

REFERENCE TITLE: professional education standards board

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2294

Introduced by
Representatives Schapira, Lujan: Meyer, Waters

AN ACT

AMENDING SECTIONS 15-183, 15-203, 15-240, 15-350 AND 15-501, ARIZONA REVISED STATUTES; REPEALING SECTIONS 15-508 AND 15-509, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-512 AND 15-514, ARIZONA REVISED STATUTES; REPEALING SECTIONS 15-531, 15-531.01, 15-532 AND 15-533, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-534, 15-534.01, 15-534.02 AND 15-534.03, ARIZONA REVISED STATUTES; REPEALING SECTION 15-535, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-539 AND 15-545, ARIZONA REVISED STATUTES; REPEALING SECTION 15-550, ARIZONA REVISED STATUTES; AMENDING SECTION 15-551, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; AMENDING SECTIONS 15-779.02, 15-914.01, 41-1092.02, 41-1750 AND 41-2831, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3019.01; RELATING TO THE PROFESSIONAL EDUCATION STANDARDS BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to
3 read:

4 15-183. Charter schools; application; requirements; immunity;
5 exemptions; renewal of application; reprisal

6 A. An applicant seeking to establish a charter school shall submit a
7 written application to a proposed sponsor as prescribed in subsection C of
8 this section. The application shall include a detailed business plan for the
9 charter school and may include a mission statement for the charter school, a
10 description of the charter school's organizational structure and the
11 governing body, a financial plan for the first three years of operation of
12 the charter school, a description of the charter school's hiring policy, the
13 name of the charter school's applicant or applicants and requested sponsor, a
14 description of the charter school's facility and the location of the school,
15 a description of the grades being served and an outline of criteria designed
16 to measure the effectiveness of the school.

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

20 C. The sponsor of a charter school may be either a school district
21 governing board, the state board of education or the state board for charter
22 schools, subject to the following requirements:

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

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

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

42 (c) In the second consecutive year that a school district is
43 determined to be out of compliance with the uniform system of financial
44 records, within fifteen days of the determination of noncompliance, the
45 school district shall notify by certified mail each charter school sponsored

1 by the school district that the school district is out of compliance with the
2 uniform system of financial records. A charter school that receives a
3 notification of school district noncompliance pursuant to this subdivision
4 shall file a written sponsorship transfer application within forty-five days
5 with the state board of education, the state board for charter schools or the
6 school district governing board if the charter school is located within the
7 geographic boundaries of that school district. A charter school that
8 receives a notification of school district noncompliance may request an
9 extension of time to file a sponsorship transfer application, and the state
10 board of education, the state board for charter schools or a school district
11 governing board may grant an extension of not more than an additional thirty
12 days if good cause exists for the extension. The state board of education
13 and the state board for charter schools shall approve a sponsorship transfer
14 application pursuant to this paragraph.

15 (d) ~~Beginning July 1, 2000,~~ A school district governing board shall
16 not grant a charter to a charter school that is located outside the
17 geographic boundaries of that school district.

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

21 2. The applicant may submit the application to the state board of
22 education or the state board for charter schools. The state board of
23 education or the state board for charter schools may approve the application
24 if the application meets the requirements of this article and may approve the
25 charter if the proposed sponsor determines, within its sole discretion, that
26 the applicant is sufficiently qualified to operate a charter school. The
27 state board of education or the state board for charter schools may approve
28 any charter schools transferring charters. The state board of education and
29 the state board for charter schools shall approve any charter schools
30 transferring charters from a school district that is determined to be out of
31 compliance with the uniform system of financial records pursuant to this
32 section, but may require the charter school to sign a new charter that is
33 equivalent to the charter awarded by the former sponsor. If the state board
34 of education or the state board for charter schools rejects the preliminary
35 application, the state board of education or the state board for charter
36 schools shall notify the applicant in writing of the reasons for the
37 rejection and of suggestions for improving the application. An applicant may
38 submit a revised application for reconsideration by the state board of
39 education or the state board for charter schools. The applicant may request,
40 and the state board of education or the state board for charter schools may
41 provide, technical assistance to improve the application.

42 3. Each applicant seeking to establish a charter school shall submit a
43 full set of fingerprints to the approving agency for the purpose of obtaining
44 a state and federal criminal records check pursuant to section 41-1750 and
45 Public Law 92-544. If an applicant will have direct contact with students,

1 the applicant shall possess a valid fingerprint clearance card that is issued
2 pursuant to title 41, chapter 12, article 3.1. The department of public
3 safety may exchange this fingerprint data with the federal bureau of
4 investigation. The criminal records check shall be completed before the
5 issuance of a charter.

6 4. All persons engaged in instructional work directly as a classroom,
7 laboratory or other teacher or indirectly as a supervisory teacher, speech
8 therapist or principal shall have a valid fingerprint clearance card that is
9 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a
10 volunteer or guest speaker who is accompanied in the classroom by a person
11 with a valid fingerprint clearance card. A charter school shall not employ a
12 teacher whose certificate has been revoked for a violation of section 15-507
13 ~~or 15-550~~ or for any offense that placed a pupil in danger. All other
14 personnel shall be fingerprint checked pursuant to section 15-512. Before
15 employment, the charter school shall make documented, good faith efforts to
16 contact previous employers of a person to obtain information and
17 recommendations that may be relevant to a person's fitness for employment as
18 prescribed in section 15-512, subsection F. The charter school shall notify
19 the department of public safety if the charter school or sponsor receives
20 credible evidence that a person who possesses a valid fingerprint clearance
21 card is arrested for or is charged with an offense listed in section
22 41-1758.03, subsection B. Charter schools may hire personnel that have not
23 yet received a fingerprint clearance card if proof is provided of the
24 submission of an application to the department of public safety for a
25 fingerprint clearance card and if the charter school that is seeking to hire
26 the applicant does all of the following:

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

29 (b) Ensures that the department of public safety completes a statewide
30 criminal records check on the applicant. A statewide criminal records check
31 shall be completed by the department of public safety every one hundred
32 twenty days until the date that the fingerprint check is completed.

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

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

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

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

43 5. If a charter school operator is not already subject to a public
44 meeting or hearing by the municipality in which the charter school is
45 located, the operator of a charter school shall conduct a public meeting at

1 least thirty days before the charter school operator opens a site or sites
2 for the charter school. The charter school operator shall post notices of
3 the public meeting in at least three different locations that are within
4 three hundred feet of the proposed charter school site.

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

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

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

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

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

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

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

26 E. The charter of a charter school shall ensure the following:

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

32 2. That it is nonsectarian in its programs, admission policies and
33 employment practices and all other operations.

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

39 4. That it designs a method to measure pupil progress toward the pupil
40 outcomes adopted by the state board of education pursuant to section
41 15-741.01, including participation in the Arizona instrument to measure
42 standards test and the nationally standardized norm-referenced achievement
43 test as designated by the state board and the completion and distribution of
44 an annual report card as prescribed in chapter 7, article 3 of this title.

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

4 6. That, except as provided in this article, it is subject to the same
5 financial and electronic data submission requirements as a school district,
6 including the uniform system of financial records as prescribed in chapter 2,
7 article 4 of this title, procurement rules as prescribed in section 15-213
8 and audit requirements. The auditor general shall conduct a comprehensive
9 review and revision of the uniform system of financial records to ensure that
10 the provisions of the uniform system of financial records that relate to
11 charter schools are in accordance with commonly accepted accounting
12 principles used by private business. A school's charter may include
13 exceptions to the requirements of this paragraph that are necessary as
14 determined by the district governing board, the state board of education or
15 the state board for charter schools. The department of education or the
16 office of the auditor general may conduct financial, program or compliance
17 audits.

18 7. Compliance with all federal and state laws relating to the
19 education of children with disabilities in the same manner as a school
20 district.

21 8. That it provides for a governing body for the charter school that
22 is responsible for the policy decisions of the charter school.

23 9. That it provides a minimum of one hundred seventy-five
24 instructional days before June 30 of each fiscal year unless it is operating
25 on an alternative calendar approved by its sponsor. The superintendent of
26 public instruction shall adjust the apportionment schedule accordingly to
27 accommodate a charter school utilizing an alternative calendar.

28 F. The charter of a charter school shall include a description of the
29 charter school's personnel policies, personnel qualifications and method of
30 school governance and the specific role and duties of the sponsor of the
31 charter school. A charter school shall keep on file the resumes of all
32 current and former employees who provide instruction to pupils at the charter
33 school. Resumes shall include an individual's educational and teaching
34 background and experience in a particular academic content subject area. A
35 charter school shall inform parents and guardians of the availability of the
36 resume information and shall make the resume information available for
37 inspection on request of parents and guardians of pupils enrolled at the
38 charter school. Nothing in this subsection shall be construed to require any
39 charter school to release personally identifiable information in relation to
40 any teacher or employee, including the teacher's or employee's address,
41 salary, social security number or telephone number.

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

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

1 I. An approved plan to establish a charter school is effective for
 2 fifteen years from the first day of operation. At least eighteen months
 3 before the expiration of the approved plan, the sponsor shall notify the
 4 charter school that the charter school may apply for renewal. A charter
 5 school that elects to apply for renewal shall file an application for renewal
 6 at least fifteen months before the expiration of the approved plan. In
 7 addition to any other requirements, the application for renewal shall include
 8 a detailed business plan for the charter school. The sponsor may deny the
 9 request for renewal if, in its judgment, the charter school has failed to
 10 complete the obligations of the contract or has failed to comply with this
 11 article. A sponsor shall give written notice of its intent not to renew the
 12 charter school's request for renewal to the charter school at least twelve
 13 months before the expiration of the approved plan to allow the charter school
 14 an opportunity to apply to another sponsor to transfer the operation of the
 15 charter school. If the operation of the charter school is transferred to
 16 another sponsor, the fifteen year period of the current charter shall be
 17 maintained. A sponsor shall review a charter at five year intervals and may
 18 revoke a charter at any time if the charter school breaches one or more
 19 provisions of its charter. At least ninety days before the effective date of
 20 the proposed revocation the sponsor shall give written notice to the operator
 21 of the charter school of its intent to revoke the charter. Notice of the
 22 sponsor's intent to revoke the charter shall be delivered personally to the
 23 operator of the charter school or sent by certified mail, return receipt
 24 requested, to the address of the charter school. The notice shall
 25 incorporate a statement of reasons for the proposed revocation of the
 26 charter. The sponsor shall allow the charter school at least ninety days to
 27 correct the problems associated with the reasons for the proposed revocation
 28 of the charter. The final determination of whether to revoke the charter
 29 shall be made at a public hearing called for such purpose.

30 J. After renewal of the charter at the end of the fifteen year period
 31 described in subsection I of this section, the charter may be renewed for
 32 successive periods of fifteen years if the charter school and its sponsor
 33 deem that the school is in compliance with its own charter and this article.

34 K. A charter school that is sponsored by the state board of education
 35 or the state board for charter schools may not be located on the property of
 36 a school district unless the district governing board grants this authority.

37 L. A governing board or a school district employee who has control
 38 over personnel actions shall not take unlawful reprisal against another
 39 employee of the school district because the employee is directly or
 40 indirectly involved in an application to establish a charter school. A
 41 governing board or a school district employee shall not take unlawful
 42 reprisal against an educational program of the school or the school district
 43 because an application to establish a charter school proposes the conversion
 44 of all or a portion of the educational program to a charter school. For the
 45 purposes of this subsection, "unlawful reprisal" means an action that is

1 taken by a governing board or a school district employee as a direct result
2 of a lawful application to establish a charter school and that is adverse to
3 another employee or an education program and:

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

- 6 (a) Disciplinary or corrective action.
- 7 (b) Detail, transfer or reassignment.
- 8 (c) Suspension, demotion or dismissal.
- 9 (d) An unfavorable performance evaluation.
- 10 (e) A reduction in pay, benefits or awards.
- 11 (f) Elimination of the employee's position without a reduction in
12 force by reason of lack of monies or work.

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

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

- 17 (a) Suspension or termination of the program.
- 18 (b) Transfer or reassignment of the program to a less favorable
19 department.
- 20 (c) Relocation of the program to a less favorable site within the
21 school or school district.
- 22 (d) Significant reduction or termination of funding for the program.

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

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

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

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

40 Q. The sponsor of a charter school shall establish procedures to
41 conduct administrative hearings on determination by the sponsor that grounds
42 exist to revoke a charter. Procedures for administrative hearings shall be
43 similar to procedures prescribed for adjudicative proceedings in title 41,
44 chapter 6, article 10. Except as provided in section 41-1092.08, subsection
45 H, final decisions of the state board of education and the state board for

1 charter schools from hearings conducted pursuant to this subsection are
2 subject to judicial review pursuant to title 12, chapter 7, article 6.

3 R. The sponsoring entity of a charter school shall have oversight and
4 administrative responsibility for the charter schools that it sponsors.

