House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 190

HOUSE BILL 2599

AN ACT

AMENDING SECTIONS 5-559, 41-741, 41-753, 41-1231, 41-1232.04, 41-1232.08, 41-1233, 41-1233.01, 41-2501, 41-2503, 41-2511, 41-2512, 41-2515 AND 41-2516, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 23, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2517; AMENDING SECTIONS 41-2532, 41-2533, 41-2534, 41-2535 AND 41-2544, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-2545 AND 41-2553, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-2567, 41-2611, 41-2612, 41-2631, 41-2632, 41-3504 AND 41-3521, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA PROCUREMENT CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 5-559, Arizona Revised Statutes, is amended to read:

5-559. Contracts; limitation; restrictions

A. Notwithstanding any other statute, the director may:

1. Directly solicit bids and contract for the design and operation of the lottery or the purchase of lottery equipment, tickets and related materials.

2. Contract to effectuate the purposes of this chapter and the rules ~~promulgated~~ ADOPTED pursuant to this chapter.

3. Acquire administrative office facilities and related facilities and equipment for the use of the commission by lease, purchase or lease-purchase.

B. Procurement pursuant to this section shall be performed as prescribed in section 41-2501, subsection ~~F~~ G. Bids received under this section may be deemed confidential in whole or in part by the director if required on account of the sensitive and responsible nature of the commission's functions and the paramount considerations of security and integrity.

C. Any award made by the director pursuant to this section becomes effective and binding on the commission unless it is rejected by the commission at a meeting held within fourteen calendar days after the award is communicated to the members of the commission.

D. A contract awarded or entered into by the director pursuant to this section shall not be assigned by the holder except by specific approval of the director. In all awards of contracts pursuant to this section, the director shall take particular account of the sensitive and responsible nature of the commission's functions and the paramount considerations of security and integrity.

Sec. 2. Section 41-741, Arizona Revised Statutes, is amended to read:

41-741. Definitions

In this article and articles 5 and 6 OF THIS CHAPTER, unless the context otherwise requires:

1. "Appointing authority" means the person or group of persons authorized by law or delegated authority to make appointments to fill positions.

2. "At will" means an employment relationship where either party to the relationship may sever the relationship at any time for any reason other than an unlawful reason.

3. "Break in service" means a separation from state employment, regardless of the reason for separation.

4. "Change in assignment" means movement of an employee to a different position in the same state agency or another state agency.

5. "Covered employee" means an employee who:

(a) Before September 29, 2012, is in the state service, is not uncovered pursuant to section 41-742, subsection A and has remained in covered status without a break in service since that date.

(b) Before September 29, 2012, is in the state service, is employed as a correctional officer I, correctional officer II, correctional officer III or community corrections officer and has remained in covered status without a break in service since that date.

(c) Before September 29, 2012, is in the state service, is a full authority peace officer as certified by the Arizona peace officer standards and training board and has remained in that status without a break in service since that date.

(d) On or after September 29, 2012, is a correctional officer I, correctional officer II, correctional officer III or community corrections officer and is appointed to a position in the covered service, but does not include a position in any other class in the correctional officer class series or the community correctional officer class series or in any other correctional class series.

(e) On or after September 29, 2012, is a full authority peace officer as certified by the Arizona peace officer standards and training board and is appointed to a position that requires such a certification in the covered service.

6. "Covered service" means that employment status conferring rights of appeal as prescribed in sections 41-782 and 41-783 or SECTION 41-1830.16, as applicable.

7. "Director" means the director of the department of administration, or the director's designee, who is responsible for administering the state personnel system pursuant to applicable state and federal laws.

8. "Employee" means all officers and employees of this state, whether in covered service or uncovered service, unless otherwise prescribed.

9. "Full authority peace officer" means a peace officer whose authority to enforce the laws of this state is not limited by the rules adopted by the Arizona peace officer standards and training board.

10. "Original probationary period" means the specified period following initial appointment to covered service.

11. "Probationary period" means a working test period of employment in a covered service position for evaluation of the employee's work.

12. "Promotional probation" means the specified period of employment following promotion of a permanent status employee to another covered service position that has a higher pay grade.

13. "Rules" means rules adopted by the department of administration, human resources division.

14. "SIGNIFICANT PROCUREMENT ROLE" MEANS ANY ROLE THAT INCLUDES ANY OF THE FOLLOWING DUTIES:

(a) PARTICIPATING IN THE DEVELOPMENT OF A PROCUREMENT AS DEFINED IN SECTION 41-2503.

(b) PARTICIPATING IN THE DEVELOPMENT OF AN EVALUATION TOOL.

(c) APPROVING A PROCUREMENT AS DEFINED IN SECTION 41-2503 OR AN EVALUATION TOOL.

(d) SOLICITING QUOTES GREATER THAN TEN THOUSAND DOLLARS FOR THE PROVISION OF MATERIALS, SERVICES OR CONSTRUCTION.

(e) SERVING AS A TECHNICAL ADVISOR OR AN EVALUATOR WHO EVALUATES A PROCUREMENT AS DEFINED IN SECTION 41-2503.

(f) RECOMMENDING OR SELECTING A VENDOR THAT WILL PROVIDE MATERIALS, SERVICES OR CONSTRUCTION TO THIS STATE.

(g) SERVING AS A DECISION MAKER OR DESIGNEE ON A PROTEST OR AN APPEAL BY A PARTY REGARDING AN AGENCY PROCUREMENT SELECTION OR DECISION.

~~14.~~ 15. "State agency" means a department, board, office, authority, commission or other governmental budget unit of this state and includes an agency assigned to a department for administrative purposes. State agency does not include the legislative and judicial branches, the Arizona board of regents, state universities, the Arizona state schools for the deaf and the blind, the department of public safety, the Arizona peace officer standards and training board, the cotton research and protection council or public corporations.

~~15.~~ 16. "State personnel board" means the board established by section 41-781.

~~16.~~ 17. "State personnel system" means all state agencies and employees of those agencies that are not exempted by this article.

~~17.~~ 18. "State service" means all offices and positions of employment in state government that, before September 29, 2012, were subject to the provisions of articles 5 and 6 of this chapter that were in effect before September 29, 2012.

~~18.~~ 19. "Supervisor" means a state employee who has one or more other state employees reporting directly to the person and, for those state employees, typically has the authority to:

(a) Approve sick or annual leave.

(b) Recommend hiring, discipline or dismissal.

(c) Assign or schedule daily work.

(d) Complete a performance evaluation.

~~19.~~ 20. "Uncovered employee" means an employee in uncovered service.

~~20.~~ 21. "Uncovered service" means employment at will and includes all state employees except those in covered service.

Sec. 3. Section 41-753, Arizona Revised Statutes, is amended to read:

41-753. <u>Unlawful acts; violation; classification</u>

A. A person shall not make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under this article or in any manner commit any fraud preventing the impartial execution of this article or rules adopted under this article.

B. A person shall not, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the state personnel system.

C. An employee of any state agency, examiner or other person shall not obstruct any person in the person's right to examination, eligibility, certification or appointment under this article, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the state personnel system.

D. AN EMPLOYEE OF ANY AGENCY AS DEFINED IN SECTION 41-1001, INCLUDING THE OFFICE OF THE GOVERNOR, WHO HAS A SIGNIFICANT ROLE IN THE PROCUREMENT OF MATERIALS, SERVICES OR CONSTRUCTION SHALL NOT ACCEPT AN OFFER OF EMPLOYMENT FROM OR HAVE EMPLOYMENT DISCUSSIONS WITH ANY PERSON OR ENTITY LOBBYING FOR OR POTENTIALLY RESPONDING TO A SOLICITATION DURING A PERIOD BEGINNING ON SIGNATURE OF THE FIRST NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR SOLICITATION OR AT THE TIME OF REQUEST FOR A SOLE SOURCE PROCUREMENT OR COMPETITION IMPRACTICABLE PROCUREMENT AND ENDING ONE YEAR AFTER THE PURCHASED MATERIALS ARE DELIVERED OR THE PURCHASE OF SERVICES OR CONSTRUCTION BEGINS. AN AGENCY AS DEFINED IN SECTION 41-1001, INCLUDING THE OFFICE OF THE GOVERNOR, SHALL INFORM ITS EMPLOYEES WHEN THE FIRST NONDISCLOSURE AGREEMENT IS SIGNED ON A PARTICULAR SOLICITATION, AND THE AGENCY SHALL NOTIFY THE STATE PROCUREMENT ADMINISTRATOR WHO SHALL POST INFORMATION REGARDING THE DATE OF THE FIRST NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR PROCUREMENT ACTIVITY ON THE DEPARTMENT OF ADMINISTRATION'S WEBSITE.

~~D.~~ E. Any person who knowingly violates subsection A, B, ~~or~~ C OR D of this section is guilty of a class 2 misdemeanor.

~~E.~~ F. An elected or appointed official shall not with corrupt intent use the official's political influence or position to cause the firing, promotion or demotion of any public employee or the hiring of or failure to hire any applicant for public employment.

~~F.~~ G. An elected or appointed official who knowingly and with corrupt intent violates subsection ~~E~~ F of this section is guilty of a class 2 misdemeanor.

