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FILED

**Jane Dee Hull
Secretary of State**

CHAPTER 317

SENATE BILL 1193

AN ACT

AMENDING SECTIONS 42-114, 42-1322, 43-307, 43-321, 43-322, 43-324, 43-401 AND 43-1022, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 5, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-568; RELATING TO TAX ADMINISTRATION.

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

Section 1. Section 42-114, Arizona Revised Statutes, is amended to read:

42-114. Taxpayer identification, verification and records; retention

A. The federal taxpayer identification number, assigned pursuant to section 6109 of the internal revenue code, is the taxpayer identifier for purposes of the taxes administered pursuant to this article. Each person who is required to make a return, statement or other document shall include the identifier in order to secure the person's proper identification. If the return, statement or document is made by another person on behalf of the taxpayer, the taxpayer shall furnish the identifier to the other person, and the person shall furnish both the taxpayer's identifier and his own identifier with the return, statement or document.

B. THE DEPARTMENT MAY PRESCRIBE BY ADMINISTRATIVE RULE ALTERNATIVE METHODS FOR SIGNING, SUBSCRIBING OR VERIFYING A RETURN, STATEMENT OR OTHER DOCUMENT THAT HAS THE SAME VALIDITY AND CONSEQUENCE AS THE TAXPAYER'S ACTUAL SIGNATURE OR WRITTEN DECLARATION.

~~B-~~ C. Except as provided in section 42-1214, every person who is subject to the taxes administered pursuant to this article shall keep and preserve suitable records and other books and accounts necessary to determine

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1 the tax for which the person is liable for the period prescribed in section
2 42-113. The books, records and accounts shall be open for inspection at any
3 reasonable time by the department or its authorized agent.

4 ~~C.~~ D. The department shall preserve reports, returns or microfilm
5 copies of such documents for the period of time prescribed by section 42-113
6 and thereafter until it orders them to be destroyed.

7 Sec. 2. Section 42-1322, Arizona Revised Statutes, is amended to read:
8 42-1322. Return and payment of tax; estimated tax; extensions;
9 abatements; definition

10 A. Except as provided in subsection B, C or D of this section, the
11 taxes levied under this article are due and payable monthly on or before the
12 twentieth day of the month next succeeding the month in which the tax accrues
13 and are delinquent:

14 1. If not postmarked on or before the twenty-fifth day of that month.

15 ~~or~~
16 2. If not received by the department on or before the business day
17 preceding the last business day of that month for those taxpayers electing
18 to file by mail. ~~, or delinquent~~

19 3. If not received by the department on the business day preceding the
20 last business day of that month for those taxpayers electing to file in
21 person.

22 4. IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE THE TWENTY-FIFTH DAY
23 OF THAT MONTH FOR THOSE TAXPAYERS REQUIRED OR ELECTING TO PAY IN IMMEDIATELY
24 AVAILABLE FUNDS PURSUANT TO SECTION 42-137.02.

25 B. FOR TAX REPORTING PERIODS THAT BEGIN BEFORE JANUARY 1, 1997, the
26 department may, for any taxpayer whose estimated annual liability for taxes
27 imposed by this article is between two hundred and five hundred dollars,
28 authorize such taxpayer to pay such taxes on a quarterly basis. FOR TAX
29 REPORTING PERIODS THAT BEGIN BEFORE JANUARY 1, 1997, the department may, for
30 any taxpayer whose estimated annual liability for taxes imposed by this
31 article is two hundred dollars or less, authorize such taxpayer to pay such
32 taxes on an annual basis. FOR TAX REPORTING PERIODS THAT BEGIN FROM AND
33 AFTER DECEMBER 31, 1996, THE DEPARTMENT BY RULE MAY DETERMINE WHICH TAXPAYERS
34 QUALIFY AND ALLOW QUALIFYING TAXPAYERS TO PAY THE TAXES IMPOSED BY THIS
35 ARTICLE ON A QUARTERLY BASIS OR ON AN ANNUAL BASIS IF THE TAXPAYER HAS
36 ESTABLISHED SUFFICIENT PAYMENT HISTORY TO INDICATE THAT THE TAXPAYER IS
37 CURRENT AND IN GOOD STANDING PURSUANT TO STANDARDS ESTABLISHED BY RULE.

