

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SENATE BILL 1196

AN ACT

AMENDING SECTIONS 11-952.01, 15-101 AND 15-106, ARIZONA REVISED STATUTES; REPEALING SECTION 15-108, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-183, 15-184, 15-185, 15-203 AND 15-238, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-241.01, 15-248 AND 15-248.01; AMENDING TITLE 15, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-257; AMENDING SECTIONS 15-302, 15-321, 15-341 AND 15-382, ARIZONA REVISED STATUTES; REPEALING SECTION 15-509, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-521, 15-532, 15-534, 15-534.01, 15-701.01, 15-761, 15-771, 15-816.01, 15-901, 15-902, 15-905, 15-915 AND 15-943, ARIZONA REVISED STATUTES; AMENDING SECTION 15-947, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 207, SECTION 4; REPEALING SECTION 15-947, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 287, SECTION 14; AMENDING SECTIONS 15-947.01, 15-948, 15-961, 15-962, 15-964, 15-973, 15-973.01, 15-991 AND 15-1042, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 10, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1225; AMENDING SECTIONS 15-2002, 15-2022, 15-2031, 15-2041 AND 38-618.01, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-781; REPEALING SECTION 41-3010.25, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3019.01; AMENDING SECTIONS 42-6004 AND 43-1089, ARIZONA REVISED STATUTES; RELATING TO EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-952.01, Arizona Revised Statutes, is amended to
3 read:

4 11-952.01. Public agency pooling of property, fidelity,
5 liability, workers' compensation, life, health,
6 accident and disability coverage; exemptions;
7 board of trustees; contract; termination; audit;
8 insolvency; definition

9 A. In addition to other authority granted pursuant to this title, two
10 or more public agencies may enter into contracts or agreements pursuant to
11 this article for the joint purchasing of insurance, including prepaid legal
12 insurance or reinsurance, or to pool retention of their risks for property,
13 fidelity and liability losses and to provide for the payment of such property
14 loss, fidelity loss, prepaid legal insurance or claim of liability made
15 against any member of the pool, including any elected or appointed official,
16 officer or employee covered by the pool, on a cooperative or contract basis
17 with one another or may jointly form a nonprofit corporation or enter into a
18 trust agreement to carry out ~~the provisions of~~ this section in their behalf
19 directly or by contract with a private party.

20 B. In addition to other authority granted pursuant to this title, two
21 or more public agencies may enter into contracts or agreements pursuant to
22 this article to establish a workers' compensation pool to provide for the
23 payment of workers' compensation claims pursuant to title 23, chapter 6 on a
24 cooperative or contract basis with one another or may jointly form a
25 nonprofit corporation or enter into a trust agreement to carry out ~~the~~
26 ~~provisions of~~ this section in their behalf directly or by contract with a
27 private party. A workers' compensation pool established pursuant to this
28 subsection may provide coverage for workers' compensation, employers'
29 liability and occupational disease claims. A workers' compensation pool is
30 subject to approval as a self-insurer by the industrial commission pursuant
31 to section 23-961, subsection A, paragraph 2 and is subject to title 23,
32 chapter 6 and rules adopted pursuant to that chapter in addition to the
33 requirements of this section. The industrial commission, by rule, resolution
34 or order, may adopt requirements for the administration of a workers'
35 compensation pool under this subsection, including separation or commingling
36 of funds, accounting, auditing, reporting, actuarial standards and
37 procedures.

38 C. In addition to other authority granted pursuant to this title, two
39 or more public agencies may enter into contracts or agreements for the joint
40 purchase of life insurance, disability insurance, accident insurance or
41 health benefits plan insurance or may pool retention of their risks of loss
42 for life, disability, health or accident claims made against any public
43 agency member of the pool or to jointly provide the health and medical
44 services authorized in section 36-2907. Public agencies may establish pools
45 for the purposes of this subsection by any of the following methods:

- 1 1. On a cooperative or contract basis.
- 2 2. By the formation of a nonprofit corporation.
- 3 3. By contracts or intergovernmental agreements with the Arizona
- 4 health care cost containment system administration.
- 5 4. By the execution of a trust agreement directly by the agencies or
- 6 by contracting with a third party.
- 7 D. In addition to other authority granted pursuant to this title, two
- 8 or more public agencies may enter into contracts or agreements pursuant to
- 9 this article for the joint purchasing of insurance for property, liability or
- 10 workers' compensation losses or to pool retention of their risks for property
- 11 and liability loss to cover the public agency, its elected officials and
- 12 employees and the contractor and subcontractor of every tier engaged in the
- 13 performance of a construction project for the public agency. Public agencies
- 14 may establish pools for the purpose of this subsection by any of the
- 15 following methods:
- 16 1. On a cooperative or contract basis.
- 17 2. By the formation of a nonprofit corporation.
- 18 3. By the execution of a trust agreement directly by the agencies or
- 19 by contracting with a third party.
- 20 E. Section 10-11301 does not apply to nonprofit corporations formed
- 21 pursuant to this section.
- 22 F. Title 41, chapter 23 does not apply to the procurement of insurance
- 23 or reinsurance, or to the procurement of the services provided for in
- 24 subsection K, paragraph 8 of this section, by any pool established pursuant
- 25 to this section.
- 26 G. Title 43 does not apply to any pool established pursuant to this
- 27 section. Any pool established pursuant to this section is exempt from
- 28 taxation under title 43.
- 29 H. Each pool shall be operated by a board of trustees consisting of at
- 30 least three persons who are elected officials or employees of public entities
- 31 within this state. The board of trustees shall notify the director of the
- 32 department of insurance of the existence of the pool and shall file with the
- 33 director and with the attorney general a copy of the intergovernmental
- 34 agreement or contract. The attorney general shall file a copy of the
- 35 agreement or contract with the secretary of state as required by section
- 36 11-952. The board of trustees of each group shall do all of the following:
- 37 1. Establish terms and conditions of coverage within the pool,
- 38 including exclusions of coverage.
- 39 2. Ensure that all claims are paid promptly.
- 40 3. Take all necessary precautions to safeguard the assets of the
- 41 group.
- 42 4. Maintain minutes of its meetings.
- 43 5. Designate an administrator to carry out the policies established by
- 44 the board of trustees and to provide day-to-day management of the group and

1 delineate in the written minutes of its meetings the areas of authority it
2 delegates to the administrator.

3 6. If the pool is a workers' compensation pool, file a copy of the
4 agreement with the director of the industrial commission.

5 I. If the pool includes private, nonprofit educational institutions,
6 each private, nonprofit educational institution shall post a bond, cash
7 deposit or other comparable financial security in an amount that is equal to
8 at least one and one-half times the amount of the private, nonprofit
9 educational institution's annual premium to ensure payment of the school's or
10 institution's legal liabilities and other obligations if the pool is
11 determined to be insolvent or is otherwise found to be unable to discharge
12 the pool's legal liabilities and other obligations pursuant to subsection N
13 of this section.

14 J. The board of trustees shall not:

15 1. Extend credit to individual members for payment of a premium,
16 except pursuant to payment plans established by the board.

17 2. Borrow any monies from the group or in the name of the group except
18 in the ordinary course of business.

19 K. In addition to the requirements of section 11-952, a contract or
20 agreement made pursuant to this section shall contain the following:

21 1. A provision for a system or program of loss control.

22 2. A provision for termination of membership, including either:

23 (a) Cancellation of individual members of the pool by the pool.

24 (b) Election by an individual member of the pool to terminate its
25 participation.

26 3. A provision requiring the pool to pay all claims for which each
27 member incurs liability during each member's period of membership.

28 4. A provision stating that each member is not relieved of its
29 liability incurred during the member's period of membership except through
30 the payment of losses by the pool or by the member.

31 5. A provision for the maintenance of claim reserves equal to known
32 incurred losses and an estimate of incurred but not reported claims.

33 6. A provision for a final accounting and settlement of the
34 obligations of or refunds to a terminating member to occur when all incurred
35 claims are concluded, settled or paid.

36 7. A provision that the pool may establish offices where necessary in
37 this state and employ necessary staff to carry out the purposes of the pool.

38 8. A provision that the pool may retain legal counsel, actuaries,
39 auditors, engineers, private consultants and advisors.

40 9. A provision that the pool may make and alter bylaws and rules
41 pertaining to the exercise of its purpose and powers.

42 10. A provision that the pool may purchase, lease or rent real and
43 personal property it deems necessary.

1 11. A provision that the pool may enter into financial services
2 agreements with banks and other financial institutions, that it may issue
3 checks in its own name and that it may invest its monies in equity
4 securities, mutual funds and investment funds registered with the United
5 States securities and exchange commission, debt obligations and any eligible
6 investment permitted by section 35-323.

7 L. A pool or a terminating member shall provide at least ninety days'
8 written notice of the termination or cancellation. A workers' compensation
9 pool shall notify the industrial commission of the termination or
10 cancellation of a member thirty days before the termination or cancellation
11 of the member.

12 M. The pool shall be audited annually at the expense of the pool by a
13 certified public accountant, with a copy of the report submitted to the
14 governing body or chief executive officer of each member of the pool and to
15 the director of the department of insurance. The board of trustees of the
16 pool shall obtain an appropriate actuarial evaluation of the claim reserves
17 of the pool, including an estimate of the incurred but not reported claims.
18 The department of insurance shall examine each public agency pool once every
19 five years. The director of the department of insurance may examine a public
20 agency pool sooner than five years from the preceding examination if the
21 director has reason to believe that the pool is insolvent. The costs of any
22 examination shall be paid by the pool subject to the examination.

23 N. If, as a result of the annual audit or an examination by the
24 director of the department of insurance, it appears that the assets of the
25 pool are insufficient to enable the pool to discharge its legal liabilities
26 and other obligations, the director of the department of insurance shall
27 notify the administrator and the board of trustees of the pool of the
28 deficiency and the director's list of recommendations to abate the
29 deficiency, including a recommendation not to add any new members until the
30 deficiency is abated. If the pool fails to comply with the recommendations
31 within sixty days after the date of the notice, the director shall notify the
32 chief executive officer or the governing bodies, if any, of the members of
33 the pool, the governor, the president of the senate and the speaker of the
34 house of representatives that the pool has failed to comply with the
35 recommendations of the director.

36 O. If a pool is determined to be insolvent or is otherwise found to be
37 unable to discharge its legal liabilities and other obligations, each
38 agreement or contract shall provide that the members of the pool shall be
39 assessed on a pro rata basis as calculated by the amount of each member's
40 annual contribution in order to satisfy the amount of deficiency. The
41 assessment shall not exceed the amount of each member's annual contribution
42 to the pool.

43 P. A pool established pursuant to this section may make available
44 programs providing for insurance coverages described in subsections A, B and
45 C of this section to those charter schools governed by section 15-183,

1 subsection M and, except for a workers' compensation pool, to private,
2 nonprofit educational institutions.

3 Q. In addition to the authority set forth in this title, a pool
4 established pursuant to this section may invest public monies on behalf of
5 pool members, but any such investments shall be limited to those permitted by
6 section 35-323, **EXCEPT AS PROVIDED IN SECTION 15-1225, SUBSECTION G.** A pool
7 established pursuant to this section may not invest monies that are required
8 by law to be deposited with a county treasurer.

9 R. A pool established pursuant to this section, by the adoption of a
10 resolution of continuing effect, may authorize and request the state
11 treasurer to invest funds for the pool pursuant to section 35-326.

12 S. For the purposes of this section, "health benefits plan" means a
13 hospital or medical service corporation policy or certificate, a health care
14 services corporation contract, a multiple employer welfare arrangement or any
15 other arrangement under which health and medical benefits and services are
16 provided to two or more persons.

17 Sec. 2. Section 15-101, Arizona Revised Statutes, is amended to read:
18 **15-101. Definitions**

19 In this title, unless the context otherwise requires:

20 1. "Accommodation school" means either:

21 (a) A school which is operated through the county board of supervisors
22 and the county school superintendent and which the county school
23 superintendent administers to serve a military reservation or territory which
24 is not included within the boundaries of a school district.

25 (b) A school that provides educational services to homeless children
26 or alternative education programs as provided in section 15-308,
27 subsection B.

28 (c) A school that is established to serve a military reservation, the
29 boundaries of which are coterminous with the boundaries of the military
30 reservation on which the school is located.

31 2. "Assessed valuation" means the valuation derived by applying the
32 applicable percentage as provided in title 42, chapter 15, article 1 to the
33 full cash value or limited property value, whichever is applicable, of the
34 property.

35 **3. "CHARTER HOLDER" MEANS A PERSON THAT ENTERS INTO A CHARTER WITH THE**
36 **STATE BOARD FOR CHARTER SCHOOLS. FOR THE PURPOSES OF THIS PARAGRAPH,**
37 **"PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION OR PUBLIC**
38 **OR PRIVATE ORGANIZATION OF ANY KIND.**

39 ~~3-~~ 4. "Charter school" means a public school established by contract
40 with a district governing board, the state board of education or the state
41 board for charter schools pursuant to article 8 of this chapter to provide
42 learning that will improve pupil achievement.

43 ~~4-~~ 5. "Child with a disability" means a child with a disability as
44 defined in section 15-761.

- 1 ~~5-~~ 6. "Class A bonds" means general obligation bonds approved by a
2 vote of the qualified electors of a school district at an election held on or
3 before December 31, 1998.
- 4 ~~6-~~ 7. "Class B bonds" means general obligation bonds approved by a
5 vote of the qualified electors of a school district at an election held from
6 and after December 31, 1998.
- 7 ~~7-~~ 8. "Competency" means a demonstrated ability in a skill at a
8 specified performance level.
- 9 ~~8-~~ 9. "Course" means organized subject matter in which instruction is
10 offered within a given period of time and for which credit toward promotion,
11 graduation or certification is usually given. A course consists of knowledge
12 selected from a subject for instructional purposes in the schools.
- 13 ~~9-~~ 10. "Course of study" means a list of required and optional
14 subjects to be taught in the schools.
- 15 ~~10-~~ 11. "Dual enrollment course" means a college level course that is
16 conducted on the campus of a high school or on the campus of a joint
17 technological education district, that is applicable to an established
18 community college academic degree or certificate program and that is
19 transferable to a university under the jurisdiction of the Arizona board of
20 regents. A dual enrollment course that is applicable to a community college
21 occupational degree or certificate program may be transferable to a
22 university under the jurisdiction of the Arizona board of regents.
- 23 ~~11-~~ 12. "Fiscal year" means the year beginning July 1 and ending
24 June 30.
- 25 ~~12-~~ 13. "Governing board" means a body organized for the government
26 and management of the schools within a school district or a county school
27 superintendent in the conduct of an accommodation school.
- 28 ~~13-~~ 14. "Lease" means an agreement for conveyance and possession of
29 real or personal property.
- 30 ~~14-~~ 15. "Limited property value" means the value determined pursuant
31 to title 42, chapter 13, article 7. Limited property value shall be used as
32 the basis for assessing, fixing, determining and levying primary property
33 taxes.
- 34 ~~15-~~ 16. "Parent" means the natural or adoptive parent of a child or a
35 person who has custody of a child.
- 36 ~~16-~~ 17. "Person who has custody" means a parent or legal guardian of a
37 child, a person to whom custody of the child has been given by order of a
38 court or a person who stands in loco parentis to the child.
- 39 ~~17-~~ ~~"P.L. 81-874" means Public Law 81-874 or its successors.~~
- 40 18. "Primary property taxes" means all ad valorem taxes except for
41 secondary property taxes.
- 42 19. "Private school" means a nonpublic institution where instruction is
43 imparted.
- 44 20. "School" means any public institution established for the purposes
45 of offering instruction to pupils in programs for preschool children with

1 disabilities, kindergarten programs or any combination of grades one through
2 twelve.

3 21. "School district" means a political subdivision of this state with
4 geographic boundaries organized for the purpose of the administration,
5 support and maintenance of the public schools or an accommodation school.

6 22. "Secondary property taxes" means ad valorem taxes used to pay the
7 principal of and the interest and redemption charges on any bonded
8 indebtedness or other lawful long-term obligation issued or incurred for a
9 specific purpose by a school district or a community college district and
10 amounts levied pursuant to an election to exceed a budget, expenditure or tax
11 limitation.

12 23. "Subject" means a division or field of organized knowledge, such as
13 English or mathematics, or a selection from an organized body of knowledge
14 for a course or teaching unit, such as the English novel or elementary
15 algebra.

16 Sec. 3. Section 15-106, Arizona Revised Statutes, is amended to read:

17 15-106. Identity verified fingerprints

18 Beginning on January 1, 2008, an applicant who applies for a new
19 teaching certificate in order to teach in a school district, **A PARTICIPANT IN**
20 **FIELD EXPERIENCE OR STUDENT TEACHING IN THIS STATE**, an applicant who applies
21 for a renewal of an existing teaching certificate in order to continue
22 teaching in a school district, an applicant who is required for the first
23 time to be fingerprinted in order to teach in a charter school and an
24 applicant who is required to renew fingerprints in order to continue teaching
25 in a charter school pursuant to section 15-183, ~~and~~ an applicant who is
26 required to be fingerprinted pursuant to section 15-512 **AND ANY PERSON WHO IS**
27 **CONTRACTED BY THIS STATE, BY A SCHOOL DISTRICT OR BY A CHARTER SCHOOL TO**
28 **PROVIDE TUTORING SERVICES** shall submit for an identity verified fingerprint
29 card that will be used by the department of public safety to process the
30 fingerprint clearance card pursuant to title 41, chapter 12, article 3.1 as
31 follows:

32 1. The applicant shall submit a request for an application packet from
33 the department of public safety.

34 2. The application packet shall be contained in an envelope specified
35 by the department of public safety and shall include the following:

36 (a) A blank applicant fingerprint card.

37 (b) An application for a fingerprint clearance card.

38 (c) Instructions for the return of the application packet.

39 3. A school district or charter school may contract for fingerprinting
40 services through an entity or entities and shall provide a copy of the
41 instructions to the entity or entities as provided by the department of
42 public safety regarding the submission of identity verified fingerprints. If
43 a school district or charter school elects to provide fingerprinting
44 services, the school district or charter school shall authorize an individual
45 employed by the school district or charter school to administer the services.

1 4. The department of public safety shall provide instructions to law
2 enforcement agencies and public schools regarding the submission of identity
3 verified fingerprints. The department of public safety shall reject the
4 application for a fingerprint clearance card if the application is not
5 correct or is not submitted according to the instructions provided by the
6 department of public safety.

7 5. The applicant, at the time that identity verified fingerprints are
8 taken, shall provide the law enforcement agency, school district, charter
9 school or other entity with a completed application form for a fingerprint
10 clearance card, the fingerprint card with the requisite demographic
11 information and the required fee in the form of a money order or cashier's
12 check made out to the ~~Arizona~~ department of public safety. The law
13 enforcement agency, school district, charter school or other entity shall
14 verify the identity of the applicant through recognized means of photographic
15 identification and a comparison of the demographic information on the
16 photographic identification against the demographic information on the
17 application form and the fingerprint card. The authorized person taking the
18 fingerprints shall enter on the application form a description of the
19 photographic identification presented by the applicant. The law enforcement
20 agency, school district, charter school or other entity shall place the
21 completed fingerprint card, completed application form or any other form
22 required by the department of public safety and the fee provided by the
23 applicant in the ~~post-paid~~ POSTAGE PREPAID envelope provided by the
24 department of public safety and mail it to the fingerprinting division ~~at~~ IN
25 the department of public safety. A law enforcement agency, school district,
26 charter school or other entity may charge the applicant a reasonable fee for
27 services provided pursuant to this section.

28 6. The department of public safety shall process the application
29 packet in the same manner prescribed for fingerprint clearance cards issued
30 pursuant to title 41, chapter 12, article 3.1.

31 7. The department of public safety shall provide for digital storage
32 and retrieval of identity verified fingerprints taken pursuant to this
33 section. The fingerprints taken pursuant to this section shall be digitally
34 designated in the fingerprint archive as identity verified fingerprint
35 records.

36 8. A person who has a set of identity verified fingerprints on file
37 with the department of public safety pursuant to this section shall not be
38 required to submit a new set of fingerprints to the department of public
39 safety to renew the person's fingerprint clearance card. On receipt of the
40 required application form and fee for a renewal fingerprint clearance card
41 from a person required to submit identity verified fingerprints, the
42 department of public safety shall attempt to use the electronic copy of the
43 applicant's identity verified fingerprints that are retained pursuant to this
44 section to conduct the ~~fingerprint~~ state and national criminal records
45 checks. The department of public safety may require the applicant to submit

1 a new set of identity verified fingerprints if the department of public
2 safety determines that the original fingerprints submitted have been lost,~~—~~
3 OR damaged or are found to be otherwise of insufficient quality to conduct a
4 valid technical fingerprint search either by the department of public safety
5 or the federal bureau of investigation.

6 9. A PERSON WHO PARTICIPATES IN A TEACHER PREPARATION PROGRAM THAT IS
7 APPROVED BY THE STATE BOARD OF EDUCATION AND WHO DOES NOT PARTICIPATE IN
8 FIELD EXPERIENCE OR STUDENT TEACHING IN THIS STATE SHALL NOT BE REQUIRED TO
9 OBTAIN A FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION.

10 Sec. 4. Repeal

11 Section 15-108, Arizona Revised Statutes, is repealed.

12 Sec. 5. Section 15-183, Arizona Revised Statutes, is amended to read:

13 15-183. Charter schools; application; requirements; immunity;
14 exemptions; renewal of application; reprisal

15 A. An applicant seeking to establish a charter school shall submit a
16 written application to a proposed sponsor as prescribed in subsection C of
17 this section. The application shall include a detailed business plan for the
18 charter school and may include a mission statement for the charter school, a
19 description of the charter school's organizational structure and the
20 governing body, a financial plan for the first three years of operation of
21 the charter school, a description of the charter school's hiring policy, the
22 name of the charter school's applicant or applicants and requested sponsor, a
23 description of the charter school's facility and the location of the school,
24 a description of the grades being served and an outline of criteria designed
25 to measure the effectiveness of the school.

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

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

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

34 (a) An applicant for a charter school may submit its application to a
35 school district governing board, which shall either accept or reject
36 sponsorship of the charter school within ninety days. An applicant may
37 submit a revised application for reconsideration by the governing board. If
38 the governing board rejects the application, the governing board shall notify
39 the applicant in writing of the reasons for the rejection. The applicant may
40 request, and the governing board may provide, technical assistance to improve
41 the application.

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

1 the school district is out of compliance with the uniform system of financial
2 records. The notification shall include a statement that if the school
3 district is determined to be out of compliance for a second consecutive year,
4 the charter school will be required to transfer sponsorship to another entity
5 pursuant to subdivision (c) of this paragraph.

6 (c) In the second consecutive year that a school district is
7 determined to be out of compliance with the uniform system of financial
8 records, within fifteen days of the determination of noncompliance, the
9 school district shall notify by certified mail each charter school sponsored
10 by the school district that the school district is out of compliance with the
11 uniform system of financial records. A charter school that receives a
12 notification of school district noncompliance pursuant to this subdivision
13 shall file a written sponsorship transfer application within forty-five days
14 with the state board of education, the state board for charter schools or the
15 school district governing board if the charter school is located within the
16 geographic boundaries of that school district. A charter school that
17 receives a notification of school district noncompliance may request an
18 extension of time to file a sponsorship transfer application, and the state
19 board of education, the state board for charter schools or a school district
20 governing board may grant an extension of not more than an additional thirty
21 days if good cause exists for the extension. The state board of education
22 and the state board for charter schools shall approve a sponsorship transfer
23 application pursuant to this paragraph.

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

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

30 2. The applicant may submit the application to the state board of
31 education or the state board for charter schools. The state board of
32 education or the state board for charter schools may approve the application
33 if the application meets the requirements of this article and may approve the
34 charter if the proposed sponsor determines, within its sole discretion, that
35 the applicant is sufficiently qualified to operate a charter school. The
36 state board of education or the state board for charter schools may approve
37 any charter schools transferring charters. The state board of education and
38 the state board for charter schools shall approve any charter schools
39 transferring charters from a school district that is determined to be out of
40 compliance with the uniform system of financial records pursuant to this
41 section, but may require the charter school to sign a new charter that is
42 equivalent to the charter awarded by the former sponsor. If the state board
43 of education or the state board for charter schools rejects the preliminary
44 application, the state board of education or the state board for charter
45 schools shall notify the applicant in writing of the reasons for the

1 rejection and of suggestions for improving the application. An applicant may
2 submit a revised application for reconsideration by the state board of
3 education or the state board for charter schools. The applicant may request,
4 and the state board of education or the state board for charter schools may
5 provide, technical assistance to improve the application.

6 3. Each applicant seeking to establish a charter school shall submit a
7 full set of fingerprints to the approving agency for the purpose of obtaining
8 a state and federal criminal records check pursuant to section 41-1750 and
9 Public Law 92-544. If an applicant will have direct contact with students,
10 the applicant shall possess a valid fingerprint clearance card that is issued
11 pursuant to title 41, chapter 12, article 3.1. The department of public
12 safety may exchange this fingerprint data with the federal bureau of
13 investigation. The criminal records check shall be completed before the
14 issuance of a charter.

15 4. All persons engaged in instructional work directly as a classroom,
16 laboratory or other teacher or indirectly as a supervisory teacher, speech
17 therapist or principal shall have a valid fingerprint clearance card that is
18 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a
19 volunteer or guest speaker who is accompanied in the classroom by a person
20 with a valid fingerprint clearance card. A charter school shall not employ a
21 teacher whose certificate has been revoked for a violation of section 15-507
22 or 15-550 or for any offense that placed a pupil in danger. All other
23 personnel shall be fingerprint checked pursuant to section 15-512. Before
24 employment, the charter school shall make documented, good faith efforts to
25 contact previous employers of a person to obtain information and
26 recommendations that may be relevant to a person's fitness for employment as
27 prescribed in section 15-512, subsection F. The charter school shall notify
28 the department of public safety if the charter school or sponsor receives
29 credible evidence that a person who possesses a valid fingerprint clearance
30 card is arrested for or is charged with an offense listed in section
31 41-1758.03, subsection B. Charter schools may hire personnel that have not
32 yet received a fingerprint clearance card if proof is provided of the
33 submission of an application to the department of public safety for a
34 fingerprint clearance card and if the charter school that is seeking to hire
35 the applicant does all of the following:

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

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

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

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

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

6 (f) Verifies the fingerprint status of the applicant with the
7 department of public safety.

8 5. A CHARTER SCHOOL THAT COMPLIES WITH THE FINGERPRINTING REQUIREMENTS
9 OF THIS SECTION SHALL BE DEEMED TO HAVE COMPLIED WITH SECTION 15-512 AND IS
10 ENTITLED TO THE SAME RIGHTS AND PROTECTIONS PROVIDED TO SCHOOL DISTRICTS BY
11 SECTION 15-512.

12 ~~5-~~ 6. If a charter school operator is not already subject to a public
13 meeting or hearing by the municipality in which the charter school is
14 located, the operator of a charter school shall conduct a public meeting at
15 least thirty days before the charter school operator opens a site or sites
16 for the charter school. The charter school operator shall post notices of
17 the public meeting in at least three different locations that are within
18 three hundred feet of the proposed charter school site.

19 ~~6-~~ 7. A person who is employed by a charter school or who is an
20 applicant for employment with a charter school, who is arrested for or
21 charged with a nonappealable offense listed in section 41-1758.03, subsection
22 B and who does not immediately report the arrest or charge to the person's
23 supervisor or potential employer is guilty of unprofessional conduct and the
24 person shall be immediately dismissed from employment with the charter school
25 or immediately excluded from potential employment with the charter school.

26 ~~7-~~ 8. A person who is employed by a charter school and who is
27 convicted of any nonappealable offense listed in section 41-1758.03,
28 subsection B or is convicted of any nonappealable offense that amounts to
29 unprofessional conduct under section 15-550 shall immediately do all of the
30 following:

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

32 (b) Notify the person's employer or potential employer of the
33 conviction.

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

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

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

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

42 1. Compliance with federal, state and local rules, regulations and
43 statutes relating to health, safety, civil rights and insurance. The
44 department of education shall publish a list of relevant rules, regulations

1 and statutes to notify charter schools of their responsibilities under this
2 paragraph.

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

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

10 4. That it designs a method to measure pupil progress toward the pupil
11 outcomes adopted by the state board of education pursuant to section
12 15-741.01, including participation in the Arizona instrument to measure
13 standards test and the nationally standardized norm-referenced achievement
14 test as designated by the state board and the completion and distribution of
15 an annual report card as prescribed in chapter 7, article 3 of this title.

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

19 6. That, except as provided in this article, it is subject to the same
20 financial and electronic data submission requirements as a school district,
21 including the uniform system of financial records as prescribed in chapter 2,
22 article 4 of this title, procurement rules as prescribed in section 15-213
23 and audit requirements. The auditor general shall conduct a comprehensive
24 review and revision of the uniform system of financial records to ensure that
25 the provisions of the uniform system of financial records that relate to
26 charter schools are in accordance with commonly accepted accounting
27 principles used by private business. A school's charter may include
28 exceptions to the requirements of this paragraph that are necessary as
29 determined by the district governing board, the state board of education or
30 the state board for charter schools. The department of education or the
31 office of the auditor general may conduct financial, program or compliance
32 audits.

33 7. Compliance with all federal and state laws relating to the
34 education of children with disabilities in the same manner as a school
35 district.

36 8. That it provides for a governing body for the charter school that
37 is responsible for the policy decisions of the charter school.
38 NOTWITHSTANDING SECTION 1-216, IF THERE IS A VACANCY OR VACANCIES ON THE
39 GOVERNING BODY, A MAJORITY OF THE REMAINING MEMBERS OF THE GOVERNING BODY
40 CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS.

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

1 F. The charter of a charter school shall include a description of the
2 charter school's personnel policies, personnel qualifications and method of
3 school governance and the specific role and duties of the sponsor of the
4 charter school. A charter school shall keep on file the resumes of all
5 current and former employees who provide instruction to pupils at the charter
6 school. Resumes shall include an individual's educational and teaching
7 background and experience in a particular academic content subject area. A
8 charter school shall inform parents and guardians of the availability of the
9 resume information and shall make the resume information available for
10 inspection on request of parents and guardians of pupils enrolled at the
11 charter school. Nothing in this subsection shall be construed to require any
12 charter school to release personally identifiable information in relation to
13 any teacher or employee, including the teacher's or employee's address,
14 salary, social security number or telephone number.

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

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

18 I. An approved plan to establish a charter school is effective for
19 fifteen years from the first day of operation. At least eighteen months
20 before the expiration of the approved plan, the sponsor shall notify the
21 charter school that the charter school may apply for renewal. A charter
22 school that elects to apply for renewal shall file an application for renewal
23 at least fifteen months before the expiration of the approved plan. In
24 addition to any other requirements, the application for renewal shall include
25 a detailed business plan for the charter school. The sponsor may deny the
26 request for renewal if, in its judgment, the charter school has failed to
27 complete the obligations of the contract or has failed to comply with this
28 article. A sponsor shall give written notice of its intent not to renew the
29 charter school's request for renewal to the charter school at least twelve
30 months before the expiration of the approved plan to allow the charter school
31 an opportunity to apply to another sponsor to transfer the operation of the
32 charter school. If the operation of the charter school is transferred to
33 another sponsor, the fifteen year period of the current charter shall be
34 maintained. A sponsor shall review a charter at five year intervals and may
35 revoke a charter at any time if the charter school breaches one or more
36 provisions of its charter. At least ninety days before the effective date of
37 the proposed revocation the sponsor shall give written notice to the operator
38 of the charter school of its intent to revoke the charter. Notice of the
39 sponsor's intent to revoke the charter shall be delivered personally to the
40 operator of the charter school or sent by certified mail, return receipt
41 requested, to the address of the charter school. The notice shall
42 incorporate a statement of reasons for the proposed revocation of the
43 charter. The sponsor shall allow the charter school at least ninety days to
44 correct the problems associated with the reasons for the proposed revocation

1 of the charter. The final determination of whether to revoke the charter
2 shall be made at a public hearing called for such purpose.

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

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

10 L. A governing board or a school district employee who has control
11 over personnel actions shall not take unlawful reprisal against another
12 employee of the school district because the employee is directly or
13 indirectly involved in an application to establish a charter school. A
14 governing board or a school district employee shall not take unlawful
15 reprisal against an educational program of the school or the school district
16 because an application to establish a charter school proposes the conversion
17 of all or a portion of the educational program to a charter school. For the
18 purposes of this subsection, "unlawful reprisal" means an action that is
19 taken by a governing board or a school district employee as a direct result
20 of a lawful application to establish a charter school and that is adverse to
21 another employee or an education program and:

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

24 (a) Disciplinary or corrective action.

25 (b) Detail, transfer or reassignment.

26 (c) Suspension, demotion or dismissal.

27 (d) An unfavorable performance evaluation.

28 (e) A reduction in pay, benefits or awards.

29 (f) Elimination of the employee's position without a reduction in
30 force by reason of lack of monies or work.

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

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

35 (a) Suspension or termination of the program.

36 (b) Transfer or reassignment of the program to a less favorable
37 department.

38 (c) Relocation of the program to a less favorable site within the
39 school or school district.

40 (d) Significant reduction or termination of funding for the program.

41 M. Charter schools shall secure insurance for liability and property
42 loss. The governing body of a charter school that is sponsored by the state
43 board of education or the state board for charter schools may enter into an
44 intergovernmental agreement or otherwise contract to participate in an
45 insurance program offered by a risk retention pool established pursuant to

1 section 11-952.01 or 41-621.01 or the charter school may secure its own
2 insurance coverage. The pool may charge the requesting charter school
3 reasonable fees for any services it performs in connection with the insurance
4 program.

5 N. Charter schools do not have the authority to acquire property by
6 eminent domain.

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

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

13 Q. The sponsor of a charter school shall establish procedures to
14 conduct administrative hearings on determination by the sponsor that grounds
15 exist to revoke a charter. Procedures for administrative hearings shall be
16 similar to procedures prescribed for adjudicative proceedings in title 41,
17 chapter 6, article 10. Except as provided in section 41-1092.08, subsection
18 H, final decisions of the state board of education and the state board for
19 charter schools from hearings conducted pursuant to this subsection are
20 subject to judicial review pursuant to title 12, chapter 7, article 6.

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

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

25 T. All property accumulated by a charter school shall remain the
26 property of the charter school.

27 U. Charter schools may not locate a school on property that is less
28 than one-fourth mile from agricultural land regulated pursuant to section
29 3-365, except that the owner of the agricultural land may agree to comply
30 with the buffer zone requirements of section 3-365. If the owner agrees in
31 writing to comply with the buffer zone requirements and records the agreement
32 in the office of the county recorder as a restrictive covenant running with
33 the title to the land, the charter school may locate a school within the
34 affected buffer zone. The agreement may include any stipulations regarding
35 the charter school, including conditions for future expansion of the school
36 and changes in the operational status of the school that will result in a
37 breach of the agreement.

38 V. A transfer of a charter to another sponsor, a transfer of a charter
39 school site to another sponsor or a transfer of a charter school site to a
40 different charter shall be completed before the beginning of the fiscal year
41 that the transfer is scheduled to become effective. An entity that sponsors
42 charter schools may accept a transferring school after the beginning of the
43 fiscal year if the transfer is approved by the superintendent of public
44 instruction. The superintendent of public instruction shall have the
45 discretion to consider each transfer during the fiscal year on a case by case

1 basis. If a charter school is sponsored by a school district that is
2 determined to be out of compliance with this title, the uniform system of
3 financial records or any other state or federal law, the charter school may
4 transfer to another sponsoring entity at any time during the fiscal year.

5 W. The sponsoring entity may not charge any fees to a charter school
6 that it sponsors unless the sponsor has provided services to the charter
7 school and the fees represent the full value of those services provided by
8 the sponsor. On request, the value of the services provided by the sponsor
9 to the charter school shall be demonstrated to the department of education.

10 Sec. 6. Section 15-184, Arizona Revised Statutes, is amended to read:
11 15-184. Charter schools; admission requirements

12 A. A charter school shall enroll all eligible pupils who submit a
13 timely application, unless the number of applications exceeds the capacity of
14 a program, class, grade level or building. A charter school shall give
15 enrollment preference to pupils returning to the charter school in the second
16 or any subsequent year of its operation and to siblings of pupils already
17 enrolled in the charter school. A charter school that is sponsored by a
18 school district governing board shall give enrollment preference to eligible
19 pupils who reside within the boundaries of the school district where the
20 charter school is physically located. **A CHARTER SCHOOL MAY GIVE ENROLLMENT
21 PREFERENCE TO AND RESERVE CAPACITY FOR PUPILS WHO ARE CHILDREN OF EMPLOYEES
22 OF THE SCHOOL, EMPLOYEES OF THE CHARTER HOLDER, MEMBERS OF THE GOVERNING BODY
23 OF THE SCHOOL OR DIRECTORS, OFFICERS, PARTNERS OR BOARD MEMBERS OF THE
24 CHARTER HOLDER.** If **REMAINING** capacity is insufficient to enroll all pupils
25 who submit a timely application, the charter school shall select pupils
26 through an equitable selection process such as a lottery except that
27 preference shall be given to siblings of a pupil selected through an
28 equitable selection process such as a lottery.

