House Engrossed Senate Bill

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KEN BENNETT
SECRETARY OF STATE

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CHAPTER 114

SENATE BILL 1091

AN ACT

AMENDING SECTIONS 16-168, 16-321, 16-322, 16-341, 16-602, 16-663, 16-905, 16-941, 16-959, 19-111 AND 19-112, ARIZONA REVISED STATUTES; AMENDING TITLE 19, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 19-119.01; AMENDING SECTIONS 19-121.03, 19-122, 19-142, 41-121, 41-121.02, 41-1304.06, 41-1330, 41-1331, 41-1332, 41-1333, 41-1334, 41-1345 AND 41-1353, ARIZONA REVISED STATUTES; RELATING TO THE DUTIES OF THE SECRETARY OF STATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 16-168, Arizona Revised Statutes, is amended to read:

16-168. Precinct registers; date of preparation; contents; copies; reports; statewide database; violation; classification

A. By the tenth day preceding the primary and general elections the county recorder shall prepare from the original registration forms or from electronic media at least four lists that are printed or typed on paper of all qualified electors in each precinct in the county, and the lists shall be the official precinct registers.

B. The official precinct registers for use at the polling place shall contain at least the names in full, party preference, date of registration and residence address of each qualified elector in the respective precincts. The names shall be in alphabetical order and, in a column to the left of the names, shall be numbered consecutively beginning with number 1 in each precinct register.

C. For the purposes of transmitting voter registration information as prescribed by this subsection, electronic media in counties with a population over five hundred thousand persons in the last decennial census shall be the principal media. A county or state chairman who is eligible to receive copies of precinct lists as prescribed by this subsection may request that the recorder provide a paper copy of the precinct lists. The county recorder, in addition to preparing the official precinct lists, shall provide a means for mechanically or electronically reproducing the precinct lists and unless otherwise agreed shall deliver within eight days after the close of registration for the primary and general elections, without charge, on the same day one electronic media copy of each precinct list within the county to the county chairman and one electronic media copy to the state chairman of each party that has at least four candidates other than presidential electors appearing on the ballot in that county at the current election. ~~The county recorder shall also deliver, on request and without charge, one electronic media copy of the precinct list to the Arizona legislative council.~~ The county recorder of a county with a population of five hundred thousand or fewer persons, on the same day precinct lists are delivered to county chairmen, shall deliver one electronic media copy of each precinct list within the county to the state chairman of each party that has at least four candidates other than presidential electors appearing on the ballot in this state at the current election. The copies of the precinct lists shall be electronic media and shall include for each elector the following information:

1. Name in full and appropriate title.
2. Party preference.
3. Date of registration.
4. Residence address.

5. Mailing address, if different from residence address.
6. Zip code.
7. Telephone number if given.
8. Birth year.
9. Occupation if given.
10. Voting history for all elections in the prior four years and any other information regarding registered voters that the county recorder or city or town clerk maintains electronically and that is public information.

D. The names on the precinct lists shall be in alphabetical order and the precinct lists in their entirety, unless otherwise agreed, shall be delivered to each county chairman and each state chairman within ten business days of the close of each date for counting registered voters prescribed by subsection G of this section other than the primary and general election registered voter counts in the same format and media as prescribed by subsection C of this section. During the thirty-three days immediately preceding an election and on request from a county or state chairman, the county recorder shall provide a daily list of persons who have requested an early ballot and shall provide a weekly listing of persons who have returned their early ballots. The recorder shall provide the daily and weekly information through the third day preceding the election.

E. Precinct registers and other lists and information derived from registration forms may be used only for purposes relating to a political or political party activity, a political campaign or an election, for revising election district boundaries or for any other purpose specifically authorized by law and may not be used for a commercial purpose as defined in section 39-121.03. The sale of registers, lists and information derived from registration forms to a candidate or a registered political committee for a use specifically authorized by this subsection does not constitute use for a commercial purpose. The county recorder, on a request for an authorized use and within thirty days from receipt of the request, shall prepare additional copies of an official precinct list and furnish them to any person requesting them on payment of a fee equal to five cents for each name appearing on the register for a printed list and one cent for each name for an electronic data medium, plus the cost of the blank computer disk or computer software if furnished by the recorder, for each copy so furnished.

F. Any person in possession of a precinct register or list, in whole or part, or any reproduction of a precinct register or list, shall not permit the register or list to be used, bought, sold or otherwise transferred for any purpose except for uses otherwise authorized by this section. A person in possession of information derived from voter registration forms or precinct registers shall not distribute, post or otherwise provide access to any portion of that information through the internet except as authorized by subsection I of this section. Nothing in this section shall preclude public inspection of voter registration records at the office of the county recorder for the purposes prescribed by this section, except that the month and day of

birth date, the social security number or any portion thereof, the driver license number or nonoperating identification license number, the Indian census number, the father's name or mother's maiden name, the state or country of birth and the records containing a voter's signature shall not be accessible or reproduced by any person other than the voter, by an authorized government official in the scope of the official's duties, for signature verification on petitions and candidate filings, for election purposes and for news gathering purposes by a person engaged in newspaper, radio, television or reportorial work, or connected with or employed by a newspaper, radio or television station or pursuant to a court order. A person who violates this subsection or subsection E of this section is guilty of a class 6 felony.

G. The county recorder shall count the registered voters by political party by precinct, legislative district and congressional district as follows:

1. In even numbered years, the county recorder shall count all persons who are registered to vote as of:

(a) January 1.

(b) March 1.

(c) June 1.

(d) The last day on which a person may register to be eligible to vote in the next primary election.

(e) The last day on which a person may register to be eligible to vote in the next general election.

(f) The last day on which a person may register to be eligible to vote in the next presidential preference election.

2. In odd numbered years, the county recorder shall count all persons who are registered to vote as of:

(a) January 1.

(b) April 1.

(c) July 1.

(d) October 1.

H. The county recorder shall report the totals to the secretary of state as soon as is practicable following each of the dates prescribed in subsection G of this section. The report shall include completed registration forms returned in accordance with section 16-134, subsection B. The county recorder shall also provide the report in a uniform electronic computer media format that shall be agreed upon between the secretary of state and all county recorders. The secretary of state shall then prepare a summary report for the state and shall maintain that report as a permanent record.

I. The county recorder and the secretary of state shall protect access to voter registration information in an auditable format and method specified in the secretary of state's electronic voting system instructions and procedures manual that is adopted pursuant to section 16-452.

J. The secretary of state shall develop and administer a statewide database of voter registration information that contains the name and registration information of every registered voter in this state. THE STATEWIDE DATABASE IS A MATTER OF STATEWIDE CONCERN AND IS NOT SUBJECT TO MODIFICATION OR FURTHER REGULATION BY A POLITICAL SUBDIVISION. The database shall include an identifier that is unique for each individual voter. The database shall provide for access by voter registration officials and shall allow expedited entry of voter registration information after it is received by county recorders. As a part of the statewide voter registration database, county recorders shall provide for the electronic transmittal of that information to the secretary of state on a ~~daily~~ REAL TIME basis. The secretary of state shall provide for maintenance of the database, including provisions regarding removal of ineligible voters that are consistent with the national voter registration act of 1993 (P.L. 103-31; 107 Stat. 77; 42 United States Code section 394) and the help America vote act of 2002 (P.L. 107-252; 116 Stat. 1666; 42 United States Code sections 15301 through 15545), provisions regarding removal of duplicate registrations and provisions to ensure that eligible voters are not removed in error. FOR THE PURPOSE OF MAINTAINING COMPLIANCE WITH THE HELP AMERICA VOTE ACT OF 2002, EACH COUNTY VOTER REGISTRATION SYSTEM IS SUBJECT TO APPROVAL BY THE SECRETARY OF STATE FOR COMPATIBILITY WITH THE STATEWIDE VOTER REGISTRATION DATABASE SYSTEM.

K. Except as provided in subsection L of this section, for requests for the use of registration forms and access to information as provided in subsections E and F of this section, the county recorder shall receive and respond to requests regarding federal, state and county elections.

L. Beginning January 1, 2008, recognized political parties shall request precinct lists and access to information as provided in subsections E and F of this section during the time periods prescribed in subsection C or D of this section and the county recorder shall receive and respond to those requests. If the county recorder does not provide the requested materials within the applicable time prescribed for the county recorder pursuant to subsection C or D of this section, a recognized political party may request that the secretary of state provide precinct lists and access to information as provided in subsections E and F of this section for federal, state and county elections. The secretary of state shall not provide access to precinct lists and information for recognized political parties unless the county recorder has failed or refused to provide the lists and materials as prescribed by this section. The secretary of state may charge the county recorder a fee determined by rule for each name or record produced.

M. For municipal registration information in those municipalities in which the county administers the municipal elections, county and state party chairmen shall request and obtain voter registration information and precinct lists from the city or town clerk during the time periods prescribed in subsection C or D of this section. If the city or town clerk does not

provide that information within the same time prescribed for county recorders pursuant to subsection C or D of this section, the county or state party chairman may request and obtain the information from the county recorder. The county recorder shall provide the municipal voter registration and precinct lists within the time prescribed in subsection C or D of this section.

Sec. 2. Section 16-321, Arizona Revised Statutes, is amended to read:

16-321. Signing and certification of nomination petition

A. Each signer of a nomination petition shall sign only one petition for the same office unless more than one candidate is to be elected to such office, and in that case not more than the number of nomination petitions equal to the number of candidates to be elected to the office. A signature shall not be counted on a nomination petition unless the signature is ~~upon~~ ON a sheet bearing the form prescribed by section 16-314.

B. For the purposes of petitions filed pursuant to sections 16-312, 16-313, 16-314 and 16-341, each signer of a nomination petition shall be a voter who at the time of signing is a registered voter in the electoral district of the office the candidate is seeking.