38 C. The department may require a taxpayer whose business is of a
39 transient character to file his return and remit the taxes imposed by this
40 article on a daily, a weekly or a transaction by transaction basis, and those
41 returns and payments are due and payable on the date fixed by the department
42 without a grace period otherwise allowed by this section. For purposes of
43 this subsection, "business of a transient character" means sales activity by
44 a taxpayer not regularly engaged in selling within the state conducted from

1 vehicles, portable stands, rented spaces, structures or booths, or
2 concessions at fairs, carnivals, circuses, festivals or similar activities
3 for not more than thirty consecutive days.

4 D. From and after June 30, 1993, if the business entity under which
5 a taxpayer reports and pays income tax under title 43 has an annual total tax
6 liability under this article and chapters 8.2 and 8.3 of this title of one
7 hundred thousand dollars or more, based on the actual tax liability in the
8 preceding calendar year, regardless of the number of offices at which the
9 taxes imposed by this article or chapter 8.2 or 8.3 of this title are
10 collected, or if the taxpayer can reasonably anticipate such liability in the
11 current year, the taxpayer shall report on a form prescribed by the
12 department and pay an estimated tax payment each June. Any other taxpayer
13 may voluntarily elect to pay the estimated tax payment pursuant to this
14 subsection. The payment shall be made on or before June 20 and is delinquent
15 if not postmarked on or before that date or if not received by the department
16 on or before the business day preceding the last business day of June for
17 those taxpayers electing to file by mail, or delinquent if not received by
18 the department on the business day preceding the last business day of June
19 for those taxpayers electing to file in person. A TAXPAYER PAYING BY USING
20 THE METHOD PRESCRIBED IN SUBSECTION A, PARAGRAPH 4 OF THIS SECTION SHALL MAKE
21 THE ESTIMATED TAX PAYMENTS ON OR BEFORE JUNE 25 AND IS DELINQUENT IF NOT
22 TRANSFERRED BY THE LAST DAY TO MAKE THE ESTIMATED PAYMENT. The estimated tax
23 paid shall be credited against the taxpayer's tax liability under this
24 article and chapters 8.2 and 8.3 of this title for the month of June for the
25 current calendar year. The estimated tax payment shall equal either:

26 1. One-half of the actual tax liability under this article plus
27 one-half of any tax liability under chapters 8.2 and 8.3 of this title for
28 May of the current calendar year.

29 2. The actual tax liability under this article plus any tax liability
30 under chapters 8.2 and 8.3 of this title for the first fifteen days of June
31 of the current calendar year.

32 E. The taxpayer shall on or before the day on which the taxpayer's tax
33 payments are due and payable prepare a return showing the amount of the tax
34 for which he is liable for the preceding month, and shall mail or deliver the
35 return ~~together with a remittance~~ AT THE SAME TIME THE TAX IS REMITTED, in
36 the form required by section 42-1323, for the amount of the tax, to the
37 department. The return shall be verified by the oath of the taxpayer or an
38 authorized agent OR AS PRESCRIBED BY THE DEPARTMENT PURSUANT TO SECTION
39 42-114, SUBSECTION B.

40 F. Any person taxable under this article making cash and credit sales
41 shall report such cash and credit sales separately and upon making
42 application therefor may obtain from the department an extension of time for
43 payment of taxes due on the credit sales. The extension shall be granted by
44 the department under such rules as the department prescribes. When the

1 extension is granted, the taxpayer shall thereafter include in each monthly
2 report all collections made on such credit sales during the month next
3 preceding, and shall pay the taxes due thereon at the time of filing such
4 report.

5 G. The returns required under this article shall be made upon forms
6 prescribed by the department.

7 H. The department, for good cause, may extend the time for making any
8 return required by this article, and may grant such reasonable additional
9 time within which to make the return as it deems proper, but the time for
10 filing the return shall not be extended beyond the first day of the third
11 month next succeeding the regular due date of the return.

12 I. The department, with the approval of the attorney general, may
13 abate small tax balances if the administration costs exceed the amount of tax
14 due.

15 J. For the purposes of subsection D of this section, "taxpayer" means
16 the business entity under which the business reports and pays state income
17 taxes regardless of the number of offices at which the taxes imposed by this
18 article or chapter 8.2 or 8.3 of this title are collected.