29 B. Except as provided in subsection C **OR D**, a charter school shall not
30 limit admission based on ethnicity, national origin, gender, income level,
31 disabling condition, proficiency in the English language or athletic ability.

32 C. A charter school may limit admission to pupils within a given age
33 group or grade level.

34 **D. A CHARTER SCHOOL MAY PROVIDE INSTRUCTION TO PUPILS OF A SINGLE
35 GENDER WITH THE APPROVAL OF THE SPONSOR OF THE CHARTER SCHOOL. AN EXISTING
36 CHARTER SCHOOL MAY AMEND ITS CHARTER TO PROVIDE INSTRUCTION TO PUPILS OF A
37 SINGLE GENDER, AND IF APPROVED BY THE SPONSOR OF THE CHARTER SCHOOL, MAY
38 PROVIDE INSTRUCTION TO PUPILS OF A SINGLE GENDER AT THE BEGINNING OF THE NEXT
39 SCHOOL YEAR.**

40 ~~D.~~ E. A charter school shall admit pupils who reside in the
41 attendance area of a school or who reside in a school district that is under
42 a court order of desegregation or that is a party to an agreement with the
43 United States department of education office for civil rights directed toward
44 remediating alleged or proven racial discrimination unless notice is received
45 from the resident school that the admission would violate the court order or

1 agreement. If a charter school admits a pupil after notice is received that
2 the admission would constitute such a violation, the charter school is not
3 allowed to include in its student count the pupils wrongfully admitted.

4 ~~E.~~ F. A charter school may refuse to admit any pupil who has been
5 expelled from another educational institution or who is in the process of
6 being expelled from another educational institution.

7 Sec. 7. Section 15-185, Arizona Revised Statutes, is amended to read:

8 15-185. Charter schools; financing; civil penalty;
9 transportation; definitions

10 A. Financial provisions for a charter school that is sponsored by a
11 school district governing board are as follows:

12 1. The charter school shall be included in the district's budget and
13 financial assistance calculations pursuant to paragraph 3 of this subsection
14 and chapter 9 of this title, except for chapter 9, article 4 of this title.
15 The charter of the charter school shall include a description of the methods
16 of funding the charter school by the school district. The school district
17 shall send a copy of the charter and application, including a description of
18 how the school district plans to fund the school, to the state board of
19 education before the start of the first fiscal year of operation of the
20 charter school. The charter or application shall include an estimate of the
21 student count for the charter school for its first fiscal year of operation.
22 This estimate shall be computed pursuant to the requirements of paragraph 3
23 of this subsection.

24 2. A school district is not financially responsible for any charter
25 school that is sponsored by the state board of education or the state board
26 for charter schools.

27 3. A school district that sponsors a charter school may:

28 (a) Increase its student count as provided in subsection B, paragraph
29 2 of this section during the first year of the charter school's operation to
30 include those charter school pupils who were not previously enrolled in the
31 school district. A charter school sponsored by a school district governing
32 board is eligible for the assistance prescribed in subsection B, paragraph 4
33 of this section. The soft capital allocation as provided in section 15-962
34 for the school district sponsoring the charter school shall be increased by
35 the amount of the additional assistance. The school district shall include
36 the full amount of the additional assistance in the funding provided to the
37 charter school.

38 (b) Compute separate weighted student counts pursuant to section
39 15-943, paragraph 2, subdivision (a) for its noncharter school versus charter
40 school pupils in order to maintain eligibility for small school district
41 support level weights authorized in section 15-943, paragraph 1 for its
42 noncharter school pupils only. The portion of a district's student count
43 that is attributable to charter school pupils is not eligible for small
44 school district support level weights.

1 4. If a school district uses the provisions of paragraph 3 of this
2 subsection, the school district is not eligible to include those pupils in
3 its student count for the purposes of computing an increase in its revenue
4 control limit and district support level as provided in section 15-948.

5 5. A school district that sponsors a charter school is not eligible to
6 include the charter school pupils in its student count for the purpose of
7 computing an increase in its capital outlay revenue limit as provided in
8 section 15-961, subsection C, except that if the charter school was
9 previously a school in the district, the district may include in its student
10 count any charter school pupils who were enrolled in the school district in
11 the prior year.

12 6. A school district that sponsors a charter school is not eligible to
13 include the charter school pupils in its student count for the purpose of
14 computing the revenue control limit which is used to determine the maximum
15 budget increase as provided in chapter 4, article 4 of this title unless the
16 charter school is located within the boundaries of the school district.

17 7. If a school district converts one or more of its district public
18 schools to a charter school and receives assistance as prescribed in
19 subsection B, paragraph 4 of this section, and subsequently converts the
20 charter school back to a district public school, the school district shall
21 repay the state the total additional assistance received for the charter
22 school for all years that the charter school was in operation. The repayment
23 shall be in one lump sum and shall be reduced from the school district's
24 current year equalization assistance. The school district's general budget
25 limit shall be reduced by the same lump sum amount in the current year.

26 B. Financial provisions for a charter school that is sponsored by the
27 state board of education or the state board for charter schools are as
28 follows:

29 1. The charter school shall calculate a base support level as
30 prescribed in section 15-943, except that sections 15-941 and 15-942 do not
31 apply to these charter schools.

32 2. Notwithstanding paragraph 1 of this subsection, the student count
33 shall be determined initially using an estimated student count based on
34 actual registration of pupils before the beginning of the school year. After
35 the first one hundred days or two hundred days in session, as applicable, the
36 charter school shall revise the student count to be equal to the actual
37 average daily membership, as defined in section 15-901, or the adjusted
38 average daily membership, as prescribed in section 15-902, of the charter
39 school. Before the one hundredth day or two hundredth day in session, as
40 applicable, the state board of education or the state board for charter
41 schools may require a charter school to report periodically regarding pupil
42 enrollment and attendance, and the department of education may revise its
43 computation of equalization assistance based on the report. A charter school
44 shall revise its student count, base support level and additional assistance
45 before May 15. A charter school that overestimated its student count shall

1 revise its budget before May 15. A charter school that underestimated its
2 student count may revise its budget before May 15.

3 3. A charter school may utilize section 15-855 for the purposes of
4 this section. The charter school and the department of education shall
5 prescribe procedures for determining average daily attendance and average
6 daily membership.

7 4. Equalization assistance for the charter school shall be determined
8 by adding the amount of the base support level and additional assistance.
9 The amount of the additional assistance is one thousand four hundred
10 seventy-four dollars sixteen cents per student count in kindergarten programs
11 and grades one through eight and one thousand seven hundred eighteen dollars
12 ten cents per student count in grades nine through twelve.

13 5. The state board of education shall apportion state aid from the
14 appropriations made for such purposes to the state treasurer for disbursement
15 to the charter schools in each county in an amount as determined by this
16 paragraph. The apportionments shall be made in twelve equal installments of
17 the total amount to be apportioned during the fiscal year on the fifteenth
18 day of each month of the fiscal year.

19 ~~6. Notwithstanding paragraph 5 of this subsection, if sufficient~~
20 ~~appropriated monies are available after the first forty days in session of~~
21 ~~the current year, a charter school may request additional state monies to~~
22 ~~fund the increased state aid due to anticipated student growth through the~~
23 ~~first one hundred days or two hundred days in session, as applicable, of the~~
24 ~~current year as provided in section 15-948. In no event shall a charter~~
25 ~~school have received more than three fourths of its total apportionment~~
26 ~~before April 15 of the fiscal year. Early payments pursuant to this~~
27 ~~subsection must be approved by the state treasurer, the director of the~~
28 ~~department of administration and the superintendent of public instruction.~~

29 ~~7.~~ 6. The charter school shall not charge tuition, levy taxes or
30 issue bonds.

31 ~~8.~~ 7. Not later than noon on the day preceding each apportionment
32 date established by paragraph 5 of this subsection, the superintendent of
33 public instruction shall furnish to the state treasurer an abstract of the
34 apportionment and shall certify the apportionment to the department of
35 administration, which shall draw its warrant in favor of the charter schools
36 for the amount apportioned.

37 C. If a pupil is enrolled in both a charter school and a public school
38 that is not a charter school, the sum of the daily membership, which includes
39 enrollment as prescribed in section 15-901, subsection A, paragraph 2,
40 subdivisions (a) and (b) and daily attendance as prescribed in section
41 15-901, subsection A, paragraph 6, for that pupil in the school district and
42 the charter school shall not exceed 1.0, except that if the pupil is enrolled
43 in both a charter school and a joint technological education district and
44 resides within the boundaries of a school district participating in the joint
45 technological education district, the sum of the average daily membership for

1 that pupil in the charter school and the joint technological education
2 district shall not exceed 1.25. If a pupil is enrolled in both a charter
3 school and a public school that is not a charter school, the department of
4 education shall direct the average daily membership to the school with the
5 most recent enrollment date. Upon validation of actual enrollment in both a
6 charter school and a public school that is not a charter school and if the
7 sum of the daily membership or daily attendance for that pupil is greater
8 than 1.0, the sum shall be reduced to 1.0 and shall be apportioned between
9 the public school and the charter school based on the percentage of total
10 time that the pupil is enrolled or in attendance in the public school and the
11 charter school, except that if the pupil is enrolled in both a charter school
12 and a joint technological education district and resides within the
13 boundaries of a school district participating in the joint technological
14 education district, the sum of the average daily membership for that pupil in
15 the charter school and the joint technological education district shall be
16 reduced to 1.25 and shall be apportioned between the charter school and the
17 joint technological education district based on the percentage of total time
18 that the pupil is enrolled or in attendance in the charter school and the
19 joint technological education district. The uniform system of financial
20 records shall include guidelines for the apportionment of the pupil
21 enrollment and attendance as provided in this section.

22 D. Charter schools are allowed to accept grants and gifts to
23 supplement their state funding, but it is not the intent of the charter
24 school law to require taxpayers to pay twice to educate the same pupils. The
25 base support level for a charter school or for a school district sponsoring a
26 charter school shall be reduced by an amount equal to the total amount of
27 monies received by a charter school from a federal or state agency if the
28 federal or state monies are intended for the basic maintenance and operations
29 of the school. The superintendent of public instruction shall estimate the
30 amount of the reduction for the budget year and shall revise the reduction to
31 reflect the actual amount before May 15 of the current year. If the
32 reduction results in a negative amount, the negative amount shall be used in
33 computing all budget limits and equalization assistance, except that:

- 34 1. Equalization assistance shall not be less than zero.
- 35 2. For a charter school sponsored by the state board of education or
36 the state board for charter schools, the total of the base support level, ~~the~~
37 ~~capital outlay revenue limit, the soft capital allocation~~ and the additional
38 assistance shall not be less than zero.
- 39 3. For a charter school sponsored by a school district, the base
40 support level for the school district shall not be reduced by more than the
41 amount that the charter school increased the district's base support level,
42 capital outlay revenue limit and soft capital allocation.

43 E. If a charter school was a district public school in the prior year
44 and is now being operated for or by the same school district and sponsored by
45 the state board of education, the state board for charter schools or a school

1 district governing board, the reduction in subsection D of this section
2 applies. The reduction to the base support level of the charter school or
3 the sponsoring district of the charter school shall equal the sum of the base
4 support level and the additional assistance received in the current year for
5 those pupils who were enrolled in the traditional public school in the prior
6 year and are now enrolled in the charter school in the current year.

7 F. Equalization assistance for charter schools shall be provided as a
8 single amount based on average daily membership without categorical
9 distinctions between maintenance and operations or capital.

10 G. At the request of a charter school, the county school
11 superintendent of the county where the charter school is located may provide
12 the same educational services to the charter school as prescribed in section
13 15-308, subsection A. The county school superintendent may charge a fee to
14 recover costs for providing educational services to charter schools.

15 H. If the sponsor of the charter school determines at a public meeting
16 that the charter school is not in compliance with federal law, with the laws
17 of this state or with its charter, the sponsor of a charter school may submit
18 a request to the department of education to withhold up to ten per cent of
19 the monthly apportionment of state aid that would otherwise be due the
20 charter school. The department of education shall adjust the charter
21 school's apportionment accordingly. The sponsor shall provide written notice
22 to the charter school at least seventy-two hours before the meeting and shall
23 allow the charter school to respond to the allegations of noncompliance at
24 the meeting before the sponsor makes a final determination to notify the
25 department of education of noncompliance. The charter school shall submit a
26 corrective action plan to the sponsor on a date specified by the sponsor at
27 the meeting. The corrective action plan shall be designed to correct
28 deficiencies at the charter school and to ensure that the charter school
29 promptly returns to compliance. When the sponsor determines that the charter
30 school is in compliance, the department of education shall restore the full
31 amount of state aid payments to the charter school.

32 I. In addition to the withholding of state aid payments pursuant to
33 subsection H of this section, the sponsor of a charter school may impose a
34 civil penalty of one thousand dollars per occurrence if a charter school
35 fails to comply with the fingerprinting requirements prescribed in section
36 15-183, subsection C or section 15-512. The sponsor of a charter school
37 shall not impose a civil penalty if it is the first time that a charter
38 school is out of compliance with the fingerprinting requirements and if the
39 charter school provides proof within forty-eight hours of written
40 notification that an application for the appropriate fingerprint check has
41 been received by the department of public safety. The sponsor of the charter
42 school shall obtain proof that the charter school has been notified, and the
43 notification shall identify the date of the deadline and shall be signed by
44 both parties. The sponsor of a charter school shall automatically impose a
45 civil penalty of one thousand dollars per occurrence if the sponsor

1 determines that the charter school subsequently violates the fingerprinting
2 requirements. Civil penalties pursuant to this subsection shall be assessed
3 by requesting the department of education to reduce the amount of state aid
4 that the charter school would otherwise receive by an amount equal to the
5 civil penalty. The amount of state aid withheld shall revert to the state
6 general fund at the end of the fiscal year.

7 J. A charter school may receive and spend monies distributed by the
8 department of education pursuant to section 42-5029, subsection E and section
9 37-521, subsection B.

10 K. If a school district transports or contracts to transport pupils to
11 the Arizona state schools for the deaf and the blind during any fiscal year,
12 the school district may transport or contract with a charter school to
13 transport sensory impaired pupils during that same fiscal year to a charter
14 school if requested by the parent of the pupil and if the distance from the
15 pupil's place of actual residence within the school district to the charter
16 school is less than the distance from the pupil's place of actual residence
17 within the school district to the campus of the Arizona state schools for the
18 deaf and the blind.

19 L. For the purposes of this section:

20 1. "Monies intended for the basic maintenance and operations of the
21 school" means monies intended to provide support for the educational program
22 of the school, except that it does not include supplemental assistance for a
23 specific purpose or ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY
24 EDUCATION ACT OF 1965 monies. The auditor general shall determine which
25 federal or state monies meet the definition in this paragraph.

26 2. "Operated for or by the same school district" means the charter
27 school is either governed by the same district governing board or operated by
28 the district in the same manner as other traditional schools in the district
29 or is operated by an independent party that has a contract with the school
30 district. The auditor general and the department of education shall
31 determine which charter schools meet the definition in this subsection.

32 Sec. 8. Section 15-203, Arizona Revised Statutes, is amended to read:

33 15-203. Powers and duties

34 A. The state board of education shall:

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

38 2. Keep a record of its proceedings.

39 3. Make rules for its own government.

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

41 5. Appoint its employees, on the recommendation of the superintendent
42 of public instruction.

43 6. Prescribe the duties of its employees if not prescribed by statute.

44 7. Delegate to the superintendent of public instruction the execution
45 of board policies and rules.

1 8. Recommend to the legislature changes or additions to the statutes
2 pertaining to schools.

3 9. Prepare, publish and distribute reports concerning the educational
4 welfare of this state.

5 10. Prepare a budget for expenditures necessary for proper maintenance
6 of the board and accomplishment of its purposes and present the budget to the
7 legislature.

8 11. Aid in the enforcement of laws relating to schools.

9 12. Prescribe a minimum course of study in the common schools, minimum
10 competency requirements for the promotion of pupils from the third grade and
11 minimum course of study and competency requirements for the promotion of
12 pupils from the eighth grade. The state board of education shall prepare a
13 fiscal impact statement of any proposed changes to the minimum course of
14 study or competency requirements and, on completion, shall send a copy to the
15 director of the joint legislative budget committee and the executive director
16 of the school facilities board. The state board of education shall not adopt
17 any changes in the minimum course of study or competency requirements in
18 effect on July 1, 1998 that will have a fiscal impact on school capital
19 costs.

20 13. Prescribe minimum course of study and competency requirements for
21 the graduation of pupils from high school. The state board of education
22 shall prepare a fiscal impact statement of any proposed changes to the
23 minimum course of study or competency requirements and, on completion, shall
24 send a copy to the director of the joint legislative budget committee and the
25 executive director of the school facilities board. The state board of
26 education shall not adopt any changes in the minimum course of study or
27 competency requirements in effect on July 1, 1998 that will have a fiscal
28 impact on school capital costs.

29 14. Supervise and control the certification of persons engaged in
30 instructional work directly as any classroom, laboratory or other teacher or
31 indirectly as a supervisory teacher, speech therapist, principal or
32 superintendent in a school district, including school district preschool
33 programs, or any other educational institution below the community college,
34 college or university level, and prescribe rules for certification, including
35 rules for certification of teachers who have teaching experience and who are
36 trained in other states, which are not unnecessarily restrictive and are
37 substantially similar to the rules prescribed for the certification of
38 teachers trained in this state. The rules shall require applicants for all
39 certificates for common school instruction to complete a minimum of
40 forty-five classroom hours or three college level credit hours, or the
41 equivalent, of training in research based systematic phonics instruction from
42 a public or private provider. The rules shall not require a teacher to
43 obtain a master's degree or to take any additional graduate courses as a
44 condition of certification or recertification. The rules shall allow a

1 general equivalency diploma to be substituted for a high school diploma in
2 the certification of emergency substitute teachers.

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

9 16. Adopt rules governing the methods for the administration of all
10 proficiency examinations.

11 17. Adopt proficiency examinations for its use. The state board of
12 education shall determine the passing score for the proficiency examination.

13 18. Include within its budget the cost of contracting for the purchase,
14 distribution and scoring of the examinations as provided in paragraphs 16 and
15 17 of this subsection.

16 19. Supervise and control the qualifications of professional
17 nonteaching school personnel and prescribe standards relating to
18 qualifications.

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

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

24 22. Adopt a rule to promote braille literacy pursuant to section
25 15-214.

26 23. Adopt rules prescribing procedures for the investigation by the
27 department of education of every written complaint alleging that a
28 certificated person has engaged in immoral conduct.

29 24. For purposes of federal law, serve as the state board for
30 vocational and technological education and meet at least four times each year
31 solely to execute the powers and duties of the state board for vocational and
32 technological education.

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

40 26. Require pupils to recite the following passage from the declaration
41 of independence for pupils in grades four through six at the commencement of
42 the first class of the day in the schools, except that a pupil shall not be
43 required to participate if the pupil or the pupil's parent or guardian
44 objects:

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

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

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

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

18 (b) Currently resides in this state.

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

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

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

31 30. Adopt rules to define and provide guidance to schools as to the
32 activities that would constitute immoral or unprofessional conduct of
33 certificated persons.

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

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

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

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

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

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

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

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

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

30 (i) The transfer of student records.

31 (ii) Awarding credit for completed course work.

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

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

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

42 34. For each of the alternative textbook formats of human-voiced audio,
43 large-print and braille, designate alternative media producers to adapt
44 existing standard print textbooks or to provide specialized textbooks, or
45 both, for pupils with disabilities in this state. Each alternative media

1 producer shall be capable of producing alternative textbooks in all relevant
2 subjects in at least one of the alternative textbook formats. The board
3 shall post the designated list of alternative media producers on its website.

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

10 36. Adopt rules to prohibit a person who violates the notification
11 requirements prescribed in section 15-183, subsection C, paragraph ~~6- 7~~ or
12 section 15-550, subsection C from certification pursuant to this title until
13 the person is no longer charged or is acquitted of any offenses listed in
14 section 41-1758.03, subsection B. The board shall also adopt rules to
15 prohibit a person who violates the notification requirements, certification
16 surrender requirements or fingerprint clearance card surrender requirements
17 prescribed in section 15-183, subsection C, paragraph ~~7- 8~~ or section 15-550,
18 subsection D from certification pursuant to this title for at least ten years
19 after the date of the violation.

20 37. **ADOPT RULES FOR THE ALTERNATIVE CERTIFICATION OF TEACHERS OF**
21 **NONTRADITIONAL FOREIGN LANGUAGES THAT ALLOW FOR THE PASSING OF A NATIONALLY**
22 **ACCREDITED TEST TO SUBSTITUTE FOR THE EDUCATION COURSEWORK REQUIREMENT FOR**
23 **CERTIFICATION.**

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 Sec. 9. Section 15-238, Arizona Revised Statutes, is amended to read:
2 15-238. Statewide student estimate

3 Before February 15 of each year the department of education shall
4 submit to the economic estimates commission the total estimated statewide
5 number of students determined for the current year using the unit of
6 measurement prescribed in section 15-902, ~~subsection~~ SUBSECTIONS A AND B.

7 Sec. 10. Title 15, chapter 2, article 2, Arizona Revised Statutes, is
8 amended by adding section 15-241.01, to read:

9 15-241.01. School accountability; alternative operation plans

10 A. IF A SCHOOL DISTRICT HAS SIX OR MORE SCHOOLS AND AT LEAST ONE-HALF
11 OF THE SCHOOLS IN THE DISTRICT ARE DESIGNATED AS UNDERPERFORMING OR FAILING
12 TO MEET THE ACADEMIC STANDARDS PURSUANT TO THIS SECTION AND AT LEAST ONE
13 SCHOOL IS DESIGNATED AS FAILING TO MEET ACADEMIC STANDARDS, THE DEPARTMENT OF
14 EDUCATION MAY SUBMIT TO THE STATE BOARD OF EDUCATION A RECOMMENDATION FOR A
15 PUBLIC HEARING TO DETERMINE IF THE SCHOOL DISTRICT SHOULD BE SUBJECT TO AN
16 ALTERNATIVE OPERATION PLAN AND THE REASONS FOR THAT RECOMMENDATION. WHEN
17 CONSIDERING WHETHER TO RECOMMEND A PUBLIC HEARING PURSUANT TO THIS
18 SUBSECTION, THE DEPARTMENT SHALL CONSIDER AT LEAST THE FOLLOWING:

19 1. THE LIKELIHOOD THAT CONTINUED SCHOOL-BASED INTERVENTIONS WILL BE
20 SUCCESSFUL.

21 2. THE EXTENT TO WHICH THE SCHOOL DISTRICT ADMINISTRATORS AND THE
22 SCHOOL DISTRICT GOVERNING BOARD IMPACTED THE UNDERPERFORMING AND FAILING TO
23 MEET ACADEMIC STANDARDS DESIGNATIONS OF THE DISTRICT'S SCHOOLS.

24 3. WHETHER THOSE SCHOOLS DESIGNATED AS UNDERPERFORMING OR FAILING TO
25 MEET ACADEMIC STANDARDS HAVE DEMONSTRATED REASONABLE ACADEMIC GROWTH AS
26 DETERMINED BY THE MEASURE OF ACADEMIC PROGRESS ESTABLISHED PURSUANT TO THIS
27 SECTION.

28 B. IF THE DEPARTMENT OF EDUCATION RECOMMENDS A PUBLIC HEARING PURSUANT
29 TO SUBSECTION A OF THIS SECTION, THE STATE BOARD OF EDUCATION SHALL MEET AND
30 MAY PROVIDE BY A MAJORITY VOTE OF THE ENTIRE BOARD FOR THE DEVELOPMENT AND
31 IMPLEMENTATION OF AN ALTERNATIVE OPERATION PLAN AS ALLOWED BY THIS SECTION.
32 WHEN DETERMINING WHETHER TO PLACE A SCHOOL DISTRICT UNDER AN ALTERNATIVE
33 OPERATION PLAN, THE STATE BOARD SHALL CONSIDER AT LEAST THE FOLLOWING:

34 1. THE LIKELIHOOD THAT CONTINUED SCHOOL-BASED INTERVENTIONS WILL BE
35 SUCCESSFUL.

36 2. THE EXTENT TO WHICH THE SCHOOL DISTRICT ADMINISTRATORS AND THE
37 SCHOOL DISTRICT GOVERNING BOARD IMPACTED THE UNDERPERFORMING AND FAILING TO
38 MEET ACADEMIC STANDARDS DESIGNATIONS OF THE DISTRICT'S SCHOOLS.

39 3. WHETHER THOSE SCHOOLS DESIGNATED AS UNDERPERFORMING OR FAILING TO
40 MEET ACADEMIC STANDARDS HAVE DEMONSTRATED REASONABLE ACADEMIC GROWTH AS
41 DETERMINED BY THE MEASURE OF ACADEMIC PROGRESS ESTABLISHED PURSUANT TO THIS
42 SECTION.

43 C. BEFORE A HEARING IS HELD PURSUANT TO SUBSECTION B OF THIS SECTION,
44 THE DEPARTMENT OF EDUCATION SHALL RECOMMEND TO THE STATE BOARD OF EDUCATION
45 AT LEAST THREE GOVERNMENTAL, NONPROFIT OR PRIVATE ORGANIZATIONS OR PERSONS TO

1 MANAGE THE SCHOOL DISTRICT'S AFFAIRS. IF THE STATE BOARD APPROVES THE
2 IMPLEMENTATION OF AN ALTERNATIVE OPERATION PLAN, IT SHALL MAKE AN APPOINTMENT
3 FROM THE LIST PROVIDED BY THE DEPARTMENT OF EDUCATION. ON MAKING THIS
4 APPOINTMENT THE STATE BOARD SHALL IMMEDIATELY DETERMINE WHICH POWERS
5 ENUMERATED IN SUBSECTION D OF THIS SECTION SHALL BE TEMPORARILY GRANTED TO
6 THE APPOINTED ORGANIZATION OR PERSON. THE AUTHORITY GRANTED PURSUANT TO THIS
7 SUBSECTION SHALL BE EFFECTIVE UNTIL THE STATE BOARD REVIEWS THE ALTERNATIVE
8 OPERATION PLAN AS DESCRIBED IN SUBSECTION E OF THIS SECTION.

9 D. AN ORGANIZATION OR PERSON APPOINTED PURSUANT TO SUBSECTION C OF
10 THIS SECTION SHALL BEGIN A FULL REVIEW AND INVESTIGATION OF THE SCHOOL
11 DISTRICT'S EDUCATIONAL AFFAIRS AND SHALL SUBMIT TO THE STATE BOARD OF
12 EDUCATION A DETAILED REPORT LISTING THE FINDINGS OF THAT INVESTIGATION. THIS
13 REPORT SHALL INCLUDE AN ALTERNATIVE OPERATION PLAN THAT DETAILS HOW THE
14 SCHOOL DISTRICT WILL RAISE THE LEVEL OF ACADEMIC ACHIEVEMENT SO THAT ALL OF
15 THE SCHOOLS IN THE SCHOOL DISTRICT ARE DESIGNATED AS PERFORMING SCHOOLS,
16 HIGHLY PERFORMING SCHOOLS OR EXCELLING SCHOOLS PURSUANT TO THIS SECTION. THE
17 PLAN SHALL INCLUDE A PROPOSED TIMELINE FOR IMPROVING ACADEMIC ACHIEVEMENT.
18 THE ORGANIZATION OR PERSON SHALL SUBMIT THE REPORT WITHIN ONE HUNDRED TWENTY
19 DAYS FROM THE DATE THE ORGANIZATION OR PERSON WAS APPOINTED BY THE STATE
20 BOARD. IF APPROVED BY THE STATE BOARD, THE ALTERNATIVE OPERATION PLAN MAY
21 AUTHORIZE THE APPOINTED ORGANIZATION OR PERSON TO DO ANY OF THE FOLLOWING:

22 1. OVERRIDE ANY DECISIONS OF THE SCHOOL DISTRICT GOVERNING BOARD OR
23 THE SCHOOL DISTRICT SUPERINTENDENT, OR BOTH, CONCERNING THE MANAGEMENT AND
24 OPERATION OF THE SCHOOL DISTRICT, AND INITIATE AND MAKE DECISIONS CONCERNING
25 THE MANAGEMENT AND OPERATION OF THE SCHOOL DISTRICT, INCLUDING REOPENING THE
26 SCHOOL AS A CHARTER SCHOOL.

27 2. HIRE PERSONNEL, TERMINATE PERSONNEL AND CANCEL EXISTING EMPLOYMENT
28 CONTRACTS, TO THE EXTENT PERMITTED BY LAW. THE APPOINTED ORGANIZATION OR
29 PERSON MAY REFUSE TO REEMPLOY ANY CERTIFICATED TEACHER WHO HAS NOT BEEN
30 EMPLOYED BY THE SCHOOL DISTRICT FOR MORE THAN THE MAJOR PORTION OF THREE
31 CONSECUTIVE SCHOOL YEARS AS PROVIDED IN SECTION 15-536.

32 3. ATTEND ANY MEETINGS OF THE SCHOOL DISTRICT GOVERNING BOARD AND
33 ADMINISTRATIVE STAFF.

34 4. SUPERVISE THE ACTIVITIES OF THE SCHOOL DISTRICT'S STAFF, INCLUDING
35 REASSIGNING THE DUTIES AND RESPONSIBILITIES OF PERSONNEL IN A MANNER THAT, AS
36 DETERMINED BY THE APPOINTED ORGANIZATION OR PERSON, BEST SUITS THE NEEDS OF
37 THE SCHOOL DISTRICT.

38 5. APPOINT A CHIEF EDUCATIONAL OFFICER WHO SHALL HAVE THE POWERS AND
39 DUTIES OF A SCHOOL DISTRICT SUPERINTENDENT. A CHIEF EDUCATIONAL OFFICER WHO
40 IS APPOINTED PURSUANT TO THIS PARAGRAPH SHALL HOLD A VALID ADMINISTRATIVE
41 CERTIFICATE.

42 6. TO THE EXTENT PERMITTED BY LAW, CANCEL OR RENEGOTIATE ANY CONTRACT,
43 OTHER THAN CONTRACTS OF CERTIFICATED TEACHERS WHO HAVE BEEN EMPLOYED BY THE
44 SCHOOL DISTRICT IN THE CAPACITY OF A CERTIFICATED TEACHER FOR MORE THAN ONE
45 YEAR, TO WHICH THE GOVERNING BOARD OR THE SCHOOL DISTRICT IS A PARTY IF THE

1 CANCELLATION OR RENEGOTIATION OF THE CONTRACT WILL PRODUCE NEEDED ECONOMIES
2 IN THE OPERATION OF THE DISTRICT'S SCHOOLS.

3 E. THE STATE BOARD OF EDUCATION SHALL PERIODICALLY REVIEW THE STATUS
4 OF A SCHOOL DISTRICT THAT IS OPERATING UNDER AN ALTERNATIVE OPERATION PLAN
5 PURSUANT TO THIS SECTION TO DETERMINE WHETHER THE OPERATIONS OF THE SCHOOL
6 DISTRICT SHOULD BE RETURNED TO THE SCHOOL DISTRICT GOVERNING BOARD. BEFORE
7 THE STATE BOARD MAKES A DETERMINATION TO TERMINATE AN ALTERNATIVE OPERATION
8 PLAN, THE STATE BOARD OR ITS DESIGNEE SHALL MEET WITH THE SCHOOL DISTRICT
9 GOVERNING BOARD OR ITS DESIGNEE TO ESTABLISH AN APPROPRIATE TIME FRAME AND
10 ADDRESS ANY ADDITIONAL OPERATIONAL CONSIDERATIONS THAT ARE NECESSARY TO
11 ENSURE A SMOOTH TRANSITION OF AUTHORITY FROM THE APPOINTED ORGANIZATION OR
12 PERSON BACK TO THE SCHOOL DISTRICT GOVERNING BOARD. WHEN DETERMINING WHETHER
13 TO TERMINATE AN ALTERNATIVE OPERATION PLAN, THE STATE BOARD SHALL CONSIDER
14 WHETHER THE DISTRICT'S SCHOOLS HAVE MADE SIGNIFICANT ACADEMIC GAINS AS
15 DETERMINED BY INDIVIDUAL SCHOOL ACHIEVEMENT PROFILES ESTABLISHED PURSUANT TO
16 THIS SECTION.

17 F. IF AT ANY TIME THE STATE BOARD DETERMINES THAT THE PROGRESS OF AN
18 ORGANIZATION OR PERSON WHO IS APPOINTED PURSUANT TO THIS SUBSECTION OR
19 SUBSECTION C OF THIS SECTION IS INSUFFICIENT, THE STATE BOARD MAY REMOVE THAT
20 ORGANIZATION OR PERSON AND MAKE AN ALTERNATIVE APPOINTMENT. ALL AUTHORITY
21 GRANTED PURSUANT TO THE APPROVED ALTERNATIVE OPERATION PLAN SHALL BE
22 TRANSFERRED TO THE NEWLY APPOINTED ORGANIZATION OR PERSON. THE STATE BOARD
23 MAY REQUIRE THE NEWLY APPOINTED ORGANIZATION OR PERSON TO PREPARE A REVISED
24 ALTERNATIVE OPERATION PLAN AS DESCRIBED IN SUBSECTION D OF THIS SECTION.

25 G. ALL EXPENSES AND COSTS OF AN ORGANIZATION OR PERSON APPOINTED BY
26 THE STATE BOARD PURSUANT TO SUBSECTION C OR F OF THIS SECTION SHALL BE PAID
27 BY THE SCHOOL DISTRICT. THE STATE BOARD OF EDUCATION SHALL REVIEW THE
28 EXPENSES AND COSTS AT LEAST TWICE EACH CALENDAR YEAR TO ENSURE THAT THE FEES
29 ARE REASONABLE AND APPROPRIATE.

30 H. THE OPERATION OF A SCHOOL DISTRICT BY AN ORGANIZATION OR PERSON
31 APPOINTED PURSUANT TO THIS SECTION SHALL NOT INTERFERE WITH THE ELECTION OF
32 SCHOOL DISTRICT GOVERNING BOARD MEMBERS.

33 I. THE SCHOOL DISTRICT SHALL INDEMNIFY THE ORGANIZATION OR PERSON
34 APPOINTED PURSUANT TO SUBSECTION C OR F OF THIS SECTION IF THAT ORGANIZATION
35 OR PERSON IS MADE OR THREATENED TO BE MADE A PARTY TO ANY LITIGATION BY
36 REASON OF THE ORGANIZATION'S OR PERSON'S STATUS UNDER THIS SECTION IF THE
37 ORGANIZATION OR PERSON ACTED IN GOOD FAITH AND IN A MANNER THE ORGANIZATION
38 OR PERSON BELIEVED TO BE LAWFUL AND IN THE BEST INTEREST OF THE SCHOOL
39 DISTRICT.

40 J. ALL INFORMATION RECEIVED AND RECORDS OR REPORTS KEPT BY THE STATE
41 BOARD OF EDUCATION DURING AN INVESTIGATION RESULTING FROM A COMPLAINT AGAINST
42 AN ORGANIZATION OR PERSON APPOINTED PURSUANT TO SUBSECTION C OR F OF THIS
43 SECTION ARE CONFIDENTIAL AND ARE NOT PUBLIC RECORDS.

1 B. SUBJECT TO THE APPROVAL OF THE DEPARTMENT OF EDUCATION, THE TASK
2 FORCE SHALL DEVELOP MEASURES AND TASKS ASSOCIATED WITH MEASURING ACADEMIC
3 GAINS IN MATHEMATICS, READING AND LANGUAGE OF PUPILS IN KINDERGARTEN
4 PROGRAMS, GRADE ONE, GRADE TWO AND GRADE THREE WITH A GOAL OF REACHING
5 READING PROFICIENCY BY THE END OF GRADE THREE.

6 C. SCHOOL DISTRICTS AND CHARTER SCHOOLS MAY VOLUNTARILY PARTICIPATE IN
7 THE MEASUREMENT OF ACADEMIC GAINS DEVELOPED BY THE TASK FORCE PURSUANT TO
8 THIS SECTION.