C. If an elector signs more nomination petitions than permitted by subsection A of this section, the earlier signatures of the elector are deemed valid, as determined by the date of the signature as shown on the petitions. If the signatures by the elector are dated on the same day, all signatures by that elector on that day are deemed invalid. Any signature by that elector on a nomination petition on or after the date of the last otherwise valid signature is deemed invalid and shall not be counted.

D. EXCEPT AS PRESCRIBED IN SECTION 16-341 FOR CIRCULATORS OF PETITIONS FOR CERTAIN CANDIDATES FOR THE OFFICE OF PRESIDENTIAL ELECTOR, the person before whom the signatures were written on the signature sheet shall be qualified to register to vote in this state pursuant to section 16-101 and shall verify that each of the names on the petition was signed in his presence on the date indicated, and that in his belief each signer was a qualified elector who resides at the address given as the signer's residence on the date indicated and, if for a partisan election, that each signer is a member of the party from which the candidate is seeking nomination, or the signer is a member of a political party that is not entitled to continued representation on the ballot pursuant to section 16-804 or the signer is registered as independent or no party preferred. The way the name appears on the petition shall be the name used in determining the validity of the name for any legal purpose pursuant to the election laws of this state. Signature and handwriting comparisons may be made.

Sec. 3. Section 16-322, Arizona Revised Statutes, is amended to read:

16-322. Number of signatures required on nomination petitions

A. Nomination petitions shall be signed:

1. If for a candidate for the office of United States senator or for a state office, excepting members of the legislature and superior court judges,

by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent of the voter registration of the party of the candidate in at least three counties in the state, but not less than one-half of one per cent nor more than ten per cent of the total voter registration of ~~his~~ THE CANDIDATE'S party in the state.

2. If for a candidate for the office of representative in Congress, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent but not more than ten per cent of the total voter registration of the party designated in the district from which such representative shall be elected.

3. If for a candidate for the office of member of the legislature, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one per cent but not more than three per cent of the total voter registration of the party designated in the district from which the member of the legislature may be elected.

4. If for a candidate for a county office or superior court judge, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least two per cent but not more than ten per cent of the total voter registration of the party designated in the county or district, provided that in counties with a population of two hundred thousand persons or more, a candidate for a county office shall have nomination petitions signed by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent but not more than ten per cent of the total voter registration of the party designated in the county or district.

5. If for a candidate for a community college district, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent but not more than ten per cent of the total voter registration in the precinct as established pursuant to section 15-1441.

6. If for a candidate for county precinct committeeman, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least two per cent but not more than ten per cent of the party voter registration in the precinct or ten signatures, whichever is less.

7. If for a candidate for justice of the peace or constable, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least two per cent but not more than ten per cent of the party voter registration in the precinct.

8. If for a candidate for mayor or other office nominated by a city at large, by a number of qualified electors who are qualified to vote for the

candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent of the designated party vote in the city, EXCEPT THAT A CITY THAT CHOOSES TO HOLD NONPARTISAN ELECTIONS MAY BY ORDINANCE PROVIDE THAT THE MINIMUM NUMBER OF SIGNATURES REQUIRED FOR THE CANDIDATE BE ONE THOUSAND SIGNATURES OR FIVE PER CENT OF THE VOTE IN THE CITY, WHICHEVER IS LESS, BUT NOT MORE THAN TEN PER CENT OF THE VOTE IN THE CITY.

9. If for an office nominated by ward, precinct or other district of a city, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent of the designated party vote in the ward, precinct or other district.

10. If for a candidate for an office nominated by a town at large, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent of the vote in the town.

11. If for a candidate for a governing board of a school district, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent of the total voter registration in the school district if the governing board members are elected at large or one per cent of the total voter registration in the single member district if governing board members or joint technological education district board members are elected from single member districts. Notwithstanding the total voter registration in the school district or single member district, the maximum number of signatures required by this paragraph is four hundred.

12. If for a candidate for a governing body of a special district as described in title 48 by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent of the vote in the special district but not more than two hundred fifty and not fewer than five signatures.

B. The basis of percentage in each instance referred to in subsection A of this section, except in cities, towns and school districts, shall be the number of voters registered in the designated party of the candidate as reported pursuant to section 16-168, subsection G on March 1 of the year in which the general election is held. In cities, the basis of percentage shall be the vote of the party for mayor at the last preceding election at which a mayor was elected. In towns, the basis of percentage shall be the highest vote cast for an elected official of the town at the last preceding election at which an official of the town was elected. In school districts, the basis of percentage shall be the total number of voters registered in the school district or single member district, whichever applies. The total number of voters registered for school districts shall be calculated using the periodic reports prepared by the county recorder pursuant to section 16-168, subsection G. The count that is reported on March 1 of the year in which the

general election is held shall be the basis for the calculation of total voter registration for school districts.

C. In primary elections the signature requirement for party nominees, other than nominees of the parties entitled to continued representation pursuant to section 16-804, is at least one-tenth of one per cent of the total vote for the winning candidate or candidates for governor or presidential electors at the last general election within the district. Signatures must be obtained from qualified electors who are qualified to vote for the candidate whose nomination petition they are signing.

D. If new boundaries for congressional districts, legislative districts, supervisorial districts, justice precincts or election precincts are established and effective subsequent to March 1 of the year of a general election and prior to the date for filing of nomination petitions, the basis for determining the required number of nomination petition signatures is the number of registered voters in the designated party of the candidate in the elective office, district or precinct on the day the new districts or precincts are effective.

Sec. 4. Section 16-341, Arizona Revised Statutes, is amended to read:

16-341. Nomination petition; method and time of filing; form; qualifications and number of petitioners required

A. Any qualified elector who is not a registered member of a political party that is recognized pursuant to this title may be nominated as a candidate for public office otherwise than by primary election or by party committee pursuant to this section.

B. This article shall not be used to place on the general election ballot the name of a political party which fails to meet the qualifications specified in section 16-802 or 16-804, or the name of any candidate representing such party or the name of a candidate who has filed a nomination petition in the immediately preceding primary election and has failed to qualify as the result of an insufficient number of valid signatures.

C. A nomination petition stating the name of the office to be filled, the name and residence of the candidate and other information required by this section shall be filed ~~at the same time and~~ with the same officer with whom primary nomination papers and petitions are required to be filed as prescribed in section 16-311. EXCEPT FOR CANDIDATES FOR THE OFFICE OF PRESIDENTIAL ELECTOR FILED PURSUANT TO THIS SECTION, THE PETITION SHALL BE FILED AT THE SAME TIME AS PRIMARY NOMINATION PAPERS AND PETITIONS ARE REQUIRED TO BE FILED AS PRESCRIBED BY SECTION 16-311. The petition shall be signed only by voters who have not signed the nomination petitions of a candidate for the office to be voted for at that primary election.

D. The nomination petition shall be in substantially the following form:

"The undersigned, qualified electors of _____ county, state of Arizona, do hereby nominate _____, who resides at _____ in the county of _____, as a candidate for the office of _____ at the general (or special, as the case may be) election to be held on the _____ day of _____, _____.

I hereby declare that I have not signed the nomination petitions of any candidate for the office to be voted for at this primary election, and I do hereby select the following designation under which name the said candidate shall be placed on the official ballot (here insert such designation not exceeding three words in length as the signers may select)."

E. The nomination petition shall conform as nearly as possible to the provisions relating to nomination petitions of candidates to be voted for at primary elections and shall be signed by at least the number of persons who are registered to vote determined by calculating three per cent of the persons who are registered to vote of the state, county, subdivision or district for which the candidate is nominated who are not members of a political party that is qualified to be represented by an official party ballot at the next ensuing primary election and accorded representation on the general election ballot.

F. The percentage of persons who are registered to vote necessary to sign the nomination petition shall be determined by the total number of registered voters from other than political parties that are qualified to be represented by an official party ballot at the next ensuing primary election and accorded representation on the general election ballot in the state, county, subdivision or district on March 1 of the year in which the general election is held. Notwithstanding the method prescribed by subsection E of this section and this subsection for calculating the minimum number of signatures necessary, any person who is registered to vote in the state, county, subdivision or district for which the candidate is nominated is eligible to sign the nomination petition without regard to the signer's party affiliation.

G. For the purposes of this section, a nomination petition for the office of presidential elector MAY BE CIRCULATED BY A PERSON WHO IS NOT A RESIDENT OF THIS STATE BUT WHO IS OTHERWISE ELIGIBLE TO REGISTER TO VOTE IN THIS STATE. THE NOMINATION PETITION shall include a group of names of candidates equal to the number of United States senators and representatives in Congress from this state instead of separate nomination petitions for each candidate for the office of presidential elector. A valid signature on a petition containing a group of presidential electors candidates is counted as

a signature for the nomination of each of the candidates. The presidential candidate whom the candidates for presidential elector will represent shall designate in writing to the secretary of state the names of the candidates who will represent the presidential candidate before any signatures for the candidate can be accepted for filing. A NOMINATION PETITION FOR THE OFFICE OF PRESIDENTIAL ELECTOR SHALL BE FILED NOT LESS THAN SIXTY NOR MORE THAN NINETY DAYS BEFORE THE GENERAL ELECTION. THE PETITION SHALL BE SIGNED ONLY BY QUALIFIED ELECTORS WHO HAVE NOT SIGNED THE NOMINATION PETITIONS OF A CANDIDATE FOR THE OFFICE OF PRESIDENTIAL ELECTOR TO BE VOTED FOR AT THAT ELECTION.