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

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

9 U. Charter schools may not locate a school on property that is less
10 than one-fourth mile from agricultural land regulated pursuant to section
11 3-365, except that the owner of the agricultural land may agree to comply
12 with the buffer zone requirements of section 3-365. If the owner agrees in
13 writing to comply with the buffer zone requirements and records the agreement
14 in the office of the county recorder as a restrictive covenant running with
15 the title to the land, the charter school may locate a school within the
16 affected buffer zone. The agreement may include any stipulations regarding
17 the charter school, including conditions for future expansion of the school
18 and changes in the operational status of the school that will result in a
19 breach of the agreement.

20 V. A transfer of a charter to another sponsor, a transfer of a charter
21 school site to another sponsor or a transfer of a charter school site to a
22 different charter shall be completed before the beginning of the fiscal year
23 that the transfer is scheduled to become effective. An entity that sponsors
24 charter schools may accept a transferring school after the beginning of the
25 fiscal year if the transfer is approved by the superintendent of public
26 instruction. The superintendent of public instruction shall have the
27 discretion to consider each transfer during the fiscal year on a case by case
28 basis. If a charter school is sponsored by a school district that is
29 determined to be out of compliance with this title, the uniform system of
30 financial records or any other state or federal law, the charter school may
31 transfer to another sponsoring entity at any time during the fiscal year.

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

37 Sec. 2. Section 15-203, Arizona Revised Statutes, is amended to read:
38 15-203. Powers and duties

39 A. The state board of education shall:

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

43 2. Keep a record of its proceedings.

44 3. Make rules for its own government.

45 4. Determine the policy and work undertaken by it.

- 1 5. Appoint its employees, on the recommendation of the superintendent
2 of public instruction.
- 3 6. Prescribe the duties of its employees if not prescribed by statute.
- 4 7. Delegate to the superintendent of public instruction the execution
5 of board policies and rules.
- 6 8. Recommend to the legislature changes or additions to the statutes
7 pertaining to schools.
- 8 9. Prepare, publish and distribute reports concerning the educational
9 welfare of this state.
- 10 10. Prepare a budget for expenditures necessary for proper maintenance
11 of the board and accomplishment of its purposes and present the budget to the
12 legislature.
- 13 11. Aid in the enforcement of laws relating to schools.
- 14 12. Prescribe a minimum course of study in the common schools, minimum
15 competency requirements for the promotion of pupils from the third grade and
16 minimum course of study and competency requirements for the promotion of
17 pupils from the eighth grade. The state board of education shall prepare a
18 fiscal impact statement of any proposed changes to the minimum course of
19 study or competency requirements and, on completion, shall send a copy to the
20 director of the joint legislative budget committee and the executive director
21 of the school facilities board. The state board of education shall not adopt
22 any changes in the minimum course of study or competency requirements in
23 effect on July 1, 1998 that will have a fiscal impact on school capital
24 costs.
- 25 13. Prescribe minimum course of study and competency requirements for
26 the graduation of pupils from high school. The state board of education
27 shall prepare a fiscal impact statement of any proposed changes to the
28 minimum course of study or competency requirements and, on completion, shall
29 send a copy to the director of the joint legislative budget committee and the
30 executive director of the school facilities board. The state board of
31 education shall not adopt any changes in the minimum course of study or
32 competency requirements in effect on July 1, 1998 that will have a fiscal
33 impact on school capital costs.
- 34 ~~14. Supervise and control the certification of persons engaged in
35 instructional work directly as any classroom, laboratory or other teacher or
36 indirectly as a supervisory teacher, speech therapist, principal or
37 superintendent in a school district, including school district preschool
38 programs, or any other educational institution below the community college,
39 college or university level, and prescribe rules for certification, including
40 rules for certification of teachers who have teaching experience and who are
41 trained in other states, which are not unnecessarily restrictive and are
42 substantially similar to the rules prescribed for the certification of
43 teachers trained in this state. The rules shall require applicants for all
44 certificates for common school instruction to complete a minimum of
45 forty-five classroom hours or three college level credit hours, or the~~

1 ~~equivalent, of training in research based systematic phonics instruction from~~
2 ~~a public or private provider. The rules shall not require a teacher to~~
3 ~~obtain a master's degree or to take any additional graduate courses as a~~
4 ~~condition of certification or recertification. The rules shall allow a~~
5 ~~general equivalency diploma to be substituted for a high school diploma in~~
6 ~~the certification of emergency substitute teachers.~~

7 ~~15.~~ 14. Adopt a list of approved tests for determining special
8 education assistance to gifted pupils as defined in and as provided in
9 chapter 7, article 4.1 of this title. The adopted tests shall provide
10 separate scores for quantitative reasoning, verbal reasoning and nonverbal
11 reasoning and shall be capable of providing reliable and valid scores at the
12 highest ranges of the score distribution.

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

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

17 ~~18. Include within its budget the cost of contracting for the purchase,~~
18 ~~distribution and scoring of the examinations as provided in paragraphs 16 and~~
19 ~~17 of this subsection.~~

20 ~~19. Supervise and control the qualifications of professional~~
21 ~~nonteaching school personnel and prescribe standards relating to~~
22 ~~qualifications.~~

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

26 ~~21.~~ 15. Establish an assessment, data gathering and reporting system
27 for pupil performance as prescribed in chapter 7, article 3 of this title.

28 ~~22.~~ 16. Adopt a rule to promote braille literacy pursuant to section
29 15-214.

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

33 ~~24.~~ 17. For purposes of federal law, serve as the state board for
34 vocational and technological education and meet at least four times each year
35 solely to execute the powers and duties of the state board for vocational and
36 technological education.

37 ~~25.~~ 18. Develop and maintain a handbook for use in the schools of this
38 state that provides guidance for the teaching of moral, civic and ethical
39 education. The handbook shall promote existing curriculum frameworks and
40 shall encourage school districts to recognize moral, civic and ethical values
41 within instructional and programmatic educational development programs for
42 the general purpose of instilling character and ethical principles in pupils
43 in kindergarten programs and grades one through twelve.

44 ~~26.~~ 19. Require pupils to recite the following passage from the
45 declaration of independence for pupils in grades four through six at the

1 commencement of the first class of the day in the schools, except that a
2 pupil shall not be required to participate if the pupil or the pupil's parent
3 or guardian objects:

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

10 ~~27. Adopt rules that provide for teacher certification reciprocity.~~
11 ~~The rules shall provide for a one year reciprocal teaching certificate with~~
12 ~~minimum requirements including valid teacher certification from a state with~~
13 ~~substantially similar criminal history or teacher fingerprinting requirements~~
14 ~~and proof of the submission of an application for a fingerprint clearance~~
15 ~~card pursuant to title 41, chapter 12, article 3.1.~~

16 28. 20. Adopt rules that will be in effect until December 31, 2006 and
17 that provide for the presentation of an honorary high school diploma to a
18 person who has never obtained a high school diploma and who meets each of the
19 following requirements:

20 (a) Is at least sixty-five years of age.

21 (b) Currently resides in this state.

22 (c) Provides documented evidence from the Arizona department of
23 veterans' services that the person enlisted in the armed forces of the United
24 States before completing high school in a public or private school.

25 (d) Was honorably discharged from service with the armed forces of the
26 United States.

27 ~~29. 21. Cooperate with the Arizona-Mexico commission in the governor's~~
28 ~~office and with researchers at universities in this state to collect data and~~
29 ~~conduct projects in the United States and Mexico on issues that are within~~
30 ~~the scope of the duties of the department of education and that relate to~~
31 ~~quality of life, trade and economic development in this state in a manner~~
32 ~~that will help the Arizona-Mexico commission to assess and enhance the~~
33 ~~economic competitiveness of this state and of the Arizona-Mexico region.~~

34 ~~30. Adopt rules to define and provide guidance to schools as to the~~
35 ~~activities that would constitute immoral or unprofessional conduct of~~
36 ~~certificated persons.~~

37 ~~31. 22. Adopt guidelines to encourage pupils in grades nine, ten,~~
38 ~~eleven and twelve to volunteer for twenty hours of community service before~~
39 ~~graduation from high school. A school district that complies with the~~
40 ~~guidelines adopted pursuant to this paragraph is not liable for damages~~
41 ~~resulting from a pupil's participation in community service unless the school~~
42 ~~district is found to have demonstrated wanton or reckless disregard for the~~
43 ~~safety of the pupil and other participants in community service. For the~~
44 ~~purposes of this paragraph, "community service" may include service learning.~~
45 The guidelines shall include the following:

1 (a) A list of the general categories in which community service may be
2 performed.

3 (b) A description of the methods by which community service will be
4 monitored.

5 (c) A consideration of risk assessment for community service projects.

6 (d) Orientation and notification procedures of community service
7 opportunities for pupils entering grade nine, including the development of a
8 notification form. The notification form shall be signed by the pupil and
9 the pupil's parent or guardian, except that a pupil shall not be required to
10 participate in community service if the parent or guardian notifies the
11 principal of the pupil's school in writing that the parent or guardian does
12 not wish the pupil to participate in community service.

13 (e) Procedures for a pupil in grade nine to prepare a written proposal
14 that outlines the type of community service that the pupil would like to
15 perform and the goals that the pupil hopes to achieve as a result of
16 community service. The pupil's written proposal shall be reviewed by a
17 faculty advisor, a guidance counselor or any other school employee who is
18 designated as the community service program coordinator for that school. The
19 pupil may alter the written proposal at any time before performing community
20 service.

21 (f) Procedures for a faculty advisor, a guidance counselor or any
22 other school employee who is designated as the community service program
23 coordinator to evaluate and certify the completion of community service
24 performed by pupils.

25 ~~32-~~ 23. To facilitate the transfer of military personnel and their
26 dependents to and from the public schools of this state, pursue, in
27 cooperation with the Arizona board of regents, reciprocity agreements with
28 other states concerning the transfer credits for military personnel and their
29 dependents. A reciprocity agreement entered into pursuant to this paragraph
30 shall:

31 (a) Address procedures for each of the following:

32 (i) The transfer of student records.

33 (ii) Awarding credit for completed course work.

34 (iii) Permitting a student to satisfy the graduation requirements
35 prescribed in section 15-701.01 through the successful performance on
36 comparable exit-level assessment instruments administered in another state.

37 (b) Include appropriate criteria developed by the state board of
38 education and the Arizona board of regents.

39 ~~33-~~ 24. Adopt guidelines that school district governing boards shall
40 use in identifying pupils who are eligible for gifted programs and in
41 providing gifted education programs and services. The state board of
42 education shall adopt any other guidelines and rules that it deems necessary
43 in order to carry out the purposes of chapter 7, article 4.1 of this title.

1 ~~34.~~ 25. For each of the alternative textbook formats of human-voiced
2 audio, large-print and braille, designate alternative media producers to
3 adapt existing standard print textbooks or to provide specialized textbooks,
4 or both, for pupils with disabilities in this state. Each alternative media
5 producer shall be capable of producing alternative textbooks in all relevant
6 subjects in at least one of the alternative textbook formats. The board
7 shall post the designated list of alternative media producers on its website.

8 ~~35.~~ 26. Adopt a list of approved professional development training
9 providers for use by school districts as provided in section 15-107,
10 subsection J. The professional development training providers shall meet the
11 training curriculum requirements determined by the state board of education
12 in at least the areas of school finance, governance, employment, staffing,
13 inventory and human resources, internal controls and procurement.

14 ~~36. Adopt rules to prohibit a person who violates the notification~~
15 ~~requirements prescribed in section 15-183, subsection C, paragraph 6 or~~
16 ~~section 15-550, subsection C from certification pursuant to this title until~~
17 ~~the person is no longer charged or is acquitted of any offenses listed in~~
18 ~~section 41-1758.03, subsection B. The board shall also adopt rules to~~
19 ~~prohibit a person who violates the notification requirements, certification~~
20 ~~surrender requirements or fingerprint clearance card surrender requirements~~
21 ~~prescribed in section 15-183, subsection C, paragraph 7 or section 15-550,~~
22 ~~subsection D from certification pursuant to this title for at least ten years~~
23 ~~after the date of the violation.~~

24 B. The state board of education may:

25 1. Contract.

26 2. Sue and be sued.

27 3. Distribute and score the tests prescribed in chapter 7, article 3
28 of this title.

29 ~~4. Provide for an advisory committee to conduct hearings and~~
30 ~~screenings to determine whether grounds exist to impose disciplinary action~~
31 ~~against a certificated person, whether grounds exist to reinstate a revoked~~
32 ~~or surrendered certificate and whether grounds exist to approve or deny an~~
33 ~~initial application for certification or a request for renewal of a~~
34 ~~certificate. The board may delegate its responsibility to conduct hearings~~
35 ~~and screenings to its advisory committee. Hearings shall be conducted~~
36 ~~pursuant to title 41, chapter 6, article 6.~~

37 ~~5. Proceed with the disposal of any complaint requesting disciplinary~~
38 ~~action or with any disciplinary action against a person holding a certificate~~
39 ~~as prescribed in subsection A, paragraph 14 of this section after the~~
40 ~~suspension or expiration of the certificate or surrender of the certificate~~
41 ~~by the holder.~~

42 ~~6. Assess costs and reasonable attorney fees against a person who~~
43 ~~files a frivolous complaint or who files a complaint in bad faith. Costs~~
44 ~~assessed pursuant to this paragraph shall not exceed the expenses incurred by~~
45 ~~the state board in the investigation of the complaint.~~

1 to access criminal history records and criminal history record information,
2 as defined in section 41-1750, from law enforcement agencies.