~~G.~~ H. Any person who is convicted of a class 2 misdemeanor under this article, for a period of five years, is ineligible for appointment to or employment in a position in the state personnel system and, if the person is an employee of this state at the time of conviction, is subject to suspension for not less than ninety days or dismissal.

~~H.~~ I. A contact by an elected or appointed official with a public agency regarding the qualifications of an applicant shall not be construed as illegally using political influence or position.

Sec. 4. Section 41-1231, Arizona Revised Statutes, is amended to read:

41-1231. Definitions

In this article, unless the context otherwise requires:

1. "Authorized lobbyist" means any person, other than a designated lobbyist or lobbyist for compensation, who is employed by, retained by or representing a principal with or without compensation for the purpose of lobbying and who is listed as an authorized lobbyist by the principal in its registration pursuant to section 41-1232.

2. "Authorized public lobbyist" means a person, other than a designated public lobbyist, who is employed by, retained by or representing a public body, with or without compensation, for the purpose of lobbying and who is listed as an authorized public lobbyist by the public body in its registration pursuant to section 41-1232.01.

3. "Designated lobbyist" means the person who is designated by a principal as the single point of contact for the principal and who is listed as the designated lobbyist by the principal in its registration pursuant to section 41-1232.

4. "Designated public lobbyist" means the person who is designated by a public body as the single point of contact for the public body and who is listed as the designated public lobbyist by the public body in its registration pursuant to section 41-1232.01.

5. "Entertainment" means the amount of any expenditure paid or incurred for admission to any sporting or cultural event or for participation in any sporting or cultural activity.

6. "Expenditure" means a payment, distribution, loan, advance, deposit or gift of money or anything of value and includes a contract, promise or agreement, whether or not legally enforceable, to make an expenditure that provides a benefit to an individual state officer or state employee and that is incurred by or on behalf of one or more principals, public bodies, lobbyists, designated public lobbyists or authorized public lobbyists.

7. "Family gift" means a gift to a state officer or employee or a member of the officer's or employee's household from a principal, lobbyist, designated public lobbyist or authorized public lobbyist who is a relative of the state officer or employee or a member of the household of the state officer or employee if the donor is not acting as the agent or intermediary for someone other than a person covered by this paragraph.

8. "Food or beverage" means the amount of any expenditure paid or incurred for food or beverages for a state officer or employee provided at a location at which the principal, public body, lobbyist, designated public lobbyist or authorized public lobbyist who made the expenditure is present.

9. "Gift" means a payment, distribution, expenditure, advance, deposit or donation of money, any intangible personal property or any kind of tangible personal or real property. For THE purposes of this article, gift does not include:

(a) A gift, devise or inheritance from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle or first cousin or the spouse of any such individual if the donor is not acting as the agent or intermediary for someone other than a person covered by this subdivision.

(b) Expenditures ~~which~~ THAT are either properly reported or exempt from reporting under this chapter for:

(i) A speaking engagement.

(ii) Food or beverages.

(iii) Travel and lodging.

(iv) Flowers.

(c) Salary, compensation or employer reimbursed expenses lawfully paid to a public official.

(d) The value, cost or price of professional or consulting services that are not rendered to obtain a benefit for any registered principal, public body, lobbyist, designated public lobbyist or authorized public lobbyist or the clients of a principal or lobbyist.

(e) Expenses relating to a special event or function to which all members of the legislature, either house of the legislature or any committee of the legislature are invited.

(f) A plaque or other form of recognition similar to a plaque to a state officer or state employee to signify the honorary recognition of a service or other notable accomplishment.

(g) Informational material such as books, reports, pamphlets, calendars or periodicals.

(h) An item that is not used and that is returned within fifteen days of receipt to the donor or that is delivered within fifteen days of receipt to a charitable organization and that is not claimed as a charitable contribution for state or federal income tax purposes.

(i) A campaign contribution that is properly received and reported as required by law.

(j) An item that is given to a state officer or employee if the state officer or employee gives an item of approximately the same value to the giver of the item at the same time that the item is given or on a similar occasion as the one that prompted the original item to be given.

(k) Gifts of a personal nature that were customarily received by an individual from the donor before the individual became a state officer or employee.

(l) An item that is given to the general public at an event.

10. "Legislation" means bills, resolutions, memorials, amendments, nominations and other matters that are pending or proposed in either house of the legislature of this state. ~~or for the purposes of bonding lobbying for any matter pending or proposed before a school district governing board.~~

11. "Lobbying":

(a) Means attempting to influence the passage or defeat of any legislation by directly communicating with any legislator~~, or in the case of bonding, lobbyists directly communicating with any school district employee or a school district governing board member~~ or attempting to influence any formal rule making proceeding pursuant to chapter 6 of this title or rule making proceedings that are exempt from chapter 6 of this title by directly communicating with any state officer or employee.

(b) INCLUDES, FOR A PERSON WHO IS OTHERWISE REQUIRED TO BE REGISTERED AS A LOBBYIST FOR COMPENSATION PURSUANT TO THIS ARTICLE, ATTEMPTING TO INFLUENCE THE PROCUREMENT OF MATERIALS, SERVICES OR CONSTRUCTION BY AN AGENCY AS DEFINED IN SECTION 41-1001, INCLUDING THE OFFICE OF THE GOVERNOR. ~~Lobbying~~

(c) Does not include:

~~(a)~~ (i) Interagency communications between state agency employees.

~~(b)~~ (ii) Communications between a public official or employee of a public body, designated public lobbyist or authorized public lobbyist and any state officer, except for a member of the legislature, or an employee of the legislature.

~~(c)~~ (iii) Oral questions or comments made by a person to a state officer or employee regarding a proposed rule and made in public at a meeting or workshop that is open to the public and that is sponsored by a state agency, board, commission, council or office.

~~(d)~~ (iv) COMMUNICATIONS BETWEEN A PUBLIC BODY AND A SELF-EMPLOYED PERSON OR PERSON EMPLOYED BY A PARTNERSHIP OR COMPANY REGARDING THE PROCUREMENT OF MATERIALS, SERVICES OR CONSTRUCTION UNLESS THE SELF-EMPLOYED PERSON OR PERSON EMPLOYED BY A PARTNERSHIP OR COMPANY IS OTHERWISE REQUIRED TO REGISTER PURSUANT TO THIS ARTICLE OR IS EMPLOYED BY, SUPERVISED BY AT ANY LEVEL OR CONTRACTED WITH A PERSON WHO IS OTHERWISE REQUIRED TO REGISTER PURSUANT TO THIS ARTICLE.

12. "Lobbyist" means any person, other than a designated public lobbyist or authorized public lobbyist, who is employed by, retained by or representing a person other than himself, with or without compensation, for the purpose of lobbying and who is listed as a lobbyist by the principal in its registration pursuant to section 41-1232. Lobbyist includes a lobbyist for compensation, designated lobbyist and authorized lobbyist. ~~Lobbyist includes attorneys whose practice involves bonding, underwriters of bonds and investment bankers whose business includes bonding.~~

13. "Lobbyist for compensation" means a lobbyist who is compensated for the primary purpose of lobbying on behalf of a principal and who is listed by the principal in its registration pursuant to section 41-1232.

14. "Person" means an individual, partnership, committee, association or corporation and any other organization or group of persons, except legislators and political parties qualified for representation on the ballot pursuant to section 16-801 or 16-804.

15. "Personal hospitality" means hospitality, meals, beverages, transportation or lodging furnished but not commercially provided by a person on property or facilities owned or possessed by the person or the person's family.

16. "Principal" means any person, other than a public body, that employs, retains, engages or uses, with or without compensation, a lobbyist. Principal includes any subsidiary of a corporation.

17. "PROCUREMENT" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-2503.

~~17.~~ 18. "Public body" means the Arizona board of regents, a university under the jurisdiction of the Arizona board of regents, the judicial department, any state agency, board, commission or council, any county, any county elected officer who elects to appoint a designated public lobbyist or any city, town, district or other political subdivision of this state that receives and ~~utilizes~~ USES tax revenues and that employs, retains, engages or uses, with or without compensation, a designated public lobbyist or authorized public lobbyist.

~~18.~~ 19. "Public official" means a person who is duly elected, appointed or retained through election to an elected state, county or local office.

~~19.~~ 20. "Single expenditure" means an expenditure that provides a benefit of more than twenty dollars to an individual state officer or state employee and that is incurred by or on behalf of one or more principals, public bodies, lobbyists, designated public lobbyists or authorized public lobbyists.

~~20.~~ 21. "Speaking engagement":

(a) Means the amount of any expense paid or incurred for entrance fees, lodging, food and beverage, entertainment, travel and other expenses for the state officer's or employee's attendance at an event, committee, meeting, conference or seminar, including meetings of state, regional or national organizations or their committees concerned with legislative or governmental activities if the state officer or employee participates in the event as a speaker or panel participant by presenting information relating to the state officer's or employee's legislative or official duties or by performing a ceremonial function appropriate to the state officer's or employee's position.

(b) Does not include expenditures for an honorarium or any other similar fee paid to a speaker.