H. THE SECRETARY OF STATE SHALL REQUIRE IN THE INSTRUCTIONS AND PROCEDURES MANUAL ISSUED PURSUANT TO SECTION 16-452 THAT PERSONS WHO CIRCULATE NOMINATION PETITIONS PURSUANT TO THIS SECTION FOR THE OFFICE OF PRESIDENTIAL ELECTOR AND WHO ARE NOT RESIDENTS OF THIS STATE BUT WHO ARE OTHERWISE ELIGIBLE TO REGISTER TO VOTE IN THIS STATE SHALL REGISTER AS CIRCULATORS WITH THE OFFICE OF THE SECRETARY OF STATE BEFORE CIRCULATING PETITIONS. THE SECRETARY OF STATE SHALL PROVIDE FOR A METHOD OF RECEIVING SERVICE OF PROCESS FOR THOSE PETITION CIRCULATORS WHO ARE REGISTERED.

~~H.~~ I. A person who files a nomination paper pursuant to this section for the office of president of the United States shall designate in writing to the secretary of state at the time of filing the name of the candidate's vice-presidential running mate, the names of the presidential electors who will represent that candidate and a statement that is signed by the vice-presidential running mate and the designated presidential electors and that indicates their consent to be designated. A nomination paper for each presidential elector designated shall be filed with the candidate's nomination paper. The number of presidential electors shall equal the number of United States senators and representatives in Congress from this state.

~~I.~~ J. A candidate who does not file a timely nomination petition that complies with this section is not eligible to have the candidate's name printed on the official ballot for that office. The filing officer shall not accept the nomination paper of a candidate for state or local office unless the candidate provides or has provided all of the following:

1. The nomination petition required by this title.

2. A political committee statement of organization or the five hundred dollar threshold exemption statement for that office.

3. The financial disclosure statement as prescribed for candidates for that office.

Sec. 5. Section 16-602, Arizona Revised Statutes, is amended to read:

16-602. <u>Removal of ballots from ballot boxes; designated margin; hand counts; vote count verification committee</u>

A. ~~The ballots cast in the election shall first be removed from the ballot box and counted without being opened, except as may be necessary to ascertain that the number of ballots cast corresponds with the number of~~

~~names on the poll lists~~. For any primary or general election in which the votes are cast on an electronic voting machine or tabulator, the election judge shall compare the number of votes cast as indicated on the machine or tabulator with the number of votes cast as indicated on the poll list and the number of provisional ballots cast and that information shall be noted in a written report prepared and submitted to the officer in charge of elections along with other tally reports.

~~B. If two or more ballots are found folded together appearing as a single ballot, they shall be laid aside until the count of the ballots is completed. If it then appears by comparison of the count with the number of names on the poll lists that the ballots thus folded together were cast by one elector, they shall be destroyed. If the ballots in the box are still found to exceed in number the names on the poll lists, the ballots, except those destroyed, shall be replaced in the box, and one of the judges, without looking in the box, shall draw therefrom, one at a time, and destroy unopened, a number of ballots equal to the excess, and the election board shall record on the poll lists the number of ballots so destroyed and shall then sign the poll list.~~

~~C.~~ B. For each countywide primary, general and presidential preference election, the county officer in charge of the election shall conduct a hand count at the central counting center in the following order:

1. At least two per cent of the precincts in that county, or two precincts, whichever is greater, shall be selected at random from a pool consisting of every precinct in that county. The county political party chairman for each political party that is entitled to continued representation on the state ballot or the chairman's designee shall conduct the selection of the precincts to be hand counted. The precincts shall be selected by lot without the use of a computer, and the order of selection by the county political party chairmen shall also be by lot. The selection of the precincts shall not begin until all ballots voted in the precinct polling places have been delivered to the central counting center. The unofficial vote totals from all precincts shall be made public before selecting the precincts to be hand counted. Only the ballots cast in the polling places and ballots from direct recording electronic machines shall be included in the hand counts conducted pursuant to this section. Provisional ballots, conditional provisional ballots and write-in votes shall not be included in the hand counts and the early ballots shall be grouped separately by the officer in charge of elections for purposes of a separate manual audit pursuant to subsection ~~G~~ F of this section.

2. The races to be counted on the ballots from the precincts that were selected pursuant to paragraph 1 of this subsection for each primary and general election shall include up to five contested races. After the county recorder or other officer in charge of elections separates the primary ballots by political party, the races to be counted shall be determined by selecting by lot without the use of a computer from those ballots as follows:

(a) For a general election, one statewide ballot measure, unless there are no measures on the ballot.

(b) One contested statewide race for statewide office.

(c) One contested race for federal office, either United States senate or United States house of representatives. If the United States house of representatives race is selected, the names of the candidates may vary among the sampled precincts.

(d) One contested race for state legislative office, either state house of representatives or state senate. In either case, the names of the candidates may vary among the sampled precincts.

(e) If there are fewer than four contested races resulting from the selections made pursuant to subdivisions (a) through (d) and if there are additional contested federal, statewide or legislative races or ballot measures, additional contested races shall be selected by lot not using a computer until four races have been selected or until no additional contested federal, statewide or legislative races or ballot measures are available for selection.

(f) If there are no contested races as prescribed by this paragraph, a hand count shall not be conducted for that precinct for that election.

3. For the presidential preference election, select by lot two per cent of the polling places designated and used pursuant to section 16-248 and perform the hand count of those ballots.

4. For the purposes of this section, a write-in candidacy in a race does not constitute a contested race.

5. In elections in which there are candidates for president, the presidential race shall be added to the four categories of hand counted races.

6. Each county chairman of a political party that is entitled to continued representation on the state ballot or the chairman's designee shall select by lot the individual races to be hand counted pursuant to this section.

7. The county chairman of each political party shall designate and provide the number of election board members as designated by the county officer in charge of elections who shall perform the hand count under the supervision of the county officer in charge of elections. For each precinct that is to be audited, the county chairmen shall designate at least two board workers who are registered members of any or no political party to assist with the audit. Any qualified elector from this state may be a board worker without regard to party designation. The county election officer shall provide for compensation for those board workers, not to include travel, meal or lodging expenses. If there are less than two persons for each audited precinct available to participate on behalf of each recognized political party, the recorder or officer in charge of elections, with the approval of at least two county party chairpersons in the county in which the shortfall occurs, shall substitute additional individual electors who are provided by

any political party from anywhere in the state without regard to party designation to conduct the hand count. A county party chairman shall approve only those substitute electors who are provided by the county chairman's political party. The political parties shall provide to the recorder or officer in charge of elections in writing the names of those persons intending to participate in the hand count at the audited precincts not later than 5:00 p.m. on the Tuesday preceding the election. If the total number of board workers provided by all parties is less than four times the number of precincts to be audited, the recorder or officer in charge of elections shall notify the parties of the shortage by 9:00 a.m. on the Wednesday preceding the election. The hand count shall not proceed unless the political parties provide the recorder or officer in charge of elections, in writing, a sufficient number of persons by 5:00 p.m. on the Thursday preceding the election and a sufficient number of persons, pursuant to this paragraph, arrive to perform the hand count. The recorder or officer in charge of elections may prohibit persons from participating in the hand count if they are taking actions to disrupt the count or are unable to perform the duties as assigned. For the hand count to proceed, no more than seventy-five per cent of the persons performing the hand count shall be from the same political party.

8. If a political party is not represented by a designated chairperson within a county, the state chairperson for that political party, or a person designated by the state chairperson, may perform the actions required by the county chairperson as specified in this section.

~~D.~~ C. If the randomly selected races result in a difference in any race that is less than the designated margin when compared to the electronic tabulation of those same ballots, the results of the electronic tabulation constitute the official count for that race. If the randomly selected races result in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation of those same ballots, a second hand count of those same ballots and races shall be performed. If the second hand count results in a difference in any race that is less than the designated margin when compared to the electronic tabulation for those same ballots, the electronic tabulation constitutes the official count for that race. If the second hand count results in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation for those same ballots, the hand count shall be expanded to include a total of twice the original number of randomly selected precincts. Those additional precincts shall be selected by lot without the use of a computer.

~~E.~~ D. In any expanded count of randomly selected precincts, if the randomly selected precinct hand counts result in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation of those same ballots, the final hand count shall be extended to include the entire jurisdiction for that race. If the

jurisdictional boundary for that race would include any portion of more than one county, the final hand count shall not be extended into the precincts of that race that are outside of the county that is conducting the expanded hand count. If the expanded hand count results in a difference in that race that is less than the designated margin when compared to the electronic tabulation of those same ballots, the electronic tabulation constitutes the official count for that race.

~~F.~~ E. If a final hand count is performed for an entire jurisdiction for a race, the final hand count shall be repeated for that race until a hand count for that race for the entire jurisdiction results in a count that is identical to one other hand count for that race for the entire jurisdiction and that hand count constitutes the official count for that race.

~~G.~~ F. After the electronic tabulation of early ballots and at one or more times selected by the chairman of the political parties entitled to continued representation on the ballot or the chairman's designee, the chairmen or the chairmen's designees shall randomly select one or more batches of early ballots that have been tabulated to include at least one batch from each machine used for tabulating early ballots and those ballots shall be securely sequestered by the county recorder or officer in charge of elections along with their unofficial tally reports for a postelection manual audit. The chairmen or the chairmen's designees shall randomly select from those sequestered early ballots a number equal to one per cent of the total number of early ballots cast or five thousand early ballots, whichever is less. From those randomly selected early ballots, the county officer in charge of elections shall conduct a manual audit of the same races that are being hand counted pursuant to subsection ~~C~~ B of this section. If the manual audit of the early ballots results in a difference in any race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be repeated for those same early ballots. If the second manual audit results in a difference in that race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be expanded only for that race to a number of additional early ballots equal to one per cent of the total early ballots cast or an additional five thousand ballots, whichever is less, to be randomly selected from the batch or batches of sequestered early ballots. If the expanded early ballot manual audit results in a difference for that race that is equal to or greater than the designated margin when compared to any of the earlier manual counts for that race, the manual counts shall be repeated for that race until a manual count results in a difference in that race that is less than the designated margin. If at any point in the manual audit of early ballots the difference between any manual count of early ballots is less than the designated margin when compared to the electronic tabulation of those ballots, the electronic tabulation shall

be included in the canvass and no further manual audit of the early ballots shall be conducted.

