

REFERENCE TITLE: professional teaching standards board

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1062

Introduced by
Senator Schapira

AN ACT

AMENDING SECTIONS 15-183, 15-203, 15-240, 15-350 AND 15-501, ARIZONA REVISED STATUTES; REPEALING SECTION 15-508, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-512 AND 15-514, ARIZONA REVISED STATUTES; REPEALING SECTIONS 15-531, 15-531.01, 15-532 AND 15-533, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-534, 15-534.01, 15-534.02 AND 15-534.03, ARIZONA REVISED STATUTES; REPEALING SECTION 15-535, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-539 AND 15-545, ARIZONA REVISED STATUTES; REPEALING SECTION 15-550, ARIZONA REVISED STATUTES; AMENDING SECTION 15-551, ARIZONA REVISED STATUTES; REPEALING THE ARTICLE HEADING OF TITLE 15, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 4; AMENDING SECTIONS 15-779.02, 15-914.01, 41-1092.02, 41-1750 AND 41-2831, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3021.01; RELATING TO THE PROFESSIONAL TEACHING STANDARDS BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

21 C. The sponsor of a charter school may be either a school district
22 governing board, the state board of education, the state board for charter
23 schools, a university under the jurisdiction of the Arizona board of regents,
24 a community college district with enrollment of more than fifteen thousand
25 full-time equivalent students or a group of community college districts with
26 a combined enrollment of more than fifteen thousand full-time equivalent
27 students, subject to the following requirements:

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

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

38 (b) In the first year that a school district is determined to be out
39 of compliance with the uniform system of financial records, within fifteen
40 days of the determination of noncompliance, the school district shall notify
41 by certified mail each charter school sponsored by the school district that
42 the school district is out of compliance with the uniform system of financial
43 records. The notification shall include a statement that if the school
44 district is determined to be out of compliance for a second consecutive year,

1 the charter school will be required to transfer sponsorship to another entity
2 pursuant to subdivision (c) of this paragraph.

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

21 (d) A school district governing board shall not grant a charter to a
22 charter school that is located outside the geographic boundaries of that
23 school district.

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

27 2. The applicant may submit the application to the state board of
28 education or the state board for charter schools. The state board of
29 education or the state board for charter schools may approve the application
30 if the application meets the requirements of this article and may approve the
31 charter if the proposed sponsor determines, within its sole discretion, that
32 the applicant is sufficiently qualified to operate a charter school and that
33 the applicant is applying to operate as a separate charter holder by
34 considering factors such as whether:

35 (a) The schools have separate governing bodies, governing body
36 membership, staff, facilities, and student population.

37 (b) Daily operations are carried out by different administrators.

38 (c) The applicant intends to have an affiliation agreement for the
39 purpose of providing enrollment preferences.

40 (d) The applicant's charter management organization has multiple
41 charter holders serving varied grade configurations on one physical site or
42 nearby sites serving one community.

43 (e) It is reconstituting an existing school site population at the
44 same or new site.

1 (f) It is reconstituting an existing grade configuration from a prior
2 charter holder with at least one grade remaining on the original site with
3 the other grade or grades moving to a new site.

4 The state board of education or the state board for charter schools may
5 approve any charter schools transferring charters. The state board of
6 education and the state board for charter schools shall approve any charter
7 schools transferring charters from a school district that is determined to be
8 out of compliance with the uniform system of financial records pursuant to
9 this section, but may require the charter school to sign a new charter that
10 is equivalent to the charter awarded by the former sponsor. If the state
11 board of education or the state board for charter schools rejects the
12 preliminary application, the state board of education or the state board for
13 charter schools shall notify the applicant in writing of the reasons for the
14 rejection and of suggestions for improving the application. An applicant may
15 submit a revised application for reconsideration by the state board of
16 education or the state board for charter schools. The applicant may request,
17 and the state board of education or the state board for charter schools may
18 provide, technical assistance to improve the application.

