollars but less than fifty thousand dollars, the design of which is sealed by a professional engineer registered in this state and the construction of which is reviewed for conformance with the design by a professional engineer.

(f) Require a notice of compliance with the conditions for
Ch. 128 — exemption ~~upon~~ ON the completion of any revisions, additions, extensions or modifications completed in accordance with subdivision (e) of this paragraph.

(g) Provide for the submission of samples at stated intervals.

(h) Provide for inspection and certification of such water supplies.

(i) Provide for the abatement as public nuisances of any premises, equipment, process or device, or public water system that does not comply with the minimum standards and rules.

(j) Provide for records regarding water quality to be kept by owners and operators of the public water systems and that reports regarding water quality be filed with the department.

(k) Provide for appropriate actions to be taken if a water supply does not meet the standards established by the department.

(l) Require a public water system to implement a specified program to control contamination from backflow, backsiphonage or cross connection.
Ch. 128 — All such programs shall be consistent with ~~title 41, chapter 16~~ SECTION 37-1388.

(m) Require that public water systems identify and provide notice to persons that may be affected by lead contamination of their drinking water where such contamination results from either or both of the following:

(i) The lead content in the construction materials of the public water distribution system.

(ii) Corrosivity of the water supply sufficient to cause leaching of lead.

(n) Provide for relief from water testing and monitoring requirements for public water systems qualifying under the federal safe

Chs. 128 and 192 drinking water act (P.L. 93-523; 88 Stat. ~~1660~~ 1661; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613), as amended in 1996.

3. Develop and implement strategies to assist public water systems in acquiring and maintaining the technical, managerial and financial capacity to operate in compliance with this article and the rules adopted pursuant to this article. Assistance may be provided based on the needs of the water system.

B. Pipes, ~~and~~ pipe fittings AND PLUMBING FITTINGS AND FIXTURES having a lead content in excess of ~~eight [per cent]~~ A WEIGHTED AVERAGE OF ONE-QUARTER OF ONE [PERCENT] LEAD WHEN USED WITH RESPECT TO THE WETTED SURFACES and solders and flux having a lead content in excess of two-tenths of one [~~per cent~~ PERCENT] shall not be used in the installation or repair of public water systems or of any plumbing in residential or nonresidential facilities providing water for human consumption ~~which are connected to public water systems~~. THE WEIGHTED AVERAGE LEAD CONTENT OF A PIPE, PIPE FITTING OR PLUMBING FITTING OR FIXTURE SHALL BE CALCULATED AS FOLLOWS:

Chs. 128 and 192

1. FOR EACH WETTED COMPONENT, THE PERCENTAGE OF LEAD IN THE COMPONENT SHALL BE MULTIPLIED BY THE RATIO OF THE WETTED SURFACE AREA OF THAT COMPONENT TO THE TOTAL WETTED SURFACE AREA OF THE ENTIRE PRODUCT TO ARRIVE AT THE WEIGHTED PERCENTAGE OF LEAD OF THE COMPONENT.

2. THE WEIGHTED PERCENTAGE OF LEAD OF EACH WETTED COMPONENT SHALL BE ADDED TOGETHER, AND THE SUM OF THESE WEIGHTED PERCENTAGES SHALL CONSTITUTE THE WEIGHTED AVERAGE LEAD CONTENT OF THE PRODUCT.

Ch. 192

3. THE LEAD CONTENT OF THE MATERIAL USED TO PRODUCE A WETTED COMPONENT SHALL BE USED TO DETERMINE COMPLIANCE WITH THIS SUBSECTION.

4. FOR LEAD CONTENT OF MATERIALS THAT ARE PROVIDED AS A RANGE, THE MAXIMUM CONTENT OF THAT RANGE SHALL BE USED.

C. ~~This~~ Subsection B OF THIS SECTION ~~shall~~ DOES not apply to:

1. Leaded joints necessary for the repair of cast iron pipes.

2. PIPES, PIPE FITTINGS AND PLUMBING FITTINGS AND FIXTURES, INCLUDING BACKFLOW PREVENTERS, THAT ARE USED EXCLUSIVELY FOR NONPOTABLE WATER SERVICES SUCH AS MANUFACTURING, INDUSTRIAL PROCESSING, IRRIGATION, OUTDOOR WATERING OR ANY OTHER USES WHERE THE WATER IS NOT ANTICIPATED TO BE USED FOR HUMAN CONSUMPTION.

3. TOILETS, BIDETS, URINALS, FILL VALVES, FLUSHOMETER VALVES, TUB FILLERS, SHOWER VALVES OR SERVICE SADDLES OR WATER DISTRIBUTION MAIN GATE VALVES THAT ARE TWO INCHES IN DIAMETER OR LARGER.

~~C.~~ D. Notwithstanding subsection A, paragraph 2, subdivision (c) of this section, a public water system may construct, reconstruct, install, extend or initiate a water supply system, water treatment plant, distribution system, water treatment method or device, or appurtenance that is used in water supply or in a public water system when the system is out of compliance with standards and rules adopted pursuant to this article only if the construction is necessary to correct the system's noncompliance.

Ch. 192 ~~D.~~ E. ~~The provisions of~~ This section and the rules adopted pursuant to this section apply to public water systems as described by section 49-352, subsection B.