9 D. THE DEPARTMENT OF EDUCATION SHALL DEVELOP MECHANISMS TO ALLOW A
10 SCHOOL DISTRICT OR CHARTER SCHOOL THAT VOLUNTARILY PARTICIPATES IN THE
11 MEASUREMENT OF ACADEMIC GAINS DEVELOPED BY THE TASK FORCE PURSUANT TO THIS
12 SECTION TO IMPROVE ITS SCHOOL CLASSIFICATION DESIGNATED PURSUANT TO SECTION
13 15-241 IF THE SCHOOL DISTRICT'S OR CHARTER SCHOOL'S ACADEMIC GAINS MEET THE
14 CRITERIA DEVELOPED BY THE DEPARTMENT OF EDUCATION AND APPROVED BY THE STATE
15 BOARD OF EDUCATION. THE STATE BOARD OF EDUCATION SHALL REVIEW AND APPROVE
16 THE MECHANISMS DEVELOPED BY THE DEPARTMENT OF EDUCATION.

17 E. THE DEPARTMENT OF EDUCATION SHALL ESTABLISH PROCEDURES TO MAINTAIN
18 THE INTEGRITY OF THE TESTING PROCESS THAT WILL BE USED TO MEASURE ACADEMIC
19 GAINS DEVELOPED BY THE TASK FORCE PURSUANT TO THIS SECTION, INCLUDING
20 PROCEDURES FOR TESTING AND SCORING VALIDITY AND RELIABILITY. THE STATE BOARD
21 OF EDUCATION SHALL REVIEW AND APPROVE THE TESTING PROCESS DEVELOPED BY THE
22 TASK FORCE.

23 Sec. 12. Title 15, chapter 2, article 3, Arizona Revised Statutes, is
24 amended by adding section 15-257, to read:

25 15-257. Employee evaluation system

26 NOTWITHSTANDING SECTION 38-618.01, THE SUPERINTENDENT OF PUBLIC
27 INSTRUCTION MAY ESTABLISH A SYSTEM TO EVALUATE THE PERFORMANCE OF EMPLOYEES
28 OF THE DEPARTMENT OF EDUCATION.

29 Sec. 13. Section 15-302, Arizona Revised Statutes, is amended to read:

30 15-302. Powers and duties

31 A. The county school superintendent shall:

32 1. Distribute all laws, reports, circulars, instructions and forms
33 ~~which~~ THAT he may receive for the use of school officers.

34 2. Record all official acts.

35 3. Appoint governing board members of school districts to fill all
36 vacancies, but the term of the appointment shall be until the next regular
37 election for governing board members, at which time a successor shall be
38 elected to serve the unexpired portion of the term. WITHIN THIRTY DAYS AFTER
39 NOTIFICATION OF A VACANCY, THE SCHOOL DISTRICT GOVERNING BOARD MAY SUBMIT UP
40 TO THREE NAMES TO THE COUNTY SCHOOL SUPERINTENDENT FOR CONSIDERATION OF AN
41 APPOINTMENT TO FILL THE VACANCY. THE COUNTY SCHOOL SUPERINTENDENT IS NOT
42 REQUIRED TO APPOINT A GOVERNING BOARD MEMBER FROM THE LIST OF NAMES SUBMITTED
43 BY THE GOVERNING BOARD. The county school superintendent ~~may~~, if he deems it
44 in the best interest of the community, MAY call a special election to fill

1 the vacancies. If an election is called, the newly elected member shall
2 serve for the remainder of the unexpired portion of the term.

3 4. Make reports, when directed by the superintendent of public
4 instruction, showing matters relating to schools in his county as may be
5 required on the forms furnished by the superintendent of public instruction.

6 5. Have such powers and perform such duties as otherwise prescribed by
7 law.

8 6. On or before October 1 of each year, make a report to the
9 superintendent of public instruction showing the amount of monies received
10 from state school funds, special school district taxes and other sources, the
11 total expenditures for school purposes and the balance on hand to the credit
12 of each school district at the close of the school year.

13 7. Contract with the board of supervisors for the board of supervisors
14 to conduct all regular school district elections.

15 8. Be responsible, in cooperation with the governing boards and the
16 board of supervisors, for all special school district elections.

17 9. Maintain teacher and administrator certification records of
18 effective dates and expiration dates of teachers' and administrators'
19 certificates in compliance with guidelines prescribed in the uniform system
20 of financial records for those school districts for which the county school
21 superintendent is the fiscal agent. The county school superintendent shall
22 not draw a warrant in payment of a teacher's, substitute teacher's or
23 administrator's salary unless the teacher, substitute teacher or
24 administrator is legally certified during the fiscal year in which the term
25 for payment is demanded.

26 10. Notify a school district three years before the expiration of a
27 revenue control limit override that the school district's budget must be
28 adjusted in the final two years of the override pursuant to section 15-481,
29 subsections P and Q, if the voters do not approve another override.

30 11. In collaboration with the department of education and other state
31 agencies, provide assistance to school districts and charter schools on the
32 use of student data, staff development, curriculum alignment and technology
33 to improve student performance.

34 12. Assist schools in meeting yearly adequate progress goals as defined
35 by criteria established by the state board of education and implemented by
36 the department of education.

37 B. At the request of school districts and charter schools, the county
38 school superintendent may provide discretionary programs in addition to the
39 programs prescribed in subsection A **OF THIS SECTION**.

40 C. The county school superintendent may provide the services
41 prescribed in subsections A and B **OF THIS SECTION** in the county or jointly
42 with two or more counties pursuant to title 11, chapter 7, article 3.

43 D. Each county school superintendent may establish an advisory
44 committee to the office of the county school superintendent.

1 Sec. 14. Section 15-321, Arizona Revised Statutes, is amended to read:

2 15-321. Organization; election of officers of the board;
3 meetings; execution of warrants; exemption

4 A. For the purpose of organization of the governing board, the board
5 shall meet at the most convenient public facility in the school district. If
6 a public facility is not available within the district, the governing board
7 may meet at any available public facility that is convenient to all governing
8 board members, regardless of the county or school district in which the
9 facility is located. The governing board shall meet between January 1 and
10 January 15 next following the election.

11 B. At the organization meeting the governing board shall elect from
12 among the membership of the board a president.

13 C. For the purposes of regular meetings of the governing board, the
14 board shall meet at the most convenient public facility in the school
15 district. If a public facility is not available within the district, the
16 governing board may meet at any available public facility that is convenient
17 to all governing board members, regardless of the county or school district
18 in which the facility is located.

19 D. The board shall prescribe rules for its own government. It shall
20 hold a regular meeting at least once each month during the regular school
21 year and may hold other meetings as often as called. If action has been
22 taken and documents approved at a meeting, they may be signed subsequently by
23 individual board members.

24 E. Business shall be conducted at regular or special meetings. Notice
25 of a special meeting, and of the hour for a regular meeting if no hour is
26 fixed by a rule of the board, shall be delivered personally or by telephone.

27 ~~F. A majority of the members of a governing board constitutes a quorum
28 for the transaction of business.~~

29 F. NOTWITHSTANDING SECTION 1-216, IF THERE IS A VACANCY OR VACANCIES
30 ON THE GOVERNING BOARD, A MAJORITY OF THE REMAINING MEMBERS OF THE GOVERNING
31 BOARD CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS, EXCEPT THAT A
32 SINGLE MEMBER OF THE GOVERNING BOARD DOES NOT CONSTITUTE A QUORUM.

33 G. An order on a county school superintendent for a salary or other
34 expense shall be signed by ~~a majority of~~ the governing board. An order for
35 salary or other expense may be signed between board meetings if a resolution
36 to that effect has been passed prior to the signing at a regular or special
37 meeting of the governing board and the order is ratified by the board at the
38 next regular or special meeting of the governing board.

39 H. This section does not apply to county school superintendents in the
40 conduct of an accommodation school.

41 Sec. 15. Section 15-341, Arizona Revised Statutes, is amended to read:

42 15-341. General powers and duties; immunity; delegation

43 A. The governing board shall:

- 1 1. Prescribe and enforce policies and procedures for the governance of
2 the schools, not inconsistent with law or rules prescribed by the state board
3 of education.
- 4 2. Maintain the schools established by it for the attendance of each
5 pupil for a period of not less than one hundred seventy-five school days or
6 two hundred school days, as applicable, or its equivalent as approved by the
7 superintendent of public instruction for a school district operating on a
8 year-round operation basis, to offer an educational program on the basis of a
9 four day school week or to offer an alternative kindergarten program on the
10 basis of a three day school week, in each school year, and if the funds of
11 the district are sufficient, for a longer period, and as far as practicable
12 with equal rights and privileges.
- 13 3. Exclude from schools all books, publications, papers or audiovisual
14 materials of a sectarian, partisan or denominational character.
- 15 4. Manage and control the school property within its district.
- 16 5. Acquire school furniture, apparatus, equipment, library books and
17 supplies for the use of the schools.
- 18 6. Prescribe the curricula and criteria for the promotion and
19 graduation of pupils as provided in sections 15-701 and 15-701.01.
- 20 7. Furnish, repair and insure, at full insurable value, the school
21 property of the district.
- 22 8. Construct school buildings on approval by a vote of the district
23 electors.
- 24 9. Make in the name of the district conveyances of property belonging
25 to the district and sold by the board.
- 26 10. Purchase school sites when authorized by a vote of the district at
27 an election conducted as nearly as practicable in the same manner as the
28 election provided in section 15-481 and held on a date prescribed in section
29 15-491, subsection E, but such authorization shall not necessarily specify
30 the site to be purchased and such authorization shall not be necessary to
31 exchange unimproved property as provided in section 15-342, paragraph 23.
- 32 11. Construct, improve and furnish buildings used for school purposes
33 when such buildings or premises are leased from the national park service.
- 34 12. Purchase school sites or construct, improve and furnish school
35 buildings from the proceeds of the sale of school property only on approval
36 by a vote of the district electors.
- 37 13. Hold pupils to strict account for disorderly conduct on school
38 property.
- 39 14. Discipline students for disorderly conduct on the way to and from
40 school.
- 41 15. Except as provided in section 15-1224, deposit all monies received
42 by the district as gifts, grants and devises with the county treasurer who
43 shall credit the deposits as designated in the uniform system of financial
44 records. If not inconsistent with the terms of the gifts, grants and devises
45 given, any balance remaining after expenditures for the intended purpose of

1 the monies have been made shall be used for reduction of school district
2 taxes for the budget year, except that in the case of accommodation schools
3 the county treasurer shall carry the balance forward for use by the county
4 school superintendent for accommodation schools for the budget year.

5 16. Provide that, if a parent or legal guardian chooses not to accept a
6 decision of the teacher as provided in section 15-521, paragraph ~~3~~ 2, the
7 parent or legal guardian may request in writing that the governing board
8 review the teacher's decision. Nothing in this paragraph shall be construed
9 to release school districts from any liability relating to a child's
10 promotion or retention.

11 17. Provide for adequate supervision over pupils in instructional and
12 noninstructional activities by certificated or noncertificated personnel.

13 18. Use school monies received from the state and county school
14 apportionment exclusively for payment of salaries of teachers and other
15 employees and contingent expenses of the district.

16 19. Make an annual report to the county school superintendent on or
17 before October 1 ~~each year~~ in the manner and form and on the blanks
18 prescribed by the superintendent of public instruction or county school
19 superintendent. The board shall also make reports directly to the county
20 school superintendent or the superintendent of public instruction whenever
21 required.

22 20. Deposit all monies received by school districts other than student
23 activities monies or monies from auxiliary operations as provided in sections
24 15-1125 and 15-1126 with the county treasurer to the credit of the school
25 district except as provided in paragraph 21 of this subsection and sections
26 15-1223 and 15-1224, and the board shall expend the monies as provided by law
27 for other school funds.

28 21. Establish a bank account in which the board during a month may
29 deposit miscellaneous monies received directly by the district. The board
30 shall remit monies deposited in the bank account at least monthly to the
31 county treasurer for deposit as provided in paragraph 20 of this subsection
32 and in accordance with the uniform system of financial records.

33 22. Employ an attorney admitted to practice in this state whose
34 principal practice is in the area of commercial real estate, or a real estate
35 broker who is licensed by this state and who is employed by a reputable
36 commercial real estate company, to negotiate a lease of five or more years
37 for the school district if the governing board decides to enter into a lease
38 of five or more years as lessor of school buildings or grounds as provided in
39 section 15-342, paragraph 7 or 10. Any lease of five or more years
40 negotiated pursuant to this paragraph shall provide that the lessee is
41 responsible for payment of property taxes pursuant to the requirements of
42 section 42-11104.

43 23. Prescribe and enforce policies and procedures for disciplinary
44 action against a teacher who engages in conduct that is a violation of the
45 policies of the governing board but that is not cause for dismissal of the

1 teacher or for revocation of the certificate of the teacher. Disciplinary
2 action may include suspension without pay for a period of time not to exceed
3 ten school days. Disciplinary action shall not include suspension with pay
4 or suspension without pay for a period of time longer than ten school days.
5 The procedures shall include notice, hearing and appeal provisions for
6 violations that are cause for disciplinary action. The governing board may
7 designate a person or persons to act on behalf of the board on these matters.

8 24. Prescribe and enforce policies and procedures for disciplinary
9 action against an administrator who engages in conduct that is a violation of
10 the policies of the governing board regarding duties of administrators but
11 that is not cause for dismissal of the administrator or for revocation of the
12 certificate of the administrator. Disciplinary action may include suspension
13 without pay for a period of time not to exceed ten school days. Disciplinary
14 action shall not include suspension with pay or suspension without pay for a
15 period of time longer than ten school days. The procedures shall include
16 notice, hearing and appeal provisions for violations that are cause for
17 disciplinary action. The governing board may designate a person or persons
18 to act on behalf of the board on these matters. For violations that are
19 cause for dismissal, the provisions of notice, hearing and appeal in chapter
20 5, article 3 of this title shall apply. The filing of a timely request for a
21 hearing suspends the imposition of a suspension without pay or a dismissal
22 pending completion of the hearing.

23 25. Notwithstanding section 13-3108, prescribe and enforce policies and
24 procedures that prohibit a person from carrying or possessing a weapon on
25 school grounds unless the person is a peace officer or has obtained specific
26 authorization from the school administrator.

27 26. Prescribe and enforce policies and procedures relating to the
28 health and safety of all pupils participating in district sponsored practice
29 sessions, games or other interscholastic athletic activities, including the
30 provision of water.

31 27. Prescribe and enforce policies and procedures regarding the smoking
32 of tobacco within school buildings. The policies and procedures shall be
33 adopted in consultation with school district personnel and members of the
34 community and shall state whether smoking is prohibited in school buildings.
35 If smoking in school buildings is not prohibited, the policies and procedures
36 shall clearly state the conditions and circumstances under which smoking is
37 permitted, those areas in a school building that may be designated as smoking
38 areas and those areas in a school building that may not be designated as
39 smoking areas.

40 28. Establish an assessment, data gathering and reporting system as
41 prescribed in chapter 7, article 3 of this title.

42 29. Provide special education programs and related services pursuant to
43 section 15-764, subsection A to all children with disabilities as defined in
44 section 15-761.

1 30. Administer competency tests prescribed by the state board of
2 education for the graduation of pupils from high school.

3 31. Secure insurance coverage for all construction projects for
4 purposes of general liability, property damage and workers' compensation and
5 secure performance and payment bonds for all construction projects.

6 32. Keep on file the resumes of all current and former employees who
7 provide instruction to pupils at a school. Resumes shall include an
8 individual's educational and teaching background and experience in a
9 particular academic content subject area. A school district shall inform
10 parents and guardians of the availability of the resume information and shall
11 make the resume information available for inspection on request of parents
12 and guardians of pupils enrolled at a school. Nothing in this paragraph
13 shall be construed to require any school to release personally identifiable
14 information in relation to any teacher or employee, including the teacher's
15 or employee's address, salary, social security number or telephone number.

16 33. Report to local law enforcement agencies any suspected crime
17 against a person or property that is a serious offense as defined in section
18 13-706 or that involves a deadly weapon or dangerous instrument or serious
19 physical injury and any conduct that poses a threat of death or serious
20 physical injury to employees, students or anyone on the property of the
21 school. This paragraph does not limit or preclude the reporting by a school
22 district or an employee of a school district of suspected crimes other than
23 those required to be reported by this paragraph. For the purposes of this
24 paragraph, "dangerous instrument", "deadly weapon" and "serious physical
25 injury" have the same meanings prescribed in section 13-105.

26 34. In conjunction with local law enforcement agencies and local
27 medical facilities, develop an emergency response plan for each school in the
28 school district in accordance with minimum standards developed jointly by the
29 department of education and the division of emergency management within the
30 department of emergency and military affairs.

31 35. Annually assign at least one school district employee to
32 participate in a multihazard crisis training program developed or selected by
33 the governing board.

34 36. Provide written notice to the parents or guardians of all students
35 affected in the school district at least thirty days prior to a public
36 meeting to discuss closing a school within the school district. The notice
37 shall include the reasons for the proposed closure and the time and place of
38 the meeting. The governing board shall fix a time for a public meeting on
39 the proposed closure no less than thirty days before voting in a public
40 meeting to close the school. The school district governing board shall give
41 notice of the time and place of the meeting. At the time and place
42 designated in the notice, the school district governing board shall hear
43 reasons for or against closing the school. The school district governing
44 board is exempt from this paragraph if it is determined by the governing

1 board that the school shall be closed because it poses a danger to the health
2 or safety of the pupils or employees of the school.

3 37. Incorporate instruction on Native American history into appropriate
4 existing curricula.

5 38. Prescribe and enforce policies and procedures allowing pupils who
6 have been diagnosed with anaphylaxis by a health care provider licensed
7 pursuant to title 32, chapter 13, 14, 17 or 25 or by a registered nurse
8 practitioner licensed and certified pursuant to title 32, chapter 15 to carry
9 and self-administer emergency medications, including auto-injectable
10 epinephrine, while at school and at school sponsored activities. The pupil's
11 name on the prescription label on the medication container or on the
12 medication device and annual written documentation from the pupil's parent or
13 guardian to the school that authorizes possession and self-administration is
14 sufficient proof that the pupil is entitled to the possession and
15 self-administration of the medication. The policies shall require a pupil
16 who uses auto-injectable epinephrine while at school and at school sponsored
17 activities to notify the nurse or the designated school staff person of the
18 use of the medication as soon as practicable. A school district and its
19 employees are immune from civil liability with respect to all decisions made
20 and actions taken that are based on good faith implementation of the
21 requirements of this paragraph, except in cases of wanton or wilful neglect.

22 39. Allow the possession and self-administration of prescription
23 medication for breathing disorders in handheld inhaler devices by pupils who
24 have been prescribed that medication by a health care professional licensed
25 pursuant to title 32. The pupil's name on the prescription label on the
26 medication container or on the handheld inhaler device and annual written
27 documentation from the pupil's parent or guardian to the school that
28 authorizes possession and self-administration shall be sufficient proof that
29 the pupil is entitled to the possession and self-administration of the
30 medication. A school district and its employees are immune from civil
31 liability with respect to all decisions made and actions taken that are based
32 on a good faith implementation of the requirements of this paragraph.

33 40. Prescribe and enforce policies and procedures to prohibit pupils
34 from harassing, intimidating and bullying other pupils on school grounds, on
35 school property, on school buses, at school bus stops and at school sponsored
36 events and activities that include the following components:

37 (a) A procedure for pupils to confidentially report to school
38 officials incidents of harassment, intimidation or bullying.

39 (b) A procedure for parents and guardians of pupils to submit written
40 reports to school officials of suspected incidents of harassment,
41 intimidation or bullying.

42 (c) A requirement that school district employees report suspected
43 incidents of harassment, intimidation or bullying to the appropriate school
44 official.

1 (d) A formal process for the documentation of reported incidents of
2 harassment, intimidation or bullying, except that no documentation shall be
3 maintained unless the harassment, intimidation or bullying has been proven.

4 (e) A formal process for the investigation by the appropriate school
5 officials of suspected incidents of harassment, intimidation or bullying.

6 (f) Disciplinary procedures for pupils who have admitted or been found
7 to have committed incidents of harassment, intimidation or bullying.

8 (g) A procedure that sets forth consequences for submitting false
9 reports of incidents of harassment, intimidation or bullying.

10 41. Prescribe and enforce policies and procedures regarding changing or
11 adopting attendance boundaries that include the following components:

12 (a) A procedure for holding public meetings to discuss attendance
13 boundary changes or adoptions that allows public comments.

14 (b) A procedure to notify the parents or guardians of the students
15 affected.

16 (c) A procedure to notify the residents of the households affected by
17 the attendance boundary changes.

18 (d) A process for placing public meeting notices and proposed maps on
19 the school district's website for public review, if the school district
20 maintains a website.

21 (e) A formal process for presenting the attendance boundaries of the
22 affected area in public meetings that allows public comments.

23 (f) A formal process for notifying the residents and parents or
24 guardians of the affected area as to the decision of the governing board on
25 the school district's website, if the school district maintains a website.

26 (g) A formal process for updating attendance boundaries on the school
27 district's website within ninety days of an adopted boundary change. The
28 school district shall send a direct link to the school district's attendance
29 boundaries website to the department of real estate.

30 (h) If the land that a school was built on was donated within the past
31 five years, a formal process to notify the entity that donated the land
32 affected by the decision of the governing board.

33 42. If the state board of education determines that the school district
34 has committed an overexpenditure as defined in section 15-107, provide a copy
35 of the fiscal management report submitted pursuant to section 15-107,
36 subsection H on its website and make copies available to the public on
37 request. The school district shall comply with a request within five
38 business days after receipt.

39 B. Notwithstanding subsection A, paragraphs 8, 10 and 12 of this
40 section, the county school superintendent may construct, improve and furnish
41 school buildings or purchase or sell school sites in the conduct of an
42 accommodation school.

43 C. If any school district acquires real or personal property, whether
44 by purchase, exchange, condemnation, gift or otherwise, the governing board
45 shall pay to the county treasurer any taxes on the property that were unpaid

1 as of the date of acquisition, including penalties and interest. The lien
2 for unpaid delinquent taxes, penalties and interest on property acquired by a
3 school district:

4 1. Is not abated, extinguished, discharged or merged in the title to
5 the property.

6 2. Is enforceable in the same manner as other delinquent tax liens.

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

18 E. A school district, its governing board members, its school council
19 members and its employees are immune from civil liability for the
20 consequences of adoption and implementation of policies and procedures
21 pursuant to subsection A of this section and section 15-342. This waiver
22 does not apply if the school district, its governing board members, its
23 school council members or its employees are guilty of gross negligence or
24 intentional misconduct.

25 F. A governing board may delegate in writing to a superintendent,
26 principal or head teacher the authority to prescribe procedures that are
27 consistent with the governing board's policies.

28 G. Notwithstanding any other provision of this title, a school
29 district governing board shall not take any action that would result in ~~an~~
30 ~~immediate reduction or~~ a reduction ~~within three years~~ of pupil square footage
31 ~~that would cause the school district to fall below the minimum adequate gross~~
32 ~~square footage requirements prescribed in section 15-2011, subsection C,~~
33 unless the governing board notifies the school facilities board established
34 by section 15-2001 of the proposed action and receives written approval from
35 the school facilities board to take the action. A reduction includes an
36 increase in administrative space that results in a reduction of pupil square
37 footage or sale of school sites or buildings, or both. A reduction includes
38 a reconfiguration of grades that results in a reduction of pupil square
39 footage of any grade level. This subsection does not apply to temporary
40 reconfiguration of grades to accommodate new school construction if the
41 temporary reconfiguration does not exceed one year. The sale of equipment
42 that results in ~~an immediate reduction or~~ a reduction ~~within three years~~ that
43 falls below the equipment requirements prescribed in section 15-2011,
44 subsection B is subject to commensurate withholding of school district
45 capital outlay revenue limit monies pursuant to the direction of the school

1 facilities board. Except as provided in section 15-342, paragraph 10,
2 proceeds from the sale of school sites, buildings or other equipment shall be
3 deposited in the school plant fund as provided in section 15-1102.

4 H. Subsections C through G of this section apply to a county board of
5 supervisors and a county school superintendent when operating and
6 administering an accommodation school.

7 I. Until the state board of education and the auditor general adopt
8 rules pursuant to section 15-213, subsection I, a school district may procure
9 construction services, including services for new school construction
10 pursuant to section 15-2041, by the construction-manager-at-risk,
11 design-build and job-order-contracting methods of project delivery as
12 provided in title 41, chapter 23, except that the rules adopted by the
13 director of the department of administration do not apply to procurements
14 pursuant to this subsection. Any procurement commenced pursuant to this
15 subsection may be completed pursuant to this subsection.

16 Sec. 16. Section 15-382, Arizona Revised Statutes, is amended to read:

17 15-382. Authorization to self-insure; pooling agreements; joint
18 agreements; trustees; liability coverage and pool
19 requirements; remedies; definition

20 A. The school district governing board may determine that
21 self-insurance is necessary or desirable in the best interest of the district
22 and may provide for a self-insurance program or programs for the district
23 including risk management consultation. Any risk management consultant or
24 insurance administrator employed by a school district governing board must be
25 licensed under title 20, chapter 2, article 3 or 9, and such license shall be
26 verified by the school district governing board prior to employment.

27 B. The school district governing board may:

28 1. Enter into intergovernmental agreements or contracts with pools
29 operated pursuant to section 11-952.01 for participation in programs offered
30 by public agency pools. In addition to the joint purchasing of insurance or
31 reinsurance or the pooling of the retention of risks for property, fidelity
32 and liability losses, these programs may include the joint purchasing of
33 health benefits plan, life or disability insurance, prepaid legal insurance
34 or the pooling of the retention of their risks of losses for health,
35 accident, life or disability claims or the provision of the health and
36 medical services enumerated in section 36-2907.

37 2. Separately contract with a trustee or board of trustees that
38 provides a common self-insurance program or programs with pooled funds and
39 risks to more than one district, a community college district formed pursuant
40 to ~~title 15,~~ chapter 12, ~~article 3~~ OF THIS TITLE or an association of school
41 districts within this state that is funded by member school districts
42 pursuant to section 15-342, paragraph 8 OR A POOL OPERATED PURSUANT TO
43 SECTION 11-952.01.

1 3. Enter into cooperative procurement agreements with other districts
2 pursuant to rules adopted pursuant to section 15-213 to participate in
3 programs for either self-insurance or the joint purchase of insurance.

4 4. Separately establish a self-insurance program solely for its
5 district.

6 C. If the school district governing board, either alone or in
7 combination with another school district or an association of school
8 districts in this state that is funded by member school districts pursuant to
9 section 15-342, paragraph 8, establishes a self-insurance program, the
10 governing board or an association of school districts shall place all funds
11 into a trust to be used for payment of uninsured losses, claims, defense
12 costs, costs of training designed to reduce losses and claims, the cost of
13 related employee benefits including wellness programs, life, disability and
14 other fully and partially insured group insurance plans, programs that allow
15 for participation in a cafeteria plan that meets the requirements of the
16 United States internal revenue code of 1986, costs of administration and
17 other related expenses. If a member of the governing board or employee of
18 the school district is acting as a trustee, the trust shall be administered
19 by at least five joint trustees, of whom no more than one may be a member of
20 the governing board and no more than one may be an employee of the school
21 district. Funds budgeted for self-insurance programs shall be subject to
22 district budgetary requirements, including but not limited to the
23 requirements that the funds be budgeted within the maintenance and operation
24 section and the budget limitation on increases as prescribed in section
25 15-905. The funds, upon being placed in the trust, shall not lapse at the
26 close of the fiscal year, except that any cash balance remaining after
27 termination of the program and settlement of all outstanding claims shall be
28 used for reduction of school district taxes for the budget year. The
29 trustees of the trust must be bonded, a stop-loss provision must be
30 incorporated in the trust agreement, and an annual audit must be performed by
31 a certified public accountant and a copy of the report kept on file in the
32 district office for a period of not less than five years.

33 D. If the self-insurance is for liability losses, excess liability
34 coverage or reinsurance must be obtained as follows:

35 1. For a single school district, the coverage may include an annual
36 aggregate limit of no more than three million dollars and the maximum
37 retention per occurrence shall be one-half of one per cent of the district's
38 maintenance and operation budget.

39 2. For a pool, the coverage may include an annual aggregate limit set
40 by the pool and the maximum retention per occurrence shall not exceed
41 one-half of one per cent of the combined maintenance and operation budgets of
42 the districts in the pool.

43 E. "Self-insurance program" as used in this section means programs
44 established and wholly or partially funded by the school district governing

1 board. Self-insurance programs shall not include a decision by the governing
2 board not to carry insurance upon a particular risk or risks.

3 Sec. 17. Repeal

4 Section 15-509, Arizona Revised Statutes, is repealed.

5 Sec. 18. Section 15-521, Arizona Revised Statutes, is amended to read:

6 15-521. Duties of teachers

7 Every teacher shall:

8 1. Hold pupils to strict account for disorderly conduct.

9 ~~2. Keep a school register, which the governing board shall carefully~~
10 ~~preserve as one of the records of the school.~~

11 2. TAKE AND MAINTAIN DAILY CLASSROOM ATTENDANCE.

12 3. Make the decision to promote or retain a pupil in grade in a common
13 school or to pass or fail a pupil in a course in high school. Such decisions
14 may be overturned only as provided in section 15-342, paragraph 11.

15 4. Comply with all rules and policies of the governing board that
16 relate to the duties prescribed in this section.

17 Sec. 19. Section 15-532, Arizona Revised Statutes, is amended to read:

18 15-532. Examination on state and United States constitutions;
19 exemption; intergovernmental agreement or contract
20 for administration and evaluation

21 A. A person applying for a certificate authorizing the person to
22 become superintendent, principal or teacher in a school ~~shall~~, in addition to
23 fingerprinting and other requirements, SHALL either complete the required
24 classes or pass a satisfactory examination ~~upon~~ ON the provisions and
25 principles of the Constitutions of the United States and Arizona.

26 B. A person who has not met the requirements of this section at the
27 time application is made but who has met all other requirements shall be
28 granted a certificate for not more than three years, except that a person who
29 has not met the requirements of this section but who has met all other
30 requirements and who applies for a certificate authorizing the person to
31 teach an academic course that focuses predominantly on history, government,
32 social studies, citizenship, law or civics shall be granted a certificate for
33 not more than one year. No additional certificate may be granted until all
34 requirements have been fulfilled as provided by the regulations of the state
35 board of education governing certification of teachers.

36 C. A noncertified person, qualified under the federal and state plans
37 for vocational education, shall be exempt from ~~the provisions of~~ this section
38 for the purpose of acting as an instructor for special adult and evening
39 classes.

40 D. The state board of education may enter into intergovernmental
41 agreements or contracts pursuant to title 11, chapter 7, article 3 for the
42 administration and evaluation of the examination on the provisions and
43 principles of the Constitutions of the United States and Arizona.
44 Notwithstanding section 15-531, the intergovernmental agreement or contract
45 shall specify the fee for the administration and evaluation of the

1 examination and may provide for the retention of all or part of the monies by
2 the contractor administering and evaluating the examination.

3 E. A university under the jurisdiction of the Arizona board of regents
4 shall ~~administer~~ OFFER the ~~examination~~ CLASSES required by this section to
5 students who are pursuing a bachelor of arts degree in education or a
6 bachelor of science degree in education at that university.

7 Sec. 20. Section 15-534, Arizona Revised Statutes, is amended to read:
8 15-534. Fingerprinting; review and disciplinary action;
9 violation; classification

10 A. A person who applies for a certificate as prescribed in section
11 15-203 shall have a valid fingerprint clearance card that is issued pursuant
12 to title 41, chapter 12, article 3.1. Applicants who possess a certificate
13 pursuant to section 15-203 and who apply for additional certificates or who
14 apply for renewal of any certificate shall meet one of the following
15 requirements:

16 1. Have a valid fingerprint clearance card issued pursuant to title
17 41, chapter 12, article 3.1.

18 2. Provide proof of the submission of an application for a fingerprint
19 clearance card. Applicants who have been denied a fingerprint clearance card
20 shall also provide proof that the applicant qualifies for a good cause
21 exception hearing pursuant to section 41-619.55.

22 B. A person who is certified pursuant to section 15-203 shall maintain
23 a valid fingerprint clearance card during the valid period of the person's
24 certificate or certificates.

25 C. The state board of education may review and determine whether to
26 renew or not issue a certificate to an applicant for certification on a
27 finding that the applicant engaged in conduct that is immoral or
28 unprofessional or engaged in conduct that would warrant disciplinary action
29 if the person had been certified at the time that the alleged conduct
30 occurred. The board shall prescribe guidelines for this process.

31 D. The state board of education may take disciplinary action against
32 or not renew the certificate of a person on a finding that the certificated
33 person engaged in conduct that is immoral or unprofessional or engaged in
34 conduct that would warrant disciplinary action if the person had been
35 certified at the time that the alleged conduct occurred. The board shall
36 prescribe guidelines for this process.

37 E. The department of education may issue conditional certification
38 before an applicant has obtained a valid fingerprint clearance card. A
39 conditional certificate may be used only for employment in the school
40 district that submits an application to the department of education for
41 conditional certification pursuant to this subsection. The state board of
42 education may revoke conditional certification if the information on the
43 application for a conditional certificate is false or incomplete, the
44 applicant is denied a fingerprint clearance card or the conditional
45 certificate is used for employment in a school district other than the school

1 district that is indicated on the application for conditional certification.
2 In addition to any other conditions or requirements deemed necessary by the
3 superintendent of public instruction to protect the health and safety of
4 pupils, conditional certification shall be issued before the applicant
5 obtains a fingerprint clearance card if all of the following conditions are
6 met:

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

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

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

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

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

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

25 F. Before employment, schools or school districts shall verify the
26 certification and fingerprint status of applicants who apply for school or
27 school district positions that require certification.

28 G. Any person who participates in a teacher preparation program that
29 is approved by the state board OF EDUCATION or any person who is contracted
30 by this state, by a school district or by a charter school to provide
31 tutoring services shall obtain a fingerprint clearance card pursuant to this
32 section before the person participates in field experience in which services
33 will be provided directly to pupils. A PERSON WHO PARTICIPATES IN A TEACHER
34 PREPARATION PROGRAM AND WHO DOES NOT PARTICIPATE IN FIELD EXPERIENCE OR
35 STUDENT TEACHING IN THIS STATE SHALL NOT BE REQUIRED TO OBTAIN A FINGERPRINT
36 CLEARANCE CARD PURSUANT TO THIS SECTION.

37 H. The state board of education shall notify the department of public
38 safety if the state board of education receives credible evidence that a
39 person who possesses a valid fingerprint clearance card either:

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

42 2. Falsified information on the form required by subsection A of this
43 section.

1 I. A person who makes a false statement, representation or
2 certification in any application for certification is guilty of a class 3
3 misdemeanor.

4 Sec. 21. Section 15-534.01, Arizona Revised Statutes, is amended to
5 read:

6 15-534.01. Withdrawal of applications for administrative
7 deficiencies; denial of applications for
8 substantive deficiencies; certification timeframes

9 A. If an application for certification is administratively incomplete,
10 as prescribed in title 41, chapter 6, article 7.1, the department of
11 education or the state board of education shall issue a written notice
12 requesting the applicant to supply missing documents or other information.
13 The department of education shall consider an application for certification
14 withdrawn if, within sixty days after the date of the notice, the applicant
15 does not supply the documentation or information requested or does not
16 provide reasonable documented justification for the delay. On receipt of
17 documented justification, the department of education shall provide an
18 additional thirty days for the requested documentation or information to be
19 provided before considering an application withdrawn.

20 B. If an application for certification is substantively incomplete, as
21 prescribed in title 41, chapter 6, article 7.1, the department of education
22 or the state board of education may issue a written notice requesting the
23 applicant to supply additional documents or other information. The state
24 board of education **OR THE DEPARTMENT OF EDUCATION** shall deny an application
25 for certification if, within sixty days after the date of the notice, the
26 applicant does not supply the documentation or information requested.

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

30 D. A notice of denial of an application for certification issued by
31 the state board of education **OR THE DEPARTMENT OF EDUCATION** pursuant to
32 subsection B of this section shall comply with section 41-1076.

33 E. A person who has had an application for certification denied by the
34 state board of education **OR THE DEPARTMENT OF EDUCATION** pursuant to
35 subsection B of this section may file a written request for a hearing with
36 the state board of education within fifteen days after receiving the notice
37 of denial. The appeal shall be conducted in accordance with title 41,
38 chapter 6, article 6.

39 Sec. 22. Section 15-701.01, Arizona Revised Statutes, is amended to
40 read:

41 15-701.01. High school; graduation; requirements; community
42 college or university courses; transfer from
43 private schools; academic credit

44 A. The state board of education shall:

1 1. Prescribe a minimum course of study, as defined in section 15-101
2 and incorporating the academic standards adopted by the state board of
3 education, for the graduation of pupils from high school.

4 2. Prescribe competency requirements for the graduation of pupils from
5 high school incorporating the academic standards in at least the areas of
6 reading, writing, mathematics, science and social studies.