19 Sec. 3. Section 43-307, Arizona Revised Statutes, is amended to read:

20 43-307. Corporation returns

21 A. Every corporation subject to the tax imposed by this title shall
22 make a return to the department. Every corporation return required by this
23 title to be filed with the department shall be signed by ONE OR MORE OF THE
24 FOLLOWING OFFICERS:

- 25 1. The president. ~~or other principal officer and~~
- 26 2. The treasurer. ~~or chief accounting~~
- 27 3. ANY OTHER PRINCIPAL officer of the taxpayer.

28 B. If receivers, trustees in bankruptcy or assignees are operating the
29 property or business of a corporation, such receivers, trustees or assignees
30 shall make returns for such corporation in the same manner and form as such
31 a corporation is required to make a return. Any tax due on the basis of
32 returns made by receivers, trustees or assignees shall be collected in the
33 same manner as if collected from the corporation of whose business or
34 property they have custody and control.

35 C. This section applies regardless of whether a corporation is
36 required to file a return under the internal revenue code or whether the
37 corporation has any federal taxable income for the taxable year.

38 Sec. 4. Section 43-321, Arizona Revised Statutes, is amended to read:

39 43-321. Information required in returns

40 Each return required to be filed under this title shall contain the
41 following:

- 42 1. It shall contain or be verified by a ~~written~~ declaration that it
43 is made under penalties of perjury. THE DECLARATION SHALL BE WRITTEN OR IN
44 A FORM PRESCRIBED BY THE DEPARTMENT PURSUANT TO SECTION 42-114, SUBSECTION B.

1 2. A specific statement of the items of the taxpayer's gross income
2 and the adjustments, deductions and credits allowed by this title.

3 3. Such other information as the department may by ~~regulation~~ RULE
4 prescribe for the purpose of carrying out the provisions of this title.

5 Sec. 5. Section 43-322, Arizona Revised Statutes, is amended to read:

6 43-322. Signature presumed to be taxpayer's

7 The fact that an individual's name is signed to a return, statement or
8 other document filed, OR THAT THE RETURN, STATEMENT OR DOCUMENT IS SIGNED,
9 SUBSCRIBED OR VERIFIED IN A MANNER PRESCRIBED BY THE DEPARTMENT PURSUANT TO
10 SECTION 42-114, SUBSECTION B, shall be a presumption of fact that the return,
11 statement or other document was actually signed by him.

12 Sec. 6. Section 43-324, Arizona Revised Statutes, is amended to read:

13 43-324. Rounding to the nearest dollar

14 ~~In the preparation of~~ THE DEPARTMENT MAY ROUND FRACTIONAL DOLLARS TO
15 THE NEAREST WHOLE DOLLAR AND MAY REQUIRE THE TAXPAYER TO DO SO IN PREPARING
16 any return under this title ~~the taxpayer may elect to eliminate the~~
17 ~~fractional dollar by rounding out the fractional dollar to the nearest whole~~
18 ~~dollar.~~

19 Sec. 7. Section 43-401, Arizona Revised Statutes, is amended to read:

20 43-401. Withholding tax; rates; election by employee

21 A. Every employer at the time of the payment of wages, salary, bonus
22 or other emolument to any employee whose compensation is for services
23 performed within this state shall deduct and retain therefrom an amount equal
24 to a percentage of the total amount of the federal income tax deducted and
25 withheld by an employer from the total value of such wages, bonus or other
26 emolument of an employee under the provisions of the United States internal
27 revenue code computed without deductions for any amount withheld. ~~Except as~~
28 ~~provided by subsection B, until April 19, 1992, the percentage deducted and~~
29 ~~retained shall be:~~

30 ~~1. Ten per cent, twenty per cent, twenty five per cent or twenty nine~~
31 ~~per cent, at the employee's election pursuant to subsection E, if the~~
32 ~~employee's annual compensation is less than fifteen thousand dollars.~~

33 ~~2. Twenty per cent, twenty five per cent or twenty nine per cent, at~~
34 ~~the employee's election pursuant to subsection E, if the employee's annual~~
35 ~~compensation is fifteen thousand dollars or more.~~

36 B. ~~Not later than midnight April 18, 1992,~~ The percentage deducted and
37 retained under subsection A shall be:

38 1. If the employee's annual compensation is less than fifteen thousand
39 dollars, ten per cent, twenty per cent, twenty-two per cent, twenty-eight per
40 cent or thirty-two per cent, at the employee's election pursuant to
41 subsection E.