3 Sec. 5. Section 15-501, Arizona Revised Statutes, is amended to read:

4 15-501. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Administrator" means any school district administrator except a
7 school principal devoting not less than fifty per cent of his time to
8 classroom teaching.

9 2. "Certificated teacher" means a person who holds a certificate from
10 the state board of education OR THE PROFESSIONAL EDUCATION STANDARDS BOARD to
11 work in the schools of this state and who is employed under contract in a
12 school district in a position which requires certification except a
13 psychologist or an administrator devoting less than fifty per cent of his
14 time to classroom teaching.

15 3. "Full-time" means employed for a full school day, or its
16 equivalent, or for a full class load, or its equivalent, as determined by the
17 governing board.

18 4. "Governing board" means the governing board of a school district or
19 a county school superintendent in the case of accommodation schools located
20 in such county.

21 5. "Major portion of a school year" means full-time employment for
22 fifty-one per cent of the school days during which school is in session,
23 except that a certificated teacher is not deemed to have completed the major
24 portion of the third school year of three consecutive years of employment
25 until the end of the third school year.

26 6. "Superintendent" means the superintendent of schools of a school
27 district.

28 7. "Suspension without pay" means suspension without pay for a period
29 of time not to exceed ten school days.

30 Sec. 6. Repeal

31 Sections 15-508 and 15-509, Arizona Revised Statutes, are repealed.

32 Sec. 7. Section 15-512, Arizona Revised Statutes, is amended to read:

33 15-512. Noncertificated personnel; fingerprinting personnel;
34 background investigations; affidavit; civil immunity;
35 violation; classification; definition

36 A. Noncertificated personnel and personnel who are not paid employees
37 of the school district and who are not either the parent or the guardian of a
38 pupil who attends school in the school district but who are required or
39 allowed to provide services directly to pupils without the supervision of a
40 certificated employee and who are initially hired by a school district after
41 January 1, 1990 shall be fingerprinted as a condition of employment except
42 for personnel who are required as a condition of licensing to be
43 fingerprinted if the license is required for employment or for personnel who
44 were previously employed by a school district and who reestablished
45 employment with that district within one year after the date that the

1 employee terminated employment with the district. A school district may
2 release the results of a background check to another school district for
3 employment purposes. The employee's fingerprints and the form prescribed in
4 subsection D of this section shall be submitted to the school district within
5 twenty days after the date an employee begins work. A school district may
6 terminate an employee if the information on the form provided under
7 subsection D of this section is inconsistent with the information received
8 from the fingerprint check. The school district shall develop procedures for
9 fingerprinting employees. For the purposes of this subsection, "supervision"
10 means under the direction of and, except for brief periods of time during a
11 school day or a school activity, within sight of a certificated employee when
12 providing direct services to pupils.

13 B. Fingerprints submitted pursuant to this section shall be used to
14 conduct a state and ~~national~~ FEDERAL criminal records check pursuant to
15 section 41-1750 and Public Law 92-544. The department of public safety may
16 exchange this fingerprint data with the federal bureau of investigation.

17 C. The school district shall assume the costs of fingerprint checks
18 and may charge these costs to its fingerprinted employee, except that the
19 school district may not charge the costs of the fingerprint check to
20 personnel of the school district who are not paid employees. The fees charged
21 for fingerprinting shall be deposited with the county treasurer who shall
22 credit the deposit to the fingerprint fund of the school district. The costs
23 charged to a fingerprinted employee are limited to and the proceeds in the
24 fund may only be applied to the actual costs, including personnel costs,
25 incurred as a result of the fingerprint checks. The fingerprint fund is a
26 continuing fund which is not subject to reversion.

27 D. Personnel required to be fingerprinted as prescribed in subsection
28 A of this section shall certify on forms that are provided by the school and
29 notarized whether they are awaiting trial on or have ever been convicted of
30 or admitted in open court or pursuant to a plea agreement committing any of
31 the following criminal offenses in this state or similar offenses in another
32 jurisdiction:

- 33 1. Sexual abuse of a minor.
- 34 2. Incest.
- 35 3. First or second degree murder.
- 36 4. Kidnapping.
- 37 5. Arson.
- 38 6. Sexual assault.
- 39 7. Sexual exploitation of a minor.
- 40 8. Felony offenses involving contributing to the delinquency of a
41 minor.
- 42 9. Commercial sexual exploitation of a minor.
- 43 10. Felony offenses involving sale, distribution or transportation of,
44 offer to sell, transport, or distribute or conspiracy to sell, transport or
45 distribute marijuana or dangerous or narcotic drugs.

- 1 11. Felony offenses involving the possession or use of marijuana,
- 2 dangerous drugs or narcotic drugs.
- 3 12. Misdemeanor offenses involving the possession or use of marijuana
- 4 or dangerous drugs.
- 5 13. Burglary in the first degree.
- 6 14. Burglary in the second or third degree.
- 7 15. Aggravated or armed robbery.
- 8 16. Robbery.
- 9 17. A dangerous crime against children as defined in section 13-705.
- 10 18. Child abuse.
- 11 19. Sexual conduct with a minor.
- 12 20. Molestation of a child.
- 13 21. Manslaughter.
- 14 22. Aggravated assault.
- 15 23. Assault.
- 16 24. Exploitation of minors involving drug offenses.
- 17 E. A school district may refuse to hire or may review or terminate
- 18 personnel who have been convicted of or admitted committing any of the
- 19 criminal offenses prescribed in subsection D of this section or of a similar
- 20 offense in another jurisdiction. A school district which is considering
- 21 terminating an employee pursuant to this subsection shall hold a hearing to
- 22 determine whether a person already employed shall be terminated. In
- 23 conducting a review, the governing board shall utilize the guidelines,
- 24 including the list of offenses that are not subject to review, ~~as prescribed~~
- 25 ~~by the state board of education pursuant to section 15-534, subsection C.~~ In
- 26 considering whether to hire or terminate the employment of a person, the
- 27 governing board shall take into account the following factors:
- 28 1. The nature of the crime and the potential for crimes against
- 29 children.
- 30 2. Offenses committed as a minor for which proceedings were held under
- 31 the jurisdiction of a juvenile or an adult court.
- 32 3. Offenses that have been expunged by a court of competent
- 33 jurisdiction, if the person has been pardoned or if the person's sentence has
- 34 been commuted.
- 35 4. The employment record of the person since the commission of the
- 36 crime if the crime was committed more than ten years before the governing
- 37 board's consideration of whether to hire or terminate the person.
- 38 5. The reliability of the evidence of an admission of a crime unless
- 39 made under oath in a court of competent jurisdiction.
- 40 F. Before employment with the school district, the district shall make
- 41 documented, good faith efforts to contact previous employers of a person to
- 42 obtain information and recommendations which may be relevant to a person's
- 43 fitness for employment. A governing board shall adopt procedures for
- 44 conducting background investigations required by this subsection, including
- 45 one or more standard forms for use by school district officials to document

1 their efforts to obtain information from previous employers. A school
2 district may provide information received as a result of a background
3 investigation required by this section to any other school district, to any
4 other public school and to any public entity that agrees pursuant to a
5 contract or intergovernmental agreement to perform background investigations
6 for school districts or other public schools. School districts and other
7 public schools may enter into intergovernmental agreements pursuant to
8 section 11-952 and cooperative purchasing agreements pursuant to rules
9 adopted in accordance with section 15-213 for the purposes of performing or
10 contracting for the performance of background investigations and for sharing
11 the results of background investigations required by this subsection.
12 Information obtained about an employee or applicant for employment by any
13 school district or other public school in the performance of a background
14 investigation may be retained by that school district or the other public
15 school or by any public entity that agrees pursuant to contract to perform
16 background investigations for school districts or other public schools and
17 may be provided to any school district or other public school that is
18 performing a background investigation required by this subsection.

19 G. A school district may fingerprint any other employee of the
20 district, whether paid or not, or any other applicant for employment with the
21 school district not otherwise required by this section to be fingerprinted on
22 the condition that the school district may not charge the costs of the
23 fingerprint check to the fingerprinted applicant or nonpaid employee.

24 H. A school district shall fingerprint or require the submission of a
25 full set of fingerprints of any contractor, subcontractor or vendor or any
26 employee of a contractor, subcontractor or vendor who is contracted to
27 provide services on a regular basis on school property. The school district
28 may charge the costs of the fingerprint check to the contractor,
29 subcontractor or vendor or the employee of the contractor, subcontractor or
30 vendor. A school district governing board shall adopt policies that may
31 exempt persons who are not likely to have direct, unsupervised contact with
32 pupils from the requirements of this subsection. A school district, its
33 governing board members, its school council members and its employees are
34 exempt from civil liability for the consequences of adoption and
35 implementation of policies and procedures pursuant to this subsection unless
36 the school district, its governing board members, its school council members
37 or its employees are guilty of gross negligence or intentional misconduct.
38 For the purposes of this subsection, "provide services on a regular basis"
39 means services provided by a contractor, subcontractor or vendor at least
40 five times each month on school property.

41 I. Subsection A of this section does not apply to a person who
42 provides instruction or other education services to a pupil, with the written
43 consent of the parent or guardian of the pupil, under a work release program,
44 advance placement course or other education program that occurs off school
45 property.

1 J. Public entities that agree pursuant to contract to perform
2 background investigations, public schools, the department of education and
3 previous employers who provide information pursuant to this section are
4 immune from civil liability unless the information provided is false and is
5 acted on by the school district to the harm of the employee and the public
6 entity, the public school, the previous employer or the department of
7 education knows the information is false or acts with reckless disregard of
8 the information's truth or falsity. A school district which relies on
9 information obtained pursuant to this section in making employment decisions
10 is immune from civil liability for use of the information unless the
11 information obtained is false and the school district knows the information
12 is false or acts with reckless disregard of the information's truth or
13 falsity.

14 K. The superintendent of a school district or chief administrator of a
15 charter school or the person's designee who is responsible for implementing
16 the governing board's policy regarding background investigations required by
17 subsection F of this section and who fails to carry out that responsibility
18 is guilty of unprofessional conduct and shall be subject to disciplinary
19 action by the state board.

20 L. A school district may hire noncertificated personnel before
21 receiving the results of the fingerprint check but may terminate employment
22 if the information on the form provided in subsection D of this section is
23 inconsistent with the information received from the fingerprint check. In
24 addition to any other conditions or requirements deemed necessary by the
25 superintendent of public instruction to protect the health and safety of
26 pupils, noncertificated personnel who are required or allowed unsupervised
27 contact with pupils may be hired by school districts before the results of a
28 fingerprint check are received if all of the following conditions are met:

29 1. The school district that is seeking to hire the applicant shall
30 document in the applicant's file the necessity for hiring and placement of
31 the applicant before a fingerprint check could be completed.

32 2. The school district that is seeking to hire the applicant shall do
33 all of the following:

34 (a) Ensure that the department of public safety completes a statewide
35 criminal history ~~information~~ RECORDS check on the applicant. A statewide
36 criminal history ~~information~~ RECORDS check shall be completed by the
37 department of public safety every one hundred twenty days until the date that
38 the fingerprint check is completed.

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

42 (c) Provide general supervision of the applicant until the date that
43 the fingerprint check is completed.

44 (d) Report to the superintendent of public instruction on June 30 and
45 December 31 EACH YEAR the number of applicants hired before the completion of

1 a fingerprint check. In addition, the school district shall report the
2 number of applicants for whom fingerprint checks were not received after one
3 hundred twenty days and after one hundred seventy-five days of hire.

4 M. Notwithstanding any other law, this section does not apply to
5 pupils who attend school in a school district and who are also employed by a
6 school district.

7 N. A person who makes a false statement, representation or
8 certification in any application for employment with the school district is
9 guilty of a class 3 misdemeanor.

10 O. For the purposes of this section, "background investigation" means
11 any communication with an employee's or applicant's former employer that
12 concerns the education, training, experience, qualifications and job
13 performance of the employee or applicant and that is used for the purpose of
14 evaluating the employee or applicant for employment. Background investigation
15 does not include the results of any state or federal criminal history records
16 check.

17 Sec. 8. Section 15-514, Arizona Revised Statutes, is amended to read:
18 15-514. Reports of immoral or unprofessional conduct; immunity

19 A. Any certificated person or governing board member who reasonably
20 suspects or receives a reasonable allegation that a person certificated by
21 the state board of education ~~OR THE PROFESSIONAL EDUCATION STANDARDS BOARD~~
22 has engaged in conduct involving minors that would be subject to the
23 reporting requirements of section 13-3620 shall report or cause reports to be
24 made to the ~~department of education~~ ~~PROFESSIONAL EDUCATION STANDARDS BOARD~~ in
25 writing as soon as is reasonably practicable but not later than three
26 business days after the person first suspects or receives an allegation of
27 the conduct.