7 3. Develop and adopt competency tests pursuant to section 15-741 for
8 the graduation of pupils from high school in at least the areas of reading,
9 writing and mathematics and shall establish passing scores for each such
10 test. FOR THE PURPOSES OF SATISFYING THE GRADUATION REQUIREMENTS OF THIS
11 PARAGRAPH, A MINIMUM SCORE AS DETERMINED BY THE STATE BOARD OF EDUCATION ON
12 ONE OR MORE NATIONALLY RECOGNIZED COLLEGE ENTRANCE EXAMINATIONS SELECTED BY
13 THE STATE BOARD OF EDUCATION, IF EXAMINATION INFORMATION MAY BE ACCESSED AT
14 NO COST TO THIS STATE, MAY BE SUBSTITUTED FOR PASSING SCORES ON THE ARIZONA
15 INSTRUMENT TO MEASURE STANDARDS TEST IF A PUPIL WHO IS IN GRADE TWELVE HAS
16 PREVIOUSLY TAKEN THE ARIZONA INSTRUMENT TO MEASURE STANDARDS TEST AT EACH
17 ADMINISTRATION OF THE TEST. A pupil shall not be required to pass the
18 competency test required in this paragraph to graduate from high school if
19 the pupil transfers into the district from out-of-state and has successfully
20 passed a statewide assessment test on state adopted standards that are
21 substantially equivalent to the state board adopted academic standards.

22 B. If the state board of education adopts a competency test as a
23 graduation requirement for a child with a disability as defined in section
24 15-761 or a child who receives special education pursuant to section 15-763,
25 pupils with individualized education programs shall not be required to
26 achieve passing scores on competency tests in order to graduate from high
27 school unless the pupil is learning at a level appropriate for the pupil's
28 grade level in a specific academic area and unless passing scores on a
29 competency test are specifically required in a specific academic area by the
30 pupil's individualized education program as mutually agreed on by the pupil's
31 parents and the pupil's individualized education program team or the pupil,
32 if the pupil is at least eighteen years of age. These competency tests shall
33 be administered to pupils in a manner prescribed in the pupil's
34 individualized education program, and school districts and charter schools
35 shall make specific and appropriate accommodations for pupils with
36 individualized education programs. Pupils with section 504 plans as defined
37 in section 15-731 shall not be required to achieve passing scores on
38 competency tests in order to graduate from high school unless the pupil is
39 learning at a level appropriate for the pupil's grade level in a specific
40 academic area and unless passing scores on a competency test are specifically
41 required in a specific academic area by the pupil's section 504 plan that is
42 developed in consultation with the pupil's parents. These competency tests
43 shall be administered to pupils in a manner prescribed in the pupil's section
44 504 plan, and school districts and charter schools shall make specific and
45 appropriate accommodations for pupils with a section 504 plan. A pupil with

1 an individualized education program or a section 504 plan who graduates from
2 high school but who is not required to achieve a passing score on a
3 competency test in order to graduate from high school shall receive the
4 standard diploma issued by the school district or charter school.

5 C. The governing board of a school district shall:

6 1. Prescribe curricula that include the academic standards in the
7 required subject areas pursuant to subsection A, paragraph 1 of this section.

8 2. Prescribe criteria for the graduation of pupils from the high
9 schools in the school district. These criteria shall include accomplishment
10 of the academic standards in at least reading, writing, mathematics, science
11 and social studies, as determined by district assessment. Other criteria may
12 include additional measures of academic achievement and attendance.

13 D. The governing board may prescribe the course of study and
14 competency requirements for the graduation of pupils from high school ~~which~~
15 ~~THAT~~ are in addition to or higher than the course of study and competency
16 requirements which the state board prescribes.

17 E. The governing board may prescribe competency requirements for the
18 passage of pupils in courses ~~which~~ ~~THAT~~ are required for graduation from high
19 school.

20 F. A teacher shall determine whether to pass or fail a pupil in a
21 course in high school as provided in section 15-521, paragraph 3 on the basis
22 of the competency requirements, if any have been prescribed. The governing
23 board, if it reviews the decision of a teacher to pass or fail a pupil in a
24 course in high school as provided in section 15-342, paragraph 11, shall base
25 its decision on the competency requirements, if any have been prescribed.

26 G. Graduation requirements established by the governing board may be
27 met by a pupil who passes courses in the required or elective subjects at a
28 community college or university, if the course is at a higher level than the
29 course taught in the high school attended by the pupil or, if the course is
30 not taught in the high school, the level of the course is equal to or higher
31 than the level of a high school course. The governing board shall determine
32 if the subject matter of the community college or university course is
33 appropriate to the specific requirement the pupil intends it to fulfill and
34 if the level of the community college or university course is less than,
35 equal to or higher than a high school course, and the governing board shall
36 award one-half of a carnegie unit for each three semester hours of credit the
37 pupil earns in an appropriate community college or university course. If a
38 pupil is not satisfied with the decision of the governing board regarding the
39 amount of credit granted or the subjects for which credit is granted, the
40 pupil may request that the state board of education review the decision of
41 the governing board, and the state board shall make the final determination
42 of the amount of credit to be given the pupil and for which subjects. The
43 governing board shall not limit the number of credits that is required for
44 high school graduation and that may be met by taking community college or
45 university courses. For the purposes of this subsection:

1 1. "Community college" means an educational institution that is
2 operated by a community college district as defined in section 15-1401 or a
3 postsecondary educational institution under the jurisdiction of an Indian
4 tribe recognized by the United States department of the interior.

5 2. "University" means a university under the jurisdiction of the
6 Arizona board of regents.

7 H. A pupil who transfers from a private school shall be provided with
8 a list that indicates those credits that have been accepted and denied by the
9 school district. A pupil may request to take an examination in each
10 particular course in which credit has been denied. The school district shall
11 accept the credit for each particular course in which the pupil takes an
12 examination and receives a passing score on a test designed and evaluated by
13 a teacher in the school district who teaches the subject matter on which the
14 examination is based. In addition to the above requirements, the governing
15 board of a school district may prescribe requirements for the acceptance of
16 the credits of pupils who transfer from a private school.

17 I. If a pupil who was previously enrolled in a charter school or
18 school district enrolls in a school district in this state, the school
19 district shall accept credits earned by the pupil in courses or instructional
20 programs at the charter school or school district. The governing board of a
21 school district may adopt a policy concerning the application of transfer
22 credits for the purpose of DETERMINING whether a credit earned by a pupil who
23 was previously enrolled in a school district or charter school will be
24 assigned as an elective or core credit.

25 J. A pupil who transfers from a charter school or school district
26 shall be provided with a list that indicates which credits have been accepted
27 as an elective credit and which credits have been accepted as a core credit
28 by the school district. Within ten school days after receiving the list, a
29 pupil may request to take an examination in each particular course in which
30 core credit has been denied. The school district shall accept the credit as
31 a core credit for each particular course in which the pupil takes an
32 examination and receives a passing score on a test designed and evaluated by
33 a teacher in the school district who teaches the subject matter on which the
34 examination is based.

35 K. The state board of education shall adopt rules to allow high school
36 pupils who can demonstrate competency in a particular academic course or
37 subject to obtain academic credit for the course or subject without enrolling
38 in the course or subject.

39 Sec. 23. Section 15-761, Arizona Revised Statutes, is amended to read:
40 15-761. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Autism" means a developmental disability that significantly
43 affects verbal and nonverbal communication and social interaction and that
44 adversely affects educational performance. Characteristics include
45 irregularities and impairments in communication, engagement in repetitive

1 activities and stereotyped movements, resistance to environmental change or
2 change in daily routines and unusual responses to sensory experiences.
3 Autism does not include children with characteristics of emotional disability
4 as defined in this section.

5 2. "Child with a disability":

6 (a) Means a child who is at least three years but less than twenty-two
7 years of age, who has been evaluated pursuant to section 15-766 and found to
8 have at least one of the following disabilities and who, because of the
9 disability, needs special education and related services:

10 (i) Autism.

11 (ii) DEVELOPMENTAL DELAY.

12 ~~(iii)~~ (iii) Emotional disability.

13 ~~(iii)~~ (iv) Hearing impairment.

14 ~~(iv)~~ (v) Other health impairments.

15 ~~(v)~~ (vi) Specific learning disability.

16 ~~(vi)~~ (vii) Mild, moderate or severe mental retardation.

17 ~~(vii)~~ (viii) Multiple disabilities.

18 ~~(viii)~~ (ix) Multiple disabilities with severe sensory impairment.

19 ~~(ix)~~ (x) Orthopedic impairment.

20 ~~(x) — Preschool moderate delay.~~

21 (xi) Preschool severe delay.

22 ~~(xii) — Preschool speech/language delay.~~

23 ~~(xiii)~~ (xii) Speech/language impairment.

24 ~~(xiv)~~ (xiii) Traumatic brain injury.

25 ~~(xv)~~ (xiv) Visual impairment.

26 (b) Does not include a child if the determinant factor for the
27 classification is one or more of the following:

28 (i) A lack of appropriate instruction in reading, including essential
29 components of reading instruction.

30 (ii) A lack of appropriate instruction in mathematics.

31 (iii) Difficulty in writing, speaking or understanding the English
32 language due to an environmental background in which a language other than
33 English is primarily or exclusively used.

34 3. "DEVELOPMENTAL DELAY" MEANS PERFORMANCE BY A CHILD WHO IS AT LEAST
35 THREE YEARS OF AGE BUT UNDER TEN YEARS OF AGE ON A NORM-REFERENCED TEST THAT
36 MEASURES AT LEAST ONE AND ONE-HALF, BUT NOT MORE THAN THREE STANDARD
37 DEVIATIONS BELOW THE MEAN FOR CHILDREN OF THE SAME CHRONOLOGICAL AGE IN TWO
38 OR MORE OF THE FOLLOWING AREAS:

39 (a) COGNITIVE DEVELOPMENT.

40 (b) PHYSICAL DEVELOPMENT.

41 (c) COMMUNICATION DEVELOPMENT.

42 (d) SOCIAL OR EMOTIONAL DEVELOPMENT.

43 (e) ADAPTIVE DEVELOPMENT.

44 THE RESULTS OF THE NORM-REFERENCED MEASURE MUST BE CORROBORATED BY
45 INFORMATION FROM A COMPREHENSIVE DEVELOPMENT ASSESSMENT AND FROM PARENTAL

1 INPUT, IF AVAILABLE, AS MEASURED BY A JUDGMENT BASED ASSESSMENT OR SURVEY.
2 IF THERE IS A DISCREPANCY BETWEEN THE MEASURES, THE EVALUATION TEAM SHALL
3 DETERMINE ELIGIBILITY BASED ON A PREPONDERANCE OF THE INFORMATION PRESENTED.

4 ~~3-~~ 4. "Due process hearing" means a fair and impartial administrative
5 hearing conducted by the state educational agency by an impartial
6 administrative law judge in accordance with federal and state law.

7 ~~4-~~ 5. "Educational disadvantage" means a condition which has limited
8 a child's opportunity for educational experience resulting in a child
9 achieving less than a normal level of learning development.

10 ~~5-~~ 6. "Eligibility for special education" means the pupil must have
11 one of the disabilities contained in paragraph 2 of this section and must
12 also require special education services in order to benefit from an
13 educational program.

14 ~~6-~~ 7. "Emotional disability":

15 (a) Means a condition whereby a child exhibits one or more of the
16 following characteristics over a long period of time and to a marked degree
17 that adversely affects the child's performance in the educational
18 environment:

19 (i) An inability to learn which cannot be explained by intellectual,
20 sensory or health factors.

21 (ii) An inability to build or maintain satisfactory interpersonal
22 relationships with peers and teachers.

23 (iii) Inappropriate types of behavior or feelings under normal
24 circumstances.

25 (iv) A general pervasive mood of unhappiness or depression.

26 (v) A tendency to develop physical symptoms or fears associated with
27 personal or school problems.

28 (b) Includes children who are schizophrenic but does not include
29 children who are socially maladjusted unless they are also determined to have
30 an emotional disability as determined by evaluation as provided in section
31 15-766.

32 ~~7-~~ 8. "Hearing impairment" means a loss of hearing acuity, as
33 determined by evaluation pursuant to section 15-766, which interferes with
34 the child's performance in the educational environment and requires the
35 provision of special education and related services.

36 ~~8-~~ 9. "Home school district" means the school district in which the
37 person resides who has legal custody of the child, as provided in section
38 15-824, subsection B. If the child is a ward of the state and a specific
39 person does not have legal custody of the child, the home school district is
40 the district that the child last attended or, if the child has not previously
41 attended a public school in this state, the school district within which the
42 child currently resides.

43 ~~9-~~ 10. "Impartial administrative law judge" means an administrative
44 law judge of the office of administrative hearings who is knowledgeable in
45 the laws governing special education and administrative hearings.

1 ~~10.~~ 11. "Individualized education program" means a written statement,
2 as defined in 20 United States Code sections 1401 and 1412, for providing
3 special education and related services to a child with a disability.

4 ~~11.~~ 12. "Individualized education program team" means a team whose
5 task is to develop an appropriate educational program for the child and has
6 the same meaning prescribed in 20 United States Code section 1414.

7 ~~12.~~ 13. "Mental retardation" means a significant impairment of general
8 intellectual functioning that exists concurrently with deficits in adaptive
9 behavior and that adversely affects the child's performance in the
10 educational environment.

11 ~~13.~~ 14. "Mild mental retardation" means performance on standard
12 measures of intellectual and adaptive behavior between two and three standard
13 deviations below the mean for children of the same age.

14 ~~14.~~ 15. "Moderate mental retardation" means performance on standard
15 measures of intellectual and adaptive behavior between three and four
16 standard deviations below the mean for children of the same age.

17 ~~15.~~ 16. "Multidisciplinary evaluation team" means a team of persons
18 including individuals described as the individualized education program team
19 and other qualified professionals who shall determine whether a child is
20 eligible for special education.

21 ~~16.~~ 17. "Multiple disabilities" means learning and developmental
22 problems resulting from multiple disabilities as determined by evaluation
23 pursuant to section 15-766 that cannot be provided for adequately in a
24 program designed to meet the needs of children with less complex
25 disabilities. Multiple disabilities include any of the following conditions
26 that require the provision of special education and related services:

27 (a) Two or more of the following conditions:

28 (i) Hearing impairment.

29 (ii) Orthopedic impairment.

30 (iii) Moderate mental retardation.

31 (iv) Visual impairment.

32 (b) A child with a disability listed in subdivision (a) of this
33 paragraph existing concurrently with a condition of mild mental retardation,
34 emotional disability or specific learning disability.

35 ~~17.~~ 18. "Multiple disabilities with severe sensory impairment" means
36 multiple disabilities that include at least one of the following:

37 (a) Severe visual impairment or severe hearing impairment in
38 combination with another severe disability.

39 (b) Severe visual impairment and severe hearing impairment.

40 ~~18.~~ 19. "Orthopedic impairment" means one or more severe orthopedic
41 impairments and includes those that are caused by congenital anomaly, disease
42 and other causes, such as amputation or cerebral palsy, and that adversely
43 affect a child's performance in the educational environment.

44 ~~19.~~ 20. "Other health impairments" means limited strength, vitality or
45 alertness, including a heightened alertness to environmental stimuli, due to

1 chronic or acute health problems which adversely affect a pupil's educational
2 performance.

3 ~~20.~~ 21. "Out-of-home care" means the placement of a child with a
4 disability outside of the home environment and includes twenty-four hour
5 residential care, group care or foster care on either a full-time or
6 part-time basis.

7 ~~21.~~ 22. "Parent" means:

8 (a) Either a natural or adoptive parent of a child.

9 (b) A guardian, but not this state if the child is a ward of this
10 state.

11 (c) A person acting in the place of a natural or adoptive parent with
12 whom the child lives or a person who is legally responsible for the child's
13 welfare.

14 (d) A surrogate parent.

15 (e) A foster parent to the extent permitted by state law.

16 ~~22.~~ 23. "Preschool child" means a child who is at least three years of
17 age but who has not reached the required age for kindergarten, subject to
18 section 15-771, subsection G.

19 ~~23. "Preschool moderate delay" means performance by a preschool child
20 on a norm-referenced test that measures at least one and one-half, but not
21 more than three, standard deviations below the mean for children of the same
22 chronological age in two or more of the following areas:~~

23 ~~(a) Cognitive development.~~

24 ~~(b) Physical development.~~

25 ~~(c) Communication development.~~

26 ~~(d) Social or emotional development.~~

27 ~~(e) Adaptive development.~~

28 ~~The results of the norm-referenced measure must be corroborated by
29 information from a comprehensive developmental assessment and from parental
30 input, if available, as measured by a judgment-based assessment or
31 survey. If there is a discrepancy between the measures, the evaluation team
32 shall determine eligibility based on a preponderance of the information
33 presented.~~

34 24. "Preschool severe delay" means performance by a preschool child on
35 a norm-referenced test that measures more than three standard deviations
36 below the mean for children of the same chronological age in one or more of
37 the following areas:

38 (a) Cognitive development.

39 (b) Physical development.

40 (c) Communication development.

41 (d) Social or emotional development.

42 (e) Adaptive development.

43 The results of the norm-referenced measure must be corroborated by
44 information from a comprehensive developmental assessment and from parental
45 input, if available, as measured by a judgment based assessment or

1 survey. If there is a discrepancy between the measures, the evaluation team
2 shall determine eligibility based on a preponderance of the information
3 presented.

4 ~~25. "Preschool speech/language delay" means performance by a preschool~~
5 ~~child on a norm referenced language test that measures at least one and~~
6 ~~one half standard deviations below the mean for children of the same~~
7 ~~chronological age or whose speech, out of context, is unintelligible to a~~
8 ~~listener who is unfamiliar with the child. Eligibility under this paragraph~~
9 ~~is appropriate only if a comprehensive developmental assessment or~~
10 ~~norm-referenced assessment and parental input indicate that the child is not~~
11 ~~eligible for services under another preschool category. The evaluation team~~
12 ~~shall determine eligibility based on a preponderance of the information~~
13 ~~presented.~~

14 ~~26.~~ 25. "Prior written notice" means written prior notice that a
15 public educational agency is required to send to parents whenever the public
16 educational agency proposes or refuses to initiate or change the
17 identification, evaluation or educational placement of a child with a
18 disability or the provision of a free appropriate public education.

19 ~~27.~~ 26. "Public educational agency" means a school district, a charter
20 school, an accommodation school, a state supported institution or any other
21 political subdivision of this state that is responsible for providing
22 education to children with disabilities.

23 ~~28.~~ 27. "Related services" means those supportive services, as defined
24 in 20 United States Code section 1401, that are required to assist a child
25 with a disability who is eligible to receive special education services in
26 order for the child to benefit from special education.

27 ~~29.~~ 28. "Residential special education placement" means the placement
28 of a child with a disability in a public or private residential program, as
29 provided in section 15-765, subsection G, in order to provide necessary
30 special education and related services as specified in the child's
31 individualized education program.

32 ~~30.~~ 29. "Severe mental retardation" means performance on standard
33 measures of intellectual and adaptive behavior measures at least four
34 standard deviations below the mean for children of the same age.

35 ~~31.~~ 30. "Special education" means specially designed instruction that
36 meets the unique needs of a child with a disability and that is provided
37 without cost to the parents of the child.

38 ~~32.~~ 31. "Special education referral" means a written request for an
39 evaluation to determine whether a pupil is eligible for special education
40 services that, for referrals not initiated by a parent, includes
41 documentation of appropriate efforts to educate the pupil in the regular
42 education program.

43 ~~33.~~ 32. "Specially designed instruction" means adapting the content,
44 methodology or delivery of instruction to address the unique needs of a child
45 with a disability and to ensure that child's access to the general curriculum

1 as identified in the academic standards adopted by the state board of
2 education.

3 ~~34.~~ 33. "Specific learning disability" has the same meaning ~~prescribed~~
4 **DEFINED** in 20 United States Code section 1401.

5 ~~35.~~ 34. "Speech/language impairment":

6 (a) **FOR A PRESCHOOL CHILD, MEANS PERFORMANCE ON A NORM-REFERENCED**
7 **LANGUAGE TEST THAT MEASURES AT LEAST ONE AND ONE-HALF STANDARD DEVIATIONS**
8 **BELOW THE MEAN FOR CHILDREN OF THE SAME CHRONOLOGICAL AGE OR WHOSE SPEECH,**
9 **OUT OF CONTEXT, IS UNINTELLIGIBLE TO A LISTENER WHO IS UNFAMILIAR WITH THE**
10 **CHILD. ELIGIBILITY FOR A PRESCHOOL CHILD UNDER THIS SUBDIVISION IS**
11 **APPROPRIATE ONLY WHEN A COMPREHENSIVE DEVELOPMENTAL ASSESSMENT AND PARENTAL**
12 **INPUT INDICATE THAT THE PRESCHOOL CHILD IS NOT ELIGIBLE FOR SERVICES UNDER**
13 **ANOTHER PRESCHOOL CATEGORY OR UNDER THE DEVELOPMENTAL DELAY CATEGORY.**

14 (b) **FOR A CHILD WHO HAS REACHED THE REQUIRED AGE FOR KINDERGARTEN,**
15 means A speech or language impairment as ~~prescribed~~ **DEFINED** in 34 Code of
16 Federal Regulations section 300.8.

17 ~~36.~~ 35. "State educational agency" means the Arizona department of
18 education.

19 ~~37.~~ 36. "State placing agency" has the same meaning prescribed in
20 section 15-1181.

21 ~~38.~~ 37. "Surrogate parent" means a person who has been appointed by
22 the court or by the department of education pursuant to section 15-763.01 in
23 order to represent a child in decisions regarding special education.

24 ~~39.~~ 38. "Traumatic brain injury":

25 (a) Means an acquired injury to the brain that is caused by an
26 external physical force and that results in total or partial functional
27 disability or psychosocial impairment, or both, that adversely affects
28 educational performance.

29 (b) Applies to open or closed head injuries resulting in mild,
30 moderate or severe impairments in one or more areas, including cognition,
31 language, memory, attention, reasoning, abstract thinking, judgment, problem
32 solving, sensory, perceptual and motor abilities, psychosocial behavior,
33 physical functions, information processing and speech.

34 (c) Does not include brain injuries that are congenital or
35 degenerative or brain injuries induced by birth trauma.

36 ~~40.~~ 39. "Visual impairment" has the same meaning prescribed in 34 Code
37 of Federal Regulations section 300.8.

38 ~~41.~~ 40. "Ward of the state" has the same meaning prescribed in 20
39 United States Code section 1401.

40 Sec. 24. Section 15-771, Arizona Revised Statutes, is amended to read:

41 15-771. **Preschool programs for children with disabilities;**
42 **definition**

43 A. Each school district shall make available an educational program
44 for preschool children with disabilities who reside in the school district
45 and who are not already receiving services that have been provided through

1 the department of education. The state board of education shall prescribe
2 rules for use by school districts in the provision of educational programs
3 for preschool children with disabilities. School districts are required to
4 make available educational programs for and, for the purposes of calculating
5 average daily attendance and average daily membership, may count only those
6 preschool children who meet the definition of one of the following
7 conditions:

- 8 1. Hearing impairment.
- 9 2. Visual impairment.
- 10 3. ~~Preschool moderate~~ DEVELOPMENTAL delay.
- 11 4. Preschool severe delay.
- 12 5. ~~Preschool~~ Speech/language ~~delay~~ IMPAIRMENT.

~~13 The school district may make available an educational program for speech or
14 language impaired preschool children whose performance on a standardized
15 language test measures one and one-half standard deviations, or less, below
16 the mean for children of their chronological age. The superintendent of
17 public instruction shall prescribe guidelines for the eligibility of speech
18 or language impaired children, except that eligibility under this subsection
19 is appropriate only when a comprehensive developmental assessment or
20 norm-referenced assessment and parental input indicate that the child is not
21 eligible for services under another preschool category.~~

22 B. The state board of education shall annually distribute to school
23 districts at least ten per cent of the monies it receives under 20 United
24 States Code section 1411(c)(2) for preschool programs for children with
25 disabilities. The state board shall prescribe rules for the distribution of
26 the monies to school districts.

27 C. The governing board of a school district may submit a proposal to
28 the state board of education as prescribed by the state board to receive
29 monies for preschool programs for children with disabilities as provided in
30 this section. A school district which receives monies as provided in this
31 section shall include the monies in the special projects section of the
32 budget as provided in section 15-903, subsection F.

33 D. All school districts shall cooperate, if appropriate, with
34 community organizations that provide services to preschool children with
35 disabilities in the provision of the district's preschool program for
36 children with disabilities.

37 E. A school district may not admit a child to a preschool program for
38 children with disabilities unless the child is evaluated and recommended for
39 placement as provided in sections 15-766 and 15-767.

40 F. For the purpose of allocating monies pursuant to 20 United States
41 Code section 1419(g)(1)(B)(i), "jurisdiction" includes high school pupils
42 whose parents reside within the boundaries of a common school district. The
43 common school district shall ensure such high school pupils are not counted
44 by any other school district.

1 G. For THE purposes of this section, "preschool child" means a child
2 who is at least three years of age but who has not reached the age required
3 for kindergarten. A preschool child is three years of age as of the date of
4 the child's third birthday. The governing board of a school district may
5 admit otherwise eligible children who are within ninety days of their third
6 birthday, if it is determined to be in the best interest of the individual
7 child. Children who are admitted to programs for preschool children prior to
8 their third birthday are entitled to the same provision of services as if
9 they were three years of age.

10 Sec. 25. Section 15-816.01, Arizona Revised Statutes, is amended to
11 read:

12 15-816.01. Enrollment policies

13 A. School district governing boards shall establish policies and shall
14 implement an open enrollment policy without charging tuition. Tuition may be
15 charged to nonresident pupils only if the tuition is authorized under section
16 15-764, subsection C, section 15-797, subsection C, section 15-823,
17 subsection A, section 15-824, subsection A or section 15-825 or if two school
18 districts have entered into a voluntary agreement for the payment of tuition
19 for certain pupils. These policies shall include admission criteria,
20 application procedures and transportation provisions. A SCHOOL DISTRICT MAY
21 GIVE ENROLLMENT PREFERENCE TO AND RESERVE CAPACITY FOR PUPILS WHO ARE
22 CHILDREN OF PERSONS WHO ARE EMPLOYED BY OR AT A SCHOOL IN THE SCHOOL
23 DISTRICT. A copy of the district policies for open enrollment shall be filed
24 with the department of education.

25 B. The governing board of the district educating the pupil may provide
26 transportation limited to no more than twenty miles each way to and from the
27 school of attendance or to and from a pickup point on a regular
28 transportation route or for the total miles traveled each day to an adjacent
29 district for eligible nonresident pupils who meet the economic eligibility
30 requirements established under the national school lunch and child nutrition
31 acts (42 United States Code sections 1751 through 1785) for free or reduced
32 price lunches.

33 C. The governing board of the district educating the pupil shall
34 provide transportation limited to no more than twenty miles each way to and
35 from the school of attendance or to and from a pickup point on a regular
36 transportation route or for the total miles traveled each day to an adjacent
37 district for nonresident pupils with disabilities whose individualized
38 education program specifies that transportation is necessary for fulfillment
39 of the program.

40 Sec. 26. Section 15-901, Arizona Revised Statutes, is amended to read:

41 15-901. Definitions

42 A. In this title, unless the context otherwise requires:

43 1. "Average daily attendance" or "ADA" means actual average daily
44 attendance through the first one hundred days or two hundred days in session,
45 as applicable.

1 2. "Average daily membership" means the total enrollment of fractional
2 students and full-time students, minus withdrawals, of each school day
3 through the first one hundred days or two hundred days in session, as
4 applicable, for the current year. Withdrawals include students formally
5 withdrawn from schools and students absent for ten consecutive school days,
6 except for excused absences as identified by the department of education.
7 For computation purposes, the effective date of withdrawal shall be
8 retroactive to the last day of actual attendance of the student.

9 (a) "Fractional student" means:

10 (i) For common schools, until fiscal year 2001-2002, a preschool child
11 who is enrolled in a program for preschool children with disabilities of at
12 least three hundred sixty minutes each week or a kindergarten student at
13 least five years of age prior to January 1 of the school year and enrolled in
14 a school kindergarten program that meets at least three hundred forty-six
15 instructional hours during the minimum number of days required in a school
16 year as provided in section 15-341. In fiscal year 2001-2002, the
17 kindergarten program shall meet at least three hundred forty-eight hours. In
18 fiscal year 2002-2003, the kindergarten program shall meet at least three
19 hundred fifty hours. In fiscal year 2003-2004, the kindergarten program
20 shall meet at least three hundred fifty-two hours. In fiscal year 2004-2005,
21 the kindergarten program shall meet at least three hundred fifty-four
22 hours. In fiscal year 2005-2006 and each fiscal year thereafter, the
23 kindergarten program shall meet at least three hundred fifty-six
24 hours. Lunch periods and recess periods may not be included as part of the
25 instructional hours unless the child's individualized education program
26 requires instruction during those periods and the specific reasons for such
27 instruction are fully documented. In computing the average daily membership,
28 preschool children with disabilities and kindergarten students shall be
29 counted as one-half of a full-time student. For common schools, a part-time
30 student is a student enrolled for less than the total time for a full-time
31 student as defined in this section. A part-time common school student shall
32 be counted as one-fourth, one-half or three-fourths of a full-time student if
33 the student is enrolled in an instructional program that is at least
34 one-fourth, one-half or three-fourths of the time a full-time student is
35 enrolled as defined in subdivision (b) of this paragraph.

36 (ii) For high schools, a part-time student who is enrolled in less
37 than four subjects that count toward graduation as defined by the state board
38 of education in a recognized high school and who is taught in less than
39 twenty instructional hours per week prorated for any week with fewer than
40 five school days. A part-time high school student shall be counted as
41 one-fourth, one-half or three-fourths of a full-time student if the student
42 is enrolled in an instructional program that is at least one-fourth, one-half
43 or three-fourths of a full-time instructional program as defined in
44 subdivision (c) of this paragraph.

1 (b) "Full-time student" means:

2 (i) For common schools, a student who is at least six years of age
3 prior to January 1 of a school year, who has not graduated from the highest
4 grade taught in the school district and who is regularly enrolled in a course
5 of study required by the state board of education. Until fiscal year
6 2001-2002, first, second and third grade students, ungraded students at least
7 six, but under nine, years of age by September 1 or ungraded group B children
8 with disabilities who are at least five, but under six, years of age by
9 September 1 must be enrolled in an instructional program that meets for a
10 total of at least six hundred ninety-two hours during the minimum number of
11 days required in a school year as provided in section 15-341. In fiscal year
12 2001-2002, the program shall meet at least six hundred ninety-six hours. In
13 fiscal year 2002-2003, the program shall meet at least seven hundred
14 hours. In fiscal year 2003-2004, the program shall meet at least seven
15 hundred four hours. In fiscal year 2004-2005, the program shall meet at
16 least seven hundred eight hours. In fiscal year 2005-2006 and in each fiscal
17 year thereafter, the program shall meet at least seven hundred twelve
18 hours. Until fiscal year 2001-2002, fourth, fifth and sixth grade students
19 or ungraded students at least nine, but under twelve, years of age by
20 September 1 must be enrolled in an instructional program that meets for a
21 total of at least eight hundred sixty-five hours during the minimum number of
22 school days required in a school year as provided in section 15-341. In
23 fiscal year 2001-2002, the program shall meet at least eight hundred seventy
24 hours. In fiscal year 2002-2003, the program shall meet at least eight
25 hundred seventy-five hours. In fiscal year 2003-2004, the program shall meet
26 at least eight hundred eighty hours. In fiscal year 2004-2005, the program
27 shall meet at least eight hundred eighty-five hours. In fiscal year
28 2005-2006 and each fiscal year thereafter, the program shall meet at least
29 eight hundred ninety hours. Until fiscal year 2001-2002, seventh and eighth
30 grade students or ungraded students at least twelve, but under fourteen,
31 years of age by September 1 must be enrolled in an instructional program that
32 meets for a total of at least one thousand thirty-eight hours during the
33 minimum number of days required in a school year as provided in section
34 15-341. In fiscal year 2001-2002, the program shall meet at least one
35 thousand forty-four hours. In fiscal year 2002-2003, the program shall meet
36 at least one thousand fifty hours. In fiscal year 2003-2004, the program
37 shall meet at least one thousand fifty-six hours. In fiscal year 2004-2005,
38 the program shall meet at least one thousand sixty-two hours. In fiscal year
39 2005-2006 and each fiscal year thereafter, the program shall meet at least
40 one thousand sixty-eight hours. Lunch periods and recess periods may not be
41 included as part of the instructional hours unless the student is a child
42 with a disability and the child's individualized education program requires
43 instruction during those periods and the specific reasons for such
44 instruction are fully documented.

1 (ii) For high schools, except as provided in section 15-105, a student
2 not graduated from the highest grade taught in the school district, or an
3 ungraded student at least fourteen years of age by September 1, and enrolled
4 in at least a full-time instructional program of subjects that count toward
5 graduation as defined by the state board of education in a recognized high
6 school. A full-time student shall not be counted more than once for
7 computation of average daily membership.

8 (iii) For homebound or hospitalized, a student receiving at least four
9 hours of instruction per week.

10 (c) "Full-time instructional program" means:

11 (i) Through fiscal year 2000-2001, at least four subjects, each of
12 which, if taught each school day for the minimum number of days required in a
13 school year, would meet a minimum of one hundred twenty hours a year, or the
14 equivalent, or one or more subjects taught in amounts of time totaling at
15 least twenty hours per week prorated for any week with fewer than five school
16 days.

17 (ii) For fiscal year 2001-2002, an instructional program that meets at
18 least a total of seven hundred four hours during the minimum number of days
19 required and includes at least four subjects each of which, if taught each
20 school day for the minimum number of days required in a school year, would
21 meet a minimum of one hundred twenty-two hours a year, or the equivalent, or
22 one or more subjects taught in amounts of time totaling at least twenty hours
23 per week prorated for any week with fewer than five school days.

24 (iii) For fiscal year 2002-2003, an instructional program that meets
25 at least a total of seven hundred eight hours during the minimum number of
26 days required and includes at least four subjects each of which, if taught
27 each school day for the minimum number of days required in a school year,
28 would meet a minimum of one hundred twenty-two hours a year, or the
29 equivalent, or one or more subjects taught in amounts of time totaling at
30 least twenty hours per week prorated for any week with fewer than five school
31 days.

32 (iv) For fiscal year 2003-2004, an instructional program that meets at
33 least a total of seven hundred twelve hours during the minimum number of days
34 required and includes at least four subjects each of which, if taught each
35 school day for the minimum number of days required in a school year, would
36 meet a minimum of one hundred twenty-three hours a year, or the equivalent,
37 or one or more subjects taught in amounts of time totaling at least twenty
38 hours per week prorated for any week with fewer than five school days.

39 (v) For fiscal year 2004-2005, an instructional program that meets at
40 least a total of seven hundred sixteen hours during the minimum number of
41 days required and includes at least four subjects each of which, if taught
42 each school day for the minimum number of days required in a school year,
43 would meet a minimum of one hundred twenty-three hours a year, or the
44 equivalent, or one or more subjects taught in amounts of time totaling at

1 least twenty hours per week prorated for any week with fewer than five school
2 days.

3 (vi) For fiscal year 2005-2006 and each fiscal year thereafter, an
4 instructional program that meets at least a total of seven hundred twenty
5 hours during the minimum number of days required and includes at least four
6 subjects each of which, if taught each school day for the minimum number of
7 days required in a school year, would meet a minimum of one hundred
8 twenty-three hours a year, or the equivalent, or one or more subjects taught
9 in amounts of time totaling at least twenty hours per week prorated for any
10 week with fewer than five school days.

11 3. "Budget year" means the fiscal year for which the school district
12 is budgeting and which immediately follows the current year.

13 4. "Common school district" means a political subdivision of this
14 state offering instruction to students in programs for preschool children
15 with disabilities and kindergarten programs and grades one through eight.

16 5. "Current year" means the fiscal year in which a school district is
17 operating.

18 6. "Daily attendance" means:

19 (a) For common schools, days in which a pupil:

20 (i) Of a kindergarten program or ungraded, but not group B children
21 with disabilities, and at least five, but under six, years of age by
22 September 1 attends at least three-quarters of the instructional time
23 scheduled for the day. If the total instruction time scheduled for the year
24 is at least three hundred forty-six hours but is less than six hundred
25 ninety-two hours such attendance shall be counted as one-half day of
26 attendance. If the instructional time scheduled for the year is at least six
27 hundred ninety-two hours, "daily attendance" means days in which a pupil
28 attends at least one-half of the instructional time scheduled for the day.
29 Such attendance shall be counted as one-half day of attendance.

30 (ii) Of the first, second or third grades, ungraded and at least six,
31 but under nine, years of age by September 1 or ungraded group B children with
32 disabilities and at least five, but under six, years of age by September 1
33 attends more than three-quarters of the instructional time scheduled for the
34 day.