42 2. If the employee's annual compensation is fifteen thousand dollars
43 or more, twenty per cent, twenty-two per cent, twenty-eight per cent or
44 thirty-two per cent, at the employee's election pursuant to subsection E.

1 C. FOR TAXABLE YEARS OR REPORTING PERIODS THAT BEGIN BEFORE JANUARY
2 1, 1997, if the amount collected and payable by the employer to the
3 department in each of the preceding four calendar quarters did not exceed an
4 average of one thousand five hundred dollars, the amount collected shall be
5 paid to the department on or before April 30, July 31, October 31 and January
6 31 for the preceding calendar quarter. If such amount exceeded one thousand
7 five hundred dollars in each of the preceding four calendar quarters, the
8 employer shall pay to the department the amount he deducts and retains
9 pursuant to this section at the same time as he is required to make deposits
10 of federal tax pursuant to section 6302 of the internal revenue code. On or
11 before April 30, July 31, October 31 and January 31 each year the employer
12 shall reconcile the amounts payable during the preceding calendar quarter in
13 a manner prescribed by the department. FOR TAXABLE YEARS OR REPORTING
14 PERIODS THAT BEGIN FROM AND AFTER DECEMBER 31, 1997, THE DEPARTMENT BY RULE
15 MAY DETERMINE WHICH EMPLOYERS QUALIFY AND ALLOW ANNUAL PAYMENTS OF
16 WITHHOLDING TAXES, WITH AN ANNUAL REPORT BY THE EMPLOYER PURSUANT TO SECTION
17 43-412, SUBSECTION B, IF THE QUALIFYING EMPLOYER HAS ESTABLISHED SUFFICIENT
18 PAYMENT HISTORY TO INDICATE THAT THE EMPLOYER IS CURRENT AND IN GOOD STANDING
19 PURSUANT TO STANDARDS ESTABLISHED BY RULE. For any business which has not
20 had a withholding certificate for the four preceding consecutive quarters,
21 the quarterly average shall be computed in a manner prescribed by the
22 department.

23 D. If an employer fails to make a timely monthly payment because prior
24 to that reporting period it reported on a quarterly basis instead of on a
25 monthly basis, the department shall notify the employer that it is out of
26 compliance with this section. Notwithstanding section 42-136, the department
27 shall not assess a penalty against an employer for failing to make a timely
28 monthly payment if the employer had filed and remitted all taxes due on a
29 quarterly basis and brings all filings and payments into current compliance
30 within thirty days after being notified by the department.

31 E. Each employee shall elect which percentage of the federal income
32 tax deducted and withheld shall be withheld for application toward his state
33 income tax liability. The election provided under this subsection shall be
34 exercised by each employee, in writing on a form prescribed by the
35 department. The election shall be made within five days of employment. Each
36 employer shall notify his employees of the election made available under this
37 subsection and shall have election forms available at all times. Each form
38 shall be completed in triplicate, with one copy each for the department, the
39 employer and the employee. The employer shall file a copy of each completed
40 form with the department. Any employee failing to complete an election form
41 as prescribed shall be deemed to have elected the smallest applicable
42 withholding percentage.