19 3. The applicant may submit the application to a university under the
20 jurisdiction of the Arizona board of regents, a community college district or
21 a group of community college districts. A university, a community college
22 district or a group of community college districts may approve the
23 application if it meets the requirements of this article and if the proposed
24 sponsor determines, in its sole discretion, that the applicant is
25 sufficiently qualified to operate a charter school.

26 4. Each applicant seeking to establish a charter school shall submit a
27 full set of fingerprints to the approving agency for the purpose of obtaining
28 a state and federal criminal records check pursuant to section 41-1750 and
29 Public Law 92-544. If an applicant will have direct contact with students,
30 the applicant shall possess a valid fingerprint clearance card that is issued
31 pursuant to title 41, chapter 12, article 3.1. The department of public
32 safety may exchange this fingerprint data with the federal bureau of
33 investigation. The criminal records check shall be completed before the
34 issuance of a charter.

35 5. All persons engaged in instructional work directly as a classroom,
36 laboratory or other teacher or indirectly as a supervisory teacher, speech
37 therapist or principal shall have a valid fingerprint clearance card that is
38 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a
39 volunteer or guest speaker who is accompanied in the classroom by a person
40 with a valid fingerprint clearance card. A charter school shall not employ a
41 teacher whose certificate has been revoked for a violation of section 15-507
42 ~~or 15-550~~ or for any offense that placed a pupil in danger. All other
43 personnel shall be fingerprint checked pursuant to section 15-512. Before
44 employment, the charter school shall make documented, good faith efforts to
45 contact previous employers of a person to obtain information and

1 recommendations that may be relevant to a person's fitness for employment as
2 prescribed in section 15-512, subsection F. The charter school shall notify
3 the department of public safety if the charter school or sponsor receives
4 credible evidence that a person who possesses a valid fingerprint clearance
5 card is arrested for or is charged with an offense listed in section
6 41-1758.03, subsection B. Charter schools may hire personnel that have not
7 yet received a fingerprint clearance card if proof is provided of the
8 submission of an application to the department of public safety for a
9 fingerprint clearance card and if the charter school that is seeking to hire
10 the applicant does all of the following:

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

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

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

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

25 (f) Verifies the fingerprint status of the applicant with the
26 department of public safety.

27 6. A charter school that complies with the fingerprinting requirements
28 of this section shall be deemed to have complied with section 15-512 and is
29 entitled to the same rights and protections provided to school districts by
30 section 15-512.

31 7. If a charter school operator is not already subject to a public
32 meeting or hearing by the municipality in which the charter school is
33 located, the operator of a charter school shall conduct a public meeting at
34 least thirty days before the charter school operator opens a site or sites
35 for the charter school. The charter school operator shall post notices of
36 the public meeting in at least three different locations that are within
37 three hundred feet of the proposed charter school site.

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

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

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

6 (b) Notify the person's employer or potential employer of the
7 conviction.

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

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

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

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

16 1. Compliance with federal, state and local rules, regulations and
17 statutes relating to health, safety, civil rights and insurance. The
18 department of education shall publish a list of relevant rules, regulations
19 and statutes to notify charter schools of their responsibilities under this
20 paragraph.

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

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

28 4. That it designs a method to measure pupil progress toward the pupil
29 outcomes adopted by the state board of education pursuant to section
30 15-741.01, including participation in the Arizona instrument to measure
31 standards test and the nationally standardized norm-referenced achievement
32 test as designated by the state board and the completion and distribution of
33 an annual report card as prescribed in chapter 7, article 3 of this title.

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

37 6. That, except as provided in this article, it is subject to the same
38 financial and electronic data submission requirements as a school district,
39 including the uniform system of financial records as prescribed in chapter 2,
40 article 4 of this title, procurement rules as prescribed in section 15-213
41 and audit requirements. The auditor general shall conduct a comprehensive
42 review and revision of the uniform system of financial records to ensure that
43 the provisions of the uniform system of financial records that relate to
44 charter schools are in accordance with commonly accepted accounting
45 principles used by private business. A school's charter may include

1 exceptions to the requirements of this paragraph that are necessary as
2 determined by the district governing board, the state board of education or
3 the state board for charter schools. The department of education or the
4 office of the auditor general may conduct financial, program or compliance
5 audits.