~~H.~~ G. During any hand count of early ballots, the county officer in charge of elections and election board workers shall attempt to determine the intent of the voter in casting the ballot.

~~I.~~ H. Notwithstanding any other law, the county officer in charge of elections shall retain custody of the ballots for purposes of performing any required hand counts and the officer shall provide for security for those ballots.

~~J.~~ I. The hand counts prescribed by this section shall begin within twenty-four hours after the closing of the polls and shall be completed before the canvassing of the election for that county. The results of those hand counts shall be provided to the secretary of state, who shall make those results publicly available on the secretary of state's web site.

~~K.~~ J. For any county in which a hand count has been expanded to all precincts in the jurisdiction, the secretary of state shall make available the escrowed source code for that county to the superior court. The superior court shall appoint a special master to review the computer software. The special master shall have expertise in software engineering, ~~and~~ shall not be affiliated with an election software vendor nor with a candidate, ~~and~~ shall sign and be bound by a nondisclosure agreement regarding the source code itself~~,~~ and shall issue a public report to the court and to the secretary of state regarding the special master's findings on the reasons for the discrepancies. The secretary of state shall consider the reports for purposes of reviewing the certification of that equipment and software for use in this state.

~~L.~~ K. The vote count verification committee is established in the office of the secretary of state and all of the following apply:

1. At least thirty days before the 2006 primary election, the secretary of state shall appoint seven persons to the committee, no more than three of whom are members of the same political party.

2. Members of the committee shall have expertise in any two or more of the areas of advanced mathematics, statistics, random selection methods, systems operations or voting systems.

3. A person is not eligible to be a committee member if that person has been affiliated with or received any income in the preceding five years from any person or entity that provides election equipment or services in this state.

4. The vote count verification committee shall meet and establish one or more designated margins to be used in reviewing the hand counting of votes as required pursuant to this section. The committee shall review and consider revising the designated margins every two years for use in the applicable elections. The committee shall provide the designated margins to the secretary of state at least ten days before the primary election and at least ten days before the general election, and the secretary of state shall

make that information publicly available on the secretary of state's web site.

5. Members of the vote count verification committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2. The committee is a public body and its meetings are subject to title 38, chapter 3, article 3.1 and its reports and records are subject to title 39, chapter 1.

Sec. 6. Section 16-663, Arizona Revised Statutes, is amended to read:

16-663. Recount of votes; method

A. The superior court to which the facts requiring a recount are certified shall forthwith make and enter an order requiring a recount of the votes cast for such office, measure or proposal. The recount shall be conducted in accordance with the laws pertaining to contests of elections.

B. When the court orders a recount of votes which were cast and tabulated on electronic voting equipment, such recount shall be pursuant to section 16-664. On completion of the recount, and for legislative, statewide and federal candidate races only, the county chairmen of the political parties entitled to continued representation on the ballot or the chairman's designee shall select at random without the use of a computer five per cent of the precincts for the recounted race for a hand count, and if the results of that hand count when compared to the electronic tabulation of that same race are less than the designated margins calculated pursuant to section 16-602, the recount is complete and the electronic tabulation is the official result. If the hand count results in a difference that is equal to or greater than the designated margin for that race, the procedure established in section 16-602, subsections ~~D, E, F~~ C, D, E and ~~G~~ F applies.

Sec. 7. Section 16-905, Arizona Revised Statutes, is amended to read:

16-905. Contribution limitations; civil penalty; complaint

A. For an election other than for a statewide office, a contributor shall not give and an exploratory committee, a candidate or a candidate's campaign committee shall not accept contributions of more than:

1. For an election for a legislative office, four hundred eighty-eight dollars from an individual.

2. For an election other than for a legislative office, three hundred ninety dollars from an individual.

3. For an election for a legislative office, four hundred eighty-eight dollars from a single political committee, excluding a political party, not certified under subsection ~~I~~ G of this section to make contributions at the higher limits prescribed by paragraph 5 of this subsection and subsection B, paragraph 3 of this section.

4. For an election other than for a legislative office, three hundred ninety dollars from a single political committee, excluding a political party, not certified under subsection ~~I~~ G of this section to make contributions at the higher limits prescribed by subsection B, paragraph 3 of this section.

5. Two thousand dollars from a single political committee, excluding a political party, certified pursuant to subsection ~~I~~ G of this section.

B. For an election for a statewide office, a contributor shall not give and an exploratory committee, a candidate or a candidate's committee shall not accept contributions of more than:

1. One thousand ten dollars from an individual.

2. One thousand ten dollars from a single political committee, excluding a political party, not certified under subsection ~~I~~ G of this section to make contributions at the higher limits prescribed by subsection A, paragraph 5 of this section and paragraph 3 of this subsection.

3. Five thousand ten dollars from a single political committee excluding political parties certified pursuant to subsection ~~I~~ G of this section.

C. A candidate shall not accept contributions from all political committees, excluding political parties, combined totaling more than:

1. For an election for a legislative office, sixteen thousand one hundred fifty dollars.

2. For an office other than a legislative office or a statewide office, ten thousand twenty dollars.

3. For a statewide office, one hundred thousand one hundred ten dollars.

D. A nominee of a political party shall not accept contributions from all political parties or political organizations combined totaling more than ten thousand twenty dollars for an election for an office other than a statewide office, and one hundred thousand one hundred ten dollars for an election for a statewide office.

E. An individual shall not make contributions totaling more than five thousand six hundred ten dollars in a calendar year to state and local candidates, political committees contributing to state or local candidates, and political committees advocating the election or defeat of state or local candidates. Contributions to political parties are exempt from the limitations of this subsection.

~~F. The use of a candidate's personal monies is not subject to the limitations of this section but affects the application of these limitations to the candidate's opponents as follows:~~

~~1. For a candidate for an office other than a statewide office:~~

~~(a) If a candidate contributes or promises amounts of more than fifteen thousand six hundred seventy dollars of those personal monies, the candidate, within twenty-four hours, excluding Saturdays, Sundays and other legal holidays, shall give written notice by certified mail of the amount contributed or promised as of the date of the notice to all other candidates and the candidates' campaign committees for the same office at the address on file with the filing officer and to the filing officer. Other candidates for the same office and contributors to those candidates are not subject to the limitations of subsections A, C and E of this section after receiving the~~

~~notice until these candidates receive contributions totaling the amount of personal monies contributed or promised by the candidate giving this notice.~~

~~(b) For each additional accumulation of contributions or promises of that candidate's personal monies that totals at least seven thousand eight hundred fifty dollars, the candidate, within twenty-four hours, excluding Saturdays, Sundays and other legal holidays, shall give written notice by certified mail of the amount contributed or promised as of the date of the notice. The notice shall be given as prescribed in subdivision (a) of this paragraph. Other candidates for the same office and contributors to those candidates are not subject to the limitations of subsections A, C and E of this section after receiving the notice until these candidates receive contributions totaling the amount of personal monies contributed or promised by the candidate giving this notice.~~

~~2. For a candidate for a statewide office:~~

~~(a) If a candidate contributes or promises amounts of more than thirty-one thousand three hundred thirty dollars of those personal monies, the candidate, within twenty-four hours, excluding Saturdays, Sundays and other legal holidays, shall give written notice by certified mail of the amount contributed or promised as of the date of the notice to all other candidates and the candidates' campaign committees for the same office at the address on file with the filing officer and to the secretary of state. Other candidates for the same office and contributors to those candidates are not subject to the limitations of subsections B, C and E of this section after receiving the notice until these candidates receive contributions totaling the amount of personal monies contributed or promised by the candidate giving this notice.~~

~~(b) For each additional accumulation of contributions or promises of that candidate's personal monies that totals at least fifteen thousand six hundred seventy dollars, the candidate, within twenty-four hours, excluding Saturdays, Sundays and other legal holidays, shall give written notice of the amount contributed or promised as of the date of the notice. The notice shall be given as prescribed in subdivision (a) of this paragraph. Other candidates for the same office and contributors to those candidates are not subject to the limitations of subsections B, C and E of this section after receiving the notice until these candidates receive contributions totaling the amount of personal monies contributed or promised by the candidate giving this notice.~~

~~3. If any notice prescribed by this subsection is not timely given the other candidates are not subject to the limitations of subsections A, B and C of this section for an additional five hundred ninety dollars for each day the notice was delinquent.~~

~~4. Notwithstanding any other provision of this subsection, the amount of contributions that a candidate may receive and that is not subject to the limitations of subsections A, B and C of this section shall not be greater than the largest amount of personal contributions, plus any additional~~

~~amounts due to delinquent notices, made by any other single candidate for the same office.~~

~~G. The use of personal monies by an individual who designates an exploratory committee is not subject to the limitations of this section but is subject to the following:~~

~~1. If an individual who has designated a committee for other than statewide office contributes or promises to the committee an amount of personal monies that is more than fifteen thousand six hundred seventy dollars, the individual, within twenty-four hours excluding Saturdays, Sundays and other legal holidays, shall give written notice by certified mail of the amount contributed or promised as of the date of the notice to the filing officer.~~

~~2. For each additional accumulation of contributions or promises of the designating individual's personal monies that totals at least seven thousand nine hundred thirty dollars, the individual, within twenty-four hours, excluding Saturdays, Sundays and other legal holidays, shall give written notice by certified mail of the amount contributed or promised as of the date of the notice to the filing officer.~~

~~3. If an individual who has designated a committee for statewide office contributes or promises to the committee an amount of personal monies that is more than thirty-one thousand three hundred thirty dollars, the individual, within twenty-four hours, excluding Saturdays, Sundays and other legal holidays, shall give written notice by certified mail of the amount contributed or promised as of the date of the notice to the filing officer.~~

~~4. For each additional accumulation of contributions or promises of the designating individual's personal monies that totals at least fifteen thousand nine hundred fifty dollars, the individual, within twenty-four hours, excluding Saturdays, Sundays and other legal holidays, shall give written notice by certified mail of the amount contributed or promised as of the date of the notice to the filing officer.~~

~~H.~~ F. A candidate's campaign committee or an individual's exploratory committee shall not make a loan and shall not transfer or contribute money to any other campaign or exploratory committee that is designated pursuant to this chapter or 2 United States Code section 431 except as follows:

1. An exploratory committee may transfer monies to a subsequent candidate's campaign committee of the individual designating the exploratory committee, subject to the limits of subsection B of this section.