1 Sec. 8. Title 43, chapter 5, article 5, Arizona Revised Statutes, is
2 amended by adding section 43-568, to read:

3 43-568. Income taxes of members of armed forces upon death

4 IF AN INDIVIDUAL DIES WHILE IN ACTIVE SERVICE AS A MEMBER OF THE ARMED
5 FORCES OF THE UNITED STATES, THE FOLLOWING SHALL APPLY IF SUCH DEATH OCCURRED
6 WHILE SERVING IN A COMBAT ZONE AS DETERMINED UNDER SECTION 112 OF THE
7 INTERNAL REVENUE CODE OR IN AN AREA GIVEN THE SAME TREATMENT AS A COMBAT ZONE
8 FOR THE PURPOSE OF SECTION 112 OF THE INTERNAL REVENUE CODE OR IS THE RESULT
9 OF WOUNDS, DISEASE, OR INJURY INCURRED WHILE SERVING IN SUCH AREA. THE TAX
10 IMPOSED BY THIS TITLE SHALL NOT APPLY WITH RESPECT TO THE TAXABLE YEAR IN
11 WHICH THE DATE OF DEATH OCCURS, OR WITH RESPECT TO ANY PRIOR TAXABLE YEAR
12 ENDING ON OR AFTER THE FIRST DAY THE INDIVIDUAL SERVED IN A COMBAT ZONE OR
13 AN AREA GIVEN THE SAME TREATMENT AS A COMBAT ZONE.

14 Sec. 9. Section 43-1022, Arizona Revised Statutes, is amended to read:

15 43-1022. Subtractions from Arizona gross income

16 In computing Arizona adjusted gross income, the following amounts shall
17 be subtracted from Arizona gross income:

18 1. The amount of exemptions allowed by section 43-1023.

19 2. Benefits, annuities and pensions in an amount totalling not more
20 than two thousand five hundred dollars received from one or more of the
21 following:

22 (a) The United States government service retirement and disability
23 fund, retired or retainer pay of the uniformed services of the United States,
24 the United States foreign service retirement and disability system and any
25 other retirement system or plan established by federal law.

26 (b) The state retirement system, the state retirement plan, the
27 corrections officer retirement plan, the public safety personnel retirement
28 system, the elected officials' retirement plan, an optional retirement
29 program established by the Arizona board of regents under section 15-1628 or
30 a retirement plan established for employees of a county, city or town in this
31 state.

32 3. A beneficiary's share of trust or estate income recognized pursuant
33 to the internal revenue code.

34 4. The amount of any distributions from an individual retirement
35 account as provided for in section 408 of the internal revenue code or from
36 a qualified retirement plan of a self-employed individual as provided for in
37 section 401 of the internal revenue code to the extent that total adjustments
38 made pursuant to this paragraph in all tax years do not exceed the total of
39 all contributions made by the taxpayer to such plans prior to December 31,
40 1975, which were included in computing Arizona taxable income.

41 5. The amount of income on an installment receivable which is
42 recognized pursuant to the internal revenue code and which has already been
43 recognized on the death of the taxpayer for purposes of this title for tax
44 years ending before January 1, 1990.

1 6. Interest income received on obligations of the United States, less
2 any interest on indebtedness, or other related expenses, and deducted in
3 arriving at Arizona gross income, which were incurred or continued to
4 purchase or carry such obligations.

5 7. The amount of any income tax refunds which were received from
6 states other than Arizona and which were included as income in computing
7 federal adjusted gross income.

8 8. Annuity income included in federal adjusted gross income pursuant
9 to section 72 of the internal revenue code if the first payment with respect
10 to such annuity was received prior to December 31, 1978.

11 9. The excess of a partner's share of income required to be included
12 under section 702(a)(8) of the internal revenue code over the income required
13 to be included under chapter 14, article 2 of this title.

14 10. The excess of a partner's share of partnership losses determined
15 pursuant to chapter 14, article 2 of this title over the losses allowable
16 under section 702(a)(8) of the internal revenue code.

17 11. The amount by which the adjusted basis of property described in
18 this paragraph and computed pursuant to this title and the income tax act of
19 1954, as amended, exceeds the adjusted basis of such property computed
20 pursuant to the internal revenue code. This paragraph shall apply to all
21 property which is held for the production of income and which is sold or
22 otherwise disposed of during the taxable year other than depreciable property
23 used in a trade or business.

24 12. The amount allowed by section 43-1024 for amortization, by a
25 qualified defense contractor certified by the department of commerce under
26 section 41-1508, of a capital investment for private commercial activities.

27 13. The amount of gain included in federal adjusted gross income on the
28 sale or other disposition of a capital investment that a qualified defense
29 contractor has elected to amortize pursuant to section 43-1024.

30 14. The amount allowed by section 43-1025 for contributions during the
31 taxable year of agricultural crops to charitable organizations.