28 B. The superintendent of a school district or the chief administrator
29 of a charter school who reasonably suspects or receives a reasonable
30 allegation that an act of immoral or unprofessional conduct that would
31 constitute grounds for dismissal or criminal charges by a certificated person
32 has occurred shall report the conduct to the ~~department of education~~
33 ~~PROFESSIONAL EDUCATION STANDARDS BOARD~~.

34 C. A person who reports or provides information pursuant to this
35 section regarding the immoral or unprofessional conduct of a certificated
36 person in good faith is not subject to an action for civil damages as a
37 result.

38 D. A governing board or school or school district employee who has
39 control over personnel decisions shall not take unlawful reprisal against an
40 employee because the employee reports in good faith information as required
41 by this section. For the purposes of this subsection, "unlawful reprisal"
42 means an action that is taken by a governing board as a direct result of a
43 lawful report pursuant to this section and, with respect to the employee,
44 results in one or more of the following:

- 45 1. Disciplinary action.

1 2. Transfer or reassignment.
2 3. Suspension, demotion or dismissal.
3 4. An unfavorable performance evaluation.
4 5. Other significant changes in duties or responsibilities that are
5 inconsistent with the employee's salary or employment classification.
6 E. Failure to report information as required by this section by a
7 certificated person constitutes grounds for disciplinary action by the ~~state~~
8 ~~board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD.
9 F. A governing board or school district employee who has control over
10 personnel decisions and who reasonably suspects or receives a reasonable
11 allegation that a person certificated by the state board of education OR THE
12 PROFESSIONAL EDUCATION STANDARDS BOARD has engaged in conduct involving
13 minors that would be subject to the reporting requirements of section 13-3620
14 and this article shall not accept the resignation of the certificate holder
15 until these suspicions or allegations have been reported to the ~~state board~~
16 ~~of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD.
17 Sec. 9. Repeal
18 Sections 15-531, 15-531.01, 15-532 and 15-533, Arizona Revised
19 Statutes, are repealed.
20 Sec. 10. Section 15-534, Arizona Revised Statutes, is amended to read:
21 15-534. Fingerprinting; review and disciplinary action;
22 violation; classification
23 A. A person who applies for a certificate as prescribed in section
24 ~~15-203~~ 15-562 shall have a valid fingerprint clearance card that is issued
25 pursuant to title 41, chapter 12, article 3.1. Applicants who possess a
26 certificate pursuant to section ~~15-203~~ 15-562 and who apply for additional
27 certificates or who apply for renewal of any certificate shall meet one of
28 the following requirements:
29 1. Have a valid fingerprint clearance card issued pursuant to title
30 41, chapter 12, article 3.1.
31 2. Provide proof of the submission of an application for a fingerprint
32 clearance card. Applicants who have been denied a fingerprint clearance card
33 shall also provide proof that the applicant qualifies for a good cause
34 exception hearing pursuant to section 41-619.55.
35 B. A person who is certified pursuant to section ~~15-203~~ 15-562 shall
36 maintain a valid fingerprint clearance card during the valid period of the
37 person's certificate or certificates.
38 ~~C. The state board of education may review and determine whether to~~
39 ~~renew or not issue a certificate to an applicant for certification on a~~
40 ~~finding that the applicant engaged in conduct that is immoral or~~
41 ~~unprofessional or engaged in conduct that would warrant disciplinary action~~
42 ~~if the person had been certified at the time that the alleged conduct~~
43 ~~occurred. The board shall prescribe guidelines for this process.~~

1 ~~D. The state board of education may take disciplinary action against~~
2 ~~or not renew the certificate of a person on a finding that the certificated~~
3 ~~person engaged in conduct that is immoral or unprofessional or engaged in~~
4 ~~conduct that would warrant disciplinary action if the person had been~~
5 ~~certified at the time that the alleged conduct occurred. The board shall~~
6 ~~prescribe guidelines for this process.~~

7 ~~E.~~ C. The department of education may issue conditional certification
8 before an applicant has obtained a valid fingerprint clearance card. A
9 conditional certificate may be used only for employment in the school
10 district that submits an application to the department of education for
11 conditional certification pursuant to this subsection. The ~~state board of~~
12 ~~education~~ PROFESSIONAL EDUCATION STANDARDS BOARD may revoke conditional
13 certification if the information on the application for a conditional
14 certificate is false or incomplete, the applicant is denied a fingerprint
15 clearance card or the conditional certificate is used for employment in a
16 school district other than the school district that is indicated on the
17 application for conditional certification. In addition to any other
18 conditions or requirements deemed necessary by the superintendent of public
19 instruction to protect the health and safety of pupils, conditional
20 certification shall be issued before the applicant obtains a fingerprint
21 clearance card if all of the following conditions are met:

22 1. The school district that is seeking to hire the applicant verifies
23 in writing on a form developed by the department of education the necessity
24 for hiring and placement of the applicant before a fingerprint check is
25 completed.

26 2. The school district that is seeking to hire the applicant performs
27 all of the following:

28 (a) Ensures that the department of public safety completes a statewide
29 criminal records check on the applicant. A statewide criminal records check
30 shall be completed by the department of public safety every one hundred
31 twenty days until the date that the fingerprint check is completed.

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

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

38 (d) Provides general supervision of the applicant until the applicant
39 receives permanent certification from the department of education.

40 ~~F.~~ D. Before employment, schools or school districts shall verify the
41 certification and fingerprint status of applicants who apply for school or
42 school district positions that require certification.

43 ~~G.~~ E. Any person who participates in a teacher preparation program
44 that is approved by the state board OF EDUCATION or any person who is
45 contracted by this state, by a school district or by a charter school to

1 provide tutoring services shall obtain a fingerprint clearance card pursuant
2 to this section before the person participates in field experience in which
3 services will be provided directly to pupils.

4 ~~H.~~ F. The ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS
5 BOARD shall notify the department of public safety if the ~~state board of~~
6 ~~education~~ PROFESSIONAL EDUCATION STANDARDS BOARD receives credible evidence
7 that a person who possesses a valid fingerprint clearance card either:

8 1. Is arrested for or charged with an offense listed in section
9 41-1758.03, subsection B.

10 2. Falsified information on the form required by subsection A of this
11 section.

12 ~~I.~~ G. A person who makes a false statement, representation or
13 certification in any application for certification is guilty of a class 3
14 misdemeanor.

15 Sec. 11. Section 15-534.01, Arizona Revised Statutes, is amended to
16 read:

17 15-534.01. Withdrawal of applications for administrative
18 deficiencies; denial of applications for
19 substantive deficiencies; certification timeframes

20 A. If an application for certification is administratively incomplete,
21 as prescribed in title 41, chapter 6, article 7.1, the department of
22 education or the ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS
23 BOARD shall issue a written notice requesting the applicant to supply missing
24 documents or other information. The department of education OR THE
25 PROFESSIONAL EDUCATION STANDARDS BOARD shall consider an application for
26 certification withdrawn if, within sixty days after the date of the notice,
27 the applicant does not supply the documentation or information requested or
28 does not provide reasonable documented justification for the delay. On
29 receipt of documented justification, the department of education OR THE
30 PROFESSIONAL EDUCATION STANDARDS BOARD shall provide an additional thirty
31 days for the requested documentation or information to be provided before
32 considering an application withdrawn.

33 B. If an application for certification is substantively incomplete, as
34 prescribed in title 41, chapter 6, article 7.1, the department of education
35 or the ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD may
36 issue a written notice requesting the applicant to supply additional
37 documents or other information. The ~~state board of education~~ PROFESSIONAL
38 EDUCATION STANDARDS BOARD shall deny an application for certification if,
39 within sixty days after the date of the notice, the applicant does not supply
40 the documentation or information requested.

41 C. If the final day of a deadline imposed by this section falls on a
42 Saturday, Sunday or other legal holiday, the next business day is the final
43 day of the deadline.

1 D. A notice of denial of an application for certification issued by
2 the ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD pursuant
3 to subsection B of this section shall comply with section 41-1076.

4 E. A person who has had an application for certification denied by the
5 ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD pursuant to
6 subsection B of this section may file a written request for a hearing with
7 the ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD within
8 fifteen days after receiving the notice of denial. The appeal shall be
9 conducted in accordance with title 41, chapter 6, article 6.

10 Sec. 12. Section 15-534.02, Arizona Revised Statutes, is amended to
11 read:

12 15-534.02. Restrictions on applications for certification after
13 the surrender, revocation or denial of certificate

14 A. A person shall not submit an application for certification with the
15 ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD for a period
16 of five years if any of the following occurs:

17 1. The person surrenders a certificate issued by the ~~state board of~~
18 ~~education~~ PROFESSIONAL EDUCATION STANDARDS BOARD.

19 2. The person's certificate is revoked by the ~~state board of education~~
20 PROFESSIONAL EDUCATION STANDARDS BOARD on grounds of immoral or
21 unprofessional conduct pursuant to rules adopted by the state board of
22 education ~~pursuant to section 15-203~~ OR BY THE PROFESSIONAL EDUCATION
23 STANDARDS BOARD.

24 3. The person's application for certification is denied by the state
25 board of education OR THE PROFESSIONAL EDUCATION STANDARDS BOARD on grounds
26 of immoral or unprofessional conduct pursuant to rules adopted by the state
27 board of education ~~pursuant to section 15-203~~ OR BY THE PROFESSIONAL
28 EDUCATION STANDARDS BOARD. This paragraph does not apply to a person who,
29 after denial of an application for certification, provides additional
30 information that was not previously considered by the state board of
31 education OR THE PROFESSIONAL EDUCATION STANDARDS BOARD and that addresses
32 the grounds on which the state board of education OR THE PROFESSIONAL
33 EDUCATION STANDARDS BOARD denied the application for certification.

34 B. The five year period prescribed in subsection A begins on the date
35 that the state board of education OR THE PROFESSIONAL EDUCATION STANDARDS
36 BOARD accepts a surrendered certificate, makes a final decision to revoke a
37 certificate or makes a final determination to deny an application for
38 certification.

39 C. A person who has had a certificate revoked ~~pursuant to section~~
40 ~~15-550~~ is not eligible to apply for certification with the ~~state board of~~
41 ~~education~~ PROFESSIONAL EDUCATION STANDARDS BOARD.

42 D. The department of education shall not process an application for
43 certification submitted by a person who is prohibited from submitting an
44 application pursuant to subsections A and C ~~of this section~~.

1 authority to issue preliminary notices of inadequacy of classroom performance
2 to teachers pursuant to this section without the need for prior approval of
3 each notice by the governing board. In all cases in which an employee of the
4 governing board issues a preliminary notice of inadequacy of classroom
5 performance without prior approval by the governing board, the employee shall
6 report its issuance to the governing board within five school days. The
7 written preliminary notice of inadequacy of classroom performance shall
8 specify the nature of the inadequacy of classroom performance with such
9 particularity as to furnish the teacher an opportunity to correct the
10 teacher's inadequacies and overcome the grounds for the charge. The written
11 preliminary notice of inadequacy of classroom performance shall be based on a
12 valid evaluation according to school district procedure, shall include a copy
13 of any evaluation pertinent to the charges made and shall state the date by
14 which the teacher has to correct the inadequacy and overcome the grounds for
15 the charge. That evaluation shall not be conducted within two instructional
16 days of any school break of one week or more. The written preliminary notice
17 of inadequacy of classroom performance shall allow the teacher not less than
18 eighty-five instructional days within which to correct the inadequacy and
19 overcome the grounds for the charge. If within the time specified in the
20 written preliminary notice of inadequacy of classroom performance the teacher
21 does not demonstrate adequate classroom performance, the governing board
22 shall dismiss the teacher either within thirty days of the service of a
23 subsequent notice of intention to dismiss or by the end of the contract year
24 in which the subsequent notice of intention to dismiss is served unless the
25 teacher has requested a hearing as provided in subsection G of this section.
26 If the teacher demonstrates adequate classroom performance during the period
27 allowed to correct such deficiencies as specified in the written preliminary
28 notice of inadequacy of classroom performance, the governing board may not
29 dismiss the teacher for the reasons specified in the written preliminary
30 notice of inadequacy of classroom performance. If the governing board of a
31 school district has received approval to budget for a career ladder program,
32 the governing board may define inadequacy of classroom performance by
33 establishing a single level of performance which is required of all teachers
34 or by establishing more than one required level of performance. If more than
35 one level is established, the same level of performance for minimum adequacy
36 shall be required of all teachers who have completed the same number of years
37 of teaching in the district.

38 D. The governing board shall develop a definition of inadequacy of
39 classroom performance that applies to notices issued pursuant to section
40 15-536, section 15-538 and this section. The governing board shall develop
41 its definition of inadequacy of classroom performance in consultation with
42 its certificated teachers. The consultation may be accomplished by holding a
43 public hearing, forming an advisory committee, providing teachers the
44 opportunity to respond to a proposed definition or obtaining teacher approval
45 of a career ladder program which defines inadequacy of classroom performance.