~~21.~~ 22. "State employee" means an employee of the legislature, a university under the jurisdiction of the Arizona board of regents, the judicial department or a state office, agency, board, commission or council.

~~22.~~ 23. "State officer" means a person who is duly elected, appointed or retained through election to any state office, or a member of any state board, commission or council, and includes a member of the legislature.

Sec. 5. Section 41-1232.04, Arizona Revised Statutes, is amended to read:

41-1232.04. Registration; exceptions

Sections 41-1232, 41-1232.01, 41-1232.02 and 41-1232.03 do not apply to a person if that person is acting in the following capacity:

1. A natural person who merely appears for himself before a committee of the legislature or before a state officer or employee or a state agency, board, commission or council to lobby in support of or in opposition to legislation or official action.

2. A natural person who, acting in his own behalf, sends a letter to, converses on the telephone with or has a personal conversation with a state officer or employee for the purpose of supporting or opposing any legislation or official action.

3. A duly elected or retained public official, judge or justice, a person duly appointed to an elective public office, or an appointed member of a state, county or local board, advisory committee, commission or council acting in his official capacity on matters pertaining to his office, board, advisory committee, commission or council.

4. A person who answers technical questions or provides technical information at the request of a lobbyist, designated public lobbyist, authorized public lobbyist or legislator and who makes no expenditures required to be reported by this article.

5. A person who performs professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending legislation.

6. An attorney who represents clients before any court or before any quasi-judicial body.

7. A person who contacts a state officer or state employee solely for the purpose of acquiring information.

~~8. A person who contacts a state officer, state employee, school district governing board member or school district employee in connection with the procurement or attempted procurement of, or the fulfillment of contracts for, materials, services or construction. For the purposes of this paragraph, services include bonding services.~~

~~9.~~ 8. A natural person who is a member of an association, who is not the lobbyist for compensation, designated lobbyist or authorized lobbyist for the association and who does not make any expenditures that would otherwise be required to be reported by this article if the natural person were a lobbyist, A designated public lobbyist or AN authorized public lobbyist.

Sec. 6. Section 41-1232.08, Arizona Revised Statutes, is amended to read:

41-1232.08. Entertainment ban; state and political subdivisions; exceptions

A. A principal, designated lobbyist, authorized lobbyist, lobbyist for compensation, public body, designated public lobbyist or authorized public

lobbyist or any other person acting on that person's behalf shall not make an expenditure or single expenditure for entertainment for a state officer or state employee. A state officer or state employee shall not accept an expenditure or single expenditure for entertainment from a principal, designated lobbyist, authorized lobbyist, lobbyist for compensation, public body, designated public lobbyist or authorized public lobbyist or any other person acting on that person's behalf.

B. A person who for compensation attempts to influence THE PROCUREMENT OF MATERIALS, SERVICES OR CONSTRUCTION BY AN AGENCY AS DEFINED IN SECTION 41-1001, INCLUDING THE OFFICE OF THE GOVERNOR, OR the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board or any person acting on that person's behalf shall not make an expenditure or single expenditure for entertainment for an elected or appointed member of the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board. An elected or appointed member of the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board shall not accept an expenditure or single expenditure for entertainment from a person who for compensation attempts to influence THE PROCUREMENT OF MATERIALS, SERVICES OR CONSTRUCTION BY AN AGENCY AS DEFINED IN SECTION 41-1001, INCLUDING THE OFFICE OF THE GOVERNOR, OR the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board.

C. This section shall not apply to:

1. Entertainment in connection with a special event properly reported pursuant to this article.

2. Entertainment that is incidental to a speaking engagement.

3. The following persons while attending or participating in any sporting or cultural event or activity, sponsored by the board, district or institution, in a facility that is owned or operated by the board, district or institution:

(a) Employees of a school district governing board.

(b) Employees of a community college district governing board.

(c) Employees of any institution under the jurisdiction of the Arizona board of regents.

D. The provisions of this article that define special events for legislators apply to special events for members of the Arizona board of regents.

Sec. 7. Section 41-1233, Arizona Revised Statutes, is amended to read:

41-1233. Prohibited acts

No person shall:

1. Retain or employ another person to promote or oppose legislation for compensation contingent in whole or in part ~~upon~~ ON the passage or defeat of any legislation, or the approval or veto of any legislation by the governor, and no person shall accept employment or render service for compensation on a contingent basis.

2. Lobby the legislature for compensation within one year after the person ceases to be a member of the senate or house of representatives.

3. In any manner improperly seek to influence the vote of any member of the legislature through communication with that member's employer.

4. LOBBY THE PUBLIC BODY THAT EMPLOYED THE PERSON IN A CAPACITY HAVING A SIGNIFICANT PROCUREMENT ROLE AS DEFINED IN SECTION 41-741 IN THE PROCUREMENT OF MATERIALS, SERVICES OR CONSTRUCTION WITHIN ONE YEAR AFTER THE PERSON CEASES TO BE EMPLOYED BY THE PUBLIC BODY.

Sec. 8. Section 41-1233.01, Arizona Revised Statutes, is amended to read:

41-1233.01. Disclosure

A person who is registered pursuant to this article or who is a designated lobbyist, lobbyist for compensation, authorized lobbyist, designated public lobbyist or authorized public lobbyist shall disclose that fact to:

1. Any legislator ~~he~~ THE PERSON is lobbying for the first time or ~~upon~~ ON any subsequent request of a legislator.

2. ANY PUBLIC OFFICIAL OR EMPLOYEE OF A PUBLIC BODY THAT THE PERSON IS LOBBYING FOR THE PROCUREMENT OF MATERIALS, SERVICES OR CONSTRUCTION.

Sec. 9. Section 41-2501, Arizona Revised Statutes, is amended to read:

41-2501. Applicability

A. This chapter applies only to procurements initiated after January 1, 1985 unless the parties agree to its application to procurements initiated before that date.

B. This chapter applies to every expenditure of public monies, including federal assistance monies except as otherwise specified in section 41-2637, by this state, acting through a state governmental unit as defined in this chapter, under any contract, except that this chapter does not apply to either grants as defined in this chapter, or contracts between this state and its political subdivisions or other governments, except as provided in chapter 24 of this title and in article 10 of this chapter. This chapter also applies to the disposal of state materials. This chapter and rules adopted under this chapter do not prevent any state governmental unit or political subdivision from complying with the terms of any grant, gift, bequest or cooperative agreement.

C. All political subdivisions and other local public agencies of this state may adopt all or any part of this chapter and the rules adopted pursuant to this chapter.

D. NOTWITHSTANDING ANY OTHER LAW, SECTION 41-2517 APPLIES TO ANY AGENCY AS DEFINED IN SECTION 41-1001, INCLUDING THE OFFICE OF THE GOVERNOR.

~~D.~~ E. The Arizona board of regents and the legislative and judicial branches of state government are not subject to this chapter except as prescribed in subsection ~~E~~ F of this section.

~~E.~~ F. The Arizona board of regents and the judicial branch shall adopt rules prescribing procurement policies and procedures for themselves and institutions under their jurisdiction. The rules must be substantially equivalent to the policies and procedures prescribed in this chapter.

~~F.~~ G. The Arizona state lottery commission is exempt from this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets and related materials. The executive director of the Arizona state lottery commission shall adopt rules substantially equivalent to the policies and procedures in this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets or related materials. All other procurement shall be as prescribed by this chapter.

~~G.~~ H. The Arizona health care cost containment system administration is exempt from this chapter for provider contracts pursuant to section 36-2904, subsection A and contracts for goods and services, including program contractor contracts pursuant to title 36, chapter 29, articles 2 and 3. All other procurement, including contracts for the statewide administrator of the program pursuant to section 36-2903, subsection B, shall be as prescribed by this chapter.

~~H.~~ I. Arizona industries for the blind is exempt from this chapter for purchases of finished goods from members of national industries for the blind and for purchases of raw materials for use in the manufacture of products for sale pursuant to section 41-1972. All other procurement shall be as prescribed by this chapter.

~~I.~~ J. Arizona correctional industries is exempt from this chapter for purchases of raw materials, components and supplies that are used in the manufacture or production of goods or services for sale entered into pursuant to section 41-1622. All other procurement shall be as prescribed by this chapter.

~~J.~~ K. The state transportation board and the director of the department of transportation are exempt from this chapter other than section 41-2586 for the procurement of construction or reconstruction, including engineering services, of transportation facilities or highway facilities and any other services that are directly related to land titles, appraisals, real property acquisition, relocation, property management or building facility design and construction for highway development and that are required pursuant to title 28, chapter 20.

~~K.~~ L. The Arizona highways magazine is exempt from this chapter for contracts for the production, promotion, distribution and sale of the magazine and related products and for contracts for sole source creative works entered into pursuant to section 28-7314, subsection A, paragraph 5. All other procurement shall be as prescribed by this chapter.

~~L.~~ M. The secretary of state is exempt from this chapter for contracts entered into pursuant to section 41-1012 to publish and sell the administrative code. All other procurement shall be as prescribed by this chapter.

~~M.~~ N. This chapter is not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which this state is or may become a party or to contract for special investigative services for law enforcement purposes.