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

9 8. That it provides for a governing body for the charter school that
10 is responsible for the policy decisions of the charter school.
11 Notwithstanding section 1-216, if there is a vacancy or vacancies on the
12 governing body, a majority of the remaining members of the governing body
13 constitute a quorum for the transaction of business, unless that quorum is
14 prohibited by the charter school's operating agreement.

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

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

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

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

37 I. An approved plan to establish a charter school is effective for
38 fifteen years from the first day of the fiscal year the charter school is in
39 operation, subject to the following:

40 1. At least eighteen months before the expiration of the approved
41 plan, the sponsor shall notify the charter school that the charter school may
42 apply for renewal. A charter school that elects to apply for renewal shall
43 file an application for renewal at least fifteen months before the expiration
44 of the approved plan. In addition to any other requirements, the application
45 for renewal shall include a detailed business plan for the charter school, a

1 review of fiscal audits and academic performance data for the charter school
2 that are annually collected by the sponsor and a review of the current
3 contract between the sponsor and the charter school. The sponsor may deny
4 the request for renewal if, in its judgment, the charter school has failed to
5 complete the obligations of the contract or has failed to comply with this
6 article. A sponsor shall give written notice of its intent not to renew the
7 charter school's request for renewal to the charter school at least twelve
8 months before the expiration of the approved plan to allow the charter school
9 an opportunity to apply to another sponsor to transfer the operation of the
10 charter school. If the operation of the charter school is transferred to
11 another sponsor, the fifteen year period of the current charter shall be
12 maintained.

13 2. A charter operator may apply for early renewal. At least nine
14 months before the charter school's intended renewal consideration, the
15 operator of the charter school shall submit a letter of intent to the sponsor
16 to apply for early renewal. The sponsor shall review fiscal audits and
17 academic performance data for the charter school that are annually collected
18 by the sponsor, review the current contract between the sponsor and the
19 charter school and provide the qualifying charter school with a renewal
20 application. On submission of a complete application, the sponsor shall give
21 written notice of its consideration of the renewal application.

22 3. A sponsor shall review a charter at five year intervals and may
23 revoke a charter at any time if the charter school breaches one or more
24 provisions of its charter. At least ninety days before the effective date of
25 the proposed revocation the sponsor shall give written notice to the operator
26 of the charter school of its intent to revoke the charter. Notice of the
27 sponsor's intent to revoke the charter shall be delivered personally to the
28 operator of the charter school or sent by certified mail, return receipt
29 requested, to the address of the charter school. The notice shall
30 incorporate a statement of reasons for the proposed revocation of the
31 charter. The sponsor shall allow the charter school at least ninety days to
32 correct the problems associated with the reasons for the proposed revocation
33 of the charter. The final determination of whether to revoke the charter
34 shall be made at a public hearing called for such purpose.

35 J. The charter may be renewed for successive periods of twenty years
36 if the sponsor deems that the school is in compliance with its own charter
37 and this article.

38 K. A charter school that is sponsored by the state board of education,
39 the state board for charter schools, a university, a community college
40 district or a group of community college districts may not be located on the
41 property of a school district unless the district governing board grants this
42 authority.

43 L. A governing board or a school district employee who has control
44 over personnel actions shall not take unlawful reprisal against another
45 employee of the school district because the employee is directly or

1 indirectly involved in an application to establish a charter school. A
2 governing board or a school district employee shall not take unlawful
3 reprisal against an educational program of the school or the school district
4 because an application to establish a charter school proposes the conversion
5 of all or a portion of the educational program to a charter school. For the
6 purposes of this subsection, "unlawful reprisal" means an action that is
7 taken by a governing board or a school district employee as a direct result
8 of a lawful application to establish a charter school and that is adverse to
9 another employee or an education program and:

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

- 12 (a) Disciplinary or corrective action.
- 13 (b) Detail, transfer or reassignment.
- 14 (c) Suspension, demotion or dismissal.
- 15 (d) An unfavorable performance evaluation.
- 16 (e) A reduction in pay, benefits or awards.
- 17 (f) Elimination of the employee's position without a reduction in
18 force by reason of lack of monies or work.
- 19 (g) Other significant changes in duties or responsibilities that are
20 inconsistent with the employee's salary or employment classification.

