AN INITIATIVE MEASURE

RELATING TO THE PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH, PROPOSING AMENDMENTS TO THE ARIZONA REVISED STATUTES; PROVIDING FOR THE DEFINITION OF HAZARDOUS WASTE AND PUBLIC FACILITY; REGULATING THE LOCATION OF, AND Issuance OF PERMITS AND APPROVALS FOR CONSTRUCTION AND OPERATION FOR, FACILITIES DESIGNED TO PERMANENTLY STORE, TREAT, OR DISPOSE OF SOLID WASTE OR HAZARDOUS WASTE; REGULATING THE OPERATION OF STATE-OWNED HAZARDOUS WASTE DISPOSAL FACILITIES; PROHIBITING THE ACCEPTANCE OF WASTE GENERATED OUTSIDE OF ARIZONA AT SUCH FACILITIES; PRESCRIBING CERTAIN POWERS AND DUTIES OF THE ENVIRONMENTAL ADVOCATE; PROVIDING FOR CIVIL PENALTIES; PRESCRIBING REMEDIAL, COMPLIANCE, AND MITIGATION MEASURES AND PRESCRIBING LIABILITIES; PROVIDING FOR APPEALS; AMENDING SECTION 49-701, ARIZONA REVISED STATUTES; AMENDING SECTION 49-767, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 4, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 49-768 THROUGH 49-771; AMENDING SECTION 49-901, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 4, ARTICLE 1, BY ADDING A NEW SECTION 49-906; AMENDING TITLE 49, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 49-944; RENUMBERING EXISTING SECTION 49-944 AS SECTION 49-945; AMENDING TITLE 49, ARIZONA REVISED STATUTES, BY ADDING A NEW CHAPTER 8; PROVIDING FOR CONDITIONAL ENACTMENT; AND MAKING AN APPROPRIATION.

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

THE FOLLOWING AMENDMENTS TO ARIZONA REVISED STATUTES TITLE 49, BY AMENDING SECTIONS 49-701, 49-767, AND 49-901; ADDING SECTIONS 49-768 TO 49-771, 49-906, AND 49-944; ADDING A NEW CHAPTER 8, AND RENUMBERING EXISTING SECTION 49-945, ARE PROPOSED TO BECOME VALID WHEN APPROVED BY A MAJORITY OF THE QUALIFIED ELECTORS VOTING THEREON AND PROCLAMATION OF THE GOVERNOR:

Section I. Short Title
THIS ACT SHALL BE KNOWN AS THE HAZARDOUS SUBSTANCE CONTROL AND ENVIRONMENTAL PROTECTION ACT OF 1990.

Section 2. Findings and Declaration of Policy

THE PEOPLE OF ARIZONA, DO FIND AND DECLARE:

A. OUR HEALTH, ENVIRONMENT AND QUALITY OF LIFE ARE THREATENED BY THE CHEMICAL POLLUTION OF THE AIR WE BREATHE AND OF THE WATER WE DRINK.

B. THESE PROBLEMS ARE CAUSED IN PART BY THE PRODUCTION, TRANSPORTATION AND DISPOSAL OF TOXIC WASTE.

C. OUR CHILDREN ARE ESPECIALLY VULNERABLE TO THE TOXIC EFFECTS OF CHEMICAL POLLUTANTS, BECAUSE OF THEIR IMMATURE PHYSIOLOGICAL SYSTEMS AND THEIR SUSCEPTIBILITY TO CARCINOGENIC AND OTHER HARMFUL SUBSTANCES.

D. THE PEOPLE OF THE STATE OF ARIZONA HAVE NOT BEEN ADEQUATELY PROTECTED AGAINST THESE CHEMICAL POLLUTANTS. THEREFORE, WE THE PEOPLE OF THE STATE OF ARIZONA DO HEREBY ENACT THE HAZARDOUS SUBSTANCE CONTROL AND ENVIRONMENTAL PROTECTION ACT OF 1990, TO SAFEGUARD THE PEOPLE AND THE ENVIRONMENT FROM HAZARDOUS SUBSTANCES THAT CAN CAUSE CANCER, BIRTH DEFECTS OR OTHER HARM TO PUBLIC HEALTH.