~~N.~~ O. The head of any state governmental unit, in relation to any contract exempted by this section from this chapter, has the same authority to adopt rules, procedures or policies as is delegated to the director pursuant to this chapter.

~~O.~~ P. Agreements negotiated by legal counsel representing this state in settlement of litigation or threatened litigation are exempt from this chapter.

~~P.~~ Q. This chapter is not applicable to contracts entered into by the department of economic security:

1. With a provider licensed or certified by an agency of this state to provide child day care services or with a provider of family foster care pursuant to section 8-503 or 36-554.

2. With area agencies on aging created pursuant to the older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001 through 3058ee).

3. For services pursuant to title 36, chapter 29, article 2.

4. With an eligible entity as defined by Public Law 105-285, section 673(1)(a)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.

~~Q.~~ R. The department of health services may not require that persons with whom it contracts follow this chapter for the purposes of subcontracts entered into for the provision of the following:

1. Mental health services pursuant to section 36-189, subsection B.

2. Services for the seriously mentally ill pursuant to title 36, chapter 5, article 10.

3. Drug and alcohol services pursuant to section 36-141.

4. Domestic violence services pursuant to title 36, chapter 30, article 1.

~~R.~~ S. The department of health services is exempt from this chapter for contracts for services of physicians at the Arizona state hospital.

~~S.~~ T. Contracts for goods and services approved by the board of trustees of the public safety personnel retirement system are exempt from this chapter.

~~T.~~ U. The Arizona department of agriculture is exempt from this chapter with respect to contracts for private labor and equipment to effect cotton or cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2, article 1. On or before September 1 of each year, the director of the Arizona department of agriculture shall establish and announce costs for each acre of cotton or cotton stubble to be abated by private contractors.

~~U.~~ V. The Arizona state parks board is exempt from this chapter for purchases of guest supplies and items for resale such as food, linens, gift items, sundries, furniture, china, glassware and utensils for the facilities located in the Tonto natural bridge state park.

~~V.~~ W. The Arizona state parks board is exempt from this chapter for the purchase, production, promotion, distribution and sale of publications, souvenirs and sundry items obtained and produced for resale.

~~W.~~ X. The Arizona state schools for the deaf and the blind are exempt from this chapter FOR THE PURCHASE OF TEXTBOOKS AND when purchasing products through a cooperative that is organized and operates in accordance with state law if such products are not available on a statewide contract and are related to the operation of the schools or are products for which special discounts are offered for educational institutions.

~~X.~~ Y. Expenditures of monies in the morale, welfare and recreational fund established by section 26-153 are exempt from this chapter.

~~Y.~~ Z. Notwithstanding section 41-2534, the director of the state department of corrections may contract with local medical providers in counties with a population of less than four hundred thousand persons according to the most recent United States decennial census for the following purposes:

1. To acquire hospital and professional medical services for inmates who are incarcerated in state department of corrections facilities that are located in those counties.

2. To ensure the availability of emergency medical services to inmates in all counties by contracting with the closest medical facility that offers emergency treatment and stabilization.

~~Z.~~ AA. The department of environmental quality is exempt from this chapter for contracting for procurements relating to the water quality assurance revolving fund program established pursuant to title 49, chapter 2, article 5. The department shall engage in a source selection process that is similar to the procedures prescribed by this chapter. The department may contract for remedial actions with a single selection process. The exclusive remedy for disputes or claims relating to contracting pursuant to this subsection is as prescribed by article 9 of this chapter and the rules adopted pursuant to that article. All other procurement by the department shall be as prescribed by this chapter.

~~AA.~~ BB. The motor vehicle division of the department of transportation is exempt from this chapter for third party authorizations pursuant to title 28, chapter 13, only if all of the following conditions exist:

1. The division does not pay any public monies to an authorized third party.

2. Exclusivity is not granted to an authorized third party.

3. The director has complied with the requirements prescribed in title 28, chapter 13 in selecting an authorized third party.

~~BB.~~ CC. This section does not exempt third party authorizations pursuant to title 28, chapter 13 from any other applicable law.

~~CC.~~ DD. The state forester is exempt from this chapter for purchases and contracts relating to wild land fire suppression and pre-positioning equipment resources and for other activities related to combating wild land fires and other unplanned risk activities, including fire, flood, earthquake, wind and hazardous material responses. All other procurement by the state forester shall be as prescribed by this chapter.

~~DD.~~ EE. The cotton research and protection council is exempt from this chapter for procurements relating to its aflatoxin control program and for contracts for research programs related to cotton production or protection.

~~EE.~~ FF. Expenditures of monies in the Arizona agricultural protection fund established by section 3-3304 are exempt from this chapter.

~~FF.~~ GG. The Arizona commerce authority is exempt from this chapter, except article 10 for the purpose of cooperative purchases. The authority shall adopt policies, procedures and practices, in consultation with the department of administration, that are similar to and based on the policies and procedures prescribed by this chapter for the purpose of increased public confidence, fair and equitable treatment of all persons engaged in the process and fostering broad competition while accomplishing flexibility to achieve the authority's statutory requirements. The authority shall make its policies, procedures and practices available to the public. The authority may exempt specific expenditures from the policies, procedures and practices.

HH. THE ARIZONA EXPOSITION AND STATE FAIR BOARD IS EXEMPT FROM THIS CHAPTER FOR CONTRACTS FOR PROFESSIONAL ENTERTAINMENT.

II. THIS CHAPTER DOES NOT APPLY TO THE PURCHASE OF WATER, GAS OR ELECTRIC UTILITIES.

JJ. THIS CHAPTER DOES NOT APPLY TO PROFESSIONAL CERTIFICATIONS, PROFESSIONAL MEMBERSHIPS AND CONFERENCE REGISTRATIONS.

Sec. 10. Section 41-2503, Arizona Revised Statutes, is amended to read:

41-2503. <u>Definitions</u>

In this chapter, unless the context otherwise requires:

1. "Architect services" means those professional architect services that are within the scope of architectural practice as provided in title 32, chapter 1.

2. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or other private legal entity.

3. "Change order" means a written order ~~which~~ THAT is signed by a procurement officer and ~~which~~ THAT directs the contractor to make changes that the changes clause of the contract authorizes the procurement officer to order.

4. "Construction":

(a) Means the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any public real property.

(b) Does not include:

(i) The routine operation, routine repair or routine maintenance of existing facilities, structures, buildings or real property.

(ii) The investigation, characterization, restoration or remediation due to an environmental issue of existing facilities, structures, buildings or real property.

5. "Construction-manager-at-risk" means a project delivery method in which:

(a) There is a separate contract for design services and a separate contract for construction services, except that instead of a single contract for construction services, the purchasing agency may elect separate contracts for preconstruction services during the design phase, for construction during the construction phase and for any other construction services.

(b) The contract for construction services may be entered into at the same time as the contract for design services or at a later time.

(c) Design and construction of the project may be either:

(i) Sequential with the entire design complete before construction commences.

(ii) Concurrent with the design produced in two or more phases and construction of some phases commencing before the entire design is complete.

(d) Finance services, maintenance services, operations services, preconstruction services and other related services may be included.

6. "Construction services" means either of the following for construction-manager-at-risk, design-build and job-order-contracting project delivery methods:

(a) Construction, excluding services, through the construction-manager-at-risk or job-order-contracting project delivery methods.

(b) A combination of construction and, as elected by the purchasing agency, one or more related services, such as finance services, maintenance services, operations services, design services and preconstruction services,

as those services are authorized in the definitions of construction-manager-at-risk, design-build or job-order-contracting in this section.

7. "Contract" means all types of state agreements, regardless of what they may be called, for the procurement of materials, services, construction, construction services or the disposal of materials.

8. "Contract modification" means any written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.

9. "Contractor" means any person who has a contract with a state governmental unit.

10. "Data" means documented information, regardless of form or characteristic.

11. "Department" means the department of administration.

12. "Design-bid-build" means a project delivery method in which:

(a) There is a sequential award of two separate contracts.

(b) The first contract is for design services.

(c) The second contract is for construction.

(d) Design and construction of the project are in sequential phases.

(e) Finance services, maintenance services and operations services are not included.

13. "Design-build" means a project delivery method in which:

(a) There is a single contract for design services and construction services, except that instead of a single contract for design services and construction services, the purchasing agency may elect separate contracts for preconstruction services and design services during the design phase, for construction and design services during the construction phase and for any other construction services.

(b) Design and construction of the project may be either:

(i) Sequential with the entire design complete before construction commences.

(ii) Concurrent with the design produced in two or more phases and construction of some phases commencing before the entire design is complete.

(c) Finance services, maintenance services, operations services, preconstruction services and other related services may be included.

14. "Design requirements":

(a) Means at a minimum the purchasing agency's written description of the project or service to be procured, including:

(i) The required features, functions, characteristics, qualities and properties.

(ii) The anticipated schedule, including start, duration and completion.

(iii) The estimated budgets applicable to the specific procurement for design and construction and, if applicable, for operation and maintenance.

(b) May include:

(i) Drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project, which shall all be prepared by an architect or engineer, as appropriate, who is registered pursuant to section 32-121.