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

- 23 (a) Suspension or termination of the program.
- 24 (b) Transfer or reassignment of the program to a less favorable
25 department.
- 26 (c) Relocation of the program to a less favorable site within the
27 school or school district.
- 28 (d) Significant reduction or termination of funding for the program.

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

38 N. Charter schools do not have the authority to acquire property by
39 eminent domain.

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

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

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

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

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

13 T. All property accumulated by a charter school shall remain the
14 property of the charter school.

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

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

38 W. Notwithstanding subsection X of this section, the state board for
39 charter schools shall charge a processing fee to any charter school that
40 amends ~~their~~ ITS contract to participate in ~~the~~ Arizona online instruction
41 ~~program~~ pursuant to section 15-808. The charter Arizona online instruction
42 processing fund is established consisting of fees collected and administered
43 by the state board for charter schools. The state board for charter schools
44 shall use monies in the fund only for the processing of contract amendments

1 for charter schools participating in Arizona online instruction programs.
2 Monies in the fund are continuously appropriated.

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

8 Y. Charter schools may enter into an intergovernmental agreement with
9 a presiding judge of the juvenile court to implement a law related education
10 program as defined in section 15-154. The presiding judge of the juvenile
11 court may assign juvenile probation officers to participate in a law related
12 education program in any charter school in the county. The cost of juvenile
13 probation officers who participate in the program implemented pursuant to
14 this subsection shall be funded by the charter school.

15 Z. The sponsor of a charter school shall modify previously approved
16 curriculum requirements for a charter school that wishes to participate in
17 the board examination system prescribed in chapter 7, article 6 of this
18 title.

19 AA. If a charter school decides not to participate in the board
20 examination system prescribed in chapter 7, article 6 of this title, pupils
21 enrolled at that charter school may earn a Grand Canyon diploma by obtaining
22 a passing score on the same board examinations.

23 Sec. 2. Section 15-203, Arizona Revised Statutes, is amended to read:

24 15-203. Powers and duties

25 A. The state board of education shall:

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

29 2. Keep a record of its proceedings.

30 3. Make rules for its own government.

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

32 5. Appoint its employees, on the recommendation of the superintendent
33 of public instruction.

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

35 7. Delegate to the superintendent of public instruction the execution
36 of board policies and rules.

37 8. Recommend to the legislature changes or additions to the statutes
38 pertaining to schools.

39 9. Prepare, publish and distribute reports concerning the educational
40 welfare of this state.

41 10. Prepare a budget for expenditures necessary for proper maintenance
42 of the board and accomplishment of its purposes and present the budget to the
43 legislature.

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

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

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

21 ~~14. Supervise and control the certification of persons engaged in~~
22 ~~instructional work directly as any classroom, laboratory or other teacher or~~
23 ~~indirectly as a supervisory teacher, speech therapist, principal or~~
24 ~~superintendent in a school district, including school district preschool~~
25 ~~programs, or any other educational institution below the community college,~~
26 ~~college or university level, and prescribe rules for certification, including~~
27 ~~rules for certification of teachers who have teaching experience and who are~~
28 ~~trained in other states, which are not unnecessarily restrictive and are~~
29 ~~substantially similar to the rules prescribed for the certification of~~
30 ~~teachers trained in this state. The rules shall:~~