35 (iii) Of the fourth, fifth or sixth grades or ungraded and at least
36 nine, but under twelve, years of age by September 1 attends more than
37 three-quarters of the instructional time scheduled for the day, except as
38 provided in section 15-797.

39 (iv) Of the seventh or eighth grades or ungraded and at least twelve,
40 but under fourteen, years of age by September 1 attends more than
41 three-quarters of the instructional time scheduled for the day, except as
42 provided in section 15-797.

43 (b) For common schools, the attendance of a pupil at three-quarters or
44 less of the instructional time scheduled for the day shall be counted as

1 follows, except as provided in section 15-797 and except that attendance for
2 a fractional student shall not exceed the pupil's fractional membership:

3 (i) If attendance for all pupils in the school is based on quarter
4 days, the attendance of a pupil shall be counted as one-fourth of a day's
5 attendance for each one-fourth of full-time instructional time attended.

6 (ii) If attendance for all pupils in the school is based on half days,
7 the attendance of at least three-quarters of the instructional time scheduled
8 for the day shall be counted as a full day's attendance and attendance at a
9 minimum of one-half but less than three-quarters of the instructional time
10 scheduled for the day equals one-half day of attendance.

11 (c) For common schools, the attendance of a preschool child with
12 disabilities shall be counted as one-fourth day's attendance for each
13 thirty-six minutes of attendance not including lunch periods and recess
14 periods, except as provided in paragraph 2, subdivision (a), item (i) of this
15 subsection for children with disabilities up to a maximum of three hundred
16 sixty minutes each week.

17 (d) For high schools or ungraded schools in which the pupil is at
18 least fourteen years of age by September 1, the attendance of a pupil shall
19 not be counted as a full day unless the pupil is actually and physically in
20 attendance and enrolled in and carrying four subjects, each of which, if
21 taught each school day for the minimum number of days required in a school
22 year, would meet a minimum of one hundred twenty hours a year, or the
23 equivalent, that count toward graduation in a recognized high school except
24 as provided in section 15-797 and subdivision (e) of this paragraph.
25 Attendance of a pupil carrying less than the load prescribed shall be
26 prorated.

27 (e) For high schools or ungraded schools in which the pupil is at
28 least fourteen years of age by September 1, the attendance of a pupil may be
29 counted as one-fourth of a day's attendance for each sixty minutes of
30 instructional time in a subject that counts toward graduation, except that
31 attendance for a pupil shall not exceed the pupil's full or fractional
32 membership.

33 (f) For homebound or hospitalized, a full day of attendance may be
34 counted for each day during a week in which the student receives at least
35 four hours of instruction.

36 (g) For school districts which maintain school for an approved
37 year-round school year operation, attendance shall be based on a computation,
38 as prescribed by the superintendent of public instruction, of the one hundred
39 eighty days' equivalency or two hundred days' equivalency, as applicable, of
40 instructional time as approved by the superintendent of public instruction
41 during which each pupil is enrolled.

42 7. "Daily route mileage" means the sum of:

43 (a) The total number of miles driven daily by all buses of a school
44 district while transporting eligible students from their residence to the

1 school of attendance and from the school of attendance to their residence on
2 scheduled routes approved by the superintendent of public instruction.

3 (b) The total number of miles driven daily on routes approved by the
4 superintendent of public instruction for which a private party, a political
5 subdivision or a common or a contract carrier is reimbursed for bringing an
6 eligible student from the place of his residence to a school transportation
7 pickup point or to the school of attendance and from the school
8 transportation scheduled return point or from the school of attendance to his
9 residence. Daily route mileage includes the total number of miles necessary
10 to drive to transport eligible students from and to their residence as
11 provided in this paragraph.

12 8. "District support level" means the base support level plus the
13 transportation support level.

14 9. "Eligible students" means:

15 (a) Students who are transported by or for a school district and who
16 qualify as full-time students or fractional students, except students for
17 whom transportation is paid by another school district or a county school
18 superintendent, and:

19 (i) For common school students, whose place of actual residence within
20 the school district is more than one mile from the school facility of
21 attendance or students who are admitted pursuant to section 15-816.01 and who
22 meet the economic eligibility requirements established under the national
23 school lunch and child nutrition acts (42 United States Code sections 1751
24 through 1785) for free or reduced price lunches and whose actual place of
25 residence outside the school district boundaries is more than one mile from
26 the school facility of attendance.

27 (ii) For high school students, whose place of actual residence within
28 the school district is more than one and one-half miles from the school
29 facility of attendance or students who are admitted pursuant to section
30 15-816.01 and who meet the economic eligibility requirements established
31 under the national school lunch and child nutrition acts (42 United States
32 Code sections 1751 through 1785) for free or reduced price lunches and whose
33 actual place of residence outside the school district boundaries is more than
34 one and one-half miles from the school facility of attendance.

35 (b) Kindergarten students, for purposes of computing the number of
36 eligible students under subdivision (a), item (i) of this paragraph, shall be
37 counted as full-time students, notwithstanding any other provision of law.

38 (c) Children with disabilities, as defined by section 15-761, who are
39 transported by or for the school district or who are admitted pursuant to
40 chapter 8, article 1.1 of this title and who qualify as full-time students or
41 fractional students regardless of location or residence within the school
42 district or children with disabilities whose transportation is required by
43 the pupil's individualized education program.

1 (d) Students whose residence is outside the school district and who
2 are transported within the school district on the same basis as students who
3 reside in the school district.

4 10. "Enrolled" or "enrollment" means when a pupil is currently
5 registered in the school district.

6 11. "GDP price deflator" means the average of the four implicit price
7 deflators for the gross domestic product reported by the United States
8 department of commerce for the four quarters of the calendar year.

9 12. "High school district" means a political subdivision of this state
10 offering instruction to students for grades nine through twelve or that
11 portion of the budget of a common school district which is allocated to
12 teaching high school subjects with permission of the state board of
13 education.

14 13. "Revenue control limit" means the base revenue control limit plus
15 the transportation revenue control limit.

16 14. "Student count" means average daily membership as prescribed in
17 this subsection for the fiscal year prior to the current year, except that
18 for the purpose of budget preparation student count means average daily
19 membership as prescribed in this subsection for the current year.

20 15. "Submit electronically" means submitted in a format and in a manner
21 prescribed by the department of education.

22 16. "Total bus mileage" means the total number of miles driven by all
23 buses of a school district during the school year.

24 17. "Total students transported" means all eligible students
25 transported from their place of residence to a school transportation pickup
26 point or to the school of attendance and from the school of attendance or
27 from the school transportation scheduled return point to their place of
28 residence.

29 18. "Unified school district" means a political subdivision of the
30 state offering instruction to students in programs for preschool children
31 with disabilities and kindergarten programs and grades one through twelve.

32 B. In this title, unless the context otherwise requires:

33 1. "Base" means the revenue level per student count specified by the
34 legislature.

35 2. "Base level" means:

36 (a) For fiscal year 2007-2008, three thousand two hundred twenty-six
37 dollars eighty-eight cents.

38 (b) For fiscal year 2008-2009, three thousand two hundred ninety-one
39 dollars forty-two cents.

40 3. "Base revenue control limit" means the base revenue control limit
41 computed as provided in section 15-944.

42 4. "Base support level" means the base support level as provided in
43 section 15-943.

1 5. "Certified teacher" means a person who is certified as a teacher
2 pursuant to the rules adopted by the state board of education, who renders
3 direct and personal services to school children in the form of instruction
4 related to the school district's educational course of study and who is paid
5 from the maintenance and operation section of the budget.

6 6. "DD" MEANS PROGRAMS FOR CHILDREN WITH DEVELOPMENTAL DELAYS WHO ARE
7 AT LEAST THREE YEARS OF AGE BUT UNDER TEN YEARS OF AGE. A PRESCHOOL CHILD
8 WHO IS CATEGORIZED UNDER THIS PARAGRAPH IS NOT ELIGIBLE TO RECEIVE FUNDING
9 PURSUANT TO SECTION 15-943, PARAGRAPH 2, SUBDIVISION (b).

10 ~~6-~~ 7. "ED, MIMR, SLD, SLI and OHI" means programs for children with
11 emotional disabilities, mild mental retardation, a specific learning
12 disability, a speech/language impairment and other health impairments. A
13 PRESCHOOL CHILD WHO IS CATEGORIZED AS SLI UNDER THIS PARAGRAPH IS NOT
14 ELIGIBLE TO RECEIVE FUNDING PURSUANT TO SECTION 15-943, PARAGRAPH 2,
15 SUBDIVISION (b).

16 ~~7-~~ 8. "ED-P" means programs for children with emotional disabilities
17 who are enrolled in private special education programs as prescribed in
18 section 15-765, subsection D, paragraph 1 or in an intensive school district
19 program as provided in section 15-765, subsection D, paragraph 2.

20 ~~8-~~ 9. "ELL" means English learners who do not speak English or whose
21 native language is not English, who are not currently able to perform
22 ordinary classroom work in English and who are enrolled in an English
23 language education program pursuant to sections 15-751, 15-752 and 15-753.

24 ~~9-~~ 10. "Full-time equivalent certified teacher" or "FTE certified
25 teacher" means for a certified teacher the following:

26 (a) If employed full time as defined in section 15-501, 1.00.

27 (b) If employed less than full time, multiply 1.00 by the percentage
28 of a full school day, or its equivalent, or a full class load, or its
29 equivalent, for which the teacher is employed as determined by the governing
30 board.

31 ~~10-~~ 11. "Group A" means educational programs for career exploration, a
32 specific learning disability, an emotional disability, mild mental
33 retardation, remedial education, a speech/language impairment, ~~DEVELOPMENTAL~~
34 ~~DELAY~~, homebound, bilingual, ~~preschool—moderate—delay, preschool~~
35 ~~speech/language delay~~, other health impairments and gifted pupils.

36 ~~11-~~ 12. "Group B" means educational improvements for pupils in
37 kindergarten programs and grades one through three, educational programs for
38 autism, a hearing impairment, moderate mental retardation, multiple
39 disabilities, multiple disabilities with severe sensory impairment,
40 orthopedic impairments, preschool severe delay, severe mental retardation and
41 emotional disabilities for school age pupils enrolled in private special
42 education programs or in school district programs for children with severe
43 disabilities or visual impairment and English learners enrolled in a program
44 to promote English language proficiency pursuant to section 15-752.

45 ~~12-~~ 13. "HI" means programs for pupils with hearing impairment.

1 ~~13.~~ 14. "Homebound" or "hospitalized" means a pupil who is capable of
2 profiting from academic instruction but is unable to attend school due to
3 illness, disease, accident or other health conditions, who has been examined
4 by a competent medical doctor and who is certified by that doctor as being
5 unable to attend regular classes for a period of not less than three school
6 months or a pupil who is capable of profiting from academic instruction but
7 is unable to attend school regularly due to chronic or acute health problems,
8 who has been examined by a competent medical doctor and who is certified by
9 that doctor as being unable to attend regular classes for intermittent
10 periods of time totaling three school months during a school year. The
11 medical certification shall state the general medical condition, such as
12 illness, disease or chronic health condition, that is the reason that the
13 pupil is unable to attend school. Homebound or hospitalized includes a
14 student who is unable to attend school for a period of less than three months
15 due to a pregnancy if a competent medical doctor, after an examination,
16 certifies that the student is unable to attend regular classes due to risk to
17 the pregnancy or to the student's health.

18 ~~14.~~ 15. "K" means kindergarten programs.

19 ~~15.~~ 16. "K-3" means kindergarten programs and grades one through
20 three.

21 ~~16.~~ 17. "MD-R, A-R and SMR-R" means resource programs for pupils with
22 multiple disabilities, autism and severe mental retardation.

23 ~~17.~~ 18. "MD-SC, A-SC and SMR-SC" means self-contained programs for
24 pupils with multiple disabilities, autism and severe mental retardation.

25 ~~18.~~ 19. "MDSI" means a program for pupils with multiple disabilities
26 with severe sensory impairment.

27 ~~19.~~ 20. "MOMR" means programs for pupils with moderate mental
28 retardation.

29 ~~20.~~ 21. "OI-R" means a resource program for pupils with orthopedic
30 impairments.

31 ~~21.~~ 22. "OI-SC" means a self-contained program for pupils with
32 orthopedic impairments.

33 ~~22.~~ 23. "PSD" means preschool programs for children with disabilities
34 as provided in section 15-771.

35 ~~23.~~ 24. "P-SD" means programs for children who meet the definition of
36 preschool severe delay as provided in section 15-771.

37 ~~24.~~ 25. "Qualifying tax rate" means the qualifying tax rate specified
38 in section 15-971 applied to the assessed valuation used for primary property
39 taxes.

40 ~~25.~~ 26. "Small isolated school district" means a school district which
41 meets all of the following:

42 (a) Has a student count of fewer than six hundred in kindergarten
43 programs and grades one through eight or grades nine through twelve.

44 (b) Contains no school which is fewer than thirty miles by the most
45 reasonable route from another school, or, if road conditions and terrain make

1 the driving slow or hazardous, fifteen miles from another school which
2 teaches one or more of the same grades and is operated by another school
3 district in this state.

4 (c) Is designated as a small isolated school district by the
5 superintendent of public instruction.

6 ~~26-~~ 27. "Small school district" means a school district which meets
7 all of the following:

8 (a) Has a student count of fewer than six hundred in kindergarten
9 programs and grades one through eight or grades nine through twelve.

10 (b) Contains at least one school which is fewer than thirty miles by
11 the most reasonable route from another school which teaches one or more of
12 the same grades and is operated by another school district in this state.

13 (c) Is designated as a small school district by the superintendent of
14 public instruction.

15 ~~27-~~ 28. "Transportation revenue control limit" means the
16 transportation revenue control limit computed as prescribed in section
17 15-946.

18 ~~28-~~ 29. "Transportation support level" means the support level for
19 pupil transportation operating expenses as provided in section 15-945.

20 ~~29-~~ 30. "VI" means programs for pupils with visual impairments.

21 ~~30-~~ 31. "Voc. Ed." means career and technical education and vocational
22 education programs, as defined in section 15-781.

23 Sec. 27. Section 15-902, Arizona Revised Statutes, is amended to read:

24 ~~15-902.~~ Determination of student count

25 A. For a common or a unified school district in which the average
26 daily membership through the first one hundred days or two hundred days in
27 session, as applicable, of the current year has exceeded the average daily
28 attendance through the first one hundred days or two hundred days in session,
29 as applicable, of the current year by more than six per cent, the student
30 count shall be determined by an adjusted average daily membership computed by
31 multiplying the actual average daily attendance by one hundred six per cent.

32 B. For a high school district in which the average daily membership
33 through the first one hundred days in session of the current year exceeds the
34 average daily attendance through the first one hundred days in session of the
35 current year by more than eight and one-half per cent, the student count
36 shall be determined by an adjusted average daily membership computed by
37 multiplying the actual average daily attendance by one hundred eight and
38 one-half per cent. If the high school district which utilized adjusted
39 average daily membership pursuant to this subsection does not qualify for
40 equalization assistance as provided by section 15-971, the computation of
41 additional state aid for education as provided in section 15-972 for that
42 district shall not include in the primary property tax rate the amount of
43 primary property taxes necessary to fund an amount computed as follows:

44 1. Determine the revenue control limit, capital outlay revenue limit
45 and soft capital allocation using the adjusted average daily membership.

- 1 2. Add the amounts determined in paragraph 1 of this subsection.
- 2 3. Determine the revenue control limit, capital outlay revenue limit
- 3 and soft capital allocation using a student count computed by multiplying the
- 4 actual average daily attendance by one hundred six per cent.
- 5 4. Add the amounts determined in paragraph 3 of this subsection.
- 6 5. Subtract the sum determined under paragraph 4 of this subsection
- 7 from the sum determined under paragraph 2 of this subsection.
- 8 C. A school district required to utilize adjusted average daily
- 9 membership as provided in this section may apply to the department of
- 10 education for a further adjustment if student absences result from any of the
- 11 following reasons:
- 12 1. Widespread illness for any period of three consecutive days or
- 13 more.
- 14 2. Adverse weather conditions for any period of three consecutive days
- 15 or more.
- 16 3. Concerted refusal by students to attend classes for any period of
- 17 three consecutive days or more.
- 18 4. Threats of violence against school property, school personnel or
- 19 students for any period of one day or more.
- 20 5. SCHOOL CLOSURE DUE TO SITUATIONS AFFECTING THE SAFETY OF PERSONS OR
- 21 PROPERTY RESULTING FROM FIRE, FLOODING OR FLOODWATER, AN EARTHQUAKE, A
- 22 HAZARDOUS MATERIAL EVENT OR OTHER CAUSES IF APPROVED BY THE DEPARTMENT OF
- 23 EDUCATION.
- 24 D. All student absence figures shall be submitted by the school
- 25 district on a school by school basis to the department of education pursuant
- 26 to subsection C of this section and shall be certified by the governing board
- 27 of the school district. The department of education shall review the
- 28 materials and documents submitted and may, if it determines that the absences
- 29 resulted from the reasons prescribed by this section, further adjust the
- 30 average daily membership figures of the school district.
- 31 E. A school district required to use adjusted average daily membership
- 32 as provided in this section may apply to the department of education for a
- 33 further adjustment due to absences of pupils with chronic health problems as
- 34 defined in section 15-346 if the school district is providing services to the
- 35 pupils during their absence from school.
- 36 F. A pupil is enrolled if the pupil is currently registered in the
- 37 school district. In addition, the uniform system of financial records shall
- 38 contain procedures to ensure that enrollment is determined by all school
- 39 districts on a uniform basis.
- 40 G. Any determination of average daily attendance and average daily
- 41 membership shall be based on the records of the superintendent of public
- 42 instruction.
- 43 H. For school districts which maintain an approved year-round school
- 44 year operation program, an educational program offered on the basis of a four
- 45 day school week or an alternative kindergarten program offered on the basis

1 of a three day school week, student count shall be based on a computation as
2 prescribed by the superintendent of public instruction on the one hundred
3 seventy-five days' equivalency or two hundred days' equivalency, as
4 applicable, of instructional time as approved by the superintendent of public
5 instruction during which each pupil is enrolled.

6 I. School districts shall be required to record electronically
7 membership and attendance on a school by school basis for each day school is
8 in session. Records shall be certified and forwarded to the department of
9 education electronically within twelve days after the first forty days in
10 session and within twelve days after the first one hundred days in session.

11 J. Absences shall be made part of the attendance record and shall be
12 forwarded electronically by the school district on a school by school basis
13 with other records to the department of education.

14 K. If a new school district is formed by the subdivision of an
15 existing school district as provided in section 15-458, the new school
16 district shall determine its student count, the approved daily route mileage
17 and the number of eligible students transported on the basis of where pupils
18 reside within the boundaries of the new school district when computing
19 assistance as provided in this chapter. The school district shall determine
20 its student count, the approved daily route mileage and the number of
21 eligible students transported on the basis of where pupils reside within the
22 diminished boundaries of the school district when computing a school district
23 budget limit and assistance as provided in this chapter. The combined
24 student count in the new districts may not exceed the student count of the
25 school district which would have existed if the subdivision had not occurred.

26 Sec. 28. Section 15-905, Arizona Revised Statutes, is amended to read:

27 15-905. School district budgets; notice; adoption; aggregate
28 budget limit; summary; adjustments; definition

29 A. Not later than July 5 of each year or no later than the publication
30 of notice of the public hearing and board meeting as required by this
31 section, the governing board of each school district shall prepare and
32 furnish to the superintendent of public instruction and the county school
33 superintendent, unless waived by the county school superintendent, a proposed
34 budget in electronic format for the budget year, which shall contain the
35 information and be in the form as provided by the department of education.
36 The proposed budget shall include the following:

37 1. The total amount of revenues from all sources that was necessary to
38 meet the school district's budget for the current year.

39 2. The total amount of revenues by source that will be necessary to
40 meet the proposed budget of the school district, excluding property
41 taxes. The governing board shall prepare the proposed budget and a summary
42 of the proposed budget. Both documents shall be kept on file at the school
43 district office and shall be made available to the public upon request. The
44 auditor general in conjunction with the department of education shall
45 prescribe the form of the summary of the proposed budget for use by governing

1 boards. School district governing boards may include in the proposed budget
2 any items or amounts which are authorized by legislation filed with the
3 secretary of state and which will become effective during the budget
4 year. If subsequent events prevent the legislation from becoming effective,
5 school district governing boards must reduce their budgets by the amounts
6 budgeted pursuant to the legislation which did not become effective.

7 B. The governing board of each school district shall prepare a notice
8 fixing a time not later than July 15 and designating a public place within
9 each school district at which a public hearing and board meeting shall be
10 held. The governing board shall present the proposed budget for
11 consideration of the residents and the taxpayers of the school district at
12 such hearing and meeting.

13 C. The governing board of each school district shall publish or mail,
14 prior to the hearing and meeting, a copy of the proposed budget or the
15 summary of the proposed budget and, in addition, a notice of the public
16 hearing and board meeting no later than ten days prior to the meeting. The
17 proposed budget and the summary of the proposed budget shall contain the
18 percentage of increase or decrease in each budget category of the proposed
19 budget as compared to each category of the budget for the current
20 year. Notification shall be either by publication in a newspaper of general
21 circulation within the school district in which the size of the newspaper
22 print shall be at least eight-point type, by electronic transmission of the
23 information to the department of education for posting on the department's
24 web site or by mailing the information to each household in the school
25 district. The cost of publication, web site posting or mailing shall be a
26 charge against the school district. The publisher's affidavit of publication
27 shall be filed by the governing board with the superintendent of public
28 instruction within thirty days after publication. If the budget or proposed
29 budget and notice are posted on a web site maintained by the department of
30 education or mailed, the board shall file an affidavit with the
31 superintendent of public instruction within thirty days after the mailing or
32 the date that the information is posted on the web site. If a truth in
33 taxation notice and hearing is required under section 15-905.01, the
34 governing board may combine the notice and hearing under this section with
35 the truth in taxation notice and hearing.

36 D. At the time and place fixed in the notice, the governing board
37 shall hold the public hearing and present the proposed budget to the persons
38 attending the hearing. Upon request of any person, the governing board shall
39 explain the budget, and any resident or taxpayer of the school district may
40 protest the inclusion of any item. A governing board member who has a
41 substantial interest, as defined in section 38-502, in a specific item in the
42 school district budget shall refrain from voting on the specific item. A
43 governing board member may without creating a conflict of interest
44 participate in adoption of a final budget even though the member may have
45 substantial interest in specific items included in the budget.

1 E. Immediately following the public hearing the president shall call
2 to order the governing board meeting for the purpose of adopting the budget.
3 The governing board shall adopt the budget which shall not exceed the general
4 budget limit, the unrestricted capital budget limit or the soft capital
5 allocation limit, making such deductions as it sees fit but making no
6 additions to the proposed budget total for maintenance and operations or
7 capital outlay, and shall enter the budget as adopted in its minutes. Not
8 later than July 18, the budget as finally adopted shall be filed by the
9 governing board with the county school superintendent who shall immediately
10 transmit a copy to the board of supervisors. Not later than July 18, the
11 budget as finally adopted shall be submitted electronically to the
12 superintendent of public instruction. On or before October 30, the
13 superintendent of public instruction shall review the budget and notify the
14 governing board if the budget is in excess of the general budget limit, the
15 unrestricted capital budget limit or the soft capital allocation limit. If
16 the governing board receives notification that the budget is in excess of the
17 general budget limit, the unrestricted capital budget limit or the soft
18 capital allocation limit by fewer than one thousand dollars, the governing
19 board shall adjust the budget and expenditures so as not to exceed the
20 general budget limit, the unrestricted capital budget limit or the soft
21 capital allocation limit for the current year. If the governing board
22 receives notification that the budget is in excess of the general budget
23 limit, the unrestricted capital budget limit or the soft capital allocation
24 limit by one thousand dollars or more, it shall on or before December 15,
25 after it gives notice and holds a public meeting in a similar manner as
26 provided in subsections C and D of this section, adopt a revised budget for
27 the current year which shall not exceed the general budget limit, the
28 unrestricted capital budget limit or the soft capital allocation limit. On
29 or before December 18, the governing board shall file the revised budget
30 which it adopts with the county school superintendent who shall immediately
31 transmit a copy to the board of supervisors. Not later than December 18, the
32 budget as revised shall be submitted electronically to the superintendent of
33 public instruction. School districts that are subject to section 15-914.01
34 are not required to send a copy of revised budgets to the county school
35 superintendent. Procedures for adjusting expenditures or revising the budget
36 shall be as prescribed in the uniform system of financial records.

37 F. The governing board of each school district may budget for
38 expenditures within the school district budget as follows:

39 1. Amounts within the general budget limit, as provided in section
40 15-947, subsection C, may only be budgeted in the following sections of the
41 budget:

42 (a) The maintenance and operation section.

43 (b) The capital outlay section.

44 2. Amounts within the unrestricted capital budget limit, as provided
45 in section 15-947, subsection D, may only be budgeted in the unrestricted

1 capital outlay subsection of the budget. Monies received pursuant to the
2 unrestricted capital budget limit shall be placed in the unrestricted capital
3 outlay fund. The monies in the fund are not subject to reversion.

4 3. The soft capital allocation limit, as provided in section 15-947,
5 subsection E, may only be budgeted in the soft capital allocation subsection
6 of the budget.

7 G. The governing board may authorize the expenditure of monies
8 budgeted within the maintenance and operation section of the budget for any
9 subsection within the section in excess of amounts specified in the adopted
10 budget only by action taken at a public meeting of the governing board and if
11 the expenditures for all subsections of the section do not exceed the amount
12 budgeted as provided in this section. Until June 30, 1999, the governing
13 board may authorize the expenditure of monies to exceed the budgeted
14 expenditures of the capital outlay section of the budget only by action taken
15 at a public meeting of the governing board and if monies are available in the
16 reserve.

17 H. The aggregate budget limit is the sum of the following:

18 1. The general budget limit as determined in section 15-947 for the
19 budget year.

20 2. The unrestricted capital budget limit as determined in section
21 15-947 for the budget year.

22 3. The soft capital allocation limit for the budget year as determined
23 in section 15-947.

24 4. Federal assistance, excluding ~~P.L. 81-874~~ TITLE VIII OF THE
25 ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 monies.

26 I. School districts which overestimated tuition revenues as provided
27 in section 15-947, subsection C, paragraph 2 shall adjust the general budget
28 limit and expenditures based upon tuition revenues for attendance of
29 nonresident pupils during the current fiscal year. School districts which
30 underestimated tuition revenues may adjust their budgets prior to May 15
31 based upon tuition revenues for attendance of nonresident pupils during the
32 current fiscal year. School districts which overestimated revenues as
33 provided in section 15-947, subsection C, paragraph 2, subdivision (a), items
34 (iii), (iv) and (v) and subdivision (d) shall adjust the general budget limit
35 and expenditures based on actual revenues during the current fiscal
36 year. School districts which underestimated such revenues may adjust their
37 budgets before May 15 based on actual revenues during the current fiscal
38 year. Procedures for completing adjustments shall be as prescribed in the
39 uniform system of financial records. Not later than May 18, the budget as
40 adjusted shall be submitted electronically to the superintendent of public
41 instruction.

42 J. A common school district not within a high school district whose
43 estimated tuition charge for high school pupils exceeds the actual tuition
44 charge for high school pupils shall adjust the general budget limit and
45 expenditures based on the actual tuition charge. Not later than May 18, the

1 budget as adjusted shall be submitted electronically to the superintendent of
2 public instruction. A common school district not within a high school
3 district whose estimated tuition charge for high school pupils is less than
4 the actual tuition charge for high school pupils may adjust its budget before
5 May 15 based on the actual tuition charge. Procedures for completing
6 adjustments shall be as prescribed in the uniform system of financial
7 records. If the adjusted general budget limit requires an adjustment of
8 state aid and if the adjustment to state aid is not made in the current year,
9 the superintendent of public instruction shall adjust by August 15 of the
10 succeeding fiscal year the apportionment of state aid to the school district
11 to correct any overpayment or underpayment of state aid received during the
12 current year.

13 K. The governing board may include ~~P.L. 81-874~~ TITLE VIII OF THE
14 ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance allocated for
15 children with disabilities, children with specific learning disabilities,
16 children residing on Indian lands and children residing within the boundaries
17 of an accommodation school that is located on a military reservation and that
18 is classified as a heavily impacted local educational agency pursuant to 20
19 United States Code section 7703 which is in addition to basic assistance when
20 determining the general budget limit as prescribed in section 15-947,
21 subsection C. The increase in the general budget limit for children residing
22 within the boundaries of an accommodation school that is located on a
23 military reservation and that is classified as a heavily impacted local
24 education agency shall equal the dollar amount calculated pursuant to 20
25 United States Code section 7703(b)(2). The governing board may adjust before
26 May 15 the budget for the current year based on any adjustments which result
27 in increases over the amount estimated by the superintendent of public
28 instruction for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY
29 EDUCATION ACT OF 1965 assistance for such pupils for the fiscal year
30 preceding the current year. The governing board shall adjust before May 15
31 the budget for the current year based on any adjustments which result in
32 decreases in the amount estimated by the superintendent of public instruction
33 for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF
34 1965 assistance for such pupils for the fiscal year preceding the current
35 year. Not later than May 18, the budget as adjusted shall be submitted
36 electronically to the superintendent of public instruction. Procedures for
37 complying with this subsection shall be as prescribed in the uniform system
38 of financial records.

39 L. The DEPARTMENT OF EDUCATION SHALL NOTIFY THE state board of
40 education ~~shall hold a hearing~~ if expenditures by any school district exceed
41 the general budget limit prescribed in section 15-947, subsection C, the
42 unrestricted capital budget limit, the soft capital allocation limit
43 prescribed in section 15-947, subsection E, the school plant fund limits
44 prescribed in section 15-1102, subsection B, the maintenance and operation
45 section of the budget or the capital outlay section of the budget. If the

1 expenditures of any school district exceed these limits or sections of the
2 budget without authorization as provided in section 15-907, **AND IF THE STATE**
3 **BOARD OF EDUCATION DETERMINES THAT THE EQUALIZATION ASSISTANCE FOR EDUCATION**
4 **RECEIVED BY THE SCHOOL DISTRICT AS PROVIDED IN SECTION 15-971 DOES NOT**
5 **CONFORM WITH STATUTORY REQUIREMENTS**, the state board of education shall
6 reduce the state aid for equalization assistance for education for the school
7 district computed as provided in section 15-971 during the fiscal year
8 subsequent to the fiscal year in which the excess ~~expenditures were made~~
9 **EQUALIZATION ASSISTANCE FOR EDUCATION WAS RECEIVED** by an amount equal to the
10 excess ~~expenditures~~ **EQUALIZATION ASSISTANCE FOR EDUCATION**, except that in
11 case of hardship to the school district, the superintendent of public
12 instruction may approve reductions partly in the first subsequent year and
13 partly in the second subsequent year. **IF THE STATE BOARD OF EDUCATION**
14 **DETERMINES THAT THE EQUALIZATION ASSISTANCE FOR EDUCATION RECEIVED BY THE**
15 **SCHOOL DISTRICT CONFORMS WITH STATUTORY REQUIREMENTS, THE STATE BOARD OF**
16 **EDUCATION SHALL NOT REDUCE THE DISTRICT'S EQUALIZATION ASSISTANCE FOR**
17 **EDUCATION PURSUANT TO THIS SUBSECTION BUT THE DISTRICT SHALL REDUCE THE**
18 **BUDGET LIMITS AS REQUIRED IN SUBSECTION M OF THIS SECTION. A SCHOOL DISTRICT**
19 **THAT DISAGREES WITH THE DEPARTMENT OF EDUCATION'S DETERMINATION REGARDING AN**
20 **EXCESS EXPENDITURE UNDER THIS SUBSECTION MAY REQUEST A HEARING BEFORE THE**
21 **STATE BOARD OF EDUCATION.**

22 M. The governing board of a school district shall reduce the general
23 budget limit, the unrestricted capital budget limit or the soft capital
24 allocation limit, for the year subsequent to the year in which the
25 expenditures were in excess of the applicable limit or section of the budget
26 by the amount determined in subsection L of this section, except that in case
27 of hardship to the school district, the superintendent of public instruction
28 may approve reductions partly in the first subsequent year and partly in the
29 second subsequent year. The reduction in the limit is applicable to each
30 school district which has exceeded the general budget limit, the unrestricted
31 capital budget limit, the soft capital allocation limit or a section of the
32 budget even if the reduction exceeds the state aid for equalization
33 assistance for education for the school district.

34 N. Except as provided in section 15-916, no expenditure shall be made
35 by any school district for a purpose not included in the budget or in excess
36 of the aggregate budget limit prescribed in this section, except that if no
37 budget has been adopted, from July 1 to July 15 the governing board may make
38 expenditures if the total of the expenditures does not exceed ten per cent of
39 the prior year's aggregate budget limit. Any expenditures made from July 1
40 to July 15 and prior to the adoption of the budget shall be included in the
41 total expenditures for the current year. No expenditure shall be made and no
42 debt, obligation or liability shall be incurred or created in any year for
43 any purpose itemized in the budget in excess of the amount specified for the
44 item irrespective of whether the school district at any time has received or
45 has on hand funds in excess of those required to meet the expenditures,

1 debts, obligations and liabilities provided for under the budget except
2 expenditures from cash controlled funds as defined by the uniform system of
3 financial records and except as provided in section 15-907 and subsection G
4 of this section. This subsection does not prohibit any school district from
5 prepaying insurance premiums or magazine subscriptions, or from prepaying any
6 item which is normally prepaid in order to procure the service or to receive
7 a discounted price for the service, as prescribed by the uniform system of
8 financial records.

9 0. The governing board of a school district which is classified as a
10 heavily impacted school district having twenty per cent or more pupils
11 pursuant to 20 United States Code section 238(d)1(A) may determine its
12 eligibility to increase the amount that may be included in determining the
13 general budget limit as provided in subsection K of this section and may
14 increase the amount as follows:

15 1. For fiscal year 1988-1989:

16 (a) Multiply one thousand ninety-four dollars by the number of
17 children with disabilities or children with specific learning disabilities,
18 excluding children who also reside on Indian lands, reported to the division
19 of impact aid, United States department of education in the district's
20 application for fiscal year 1987-1988.

21 (b) Multiply five hundred forty-seven dollars by the number of
22 children residing on Indian lands, excluding children who have disabilities
23 or also have specific learning disabilities, reported to the division of
24 impact aid, United States department of education in the district's
25 application for fiscal year 1987-1988.

26 (c) Multiply one thousand nine hundred fourteen dollars by the number
27 of children residing on Indian lands who have disabilities or also have
28 specific learning disabilities reported to the division of impact aid, United
29 States department of education in the district's application for fiscal year
30 1987-1988.

31 (d) Add the amounts determined in subdivisions (a) through (c).

32 (e) If the amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND
33 SECONDARY EDUCATION ACT OF 1965 assistance as provided in subsection K of
34 this section is less than the sum determined in subdivision (d) of this
35 paragraph, the district is eligible to use the provisions of this subsection.

36 2. For budget years after 1988-1989, use the provisions of paragraph 1
37 of this subsection, but increase each dollar amount by the growth rate for
38 that year as prescribed by law, subject to appropriation and use the number
39 of children reported in the appropriate category for the current fiscal year.

40 3. If the district is eligible to use the provisions of this
41 subsection, subtract the amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY
42 AND SECONDARY EDUCATION ACT OF 1965 assistance determined in subsection K of
43 this section from the sum determined in paragraph 1, subdivision (d) of this
44 subsection. The difference is the increase in the amount that may be
45 included in determining the general budget limit as provided in subsection K

1 of this section, if including this amount does not increase the district's
2 primary tax rate for the budget year. If the amount of ~~P.L. 81-874~~ TITLE
3 VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance
4 determined in subsection K of this section is adjusted for the current year,
5 the increase determined in this paragraph shall be recomputed using the
6 adjusted amount and the recomputed increase shall be reported to the
7 department of education by May 15 on a form prescribed by the department of
8 education.

9 4. If a district uses the provisions of this subsection, the district
10 is not required to adjust its budget for the current year based on
11 adjustments in the estimated amount of ~~P.L. 81-874~~ TITLE VIII OF THE
12 ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance as provided in
13 subsection K of this section.

14 P. A school district, except for an accommodation school, which
15 applies for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION
16 ACT OF 1965 assistance during the current year may budget an amount for ~~P.L.~~
17 ~~81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965
18 administrative costs for the budget year. The amount budgeted for ~~P.L.~~
19 ~~81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965
20 administrative costs is exempt from the revenue control limit and may not
21 exceed an amount determined for the budgeted year as follows:

22 1. Determine the minimum cost. The minimum cost for fiscal year
23 1990-1991 is two thousand three hundred forty-three dollars. For fiscal year
24 1991-1992 and thereafter, the minimum cost is the minimum cost for the prior
25 year increased by the growth rate as prescribed by law, subject to
26 appropriation.