(ii) Additional design information or documents that the purchasing agency elects to include.

15. "Design services" means architect services, engineer services or landscape architect services.

16. "Designee" means a duly authorized representative of the director.

17. "Director" means the director of the department of administration.

18. "Employee" means an individual drawing a salary from a state governmental unit, whether elected or not, and any noncompensated individual performing personal services for any state governmental unit.

19. "Engineer services" means those professional engineer services that are within the scope of engineering practice as provided in title 32, chapter 1.

20. "Finance services" means financing for a construction services project.

21. "General services administration contract" means contracts awarded by the United States government general services administration.

22. "Grant" means the furnishing of financial or other assistance, including state funds or federal grant funds, by any state governmental unit to any person for the purpose of supporting or stimulating educational, cultural, social or economic quality of life.

23. "Job-order-contracting" means a project delivery method in which:

(a) The contract is a requirements contract for indefinite quantities of construction.

(b) The construction to be performed is specified in job orders issued during the contract.

(c) Finance services, maintenance services, operations services, preconstruction services, design services and other related services may be included.

24. "Landscape architect services" means those professional landscape architect services that are within the scope of landscape architectural practice as provided in title 32, chapter 1.

25. "Maintenance services" means routine maintenance, repair and replacement of existing facilities, structures, buildings or real property.

26. "Materials":

(a) Means all property, including equipment, supplies, printing, insurance and leases of property.

(b) Does not include land, a permanent interest in land or real property or leasing space.

27. "Operations services" means routine operation of existing facilities, structures, buildings or real property.

28. "Owner" means a state purchasing agency or state governmental unit.

29. "Person" means any corporation, business, individual, union, committee, club, other organization or group of individuals.

30. "Preconstruction services" means services and other activities during the design phase.

31. "Procurement":

(a) Means buying, purchasing, renting, leasing or otherwise acquiring any materials, services, construction or construction services.

(b) Includes all functions that pertain to obtaining any materials, services, construction or construction services, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

32. "Procurement officer":

(a) Means any person duly authorized to enter into and administer contracts and make written determinations with respect to the contracts.

(b) Includes an authorized representative acting within the limits of the authorized representative's authority.

33. "Purchasing agency" means any state governmental unit ~~which~~ THAT is authorized by this chapter or rules adopted pursuant to this chapter, or by way of delegation from the director, to enter into contracts.

34. "Services":

(a) Means the furnishing of labor, time or effort by a contractor or subcontractor ~~which~~ THAT does not involve the delivery of a specific end product other than required reports and performance.

(b) Does not include employment agreements or collective bargaining agreements.

35. "SIGNIFICANT PROCUREMENT ROLE" MEANS ANY ROLE THAT INCLUDES ANY OF THE FOLLOWING DUTIES:

(a) PARTICIPATING IN THE DEVELOPMENT OF A PROCUREMENT.

(b) PARTICIPATING IN THE DEVELOPMENT OF AN EVALUATION TOOL.

(c) APPROVING A PROCUREMENT OR AN EVALUATION TOOL.

(d) SOLICITING QUOTES GREATER THAN TEN THOUSAND DOLLARS FOR THE PROVISION OF MATERIALS, SERVICES OR CONSTRUCTION.

(e) SERVING AS A TECHNICAL ADVISOR OR AN EVALUATOR WHO EVALUATES A PROCUREMENT.

(f) RECOMMENDING OR SELECTING A VENDOR THAT WILL PROVIDE MATERIALS, SERVICES OR CONSTRUCTION TO THIS STATE.

(g) SERVING AS A DECISION MAKER OR DESIGNEE ON A PROTEST OR AN APPEAL BY A PARTY REGARDING AN AGENCY PROCUREMENT SELECTION OR DECISION.

~~35.~~ 36. "State governmental unit" means any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of this state.

~~36.~~ 37. "Subcontractor" means a person who contracts to perform work or render service to a contractor or to another subcontractor as a part of a contract with a state governmental unit.

~~37.~~ 38. "Using agency" means any state governmental unit ~~which~~ THAT USES ~~utilizes~~ any materials, services or construction procured under this chapter.

Sec. 11. Section 41-2511, Arizona Revised Statutes, is amended to read:

41-2511. Authority of the director

A. Except as otherwise provided in this chapter, the director may adopt rules, consistent with this chapter, governing the procurement and management of all materials, services and construction to be procured by this state and the disposal of materials.

B. The director shall serve as the central procurement officer of this state.

C. Except as otherwise provided in this chapter, the director shall, in accordance with rules adopted under this chapter:

1. Procure or supervise the procurement of all materials, services and construction needed by this state.

2. Establish guidelines for the management of all inventories of materials belonging to this state.

3. Sell, trade or otherwise dispose of surplus materials belonging to this state.

4. Establish and maintain programs for the inspection, testing and acceptance of materials, services and construction.

5. ESTABLISH AND MAINTAIN PROGRAMS TO ENSURE PROCUREMENT COMPLIANCE WITH THIS CHAPTER AND APPLICABLE RULES.

6. ESTABLISH AND MAINTAIN A MANDATORY PROCUREMENT TRAINING AND CERTIFICATION PROGRAM TO ENSURE CONSISTENCY IN PROCUREMENT PRACTICES FOR THOSE AUTHORIZED TO PERFORM PROCUREMENT FUNCTIONS UNDER THIS CHAPTER.

7. EMPLOY STAFF AS NECESSARY TO PERFORM THE DUTIES PRESCRIBED IN THIS CHAPTER.

8. ESTABLISH PROCUREMENT OFFICES AS THE DIRECTOR DETERMINES NECESSARY TO MAINTAIN AN EFFECTIVE AND EFFICIENT PROGRAM OF PROCUREMENT ADMINISTRATION.

9. PROVIDE CONSULTATION TO STATE AGENCY MANAGEMENT IN ALL ASPECTS OF PROCUREMENT TO INCREASE EFFICIENCY AND ECONOMY IN STATE AGENCIES BY IMPROVING THE METHODS OF PROCUREMENT WITH FULL RECOGNITION OF THE REQUIREMENTS AND NEEDS OF MANAGEMENT.

10. ENTER INTO AGREEMENTS WITH ANY STATE GOVERNMENT UNIT OR POLITICAL SUBDIVISION OF THIS STATE OR AGENCY OF A POLITICAL SUBDIVISION OF THIS STATE TO FURNISH PROCUREMENT ADMINISTRATION SERVICES AND FACILITIES OF THE DEPARTMENT. UNLESS MONIES HAVE BEEN APPROPRIATED BY THE LEGISLATURE FOR THIS PURPOSE, ANY AGREEMENT SHALL PROVIDE FOR REIMBURSEMENT TO THIS STATE OF THE ACTUAL COST OF THE SERVICES AND FACILITIES FURNISHED, AS DETERMINED BY THE DIRECTOR.

11. ENTER INTO AGREEMENTS WITH THE ATTORNEY GENERAL FOR DEDICATED LEGAL RESOURCES TO SUPPORT ANY STATE GOVERNMENTAL UNIT IN PROCUREMENT LEGAL MATTERS, INCLUDING NEGOTIATIONS, PROTESTS AND APPEALS.

Sec. 12. Section 41-2512, Arizona Revised Statutes, is amended to read:

41-2512. Delegation of authority or functions by the director

The director may delegate authority OR SPECIFIC PROCUREMENT FUNCTIONS to any state governmental unit.

Sec. 13. Section 41-2515, Arizona Revised Statutes, is amended to read:

41-2515. Collection of data concerning public procurement

All using agencies shall furnish such reports as the director may require concerning usage, needs and stocks on hand, and the director may prescribe forms AND PROCUREMENT SYSTEMS for use by the using agencies in requisitioning, ordering and reporting of materials, services and construction.

Sec. 14. Section 41-2516, Arizona Revised Statutes, is amended to read:

41-2516. Procurement advisory groups or evaluation committees

A. The director may appoint advisory groups OR EVALUATION COMMITTEES to assist with respect to specifications, SOLICITATION EVALUATIONS or procurement in specific areas and with respect to any other matters within the authority of the director.

B. Members of advisory groups OR EVALUATION COMMITTEES are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

Sec. 15. Title 41, chapter 23, article 2, Arizona Revised Statutes, is amended by adding section 41-2517, to read:

41-2517. Procurement officers and procurement employees; violation; classification

A. IT IS UNLAWFUL FOR A PROCUREMENT OFFICER OR AN EMPLOYEE HAVING A SIGNIFICANT PROCUREMENT ROLE TO ACCEPT ANY POSITION OR HAVE EMPLOYMENT DISCUSSIONS WITH A PERSON OR FIRM LOBBYING OR POTENTIALLY RESPONDING TO THE SOLICITATION BEGINNING ON SIGNATURE OF THE FIRST NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR SOLICITATION OR AT THE TIME OF REQUEST FOR A SOLE SOURCE PROCUREMENT OR COMPETITION IMPRACTICABLE PROCUREMENT AND ENDING ONE YEAR AFTER THE PURCHASED MATERIALS ARE DELIVERED OR THE PURCHASE OF SERVICES OR CONSTRUCTION BEGINS, IF THE PROCUREMENT OFFICER OR EMPLOYEE HAD A SIGNIFICANT PROCUREMENT ROLE IN THE PARTICULAR PROCUREMENT.