2. A candidate's campaign committee may transfer or contribute monies to another campaign committee designated by the same candidate as follows:

(a) Subject to the contribution limits of this section, transfer or contribute monies from one committee to another if both committees have been designated for an election in the same year.

(b) Without application of the contribution limits of this section, transfer or contribute monies from one committee to another designated for an election in a subsequent year.

~~I.~~ G. Only political committees that received monies from five hundred or more individuals in amounts of ten dollars or more in the one year period immediately before application to the secretary of state for qualification as a political committee pursuant to this section may make contributions to candidates under subsection A, paragraph 5 of this section and subsection B, paragraph 3 of this section. The secretary of state shall obtain information necessary to make the determination that a committee meets the requirements of this subsection and shall provide written certification of the fact to the committee. A political committee certification is valid for two years. A candidate's campaign committee shall not accept a contribution pursuant to this subsection unless it is accompanied by a copy of the certification. All political committees that do not meet the requirements of this subsection are subject to the individual campaign contribution limits of subsection A, paragraphs 1 and 2 of this section and subsection B, paragraph 1 of this section.

~~J.~~ H. The secretary of state biennially shall adjust to the nearest ten dollars the amounts in subsections A through ~~G~~ E of this section by the percentage change in the consumer price index and publish the new amounts for distribution to election officials, candidates and campaign committees. For the purposes of this subsection, "consumer price index" means the consumer price index for all urban consumers, United States city average, that is published by the United States department of labor, bureau of labor statistics.

~~K.~~ I. The following specific limitations and procedures apply:

1. The limits of subsections A through ~~D, F and G~~ E of this section apply to each election for any office or offices which the candidate seeks.

2. The limits of subsections A, B and C of this section apply to the total contributions from all separate segregated funds established, as provided in section 16-920, by a corporation, labor organization, trade association, cooperative or corporation without capital stock.

3. A contribution by an unemancipated minor child shall be treated as a contribution by the child's custodial parent or parents for determining compliance with subsection A, paragraphs 1 and 2, subsection B, paragraph 1 and subsection E of this section.

4. A contribution by an individual or a single political committee to two or more candidates in connection with a joint fund-raising effort shall be divided among the candidates in direct proportion to each candidate campaign committee's share of the expenses for the fund-raising effort.

5. A candidate shall sign and file with the candidate's nomination paper a statement that the candidate has read all applicable laws relating to campaign financing and reporting.

6. An individual or political committee shall not use economic influence to induce members of an organization to make contributions to a candidate, collect contributions from members of an organization for transmittal to a candidate, make payments to candidates for public

appearances or services which are ordinarily uncompensated or use any similar device to circumvent any of the limitations of this section.

~~L.~~ J. A person who violates this section is subject to a civil penalty imposed as prescribed in section 16-924 of three times the amount of money that has been received, expended or promised in violation of this section or three times the value in money for an equivalent of money or other things of value that have been received, expended or promised in violation of this section.

~~M.~~ K. Any qualified elector may file a sworn complaint with the attorney general or the county attorney of the county in which a violation of this section is believed to have occurred, and the attorney general or the county attorney shall investigate the complaint for possible action.

~~N.~~ L. If the filing officer, attorney general or county attorney fails to institute an action within forty-five working days after receiving a complaint under subsection ~~M~~ K of this section, the individual filing the complaint may bring a civil action in the individual's own name and at the individual's own expense, with the same effect as if brought by the filing officer, attorney general or county attorney. The individual shall execute a bond payable to the defendant if the individual fails to prosecute the action successfully. The court shall award to the prevailing party costs and reasonable attorney fees.

~~O.~~ M. If a provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

N. THE USE OF A CANDIDATE'S PERSONAL MONIES, OR THE USE OF PERSONAL MONIES BY AN INDIVIDUAL WHO DESIGNATES AN EXPLORATORY COMMITTEE, IS NOT SUBJECT TO THE LIMITATIONS OF THIS SECTION.

~~P. If any notice prescribed by subsection F or G of this section is not given in a timely manner, the designating individual, in the case of an exploratory committee, or the candidate, in the case of a candidate's campaign committee, is subject to a civil penalty of three times the amount of personal monies that were contributed, expended or promised in violation. The civil penalty shall be imposed as prescribed by section 16-924.~~

Sec. 8. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-941, Arizona Revised Statutes, is amended to read:

16-941. <u>Limits on spending and contributions for political campaigns</u>

A. Notwithstanding any law to the contrary, a participating candidate:

1. Shall not accept any contributions, other than a limited number of five-dollar qualifying contributions as specified in section 16-946 and early contributions as specified in section 16-945, except in the emergency situation specified in section 16-954, subsection F.

2. Shall not make expenditures of more than a total of five hundred dollars of the candidate's personal monies for a candidate for the legislature or more than one thousand dollars for a candidate for statewide office.

3. Shall not make expenditures in the primary election period in excess of the adjusted primary election spending limit.

4. Shall not make expenditures in the general election period in excess of the adjusted general election spending limit.

5. Shall comply with section 16-948 regarding campaign accounts and section 16-953 regarding returning unused monies to the citizens clean elections fund described in this article.

B. Notwithstanding any law to the contrary, a nonparticipating candidate:

1. Shall not accept contributions in excess of an amount that is twenty per cent less than the limits specified in section 16-905, subsections A through ~~G~~ E, as adjusted by the secretary of state pursuant to section 16-905, subsection ~~J~~ H. Any violation of this paragraph shall be subject to the civil penalties and procedures set forth in section 16-905, subsections ~~L~~ J through ~~P~~ M and section 16-924.

2. Shall comply with section 16-958 regarding reporting, including filing reports with the secretary of state indicating whenever (a) expenditures other than independent expenditures on behalf of the candidate, from the beginning of the election cycle to any date up to primary election day, exceed seventy per cent of the original primary election spending limit applicable to a participating candidate seeking the same office, or (b) contributions to a candidate, from the beginning of the election cycle to any date during the general election period, less expenditures made from the beginning of the election cycle through primary election day, exceed seventy per cent of the original general election spending limit applicable to a participating candidate seeking the same office. A nonparticipating candidate is exempt from this paragraph if there is no participating candidate running against that nonparticipating candidate.

C. Notwithstanding any law to the contrary, a candidate, whether participating or nonparticipating:

1. If specified in a written agreement signed by the candidate and one or more opposing candidates and filed with the citizens clean elections commission, shall not make any expenditure in the primary or general election period exceeding an agreed-upon amount lower than spending limits otherwise applicable by statute.

2. Shall continue to be bound by all other applicable election and campaign finance statutes and rules, with the exception of those provisions in express or clear conflict with this article.

D. Notwithstanding any law to the contrary, any person who makes independent expenditures related to a particular office cumulatively

exceeding five hundred dollars in an election cycle, with the exception of any expenditure listed in section 16-920 and any independent expenditure by an organization arising from a communication directly to the organization's members, shareholders, employees, affiliated persons and subscribers, shall file reports with the secretary of state in accordance with section 16-958 so indicating, identifying the office and the candidate or group of candidates whose election or defeat is being advocated and stating whether the person is advocating election or advocating defeat.

Sec. 9. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-959, Arizona Revised Statutes, is amended to read:

16-959. Inflationary and other adjustments of dollar values

A. Every two years, the secretary of state shall modify the dollar values specified in the following parts of this article, in the manner specified by section 16-905, subsection ~~J~~ H, to account for inflation: section 16-941, subsection A, paragraph 2 or subsection D; section 16-942, subsection B; section 16-945, subsection A, paragraphs 1 and 2; section 16-948, subsection C; section 16-954, subsection B; section 16-955, subsection G; and section 16-961, subsections G and H. In addition, the secretary of state shall make a similar inflation adjustment by modifying the dollar values in section 16-949, subsection A and section 16-954, subsection A to the nearest dollar. In addition, every two years, the secretary of state shall change the dollar values in section 16-961, subsections G and H in proportion to the change in the number of Arizona resident personal income tax returns filed during the previous calendar year.

B. Based on the results of the elections in the year 2002 or any quadrennial election thereafter, and within six months after such election, the commission may adopt rules in a public meeting reallocating funds available to all candidates between the primary and general elections by selecting a fraction for primary election spending limits that is between one third and one half of the spending limits for the election as a whole. For each office, the primary election spending limit shall be modified to be the sum of the primary and general spending limits times the selected fraction, and the general election spending limit shall be modified to be the same sum times one less the selected fraction.