Section 3. Section 49-701, Arizona Revised Statutes, is amended to read:

49-701. Definitions
In this chapter, unless the context otherwise requires:

1. "Board" means the solid waste management advisory board.

2. "County" means:
   (a) The board of supervisors in the context of the exercise of powers or duties.
   (b) The unincorporated areas in the context of area of jurisdiction.

3. "Department" means the department of environmental quality.

4. "Director" means the director of environmental quality.

5. "Facility plan" means any design or operating plan for a public facility or group of public facilities.

6. "Management agency" means any person responsible for the day to day operation, maintenance and management of a particular public facility or group of public facilities.

7. "Person" means any public or private corporation, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, this state or any of its agencies, departments, political subdivisions, counties, towns or municipal corporations, as well as a natural person.
"Public facility" means any site owned and OR operated or utilized by any person and WHICH IS open to the general public OR WHICH RECEIVES COMMERCIAL OR HOUSEHOLD SOLID WASTE for resource conservation or recovery or for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste.

"Resource recovery" means the recovery of energy or materials from solid waste.

"Salvaging" means the removal of solid waste from a public facility with the permission and in accordance with rules or regulations or ordinances of the management agency for purposes of productive reuse.

"Scavenging" means the unauthorized removal of solid waste from a public facility.

"Solid waste" means any garbage, trash, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant or pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material but not including domestic sewage or hazardous wastes.

"Solid waste management" means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste in a manner that protects public health, safety and the environment and prevents and abates public nuisances.

"Solid waste management plan" means the plan adopted pursuant to § 49-721 which provides guidelines for the collection, source separation, storage, transportation, processing, treatment, reclamation and disposal of solid waste in a manner that protects public health, safety and the environment and prevents
and abates public nuisances.

Section 4. Section 49-767, Arizona Revised Statutes is amended to read:

49-767. Solid waste facilities; permission; notice of site to property owners; hearing; exemption

A. Any agency or political subdivision of this state which is required to select a possible permanent site for a PUBLIC facility designed to permanently store, treat or dispose of solid waste shall not select a site without obtaining approval of the city or town if the proposed permanent site is located within such city or town or the approval of the county in which the proposed permanent site is located if the proposed permanent site is located in the unincorporated area of the county.

B. A PUBLIC facility designed to permanently store, treat or dispose of solid waste shall not be placed ISSUED AN AQUIFER PROTECTION PERMIT UNDER AUTHORITY OF TITLE 49, CHAPTER 2, ARTICLE 3, OR RECEIVE APPROVAL OF PUBLIC FACILITY PLANS OR AUTHORIZATION FOR CONSTRUCTION AND OPERATION UNDER SECTION 49-762.A, OR OPERATE, IF SUCH PUBLIC FACILITY WILL BE LOCATED IN OR ON any site if:

1. An irrigation grandfathered right created pursuant to Title 45, Chapter 2, Article 5 is appurtenant to all or any part of the site; OR

2. ALL OR ANY PART OF THE PUBLIC FACILITY WILL BE LOCATED WITHIN ONE-HALF MILE OF A FLOODPLAIN, AS DEFINED IN SECTION 48-3601, THAT HAS ONE HUNDRED-YEAR FLOWS IN EXCESS OF TWENTY-FIVE THOUSAND CUBIC FEET PER SECOND AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (OR AS APPROVED BY THE DIRECTOR OF WATER RESOURCES IN THE EVENT THE FEDERAL EMERGENCY MANAGEMENT AGENCY HAS NOT DETERMINED