B. IT IS UNLAWFUL FOR A PROCUREMENT OFFICER OR AN EMPLOYEE HAVING A SIGNIFICANT PROCUREMENT ROLE TO SOLICIT AN EMPLOYMENT OPPORTUNITY, REGARDLESS OF WHO WOULD RECEIVE SUCH AN OPPORTUNITY, FROM ANY PERSON OR FIRM LOBBYING OR POTENTIALLY RESPONDING TO A SOLICITATION FOR THE PROCUREMENT OF MATERIALS, SERVICES OR CONSTRUCTION BEGINNING ON SIGNATURE OF THE FIRST NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR SOLICITATION OR AT THE TIME OF REQUEST FOR A SOLE SOURCE PROCUREMENT OR COMPETITION IMPRACTICABLE PROCUREMENT AND ENDING ONE YEAR AFTER THE PURCHASED MATERIALS ARE DELIVERED OR THE PURCHASE

OF SERVICES OR CONSTRUCTION BEGINS, IF THE PROCUREMENT OFFICER OR EMPLOYEE HAD A SIGNIFICANT ROLE IN THE PARTICULAR PROCUREMENT.

C. IT IS UNLAWFUL FOR A PERSON OR FIRM LOBBYING OR POTENTIALLY RESPONDING TO A SOLICITATION FOR THE PROCUREMENT OF MATERIALS, SERVICES OR CONSTRUCTION TO OFFER EMPLOYMENT TO A PROCUREMENT OFFICER, A PROCUREMENT EMPLOYEE OR AN EMPLOYEE HAVING A SIGNIFICANT PROCUREMENT ROLE BEGINNING ON SIGNATURE OF THE FIRST NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR SOLICITATION OR AT THE TIME OF REQUEST FOR A SOLE SOURCE PROCUREMENT OR COMPETITION IMPRACTICABLE PROCUREMENT AND ENDING ONE YEAR AFTER THE PURCHASED MATERIALS ARE DELIVERED OR THE PURCHASE OF SERVICES OR CONSTRUCTION BEGINS, IF THE PROCUREMENT OFFICER OR EMPLOYEE HAD A SIGNIFICANT ROLE IN THE PARTICULAR PROCUREMENT.

D. IN RESPONSE TO A WRITTEN REQUEST FROM AN EMPLOYEE SEEKING CLARIFICATION ON WHETHER THE EMPLOYEE HAS PLAYED A SIGNIFICANT ROLE IN A PROCUREMENT, THE DIRECTOR SHALL ISSUE A DETERMINATION IN WRITING WITHIN FIFTEEN DAYS AFTER RECEIVING THE REQUEST. THE DIRECTOR MAY MAKE A DETERMINATION IN WRITING THAT THIS SECTION AND SECTION 41-753, SUBSECTION D DO NOT APPLY IF A PARTICULAR SOLICITATION, SOLE SOURCE PROCUREMENT OR COMPETITION IMPRACTICABLE PROCUREMENT HAS BEEN CANCELED OR IS ASSOCIATED WITH THE PRIVATIZATION OF EXISTING STATE SERVICES THAT WOULD RESULT IN THE ELIMINATION OF THE POSITION IN STATE SERVICE OF AN EMPLOYEE WITH A SIGNIFICANT PROCUREMENT ROLE. THE DIRECTOR MAY DELEGATE THE AUTHORITY TO MAKE DETERMINATIONS PURSUANT TO THIS SUBSECTION TO A DIRECTOR OF A STATE AGENCY. AN AGENCY DIRECTOR OR AGENCY DEPUTY DIRECTOR MAY REQUEST A DETERMINATION FROM THE OFFICE OF THE GOVERNOR REGARDING WHETHER THE AGENCY DIRECTOR OR AGENCY DEPUTY DIRECTOR PLAYED A SIGNIFICANT ROLE IN A PARTICULAR PROCUREMENT FOR THE PURPOSES OF THE ONE-YEAR EMPLOYMENT RESTRICTION, AND THE OFFICE OF THE GOVERNOR SHALL MAKE A DETERMINATION WITHIN THIRTY DAYS AFTER THE RECEIPT OF THE WRITTEN REQUEST.

E. IT IS UNLAWFUL FOR A PROCUREMENT OFFICER OR AN EMPLOYEE WHO WAS PREVIOUSLY EMPLOYED BY A PERSON OR FIRM RESPONDING TO A SOLICITATION TO SERVE IN A SIGNIFICANT PROCUREMENT ROLE FOR A PERIOD OF ONE YEAR FOLLOWING THE PERSON'S PREVIOUS EMPLOYMENT.

F. ON SIGNATURE OF A NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR SOLICITATION, OR AT THE TIME OF A REQUEST FOR A SOLE SOURCE OR COMPETITION IMPRACTICABLE PROCUREMENT, A PROCUREMENT OFFICER OR AN EMPLOYEE HAVING A SIGNIFICANT ROLE IN THE PROCUREMENT SHALL PROVIDE WRITTEN DISCLOSURE OF ANY FINANCIAL INTEREST THE OFFICER OR EMPLOYEE, OR THE SPOUSE OF THE OFFICER OR EMPLOYEE, MAY HOLD.

G. A PERSON WHO KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR. ON CONVICTION THE PERSON IS INELIGIBLE FOR APPOINTMENT TO OR EMPLOYMENT IN A POSITION IN THE STATE PERSONNEL SYSTEM FOR A PERIOD OF FIVE YEARS AND, IF THE PERSON IS AN EMPLOYEE OF THIS STATE AT THE TIME OF CONVICTION, IS SUBJECT TO SUSPENSION FOR NOT LESS THAN NINETY DAYS OR DISMISSAL.

Sec. 16. Section 41-2532, Arizona Revised Statutes, is amended to read:

41-2532. Methods of source selection

Unless otherwise authorized by law, all state contracts shall be awarded by competitive sealed bidding as provided in section 41-2533~~, except~~ OR as provided in sections 41-2534 through 41-2538 and sections ~~41-2553,~~ 41-2554, 41-2558, 41-2559, 41-2572, 41-2578, 41-2579, 41-2581 and 41-2636.

Sec. 17. Section 41-2533, Arizona Revised Statutes, is amended to read:

41-2533. Competitive sealed bidding

A. Contracts shall be awarded by competitive sealed bidding except as otherwise provided in section 41-2532.

B. An invitation for bids shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement.

C. Adequate public notice of the invitation for bids shall be given a reasonable time before the date set forth in the invitation for the opening of bids, in accordance with rules adopted by the director. The notice may include publication one or more times in a newspaper of general circulation a reasonable time before bid opening. If the invitation for bids is for the procurement of services other than those described in sections 41-2513, 41-2578, 41-2579 and 41-2581, the notice shall include publication in a single newspaper or in multiple newspapers within this state. The publication shall be not less than two weeks before bid opening and shall be circulated within the affected governmental jurisdiction. The notice may also be posted at a designated site on a worldwide public network of interconnected computers.

D. Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as may be specified by rule, together with the name of each bidder shall be recorded. This record shall be open to public inspection at the bid opening in a manner prescribed by rule. The bids shall not be open for public inspection until after a contract is awarded. To the extent the bidder designates and the state concurs, trade secrets or other proprietary data contained in the bid documents shall remain confidential in accordance with rules adopted by the director.

E. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, including criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose, as prescribed in rules adopted by the director. ~~The invitation for bids shall set forth the evaluation criteria to be used, including the weighting of identified criteria.~~ Evaluation criteria shall not be used for construction and no

criteria may be used in bid evaluation that are not set forth in the invitation for bids.

F. The correction or withdrawal of erroneous bids before or after bid opening, based on bid mistakes, may be permitted in accordance with rules adopted by the director. After bid opening, no corrections in bid prices or other provisions of bids prejudicial to the interest of this state or fair competition shall be permitted. Except as otherwise provided by rule, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the director.

G. The contract shall be awarded to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the invitation for bids. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the lowest bidder. If all bids for a construction project exceed available monies as certified by the appropriate fiscal officer, and the low responsive and responsible bid does not exceed such monies by more than five per cent, the director may in situations in which time or economic considerations preclude resolicitation of work of a reduced scope negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, to bring the bid within the amount of available monies.

H. The multistep sealed bidding method may be used if ~~the director determines in writing that~~ it is not practicable to initially prepare a definitive purchase description ~~which~~ THAT is suitable to permit an award based on competitive sealed bidding. An invitation for bids may be issued requesting the submission of technical offers to be followed by an invitation for bids limited to those bidders whose offers are determined to be technically acceptable under the criteria set forth in the first solicitation, except that the multistep sealed bidding method may not be used for construction contracts.

I. If the price of a recycled paper product ~~which~~ THAT conforms to specifications is within five per cent of a low bid product ~~which~~ THAT is not recycled and the recycled product bidder is otherwise the lowest responsible and responsive bidder, the award shall be made to the bidder offering the recycled product. The director may adopt rules requiring a five per cent preference for other products made from recycled materials.