27 2. Determine the hourly rate. The hourly rate for fiscal year
28 1990-1991 is nine dollars thirty-eight cents. For fiscal year 1991-1992 and
29 thereafter, the hourly rate is the hourly rate for the prior year increased
30 by the growth rate as prescribed by law, subject to appropriation.

31 3. Determine the ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND
32 SECONDARY EDUCATION ACT OF 1965 revenues available by subtracting the amount
33 of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF
34 1965 assistance used to increase the general budget limit as provided in
35 subsections K and O of this section for the current fiscal year from the
36 total amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY
37 EDUCATION ACT OF 1965 revenues received in the current fiscal year.

38 4. Determine the total number of administrative hours as follows:

39 (a) Determine the sum of the following:

40 (i) 1.00 hours for each high impact pupil who is not disabled or does
41 not have specific learning disabilities.

42 (ii) 1.25 hours for each high impact pupil who is disabled or has
43 specific learning disabilities.

44 (iii) 0.25 hours for each low impact pupil who is not disabled or does
45 not have specific learning disabilities.

1 (iv) 0.31 hours for each low impact pupil who is disabled or has
2 specific learning disabilities.

3 (b) For the purposes of this paragraph:

4 (i) "High impact pupil" means a pupil who resides on Indian lands or a
5 pupil who resides on federal property or in low rent housing and whose parent
6 is employed on federal property or low rent housing property or is on active
7 duty in uniformed service, as provided in ~~P.L. 81-874, section 3(a)~~ TITLE
8 VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, SECTION 8003(a)
9 (20 UNITED STATES CODE SECTION 7703) and as reported in the application for
10 ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965
11 assistance in the current year.

12 (ii) "Low impact pupil" means a pupil who resides on nonfederal
13 property and has a parent who is employed on federal property or low rent
14 housing property or is on active duty in a uniformed service or a pupil who
15 resides on federal property or in low rent housing and who does not have a
16 parent who is employed on federal property or low rent housing property or is
17 on active duty in uniformed service, as provided in ~~P.L. 81-874, section 3(b)~~
18 TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, SECTION
19 8003(a) (20 UNITED STATES CODE SECTION 7703) and as reported in the
20 application for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY
21 EDUCATION ACT OF 1965 assistance in the current year.

22 5. Multiply the total number of administrative hours determined in
23 paragraph 4 of this subsection by the hourly rate determined in paragraph 2
24 of this subsection.

25 6. Determine the greater of the minimum cost determined in paragraph 1
26 of this subsection or the product determined in paragraph 5 of this
27 subsection.

28 7. Add to the amount determined in paragraph 6 of this subsection the
29 amount, if any, to be expended by the school district in the budget year
30 through an intergovernmental agreement with other school districts or the
31 department of education to provide ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY
32 AND SECONDARY EDUCATION ACT OF 1965 technical assistance to participating
33 districts.

34 8. Determine the lesser of the amount determined in paragraph 7 of
35 this subsection or the revenues available as determined in paragraph 3 of
36 this subsection.

37 9. The amount determined in paragraph 8 of this subsection is the
38 maximum amount which may be budgeted for ~~P.L. 81-874~~ TITLE VIII OF THE
39 ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 administrative costs for the
40 budget year as provided in this subsection.

41 10. If the governing board underestimated the amount that may be
42 budgeted for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION
43 ACT OF 1965, SECTION 8007 administrative costs for the current year, the
44 board may adjust the general budget limit and the budget before May 15. If
45 the governing board overestimated the amount that may be budgeted for

1 ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965
2 administrative costs for the current year, the board shall adjust the general
3 budget limit and the budget before May 15.

4 Q. If a school district governing board has adopted a budget for a
5 fiscal year based on forms and instructions provided by the auditor general
6 and the department of education for that fiscal year and if, as a result of
7 the enactment or nonenactment of proposed legislation after May 1 of the
8 previous fiscal year, the budget is based on incorrect limits, does not
9 include items authorized by law or does not otherwise conform with law, the
10 governing board may revise its budget at a public hearing on or before
11 September 15 to conform with the law. Not later than September 18, the
12 budget as adjusted shall be submitted electronically to the superintendent of
13 public instruction. If the governing board does not revise the budget on or
14 before September 15 and if the budget includes any items not authorized by
15 law or if the budget exceeds any limits, the governing board shall adjust or
16 revise the budget as provided in subsection E of this section.

17 R. For the purposes of this section, "~~P.L. 81-874~~ TITLE VIII OF THE
18 ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance" means, for the
19 current year, an amount equal to the final determination of ~~P.L. 81-874~~ TITLE
20 VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance for the
21 fiscal year preceding the current year as confirmed by the division of impact
22 aid, United States department of education or, if a final determination has
23 not been made, the amount estimated by the superintendent of public
24 instruction as confirmed by the division of impact aid, United States
25 department of education and, for the budget year, an amount equal to the
26 determination of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY
27 EDUCATION ACT OF 1965 assistance for the fiscal year preceding the budget
28 year as estimated by the superintendent of public instruction.

29 Sec. 29. Section 15-915, Arizona Revised Statutes, is amended to read:
30 15-915. Correction of state aid or budget limit errors;
31 definition

32 A. If the superintendent of public instruction determines that the
33 calculation of state aid for a school district or charter school or the
34 calculation of the school district's or charter school's budget limits within
35 the previous three years did not conform with statutory requirements, the
36 superintendent shall require correction of the errors as follows:

37 1. Corrections may be made in the current year or in the budget year,
38 except that in case of hardship to the school district, the superintendent
39 may approve corrections partly in one year and partly in the year after that
40 year.

41 2. Errors in the calculation of state aid shall be corrected by
42 increasing or decreasing the state aid to the school district or charter
43 school in the year or years in which the correction is made.

1 3. Errors in the calculation of the school district's or charter
 2 school's budget limits shall be corrected at a public hearing by requiring
 3 the governing board to reduce or by allowing it to increase its budget by the
 4 amount of the correction to be made that year. Overbudgeting errors
 5 corrected as provided in this paragraph are exempt from the provisions of
 6 section 15-905, subsections L and M. Not later than three days after the
 7 hearing and correction, the budget as revised shall be submitted
 8 electronically to the superintendent of public instruction. **NOTHING IN THIS**
 9 **PARAGRAPH SHALL BE CONSTRUED TO REQUIRE A DECREASE IN STATE AID NOT OTHERWISE**
 10 **REQUIRED BY PARAGRAPH 2 OF THIS SUBSECTION.**

11 B. Subject to the review by the joint legislative budget committee,
 12 the superintendent of public instruction shall adjust state aid for a school
 13 district in the current year if the governing board of a school district
 14 requests the recalculation of state aid for a prior year due to a change in
 15 assessed valuation that occurred as the result of a judgment in accordance
 16 with section 42-16213.

17 C. Notwithstanding subsection A of this section, a school district or
 18 charter school may not make upward revisions to its average daily membership
 19 counts for a particular school year after June 30 of the subsequent school
 20 year.

21 D. For the purposes of this section, "state aid":
 22 1. For school districts means state aid as determined in section
 23 15-971 and additional state aid as determined in section 15-972.

24 2. For charter schools means state aid as determined in section
 25 15-185.

26 Sec. 30. Section 15-943, Arizona Revised Statutes, is amended to read:
 27 **15-943. Base support level**

28 The base support level for each school district shall be computed as
 29 follows:

30 1. The following support level weights shall be used in paragraph 2,
 31 subdivision (a) **OF THIS SECTION** for the following school districts:

32 (a) For school districts whose student count in kindergarten programs
 33 and grades one through eight is classified in column 1 of this subdivision,
 34 the support level weight for kindergarten programs and grades one through
 35 eight is the corresponding support level weight prescribed in column 2 or 3
 36 of this subdivision, whichever is appropriate:

| <u>Column 1</u> | <u>Column 2</u> | <u>Column 3</u> |
|----------------------|---|--|
| <u>Student Count</u> | Support Level Weight For Small Isolated <u>School Districts</u> | Support Level Weight For Small <u>School Districts</u> |
| 1-99 | 1.559 | 1.399 |
| 100-499 | 1.358 + [0.0005 x (500 - student count)] | 1.278 + [0.0003 x (500 - student count)] |
| 500-599 | 1.158 + [0.002 x (600 - student count)] | 1.158 + [0.0012 x (600 - student count)] |

1 (b) For school districts whose student count in grades nine through
 2 twelve is classified in column 1 of this subdivision, the support level
 3 weight for grades nine through twelve is the corresponding support level
 4 weight prescribed in column 2 or 3 of this subdivision, whichever is
 5 appropriate:

| <u>Column 1</u> | <u>Column 2</u> | <u>Column 3</u> |
|----------------------|--|---|
| | Support Level Weight For Small Isolated School Districts | Support Level Weight For Small School Districts |
| <u>Student Count</u> | <u>School Districts</u> | <u>School Districts</u> |
| 1-99 | 1.669 | 1.559 |
| 100-499 | 1.468 + [0.0005 x (500 - student count)] | 1.398 + [0.0004 x (500 - student count)] |
| 500-599 | 1.268 + [0.002 x (600 - student count)] | 1.268 + [0.0013 x (600 - student count)] |

15 2. Subject to paragraph 1 OF THIS SECTION, determine the weighted
 16 student count as follows:

17 (a)

| <u>Grade Base</u> | <u>Group A</u> | <u>Support Level Weight</u> | <u>Student Count</u> | <u>Weighted Student Count</u> |
|----------------------------|----------------|-----------------------------|----------------------|-------------------------------|
| PSD 1.000 + 0.450 = 1.450 | x _____ | = _____ | | |
| K-8 1.000 + 0.158 = 1.158 | x _____ | = _____ | | |
| 9-12 1.163 + 0.105 = 1.268 | x _____ | = _____ | | |
| | Subtotal | A | | |

25 (b)

| <u>Funding Category</u> | <u>Support Level Weight</u> | <u>Student Count</u> | <u>Weighted Student Count</u> |
|--|-----------------------------|----------------------|-------------------------------|
| HI | 4.771 | x _____ | = _____ |
| K, for fiscal year 2006-2007 | 0.835 | x _____ | = _____ |
| K, for fiscal year 2007-2008 and each fiscal year thereafter | 1.352 | x _____ | = _____ |
| K-3 | 0.060 | x _____ | = _____ |
| ELL | 0.115 | x _____ | = _____ |
| MD-R, A-R and SMR-R | 6.024 | x _____ | = _____ |
| MD-SC, A-SC and SMR-SC | 5.833 | x _____ | = _____ |
| MD-SSI | 7.947 | x _____ | = _____ |
| OI-R | 3.158 | x _____ | = _____ |
| OI-SC | 6.773 | x _____ | = _____ |

| | | | | | | |
|----|---------------------------|------------------|---|------------------|---|------------------|
| 1 | P-SD | 3.595 | x | _____ | = | _____ |
| 2 | ED, MIMR, SLD, | | | | | |
| 3 | SLI and OHI | 0.003 | x | _____ | = | _____ |
| 4 | P-SD | 3.595 | x | _____ | = | _____ |
| 5 | DD, ED, MIMR, SLD, | | | | | |
| 6 | SLI AND OHI | 0.003 | x | _____ | = | _____ |
| 7 | ED-P | 4.822 | x | _____ | = | _____ |
| 8 | MOMR | 4.421 | x | _____ | = | _____ |
| 9 | VI | 4.806 | x | _____ | = | _____ |
| 10 | | | | Subtotal | B | _____ |

11 (c) Total of subtotals A and B: _____

12 3. Multiply the total determined in paragraph 2 OF THIS SECTION by the
13 base level.

14 4. Multiply the teacher experience index of the district or 1.00,
15 whichever is greater, by the product obtained in paragraph 3 OF THIS SECTION.

16 5. Add the amount determined in section 15-910.04.

17 Sec. 31. Section 15-947, Arizona Revised Statutes, as amended by Laws
18 2008, chapter 207, section 4, is amended to read:

19 15-947. Revenue control limit; district support level; general
20 budget limit; unrestricted total capital budget
21 limit; soft capital allocation limit

22 A. The revenue control limit for a school district is equal to the sum
23 of the base revenue control limit determined in section 15-944, THE AMOUNT
24 DETERMINED IN SECTION 15-910.04 and the transportation revenue control limit
25 determined in section 15-946.

26 B. The district support level for a school district is equal to the
27 sum of the base support level determined in section 15-943 and the
28 transportation support level determined in section 15-945.

29 C. The general budget limit for each school district, for each fiscal
30 year, is the sum of the following:

31 1. The maintenance and operations portion of the revenue control limit
32 for the budget year.

33 2. The maintenance and operation portion of the following amounts:

34 (a) Amounts that are fully funded by revenues other than a levy of
35 taxes upon the taxable property within the school district, as listed below:

36 (i) Amounts budgeted as the budget balance carryforward as provided in
37 section 15-943.01.

38 (ii) Tuition revenues for attendance of nonresident pupils.

39 (iii) State assistance as provided in section 15-976.

40 (iv) Special education revenues as provided in section 15-825,
41 subsection D and section 15-1204.

42 (v) ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION
43 ACT OF 1965 assistance determined for children with disabilities, children
44 with specific learning disabilities, children residing on Indian lands and
45 children residing within the boundaries of an accommodation school that is

1 located on a military reservation and that is classified as a heavily
2 impacted local educational agency pursuant to 20 United States Code section
3 7703 as provided in section 15-905, subsections K and O.

4 (vi) ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION
5 ACT OF 1965 administrative costs as provided in section 15-905, subsection P.

6 (vii) State assistance for excess tuition as provided in section
7 15-825.01.

8 (viii) Amounts received from the state board of education pursuant to
9 section 15-973.01.

10 (ix) TRANSPORTATION REVENUES FOR ATTENDANCE OF NONRESIDENT PUPILS.

11 (b) Amounts approved pursuant to an override election as provided in
12 section 15-481 for the applicable fiscal year.

13 (c) Expenditures for excess utility costs as provided in section
14 15-910.

15 (d) Amounts authorized by the county school superintendent pursuant to
16 section 15-974, subsection B.

17 (e) Expenditures for complying with a court order of desegregation as
18 provided in section 15-910.

19 (f) Expenditures for the bond issues portion of the cost of tuition as
20 provided in section 15-910.

21 (g) Interest on registered warrants or tax anticipation notes as
22 provided in section 15-910.

23 (h) Amounts budgeted for a jointly owned and operated career and
24 technical education and vocational education center as provided in section
25 15-910.01.

26 3. The maintenance and operations portion of the capital outlay
27 revenue limit for the budget year.

28 4. Any other budget item that is budgeted in the maintenance and
29 operation section of the budget and that is specifically exempt from the
30 revenue control limit or the capital outlay revenue limit.

31 D. The unrestricted capital budget limit, for each school district for
32 each fiscal year, is the sum of the following:

33 1. The federal impact adjustment as determined in section 15-964 for
34 the budget year.

35 2. Any other budget item that is budgeted in the capital outlay
36 section of the budget and that is specifically exempt from the capital outlay
37 revenue limit.

38 3. The UNRESTRICTED capital portion of the amounts contained in
39 subsection C, ~~paragraph 2~~ of this section.

40 4. The unexpended budget balance in the unrestricted capital outlay
41 fund from the previous fiscal year.

42 5. The net interest earned in the unrestricted capital outlay fund the
43 previous fiscal year.

44 6. THE BUDGETED AMOUNT AS APPROVED AND DETERMINED PURSUANT TO SECTION
45 15-962, SUBSECTION F.

1 E. The soft capital allocation limit for each school district for each
2 fiscal year is the sum of the following:

- 3 1. The soft capital allocation for the budget year.
- 4 2. The unexpended budget balance in the soft capital allocation fund
5 from the previous fiscal year.
- 6 3. The net interest earned in the soft capital allocation fund the
7 previous fiscal year.

8 Sec. 32. Repeal

9 Section 15-947, Arizona Revised Statutes, as amended by Laws 2008,
10 chapter 287, section 14, is repealed.

11 Sec. 33. Section 15-947.01, Arizona Revised Statutes, is amended to
12 read:

13 15-947.01. Revenue control limit; general budget limit; total
14 capital budget limit for joint technological
15 education districts

16 A. The revenue control limit for a joint technological education
17 district is equal to the base support level determined in section 15-943.02
18 and the amount determined in section 15-910.04.

19 B. The general budget limit for each joint technological education
20 district, for each fiscal year, is the sum of the following:

- 21 1. The revenue control limit for the budget year.
- 22 2. The capital outlay revenue limit for the budget year.
- 23 3. Tuition revenues for attendance of nonresident pupils.

24 4. ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION
25 ACT OF 1965 assistance determined for children with disabilities, children
26 with specific learning disabilities and children residing on Indian lands as
27 provided in section 15-905, subsections K and O.

28 5. Expenditures for excess utility costs as provided in section
29 15-910.

30 C. The unrestricted capital budget limit for each joint technological
31 education district for the budget year is as provided in section 15-947,
32 subsection D.

33 D. The soft capital allocation limit for each joint technological
34 education district for the budget year is as provided in section 15-947,
35 subsection E.

36 Sec. 34. Section 15-948, Arizona Revised Statutes, is amended to read:

37 15-948. Adjustment for growth in student count

38 A. Any school district may DETERMINE, after the first one hundred days
39 or two hundred days in session, as applicable, of the current year, determine
40 if it is eligible to increase its revenue control limit and district support
41 level for the current year due to growth in the student population as
42 follows:

- 43 1. Determine the student count used for calculating the base support
44 level for the current year.

1 2. Determine the average daily membership or adjusted average daily
2 membership, whichever is applicable, through the first one hundred days or
3 two hundred days in session, as applicable, of the current year.

4 3. Subtract the amount determined in paragraph 1 of this subsection
5 from the amount determined in paragraph 2 of this subsection.

6 4. If the amount determined in paragraph 2 of this subsection is
7 greater than the amount determined in paragraph 1 of this subsection, the
8 governing board of the school district may compute an increase to its revenue
9 control limit and district support level for the current year.

10 B. A school district may DETERMINE, after the first one hundred days
11 or two hundred days in session, as applicable, of the current year, determine
12 if it is eligible to compute an increase to its revenue control limit for the
13 current year due to growth in the number of pupils in the group B categories
14 of moderate or severe mental retardation, visual impairment, hearing
15 impairment, multiple disabilities, multiple disabilities with severe sensory
16 impairment, orthopedic impairment, preschool severe delay and emotionally
17 disabled pupils enrolled in private special education programs or in school
18 district programs for pupils with severe disabilities as follows:

19 1. Determine the weighted student count for all group B children with
20 disabilities used for calculating the base support level for the current
21 year.

22 2. Determine the weighted average daily membership for all group B
23 children with disabilities through the first one hundred days or two hundred
24 days in session, as applicable, of the current year.

25 3. Subtract the amount determined in paragraph 1 of this subsection
26 from the amount determined in paragraph 2 of this subsection.

27 4. If the amount determined in paragraph 2 of this subsection is
28 greater than the amount determined in paragraph 1 of this subsection, the
29 governing board of the school district may compute an increase to its revenue
30 control limit and district support level for the current year by using the
31 amount determined in paragraph 3 of this subsection for the weighted student
32 count and the base level for the district for the current year.

33 C. If a school district meets the criteria specified in subsection A
34 or B of this section, or both, the governing board of the school district
35 may, after notice is given and a public hearing held as provided in section
36 15-905, subsection D, at any time prior to May 15 MAY revise its budget to
37 include the increase in its revenue control limit and district support level
38 for the current year utilizing the procedure prescribed in subsection A or B
39 of this section, or both. Not later than May 18, the budget as revised shall
40 be submitted electronically to the superintendent of public instruction.

41 D. If the revised budget is adopted by the governing board at the
42 public hearing and submitted electronically as provided in subsection C of
43 this section, the school district shall receive state aid based upon the
44 adjusted revenue control limit or the adjusted district support level in the
45 manner specified in section 15-971, except that in no event shall the school

1 district receive less state aid than it would have received if it had not
2 used this section.

3 E. If the adjusted revenue control limit results in an expenditure of
4 funds in excess of school district revenues for the current year, the county
5 school superintendent shall include within the revenue estimate for the
6 budget year funds necessary to meet the liabilities incurred by the school
7 district in the current year in excess of revenues received for the current
8 year.

9 Sec. 35. Section 15-961, Arizona Revised Statutes, is amended to read:

10 15-961. Capital outlay revenue limit; growth rate

11 A. A capital outlay revenue limit per student count is established for
12 fiscal year ~~1984-1985~~ 2009-2010 as follows:

13 1. FOR SCHOOL DISTRICTS WITH A STUDENT COUNT OF LESS THAN ONE HUNDRED
14 FOR KINDERGARTEN PROGRAMS AND GRADES ONE THROUGH EIGHT, TWO HUNDRED
15 SEVENTY-TWO DOLLARS SEVENTY-FIVE CENTS. FOR SCHOOL DISTRICTS WITH A STUDENT
16 COUNT OF ONE HUNDRED OR MORE AND LESS THAN SIX HUNDRED for kindergarten
17 programs and grades one through eight multiply ~~one hundred fifty-five dollars~~
18 ONE HUNDRED NINETY-FOUR DOLLARS NINETY-FIVE CENTS by the weight which
19 corresponds to the student count for kindergarten programs and grades one
20 through eight for the school district as provided in section 15-943,
21 paragraph 1, subdivision (a), column 3. For a school district with a student
22 count of six hundred or more in kindergarten programs and grades one through
23 eight, ~~multiply one hundred fifty-five dollars by 1.158~~ THE LIMIT IS TWO
24 HUNDRED TWENTY-FIVE DOLLARS SEVENTY-SIX CENTS.

25 2. FOR SCHOOL DISTRICTS WITH A STUDENT COUNT OF LESS THAN ONE HUNDRED
26 FOR GRADES NINE THROUGH TWELVE, THREE HUNDRED TWENTY-NINE DOLLARS FORTY-ONE
27 CENTS. FOR SCHOOL DISTRICTS WITH A STUDENT COUNT OF ONE HUNDRED OR MORE AND
28 LESS THAN SIX HUNDRED for grades nine through twelve, multiply ~~one hundred~~
29 ~~sixty-eight dollars~~ TWO HUNDRED ELEVEN DOLLARS TWENTY-NINE CENTS by the
30 weight which corresponds to the student count for grades nine through twelve
31 for the school district as provided in section 15-943, paragraph 1,
32 subdivision (b), column 3. For a school district with a student count of six
33 hundred or more in grades nine through twelve, ~~multiply one hundred~~
34 ~~sixty-eight dollars by 1.268~~ THE LIMIT IS TWO HUNDRED SIXTY-SEVEN DOLLARS
35 NINETY-FOUR CENTS.

36 3. For programs for preschool children with disabilities, ~~multiply~~
37 ~~one hundred fifty-five dollars by 1.158~~ TWO HUNDRED TWENTY-FIVE DOLLARS
38 SEVENTY-SIX CENTS.

39 B. For fiscal year ~~1985-1986~~ 2009-2010 and each year thereafter, the
40 capital outlay revenue limit prescribed in subsection A of this section shall
41 be adjusted by the growth rate prescribed by law, subject to appropriation.

42 C. For fiscal year 1985-1986 and each year thereafter, the capital
43 outlay revenue limit for a school district shall be computed as follows:

44 1. Select the applicable capital outlay revenue limit or limits per
45 student count for the school district.

1 2. Multiply the amount or amounts selected in paragraph 1 of this
2 subsection by the appropriate student count of the school district. The
3 student count of the school district shall not include any pupils in a
4 charter school sponsored by the district pursuant to section 15-185,
5 subsection A, paragraph 3.

6 3. If a school district's student count used for the budget year is
7 greater than one hundred five per cent of the student count used for the
8 current year's budget, increase the adjusted capital outlay revenue limit
9 determined in paragraph 2 of this subsection by the actual percentage
10 increase in the school district's student count.

11 D. For fiscal year ~~1985-1986~~ 2009-2010 and each year thereafter, an
12 amount for the purchase of required textbooks and related printed subject
13 matter materials shall be used to increase the capital outlay revenue limit
14 for a school district as determined in subsection C, paragraph 2 or 3 of this
15 section, whichever is applicable. For fiscal year ~~1985-1986~~ 2009-2010, ~~the~~
16 ~~funding level is fifty-seven dollars fifty cents~~ MULTIPLY THE STUDENT COUNT
17 IN GRADES NINE THROUGH TWELVE BY SIXTY-NINE DOLLARS SIXTY-EIGHT CENTS. ~~For~~
18 ~~fiscal year 1986-1987 and each year thereafter, the funding level is the~~
19 ~~funding level of the previous year adjusted by the growth rate prescribed by~~
20 ~~law, subject to appropriation. The amount to be added to the amount in~~
21 ~~subsection C, paragraph 2 or 3 of this section, whichever is applicable, to~~
22 ~~determine the capital outlay revenue limit for a school district is computed~~
23 ~~as follows:~~

24 ~~1. For fiscal year 1985-1986, multiply the student count in grade nine~~
25 ~~by the funding level for the applicable year as prescribed in this~~
26 ~~subsection.~~

27 ~~2. For fiscal year 1986-1987, multiply the student count in grades~~
28 ~~nine and ten by the funding level for the applicable year as prescribed in~~
29 ~~this subsection.~~

30 ~~3. For fiscal year 1987-1988, multiply the student count in grades~~
31 ~~nine through eleven by the funding level for the applicable year as~~
32 ~~prescribed in this subsection.~~

33 ~~4. For fiscal year 1988-1989 and each year thereafter, multiply the~~
34 ~~student count in grades nine through twelve by the funding level for the~~
35 ~~applicable year as prescribed in this subsection.~~

36 Sec. 36. Section 15-962, Arizona Revised Statutes, is amended to read:
37 15-962. Soft capital allocation

38 A. A soft capital allocation per student count is established for
39 fiscal year 1999-2000, as follows:

40 1. For kindergarten programs and grades one through eight, multiply
41 one hundred ninety-four dollars thirty cents by the weight which corresponds
42 to the student count for kindergarten programs and grades one through eight
43 for the school district as provided in section 15-943, paragraph 1,
44 subdivision (a), column 3.

1 2. For grades nine through twelve, multiply one hundred ninety-four
2 dollars thirty cents by the weight which corresponds to the student count as
3 provided in section 15-943, paragraph 1, subdivision (a), column 3.

4 3. For a school district with a student count of six hundred or more
5 in kindergarten programs and grades one through eight or grades nine through
6 twelve, multiply one hundred ninety-four dollars thirty cents by 1.158.

7 4. For programs for preschool children with disabilities, multiply one
8 hundred ninety-four dollars thirty cents by 1.158.

9 B. Beginning with fiscal year 1999-2000, the soft capital allocation
10 prescribed in subsection A of this section shall be adjusted by the growth
11 rate prescribed by law, subject to appropriation.

12 C. Beginning in fiscal year 1999-2000, the soft capital allocation for
13 a school district is computed as follows:

14 1. Select the applicable soft capital allocation per student count for
15 the school district as provided in subsection A of this section.

16 2. Multiply the amount selected in paragraph 1 of this subsection by
17 the appropriate student count of the school district. The student count of
18 the school district shall not include any pupils in a charter school
19 sponsored by the school district pursuant to section 15-185, subsection A,
20 paragraph 3.

21 D. A school district shall receive its soft capital allocation in the
22 amount determined in this section from monies appropriated for this purpose
23 to the department of education. Soft capital allocation monies shall only be
24 used for short-term capital items that are required to meet academic adequacy
25 standards such as technology, textbooks, library resources, instructional
26 aids, pupil transportation vehicles, furniture and equipment. School
27 districts shall not use any portion of soft capital allocation monies for
28 maintenance and operation expenses. School districts may use soft capital
29 allocation monies to meet administrative soft capital purposes after
30 complying with the adequacy standards prescribed in section 15-2011.

31 E. School districts shall establish a district soft capital allocation
32 fund and shall use the monies only for the purposes prescribed in subsection
33 D of this section. The ending unexpended budget balance in the school
34 district's soft capital allocation fund may be used in following fiscal years
35 for short-term capital items. School districts shall provide to the
36 superintendent of public instruction an itemized accounting on forms provided
37 by the department of education that details the expenditures of soft capital
38 allocation monies at each school in the district. The superintendent of
39 public instruction shall forward a copy of the report to the school
40 facilities board established by section 15-2001.

41 F. A school district governing board may petition the state board of
42 education for authority to budget and accumulate for school construction,
43 building renovation or soft capital purposes a portion of the prior year's
44 ending cash balance, not to exceed the amount of ~~P.L. 81-874~~ TITLE VIII OF
45 THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 monies which the school

1 district was entitled to receive in the prior year, as computed by the
2 superintendent of public instruction, if:

3 1. The governing board filed with the United States department of
4 education division of impact aid an approved application for federal
5 assistance for construction under P.L. 81-815 for the current or budget year
6 and has been advised by the division of impact aid that no federal monies are
7 available to fund its application.

8 2. The school district has a computed assessed valuation per pupil
9 which is below the median amount computed by the superintendent of public
10 instruction for all school districts.

11 3. The governing board has used any available revenues to reduce its
12 primary tax rate to zero for any year in which it petitions to budget and
13 accumulate monies received under ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND
14 SECONDARY EDUCATION ACT OF 1965 for school construction purposes.

15 The state board of education may grant approval to a school district
16 governing board to annually budget in the unrestricted capital outlay section
17 of the budget a portion of the cash balance, not to exceed the amount of ~~P.L.~~
18 ~~81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965
19 monies which the school district was entitled to receive in the prior year as
20 computed by the superintendent of public instruction.

21 G. The state board of education shall not include in the aggregate
22 expenditures of local revenues as determined in section 15-911 the amount of
23 revenues collected pursuant to the soft capital allocation limit. The amount
24 of revenues collected for the soft capital allocation limit is the capital
25 levy as authorized by law.

26 Sec. 37. Section 15-964, Arizona Revised Statutes, is amended to read:
27 15-964. Federal impact adjustment

28 A. The governing board of a school district may compute a federal
29 impact adjustment to the unrestricted capital budget limit. The maximum
30 amount of the federal impact adjustment is the sum of the following:

31 1. Twenty-five per cent of the monies received from forest reserve
32 funds by the school district in the prior fiscal year as provided in section
33 41-736.

34 2. For a school district that is not an accommodation school, the
35 lesser of:

36 (a) Twenty-five per cent of the ~~P.L. 81-874~~ TITLE VIII OF THE
37 ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 revenues received in the prior
38 fiscal year.

39 (b) The total amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND
40 SECONDARY EDUCATION ACT OF 1965 revenues received in the prior fiscal year
41 minus the sum of the following:

42 (i) The amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND
43 SECONDARY EDUCATION ACT OF 1965 assistance used to increase the general
44 budget limit as provided in section 15-905, subsections K and O for the prior
45 fiscal year.

1 (ii) The amount budgeted for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY
2 AND SECONDARY EDUCATION ACT OF 1965 administrative costs as provided in
3 section 15-905, subsection P for the current year.

4 (iii) The amount budgeted for principal and interest on impact aid
5 revenue bonds pursuant to section 15-2104 for the current year.

6 B. The federal impact adjustment shall only be budgeted and expended
7 for new construction, major renovation of buildings or soft capital.

8 C. The governing board may not compute a federal impact adjustment for
9 any year in which it budgets as provided in section 15-962, subsection F.

10 D. If the governing board underestimated the amount of the federal
11 impact adjustment for the current year, the board may adjust the unrestricted
12 capital budget limit and the budget before May 15. If the board
13 overestimated the amount of the federal impact adjustment for the current
14 year, the board shall adjust the unrestricted capital budget limit and the
15 budget before May 15. Not later than May 18, the budget as revised shall be
16 submitted electronically to the superintendent of public instruction.

17 Sec. 38. Section 15-973, Arizona Revised Statutes, is amended to read:
18 15-973. Apportionment of funds; expenditure limitation

19 A. The state board of education shall apportion state aid from
20 appropriations made for such purpose to the several counties on the basis of
21 state aid entitlement for the school districts in each county. No allowance
22 shall be made for nonresident alien children nor for wards of the United
23 States for whom tuition is paid, but attendance of a student in a school of a
24 county adjoining the county of his residence outside the state under a
25 certificate of educational convenience as provided by section 15-825 shall be
26 deemed to be enrollment in the school of the county or school district of his
27 residence.

28 B. Apportionments shall be made as follows:

29 1. On July 15, one-twelfth of the total amount to be apportioned
30 during the fiscal year.

31 2. On September 15, one-twelfth of the total amount to be apportioned
32 during the fiscal year.

33 3. On October 15, one-twelfth of the total amount to be apportioned
34 during the fiscal year.

35 4. On December 15, one-twelfth of the total amount to be apportioned
36 during the fiscal year.

37 5. On January 15, one-twelfth of the total amount to be apportioned
38 during the fiscal year.

39 6. On February 15, one-twelfth of the total amount to be apportioned
40 during the fiscal year.

41 7. On March 15, one-twelfth of the total amount to be apportioned
42 during the fiscal year.

43 8. On April 15, one-sixth of the total amount to be apportioned during
44 the fiscal year.

1 9. On May 15, one-sixth of the total amount to be apportioned during
2 the fiscal year.

3 10. On June 15, one-twelfth of the total amount to be apportioned
4 during the fiscal year, except that if the total amount of monies available
5 to make the payment is less than the amount of the payment, a portion of the
6 June 15 payment may be delayed no later than June 30 to allow for the receipt
7 of income from the permanent state common school fund.

8 The superintendent of public instruction shall furnish to the county
9 treasurer and the county school superintendent an abstract of the
10 apportionment and shall certify the apportionment to the department of
11 administration, which shall draw its warrant in favor of the county treasurer
12 of each county for the amount apportioned. Upon receipt of the warrant the
13 county treasurer shall notify the county school superintendent of the amount,
14 together with any other monies standing to the credit of such school district
15 in the county school fund.

16 C. Notwithstanding subsection B of this section, if sufficient
17 appropriated funds are available and on a showing by a school district that
18 additional state monies are necessary for current expenses, an apportionment
19 or part of an apportionment of state aid may be paid to the school district
20 prior to the date set for such apportionment by subsection B of this
21 section. After the first forty days in session of the current year, a school
22 district may request additional state monies to fund the increased state aid
23 due to anticipated student growth through the first one hundred days or two
24 hundred days in session, as applicable, of the current year as provided in
25 section 15-948. In no event shall a school district have received more than
26 three-fourths of its total apportionment before April 15 of the fiscal
27 year. Early payments pursuant to this subsection must be approved by the
28 state treasurer, the director of the department of administration and the
29 superintendent of public instruction.

30 ~~D. Until June 30, 1999, at such time and as provided by federal law or~~
31 ~~regulation, state aid shall be reduced as follows:~~

32 ~~1. The superintendent of public instruction shall compute the amount~~
33 ~~of monies which each school district is eligible to receive under P.L.~~
34 ~~81-874, less P.L. 81-874 monies for children with disabilities, children with~~
35 ~~specific learning disabilities and children residing on Indian lands which~~
36 ~~are in addition to the basic assistance as provided in 20 United States Code~~
37 ~~section 238(d)2(C) and (D), and for which monies have been appropriated.~~

38 ~~2. The superintendent of public instruction shall deduct from state~~
39 ~~aid for each school district which is eligible to receive monies under P.L.~~
40 ~~81-874 and for which monies are appropriated as provided in paragraph 1 of~~
41 ~~this subsection the lesser of:~~

42 ~~(a) The maximum allowed by law or regulation.~~

43 ~~(b) The amount computed as follows:~~

44 ~~(i) For fiscal year 1982-1983, twenty-five per cent of the amount~~
45 ~~computed in paragraph 1 of this subsection.~~

1 ~~(ii) For fiscal year 1983-1984, fifty per cent of the amount computed~~
2 ~~in paragraph 1 of this subsection.~~

3 ~~(iii) For fiscal year 1984-1985, seventy five per cent of the amount~~
4 ~~computed in paragraph 1 of this subsection.~~

5 ~~(iv) Beginning with fiscal year 1985-1986, ninety five per cent of the~~
6 ~~amount computed in paragraph 1 of this subsection.~~

7 ~~3. The reduction in state aid shall be made from equalization~~
8 ~~assistance as prescribed in section 15-971 or from additional state aid as~~
9 ~~prescribed in section 15-972 during the fiscal year following the fiscal year~~
10 ~~in which the monies are received. The superintendent of public instruction~~
11 ~~shall make additional adjustments in state aid for allowable deductions which~~
12 ~~were not made in any previous fiscal year which is not more than five years~~
13 ~~earlier than the year in which the adjustments are made. The superintendent~~
14 ~~of public instruction shall give the school district prior notice of the~~
15 ~~intention to make the additional adjustments and may distribute the~~
16 ~~adjustments over more than one year after considering the effects of the~~
17 ~~adjustments on the school district.~~

18 ~~E.~~ D. The superintendent of public instruction shall not make
19 application to the federal government to utilize ~~P.L. 81-874~~ TITLE VIII OF
20 THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 monies in determining the
21 apportionment prescribed in this section.