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THE FLOWS FOR A SPECIFIC FLOODPLAIN), OR BECAUSE OF ITS LOCATION THE DIRECTOR DETERMINES IT COULD CAUSE GROUNDWATER POLLUTION, SURFACE WATER POLLUTION, OR WASHOUT OF SOLID WASTE FROM THE PUBLIC FACILITY DURING A ONE HUNDRED-YEAR FLOOD EVENT. FOR PURPOSES OF THIS SECTION, THE TERMS "OPERATE" AND "OPERATION" SHALL MEAN THE USE OF A PUBLIC FACILITY, IN ACCORDANCE WITH ALL STATE ENVIRONMENTAL LAWS AND LOCAL ZONING LAWS, AND IN COMPLIANCE WITH ALL APPLICABLE FEDERAL ENVIRONMENTAL STATUTES AND REGULATIONS, AND ACTUAL COLLECTION OR RECEIPT, TREATMENT, PROCESSING, STORAGE AND DISPOSAL OF SOLID WASTE; PROVIDED, THAT THIS PARAGRAPH SHALL NOT APPLY TO ANY FACILITY USED SOLELY FOR THE RECLAMATION OF LAND THROUGH THE INTRODUCTION OF RUBBLE OR INERT MATERIAL.

C. An agency or political subdivision of this state which is required to select or permit a possible permanent site for any PUBLIC facility designed to permanently store, treat or dispose of solid waste shall send written notice of the selection of the possible permanent site by first class mail to property owners in the following areas:

1. If the proposed permanent site is in an unincorporated area, within a three mile radius of the outer boundaries of the proposed permanent site unless the three mile radius intersects a municipal corporate boundary. In such a case, property owners inside the municipal corporate boundary within three hundred feet of the outer boundary of the proposed permanent site shall be notified as well as those property owners outside the municipal corporate boundary within the three mile radius of the outer boundary of the proposed permanent site.

2. If the proposed permanent site is in an incorporated area, within a three hundred foot radius of the outer boundaries of the proposed permanent site.
D. The notice required by Subsection B C shall be mailed to each owner of real property as shown on the list of property owners furnished by the county assessor and the department of revenue. Within fifteen days after a request for such a list, the county assessor and the department of revenue shall furnish to the agency or political subdivision a written list stating the name and address of each owner in the areas specified in Subsection B C.

E. Before a political subdivision makes a final decision on a possible permanent site for a PUBLIC facility specified in subsection B the political subdivision shall hold a public hearing in the nearest public facility in the general vicinity of the proposed permanent sites, at which interested persons may appear and present their views. The political subdivision shall give notice of the hearing, to include both of the following:

1. Publication of notice in a daily or weekly newspaper or general circulation in the area of the proposed permanent site published once each week, beginning at least two weeks before the hearing.

2. Mailed notice as provided in subsection B C sent at least two weeks before the hearing.

F. Before any agency grants a final permit for a PUBLIC facility specified in subsection B, the agency shall:

1. If the applicant is a political subdivision, require the applicant to certify that a public hearing concerning a possible permanent site selection for the PUBLIC facility has been held in the nearest public facility in the general vicinity of the proposed permanent site, at which interested persons were allowed to appear and present their views.
2. Hold a public hearing at least thirty days before a final decision concerning the permanent site, such a hearing is warranted by the public interest, to be held in the nearest public facility in the general vicinity of the proposed permanent site, at which interested persons may appear and present their views. If such a hearing is held the agency shall send written notice of the selection of a possible permanent site as provided in subsection B C.

G. This section shall not be construed to apply to any facility which receives funding under Section 2 the Federal Clean Water Act, as amended (P.L. 97-117).

Section 5. Title 49, Chapter 4, Article 4, Arizona Revised Statutes, is amended to add new sections 4 through 49-771, to read:

49-768. Compliance orders; appeal; enforcement

A. IF THE DIRECTOR DETERMINES THAT A PERSON IS IN VIOLATION OF SECTION 49-767.B, THE DIRECTOR MAY ISSUE ORDER REQUIRING COMPLIANCE IMMEDIATELY OR WITHIN A SPECIFIED TIME PERIOD.

B. A COMPLIANCE ORDER SHALL STATE WITH REASONABLE SPECIFICITY THE NATURE OF THE VIOLATION, A TIME FOR COMPLIANCE IF APPLICABLE AND THE RIGHT TO A HEARING.

C. A COMPLIANCE ORDER SHALL BE TRANSMITTED TO THE ALLEGED VIOLATOR BY CERTIFIED MAIL, RETURN REQUESTED, OR BY HAND DELIVERY.