31 ~~(a) Allow a variety of alternative teacher and administrator~~
32 ~~preparation programs, with variations in program sequence and design, to~~
33 ~~apply for program approval. The board shall adopt rules pursuant to this~~
34 ~~subdivision designed to allow for a variety of formats and shall not require~~
35 ~~a prescribed answer or design from the program provider in order to obtain~~
36 ~~approval from the state board. The state board shall evaluate each program~~
37 ~~provider based on the program's ability to prepare teachers and~~
38 ~~administrators and to recruit teachers and administrators with a variety of~~
39 ~~experiences and talents. The board shall permit universities under the~~
40 ~~jurisdiction of the board of regents, community colleges in this state,~~
41 ~~private postsecondary institutions licensed by this state, school districts,~~
42 ~~charter schools and professional organizations to apply for program approval~~
43 ~~and shall create application procedures and certification criteria that are~~
44 ~~less restrictive than those for traditional preparation programs.~~
45 ~~Alternative preparation program graduates shall:~~

1 ~~(i) Hold a bachelor's degree from an accredited postsecondary~~
2 ~~education institution.~~

3 ~~(ii) Demonstrate professional knowledge and subject knowledge~~
4 ~~proficiency pursuant to section 15-533.~~

5 ~~(iii) Obtain a fingerprint clearance card pursuant to section 15-534.~~

6 ~~(iv) Complete training in structured English immersion as prescribed~~
7 ~~by the board.~~

8 ~~(v) Complete training in research based systematic phonics instruction~~
9 ~~as prescribed in subdivision (b) of this paragraph.~~

10 ~~(vi) Demonstrate the required proficiency in the constitutions of the~~
11 ~~United States and Arizona as prescribed in section 15-532.~~

12 ~~(b) Require applicants for all certificates for common school~~
13 ~~instruction to complete a minimum of forty-five classroom hours or three~~
14 ~~college level credit hours, or the equivalent, of training in research based~~
15 ~~systematic phonics instruction from a public or private provider.~~

16 ~~(c) Not require a teacher to obtain a master's degree or to take any~~
17 ~~additional graduate courses as a condition of certification or~~
18 ~~recertification.~~

19 ~~(d) Allow a general equivalency diploma to be substituted for a high~~
20 ~~school diploma in the certification of emergency substitute teachers.~~

21 ~~(e) Allow but shall not require the superintendent of a school~~
22 ~~district to obtain certification from the state board of education.~~

23 ~~15.~~ 14. Adopt a list of approved tests for determining special
24 education assistance to gifted pupils as defined in and as provided in
25 chapter 7, article 4.1 of this title. The adopted tests shall provide
26 separate scores for quantitative reasoning, verbal reasoning and nonverbal
27 reasoning and shall be capable of providing reliable and valid scores at the
28 highest ranges of the score distribution.

29 ~~16. Adopt rules governing the methods for the administration of all~~
30 ~~proficiency examinations.~~

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

33 ~~18. Include within its budget the cost of contracting for the purchase,~~
34 ~~distribution and scoring of the examinations as provided in paragraphs 16 and~~
35 ~~17 of this subsection.~~

36 ~~19. Supervise and control the qualifications of professional~~
37 ~~nonteaching school personnel and prescribe standards relating to~~
38 ~~qualifications. The standards shall not require the business manager of a~~
39 ~~school district to obtain certification from the state board of education.~~

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

43 ~~21.~~ 15. Establish an assessment, data gathering and reporting system
44 for pupil performance as prescribed in chapter 7, article 3 of this title.

1 ~~22.~~ 16. Adopt a rule to promote braille literacy pursuant to section
2 15-214.

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

6 ~~24.~~ 17. For purposes of federal law, serve as the state board for
7 vocational and technological education and meet at least four times each year
8 solely to execute the powers and duties of the state board for vocational and
9 technological education.

10 ~~25.~~ 18. Develop and maintain a handbook for use in the schools of this
11 state that provides guidance for the teaching of moral, civic and ethical
12 education. The handbook shall promote existing curriculum frameworks and
13 shall encourage school districts to recognize moral, civic and ethical values
14 within instructional and programmatic educational development programs for
15 the general purpose of instilling character and ethical principles in pupils
16 in kindergarten programs and grades one through twelve.