22 ~~F.~~ E. If a school district which is eligible to receive monies
23 pursuant to this article is unable to meet a scheduled payment on any
24 lawfully incurred long-term obligation for debt service as provided in
25 section 15-1022, the county treasurer shall use any amount distributed
26 pursuant to this section to make the payment. The county treasurer shall
27 keep a record of all the instances in which a payment is made pursuant to
28 this subsection. Any monies subsequently collected by the district to make
29 the scheduled payment shall be used to replace the amount diverted pursuant
30 to this subsection. When determining the total amount to be funded by a levy
31 of secondary taxes upon property within the school district for the following
32 fiscal year, the county board of supervisors shall add to the amounts
33 budgeted to be expended during the following fiscal year an amount equal to
34 the total of all payments pursuant to this subsection during the current
35 fiscal year which were not repaid during the current year.

36 ~~G.~~ F. The total amount of state monies that may be spent in any
37 fiscal year by the state board of education for apportionment of state aid
38 for education shall not exceed the amount appropriated or authorized by
39 section 35-173 for that purpose. This section shall not be construed to
40 impose a duty on an officer, agent or employee of this state to discharge a
41 responsibility or to create any right in a person or group if the discharge
42 or right would require an expenditure of state monies in excess of the
43 expenditure authorized by legislative appropriation for that specific
44 purpose.

1 Sec. 39. Section 15-973.01, Arizona Revised Statutes, is amended to
2 read:

3 15-973.01. Assistance for education fund

4 A. The assistance for education fund is established consisting of
5 monies received pursuant to section 43-617.

6 B. The state board of education shall administer the fund. On notice
7 from the state board, the state treasurer shall invest and divest monies in
8 the fund as provided by section 35-313 and monies earned from investments
9 shall be credited to the fund. Monies in the fund:

10 1. Are continuously appropriated to the state board of education.

11 2. Are exempt from the provisions of section 35-190, relating to
12 lapsing of appropriations.

13 C. The state board of education shall **ACCUMULATE MONIES UNTIL THOSE**
14 **MONIES ARE SUFFICIENT TO PROVIDE A MINIMUM OF FIVE DOLLARS PER UNWEIGHTED**
15 **STUDENT COUNT AND SHALL** distribute monies in the fund to school districts **AND**
16 **CHARTER SCHOOLS** at the same time, in the same manner and in the same
17 proportions as state aid from appropriations made pursuant to ~~section~~
18 **SECTIONS 15-185 AND** 15-973.

19 D. Monies in the fund shall not be used to reduce the general fund
20 requirement for state aid.

21 Sec. 40. Section 15-991, Arizona Revised Statutes, is amended to read:

22 15-991. Annual estimate by county school superintendent of
23 monies for ensuing year

24 A. The county school superintendent, not later than August 1 each
25 year, shall file in writing with the governing board of each school district
26 in the county and the board of supervisors the superintendent's estimate of
27 the amount of school monies required by each school district for the ensuing
28 year, based on the budgets adopted by the governing boards of the school
29 districts. The estimate shall contain:

30 1. A statement of the student count of each school district.

31 2. The total amount to be received for the year by each school
32 district from the county school fund and the special county school reserve
33 fund.

34 3. The ending cash balance from the previous year for each school
35 district.

36 4. The anticipated interest earnings for each school district.

37 5. Revenues equal to the amount included in the adopted budget for the
38 maintenance and operation section of the budget permitted by section 15-947,
39 subsection C, paragraph 2, subdivision (a), items (ii), (iii), (iv), (v) and
40 (vi) and subdivision (d). The county school superintendent shall estimate
41 the additional amounts needed for each school district from the primary
42 property tax and the secondary property tax and shall certify such amounts to
43 the board of supervisors in writing at the time of filing the estimate. When
44 estimating the additional amount needed from the primary property tax for a
45 school district that is not eligible for any equalization assistance as

1 provided in section 15-971, the county school superintendent shall include
2 the school district governing board's estimate of the increase in the revenue
3 control limit as prescribed by section 15-948 for the applicable year, except
4 that the percentage increase in average daily membership used to compute the
5 estimated increase in the revenue control limit may not exceed the average of
6 the percentage increase in average daily membership in the three years before
7 the year for which the estimate is made.

8 B. The county school superintendent shall recompute equalization
9 assistance for education for each school district as provided in section
10 15-971, subsection A using the property values provided by the county
11 assessor as provided in section 42-17052. The county school superintendent
12 shall certify in writing the amount of equalization assistance for education
13 and the amount needed for each school district from the primary property tax
14 to the board of supervisors on or before the third day prior to the day the
15 board of supervisors is required to levy school district taxes as provided in
16 section 15-992.

17 C. The county school superintendent shall compute the additional
18 amount to be levied as provided in section 15-992, subsection B, using the
19 property values provided in section 42-17052. The county school
20 superintendent shall certify in writing the additional amount to be levied to
21 the county board of supervisors on or before the third day prior to the day
22 the board of supervisors is required to levy school district taxes as
23 provided in section 15-992.

24 D. On or before September 1, the governing board of a school district
25 shall file with the county school superintendent an estimate of the amount of
26 ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965
27 monies which it is eligible to receive during the current year. On or before
28 June 1, the governing board shall file with the county school superintendent
29 and the superintendent of public instruction a statement of the actual amount
30 of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF
31 1965 monies it received during the current year. This subsection does not
32 apply to accommodation schools.

33 E. The department may collect any other similar or related information
34 from school districts that the department may determine is necessary to carry
35 out the purposes of this section.

36 Sec. 41. Section 15-1042, Arizona Revised Statutes, is amended to
37 read:

38 15-1042. Time line; student level data; definition

39 A. The department of education shall notify school districts and
40 charter schools of electronic data submission procedures and shall distribute
41 a list of the specific student level data elements that school districts and
42 charter schools are required to submit. The department of education shall
43 not make any changes to the student level data elements to be collected
44 except for the following:

1 1. Student attendance data for a joint technological education
2 district, including entry date and exit date, for classes that count towards
3 the student's graduation requirements as provided for in section 15-701.01.

4 2. Student attendance data for a community college, unless the college
5 is owned, operated or chartered by an Indian tribe, including entry date and
6 exit date, for classes that count towards the student's graduation
7 requirements as provided for in section 15-701.01.

8 B. ~~By July 1, 2001,~~ Each school district and charter school shall
9 submit electronic data on a school by school basis, including student level
10 data, to the department of education in order for the school district or
11 charter school to receive monies for the cost of educating students pursuant
12 to this title.

13 C. The department of education shall grant a school district or
14 charter school an extension to the deadline for the submission of student
15 level data or may provide for an alternative method for the submission of
16 student level data if the school district or charter school proves that good
17 cause exists for the extension, and the school district or charter school
18 shall continue to receive monies for the cost of educating students pursuant
19 to this title. ~~A school district or charter school requesting an extension~~
20 ~~shall notify the department of education no later than June 1, 2001.~~ The
21 request by a school district or charter school for an extension of the
22 deadline for the submission of student level data shall include a
23 justification for the extension and the status of current efforts towards
24 complying with the submission of student level data.

25 D. A pupil or the parent or guardian of a pupil shall not be required
26 to submit data that does not relate to the provision of educational services
27 or assistance to the pupil.

28 E. Each student level data element shall include a statutory reference
29 to the law that necessitates its collection.

30 F. ~~UNLESS OTHERWISE PRESCRIBED, SCHOOL DISTRICTS AND CHARTER SCHOOLS~~
31 ~~SHALL BEGIN TO REPORT NEW DATA ELEMENTS ON JULY 1 OF THE YEAR THAT FOLLOWS~~
32 ~~THE EFFECTIVE DATE OF THE LAW THAT REQUIRES THE COLLECTION OF THE DATA.~~

33 ~~F.~~ G. Student level data items submitted to the department of
34 education by school districts pursuant to this section shall not be used to
35 adjust funding levels or calculate the average daily membership for the
36 purpose of funding school districts at any time other than the fortieth, one
37 hundredth and two hundredth day of the school year.

38 ~~G.~~ H. A school district or charter school is not required to submit
39 student level data to the department of education more often than once every
40 twenty school days.

41 ~~H.~~ I. Notwithstanding subsection ~~K~~ L of this section, the student
42 level data shall include reasons for the withdrawal if reasons are provided
43 by the withdrawing pupil or the pupil's parent or guardian. For the purposes
44 of this subsection, the department of education shall include in the specific
45 student level data elements that school districts and charter schools are

1 required to submit data relating to students who withdraw from school because
2 the student is pregnant or because the student is the biological parent of a
3 child.

4 ~~I.~~ J. The department of education shall adopt guidelines to remove
5 outdated student level data collected by school districts and charter schools
6 from the student accountability information system ~~beginning in the 2004-2005~~
7 ~~school year.~~

8 ~~J.~~ K. All student level data collected pursuant to this section is
9 confidential and is not a public record. The data collected may be used for
10 aggregate research and reporting.

11 ~~K.~~ L. For the purposes of this section, "student level data" means
12 all data elements that are compiled and submitted for each student in this
13 state and that are necessary for the completion of the statutory requirements
14 of the department of education and the state board of education relating to
15 the calculation of funding for public education, the determination of student
16 academic progress as measured by student testing programs in this state,
17 state and federal reporting requirements and other duties prescribed to the
18 department of education or the state board of education by law. Student
19 level data does not include data elements related to student behavior,
20 discipline, criminal history, medical history, religious affiliation,
21 personal physical descriptors or family information not authorized by the
22 parent or guardian of the pupil.

23 Sec. 42. Title 15, chapter 10, article 8, Arizona Revised Statutes, is
24 amended by adding section 15-1225, to read:

25 15-1225. Postemployment benefits; trust accounts; actuarial
26 report

27 A. IF THE GOVERNING BOARD OFFERS POSTEMPLOYMENT BENEFITS TO SCHOOL
28 DISTRICT EMPLOYEES OR TO SPOUSES AND DEPENDENTS OF SCHOOL DISTRICT EMPLOYEES,
29 OR BOTH, MONIES TO FUND THESE BENEFITS MAY BE DEPOSITED IN AN OTHER
30 POSTEMPLOYMENT BENEFITS FUND OR AN OTHER POSTEMPLOYMENT BENEFITS TRUST
31 ACCOUNT, OR BOTH. ADDITIONAL MONIES SHALL NOT BE LEGISLATIVELY APPROPRIATED
32 SPECIFICALLY TO PROVIDE ANY POSTEMPLOYMENT BENEFITS OFFERED BY A GOVERNING
33 BOARD.

34 B. AN OTHER POSTEMPLOYMENT BENEFITS FUND IS A CASH CONTROLLED FUND AS
35 PROVIDED IN SECTION 15-905, SUBSECTION N. THE MONIES IN THE OTHER
36 POSTEMPLOYMENT BENEFITS FUND ARE NOT SUBJECT TO REVERSION, EXCEPT THAT AT THE
37 END OF FIVE YEARS OF NO ACTIVITY IN THE FUND, ANY REMAINING MONIES SHALL
38 REVERT TO THE MAINTENANCE AND OPERATIONS FUND.

39 C. AN OTHER POSTEMPLOYMENT BENEFITS TRUST ACCOUNT ESTABLISHED PURSUANT
40 TO SUBSECTION A OF THIS SECTION SHALL MEET ALL OF THE FOLLOWING CONDITIONS:

41 1. CONTRIBUTIONS MADE BY THE SCHOOL DISTRICT INTO THE TRUST ACCOUNT
42 ARE IRREVOCABLE.

43 2. THE ASSETS OF THE TRUST ACCOUNT SHALL BE DEDICATED TO PROVIDING
44 BENEFITS TO SCHOOL DISTRICT RETIREES AND THEIR BENEFICIARIES IN ACCORDANCE
45 WITH THE TERMS OF THE POSTEMPLOYMENT BENEFITS PLAN.

1 3. TRUST ASSETS SHALL BE LEGALLY PROTECTED FROM CREDITORS OF THE
2 SCHOOL DISTRICT OR THE INVESTMENT MANAGER PURSUANT TO SUBSECTION F OF THIS
3 SECTION.

4 D. CURRENT OR PRIOR YEAR POSTEMPLOYMENT BENEFITS LIABILITIES MAY BE
5 PAID FROM ANY SCHOOL DISTRICT FUND FROM WHICH A SCHOOL DISTRICT MAY PAY
6 EMPLOYEE BENEFITS INTO THE OTHER POSTEMPLOYMENT BENEFITS FUND OR TRUST
7 ACCOUNT. PAYMENTS FOR CURRENT OR PRIOR YEAR LIABILITIES PAID INTO THE OTHER
8 POSTEMPLOYMENT BENEFITS FUND OR TRUST ACCOUNT SHALL BE TREATED AS AN
9 EXPENDITURE FROM THE ORIGINATING SCHOOL DISTRICT FUND.

10 E. THE FOLLOWING EXPENDITURES MAY BE MADE FROM AN OTHER POSTEMPLOYMENT
11 BENEFITS FUND OR AN OTHER POSTEMPLOYMENT BENEFITS TRUST ACCOUNT:

- 12 1. ADMINISTRATIVE AND MANAGEMENT COSTS.
- 13 2. PAYMENT OF BENEFITS.

14 F. AN INVESTMENT MANAGER FOR AN OTHER POSTEMPLOYMENT BENEFITS TRUST
15 ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE EITHER:

- 16 1. A QUALIFIED INVESTMENT MANAGER APPOINTED BY THE DISTRICT GOVERNING
17 BOARD.
- 18 2. THE MANAGER OF A PUBLIC AGENCY POOL ESTABLISHED PURSUANT TO SECTION
19 11-952.01.

20 G. THE INVESTMENT MANAGER FOR AN OTHER POSTEMPLOYMENT BENEFITS TRUST
21 ACCOUNT MAY INVEST AND REINVEST THE MONIES IN THE ACCOUNT AND MAY HOLD,
22 PURCHASE, SELL, ASSIGN, TRANSFER AND DISPOSE OF ANY OF THE SECURITIES AND
23 INVESTMENTS IN WHICH ANY OF THE TRUST ACCOUNT MONIES ARE INVESTED. THE
24 INVESTMENT MANAGER SHALL INVEST THE MONIES IN THE TRUST ACCOUNT IN THE SAME
25 MANNER AS THE MONIES IN THE PERMANENT STATE LAND FUND PURSUANT TO SECTION
26 35-314.01, EXCEPT THAT NOT MORE THAN THIRTY PER CENT OF THE MONIES IN THE
27 TRUST ACCOUNT MAY BE INVESTED IN EQUITY SECURITIES AT ANY TIME. THE
28 PERCENTAGE OF INVESTMENT SHALL BE CALCULATED AT COST.

29 H. IF APPLICABLE, EACH SCHOOL DISTRICT SHALL SUBMIT ON OR BEFORE
30 SEPTEMBER 1, 2009 TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE MOST RECENT
31 ACTUARIAL STUDY OF THE SCHOOL DISTRICT'S EXISTING OTHER POSTEMPLOYMENT
32 BENEFITS OFFERED BY THE SCHOOL DISTRICT AND ANY PROSPECTIVE OTHER
33 POSTEMPLOYMENT BENEFITS CONTEMPLATED TO BE OFFERED BY THE SCHOOL DISTRICT,
34 INCLUDING AN ANALYSIS OF DEFINED CONTRIBUTION PLANS AND DEFINED BENEFITS
35 PLANS IF APPROPRIATE AND IF THE DEFINED CONTRIBUTION OR DEFINED BENEFIT PLANS
36 ARE USED TO ADMINISTER ANY OTHER POSTEMPLOYMENT BENEFIT. EACH TIME A SCHOOL
37 DISTRICT CONDUCTS A NEW ACTUARIAL STUDY OF THE SCHOOL DISTRICT'S EXISTING OR
38 PROSPECTIVE OTHER POSTEMPLOYMENT BENEFITS, THE SCHOOL DISTRICT SHALL SUBMIT
39 THE NEW STUDY TO THE JOINT LEGISLATIVE BUDGET COMMITTEE WITHIN THIRTY DAYS OF
40 THE COMPLETION OF THE STUDY.

41 I. FOR THE PURPOSES OF THIS SECTION, POSTEMPLOYMENT BENEFITS DO NOT
42 INCLUDE BENEFITS PROVIDED BY THE ARIZONA STATE RETIREMENT SYSTEM.

1 Sec. 43. Section 15-2002, Arizona Revised Statutes, is amended to
2 read:

3 15-2002. Powers and duties; executive director; staffing;
4 report

5 A. The school facilities board shall:

6 1. Make assessments of school facilities and equipment deficiencies
7 and approve the distribution of grants as appropriate.

8 2. Develop a database for administering the building renewal formula
9 prescribed in section 15-2031 and administer the distribution of monies to
10 school districts for building renewal.

11 3. Inspect school buildings at least once every five years to ensure
12 compliance with the building adequacy standards prescribed in section 15-2011
13 and routine preventative maintenance guidelines as prescribed in this section
14 with respect to construction of new buildings and maintenance of existing
15 buildings. The school facilities board shall randomly select twenty school
16 districts every thirty months and inspect them pursuant to this paragraph.

17 4. Review and approve student population projections submitted by
18 school districts to determine to what extent school districts are entitled to
19 monies to construct new facilities pursuant to section 15-2041. The board
20 shall make a final determination within six months of the receipt of an
21 application by a school district for monies from the new school facilities
22 fund.

23 5. Certify that plans for new school facilities meet the building
24 adequacy standards prescribed in section 15-2011.

25 6. Develop prototypical elementary and high school designs. The board
26 shall review the design differences between the schools with the highest
27 academic productivity scores and the schools with the lowest academic
28 productivity scores. The board shall also review the results of a valid and
29 reliable survey of parent quality rating in the highest performing schools
30 and the lowest performing schools in this state. The survey of parent
31 quality rating shall be administered by the department of education. The
32 board shall consider the design elements of the schools with the highest
33 academic productivity scores and parent quality ratings in the development of
34 elementary and high school designs. The board shall develop separate school
35 designs for elementary, middle and high schools with varying pupil
36 capacities.

37 7. Develop application forms, reporting forms and procedures to carry
38 out the requirements of this article.

39 8. Review and approve or reject requests submitted by school districts
40 to take actions pursuant to section 15-341, subsection ~~F~~ G.

41 9. Submit **ELECTRONICALLY** an annual report by December 15 to the
42 speaker of the house of representatives, the president of the senate, the
43 superintendent of public instruction, the director of the Arizona state
44 library, archives and public records and the governor that includes the
45 following information:

1 (a) A detailed description of the amount of monies distributed by the
2 school facilities board in the previous fiscal year.

3 (b) A list of each capital project that received monies from the
4 school facilities board during the previous fiscal year, a brief description
5 of each project that was funded and a summary of the board's reasons for the
6 distribution of monies for the project.

7 (c) A summary of the findings and conclusions of the building
8 maintenance inspections conducted pursuant to this article during the
9 previous fiscal year.

10 (d) A summary of the findings of common design elements and
11 characteristics of the highest performing schools and the lowest performing
12 schools based on academic productivity, including the results of the parent
13 quality rating survey. For the purposes of this subdivision, "academic
14 productivity" means academic year advancement per calendar year as measured
15 with student-level data using the statewide nationally standardized
16 norm-referenced achievement test.

17 10. By December 1 of each year, report **ELECTRONICALLY** to the joint
18 committee on capital review the amounts necessary to fulfill the requirements
19 of sections 15-2022, 15-2031 and 15-2041 for the following fiscal year and
20 the estimated amounts necessary to fulfill the requirements of sections
21 15-2022, 15-2031 and 15-2041 for the fiscal year following the next fiscal
22 year. The board shall provide copies of the report to the president of the
23 senate, the speaker of the house of representatives and the governor.

24 11. Adopt minimum school facility adequacy guidelines to provide the
25 minimum quality and quantity of school buildings and the facilities and
26 equipment necessary and appropriate to enable pupils to achieve the
27 educational goals of the Arizona state schools for the deaf and the
28 blind. The school facilities board shall establish minimum school facility
29 adequacy guidelines applicable to the Arizona state schools for the deaf and
30 the blind.

31 12. In each even-numbered year, report **ELECTRONICALLY** to the joint
32 committee on capital review the amounts necessary to fulfill the requirements
33 of sections 15-2031 and 15-2041 for the Arizona state schools for the deaf
34 and the blind for the following two fiscal years. The Arizona state schools
35 for the deaf and the blind shall incorporate the findings of the report in
36 any request for building renewal monies and new school facilities monies.
37 Any monies provided to the Arizona state schools for the deaf and the blind
38 for building renewal and for new school facilities are subject to legislative
39 appropriation.

40 13. By June 15 of each year, submit **ELECTRONICALLY** detailed information
41 regarding demographic assumptions, a proposed construction schedule and new
42 school construction cost estimates for individual projects approved in the
43 current fiscal year and expected project approvals for the upcoming fiscal
44 year to the joint committee on capital review for its review. A copy of the
45 report shall also be submitted **ELECTRONICALLY** to the governor's office of

1 strategic planning and budgeting. The joint legislative budget committee
2 staff, the governor's office of strategic planning and budgeting staff and
3 the school facilities board staff shall agree on the format of the report.

4 14. Every two years, provide school districts with information on
5 improving and maintaining the indoor environmental quality in school
6 buildings.

7 B. The school facilities board may contract for ~~private~~ THE FOLLOWING
8 services in compliance with the procurement practices prescribed in title 41,
9 chapter 23:

- 10 1. PRIVATE SERVICES.
11 2. CONSTRUCTION PROJECT MANAGEMENT SERVICES.
12 3. ASSESSMENTS FOR SCHOOL BUILDINGS TO DETERMINE IF THEY HAVE OUTLIVED
13 THEIR USEFUL LIFE PURSUANT TO SECTION 15-2041, SUBSECTION G.
14 4. SERVICES RELATED TO LAND ACQUISITION AND DEVELOPMENT OF A SCHOOL
15 SITE.

16 C. The governor shall appoint an executive director of the school
17 facilities board pursuant to section 38-211. The executive director is
18 eligible to receive compensation as determined pursuant to section 38-611 and
19 may hire and fire necessary staff as approved by the legislature in the
20 budget. The executive director shall have demonstrated competency in school
21 finance, facilities design or facilities management, either in private
22 business or government service. The executive director serves at the
23 pleasure of the governor. The staff of the school facilities board is exempt
24 from title 41, chapter 4, articles 5 and 6. The executive director:

25 1. Shall analyze applications for monies submitted to the board by
26 school districts.

27 2. Shall assist the board in developing forms and procedures for the
28 distribution and review of applications and the distribution of monies to
29 school districts.

30 3. May review or audit, or both, the expenditure of monies by a school
31 district for deficiencies corrections, building renewal and new school
32 facilities.

33 4. Shall assist the board in the preparation of the board's annual
34 report.

35 5. Shall research and provide reports on issues of general interest to
36 the board.

37 6. May aid school districts in the development of reasonable and
38 cost-effective school designs in order to avoid statewide duplicated efforts
39 and unwarranted expenditures in the area of school design.

40 7. May assist school districts in facilitating the development of
41 multijurisdictional facilities.

42 8. Shall assist the board in any other appropriate matter or method as
43 directed by the members of the board.

1 9. Shall establish procedures to ensure compliance with the notice and
2 hearing requirements prescribed in section 15-905. The notice and hearing
3 procedures adopted by the board shall include the requirement, with respect
4 to the board's consideration of any application filed after July 1, 2001 or
5 after December 31 of the year in which the property becomes territory in the
6 vicinity of a military airport or ancillary military facility as defined in
7 section 28-8461 for monies to fund the construction of new school facilities
8 proposed to be located in territory in the vicinity of a military airport or
9 ancillary military facility, that the military airport receive notification
10 of the application by first class mail at least thirty days before any
11 hearing concerning the application.

12 10. May expedite any request for monies in which the local match was
13 not obtained for a project that received preliminary approval by the state
14 board for school capital facilities.

15 11. Shall expedite any request for monies in which the school district
16 governing board submits an application that shows an immediate need for a new
17 school facility.

18 12. Shall make a determination as to administrative completion within
19 one month after the receipt of an application by a school district for monies
20 from the new school facilities fund.

21 13. Shall provide technical support to school districts as requested by
22 school districts in connection with the construction of new school facilities
23 and the maintenance of existing school facilities AND MAY CONTRACT DIRECTLY
24 WITH CONSTRUCTION PROJECT MANAGERS PURSUANT TO SUBSECTION B OF THIS SECTION.
25 THIS PARAGRAPH DOES NOT RESTRICT A SCHOOL DISTRICT FROM CONTRACTING WITH A
26 CONSTRUCTION PROJECT MANAGER USING DISTRICT OR STATE RESOURCES.

27 D. When appropriate, the school facilities board shall review and use
28 the statewide school facilities inventory and needs assessment conducted by
29 the joint committee on capital review and issued in July, 1995.

30 E. The school facilities board shall contract with one or more private
31 building inspectors to complete an initial assessment of school facilities
32 and equipment and shall inspect each school building in this state at least
33 once every five years to ensure compliance with section 15-2011. A copy of
34 the inspection report, together with any recommendations for building
35 maintenance, shall be provided to the school facilities board and the
36 governing board of the school district.

37 F. The school facilities board may consider appropriate combinations
38 of facilities or uses in making assessments of and curing deficiencies
39 pursuant to subsection A, paragraph 1 of this section and in certifying plans
40 for new school facilities pursuant to subsection A, paragraph 5 of this
41 section.

42 G. The board shall not award any monies to fund new facilities that
43 are financed by class A bonds that are issued by the school district.

1 H. The board shall not distribute monies to a school district for
2 replacement or repair of facilities if the costs associated with the
3 replacement or repair are covered by insurance or a performance or payment
4 bond.

5 I. The board may contract for construction services and materials that
6 are necessary to correct existing deficiencies in school district facilities.
7 The board may procure the construction services necessary pursuant to this
8 subsection by any method, including construction-manager-at-risk,
9 design-build, design-bid-build or job-order-contracting as provided by title
10 41, chapter 23. The construction planning and services performed pursuant to
11 this subsection are exempt from section 41-791.01.

12 J. The school facilities board may enter into agreements with school
13 districts to allow school facilities board staff and contractors access to
14 school property for the purposes of performing the construction services
15 necessary pursuant to subsection I of this section.

16 K. Each school district shall develop routine preventative maintenance
17 guidelines for its facilities. The guidelines shall be submitted to the
18 school facilities board for review and approval. If upon inspection by the
19 school facilities board it is determined that a school district facility was
20 inadequately maintained pursuant to the school district's routine
21 preventative maintenance guidelines, the school district shall use building
22 renewal monies pursuant to section 15-2031, subsection L to return the
23 building to compliance with the school district's routine preventative
24 maintenance guidelines. Once the district is in compliance, it no longer is
25 required to use building renewal monies for preventative maintenance.

26 L. The school facilities board may temporarily transfer monies between
27 the capital reserve fund established by section 15-2003, the emergency
28 deficiencies correction fund established by section 15-2022, the building
29 renewal fund established by section 15-2031 and the new school facilities
30 fund established by section 15-2041 if all of the following conditions are
31 met:

32 1. The transfer is necessary to avoid a temporary shortfall in the
33 fund into which the monies are transferred.

34 2. The transferred monies are restored to the fund where the monies
35 originated as soon as practicable after the temporary shortfall in the other
36 fund has been addressed.

37 3. The school facilities board reports to the joint committee on
38 capital review the amount of and the reason for any monies transferred.

39 M. AFTER NOTIFYING EACH SCHOOL DISTRICT, AND IF A WRITTEN OBJECTION
40 FROM THE SCHOOL DISTRICT IS NOT RECEIVED BY THE SCHOOL FACILITIES BOARD
41 WITHIN THIRTY DAYS OF THE NOTIFICATION, THE SCHOOL FACILITIES BOARD MAY
42 ACCESS PUBLIC UTILITY COMPANY RECORDS OF POWER, WATER, NATURAL GAS, TELEPHONE
43 AND BROADBAND USAGE TO ASSEMBLE CONSISTENT AND ACCURATE DATA ON UTILITY
44 CONSUMPTION AT SCHOOL FACILITIES TO DETERMINE THE EFFECTIVENESS OF FACILITY
45 DESIGN, OPERATION AND MAINTENANCE MEASURES INTENDED TO REDUCE ENERGY AND

1 WATER CONSUMPTION AND COSTS. ANY PUBLIC UTILITY THAT PROVIDES SERVICE TO A
2 SCHOOL DISTRICT IN THIS STATE SHALL PROVIDE THE DATA REQUESTED BY THE SCHOOL
3 FACILITIES BOARD PURSUANT TO THIS SUBSECTION.

4 Sec. 44. Section 15-2022, Arizona Revised Statutes, is amended to
5 read:

6 15-2022. Emergency deficiencies correction fund; definition

7 A. An emergency deficiencies correction fund is established consisting
8 of monies transferred from ~~the deficiencies correction fund established by~~
9 ~~section 15-2021 or~~ the new school facilities fund established by section
10 15-2041. The school facilities board shall administer the fund and
11 distribute monies in accordance with the rules of the school facilities board
12 to school districts for emergency purposes. The school facilities board
13 shall not transfer monies from ~~the deficiencies correction fund and~~ the new
14 school facilities fund if the transfer will affect, interfere with, disrupt
15 or reduce any capital projects that the school facilities board has approved
16 pursuant to ~~sections 15-2021 and~~ SECTION 15-2041. The school facilities
17 board shall transfer to the emergency deficiencies correction fund the amount
18 necessary each fiscal year to fulfill the requirements of this section.
19 Monies in the fund are continuously appropriated and are exempt from the
20 provisions of section 35-190 relating to lapsing of appropriations.

21 B. If the school facilities board determines that there are
22 insufficient monies in the emergency deficiencies correction fund to correct
23 an emergency, the school district may correct the emergency pursuant to
24 section 15-907.

25 C. If a school district has an emergency, the school district shall
26 apply to the school facilities board for funding for the emergency. The
27 school district's application shall disclose any insurance or building
28 renewal monies available to the school district to pay for the emergency.

29 D. The school facilities board staff shall ~~notify~~ NOTIFY ACKNOWLEDGE RECEIPT
30 OF the school ~~district of the staff's recommendation~~ DISTRICT'S APPLICATION
31 FOR EMERGENCY DEFICIENCIES FUNDING IN WRITING within five business days of
32 receiving the application. The school facilities board STAFF shall ~~decide on~~
33 ~~the staff's recommendation for funding at the next scheduled school~~
34 ~~facilities board meeting~~ INCLUDE IN THE WRITTEN ACKNOWLEDGEMENT OF RECEIPT TO
35 THE SCHOOL DISTRICT ANY INVESTIGATIVE, STUDY OR INFORMATIONAL REQUIREMENTS
36 FROM THE SCHOOL DISTRICT, ALONG WITH AN ESTIMATED TIMELINE TO COMPLETE THE
37 REQUIREMENTS, NECESSARY FOR THE SCHOOL FACILITIES BOARD STAFF TO MAKE A
38 RECOMMENDATION FOR FUNDING TO THE SCHOOL FACILITIES BOARD.

39 E. For the purposes of this section, "emergency" means a serious need
40 for materials, services or construction or expenses in excess of the
41 district's adopted budget for the current fiscal year ~~and~~ that seriously
42 ~~threaten~~ THREATENS the functioning of the school district, the preservation
43 or protection of property or public health, welfare or safety.

1 Sec. 45. Section 15-2031, Arizona Revised Statutes, is amended to
2 read:

3 15-2031. Building renewal fund; definitions

4 A. A building renewal fund is established consisting of monies
5 appropriated by the legislature. The school facilities board shall
6 administer the fund and distribute monies to school districts for the purpose
7 of maintaining the adequacy of existing school facilities. Monies in the
8 fund are continuously appropriated and are exempt from the provisions of
9 section 35-190 relating to lapsing of appropriations.

10 B. The school facilities board shall inventory and inspect all school
11 buildings in this state in order to develop a database to administer the
12 building renewal formula. The database shall include the student capacity of
13 the building as determined by the school facilities board. The board shall
14 distribute monies from the building renewal fund to school districts in an
15 amount computed pursuant to subsection I of this section. A school district
16 that receives monies from the building renewal fund shall use the monies
17 first for any projects that fall below the minimum school facility adequacy
18 guidelines, as adopted by the school facilities board pursuant to section
19 15-2011, and that are part of any buildings in the database and second for
20 any other projects that are part of any buildings owned by the school
21 district for any of the following:

- 22 1. Major renovations and repairs of a building.
- 23 2. Upgrading systems and areas that will maintain or extend the useful
24 life of the building.
- 25 3. Infrastructure costs.
- 26 4. Relocation and placement of portable and modular buildings.

27 C. Monies received from the building renewal fund shall be used for
28 primary projects, unless only secondary projects exist.

29 D. Notwithstanding subsections B and C of this section, school
30 districts shall use building renewal monies on secondary projects to comply
31 with building, health, fire or safety codes. Before spending building
32 renewal monies on secondary projects to comply with building, health, fire or
33 safety codes, the school facilities board shall approve the projects.

34 E. Monies received from the building renewal fund shall not be used
35 for any of the following purposes:

- 36 1. New construction.
- 37 2. Remodeling interior space for aesthetic or preferential reasons.
- 38 3. Exterior beautification.
- 39 4. Demolition.
- 40 5. The purchase of soft capital items pursuant to section 15-962,
41 subsection D.

42 6. Routine maintenance except as provided in section 15-2002,
43 subsection K and subsection L of this section.

1 F. The school facilities board shall maintain the building renewal
2 database and use the database for the computation of the building renewal
3 formula distributions. The board shall ensure that the database is updated
4 on at least an annual basis to reflect changes in the ages and value of
5 school buildings. The facilities listed in the database shall include only
6 those buildings that are owned by school districts that are required to meet
7 academic standards. Each school district shall report to the school
8 facilities board no later than ~~September 1~~ OCTOBER 15 of each year the number
9 and type of school buildings owned by the district, the square footage of
10 each building, the age of each building, the nature of any renovations
11 completed and the cost of any renovations completed. The school facilities
12 board may review or audit, or both, to confirm the information submitted by a
13 school district. If a joint technological education district leases a
14 building from a school district, that building shall not be included in the
15 school district's square footage calculation for the purposes of determining
16 the school district's building renewal distribution pursuant to this section.
17 The board shall adjust the age of each school facility in the database
18 whenever a building is significantly upgraded or remodeled. The age of a
19 building that has been significantly upgraded or remodeled shall be
20 recomputed as follows:

- 21 1. Divide the cost of the renovation by the building capacity value of
22 the building determined in subsection I, paragraph 3 of this section.
- 23 2. Multiply the quotient determined in paragraph 1 of this subsection
24 by the currently listed age of the building in the database.
- 25 3. Subtract the product determined in paragraph 2 of this subsection
26 from the currently listed age of the building in the database, rounded to the
27 nearest whole number. If the result is negative, use zero.

28 G. The school facilities board shall submit ELECTRONICALLY an annual
29 report to the president of the senate, the speaker of the house of
30 representatives, the Arizona state library, archives and public records and
31 the governor by October 1 that includes the computation of the amount of
32 monies to be distributed from the building renewal fund for the current
33 fiscal year. The joint committee on capital review shall review the school
34 facilities board's calculation of the building renewal fund distributions.
35 After the joint committee on capital review reviews the distributions
36 computed by the school facilities board, the school facilities board shall
37 distribute the monies from the building renewal fund to school districts in
38 two equal installments in November and May of each year.

39 H. School districts that receive monies from the building renewal fund
40 shall establish a district building renewal fund and shall use the monies in
41 the district building renewal fund only for the purposes prescribed in
42 subsection B of this section. Ending cash balances in a school district's
43 building renewal fund may be used in following fiscal years for building
44 renewal pursuant to subsection B of this section. By October 15 of each
45 year, each school district shall report to the school facilities board the

1 projects funded at each school in the previous fiscal year with monies from
2 the district building renewal fund, including the amount of expenditures
3 dedicated to primary projects and to secondary projects. On receipt of these
4 reports, the school facilities board shall forward this information to the
5 joint legislative budget committee staff and the governor's office of
6 strategic planning and budgeting staff. Each school district shall also
7 report to the school facilities board an accounting of the monies remaining
8 in the district building renewal fund at the end of the previous fiscal year
9 and a comprehensive three year plan that details the proposed use of building
10 renewal monies. If a school district fails to submit the report by October
11 15 ~~OR THE INFORMATION REQUIRED BY SUBSECTION F OF THIS SECTION~~, the school
12 facilities board shall withhold building renewal monies from the school
13 district until the school facilities board determines that the school
14 district has complied with the reporting requirement. When the school
15 facilities board determines that the school district has complied with the
16 reporting requirement, the school facilities board shall restore the full
17 amount of withheld building renewal monies to the school district.