Sec. 10. Section 19-111, Arizona Revised Statutes, is amended to read:

19-111. Number for petition

A. A person or organization intending to propose a law or constitutional amendment by initiative petition or to file a referendum petition against a measure, item, section or part of a measure, before causing the petition to be printed and circulated, shall file with the secretary of state an application, on a form to be provided by the secretary of state, setting forth his name or, if an organization, its name and the names and titles of its officers, address, his intention to circulate and file a petition, a description of no more than one hundred words of the

principal provisions of the proposed law, constitutional amendment or measure and the text of the proposed law, constitutional amendment or measure to be initiated or referred in no less than eight point type, and applying for issuance of an official serial number. At the same time as the person or organization files its application, the person or organization shall file with the secretary of state its statement of organization or its signed exemption statement as prescribed by section 16-902.01. The secretary of state shall not accept an application for initiative or referendum without an accompanying statement of organization or signed exemption statement as prescribed by this subsection.

B. On receipt of the application, the secretary of state shall assign an official serial number to the petition, which number shall appear in the lower right-hand corner of each side of each copy thereof, and issue that number to the applicant. Numbers shall be assigned to petitions by the secretary of state in numerical sequence, and a record shall be maintained in his office of each application received and of the numbers assigned and issued to the applicant.

C. The secretary of state shall ~~print in pamphlet form and shall furnish~~ MAKE AVAILABLE to each applicant~~, at the time the application is submitted,~~ BY ELECTRONIC MEANS a copy of the text of this article governing the initiative and referendum and all rules adopted by the secretary of state pursuant to this title. In addition, the secretary of state shall ~~at this time furnish the applicant with~~ PROVIDE THE APPLICANT BY ELECTRONIC MEANS THE ABILITY TO FILE a statement of organization ~~form~~ OR FIVE HUNDRED DOLLAR THRESHOLD EXEMPTION STATEMENT and a notice stating: "This statement must be filed before valid signatures can be collected." The secretary of state shall ~~furnish a sufficient supply of these pamphlets~~ MAKE AVAILABLE BY ELECTRONIC MEANS A COPY OF THE TEXT OF THIS ARTICLE GOVERNING THE INITIATIVE AND REFERENDUM AND ALL RULES ADOPTED BY THE SECRETARY OF STATE PURSUANT TO THIS TITLE to the county, city and town clerks who shall similarly furnish ~~the pamphlet~~ A COPY to each applicant BY ELECTRONIC MEANS. IF A MEMBER OF THE PUBLIC SO REQUESTS, THE SECRETARY OF STATE AND THE COUNTY, CITY AND TOWN CLERKS SHALL PROVIDE A COPY IN PAMPHLET FORM.

D. The eight point type required by subsection A of this section shall not apply to maps, charts or other graphics.

Sec. 11. Section 19-112, Arizona Revised Statutes, is amended to read:

19-112. <u>Signatures and verification; attachment</u>

A. Every qualified elector signing a petition shall do so in the presence of the person who is circulating the petition and who is to execute the affidavit of verification. At the time of signing, the qualified elector shall sign his first and last names in the spaces provided and the elector so signing ~~or the person circulating the petition~~ shall print his first and last names and write, in the appropriate spaces following the signature, the signer's residence address, giving street and number, and if he has no street address, a description of his residence location. The elector so signing ~~or~~

~~the person circulating the petition~~ shall write, in the appropriate spaces following the elector's address, the date on which the elector signed the petition.

B. The signature sheets shall be attached at all times during circulation to a full and correct copy of the title and text of the measure or constitutional amendment proposed or referred by the petition. The title and text shall be in at least eight point type and shall include both the original and the amended text. The text shall indicate material deleted, if any, by printing the material with a line drawn through the center of the letters of the material and shall indicate material added or new material by printing the letters of the material in capital letters.

C. The person before whom the signatures and addresses were written on the signature sheet shall, on the affidavit form pursuant to this section, subscribe and swear before a notary public that each of the names on the sheet was signed and the name and address were printed in the presence of the elector and the circulator on the date indicated, and that in his belief each signer was a qualified elector of a certain county of the state, or, in the case of a city, town or county measure, of the city, town or county affected by the measure on the date indicated, and that at all times during circulation of the signature sheet a copy of the title and text was attached to the signature sheet. All signatures of petitioners on a signature sheet shall be those of qualified electors who are registered to vote in the same county. However, if signatures from more than one county appear on the same signature sheet, only the valid signatures from the same county which are most numerous on the signature sheet shall be counted. Signature and handwriting comparisons may be made.

D. The affidavit shall be in the following form printed on the reverse side of each signature sheet:

Affidavit of Circulator

State of Arizona)
) ss.:
County of _____)
(Where notarized)

I, (print name), a person who is qualified to register to vote in the county of _____, in the state of Arizona at all times during my circulation of this petition sheet, and under the penalty of a class 1 misdemeanor, depose and say that each individual signed this sheet of the foregoing petition in my presence on the date indicated and I believe that each signer's name and residence address or post office address are correctly stated and that each signer is a qualified elector of the state of Arizona (or in the case of a city, town or county measure, of the city, town or county affected by the measure proposed to be initiated or referred to the people) and that at all times

during circulation of this signature sheet a copy of the title and text was attached to the signature sheet.

(Signature of affiant) _____

(Residence address, street and number of affiant, or if no street address, a description of residence location) _____

_____

Subscribed and sworn to before me on _____.
(date)

_____
Notary Public

_____, Arizona.

My commission expires on _____.
(date)

E. The eight point type required by subsection B shall not apply to maps, charts or other graphics.

Sec. 12. Title 19, chapter 1, article 2, Arizona Revised Statutes, is amended by adding section 19-119.01, to read:

19-119.01. <u>Petition signature fraud; classification; prohibited persons</u>

A. FOR THE PURPOSES OF THIS TITLE, A PERSON COMMITS PETITION SIGNATURE FRAUD IF THE PERSON DOES EITHER OF THE FOLLOWING WITH THE INTENT TO DEFRAUD:

1. INTENTIONALLY SUBMITS PETITION SIGNATURE SHEETS WITH THE KNOWLEDGE THAT THE PERSON WHOSE NAME APPEARS ON THE SIGNATURE SHEET DID NOT ACTUALLY SIGN THE PETITION.

2. USES ANY FRAUDULENT MEANS, METHOD, TRICK, DEVICE OR ARTIFICE TO OBTAIN SIGNATURES ON A PETITION.

B. A PERSON WHO VIOLATES SUBSECTION A IS GUILTY OF A CLASS 1 MISDEMEANOR, EXCEPT THAT A PERSON WHO ENGAGES OR PARTICIPATES IN A PATTERN OF PETITION SIGNATURE FRAUD IS GUILTY OF A CLASS 4 FELONY AND SHALL BE PROHIBITED FROM PARTICIPATING FOR FIVE YEARS IN ANY ELECTION, INITIATIVE, REFERENDUM OR RECALL CAMPAIGN. FOR THE PURPOSES OF THIS SUBSECTION, "PATTERN OF PETITION SIGNATURE FRAUD" MEANS THAT THE PERSON EMPLOYS OR SUBCONTRACTS WITH PERSONS TO OBTAIN SIGNATURES AND AT LEAST FIVE OF THE EMPLOYEES OR SUBCONTRACTOR'S EMPLOYEES HAVE BEEN CONVICTED OF A VIOLATION OF THIS SECTION FOR ONE OR MORE ELECTIONS OR RECALL CAMPAIGNS IN AN ELECTION CYCLE.

C. THE SECRETARY OF STATE SHALL MAINTAIN A LIST OF PERSONS WHO HAVE BEEN CONVICTED OF PARTICIPATING IN A PATTERN OF PETITION SIGNATURE FRAUD IN VIOLATION OF THIS SECTION AND WHO ARE BARRED FROM PARTICIPATING IN ANY ELECTION, INITIATIVE, REFERENDUM OR RECALL CAMPAIGN FOR FIVE YEARS FROM THE DATE OF CONVICTION. THE LIST SHALL BE PUBLISHED ON THE SECRETARY OF STATE'S WEBSITE. THE SECRETARY OF STATE SHALL REMOVE A PERSON FROM THE LIST ON

EXPIRATION OF THE FIVE-YEAR PROHIBITION. IF A MEMBER OF THE PUBLIC REQUESTS A COPY OF THE LIST, THE SECRETARY SHALL PROVIDE IT.

Sec. 13. Section 19-121.03, Arizona Revised Statutes, is amended to read:

19-121.03. Judicial review of actions by county recorder; venue

A. If the county recorder fails or refuses to comply with the provisions of section 19-121.02, any citizen may apply, within ~~ten~~ FIVE calendar days after such failure or refusal, to the superior court for a writ of mandamus. If the court finds that the county recorder has not complied with the provisions of section 19-121.02, the court shall issue an order for the county recorder to comply.

B. Any citizen may challenge in the superior court the certification made by a county recorder pursuant to section 19-121.02 within ~~ten~~ FIVE calendar days of the receipt thereof by the secretary of state. The action shall be advanced on the calendar and heard as a trial de novo and decided by the court as soon as possible. Either party may appeal to the supreme court within ~~ten~~ FIVE calendar days after judgment.

C. An action commenced under this section shall be brought in the county of such recorder, except that any such action involving more than one recorder shall be brought in Maricopa county.