1 E. Any written statement of charges alleging unprofessional conduct,
2 conduct in violation of the rules or policies of the governing board or
3 inadequacy of classroom performance shall specify instances of behavior and
4 the acts or omissions constituting the charge so that the certificated
5 teacher will be able to prepare a defense. If applicable, it shall state the
6 statutes, rules or written objectives of the governing board which the
7 certificated teacher is alleged to have violated and set forth the facts
8 relevant to each occasion of alleged unprofessional conduct, conduct in
9 violation of the rules or policies of the governing board or inadequacy of
10 classroom performance.

11 F. The notice shall be in writing and shall be served upon the
12 certificated teacher personally or by United States registered or certified
13 mail addressed to the teacher's last known address. A copy of the charges,
14 together with a copy of this section and sections 15-501, 15-538.01, 15-540,
15 15-541, 15-542 and 15-544 through 15-547, shall be attached to the notice.

16 G. The certificated teacher who receives notice that there exists
17 cause for dismissal or suspension without pay shall have the right to a
18 hearing if the teacher files a written request with the governing board
19 within thirty days of service of notice. The filing of a timely request
20 shall suspend the imposition of a suspension without pay or a dismissal
21 pending completion of the hearing.

22 Sec. 16. Section 15-545, Arizona Revised Statutes, is amended to read:
23 15-545. Resignation restrictions; unprofessional act; penalty

24 A certificated teacher shall not resign after signing and returning his
25 contract, unless the resignation is first approved by the governing board. A
26 teacher who resigns contrary to this section shall be deemed to commit an
27 unprofessional act and, upon request of the governing board, ~~shall~~ MAY be
28 subject to such disciplinary action, including suspension or revocation of
29 certificate, as the ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS
30 BOARD deems appropriate.

31 Sec. 17. Repeal

32 Section 15-550, Arizona Revised Statutes, is repealed.

33 Sec. 18. Section 15-551, Arizona Revised Statutes, is amended to read:

34 15-551. Confidentiality of pupil's name; disciplinary hearing;
35 civil penalty

36 A. The governing board and the ~~state board of education~~ PROFESSIONAL
37 EDUCATION STANDARDS BOARD shall keep confidential the name of a pupil
38 involved in a hearing before either board regarding the dismissal or
39 discipline of a school district employee or an action on a certificate. The
40 GOVERNING board AND THE PROFESSIONAL EDUCATION STANDARDS BOARD shall not
41 disclose the pupil's name without the consent of the pupil's parent or
42 guardian except by order of the superior court. This section does not
43 prevent either board from disclosing the pupil's name to any party to the
44 hearing.

1 B. The GOVERNING board AND THE PROFESSIONAL EDUCATION STANDARDS BOARD
2 shall take a pupil's testimony in executive session. The pupil shall be
3 referred to by a fictitious name during any public portions of the hearing.
4 The pupil's name and testimony are not subject to inspection pursuant to
5 title 39, chapter 1, article 2.

6 C. A person who participates in a hearing described in subsection A
7 shall keep confidential the name of any pupil involved in the hearing. The
8 county attorney may enforce a civil penalty of five hundred dollars against a
9 person who violates this subsection.

10 D. The ~~state board~~ PROFESSIONAL EDUCATION STANDARDS BOARD shall adopt
11 rules for the implementation of this section.

12 Sec. 19. Title 15, chapter 5, Arizona Revised Statutes, is amended by
13 adding article 4, to read:

14 ARTICLE 4. PROFESSIONAL EDUCATION STANDARDS BOARD

15 15-561. Professional education standards board; membership;
16 terms; quorum; travel expenses; immunity

17 A. THE PROFESSIONAL EDUCATION STANDARDS BOARD IS ESTABLISHED
18 CONSISTING OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE GOVERNOR
19 PURSUANT TO SECTION 38-211 FOR A TERM OF FOUR YEARS BEGINNING ON THE THIRD
20 MONDAY IN JANUARY:

21 1. EIGHT TEACHERS WHO ARE CERTIFICATED BY THIS STATE AND WHO ARE
22 ACTIVELY TEACHING IN A PUBLIC SCHOOL IN THIS STATE. THREE OF THE MEMBERS
23 APPOINTED PURSUANT TO THIS PARAGRAPH SHALL PROVIDE INSTRUCTION IN
24 KINDERGARTEN PROGRAMS OR IN ANY OF GRADES ONE THROUGH SIX IN A SCHOOL
25 DISTRICT. ONE OF THE MEMBERS APPOINTED PURSUANT TO THIS PARAGRAPH SHALL
26 PROVIDE INSTRUCTION IN GRADE SEVEN OR EIGHT IN A SCHOOL DISTRICT. TWO OF THE
27 MEMBERS APPOINTED PURSUANT TO THIS PARAGRAPH SHALL PROVIDE INSTRUCTION IN
28 GRADES NINE THROUGH TWELVE IN A SCHOOL DISTRICT. ONE OF THE MEMBERS
29 APPOINTED PURSUANT TO THIS PARAGRAPH SHALL BE A TEACHER CURRENTLY TEACHING IN
30 A SPECIALIZED INSTRUCTIONAL AREA IN A SCHOOL DISTRICT. ONE OF THE MEMBERS
31 APPOINTED PURSUANT TO THIS PARAGRAPH SHALL BE A TEACHER CURRENTLY TEACHING IN
32 A CHARTER SCHOOL.

33 2. THREE ADMINISTRATORS WHO ARE CERTIFICATED BY THIS STATE AND WHO ARE
34 ACTIVELY WORKING IN AN ADMINISTRATIVE POSITION IN A PUBLIC SCHOOL DISTRICT IN
35 THIS STATE. ONE MEMBER APPOINTED PURSUANT TO THIS PARAGRAPH SHALL BE A
36 SCHOOL DISTRICT SUPERINTENDENT. ONE MEMBER APPOINTED PURSUANT TO THIS
37 PARAGRAPH SHALL BE THE PRINCIPAL OF AN ELEMENTARY SCHOOL, A MIDDLE SCHOOL OR
38 A JUNIOR HIGH SCHOOL. ONE MEMBER APPOINTED PURSUANT TO THIS PARAGRAPH SHALL
39 BE THE PRINCIPAL OF A HIGH SCHOOL.

40 3. ONE MEMBER OF A SCHOOL DISTRICT GOVERNING BOARD.

41 4. ONE NONCERTIFICATED EMPLOYEE WHO IS ACTIVELY WORKING IN A PUBLIC
42 SCHOOL DISTRICT IN THIS STATE.

43 5. ONE MEMBER FROM A PUBLIC COLLEGE OR UNIVERSITY IN THIS STATE THAT
44 PREPARES TEACHERS.

45 6. ONE MEMBER FROM THE STATE BOARD OF EDUCATION.

1 7. ONE PUBLIC MEMBER WHO DOES NOT HOLD AN ACTIVE CERTIFICATE UNDER
2 THIS TITLE AND WHO IS NOT EMPLOYED BY ANY SCHOOL DISTRICT OR CHARTER SCHOOL
3 IN THIS STATE.

4 8. THE SUPERINTENDENT OF PUBLIC INSTRUCTION OR THE SUPERINTENDENT'S
5 DESIGNEE.

6 B. NOT MORE THAN ONE MEMBER OF THE BOARD MAY BE APPOINTED FROM THE
7 SAME SCHOOL DISTRICT.

8 C. THE GOVERNOR SHALL FILL VACANCIES THAT OCCUR FROM ANY CAUSE BY
9 APPOINTING A REPLACEMENT MEMBER FOR THE UNEXPIRED TERM PURSUANT TO SECTION
10 38-211.

11 D. THE BOARD SHALL ANNUALLY ELECT FROM ITS MEMBERSHIP A CHAIRPERSON
12 AND A VICE-CHAIRPERSON.

13 E. A MAJORITY OF THE BOARD CONSTITUTES A QUORUM FOR THE TRANSACTION OF
14 BUSINESS. CONCURRENCE BY A MAJORITY OF A QUORUM IS NECESSARY FOR THE BOARD
15 TO TAKE OFFICIAL ACTION.

16 F. BOARD MEMBERS ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES AS
17 PROVIDED BY TITLE 38, CHAPTER 4, ARTICLE 2.

18 G. MEMBERS OF THE BOARD ARE IMMUNE FROM PERSONAL LIABILITY WITH
19 RESPECT TO ALL ACTS DONE AND ACTIONS TAKEN IN GOOD FAITH WITHIN THE SCOPE OF
20 THEIR AUTHORITY DURING DULY CONSTITUTED REGULAR AND SPECIAL MEETINGS.

21 15-562. Powers and duties

22 A. THE PROFESSIONAL EDUCATION STANDARDS BOARD SHALL ADOPT RULES THAT
23 PROVIDE FOR THE FOLLOWING:

24 1. THE ESTABLISHMENT OF PROFESSIONAL STANDARDS FOR EDUCATION
25 EMPLOYEES.

26 2. THE SUBSTANCE, ADMINISTRATION AND PASSING SCORES OF ALL PROFICIENCY
27 EXAMINATIONS THAT ARE ALIGNED WITH THE PROFESSIONAL STANDARDS.

28 3. THE ESTABLISHMENT OF STANDARDS FOR EDUCATOR PREPARATION PROGRAMS.

29 4. THE ESTABLISHMENT OF STANDARDS FOR INDUCTION AND PROFESSIONAL
30 DEVELOPMENT.

31 5. THE CERTIFICATION AND LICENSURE OF SCHOOL EMPLOYEES.

32 6. TEACHER CERTIFICATION RECIPROCITY.

33 7. GUIDELINES FOR SCHOOLS CONCERNING THE ACTIVITIES THAT CONSTITUTE
34 IMMORAL OR UNPROFESSIONAL CONDUCT OF CERTIFICATED PERSONS.

35 8. PROCEDURES FOR THE INVESTIGATION AND ADJUDICATION OF EVERY WRITTEN
36 COMPLAINT ALLEGING THAT A CERTIFICATED PERSON HAS ENGAGED IN IMMORAL OR
37 UNPROFESSIONAL CONDUCT.

38 B. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY REVIEW AND DETERMINE
39 WHETHER TO RENEW OR NOT ISSUE A CERTIFICATE TO AN APPLICANT FOR CERTIFICATION
40 OR A CERTIFICATE HOLDER OR TO TAKE ACTION AGAINST A CERTIFICATE HOLDER ON A
41 FINDING THAT THE APPLICANT OR CERTIFICATE HOLDER ENGAGED IN IMMORAL OR
42 UNPROFESSIONAL CONDUCT OR CONDUCT THAT WOULD WARRANT DISCIPLINARY ACTION IF
43 THE PERSON HAD BEEN CERTIFIED AT THE TIME THE ALLEGED CONDUCT OCCURRED.

44 C. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY INITIATE A COMPLAINT
45 THAT SEEKS DISCIPLINARY ACTION AGAINST A CERTIFICATE HOLDER.

1 D. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY IMPOSE DISCIPLINARY
2 ACTION, INCLUDING THE ISSUANCE OF A LETTER OF CENSURE, SUSPENSION, SUSPENSION
3 WITH CONDITIONS OR REVOCATION OF A CERTIFICATE, ON A FINDING OF IMMORAL OR
4 UNPROFESSIONAL CONDUCT.

5 E. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY PROCEED WITH THE
6 DISPOSAL OF ANY COMPLAINT THAT REQUESTS DISCIPLINARY ACTION OR WITH ANY
7 DISCIPLINARY ACTION AGAINST A CERTIFICATE HOLDER AFTER THE SUSPENSION OR
8 EXPIRATION OF THE CERTIFICATE OR SURRENDER OF THE CERTIFICATE BY THE HOLDER.

9 F. THE PROFESSIONAL EDUCATION STANDARDS BOARD OR A SUBCOMMITTEE OF THE
10 BOARD SHALL CONDUCT HEARINGS AND SCREENINGS TO DETERMINE WHETHER GROUNDS
11 EXIST TO APPROVE OR DENY AN INITIAL APPLICATION FOR CERTIFICATION OR AN
12 APPLICATION FOR RENEWAL OF A CERTIFICATE, TO IMPOSE DISCIPLINARY ACTION
13 AGAINST A CERTIFICATED PERSON OR TO REINSTATE A REVOKED OR SURRENDERED
14 CERTIFICATE. HEARINGS SHALL BE CONDUCTED PURSUANT TO TITLE 41, CHAPTER 6,
15 ARTICLE 6. A DECISION OF THE BOARD TO IMPOSE DISCIPLINARY ACTION, REINSTATE
16 A REVOKED OR SURRENDERED CERTIFICATE OR APPROVE OR DENY AN INITIAL
17 APPLICATION FOR CERTIFICATION OR AN APPLICATION FOR RENEWAL OF A CERTIFICATE
18 SHALL COMPLY WITH SECTION 41-1063 AND SHALL CONSTITUTE A FINAL DECISION UNDER
19 SECTION 41-1063. A PARTY MAY APPEAL A DECISION PURSUANT TO TITLE 12, CHAPTER
20 7, ARTICLE 6.