18 I. Notwithstanding any other provision of this chapter, if a school
19 district converts space that is listed in the database maintained pursuant to
20 this section to space that will be used for administrative purposes, the
21 school district is responsible for any costs associated with the conversion,
22 maintenance and replacement of that space. The building renewal amount for
23 each school building shall be computed as follows:

24 1. Divide the age of the building as computed pursuant to subsection F
25 of this section by one thousand two hundred seventy-five or, in the case of
26 modular or portable buildings, by two hundred ten.

27 2. Multiply the quotient determined in paragraph 1 of this subsection
28 by 0.67.

29 3. Determine the building capacity value as follows:

30 (a) Multiply the student capacity of the building by the per student
31 square foot capacity established by section 15-2041.

32 (b) Multiply the product determined in subdivision (a) by the cost per
33 square foot established by section 15-2041.

34 4. Multiply the product determined in paragraph 2 of this subsection
35 by the product determined in paragraph 3, subdivision (b) of this subsection.

36 J. If the school facilities board determines that a school district
37 has spent monies from the building renewal fund for purposes other than those
38 prescribed in subsection B of this section, the school facilities board shall
39 notify the superintendent of public instruction. Notwithstanding any other
40 law, the superintendent of public instruction shall withhold a corresponding
41 amount from the monies that would otherwise be due the school district under
42 the capital outlay revenue limit until these monies are repaid.

43 K. ~~Beginning on July 1, 2002,~~ A school district is not entitled to
44 receive monies from the building renewal fund for any buildings that are to
45 be replaced with new buildings that are funded with deficiencies corrections

1 monies. The replacement buildings are not eligible to receive building
2 renewal funding until the fiscal year following the completion of the
3 building.

4 L. Notwithstanding subsections B and E of this section, a school
5 district may use eight per cent of the building renewal amount computed
6 pursuant to subsection I of this section for routine preventative
7 maintenance. The board, after consultation with maintenance specialists in
8 school districts, shall provide examples of recommended services that are
9 routine preventative maintenance.

10 M. A school district that uses building renewal monies for routine
11 preventative maintenance shall use the building renewal monies to supplement
12 and not supplant expenditures from other funds for the maintenance of school
13 buildings. The auditor general shall prescribe a method for determining
14 compliance with the requirements of this subsection. A school district, in
15 connection with any audit conducted by a certified public accountant, shall
16 also contract for an independent audit to determine whether the school
17 district used building renewal monies to reduce the school district's
18 existing level of routine preventative maintenance funding. The auditor
19 general may conduct discretionary reviews of a school district that is not
20 required to contract for an independent audit.

21 N. For the purposes of this section:

22 1. "Primary projects" means projects that are necessary for buildings
23 owned by school districts that are required to meet the academic standards
24 listed in the database maintained pursuant to subsection F of this section
25 and that fall below the minimum school facility adequacy guidelines, as
26 adopted by the school facilities board pursuant to section 15-2011.

27 2. "Routine preventative maintenance" means services that are
28 performed on a regular schedule at intervals ranging from four times a year
29 to once every three years and that are intended to extend the useful life of
30 a building system and reduce the need for major repairs.

31 3. "Secondary projects" means all projects that are not primary
32 projects.

33 4. "Student capacity" has the same meaning prescribed in section
34 15-2011.

35 Sec. 46. Section 15-2041, Arizona Revised Statutes, is amended to
36 read:

37 15-2041. New school facilities fund; capital plan; report

38 A. A new school facilities fund is established consisting of monies
39 appropriated by the legislature and monies credited to the fund pursuant to
40 section 37-221. The school facilities board shall administer the fund and
41 distribute monies, as a continuing appropriation, to school districts for the
42 purpose of constructing new school facilities **AND FOR CONTRACTED EXPENSES**
43 **PURSUANT TO SECTION 15-2002, SUBSECTION B, PARAGRAPHS 2, 3 AND 4.** On June 30
44 of each fiscal year, any unobligated contract monies in the new school

1 facilities fund shall be transferred to the capital reserve fund established
2 by section 15-2003.

3 B. The school facilities board shall prescribe a uniform format for
4 use by the school district governing board in developing and annually
5 updating a capital plan that consists of each of the following:

6 1. Enrollment projections for the next five years for elementary
7 schools and eight years for middle and high schools, including a description
8 of the methods used to make the projections.

9 2. A description of new schools or additions to existing schools
10 needed to meet the building adequacy standards prescribed in section 15-2011.
11 The description shall include:

12 (a) The grade levels and the total number of pupils that the school or
13 addition is intended to serve.

14 (b) The year in which it is necessary for the school or addition to
15 begin operations.

16 (c) A timeline that shows the planning and construction process for
17 the school or addition.

18 3. Long-term projections of the need for land for new schools.

19 4. Any other necessary information required by the school facilities
20 board to evaluate a school district's capital plan.

21 5. If a school district pays tuition for all or a portion of the
22 school district's high school pupils to another school district, the capital
23 plan shall indicate the number of pupils for which the district pays tuition
24 to another district. If a school district accepts pupils from another school
25 district pursuant to section 15-824, subsection A, the school district shall
26 indicate the projections for this population separately. This paragraph does
27 not apply to a small isolated school district as defined in section 15-901.

28 C. If the capital plan indicates a need for a new school or an
29 addition to an existing school within the next four years or a need for land
30 within the next ten years, the school district shall submit its plan to the
31 school facilities board by September 1 and shall request monies from the new
32 school facilities fund for the new construction or land. Monies provided for
33 land shall be in addition to any monies provided pursuant to subsection D of
34 this section.

35 D. The school facilities board shall distribute monies from the new
36 school facilities fund as follows:

37 1. The school facilities board shall review and evaluate the
38 enrollment projections and either approve the projections as submitted or
39 revise the projections. In determining new construction requirements, the
40 school facilities board shall determine the net new growth of pupils that
41 will require additional square footage that exceeds the building adequacy
42 standards prescribed in section 15-2011. If the projected growth and the
43 existing number of pupils exceed three hundred fifty pupils who are served in
44 a school district other than the pupil's resident school district, the school
45 facilities board, the receiving school district and the resident school

1 district shall develop a capital facilities plan on how to best serve those
2 pupils. A small isolated school district as defined in section 15-901 is not
3 required to develop a capital facilities plan pursuant to this paragraph.

4 2. If the approved projections indicate that additional space will not
5 be needed within the next two years for elementary schools or three years for
6 middle or high schools in order to meet the building adequacy standards
7 prescribed in section 15-2011, the request shall be held for consideration by
8 the school facilities board for possible future funding and the school
9 district shall annually submit an updated plan until the additional space is
10 needed.

11 3. If the approved projections indicate that additional space will be
12 needed within the next two years for elementary schools or three years for
13 middle or high schools in order to meet the building adequacy standards
14 prescribed in section 15-2011, the school facilities board shall provide an
15 amount as follows:

16 (a) Determine the number of pupils requiring additional square footage
17 to meet building adequacy standards. This amount for elementary schools
18 shall not be less than the number of new pupils for whom space will be needed
19 in the next year and shall not exceed the number of new pupils for whom space
20 will be needed in the next five years. This amount for middle and high
21 schools shall not be less than the number of new pupils for whom space will
22 be needed in the next four years and shall not exceed the number of new
23 pupils for whom space will be needed in the next eight years.

24 (b) Multiply the number of pupils determined in subdivision (a) of
25 this paragraph by the square footage per pupil. The square footage per pupil
26 is ninety square feet per pupil for preschool children with disabilities,
27 kindergarten programs and grades one through six, one hundred square feet for
28 grades seven and eight, one hundred thirty-four square feet for a school
29 district that provides instruction in grades nine through twelve for fewer
30 than one thousand eight hundred pupils and one hundred twenty-five square
31 feet for a school district that provides instruction in grades nine through
32 twelve for at least one thousand eight hundred pupils. The total number of
33 pupils in grades nine through twelve in the district shall determine the
34 square footage factor to use for net new pupils. The school facilities board
35 may modify the square footage requirements prescribed in this subdivision for
36 particular schools based on any of the following factors:

37 (i) The number of pupils served or projected to be served by the
38 school district.

39 (ii) Geographic factors.

40 (iii) Grade configurations other than those prescribed in this
41 subdivision.

42 (iv) Compliance with minimum school facility adequacy requirements
43 established pursuant to section 15-2011.

1 (c) Multiply the product obtained in subdivision (b) of this paragraph
2 by the cost per square foot. The cost per square foot is ninety dollars for
3 preschool children with disabilities, kindergarten programs and grades one
4 through six, ninety-five dollars for grades seven and eight and one hundred
5 ten dollars for grades nine through twelve. The cost per square foot shall
6 be adjusted annually for construction market considerations based on an index
7 identified or developed by the joint legislative budget committee as
8 necessary but not less than once each year. The school facilities board
9 shall multiply the cost per square foot by 1.05 for any school district
10 located in a rural area. The school facilities board may modify the base
11 cost per square foot prescribed in this subdivision for particular schools
12 based on geographic conditions or site conditions. For the purposes of this
13 subdivision, "rural area" means an area outside a thirty-five mile radius of
14 a boundary of a municipality with a population of more than fifty thousand
15 persons.

16 (d) Once the school district governing board obtains approval from the
17 school facilities board for new facility construction funds, additional
18 portable or modular square footage created for the express purpose of
19 providing temporary space for pupils until the completion of the new facility
20 shall not be included by the school facilities board for the purpose of new
21 construction funding calculations. On completion of the new facility
22 construction project, if the portable or modular facilities continue in use,
23 the portable or modular facilities shall be included as prescribed by this
24 chapter, unless the school facilities board approves their continued use for
25 the purpose of providing temporary space for pupils until the completion of
26 the next new facility that has been approved for funding from the new school
27 facilities fund.

28 4. For projects approved after December 31, 2001, and notwithstanding
29 paragraph 3 of this subsection, a unified school district that does not have
30 a high school is not eligible to receive high school space as prescribed by
31 section 15-2011 and this section unless the unified district qualifies for
32 geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of
33 this subsection.

34 5. If a joint technological education district leases a building from
35 a school district, that building shall be included in the school district's
36 square footage calculation for the purposes of new construction pursuant to
37 this section.

38 E. Monies for architectural and engineering fees, project management
39 services and preconstruction services shall be distributed on the completion
40 of the analysis by the school facilities board of the school district's
41 request. After receiving monies pursuant to this subsection, the school
42 district shall submit a design development plan for the school or addition to
43 the school facilities board before any monies for construction are
44 distributed. If the school district's request meets the building adequacy
45 standards, the school facilities board may review and comment on the

1 district's plan with respect to the efficiency and effectiveness of the plan
2 in meeting state square footage and facility standards before distributing
3 the remainder of the monies. If the school facilities board modifies the
4 cost per square foot as prescribed in subsection D, paragraph 3, subdivision
5 (c) OF THIS SECTION, the school facilities board may deduct the cost of
6 project management services and preconstruction services from the required
7 cost per square foot. The school facilities board may decline to fund the
8 project if the square footage is no longer required due to revised enrollment
9 projections.

10 F. The school facilities board shall distribute the monies needed for
11 land for new schools so that land may be purchased at a price that is less
12 than or equal to fair market value and in advance of the construction of the
13 new school. If necessary, the school facilities board may distribute monies
14 for land to be leased for new schools if the duration of the lease exceeds
15 the life expectancy of the school facility by at least fifty per cent. The
16 proceeds derived through the sale of any land purchased or partially
17 purchased with monies provided by the school facilities board shall be
18 returned to the state fund from which it was appropriated and to any other
19 participating entity on a proportional basis. Except as provided in section
20 15-342, paragraph 33, if a school district acquires real property by donation
21 at an appropriate school site approved by the school facilities board, the
22 school facilities board shall distribute an amount equal to twenty per cent
23 of the fair market value of the donated real property that can be used for
24 academic purposes. The school district shall place the monies in the
25 unrestricted capital outlay fund and increase the unrestricted capital budget
26 limit by the amount of monies placed in the fund. Monies distributed under
27 this subsection shall be distributed from the new school facilities fund. A
28 school district that receives monies from the new school facilities fund for
29 a donation of land pursuant to section 15-342, paragraph 33 shall not receive
30 monies from the school facilities board for the donation of real property
31 pursuant to this subsection. A school district shall not pay a consultant a
32 percentage of the value of any of the following:

33 1. Donations of real property, services or cash from any of the
34 following:

35 (a) Entities that have offered to provide construction services to the
36 school district.

37 (b) Entities that have been contracted to provide construction
38 services to the school district.

39 (c) Entities that build residential units in that school district.

40 (d) Entities that develop land for residential use in that school
41 district.

42 2. Monies received from the school facilities board on behalf of the
43 school district.

1 3. Monies paid by the school facilities board on behalf of the school
2 district.

3 G. In addition to distributions to school districts based on pupil
4 growth projections, a school district may submit an application to the school
5 facilities board for monies from the new school facilities fund if one or
6 more school buildings have outlived their useful life. If the school
7 facilities board determines that the school district needs to build a new
8 school building for these reasons, the school facilities board shall remove
9 the square footage computations that represent the building from the
10 computation of the school district's total square footage for purposes of
11 this section. If the square footage recomputation reflects that the school
12 district no longer meets building adequacy standards, the school district
13 qualifies for a distribution of monies from the new school construction
14 formula in an amount determined pursuant to subsection D of this section.
15 Buildings removed from a school district's total square footage pursuant to
16 this subsection shall not be included in the computation of monies from the
17 building renewal fund established by section 15-2031. The school facilities
18 board may modify the base cost per square foot prescribed in this subsection
19 under extraordinary circumstances for geographic factors or site conditions.

20 H. School districts that receive monies from the new school facilities
21 fund shall establish a district new school facilities fund and shall use the
22 monies in the district new school facilities fund only for the purposes
23 prescribed in this section. By October 15 of each year, each school district
24 shall report to the school facilities board the projects funded at each
25 school in the previous fiscal year with monies from the district new school
26 facilities fund and shall provide an accounting of the monies remaining in
27 the new school facilities fund at the end of the previous fiscal year.

28 I. If a school district has surplus monies received from the new
29 school facilities fund, the school district may use the surplus monies only
30 for capital purposes for the project for up to one year after completion of
31 the project. If the school district possesses surplus monies from the new
32 school construction project that have not been expended within one year of
33 the completion of the project, the school district shall return the surplus
34 monies to the school facilities board for deposit in the new school
35 facilities fund.

36 J. The board's consideration of any application filed ~~after July 1,~~
37 ~~2001 or~~ after December 31 of the year in which the property becomes territory
38 in the vicinity of a military airport or ancillary military facility as
39 defined in section 28-8461 for monies to fund the construction of new school
40 facilities proposed to be located in territory in the vicinity of a military
41 airport or ancillary military facility shall include, if after notice is
42 transmitted to the military airport pursuant to section 15-2002 and before
43 the public hearing the military airport provides comments and AN analysis
44 concerning compatibility of the proposed school facilities with the high
45 noise or accident potential generated by military airport or ancillary

1 military facility operations that may have an adverse effect on public health
2 and safety, consideration and analysis of the comments and analysis provided
3 by the military airport before making a final determination.

4 K. If a school district uses its own project manager for new school
5 construction, the members of the school district governing board and the
6 project manager shall sign an affidavit stating that the members and the
7 project manager understand and will follow the minimum adequacy requirements
8 prescribed in section 15-2011.

9 L. The school facilities board shall establish a separate account in
10 the new school facilities fund designated as the litigation account to pay
11 attorney fees, expert witness fees and other costs associated with litigation
12 in which the school facilities board pursues the recovery of damages for
13 deficiencies correction that resulted from alleged construction defects or
14 design defects that the school facilities board believes caused or
15 contributed to a failure of the school building to conform to the building
16 adequacy requirements prescribed in section 15-2011. Attorney fees paid
17 pursuant to this subsection shall not exceed the market rate for similar
18 types of litigation. The joint committee on capital review shall conduct an
19 annual review of the litigation account, including the costs associated with
20 current and potential litigation.

21 M. Until the state board of education and the auditor general adopt
22 rules pursuant to section 15-213, subsection I, the school facilities board
23 may allow school districts to contract for construction services and
24 materials through the qualified select bidders list method of project
25 delivery for new school facilities pursuant to this section.

26 N. The school facilities board shall submit **ELECTRONICALLY** a report on
27 project management services and preconstruction services to the governor, the
28 president of the senate and the speaker of the house of representatives by
29 December 31 of each year. The report shall compare projects that use project
30 management and preconstruction services with those that do not. The report
31 shall address cost, schedule and other measurable components of a
32 construction project. School districts, construction manager at risk firms
33 and project management firms that participate in a school facilities board
34 funded project shall provide the information required by the school
35 facilities board in relation to this report.

36 O. If a school district constructs new square footage according to
37 section 15-342, paragraph 33, the school facilities board shall review the
38 design plans and location of any new school facility submitted by school
39 districts and another party to determine whether the design plans comply with
40 the adequacy standards prescribed in section 15-2011 and the square footage
41 per pupil requirements pursuant to subsection D, paragraph 3, subdivision (b)
42 of this section. When the school district qualifies for a distribution of
43 monies from the new school facilities fund according to this section, the
44 school facilities board shall distribute monies to the school district from
45 the new school facilities fund for the square footage constructed under

1 section 15-342, paragraph 33 at the same cost per square foot established by
2 this section that was in effect at the time of the beginning of the
3 construction of the school facility. Before the school facilities board
4 distributes any monies pursuant to this subsection, the school district shall
5 demonstrate to the school facilities board that the facilities to be funded
6 pursuant to this section meet the minimum adequacy standards prescribed in
7 section 15-2011. The agreement entered into pursuant to section 15-342,
8 paragraph 33 shall set forth the procedures for the allocation of these funds
9 to the parties that participated in the agreement.

10 Sec. 47. Section 38-618.01, Arizona Revised Statutes, is amended to
11 read:

12 38-618.01. Performance pay for state employees; applicability;
13 definition

14 A. All state agencies, departments, boards and commissions shall
15 follow the procedures prescribed by this section.

16 B. The legislature may authorize in the general appropriations act a
17 percentage increase for performance pay for each employee in a governmental
18 unit if the governmental unit meets or exceeds prescribed performance
19 measures.

20 C. Each governmental unit shall establish or revise a list of
21 reasonable performance measures that are designed to result in cost
22 reduction, increased productivity and improved quality of the delivery of
23 state services or products. The performance measures shall include a
24 measurement of the quality of service to citizens and other state agencies
25 and employees as measured by the degree of excellence in providing the
26 service and measurements of the quality of operations and unit cost of
27 operations to the extent practicable and applicable. The head of each
28 governmental unit shall either apply these performance measures to the entire
29 governmental unit or apply relevant performance measures to subsets within
30 the governmental unit either on a department, division, group, unit or
31 individual basis.

32 D. Every month or every quarter, at the discretion of the governmental
33 unit, the governmental unit shall review the unit's performance and determine
34 if the performance measures were met. If the performance measures are met or
35 exceeded, the applicable employees are entitled to receive the performance
36 pay no later than the end of each month or the end of each quarter, if
37 applicable. If the performance measures are not met, the applicable employee
38 is not entitled to receive performance pay and monies that were appropriated
39 for performance pay revert to the appropriate state fund. Each governmental
40 unit shall annually inform the governor's office of strategic planning and
41 budgeting and the joint legislative budget committee of the results of each
42 review of the unit's performance.

43 E. If the head of the governmental unit applies the performance
44 measures to the entire governmental unit, all employees of the governmental
45 unit are entitled to receive the performance pay if the governmental unit

1 meets or exceeds the governmental unit's performance measures. If the head
2 of the governmental unit applies performance measures to subsets within the
3 governmental unit, all employees within the subset are entitled to receive
4 the performance pay if the subset meets or exceeds that subset's performance
5 measures.

6 F. The head of the governmental unit shall forward a copy of the
7 performance measures established by the unit to the performance based
8 incentives program oversight committee established by section 38-619 and
9 shall notify the committee as to the results of achieving the performance
10 measures.

11 G. Each governmental unit shall annually conduct a survey of the
12 unit's employees ensuring that a significant sample of employees
13 participates. The survey shall allow the employees to rate the workplace as
14 outstanding, excellent, good, satisfactory or poor. The survey shall provide
15 a comment section where employees can communicate what the governmental unit
16 does well, areas where the governmental unit can improve and suggestions to
17 improve the governmental unit. The governmental unit shall compile the data
18 obtained pursuant to this subsection and forward a copy of the compiled data
19 to the performance based incentives program oversight committee and on
20 request make a copy of the compiled data available to the public.

21 H. This section does not apply to:

22 1. Employees who are appointed or employed by the legislature or
23 either house of the legislature.

24 2. Employees of the governor's office.

25 3. Employees of the judiciary unless the chief justice of the supreme
26 court elects to participate in this section.

27 4. Employees of the Arizona board of regents and employees of a
28 university under the jurisdiction of the Arizona board of regents.

29 5. EMPLOYEES OF THE DEPARTMENT OF EDUCATION. THIS PARAGRAPH DOES NOT
30 PROHIBIT THE SUPERINTENDENT OF PUBLIC INSTRUCTION FROM ADOPTING A PERFORMANCE
31 PAY PLAN THAT CONFORMS TO THIS SECTION.

32 I. For the purposes of this section, "governmental unit" means all
33 agencies, departments, boards and commissions of this state.

34 Sec. 48. Title 38, chapter 5, article 2, Arizona Revised Statutes, is
35 amended by adding section 38-781, to read:

36 38-781. Supplemental employee deferral plan; public employees;
37 administration; immunity; definitions

38 A. A SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN IS ESTABLISHED TO PROVIDE
39 PUBLIC EMPLOYEES, OTHER THAN STATE EMPLOYEES, AN OPPORTUNITY TO SAVE
40 ADDITIONAL TAX-DEFERRED MONIES FOR RETIREMENT.

41 B. ASRS MAY ESTABLISH, ADMINISTER, MANAGE AND OPERATE A SUPPLEMENTAL
42 EMPLOYEE DEFERRAL PLAN FOR EMPLOYERS OTHER THAN THIS STATE.

43 C. ASRS MAY:

44 1. EMPLOY SERVICES IT DEEMS NECESSARY, INCLUDING LEGAL SERVICES, FOR
45 THE OPERATION AND ADMINISTRATION OF THE PLAN.

1 2. ADMINISTER THE PLAN THROUGH CONTRACTS WITH MULTIPLE VENDORS.
2 3. PERFORM ALL ACTS, WHETHER OR NOT EXPRESSLY AUTHORIZED, THAT IT
3 DEEMS NECESSARY AND PROPER FOR THE OPERATION AND PROTECTION OF THE PLAN.
4 4. FOR THE PURPOSES OF THIS SECTION, ENTER INTO INTERGOVERNMENTAL
5 AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3.
6 D. A SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN IS IN ADDITION TO AND DOES
7 NOT REPLACE AN EMPLOYEE'S EXISTING STATE DEFINED BENEFIT RETIREMENT PLAN.
8 E. IF AN EMPLOYER THAT IS NOT THIS STATE ELECTS TO PARTICIPATE IN THE
9 SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN, ANY EMPLOYEE OF THE EMPLOYER WHO MEETS
10 THE ELIGIBILITY REQUIREMENTS THAT ARE PRESCRIBED BY ASRS FOR PARTICIPATION IN
11 THE SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN MAY PARTICIPATE IN THE SUPPLEMENTAL
12 EMPLOYEE DEFERRAL PLAN.
13 F. PARTICIPATION IN THE SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN AUTHORIZES
14 THE PARTICIPANT'S EMPLOYER TO MAKE SALARY REDUCTIONS FROM THE PARTICIPANT'S
15 COMPENSATION AND CONTRIBUTE SUCH SALARY REDUCTIONS TO THE PLAN. AN EMPLOYER
16 MAY MAKE EMPLOYER CONTRIBUTIONS TO THE SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN IF
17 THE PLAN PERMITS. THE EMPLOYER SHALL SUBMIT ANY REPORTS REQUIRED BY THE
18 PLAN. IF THE PARTICIPANT IS AN ACTIVE MEMBER, ANY COMPENSATION DEFERRED BY
19 AN EMPLOYEE UNDER THE PLAN SHALL BE INCLUDED AS REGULAR COMPENSATION OR
20 COMPENSATION FOR THE PURPOSE OF COMPUTING THE RETIREMENT AND PENSION BENEFITS
21 PROVIDED IN THIS ARTICLE EARNED BY ANY EMPLOYEE PARTICIPATING IN THE PLAN.
22 G. EMPLOYEE CONTRIBUTIONS AND EARNINGS ON EMPLOYEE CONTRIBUTIONS ARE
23 IMMEDIATELY VESTED. EMPLOYER CONTRIBUTIONS, IF ANY, AND THE EARNINGS ON
24 EMPLOYER CONTRIBUTIONS SHALL VEST ACCORDING TO THE SCHEDULE ESTABLISHED IN
25 THE PLAN.
26 H. NOTWITHSTANDING ANY OTHER LAW, THIS STATE AND ITS OFFICERS AND
27 EMPLOYEES, THE BOARD AND ASRS ARE IMMUNE FROM CIVIL LIABILITY AND ARE NOT
28 SUBJECT TO SUIT DIRECTLY OR BY WAY OF CONTRIBUTION FOR ANY ACT OR OMISSION
29 RESULTING IN ANY DAMAGE OR INJURY ARISING OUT OF THE SUPPLEMENTAL EMPLOYEE
30 DEFERRAL PLAN.
31 I. FOR THE PURPOSES OF THIS SECTION:
32 1. "STATE" MEANS THIS STATE, INCLUDING ANY DEPARTMENT, OFFICE, BOARD,
33 COMMISSION, AGENCY OR UNIVERSITY, BUT DOES NOT MEAN ANY SCHOOL DISTRICT OR
34 COMMUNITY COLLEGE DISTRICT.
35 2. "SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN" MEANS A TAX DEFERRED ANNUITY
36 DESCRIBED IN SECTION 403(b) OF THE INTERNAL REVENUE CODE, INCLUDING A
37 CUSTODIAL ACCOUNT DESCRIBED IN 403(b)(7) OF THE INTERNAL REVENUE CODE, AND AN
38 ELIGIBLE DEFERRED COMPENSATION PLAN DESCRIBED IN SECTION 457(b) OF THE
39 INTERNAL REVENUE CODE. A SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN SHALL COMPLY
40 WITH ALL APPLICABLE PROVISIONS OF THE SECTION OF THE INTERNAL REVENUE CODE
41 UNDER WHICH SUCH PLAN IS ADOPTED AND MAINTAINED.
42 Sec. 49. Repeal
43 Section 41-3010.25, Arizona Revised Statutes, is repealed.

1 the transmission control protocol or internet protocol, or any predecessor or
2 successor protocol, to communicate information of all kinds by wire or radio.

3 (b) "Internet access" means a service that enables users to access
4 content, information, electronic mail or other services over the internet.
5 Internet access does not include telecommunication services provided by a
6 common carrier.

7 10. The gross proceeds of sales or gross income retained by the Arizona
8 exposition and state fair board from ride ticket sales at the annual Arizona
9 state fair.

10 11. Through August 31, 2014, sales of Arizona centennial medallions by
11 the historical advisory commission.

12 B. A city, town or other taxing jurisdiction shall not levy a
13 transaction privilege, sales, use, franchise or other similar tax or fee,
14 however denominated, on natural gas or liquefied petroleum gas used to propel
15 a motor vehicle.

16 C. A city, town or other taxing jurisdiction shall not levy a
17 transaction privilege, sales, gross receipts, use, franchise or other similar
18 tax or fee, however denominated, on gross proceeds of sales or gross income
19 derived from any of the following:

20 1. A motor carrier's use on the public highways in this state if the
21 motor carrier is subject to a fee prescribed in title 28, chapter 16,
22 article 4.

23 2. Leasing, renting or licensing a motor vehicle subject to and upon
24 which the fee has been paid under title 28, chapter 16, article 4.

25 3. The sale of a motor vehicle and any repair and replacement parts
26 and tangible personal property becoming a part of such motor vehicle to a
27 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
28 article 4 and who is engaged in the business of leasing, renting or licensing
29 such property.

30 4. Incarcerating or detaining in a privately operated prison, jail or
31 detention facility prisoners who are under the jurisdiction of the United
32 States, this state or any other state or a political subdivision of this
33 state or of any other state.

34 5. Transporting for hire persons, freight or property by light motor
35 vehicles subject to a fee under title 28, chapter 15, article 4.

36 6. Through December 31, 2009, and except as provided in section
37 42-6104, a contract from constructing any lake facility development in a
38 commercial enhancement reuse district established pursuant to section
39 9-499.08.

40 7. Any amount attributable to development fees that are incurred in
41 relation to the construction, development or improvement of real property and
42 paid by the taxpayer as defined in the model city tax code or by a contractor
43 providing services to the taxpayer. For the purposes of this paragraph:

44 (a) The attributable amount shall not exceed the value of the
45 development fees actually imposed.

1 (b) The attributable amount is equal to the total amount of
2 development fees paid by the taxpayer or by a contractor providing services
3 to the taxpayer and the total development fees credited in exchange for the
4 construction of, contribution to or dedication of real property for providing
5 public infrastructure, public safety or other public services necessary to
6 the development. The real property must be the subject of the development
7 fees.

8 (c) "Development fees" means fees imposed to offset capital costs of
9 providing public infrastructure, public safety or other public services to a
10 development and authorized pursuant to section 9-463.05, section 11-1102 or
11 title 48 regardless of the jurisdiction to which the fees are paid.

12 D. A city, town or other taxing jurisdiction shall not levy a
13 transaction privilege, sales, use, franchise or other similar tax or fee,
14 however denominated, in excess of one-tenth of one per cent of the value of
15 the entire product mined, smelted, extracted, refined, produced or prepared
16 for sale, profit or commercial use, on persons engaged in the business of
17 mineral processing, except to the extent that the tax is computed on the
18 gross proceeds or gross income from sales at retail.

19 E. In computing the tax base, any city, town or other taxing
20 jurisdiction shall not include in the gross proceeds of sales or gross
21 income:

22 1. A manufacturer's cash rebate on the sales price of a motor vehicle
23 if the buyer assigns the buyer's right in the rebate to the retailer.

24 2. The waste tire disposal fee imposed pursuant to section 44-1302.

25 F. A CITY OR TOWN SHALL NOT LEVY A USE TAX ON THE STORAGE, USE OR
26 CONSUMPTION OF TANGIBLE PERSONAL PROPERTY IN THE CITY OR TOWN BY A SCHOOL
27 DISTRICT OR CHARTER SCHOOL.

28 Sec. 52. Section 43-1089, Arizona Revised Statutes, is amended to
29 read:

30 43-1089. Credit for contributions to school tuition
31 organization: definitions

32 A. A credit is allowed against the taxes imposed by this title for the
33 amount of voluntary cash contributions made by the taxpayer during the
34 taxable year to a school tuition organization, but not exceeding:

35 1. Five hundred dollars in any taxable year for a single individual or
36 a head of household.

37 2. Eight hundred twenty-five dollars in taxable year 2005 for a
38 married couple filing a joint return.

39 3. One thousand dollars in taxable year 2006 and any subsequent year
40 for a married couple filing a joint return.

41 B. A husband and wife who file separate returns for a taxable year in
42 which they could have filed a joint return may each claim only one-half of
43 the tax credit that would have been allowed for a joint return.

1 C. If the allowable tax credit exceeds the taxes otherwise due under
2 this title on the claimant's income, or if there are no taxes due under this
3 title, the taxpayer may carry the amount of the claim not used to offset the
4 taxes under this title forward for not more than five consecutive taxable
5 years' income tax liability.

6 D. The credit allowed by this section is in lieu of any deduction
7 pursuant to section 170 of the internal revenue code and taken for state tax
8 purposes.

9 E. The tax credit is not allowed if the taxpayer designates the
10 taxpayer's contribution to the school tuition organization for the direct
11 benefit of any dependent of the taxpayer.

12 F. A school tuition organization that receives a voluntary cash
13 contribution pursuant to subsection A shall report **ELECTRONICALLY** to the
14 department, in a form prescribed by the department, by February 28 of each
15 year the following information:

16 1. The name, address and contact name of the school tuition
17 organization.

18 2. The total number of contributions received during the previous
19 calendar year.

20 3. The total dollar amount of contributions received during the
21 previous calendar year.

22 4. The total number of children awarded educational scholarships or
23 tuition grants during the previous calendar year.

24 5. The total dollar amount of educational scholarships and tuition
25 grants awarded during the previous calendar year.

26 6. For each school to which educational scholarships or tuition grants
27 were awarded:

28 (a) The name and address of the school.

29 (b) The number of educational scholarships and tuition grants awarded
30 during the previous calendar year.

31 (c) The total dollar amount of educational scholarships and tuition
32 grants awarded during the previous calendar year.

33 G. For the purposes of this section:

34 1. "Handicapped student" means a student who has any of the following
35 conditions:

36 (a) Hearing impairment.

37 (b) Visual impairment.

38 (c) ~~Preschool-moderate~~ **DEVELOPMENTAL** delay.

39 (d) Preschool severe delay.

40 (e) ~~Preschool~~ Speech ~~or~~ /language ~~delay~~ **IMPAIRMENT**.

41 2. "Qualified school" means a nongovernmental primary school or
42 secondary school or a preschool for handicapped students that is located in
43 this state, that does not discriminate on the basis of race, color, handicap,
44 familial status or national origin and that satisfies the requirements
45 prescribed by law for private schools in this state on January 1, 1997.

1 3. "School tuition organization" means a charitable organization in
2 this state that is exempt from federal taxation under section 501(c)(3) of
3 the internal revenue code and that allocates at least ninety per cent of its
4 annual revenue for educational scholarships or tuition grants to children to
5 allow them to attend any qualified school of their parents' choice. In
6 addition, to qualify as a school tuition organization the charitable
7 organization shall provide educational scholarships or tuition grants to
8 students without limiting availability to only students of one school.

9 Sec. 53. School district budget overexpenditures; correction;
10 interest

11 A. Notwithstanding sections 15-905 and 15-915, Arizona Revised
12 Statutes, as amended by this act, a school district that overexpended its
13 budget at any time during a five-year period beginning in fiscal year
14 2002-2003 and ending in fiscal year 2006-2007 shall correct the
15 overexpenditures in equal installments over a five-year period beginning in
16 fiscal year 2009-2010 and ending in fiscal year 2013-2014. This subsection
17 applies to a district if all of the following conditions exist:

18 1. The school district is a union high school district that is located
19 in a county with a population of less than one million persons but more than
20 two hundred fifty thousand persons.

21 2. The school district's average daily membership for the 2006-2007
22 school year was more than four hundred pupils but less than five hundred
23 fifty pupils.

24 3. The total amount of the correction that would otherwise be required
25 under section 15-915, Arizona Revised Statutes, as amended by this act, for
26 fiscal years 2002-2003 through 2006-2007 is more than three hundred thousand
27 dollars but less than eight hundred thousand dollars.

28 B. In addition to monies required to be repaid pursuant to
29 subsection A of this section, accrued interest shall be paid at a rate
30 determined by the superintendent of public instruction.

31 Sec. 54. Unified school district budget overexpenditures;
32 correction; interest

33 A. Notwithstanding section 15-905, Arizona Revised Statutes, as
34 amended by this act, and section 15-915, Arizona Revised Statutes, a school
35 district that overexpended its budget during fiscal year 2005-2006 and fiscal
36 year 2006-2007 shall correct the overexpenditures in equal installments
37 beginning in fiscal year 2009-2010 and ending in fiscal year 2013-2014 if all
38 of the following conditions exist:

39 1. The school district is a unified district that is located in a
40 county with a population of more than fifty thousand persons but less than
41 one hundred thousand persons.

42 2. The school district's average daily membership for the 2007-2008
43 school year was more than seven hundred pupils but less than one thousand two
44 hundred pupils.

1 2. Administer specifically identified federal and state financial aid
2 programs.

3 3. Provide a forum to public and private postsecondary education
4 institutions for discussion of issues of mutual interest.

5 4. Coordinate and promote studies of interest to postsecondary
6 institutions.

7 5. Provide information to the public on postsecondary education
8 opportunities in this state.

9 Sec. 58. Intent

10 The legislature intends by enacting section 15-257, Arizona Revised
11 Statutes, as added by this act, to allow the superintendent of public
12 instruction to develop a performance pay system for employees of the
13 department of education to boost productivity and instill a sense of shared
14 responsibility among employees.