17 ~~26.~~ 19. Require pupils to recite the following passage from the
18 declaration of independence for pupils in grades four through six at the
19 commencement of the first class of the day in the schools, except that a
20 pupil shall not be required to participate if the pupil or the pupil's parent
21 or guardian objects:

22 We hold these truths to be self-evident, that all men are
23 created equal, that they are endowed by their creator with
24 certain unalienable rights, that among these are life, liberty
25 and the pursuit of happiness. That to secure these rights,
26 governments are instituted among men, deriving their just powers
27 from the consent of the governed. . . .

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

34 ~~28.~~ 20. Adopt rules that provide for the presentation of an honorary
35 high school diploma to a person who has never obtained a high school diploma
36 and who meets both of the following requirements:

- 37 (a) Currently resides in this state.
38 (b) Provides documented evidence from the Arizona department of
39 veterans' services that the person enlisted in the armed forces of the United
40 States and served in World War I, World War II, the Korean conflict or the
41 Vietnam conflict.

42 ~~29.~~ 21. Cooperate with the Arizona-Mexico commission in the governor's
43 office and with researchers at universities in this state to collect data and
44 conduct projects in the United States and Mexico on issues that are within
45 the scope of the duties of the department of education and that relate to

1 quality of life, trade and economic development in this state in a manner
2 that will help the Arizona-Mexico commission to assess and enhance the
3 economic competitiveness of this state and of the Arizona-Mexico region.

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

7 ~~31.~~ 22. Adopt guidelines to encourage pupils in grades nine, ten,
8 eleven and twelve to volunteer for twenty hours of community service before
9 graduation from high school. A school district that complies with the
10 guidelines adopted pursuant to this paragraph is not liable for damages
11 resulting from a pupil's participation in community service unless the school
12 district is found to have demonstrated wanton or reckless disregard for the
13 safety of the pupil and other participants in community service. For the
14 purposes of this paragraph, "community service" may include service learning.
15 The guidelines shall include the following:

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

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

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

21 (d) Orientation and notification procedures of community service
22 opportunities for pupils entering grade nine, including the development of a
23 notification form. The notification form shall be signed by the pupil and
24 the pupil's parent or guardian, except that a pupil shall not be required to
25 participate in community service if the parent or guardian notifies the
26 principal of the pupil's school in writing that the parent or guardian does
27 not wish the pupil to participate in community service.

28 (e) Procedures for a pupil in grade nine to prepare a written proposal
29 that outlines the type of community service that the pupil would like to
30 perform and the goals that the pupil hopes to achieve as a result of
31 community service. The pupil's written proposal shall be reviewed by a
32 faculty advisor, a guidance counselor or any other school employee who is
33 designated as the community service program coordinator for that school. The
34 pupil may alter the written proposal at any time before performing community
35 service.

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

40 ~~32.~~ 23. To facilitate the transfer of military personnel and their
41 dependents to and from the public schools of this state, pursue, in
42 cooperation with the Arizona board of regents, reciprocity agreements with
43 other states concerning the transfer credits for military personnel and their
44 dependents. A reciprocity agreement entered into pursuant to this paragraph
45 shall:

- 1 (a) Address procedures for each of the following:
- 2 (i) The transfer of student records.
- 3 (ii) Awarding credit for completed course work.
- 4 (iii) Permitting a student to satisfy the graduation requirements
- 5 prescribed in section 15-701.01 through the successful performance on
- 6 comparable exit-level assessment instruments administered in another state.
- 7 (b) Include appropriate criteria developed by the state board of
- 8 education and the Arizona board of regents.

9 ~~33-~~ 24. Adopt guidelines that school district governing boards shall
10 use in identifying pupils who are eligible for gifted programs and in
11 providing gifted education programs and services. The state board of
12 education shall adopt any other guidelines and rules that it deems necessary
13 in order to carry out the purposes of chapter 7, article 4.1 of this title.

14 ~~34-~~ 25. For each of the alternative textbook formats of human-voiced
15 audio, large-print and braille, designate alternative media producers to
16 adapt existing standard print textbooks or to provide specialized textbooks,
17 or both, for pupils with disabilities in this state. Each alternative media
18 producer shall be capable of producing alternative textbooks in all relevant
19 subjects in at least one of the alternative textbook formats. The board
20 shall post the designated list of alternative media producers on its website.