D. A COMPLIANCE ORDER BECOMES FINAL AND ENFORCEABLE IN THE SUPERIOR COURT UNLESS WITHIN THIRTY DAYS AFTER

2. AT THE REQUEST OF THE DIRECTOR THE ATTORNEY GENERAL MAY COMMENCE AN ACTION IN SUPERIOR COURT TO ENFORCE ORDERS ISSUED UNDER THIS SECTION ONCE AN ORDER BECOMES FINAL.

9-769. Injunctive Relief; Civil Penalties; Recovery of Litigation Costs

1. IF THE DIRECTOR HAS REASON TO BELIEVE THAT A PERSON IS IN VIOLATION OF SECTION 49-767.B, WHETHER OR NOT THE PERSON HAS REQUESTED A HEARING, THE DIRECTOR, THROUGH THE ATTORNEY GENERAL, MAY REQUEST A TEMPORARY RESTRAINING ORDER, A PRELIMINARY INJUNCTION, A PERMANENT INJUNCTION OR ANY OTHER RELIEF NECESSARY TO PROTECT THE PUBLIC HEALTH.

2. ANY PERSON WHO VIOLATES SECTION 49-767.B IS SUBJECT TO A CIVIL PENALTY OF NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS PER DAY PER VIOLATION. THE ATTORNEY GENERAL MAY, AND AT THE REQUEST OF THE DIRECTOR SHALL, COMMENCE AN ACTION IN SUPERIOR COURT TO RECOVER CIVIL PENALTIES PROVIDED BY THIS SECTION.

3. THE COURT, IN ISSUING ANY FINAL ORDER IN ANY CIVIL ACTION BROUGHT UNDER THIS SECTION, MAY AWARD COSTS OF LITIGATION, INCLUDING REASONABLE ATTORNEY AND EXPERT WITNESS FEES, TO ANY SUBSTANTIALLY PREVAILING PARTY IF THE COURT DETERMINES SUCH AN AWARD IS APPROPRIATE. IF A TEMPORARY RESTRAINING ORDER IS SOUGHT, THE COURT MAY REQUIRE THE FILING OF A BOND OR EQUIVALENT SECURITY.
Private Right of Action; Citizen Suits

EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A PERSON HAVING AN INTEREST WHICH IS OR MAY BE ADVERSELY AFFECTED MAY COMMENCE A CIVIL ACTION IN SUPERIOR COURT ON HIS OWN BEHALF AGAINST:

1. A PERSON, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE ALLEGING A VIOLATION OF SECTION 49-767. THE COURT SHALL HAVE JURISDICTION TO ENFORCE A VIOLATION OF SECTION 49-767 THROUGH INJUNCTIVE AND OTHER EQUITABLE RELIEF AND TO APPLY ANY APPROPRIATE CIVIL PENALTY PURSUANT TO SECTION 49-769.

NO ACTION MAY BE COMMENCED IN EITHER OF THE FOLLOWING CASES:

1. BEFORE SIXTY DAYS AFTER THE PLAINTIFF HAS GIVEN NOTICE OF THE ALLEGED VIOLATION TO THE DIRECTOR AND TO THE ALLEGED VIOLATOR.

2. IF THE ATTORNEY GENERAL OR COUNTY ATTORNEY HAS COMMENCED AND IS DILIGENTLY PROSECUTING A CIVIL ACTION IN THE SUPERIOR COURT TO REQUIRE COMPLIANCE WITH SECTION 49-767.

IN AN ACTION COMMENCED UNDER THIS SECTION:

1. THE DIRECTOR, IF NOT A PARTY, MAY INTERVENE AS A MATTER OF RIGHT.

2. THE PLAINTIFF HAS THE BURDEN OF PROOF.
Private Right of Action; Citizen Suits

EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A PERSON HAVING AN INTEREST WHICH IS OR MAY BE
ADVERSELY AFFECTED MAY COMMENCE A CIVIL ACTION IN SUPERIOR COURT ON HIS OWN BEHALF AGAINST:

1. A PERSON, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE ALLEGING A VIOLATION OF SECTION
   49-767. THE COURT SHALL HAVE JURISDICTION TO ENFORCE A VIOLATION OF SECTION 49-767 THROUGH
   INJUNCTIVE AND OTHER EQUITABLE RELIEF AND TO APPLY ANY APPROPRIATE CIVIL PENALTY PURSUANT TO SECTION
   49-769.