Sec. 18. Section 41-2534, Arizona Revised Statutes, is amended to read:

41-2534. Competitive sealed proposals

A. ~~If, under rules adopted pursuant to this chapter, the director determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to this state,~~ A contract for materials or services may be entered into by competitive sealed proposals. This section does not apply to procurement of construction, construction services

or specified professional services pursuant to section 41-2537, 41-2578, 41-2579 or 41-2581. Construction services shall be procured pursuant to section 41-2537, 41-2578 or 41-2579. ~~The director may provide by rule that it is either not practicable or not advantageous to this state to procure specified types of materials or services by competitive sealed bidding.~~

B. Proposals shall be solicited through a request for proposals.

C. Adequate public notice of the request for proposals shall be given in the same manner as provided in section 41-2533.

D. Proposals shall be opened publicly at the time and place designated in the request for proposals. The name of each offeror ~~and such other relevant information as is specified by rule~~ shall be ~~publicly read and~~ recorded in accordance with rules adopted by the director. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing offerors during the process of negotiation. The proposals shall be open for public inspection after contract award. To the extent the offeror designates and the state concurs, trade secrets or other proprietary data contained in the offer documents shall remain confidential in accordance with rules adopted by the director.

E. The request for proposals shall state the relative importance of price and other evaluation factors. Specific numerical weighting is not required.

F. As provided in the request for proposals, and under rules adopted by the director, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible to being selected for award for the purpose of clarification to ensure full understanding of the solicitation requirements and to permit revision of offers. Offerors shall be accorded fair treatment with respect to any opportunity for discussion. Revisions may be permitted after submission and before award. If discussions are conducted, all offerors who have submitted proposals that are determined by the procurement officer to be ~~in the competitive range~~ REASONABLY SUSCEPTIBLE TO BEING SELECTED FOR AWARD shall be invited to submit a ~~final proposal revision~~ BEST AND FINAL OFFER. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

G. The award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to this state taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria may be used in the evaluation. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the most advantageous proposal. The contract file shall contain the basis on which the award is made.

Sec. 19. Section 41-2535, Arizona Revised Statutes, is amended to read:

41-2535. Procurements not exceeding a prescribed amount; small businesses; simplified construction procurement program

A. Any procurement ~~which~~ THAT does not exceed the aggregate dollar amount of ~~fifty~~ ONE HUNDRED thousand dollars may be made in accordance with rules adopted by the director, except that the procurements shall be made with such competition as is practicable under the circumstances.

B. Any procurement ~~which~~ THAT does not exceed the aggregate dollar amount of less than ~~fifty~~ ONE HUNDRED thousand dollars shall be restricted, if practicable, to small businesses as defined in rules adopted by the director. The procurement officer shall rotate the small business solicited to compete for any procurement of less than ~~fifty~~ ONE HUNDRED thousand dollars. If it is impracticable to restrict a particular procurement to small businesses, the procurement officer shall make a determination setting forth the reasons and place it in the contract file.

C. Procurement requirements shall not be artificially divided or fragmented so as to constitute a purchase under this section and to circumvent the source selection procedures required by section 41-2533 or 41-2534 or be artificially combined to circumvent this section.

D. A procurement involving construction not exceeding one hundred thousand dollars may be made pursuant to rules adopted by the director in accordance with this section ~~which~~ THAT shall be known as the simplified construction procurement program. At a minimum the rules shall require that:

1. A list be maintained of persons who desire to receive solicitations to bid on construction projects to which additions shall be permitted throughout the year.

2. The list of persons be available for public inspection.

3. Agreements for construction be on forms approved by the director.

4. All information submitted by bidders pursuant to this section be confidential according to section 41-2533, subsection D.

5. All bids for construction be opened at a public opening.

6. All persons desiring to submit bids be treated equitably and the information related to each project be available to all eligible persons.

7. Competition for construction projects under the simplified construction procurement program be encouraged to the maximum extent possible.

Sec. 20. Section 41-2544, Arizona Revised Statutes, is amended to read:

41-2544. Types of contracts

Subject to the limitations of this section, any type of contract ~~which~~ THAT will promote the best interests of this state may be used, except that the use of a cost-plus-a-percentage-of-cost contract is prohibited. ~~A cost-reimbursement contract may be used only if a determination is made in~~

~~writing that such contract is likely to be less costly to this state than any other type or that it is impracticable to obtain the materials, services or construction required except under such a contract.~~

Sec. 21. Repeal

Sections 41-2545 and 41-2553, Arizona Revised Statutes, are repealed.

Sec. 22. Section 41-2567, Arizona Revised Statutes, is amended to read:

41-2567. Specifications for energy consumptive material

In conjunction with the ~~Arizona commerce authority~~ GOVERNOR'S OFFICE OF ENERGY POLICY, the director shall establish specifications based on considerations of energy conservation for the procurement of selected energy consumptive material.

Sec. 23. Section 41-2611, Arizona Revised Statutes, is amended to read:

41-2611. Rules of procedure

A. The director may adopt rules of procedure providing for the expeditious administrative review of all contract claims or controversies both before the purchasing agency and through an appeal heard before the director in accordance with chapter 6, article 10 of this title.

B. FOR THE PURPOSES OF AN EXPEDITIOUS ADMINISTRATIVE PROCESS, THE DIRECTOR SHALL RENDER A DECISION ON AN APPEAL TO THE DIRECTOR WITHIN FORTY-TWO DAYS AFTER THE DATE THE AGENCY REPORT OR COMMENTS ON THE AGENCY REPORT, IF APPLICABLE, ARE FILED WITH THE DIRECTOR. ON AGREEMENT OF ALL INTERESTED PARTIES, THE DIRECTOR MAY BE GRANTED AN ADDITIONAL FOURTEEN DAYS TO ISSUE A DECISION. IF THE DIRECTOR FAILS TO ISSUE A DECISION WITHIN THE TIME PERIOD PRESCRIBED IN THIS SUBSECTION, THE DIRECTOR SHALL REFER THE APPEAL TO A HEARING IN ACCORDANCE WITH CHAPTER 6, ARTICLE 10 OF THIS TITLE.

Sec. 24. Section 41-2612, Arizona Revised Statutes, is amended to read:

41-2612. Subject of rules

The rules adopted by the director pursuant to section 41-2611 shall~~, as a minimum,~~ address AT LEAST the following subjects:

1. Protested solicitations and awards.

2. VENDOR PERFORMANCE AND EVALUATION OF PAST PERFORMANCE.

~~2.~~ 3. Suspension or debarment of contractors.

~~3.~~ 4. Breach of contract controversies and contract claims.

Sec. 25. Section 41-2631, Arizona Revised Statutes, is amended to read:

41-2631. Definitions

In this article, unless the context otherwise requires:

1. "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit.

2. "EXTERNAL PROCUREMENT ACTIVITY" MEANS ANY BUYING ORGANIZATION NOT LOCATED IN THIS STATE THAT WOULD QUALIFY AS A PUBLIC PROCUREMENT UNIT.

~~2.~~ 3. "Local public procurement unit" means any political subdivision, any agency, board, department or other instrumentality of such political subdivision and any nonprofit corporation created solely for the purpose of administering a cooperative purchase under this article.

~~3.~~ 4. "Nonprofit ~~educational or public health institution" means any educational or public health institution, no part of the income of which is distributable to its members, directors or officers,~~ CORPORATION" MEANS ANY NONPROFIT CORPORATION AS DESIGNATED BY THE INTERNAL REVENUE SERVICE UNDER SECTION 501(c)(3) THROUGH 501(c)(6) OR UNDER SECTION 115, IF CREATED BY TWO OR MORE LOCAL PUBLIC PROCUREMENT UNITS, ~~as defined in rules adopted by the director~~ and includes certified nonprofit agencies ~~for disabled individuals~~ THAT SERVE INDIVIDUALS WITH DISABILITIES as defined in section 41-2636.

~~4.~~ 5. "Public procurement unit" means either a local public procurement unit, the department, any other state or an agency of the United States.

Sec. 26. Section 41-2632, Arizona Revised Statutes, is amended to read:

41-2632. Cooperative purchasing authorized; definitions

A. Any public procurement unit may either participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any materials, services, professional services, construction or construction services with one or more public procurement units OR EXTERNAL PROCUREMENT ACTIVITIES in accordance with an agreement entered into between the participants. THE COOPERATIVE PURCHASING MAY INCLUDE JOINT OR MULTI-PARTY CONTRACTS BETWEEN PUBLIC PROCUREMENT UNITS AND OPEN-ENDED PUBLIC PROCUREMENT UNIT CONTRACTS THAT SHALL BE AVAILABLE TO LOCAL PUBLIC PROCUREMENT UNITS. A nonprofit ~~educational or public health institution~~ CORPORATION may enter into an agreement pursuant to this section if one or more of the parties involved is a public procurement unit. An agreement entered into as provided in this article is exempt from section 11-952, subsection D. Parties under a cooperative purchasing agreement may:

1. Sponsor, conduct or administer a cooperative agreement for the procurement or disposal of any materials, services or construction.