Sec. 14. Section 19-122, Arizona Revised Statutes, is amended to read:

19-122. Refusal of secretary of state to file petition or transmit facsimiles of signature sheets or affidavits of circulators; writ of mandamus; venue

A. If the secretary of state refuses to accept and file a petition for the initiative or referendum, or proposal for a constitutional amendment which has been presented within the time prescribed, or if he refuses to transmit the facsimiles of a signature sheet or sheets or affidavits of circulators to the county recorders for certification under section 19-121.01, he shall provide the person who submitted the petition, proposal, signature sheet or affidavit with a written statement of the reason for the refusal. Within ~~ten~~ FIVE calendar days after the refusal any citizen may apply to the superior court for a writ of mandamus to compel the secretary of state to file the petition or proposal or transmit the facsimiles, or the citizen may file a complaint with the county attorney or attorney general. The county attorney or attorney general may apply, within ~~ten~~ FIVE calendar days after the complaint is made, to the superior court for a writ of mandamus to compel the secretary of state to file the petition or proposal or transmit the facsimiles. The action shall be advanced on the calendar and heard and decided by the court as soon as possible. Either party may appeal to the supreme court within ~~ten~~ FIVE calendar days after judgment. If the court finds that the petition is legally sufficient, the secretary of state shall then file it, with a certified copy of the judgment attached as of the date on which it was originally offered for filing in his office.

B. The most current version of the general county register at the time of filing a court action challenging an initiative or referendum petition shall constitute the official record to be used to determine on a prima facie basis by the challenger that the signer of a petition was not registered to vote at the address given on the date of signing the petition. If the address of the signer given on the date of signing the petition is different from that on the most current version of the general county register, the county recorder shall examine the version of the general county register which was current on the date the signer signed the petition to determine the validity of the signature. This subsection does not preclude introducing into evidence a certified copy of the affidavit or registration of any signer dated prior to the signing of the petition if the affidavit is in the possession of the county recorder but has not yet been filed in the general county register.

C. Notwithstanding section 19-121.04, if any petition filed is not legally sufficient, the court may, in an action brought by any citizen, enjoin the secretary or other officers from certifying or printing on the official ballot for the ensuing election the amendment or measure proposed or referred. The action shall be advanced on the calendar and heard and decided by the court as soon as possible. Either party may appeal to the supreme court within ~~ten~~ FIVE days after judgment.

D. The superior court in Maricopa county shall have jurisdiction of actions relating to measures and amendments to be submitted to the electors of the state at large. With respect to actions relating to local and special measures, the superior court in the county, or in one of the counties, in which the measures are to be voted upon shall have jurisdiction.

Sec. 15. Section 19-142, Arizona Revised Statutes, is amended to read:

19-142. Referendum petitions against municipal actions; emergency measures; zoning actions

A. The whole number of votes cast at the ~~city~~ CITYWIDE or ~~town~~ TOWNWIDE election at which a mayor or councilmen were chosen last preceding the submission of the application for a referendum petition against an ordinance, franchise or resolution shall be the basis on which the number of electors of the city or town required to file a referendum petition shall be computed. FOR THE PURPOSES OF THIS SECTION, A CITYWIDE OR TOWNWIDE ELECTION IS AN ELECTION AT WHICH ALL OF THE QUALIFIED ELECTORS OF A CITY OR TOWN ARE ELIGIBLE TO VOTE FOR A MAYOR OR MEMBERS OF THE CITY OR TOWN COUNCIL. The petition shall be filed with the city or town clerk within thirty days after passage of the ordinance, resolution or franchise.

B. A city or town ordinance, resolution or franchise shall not become operative until thirty days after its passage by the council and approval by the mayor, unless it is passed over the mayor's veto, and then it shall not become operative until thirty days after final approval and until certification by the clerk of the city or town of the minutes of the meeting at which the action was taken, except emergency measures necessary for the

1 immediate preservation of the peace, health or safety of the city or town.
2 An emergency measure shall not become immediately operative unless it states
3 in a separate section the reason why it is necessary that it should become
4 immediately operative, and unless it is approved by the affirmative vote of
5 three-fourths of all the members elected to the city or town council, taken
6 by ayes and noes, and also approved by the mayor.
7 C. At the time a person or organization intending to file a referendum
8 petition against an ordinance or resolution applies for the issuance of an
9 official number pursuant to section 19-111, the city or town clerk shall
10 provide such person or organization with a full and correct copy of the
11 ordinance or resolution in the form as finally adopted. If the copy of the
12 ordinance or resolution proposed as a referendum is not available to such
13 person or organization at the time of making application for an official
14 number or on the same business day as the application is submitted, the
15 thirty-day period prescribed in subsection A of this section begins on the
16 day that the ordinance or resolution is available from the city or town
17 clerk, and the ordinance or resolution shall not become operative until
18 thirty days after the ordinance or resolution is available.
19 D. Notwithstanding subsection C of this section, a person or
20 organization may file a referendum petition against the rezoning of a parcel
21 of property on the approval by the city or town council of the ordinance that
22 adopts the rezoning or on the approval of that portion of the minutes of the
23 city or town council that includes the council's approval of the rezoning,
24 whichever occurs first. The thirty day period prescribed in subsection A of
25 this section begins on the day that the rezoning ordinance or approved
26 minutes or portion of the approved minutes are available from the city or
27 town clerk and the ordinance is not operative until thirty days after the
28 ordinance or minutes are available.
29 Sec. 16. Section 41-121, Arizona Revised Statutes, is amended to read:
30 41-121. Duties
31 A. The secretary of state shall:
32 1. Receive bills and resolutions from the legislature, and perform
33 such other duties as devolve upon the secretary of state by resolution of the
34 two houses or either of them.
35 2. Keep a register of and attest the official acts of the governor.
36 3. Act as custodian of the great seal of this state.
37 4. Affix the great seal, with the secretary of state's attestation, to
38 public instruments to which the official signature of the governor is
39 attached.
40 5. File in the secretary of state's office receipts for all books
41 distributed by the secretary of state and direct the county recorder of each
42 county to do the same.
43 6. Certify to the governor the names of those persons who have
44 received at any election the highest number of votes for any office, the
45 incumbent of which is commissioned by the governor.

7. Publish slip laws of each act of the legislature promptly upon passage and approval of such act, make such acts available to interested persons for a reasonable fee to compensate for the cost of printing and provide each house of the legislature and the legislative council with a certified copy of each bill or resolution, showing the chapter or resolution number of each, as each is filed in the secretary of state's office.

8. Keep a fee book of fees and compensation of whatever kind and nature earned, collected or charged by the secretary of state, with the date, the name of the payer and the nature of the service in each case. The fee book shall be verified annually by the secretary of state's affidavit entered in the fee book.

9. Perform other duties imposed on the secretary of state by law.

10. Report to the governor on January 2 each year, and at such other times as provided by law, a detailed account of the secretary of state's official actions taken since the secretary of state's previous report together with a detailed statement of the manner in which all appropriations for the secretary of state's office have been expended.

11. Transfer all noncurrent or inactive books, records, deeds and other papers otherwise required to be filed with or retained by the secretary of state to the custody of the Arizona state library, archives and public records.

12. Make available to the public, without charge, title 33, ~~chapter~~ CHAPTERS 10 AND 11 on the secretary of state's ~~web site~~ WEBSITE.

13. Accept, and approve for use, electronic and digital signatures that comply with section 41-132, for documents filed with and by all state agencies, boards and commissions. In consultation with the government information technology agency, the department of administration and the state treasurer, the secretary of state shall adopt rules pursuant to chapter 6 of this title establishing policies and procedures for the use of electronic and digital signatures by all state agencies, boards and commissions for documents filed with and by all state agencies, boards and commissions.

14. Meet at least annually with personnel from the federal voting assistance office of the United States department of defense and with county recorders and other county election officials in this state to coordinate the delivery and return of registrations, ballot requests, voted ballots and other election materials to and from absent uniformed and overseas citizens.

B. THE SECRETARY OF STATE MAY REFUSE TO PERFORM A SERVICE OR REFUSE A FILING BASED ON A REASONABLE BELIEF THAT THE SERVICE OR FILING IS BEING REQUESTED FOR AN UNLAWFUL, ILLEGITIMATE, FALSE OR FRAUDULENT PURPOSE OR IS BEING REQUESTED OR SUBMITTED IN BAD FAITH OR FOR THE PURPOSE OF HARASSING OR DEFRAUDING A PERSON OR ENTITY.

Sec. 17. Section 41-121.02, Arizona Revised Statutes, is amended to read:

41-121.02. Department of state

A. There is established the department of state, which shall be composed of the office of the secretary of state.

B. The secretary of state shall have charge of and direct the department of state.

C. EXCEPT AS OTHERWISE PROVIDED BY LAW, EMPLOYEES OF THE DEPARTMENT ARE EXEMPT FROM CHAPTER 4, ARTICLES 5 AND 6 OF THIS TITLE.

D. PURCHASES AND CONTRACTS FOR GOODS AND SERVICES ENTERED INTO BY THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS ARE EXEMPT FROM CHAPTER 23 OF THIS TITLE.

Sec. 18. Section 41-1304.06, Arizona Revised Statutes, is amended to read:

41-1304.06. Authorization for collection of rental; basis of payment; exception; definition

A. Each state department and each state agency when using space under the jurisdiction of the legislative council or the speaker of the state house of representatives or the president of the state senate shall pay a rental as prescribed in subsection B to the legislative council, speaker or president, as appropriate, for deposit in the capital outlay stabilization fund.

B. The rental authorized by the terms of subsection A shall be determined by the joint legislative budget committee after recommendation by the speaker and president prior to the beginning of each fiscal year. The agency shall pay rent in one annual payment regardless of whether the department or agency is funded in whole or in part by state monies.

C. THIS SECTION DOES NOT APPLY TO THE SECRETARY OF STATE IF THE SPACE USED PURSUANT TO THIS SECTION IS PRIMARILY BEING USED BY THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS FOR THE PURPOSES PRESCRIBED BY STATUTE.

~~C.~~ D. For the purposes of this section, "state department" or "state agency" means any department or agency of the executive or judicial branch of state government.

Sec. 19. Section 41-1330, Arizona Revised Statutes, is amended to read:

41-1330. Definitions

In this article, unless the context otherwise requires:

~~1. "Board" means the board of the state library.~~

~~2.~~ 1. "Director" means the director of the state library.