NO ACTION MAY BE COMMENCED IN EITHER OF THE FOLLOWING CASES:

1. BEFORE SIXTY DAYS AFTER THE PLAINTIFF HAS GIVEN NOTICE OF THE ALLEGED VIOLATION TO THE DIRECTOR AND
   TO THE ALLEGED VIOLATOR.

2. IF THE ATTORNEY GENERAL OR COUNTY ATTORNEY HAS COMMENCED AND IS DILIGENTLY PROSECUTING A CIVIL ACTION
   IN THE SUPERIOR COURT TO REQUIRE COMPLIANCE WITH SECTION 49-767.

IN AN ACTION COMMENCED UNDER THIS SECTION:

1. THE DIRECTOR, IF NOT A PARTY, MAY INTERVENE AS A MATTER OF RIGHT.

2. THE PLAINTIFF HAS THE BURDEN OF PROOF.
THE COURT, IN ISSUING A FINAL ORDER IN AN ACTION BROUGHT UNDER THIS SECTION, MAY:

1. AWARD COSTS OF LITIGATION, INCLUDING REASONABLE ATTORNEY AND EXPERT WITNESS FEES, TO ANY PARTY WHENEVER THE COURT DETERMINES IT IS APPROPRIATE AND, IN ADDITION, TO THE DEFENDANT IN THE CASE OF A FRIVOLOS ACTION.

2. PROVIDE FOR INJUNCTIVE OR OTHER EQUITABLE RELIEF OR ASSESS CIVIL PENALTIES THAT COULD HAVE BEEN ASSESSED UNDER SECTION 49-769.B.

-771. Venue

ALL ACTIONS COMMENCED UNDER SECTIONS 49-769 AND 49-770 SHALL BE BROUGHT IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE ALLEGED VIOLATION OCCURRED OR IN WHICH THE DEPARTMENT MAINTAINS AN OFFICE.

Section 6. Section 49-901, Arizona Revised Statutes, is amended to read:

-901 Definitions

In this chapter, unless the context otherwise requires:

"Department" means the department of environmental quality.

"Director" means the director of environmental quality.
3. (A) "Hazardous waste" means a waste or combination of wastes which because of its quantity, concentration or physical, chemical or infectious characteristics may either:

fa+(1) Cause or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitating reversible illness.

fa+(2) Pose a substantial present or potential hazard to human health or the environment if improperly disposed.

(B) "HAZARDOUS WASTE" ALSO MEANS ANY SUBSTANCE DEFINED, LISTED, OR REGULATED AS HAZARDOUS WASTE UNDER THIS TITLE OR UNDER THE FEDERAL ACT AS DEFINED IN SECTION 49-921.3.

4. "Hazardous waste disposal facility" means a hazardous waste disposal facility contracted for by the state.

Section 7. Title 49, Chapter 5, Article 1, Arizona Revised Statutes, is amended to add a new Section 49-906, to read:

49-906. Operation of State-Owned Hazardous Waste Facilities

AFTER JANUARY 1, 1991, NO FACILITY OWNED, MANAGED OR OPERATED, IN WHOLE OR IN PART ON STATE-OWNED LANDS, SHALL ACCEPT, TREAT, STORE, RECYCLE, INCINERATE OR DISPOSE OF ANY HAZARDOUS WASTE, AS DEFINED OR IDENTIFIED UNDER SECTIONS 49-901, 49-921, OR 49-922, OR ANY WASTE FROM ANY SUBSTANCE OR MIXTURE REGULATED UNDER SECTION 6 OF THE FEDERAL TOXIC SUBSTITUTES CONTROL ACT (15 UNITED STATES CODE SECTION 2605), AS AMENDED, WHICH IS GENERAT
OUTSIDE OF THE STATE OF ARIZONA.