32 15. The amount of prizes or winnings less than five thousand dollars
33 in a single taxable year from any of the state lotteries established and
34 operated pursuant to title 5, chapter 5, article 1, except that all such
35 winnings before March 22, 1983, including periodic distributions from such
36 winnings made after March 22, 1983, may be subtracted.

37 16. The amount of exploration expenses determined pursuant to section
38 617 of the internal revenue code which have been deferred in a taxable year
39 ending before January 1, 1990 and for which a subtraction has not previously
40 been made. The subtraction shall be made on a ratable basis as the units of
41 produced ores or minerals discovered or explored as a result of this
42 exploration are sold.

1 17. The amount included in federal adjusted gross income pursuant to
2 section 86 of the internal revenue code, relating to taxation of social
3 security and railroad retirement benefits.

4 18. To the extent not already excluded from Arizona gross income under
5 section 112 of the internal revenue code, compensation received for active
6 service as a member of the armed forces of the United States for any month
7 during any part of which the member served in a combat zone AS DETERMINED
8 UNDER SECTION 112 OF THE INTERNAL REVENUE CODE OR IN AN AREA GIVEN THE SAME
9 TREATMENT AS A COMBAT ZONE FOR PURPOSES OF SECTION 112 OF THE INTERNAL
10 REVENUE CODE.

11 19. The amount of nonreimbursed medical and hospital costs, adoption
12 counseling, legal and agency fees and other nonrecurring costs of adoption
13 not to exceed three thousand dollars. In the case of a husband and wife who
14 file separate returns, the subtraction may be taken by either taxpayer or may
15 be divided between them, but the total subtractions allowed both husband and
16 wife shall not exceed three thousand dollars. The subtraction under this
17 paragraph may be taken for the costs described in this paragraph that are
18 incurred in prior years, but the subtraction may be taken only in the year
19 during which the final adoption order is granted.

20 20. The amount authorized by section 43-1026 for the taxable year for
21 purchases of, and equipment relating to, alternative fuel vehicles.

22 21. The amount authorized by section 43-1027 for the taxable year for
23 purchases of, and nonoptional equipment directly related to the operation of,
24 qualified wood stoves, wood fireplaces or gas fired fireplaces.

25 22. With respect to an individual medical savings account established
26 pursuant to section 43-1028:

27 (a) The account holder may subtract:

28 (i) The amount of contributions made by the taxpayer's employer during
29 the taxable year to the taxpayer's individual medical savings account
30 pursuant to section 43-1028 to the extent that the employer contributions are
31 included in the taxpayer's federal adjusted gross income.

32 (ii) The amount deposited by the taxpayer in the account during the
33 taxable year.

34 (b) The account holder's employer may subtract the amount of
35 contributions made by the employer to an individual medical savings account
36 established on the employee's behalf to the extent that the contributions are
37 not deductible under the internal revenue code.

38 23. The amount by which a net operating loss carryover or capital loss
39 carryover allowable pursuant to section 43-1029, subsection F exceeds the net
40 operating loss carryover or capital loss carryover allowable pursuant to
41 section 1341(b)(5) of the internal revenue code.

1 Sec. 10. Initial implementation of quarterly and annual tax
2 filings

3 A. For purposes of section 42-1322, subsection B, Arizona Revised
4 Statutes, as amended by this act, for tax reporting periods that begin from
5 and after December 31, 1996 and until the department of revenue adopts new
6 limits by rule, the department may authorize a taxpayer to pay:

7 1. On a quarterly basis if the taxpayer's estimated annual liability
8 for the tax is more than two hundred dollars but less than one thousand two
9 hundred fifty dollars.

10 2. On an annual basis if the taxpayer's estimated annual liability for
11 the tax is two hundred dollars or less.

12 B. For purposes of section 43-401, subsection C, Arizona Revised
13 Statutes, as amended by this act, for taxable years or reporting periods that
14 begin from and after December 31, 1997 and until the department of revenue
15 adopts new limits by rule, the department may allow annual payments of
16 withholding tax if the amount collected and payable by the employer to the
17 department in each of the preceding calendar quarters did not exceed an
18 average of two hundred dollars.

19 Sec. 11. Retroactivity

20 Sections 8 and 9 as amended by this act, are effective from and after
21 November 20, 1995.

APPROVED BY THE GOVERNOR MAY 1, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 1996