21 G. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY ENTER INTO
22 INTERGOVERNMENTAL AGREEMENTS OR CONTRACTS PURSUANT TO TITLE 11, CHAPTER 7,
23 ARTICLE 3 FOR THE ADMINISTRATION AND EVALUATION OF PROFICIENCY EXAMINATIONS,
24 INCLUDING EXAMINATIONS ON THE CONSTITUTION OF THE UNITED STATES AND THE
25 CONSTITUTION OF ARIZONA.

26 H. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY FIX AND COLLECT FEES
27 FOR CERTIFICATION OF PERSONS PURSUANT TO THIS ARTICLE.

28 I. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY HIRE AN EXECUTIVE
29 DIRECTOR TO ADMINISTER THE POLICIES OF THE PROFESSIONAL EDUCATION STANDARDS
30 BOARD.

31 15-563. Professional education standards board fund

32 A. THE PROFESSIONAL EDUCATION STANDARDS BOARD FUND IS ESTABLISHED.
33 ALL MONIES COLLECTED UNDER THIS ARTICLE SHALL BE DEPOSITED WITH THE STATE
34 TREASURER. SUBJECT TO ANNUAL LEGISLATIVE APPROPRIATION, MONIES IN THE
35 PROFESSIONAL EDUCATION STANDARDS BOARD FUND SHALL BE USED TO FUND THE
36 OPERATIONAL COSTS OF THE PROFESSIONAL EDUCATION STANDARDS BOARD ESTABLISHED
37 IN SECTION 15-561.

38 B. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION
39 35-190, RELATING TO LAPSING OF APPROPRIATIONS.

40 Sec. 20. Section 15-779.02, Arizona Revised Statutes, is amended to
41 read:

42 15-779.02. Gifted pupils; scope and sequence; annual financial
43 report

44 A. The governing board of each school district shall develop a scope
45 and sequence for the identification process of and curriculum modifications

1 for gifted pupils to ensure that gifted pupils receive gifted education
2 commensurate with their academic abilities and potentials. Programs and
3 services for gifted pupils shall be provided as an integrated, differentiated
4 learning experience during the regular school day. The scope and the
5 sequence shall:

6 1. Provide for routine screening for gifted pupils using one or more
7 tests adopted by the state board as prescribed in section 15-203, subsection
8 A, paragraph ~~15~~ 14 and section 15-779.01. School districts may identify any
9 number of pupils as gifted but shall identify as gifted at least those pupils
10 who score at or above the ninety-seventh percentile, based on national norms,
11 on a test adopted by the state board of education.

12 2. Include an explanation of how gifted education for gifted pupils
13 differs from regular education in such areas as:

14 (a) Content, including a broad based interdisciplinary curriculum.

15 (b) Process, including higher level thinking skills.

16 (c) Product, including variety and complexity.

17 (d) Learning environment, including flexibility.

18 3. Include criteria, which shall be reviewed by the state board of
19 education and the department of education at least once every four years,
20 that address the elements of program design, identification, curriculum,
21 instruction, social development, emotional development, professional
22 development of administrators, teachers, school psychologists and counselors,
23 parent involvement, community involvement, program assessment and budgeting.
24 The budget information shall include separate data on identification and
25 program costs and any other data required by the superintendent of public
26 instruction to administer and evaluate the program effectively.

27 B. The governing board shall submit the scope and the sequence to the
28 department of education for approval on or before July 1 if any changes were
29 made during the previous fiscal year. The governing board shall submit the
30 scope and the sequence to the department of education for approval on or
31 before July 1 every five years if no changes were made during the previous
32 five years. All school districts shall provide to gifted pupils gifted
33 education commensurate with their academic abilities and potentials.

34 C. If the governing board fails to submit the scope and sequence for
35 gifted pupils as prescribed in subsection B of this section or if the scope
36 and sequence submitted by the governing board fails to receive full approval
37 by the superintendent of public instruction, the school district is not
38 eligible to receive state aid for the group A weight for seven per cent of
39 the student count and shall compute the weighted student count for pupils in
40 group A as provided in section 15-943 by adjustment of the student count
41 accordingly. On or before December 1 of each year, the department of
42 education shall notify those school districts that appear to be in
43 noncompliance and note the specific areas of deficiencies that must be
44 corrected on or before April 1 of the following year to be eligible to use
45 the actual student count rather than an adjusted student count. On or before

1 April 15 of each year, the department shall notify those districts that must
2 use an adjusted student count for the next fiscal year's state aid as
3 provided in chapter 9 of this title.

4 D. The annual financial report of a school district as prescribed in
5 section 15-904 shall include the amount of monies spent on programs for
6 gifted pupils and the number of pupils enrolled in programs or receiving
7 services by grade level.

8 Sec. 21. Section 15-914.01, Arizona Revised Statutes, is amended to
9 read:

10 15-914.01. Accounting responsibility; definition

11 A. School districts with a student count of at least four thousand may
12 apply to the state board of education to assume accounting responsibility.

13 B. A school district applying to the state board of education to
14 assume accounting responsibility shall develop and file with the department
15 of education an accounting responsibility plan and document in the plan:

16 1. Administrative and internal accounting controls designed to achieve
17 compliance with the uniform system of financial records and the objectives of
18 this section, including:

19 (a) Procedures for approving, preparing and signing vouchers and
20 warrants.

21 (b) Procedures to ensure verification of administrators' and teachers'
22 certification records with the department of education for all classroom and
23 administrative personnel required to hold a certificate by the ~~state board of~~
24 ~~education pursuant to section 15-203~~ PROFESSIONAL EDUCATION STANDARDS BOARD
25 before issuing warrants for their services.

26 (c) Procedures to account for all revenues, including allocation of
27 certain revenues to funds.

28 (d) Procedures for reconciling the accounting records monthly to the
29 county treasurer.

30 2. A compilation of resources required to implement accounting
31 responsibility, including, at a minimum, personnel, training and equipment,
32 and A comprehensive analysis of the budgetary implications of accounting
33 responsibility for the school district and the county treasurer.

34 C. Prior to January 1 of the fiscal year preceding the fiscal year of
35 implementation and before submitting an application to assume accounting
36 responsibility, a school district shall apply for evaluation by the auditor
37 general. On completion of the evaluation the auditor general may recommend
38 approval or denial of accounting responsibility to the state board of
39 education. The evaluation by the auditor general shall be performed
40 contingent on staff availability and may be billed to the school district at
41 cost. Evaluation at a minimum shall include the following:

42 1. The most recent financial statements audited by an independent
43 certified public accountant.

44 2. The most recent report on internal control, report on compliance
45 and uniform system of financial records compliance questionnaire prepared by

1 an independent certified public accountant or procedural review completed by
2 the auditor general.

3 3. The working papers of the independent certified public accountant
4 responsible for auditing the school district, if deemed appropriate by the
5 auditor general.

6 4. A procedural review if deemed appropriate by the auditor general.

7 D. School districts that are approved by the state board of education
8 to assume accounting responsibility shall contract with an independent
9 certified public accountant for an annual financial and compliance audit.
10 The auditor general may reevaluate the school district annually based on the
11 audit to determine compliance with the uniform system of financial records.

12 E. To assume accounting responsibility a school district shall notify
13 the county treasurer and the county school superintendent of its intention
14 before March 1 of the fiscal year preceding the fiscal year of
15 implementation. On notification, the county treasurer shall establish
16 acceptable standards for interface by school districts with the county
17 treasurer, including specifications for computer hardware and software
18 compatibility and procedures to ensure the capacity of each school district
19 for reconciliation of accounts with those of the county treasurer.

20 F. Any school district that fails to maintain accounting standards as
21 provided by the uniform system of financial records and THAT is found to be
22 in noncompliance with the uniform system of financial records by the state
23 board of education as provided in section 15-272 is not eligible to
24 participate in the program provided by this section.

25 G. Any school district that has assumed accounting responsibility
26 pursuant to this section, that fails to maintain accounting standards as
27 provided by the uniform system of financial records and THAT is found to be
28 in noncompliance with the uniform system of financial records by the state
29 board of education as provided in section 15-272 is no longer eligible to
30 participate in the program provided by this section.

31 H. For the purposes of this section, "accounting responsibility" means
32 authority for a school district to operate with full independence from the
33 county school superintendent with respect to revenues and expenditures,
34 including allocating revenues, monitoring vouchers, authorizing and issuing
35 warrants and maintaining and verifying staff records for certification and
36 payroll purposes.

37 Sec. 22. Section 41-1092.02, Arizona Revised Statutes, is amended to
38 read:

39 41-1092.02. Appealable agency actions; application of
40 procedural rules; exemption from article

41 A. This article applies to all contested cases as defined in section
42 41-1001 and all appealable agency actions, except contested cases with or
43 appealable agency actions of:

- 44 1. The state department of corrections.
- 45 2. The board of executive clemency.

- 1 3. The industrial commission of Arizona.
- 2 4. The Arizona corporation commission.
- 3 5. The Arizona board of regents and institutions under its
- 4 jurisdiction.
- 5 6. The state personnel board.
- 6 7. The department of juvenile corrections.
- 7 8. The department of transportation.
- 8 9. The department of economic security except as provided in sections
- 9 8-506.01, 8-811 and 46-458.
- 10 10. The department of revenue regarding:
- 11 (a) Income tax, withholding tax or estate tax.
- 12 (b) Any tax issue related to information associated with the reporting
- 13 of income tax, withholding tax or estate tax unless the taxpayer requests in
- 14 writing that this article apply and waives confidentiality under title 42,
- 15 chapter 2, article 1.
- 16 11. The board of tax appeals.
- 17 12. The state board of equalization.
- 18 ~~13. The state board of education, but only in connection with contested~~
- 19 ~~cases and appealable agency actions related to applications for issuance or~~
- 20 ~~renewal of a certificate and discipline of certificate holders pursuant to~~
- 21 ~~sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.~~
- 22 13. THE PROFESSIONAL EDUCATION STANDARDS BOARD.
- 23 14. The board of fingerprinting.
- 24 B. Unless waived by all parties, an administrative law judge shall
- 25 conduct all hearings under this article, and the procedural rules set forth
- 26 in this article and rules made by the director apply.
- 27 C. Except as provided in subsection A of this section:
- 28 1. A contested case heard by the office of administrative hearings
- 29 regarding taxes administered under title 42 shall be subject to ~~the~~
- 30 ~~provisions under~~ section 42-1251.
- 31 2. A final decision of the office of administrative hearings regarding
- 32 taxes administered under title 42 may be appealed by either party to the
- 33 director of the department of revenue, or a taxpayer may file and appeal
- 34 directly to the board of tax appeals pursuant to section 42-1253.
- 35 D. Except as provided in subsections A, B, E, F and G of this section
- 36 and notwithstanding any other administrative proceeding or judicial review
- 37 process established in statute or administrative rule, this article applies
- 38 to all appealable agency actions and to all contested cases.
- 39 E. Except for a contested case or an appealable agency action
- 40 regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09
- 41 do not apply to the department of revenue.
- 42 F. The board of appeals established by section 37-213 is exempt from:
- 43 1. The time frames for hearings and decisions provided in section
- 44 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

1 8. Establish and enforce the necessary physical and system safeguards
2 to ensure that the criminal justice information maintained and disseminated
3 by the central state repository or through the Arizona criminal justice
4 information system is appropriately protected from unauthorized inquiry,
5 modification, destruction or dissemination as required by this section.

6 9. Aid and encourage coordination and cooperation among criminal
7 justice agencies through the statewide and interstate exchange of criminal
8 justice information.

9 10. Provide training and proficiency testing on the use of criminal
10 justice information to agencies receiving information from the central state
11 repository or through the Arizona criminal justice information system.

12 11. Operate and maintain the Arizona automated fingerprint
13 identification system established pursuant to section 41-2411.

14 12. Provide criminal history record information to the fingerprinting
15 division for the purpose of screening applicants for fingerprint clearance
16 cards.

17 B. The director may establish guidelines for the submission and
18 retention of criminal justice information as deemed useful for the study or
19 prevention of crime and for the administration of criminal justice.

20 C. The chief officers of criminal justice agencies of this state or
21 its political subdivisions shall provide to the central state repository
22 fingerprints and information concerning personal identification data,
23 descriptions, crimes for which persons are arrested, process control numbers
24 and dispositions and such other information as may be pertinent to all
25 persons who have been charged with, arrested for, convicted of or summoned to
26 court as criminal defendants for felony offenses or offenses involving
27 domestic violence as defined in section 13-3601 or violations of title 13,
28 chapter 14 or title 28, chapter 4 that have occurred in this state.

29 D. The chief officers of law enforcement agencies of this state or its
30 political subdivisions shall provide to the department such information as
31 necessary to operate the statewide uniform crime reporting program and to
32 cooperate with the federal government uniform crime reporting program.

33 E. The chief officers of criminal justice agencies of this state or
34 its political subdivisions shall comply with the training and proficiency
35 testing guidelines as required by the department to comply with the federal
36 national crime information center mandates.

37 F. The chief officers of criminal justice agencies of this state or
38 its political subdivisions also shall provide to the department information
39 concerning crimes that manifest evidence of prejudice based on race, color,
40 religion, national origin, sexual orientation, gender or disability.