Section 8. Title 49, Chapter 5, Article 3 is amended to add a new Section 49-944, to read:

**Section 49-944. Site Restrictions for hazardous waste facilities**

In addition to any restrictions imposed pursuant to Section 49-922, a facility designed to permanently dispose of any hazardous waste shall not be issued an aquifer protection permit under the authority of Chapter 2, Article 3, or any other permit or approval under this chapter, or operate: (1) if an irrigation grandfathered right created pursuant to Title 45, Chapter 2, Article 5 is appurtenant to all or any part of the facility; or (2) if all or any part of the facility will be located within one-half mile of a floodplain, as defined in section 48-3601, that has one hundred-year flows in excess of twenty-five thousand cubic feet per second as determined by the Federal Emergency Management Agency (or as approved by the Director of Water Resources in the event the Federal Emergency Management Agency has not determined the flows for a specific floodplain), or cause of its location the Director determines it could cause groundwater pollution, surface water pollution, or washout of solid waste from the facility during a one hundred-year flood event. For purposes of this section, the terms "operate" and "operation" shall mean the use of a facility, in accordance with all state environmental laws and local zoning laws, and in compliance with all applicable federal environmental statutes and regulations, and actual disposal of hazardous waste.

Section 9. **Renumber**

Section 49-944, Arizona Revised Statutes, is renumbered as Section 49-945.
Section 10. Title 49, Arizona Revised Statutes, is amended by adding Chapter 8, to read:

19-1201. Powers and Duties of Environmental Advocate; Civil Actions

The environmental advocate is authorized to commence or to intervene in civil actions in his or her own name, and to appear personally or through counsel in the courts of this state and of the United States, in the following cases:

1. To enforce any statute, rule, permit, standard, regulation, condition, requirement, prohibition, or order issued or required under this title, for the benefit or protection of any person or class of persons who may be adversely affected, in the manner provided in sections 49-264 or 49-770 for the prosecution of citizen suits.

2. To the extent permitted by federal law, to enforce any statute, rule, permit, standard, regulation, condition, requirement, prohibition, or order issued or required pursuant to the law of the United States in the manner provided in 15 United States Code section 4619, 33 United States Code section 1365, 42 United States Code section 300J-8, 42 United States Code section 6972, or 42 United States Code section 9659, for the prosecution of citizen suits.

Section 11. Appropriation

The sum of four hundred twenty-five thousand dollars is appropriated from the state general fund to the office of the environmental advocate for the fiscal year 1992-1993, for the purposes provided in this act.
Section 12. Exemption from Lapsing

THE APPROPRIATION MADE IN SECTION 11 OF THIS ACT IS EXEMPT FROM SECTION 35-190, ARIZONA REVISED STATUTES, RELATING TO LAPSING OF APPROPRIATIONS.

Section 13. Severability

A PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THE ACT WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ACT ARE SEVERABLE.

Section 14. Liberal Interpretation

THE PROVISIONS OF THIS ACT SHOULD BE LIBERALLY CONSTRUED TO EFFECT THEIR OBJECTS AND TO PROMOTE JUSTICE.

Section 15. Effective Date; Applicability

THIS ACT SHALL BECOME EFFECTIVE IMMEDIATELY UPON APPROVAL BY A MAJORITY OF THE QUALIFIED ELECTORS VOTING THEREON AND ON PROCLAMATION OF THE GOVERNOR. SECTIONS 4 AND 8 OF THIS ACT SHALL NOT APPLY TO ANY EXISTING CILITY OR PUBLIC FACILITY IN OPERATION ON OR BEFORE MAY 23, 1990, BUT SHALL APPLY TO THE EXPANSION ORIFICATION OF ANY SUCH FACILITY OR PUBLIC FACILITY AFTER MAY 23, 1990. THE TERM "OPERATION," FOR PURPOSES OF THIS SECTION, SHALL HAVE THE MEANING DESCRIBED IN SECTIONS 4 AND 8 OF THIS ACT. SECTION 4 OF THIS ACT SHALL PERSEDE ANY AND ALL PRIOR Amendments AND EXEMPTIONS TO ARIZONA REVISED STATUTES SECTION 49-767.
Section 16. **Conditional Enactment**

Sections 10, 11, and 12 of this Act shall not become effective unless the Constitution of Arizona is amended by vote of the people at the next regular general election. To establish the Office of the Environmental Advocate.