2. Cooperatively use materials or services.

3. Commonly use or share warehousing facilities, capital equipment and other facilities.

4. Provide personnel, except that the requesting public procurement unit shall pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.

5. On request, make available to other public procurement units informational, technical or other services or software that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational, technical or other services or software

has the right to request reimbursement for the reasonable and necessary costs of providing these services or software.

6. PURSUANT TO THE RULES FOR COOPERATIVE PURCHASING ADOPTED BY THE DIRECTOR, PURCHASE MATERIALS, SERVICES, PROFESSIONAL SERVICES, CONSTRUCTION OR CONSTRUCTION SERVICES UNDER THE TERMS OF A CONTRACT BETWEEN A VENDOR AND A PUBLIC PROCUREMENT UNIT OR AN EXTERNAL PROCUREMENT ACTIVITY WITHOUT COMPLYING WITH THE REQUIREMENTS OF SECTIONS 41-2533, 41-2534 AND 41-2535.

B. The school facilities board or school districts, or both, may enter into an agreement with a public procurement unit pursuant to this section for the purpose of procuring materials and services needed to correct deficiencies in school facilities.

C. The activities described in this section do not limit what parties may do under a cooperative purchasing agreement.

D. A nonprofit corporation operating as a public procurement unit under this section, on request of the auditor general, shall provide to the auditor general all documentation concerning any cooperative purchasing transaction the public procurement unit administers under this section.

E. A nonprofit corporation operating as a public procurement unit under this section shall comply with all procurement laws applicable to the public procurement unit participating in a cooperative purchasing transaction that the nonprofit corporation administers.

F. This section does not abrogate the responsibility of each public procurement unit to ensure compliance with procurement laws that apply to the particular public procurement, notwithstanding the fact that the cooperative purchase is administered by a nonprofit corporation operating under this section.

G. Any public procurement unit conducting or administering a cooperative purchasing agreement for the procurement of construction services or professional services shall comply with the requirements of section 34-603 or 41-2578.

H. For the purposes of this section:

1. "Construction services" has the same meaning prescribed in section 41-2503.

2. "Professional services" has the same meaning prescribed in section 41-2578.

Sec. 27. Section 41-3504, Arizona Revised Statutes, is amended to read:

41-3504. <u>Powers and duties of the department; violation; classification</u>

A. The department shall:

1. Develop, implement and maintain a coordinated statewide plan for information technology. This includes:

(a) Adopting statewide technical, coordination and security standards for information technology.

(b) Serving as statewide coordinator for information technology resources.

(c) Developing a statewide disaster recovery plan.

(d) Developing a list of approved department projects by priority category.

(e) Developing a detailed list of information technology assets owned, leased or employed by this state.

(f) Evaluating and either approving or disapproving budget unit information technology plans. Budget units shall submit information technology plans that include quality assurance plans and disaster recovery plans to the department each year on or before September 1. The legislative and judicial departments of state government shall submit information technology plans for information purposes.

(g) Evaluating specific information technology projects relating to the approved budget unit and statewide information technology plans. The department shall approve or reject projects with total costs of at least twenty-five thousand dollars but not more than one million dollars and may establish conditional approval criteria including procurement purchase authority. If the total project costs exceed one million dollars the department shall evaluate the project and make recommendations to the committee. Beginning on June 1, 1998, as part of a budget request for an information technology project that has total costs of at least twenty-five thousand dollars, a budget unit shall indicate the status of review by the department. Projects shall not be artificially divided to avoid review by the department.

2. Require that budget units incorporate life cycle analysis ~~prescribed by section 41-2553~~ into the information technology planning, budgeting and procurement processes.

3. Require that budget units demonstrate expertise to carry out information technology plans, either by employing staff or contracting for outside services.

4. Monitor information technology projects that the department considers to be major or critical, including expenditure and activity reports and periodic review.

5. Temporarily suspend the expenditure of monies if the department determines that the information technology project is at risk of failing to achieve its intended results or does not comply with the requirements of this section.

6. Continuously study emergent technology and evaluate its impact on this state's system.

7. Advise each budget unit as necessary and report to the committee on an annual basis.

8. Provide to budget units~~,~~ information technology consulting services it deems necessary, either directly or by procuring outside consulting services.

9. Maintain all otherwise confidential information received from a budget unit pursuant to this section as confidential.

10. Provide staff support to the committee.

11. Subject to section 35-149, accept, spend and account for grants, monies and direct payments from public or private sources and other grants of monies or property for the conduct of programs that it deems consistent with the government information technology purposes and objectives of the department.

12. Adopt rules it deems necessary or desirable to further the government information technology objectives and programs of the department.

13. Formulate policies, plans and programs to effectuate the government information technology purposes of the department.

14. Advise and make recommendations to the governor and the legislature on all matters concerning its objectives.

15. Contract and enter into interagency and intergovernmental agreements pursuant to title 11, chapter 7, article 3 with any public or private party.

16. Have an official seal that shall be judicially noticed.

17. On or before December 31, 2015, establish an interactive online directory of codes, rules, ordinances, if available electronically, and statutes to assist individuals and businesses with regulatory requirements and obligations. As provided in this paragraph, counties, municipalities and budget units shall submit information in a manner and format prescribed by the agency.

B. The department shall advise the judicial and legislative branches of state government concerning information technology.

C. The department may examine all books, papers, records and documents in the office of any budget unit and may require any state officer of the budget unit to furnish information or statements necessary to carry out the provisions of this chapter.

D. The director, any member of the director's staff or any employee who knowingly divulges or makes known in any manner not permitted by law any particulars of any confidential record, document or information is guilty of a class 5 felony.

Sec. 28. Section 41-3521, Arizona Revised Statutes, is amended to read:

41-3521. <u>Information technology authorization committee; members; terms; duties; compensation; definition</u>

A. The information technology authorization committee is established consisting of the following members:

1. One member of the house of representatives who is appointed by the speaker of the house of representatives and who shall serve as an advisory member.

2. One member of the senate who is appointed by the president of the senate and who shall serve as an advisory member.

3. Four members from private industry who are appointed by the governor pursuant to section 38-211 and who are knowledgeable in information technology.

4. One local government member and one federal government member who are appointed by the governor and who shall serve as advisory members.

5. Two members who are directors of state agencies and who are appointed by the governor.

6. The administrative director of the courts or the director's designee.

7. The director of the department of administration or the director's designee, who shall be the chairperson of the committee but for all other purposes shall serve as an advisory member.

8. Two members from either private industry or state government who are appointed by the governor.

9. The staff director of the joint legislative budget committee, or the staff director's designee, who shall serve as an advisory member.

B. Committee members who are from private industry serve two year terms. The other members serve at the pleasure of their appointing officers.

C. For all budget units and the legislative and judicial branches of state government, the committee shall:

1. Review established statewide information technology standards and the statewide information technology plan.

2. Review the minimum qualifications established by the director for each position authorized for the department for information technology.

3. Approve or disapprove all proposed information technology projects, including project changes and contract amendments, that exceed a total cost of one million dollars, excluding public monies from county, municipal and other political subdivision sources that are not deposited in a state fund. As part of a budget request for an information technology project that has total costs of more than one million dollars, a budget unit and the legislative and judicial branches of state government shall indicate the status of review by the committee. Projects shall not be artificially divided to avoid review by the committee.

4. Develop a report format that incorporates the life cycle analysis ~~prescribed by section 41-2553~~ for use in submitting project requests to the committee.

5. Require expenditure and activity reports from a budget unit or the legislative or judicial branches of state government on implementing information technology projects approved by the committee.

6. Conduct periodic reviews on the progress of implementing information technology projects approved by the committee.

7. Monitor information technology projects that the committee considers to be major or critical.

8. Temporarily suspend the expenditure of monies if the committee determines that the information technology project is at risk of failing to

achieve its intended results or does not comply with the requirements of this chapter.

9. Hear and decide appeals made by budget units regarding the department's rejection of their proposed information technology plans or projects.

10. Report to the governor, the speaker of the house of representatives, the president of the senate, the secretary of state and the director of the Arizona state library, archives and public records at least annually on all matters concerning its objectives. This includes:

(a) Its review of the statewide information technology plan developed by the department.

(b) The findings and conclusions of its periodic reviews.

(c) Its recommendations on desirable legislation relating to information technology.

11. Adopt rules it deems necessary or desirable to further the objectives and programs of the committee.

D. The committee shall meet at the call of the chairperson.

E. Members of the committee are not eligible to receive compensation but are eligible to receive reimbursement for expenses pursuant to title 38, chapter 4, article 2.

F. For the purposes of this section, "advisory member" means a member who gives advice to the other members of the committee at committee meetings but who is not eligible to vote and is not a member for purposes of determining whether a quorum is present.

APPROVED BY THE GOVERNOR MAY 7, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2013.

Passed the House March 12, 2013

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate May 2, 2013

by the following vote: 24 Ayes,

0 Nays, 6 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

2 day of May, 2013

at 3:30 o'clock P M.

Secretary to the Governor

Approved this 7th day of

May

at 1:43 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 8th day of May, 2013

at 9:01 o'clock a M.

Secretary of State

H.B. 2599