41 G. The director shall authorize the exchange of criminal justice
42 information between the central state repository, or through the Arizona
43 criminal justice information system, whether directly or through any
44 intermediary, only as follows:

- 1 1. With criminal justice agencies of the federal government, Indian
2 tribes, this state or its political subdivisions and other states, on request
3 by the chief officers of such agencies or their designated representatives,
4 specifically for the purposes of the administration of criminal justice and
5 for evaluating the fitness of current and prospective criminal justice
6 employees.
- 7 2. With any noncriminal justice agency pursuant to a statute,
8 ordinance or executive order that specifically authorizes the noncriminal
9 justice agency to receive criminal history record information for the purpose
10 of evaluating the fitness of current or prospective licensees, employees,
11 contract employees or volunteers, on submission of the subject's fingerprints
12 and the prescribed fee. Each statute, ordinance, or executive order that
13 authorizes noncriminal justice agencies to receive criminal history record
14 information for these purposes shall identify the specific categories of
15 licensees, employees, contract employees or volunteers, and shall require
16 that fingerprints of the specified individuals be submitted in conjunction
17 with such requests for criminal history record information.
- 18 3. With the board of fingerprinting for the purpose of conducting good
19 cause exceptions pursuant to section 41-619.55.
- 20 4. With any individual for any lawful purpose on submission of the
21 subject of record's fingerprints and the prescribed fee.
- 22 5. With the governor, if the governor elects to become actively
23 involved in the investigation of criminal activity or the administration of
24 criminal justice in accordance with the governor's constitutional duty to
25 ensure that the laws are faithfully executed or as needed to carry out the
26 other responsibilities of the governor's office.
- 27 6. With regional computer centers that maintain authorized
28 computer-to-computer interfaces with the department, that are criminal
29 justice agencies or under the management control of a criminal justice agency
30 and that are established by a statute, ordinance or executive order to
31 provide automated data processing services to criminal justice agencies
32 specifically for the purposes of the administration of criminal justice or
33 evaluating the fitness of regional computer center employees who have access
34 to the Arizona criminal justice information system and the national crime
35 information center system.
- 36 7. With an individual who asserts a belief that criminal history
37 record information relating to the individual is maintained by an agency or
38 in an information system in this state that is subject to this section. On
39 submission of fingerprints, the individual may review this information for
40 the purpose of determining its accuracy and completeness by making
41 application to the agency operating the system. Rules adopted under this
42 section shall include provisions for administrative review and necessary
43 correction of any inaccurate or incomplete information. The review and
44 challenge process authorized by this paragraph is limited to criminal history
45 record information.

- 1 8. With individuals and agencies pursuant to a specific agreement with
2 a criminal justice agency to provide services required for the administration
3 of criminal justice pursuant to that agreement if the agreement specifically
4 authorizes access to data, limits the use of data to purposes for which given
5 and ensures the security and confidentiality of the data consistent with this
6 section.
- 7 9. With individuals and agencies for the express purpose of research,
8 evaluative or statistical activities pursuant to an agreement with a criminal
9 justice agency if the agreement specifically authorizes access to data,
10 limits the use of data to research, evaluative or statistical purposes and
11 ensures the confidentiality and security of the data consistent with this
12 section.
- 13 10. With the auditor general for audit purposes.
- 14 11. With central state repositories of other states for noncriminal
15 justice purposes for dissemination in accordance with the laws of those
16 states.
- 17 12. On submission of the fingerprint card, with the department of
18 economic security to provide criminal history record information on
19 prospective adoptive parents for the purpose of conducting the preadoption
20 certification investigation under title 8, chapter 1, article 1 if the
21 department of economic security is conducting the investigation, or with an
22 agency or a person appointed by the court, if the agency or person is
23 conducting the investigation. Information received under this paragraph
24 shall only be used for the purposes of the preadoption certification
25 investigation.
- 26 13. With the department of economic security and the superior court for
27 the purpose of evaluating the fitness of custodians or prospective custodians
28 of juveniles, including parents, relatives and prospective guardians.
29 Information received under this paragraph shall only be used for the purposes
30 of that evaluation. The information shall be provided on submission of
31 either:
- 32 (a) The fingerprint card.
- 33 (b) The name, date of birth and social security number of the person.
- 34 14. On submission of a fingerprint card, provide criminal history
35 record information to the superior court for the purpose of evaluating the
36 fitness of investigators appointed under section 14-5303 or 14-5407, or
37 guardians appointed under section 14-5206.
- 38 15. With the supreme court to provide criminal history record
39 information on prospective fiduciaries pursuant to section 14-5651.
- 40 16. With the department of juvenile corrections to provide criminal
41 history record information pursuant to section 41-2814.
- 42 17. On submission of the fingerprint card, provide criminal history
43 record information to the Arizona peace officer standards and training board
44 or a board certified law enforcement academy to evaluate the fitness of
45 prospective cadets.

1 18. With the internet sex offender ~~web-site~~ WEBSITE database
2 established pursuant to section 13-3827.

3 19. With licensees of the United States nuclear regulatory commission
4 for the purpose of determining whether an individual should be granted
5 unescorted access to the protected area of a commercial nuclear generating
6 station on submission of the subject of record's fingerprints and the
7 prescribed fee.

8 20. With the state board of education for the purpose of evaluating the
9 fitness of a certificated teacher or administrator or an applicant for a
10 teaching or an administrative certificate, provided that the state board of
11 education or its employees or agents have reasonable suspicion that the
12 certificated person engaged in conduct that would be a criminal violation of
13 the laws of this state or was involved in immoral or unprofessional conduct
14 or that the applicant engaged in conduct that would warrant disciplinary
15 action if the applicant were certificated at the time of the alleged conduct.
16 The information shall be provided on the submission of either:

17 (a) The fingerprint card.

18 (b) The name, date of birth and social security number of the person.

19 21. With each school district and charter school in this state. The
20 state board of education and the state board for charter schools shall
21 provide the department of public safety with a current list of ~~electronic~~
22 e-mail addresses for each school district and charter school in this state
23 and shall periodically provide the department of public safety with updated
24 ~~electronic~~ e-mail addresses. If the department of public safety is notified
25 that a person who is required to have a fingerprint clearance card to be
26 employed by or to engage in volunteer activities at a school district or
27 charter school has been arrested FOR or convicted of an offense listed in
28 section 41-1758.03, subsection B or has been arrested FOR or convicted of an
29 offense that amounts to unprofessional conduct ~~under section 15-550~~, the
30 department of public safety shall notify each school district and charter
31 school in this state that the person's fingerprint clearance card has been
32 suspended or revoked.

33 22. With the child protective services division of the department of
34 economic security as provided by law, which currently is the Adam Walsh child
35 protection and safety act of 2006, ~~—~~ (42 United States Code section 16961),
36 for the purposes of investigating or responding to reports of child abuse,
37 neglect or exploitation. Information received pursuant to this paragraph
38 from the national crime information center, the interstate identification
39 index and the Arizona criminal justice information system network shall only
40 be used for the purposes of investigating or responding as prescribed in this
41 paragraph. The information shall be provided on submission to the department
42 of public safety of either:

43 (a) The fingerprints of the person being investigated.

44 (b) The name, date of birth and social security number of the person.

45 H. The director shall adopt rules necessary to execute this section.

1 I. The director, in the manner prescribed by law, shall remove and
2 destroy records that the director determines are no longer of value in the
3 detection or prevention of crime.

4 J. The director shall establish a fee in an amount necessary to cover
5 the cost of federal noncriminal justice fingerprint processing for criminal
6 history record information checks that are authorized by law for noncriminal
7 justice employment, licensing or other lawful purposes. An additional fee
8 may be charged by the department for state noncriminal justice fingerprint
9 processing. Fees submitted to the department for state noncriminal justice
10 fingerprint processing are not refundable.

11 K. The director shall establish a fee in an amount necessary to cover
12 the cost of processing copies of department reports, eight by ten inch black
13 and white photographs or eight by ten inch color photographs of traffic
14 accident scenes.

15 L. Except as provided in subsection O of this section, each agency
16 authorized by this section may charge a fee, in addition to any other fees
17 prescribed by law, in an amount necessary to cover the cost of state and
18 federal noncriminal justice fingerprint processing for criminal history
19 record information checks that are authorized by law for noncriminal justice
20 employment, licensing or other lawful purposes.

21 M. A fingerprint account within the records processing fund is
22 established for the purpose of separately accounting for the collection and
23 payment of fees for noncriminal justice fingerprint processing by the
24 department. Monies collected for this purpose shall be credited to the
25 account, and payments by the department to the United States for federal
26 noncriminal justice fingerprint processing shall be charged against the
27 account. Monies in the account not required for payment to the United States
28 shall be used by the department in support of the department's noncriminal
29 justice fingerprint processing duties. At the end of each fiscal year, any
30 balance in the account not required for payment to the United States or to
31 support the department's noncriminal justice fingerprint processing duties
32 reverts to the state general fund.

33 N. A records processing fund is established for the purpose of
34 separately accounting for the collection and payment of fees for department
35 reports and photographs of traffic accident scenes processed by the
36 department. Monies collected for this purpose shall be credited to the fund
37 and shall be used by the department in support of functions related to
38 providing copies of department reports and photographs. At the end of each
39 fiscal year, any balance in the fund not required for support of the
40 functions related to providing copies of department reports and photographs
41 reverts to the state general fund.

42 O. The department of economic security may pay from appropriated
43 monies the cost of federal fingerprint processing or federal criminal history
44 record information checks that are authorized by law for employees and
45 volunteers of the department, guardians pursuant to section 46-134,

1 subsection A, paragraph 15, the licensing of foster parents or the
2 certification of adoptive parents.

3 P. The director shall adopt rules that provide for:

4 1. The collection and disposition of fees pursuant to this section.

5 2. The refusal of service to those agencies that are delinquent in
6 paying these fees.

7 Q. The director shall ensure that the following limitations are
8 observed regarding dissemination of criminal justice information obtained
9 from the central state repository or through the Arizona criminal justice
10 information system:

11 1. Any criminal justice agency that obtains criminal justice
12 information from the central state repository or through the Arizona criminal
13 justice information system assumes responsibility for the security of the
14 information and shall not secondarily disseminate this information to any
15 individual or agency not authorized to receive this information directly from
16 the central state repository or originating agency.

17 2. Dissemination to an authorized agency or individual may be
18 accomplished by a criminal justice agency only if the dissemination is for
19 criminal justice purposes in connection with the prescribed duties of the
20 agency and not in violation of this section.

21 3. Criminal history record information disseminated to noncriminal
22 justice agencies or to individuals shall be used only for the purposes for
23 which it was given. Secondary dissemination is prohibited unless otherwise
24 authorized by law.

25 4. The existence or nonexistence of criminal history record
26 information shall not be confirmed to any individual or agency not authorized
27 to receive the information itself.

28 5. Criminal history record information to be released for noncriminal
29 justice purposes to agencies of other states shall only be released to the
30 central state repositories of those states for dissemination in accordance
31 with the laws of those states.

32 6. Criminal history record information shall be released to
33 noncriminal justice agencies of the federal government pursuant to the terms
34 of the federal security clearance information act (P.L. 99-169).

35 R. This section and the rules adopted under this section apply to all
36 agencies and individuals collecting, storing or disseminating criminal
37 justice information processed by manual or automated operations if the
38 collection, storage or dissemination is funded in whole or in part with
39 monies made available by the law enforcement assistance administration after
40 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
41 all agencies that interact with or receive criminal justice information from
42 or through the central state repository and through the Arizona criminal
43 justice information system.

1 S. This section does not apply to criminal history record information
2 contained in:

3 1. Posters, arrest warrants, announcements or lists for identifying or
4 apprehending fugitives or wanted persons.

5 2. Original records of entry such as police blotters maintained by
6 criminal justice agencies, compiled chronologically and required by law or
7 long-standing custom to be made public if these records are organized on a
8 chronological basis.

9 3. Transcripts or records of judicial proceedings if released by a
10 court or legislative or administrative proceedings.

11 4. Announcements of executive clemency or pardon.

12 5. Computer databases, other than the Arizona criminal justice
13 information system, that are specifically designed for community notification
14 of an offender's presence in the community pursuant to section 13-3825 or for
15 public informational purposes authorized by section 13-3827.

16 T. Nothing in this section prevents a criminal justice agency from
17 disclosing to the public criminal history record information that is
18 reasonably contemporaneous to the event for which an individual is currently
19 within the criminal justice system, including information noted on traffic
20 accident reports concerning citations, blood alcohol tests, intoxilyzer tests
21 or arrests made in connection with the traffic accident being investigated.