~~3.~~ 2. "State library" means the Arizona state library, archives and public records.

Sec. 20. Section 41-1331, Arizona Revised Statutes, is amended to read:

41-1331. Arizona state library, archives and public records

A. The Arizona state library, archives and public records is established in the ~~legislative branch of state government~~ OFFICE OF THE SECRETARY OF STATE.

B. The state library shall:

1. Acquire and provide access to materials relating to the following in print, in an electronic format or in any other format:

(a) Law.

(b) Political science.

(c) Economics.

(d) Sociology.

(e) Subjects pertaining to the theory and practice of government.

(f) Genealogy.

(g) Arizona history.

2. Provide the following:

(a) A general and legal reference service.

(b) A records management and archives program.

(c) A state and federal government documents depository program.

(d) A library development service.

(e) Museums for educational purposes as approved by the ~~board~~ SECRETARY OF STATE.

(f) A service, including materials, for persons who are visually or physically unable to use traditional print materials.

Sec. 21. Section 41-1332, Arizona Revised Statutes, is amended to read:

41-1332. Advisory board of the Arizona state library, archives and public records

A. ~~A~~ AN ADVISORY board of the Arizona state library, archives and public records is established consisting of the president of the senate OR THE PRESIDENT'S DESIGNEE, THE speaker of the house of representatives OR THE SPEAKER'S DESIGNEE, one member of the senate WHO IS appointed by the president of the senate AND WHO IS A MEMBER OF A DIFFERENT POLITICAL PARTY THAN THE PRESIDENT, ~~and~~ one member of the house of representatives WHO IS appointed by the speaker of the house of representatives AND WHO IS A MEMBER OF A DIFFERENT POLITICAL PARTY THAN THE SPEAKER AND FIVE MEMBERS WHO ARE APPOINTED BY THE SECRETARY OF STATE.

B. THE ADVISORY BOARD SHALL ANNUALLY ELECT A CHAIRPERSON AND VICE-CHAIRPERSON FROM AMONG ITS MEMBERS AT THE FIRST MEETING OF THE FISCAL YEAR. Meetings of the ADVISORY board shall be held at the call of the ~~chairman~~ CHAIRPERSON OR A MAJORITY OF THE MEMBERS OF THE ADVISORY BOARD. ~~The speaker of the house of representatives shall serve as chairman in even-numbered years and the president of the senate shall serve as chairman in odd-numbered years.~~

C. MEMBERS WHO ARE APPOINTED BY THE SECRETARY OF STATE SHALL SERVE THREE YEAR STAGGERED TERMS BEGINNING ON JULY 1. IF THERE IS A VACANCY, THE SECRETARY OF STATE SHALL APPOINT ANOTHER PERSON TO SERVE THE REMAINDER OF THE TERM. THE SECRETARY OF STATE MAY APPOINT MEMBERS TO SUCCEEDING TERMS. THE SECRETARY OF STATE MAY REMOVE A MEMBER FOR GOOD AND SUFFICIENT CAUSE. MEMBERS OF THE ADVISORY BOARD WHO ARE APPOINTED BY THE SECRETARY OF STATE ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

~~C.~~ D. The ADVISORY board shall ~~exercise general supervision over the state library and shall appoint the director of the state library. The director shall serve at the pleasure of the board~~ ADVISE THE SECRETARY OF STATE IN THE SUPERVISION OF THE STATE LIBRARY.

Sec. 22. Section 41-1333, Arizona Revised Statutes, is amended to read:

41-1333. Director of the state library; qualifications

A. The state library shall be under the charge and control of a director, subject to ~~board~~ supervision OF THE SECRETARY OF STATE. THE SECRETARY OF STATE SHALL APPOINT THE DIRECTOR OF THE STATE LIBRARY. THE DIRECTOR SHALL SERVE AT THE PLEASURE OF THE SECRETARY OF STATE.

B. The director shall be a person WHO IS technically trained in library work ~~or have~~ WITH AT LEAST A MASTER'S DEGREE IN LIBRARY SCIENCE OR THE EQUIVALENT AND WHO HAS at least five years' actual experience as chief administrator of a major library.

Sec. 23. Section 41-1334, Arizona Revised Statutes, is amended to read:

41-1334. Compensation of director

The compensation of the director shall be as determined by the ~~board~~ SECRETARY OF STATE.

Sec. 24. Section 41-1345, Arizona Revised Statutes, is amended to read:

41-1345. Records; records management; powers and duties of director; fees; records services fund

A. The director is responsible for the preservation and management of records. In addition to other powers and duties, the director shall:

1. Establish standards, procedures and techniques for effective management of records.

2. Make continuing surveys of record keeping operations and recommend improvements in current record management practices, including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing records.

3. Establish standards and procedures for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping.

4. Establish criteria for designation of essential records within the following general categories:

(a) Records containing information necessary to the operations of government in the emergency created by a disaster.

(b) Records containing information necessary to protect the rights and interests of persons or to establish and affirm the powers and duties of governments in the resumption of operations after a disaster.

5. Reproduce or cause to be reproduced essential records and prescribe the place and manner of their safekeeping.

6. Obtain such reports and documentation from agencies as are required for the administration of this program.

7. Request transmittal of the originals of records produced or reproduced by agencies of the state or its political subdivisions pursuant to section 41-1348 or certified negatives, films or electronic media of such originals, or both, if in the director's judgment such records may be of historical or other value.

8. On request, assist and advise in the establishment of records management programs in the legislative and judicial branches of the state and provide program services similar to those available to the executive branch of state government pursuant to this article.

9. Establish a fee schedule to systematically charge state agencies, political subdivisions of this state and other governmental units of this state for services described in this section and section 41-1345.01 and deposit monies received from fees in the records services fund established by subsection B of this section.

10. Subject to approval of the ~~board~~ SECRETARY OF STATE, establish a fee schedule to charge state agencies, political subdivisions of this state and other governmental units of this state for services and expenses incurred by the state library in obtaining copies of those reports, documents and publications that are required to be delivered, supplied or provided pursuant to sections 35-103, 41-1335 and 41-1338 and deposit these monies in the records services fund established by subsection B of this section.

B. A records services fund is established consisting of monies deposited pursuant to subsection A, paragraphs 9 and 10 of this section. The director shall administer the fund for the purposes provided in subsection A of this section. Monies in the fund are subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

Sec. 25. Section 41-1353, Arizona Revised Statutes, is amended to read:

41-1353. <u>Review and transfer of certain historic property; exemption; definition</u>

A. An agency shall notify the state library on forms prescribed by the director if the agency has or acquires furniture, equipment or other personal property ~~which~~ THAT is fifty or more years of age or of known historical

interest, including property escheated to the state under title 12, chapter 7, article 5.

B. The director may authorize a person to inspect the personal property reported under subsection A and recommend to the state library whether the personal property is of an historic interest or value as would in the public interest require it to be made available permanently for placement on public display in any restored executive, legislative or judicial facility or museum area.

C. If the state library determines the personal property should be made available for display purposes it shall provide written notice to the agency requesting prompt transfer of the personal property to the state library.

D. An agency may apply to the ~~board~~ SECRETARY OF STATE for an exemption from the transfer required under subsection C by filing a prompt written response ~~to the board~~ stating:

1. The length of time the agency has used the personal property.

2. Why the value of the personal property to the agency is greater than the educational and historic value in displaying the personal property.

3. What harm the agency would suffer if the personal property is transferred to the department.

4. That the use of federal monies in the initial acquisition of the personal property legally precludes its transfer to the ~~board~~ STATE LIBRARY.

E. The ~~board~~ SECRETARY OF STATE shall grant an exemption to a requested property transfer if ~~it~~ THE SECRETARY OF STATE finds that the transfer of the property would result in significant cost or disruption to the agency ~~which~~ THAT would outweigh the educational and historic value in displaying the property.

F. For the purposes of this section, "agency" means any branch, department, commission, board or other unit of the state organization ~~which~~ THAT receives, disburses or expends state monies or incurs obligations against this state.

Sec. 26. <u>Current employees of the secretary of state; purchase of telephone system</u>

A. Any person who is employed on the effective date of this act by the secretary of state in a position that is subject to title 41, chapter 4, articles 5 and 6, Arizona Revised Statutes, continues to be subject to title 41, chapter 4, articles 5 and 6, Arizona Revised Statutes.

B. The secretary of state may purchase a voice over internet protocol system for use by the department of state to replace the department's existing telephone system.

Sec. 27. <u>Department of administration; sale or lease of certain state property; review; deposit of monies</u>

A. The department of administration shall sell or lease to the highest and best bidder at a public auction held for that purpose the state property located at 14 N. 18th avenue, Phoenix, Arizona. The sale or lease shall

1 include the building and appurtenant land, personal property and other
2 improvements required for the operation of the property. The property is
3 subject to two current independent appraisals and an independent title search
4 before the property is offered for sale.
5 B. Sale or lease of the property shall begin as soon as possible after
6 the effective date of this act and shall be completed before July 1, 2010.
7 C. The sale or lease is subject to review by the joint committee on
8 capital review.
9 D. All proceeds of the sale or lease shall be deposited in the capital
10 outlay stabilization fund established by section 41-792.01, Arizona Revised
11 Statutes.
12 Sec. 28. State library; transfer
13 All personnel, property, records and appropriated monies remaining
14 unspent and unencumbered of the Arizona state library, archives and public
15 records are transferred to the secretary of state and may be used for the
16 purposes of this act.
17 Sec. 29. Requirements for enactment; three-fourths vote
18 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
19 sections 16-941 and 16-959, Arizona Revised Statutes, as amended by this act,
20 are effective only on the affirmative vote of at least three-fourths of the
21 members of each house of the legislature.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.