22 U. In order to ensure that complete and accurate criminal history
23 record information is maintained and disseminated by the central state
24 repository:

25 1. The arresting authority shall take legible fingerprints of all
26 persons arrested for offenses specified in subsection C of this section and,
27 within ten days of the arrest, the arresting authority shall forward the
28 fingerprints to the department in the manner or form required by the
29 department. On the issuance and service of a summons for a defendant who is
30 charged with a felony offense, a violation of title 13, chapter 14 or title
31 28, chapter 4 or a domestic violence offense as defined in section 13-3601,
32 the court shall order that the defendant be fingerprinted by the appropriate
33 law enforcement agency and that the defendant appear at a designated time and
34 place for fingerprinting. At the initial appearance or on the arraignment of
35 a summoned defendant who is charged with a felony offense, a violation of
36 title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as
37 defined in section 13-3601, the court shall order that the defendant be
38 fingerprinted at a designated time and place by the appropriate law
39 enforcement agency if the court has reasonable cause to believe that the
40 defendant was not previously fingerprinted.

41 2. In every criminal case in which the defendant is incarcerated or
42 fingerprinted as a result of the charge, an originating law enforcement
43 agency or prosecutor, within forty days of the disposition, shall advise the
44 central state repository of all dispositions concerning the termination of
45 criminal proceedings against an individual arrested for an offense specified

1 in subsection C of this section. This information shall be submitted on a
2 form or in a manner required by the department.

3 3. Dispositions resulting from formal proceedings in a court having
4 jurisdiction in a criminal action against an individual who is arrested for
5 an offense specified in subsection C of this section or section 8-341,
6 subsection T shall be reported to the central state repository within forty
7 days of the date of the disposition. This information shall be submitted on
8 a form or in a manner specified by rules approved by the supreme court.

9 4. The state department of corrections or the department of juvenile
10 corrections, within forty days, shall advise the central state repository
11 that it has assumed supervision of a person convicted of an offense specified
12 in subsection C of this section or section 8-341, subsection T. The state
13 department of corrections or the department of juvenile corrections shall
14 also report dispositions that occur thereafter to the central state
15 repository within forty days of the date of the dispositions. This
16 information shall be submitted on a form or in a manner required by the
17 department of public safety.

18 5. Each criminal justice agency shall query the central state
19 repository before dissemination of any criminal history record information to
20 ensure the completeness of the information. Inquiries shall be made before
21 any dissemination except in those cases in which time is of the essence and
22 the repository is technically incapable of responding within the necessary
23 time period. If time is of the essence, the inquiry shall still be made and
24 the response shall be provided as soon as possible.

25 V. The director shall adopt rules specifying that any agency that
26 collects, stores or disseminates criminal justice information that is subject
27 to this section shall establish effective security measures to protect the
28 information from unauthorized access, disclosure, modification or
29 dissemination. The rules shall include reasonable safeguards to protect the
30 affected information systems from fire, flood, wind, theft, sabotage or other
31 natural or man-made hazards or disasters.

32 W. The department shall make available to agencies that contribute to,
33 or receive criminal justice information from, the central state repository or
34 through the Arizona criminal justice information system a continuing training
35 program in the proper methods for collecting, storing and disseminating
36 information in compliance with this section.

37 X. Nothing in this section creates a cause of action or a right to
38 bring an action, including an action based on discrimination due to sexual
39 orientation.

40 Y. For the purposes of this section:

41 1. "Administration of criminal justice" means performance of the
42 detection, apprehension, detention, pretrial release, posttrial release,
43 prosecution, adjudication, correctional supervision or rehabilitation of
44 criminal offenders. Administration of criminal justice includes enforcement
45 of criminal traffic offenses and civil traffic violations, including parking

1 violations, when performed by a criminal justice agency. Administration of
2 criminal justice also includes criminal identification activities and the
3 collection, storage and dissemination of criminal history record information.

4 2. "Administrative records" means records that contain adequate and
5 proper documentation of the organization, functions, policies, decisions,
6 procedures and essential transactions of the agency and that are designed to
7 furnish information to protect the rights of this state and of persons
8 directly affected by the agency's activities.

9 3. "Arizona criminal justice information system" or "system" means the
10 statewide information system managed by the director for the collection,
11 processing, preservation, dissemination and exchange of criminal justice
12 information and includes the electronic equipment, facilities, procedures and
13 agreements necessary to exchange this information.

14 4. "Central state repository" means the central location within the
15 department for the collection, storage and dissemination of Arizona criminal
16 history records and related criminal justice information.

17 5. "Criminal history record information" and "criminal history record"
18 means information that is collected by criminal justice agencies on
19 individuals and that consists of identifiable descriptions and notations of
20 arrests, detentions, indictments and other formal criminal charges, and any
21 disposition arising from those actions, sentencing, formal correctional
22 supervisory action and release. Criminal history record information and
23 criminal history record do not include identification information to the
24 extent that the information does not indicate involvement of the individual
25 in the criminal justice system or information relating to juveniles unless
26 they have been adjudicated as adults.

27 6. "Criminal justice agency" means either:

28 (a) A court at any governmental level with criminal or equivalent
29 jurisdiction, including courts of any foreign sovereignty duly recognized by
30 the federal government.

31 (b) A government agency or subunit of a government agency that is
32 specifically authorized to perform as its principal function the
33 administration of criminal justice pursuant to a statute, ordinance or
34 executive order and that allocates more than fifty per cent of its annual
35 budget to the administration of criminal justice. This subdivision includes
36 agencies of any foreign sovereignty duly recognized by the federal
37 government.

38 7. "Criminal justice information" means information that is collected
39 by criminal justice agencies and that is needed for the performance of their
40 legally authorized and required functions, such as criminal history record
41 information, citation information, stolen property information, traffic
42 accident reports, wanted persons information and system network log searches.
43 Criminal justice information does not include the administrative records of a
44 criminal justice agency.

1 8. "Disposition" means information disclosing that a decision has been
2 made not to bring criminal charges or that criminal proceedings have been
3 concluded or information relating to sentencing, correctional supervision,
4 release from correctional supervision, the outcome of an appellate review of
5 criminal proceedings or executive clemency.

6 9. "Dissemination" means the written, oral or electronic communication
7 or transfer of criminal justice information to individuals and agencies other
8 than the criminal justice agency that maintains the information.
9 Dissemination includes the act of confirming the existence or nonexistence of
10 criminal justice information.

11 10. "Management control":

12 (a) Means the authority to set and enforce:

13 (i) Priorities regarding development and operation of criminal justice
14 information systems and programs.

15 (ii) Standards for the selection, supervision and termination of
16 personnel involved in the development of criminal justice information systems
17 and programs and in the collection, maintenance, analysis and dissemination
18 of criminal justice information.

19 (iii) Policies governing the operation of computers, circuits and
20 telecommunications terminals used to process criminal justice information to
21 the extent that the equipment is used to process, store or transmit criminal
22 justice information.

23 (b) Includes the supervision of equipment, systems design, programming
24 and operating procedures necessary for the development and implementation of
25 automated criminal justice information systems.

26 11. "Process control number" means the Arizona automated fingerprint
27 identification system number that attaches to each arrest event at the time
28 of fingerprinting and that is assigned to the arrest fingerprint card,
29 disposition form and other pertinent documents.

30 12. "Secondary dissemination" means the dissemination of criminal
31 justice information from an individual or agency that originally obtained the
32 information from the central state repository or through the Arizona criminal
33 justice information system to another individual or agency.

34 13. "Sexual orientation" means consensual homosexuality or
35 heterosexuality.

36 14. "Subject of record" means the person who is the primary subject of
37 a criminal justice record.

38 Sec. 24. Section 41-2831, Arizona Revised Statutes, is amended to
39 read:

40 41-2831. State educational system for committed youth; report

41 A. The director shall establish a state educational system for
42 committed youth for the common and high school education of committed youth.

43 B. The director shall identify three persons who are qualified to
44 serve as superintendent of the state educational system for committed youth.
45 The director and the superintendent of public instruction shall agree on one

1 of the three persons whom the director shall employ as superintendent to
2 manage the educational system. The superintendent of the educational system
3 shall employ teachers and other personnel as needed in accordance with
4 chapter 4, article 5 of this title, subject to the approval of the director.
5 All persons who are employed to work in the educational system, including the
6 superintendent, shall hold the appropriate certificate prescribed by the
7 ~~state board of education in section 15-203, subsection A, paragraph 14~~
8 PROFESSIONAL EDUCATION STANDARDS BOARD.

9 C. The director shall cause to be implemented the course of study for
10 youth who are enrolled in the state educational system for committed youth.

11 D. The director shall consider the inclusion of factors related to a
12 pupil's academic progress and standards of behavior as part of the length of
13 stay guidelines adopted as prescribed in section 41-2816.

14 E. The state educational system for committed youth shall provide
15 appropriate education to all committed youth as required by state and federal
16 law. If not otherwise required by law, the educational system shall provide
17 an appropriate education to all committed youth who have not received a high
18 school diploma or a high school certificate of equivalency.

19 F. On entrance of a youth to the state educational system for
20 committed youth, the educational system shall administer a basic skills
21 examination to the youth to determine the educational needs of the youth. A
22 similar examination shall be administered on the youth's exit from the
23 educational system to assess the youth's progress while enrolled in the
24 educational system.

25 G. The department is entitled to receive equalization assistance for
26 the costs of the state educational system for committed youth as provided in
27 title 15, chapter 11.1.

28 H. The superintendent shall:

29 1. Keep records and provide information as the department of education
30 requires to determine the appropriate amount of equalization assistance.

31 2. Prepare an annual financial report containing information similar
32 to that provided by school districts in the report prescribed in section
33 15-904 in a format prescribed by the department of administration in
34 consultation with the auditor general and submit the report to the governor,
35 the speaker of the house of representatives, the president of the senate and
36 the department of education by November 1. When submitting the report to the
37 speaker and president, the superintendent shall send a copy of the report to
38 the chairmen of the house and senate education committees and shall send a
39 notice to all other legislators that the report is available on request.

40 3. Establish a system for communicating with each youth's school
41 district of residence in order to facilitate the transfer of records, the
42 determination of the most appropriate educational program and the transfer of
43 educational credit.

44 I. The department of administration shall develop and maintain a
45 special pay plan for teachers and other professional educational personnel

1 within the state educational system for committed youth. The pay plan shall
2 attempt to keep salaries at a comparable level to that of public school
3 district personnel. Recommendations for this pay plan shall be included
4 within the department of administration's annual recommendation to the
5 legislature pursuant to section 41-763.01.

6 Sec. 25. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
7 amended by adding section 41-3019.01, to read:

8 41-3019.01. Professional education standards board; termination
9 July 1, 2019

10 A. THE PROFESSIONAL EDUCATION STANDARDS BOARD TERMINATES ON JULY 1,
11 2019.

12 B. TITLE 15, CHAPTER 5, ARTICLE 4 IS REPEALED ON JANUARY 1, 2020.

13 Sec. 26. Succession

14 A. As provided by this act, the professional education standards board
15 succeeds to the authority, powers, duties and responsibilities of the state
16 board of education and the department of education regarding the
17 certification and regulation of the education profession.

18 B. This act does not alter the effect of any actions that were taken
19 or impair the valid obligations of the state board of education or the
20 department of education in existence before January 15, 2010.

21 C. Administrative rules and orders that were adopted by the state
22 board of education and the department of education and that relate to
23 certification and regulation of the education profession continue in effect
24 until superseded by administrative action of the professional education
25 standards board.

26 D. All administrative matters, contracts and judicial and
27 quasi-judicial actions of the state board of education or the department of
28 education, whether completed, pending or in process, that relate to the
29 certification and regulation of the education profession on January 15, 2010
30 are transferred to and retain the same status with the professional education
31 standards board.

32 E. All certificates or other indicia of qualification and authority
33 that were issued by the state board of education or the department of
34 education retain their validity for the duration of their terms of validity
35 as provided by law.

36 F. All records, data and investigative findings relating to the
37 certification and regulation of the education profession on January 15, 2010
38 are transferred from the state board of education and the department of
39 education to the professional education standards board.

40 G. All personnel whose jobs relate exclusively to the certification
41 and regulation of the education profession and who are employed by the state
42 board of education or the department of education are transferred to
43 comparable positions and pay classifications in the professional education
44 standards board. These personnel work exclusively for and under the
45 direction of the professional education standards board. The professional

1 education standards board and related staff shall be housed in the department
2 of education.

3 H. All monies appropriated to or remaining in the teacher
4 certification fund and investigative unit are transferred to the professional
5 education standards board fund established in section 15-563, Arizona Revised
6 Statutes, as added by this act.

7 Sec. 27. Professional education standards board; initial
8 appointments

9 A. Notwithstanding section 15-561, Arizona Revised Statutes, as added
10 by this act, the initial terms of the appointed members of the professional
11 education standards board are:

- 12 1. Four terms selected by the governor ending January 1, 2011.
- 13 2. Six terms selected by the governor ending January 1, 2012.
- 14 3. Six terms selected by the governor ending January 1, 2013.

15 B. The governor shall make the initial appointment of the professional
16 education standards board as prescribed in section 15-561, Arizona Revised
17 Statutes, as added by this act, no later than January 13, 2010.

18 C. The governor shall make all subsequent appointments as prescribed
19 by statute.

20 Sec. 28. Purpose

21 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
22 the legislature establishes the professional education standards board for
23 the purpose of supervising and controlling the certification of persons
24 employed in public schools.

25 Sec. 29. Effective date

26 This act is effective from and after January 12, 2010.