21 ~~35-~~ 26. Adopt a list of approved professional development training
22 providers for use by school districts as provided in section 15-107,
23 subsection J. The professional development training providers shall meet the
24 training curriculum requirements determined by the state board of education
25 in at least the areas of school finance, governance, employment, staffing,
26 inventory and human resources, internal controls and procurement.

27 ~~36. Adopt rules to prohibit a person who violates the notification~~
28 ~~requirements prescribed in section 15-183, subsection C, paragraph 8 or~~
29 ~~section 15-550, subsection C from certification pursuant to this title until~~
30 ~~the person is no longer charged or is acquitted of any offenses listed in~~
31 ~~section 41-1758.03, subsection B. The board shall also adopt rules to~~
32 ~~prohibit a person who violates the notification requirements, certification~~
33 ~~surrender requirements or fingerprint clearance card surrender requirements~~
34 ~~prescribed in section 15-183, subsection C, paragraph 9 or section 15-550,~~
35 ~~subsection D from certification pursuant to this title for at least ten years~~
36 ~~after the date of the violation.~~

37 ~~37. Adopt rules for the alternative certification of teachers of~~
38 ~~nontraditional foreign languages that allow for the passing of a nationally~~
39 ~~accredited test to substitute for the education coursework required for~~
40 ~~certification.~~

41 ~~38-~~ 27. On or before December 15, 2011, adopt and maintain a model
42 framework for a teacher and principal evaluation instrument that includes
43 quantitative data on student academic progress that accounts for between
44 thirty-three per cent and fifty per cent of the evaluation outcomes and best
45 practices for professional development and evaluator training. School

1 districts and charter schools shall use an instrument that meets the data
2 requirements established by the state board of education to annually evaluate
3 individual teachers and principals beginning in school year 2012-2013.

4 B. The state board of education may:

5 1. Contract.

6 2. Sue and be sued.

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

9 ~~4. Provide for an advisory committee to conduct hearings and~~
10 ~~screenings to determine whether grounds exist to impose disciplinary action~~
11 ~~against a certificated person, whether grounds exist to reinstate a revoked~~
12 ~~or surrendered certificate and whether grounds exist to approve or deny an~~
13 ~~initial application for certification or a request for renewal of a~~
14 ~~certificate. The board may delegate its responsibility to conduct hearings~~
15 ~~and screenings to its advisory committee. Hearings shall be conducted~~
16 ~~pursuant to title 41, chapter 6, article 6.~~

17 ~~5. Proceed with the disposal of any complaint requesting disciplinary~~
18 ~~action or with any disciplinary action against a person holding a certificate~~
19 ~~as prescribed in subsection A, paragraph 14 of this section after the~~
20 ~~suspension or expiration of the certificate or surrender of the certificate~~
21 ~~by the holder.~~

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

26 Sec. 3. Section 15-240, Arizona Revised Statutes, is amended to read:

27 15-240. Issuance of subpoenas

28 A. On the request of any person who is investigating, on behalf of the
29 ~~department of education~~ PROFESSIONAL TEACHING STANDARDS BOARD, a complaint
30 alleging that a certificated person has engaged in immoral or unprofessional
31 conduct, the ~~department of education~~ PROFESSIONAL TEACHING STANDARDS BOARD
32 may issue subpoenas compelling the attendance and testimony of witnesses or
33 demanding the production for examination or copying of documents or any
34 physical evidence.

35 B. The superior court, on application by the ~~department of education~~
36 PROFESSIONAL TEACHING STANDARDS BOARD or by the person subpoenaed, has
37 jurisdiction to issue an order either:

38 1. Requiring the person to appear before the ~~department of education~~
39 PROFESSIONAL TEACHING STANDARDS BOARD or the duly authorized agent to produce
40 evidence relating to the matter under investigation.

41 2. Revoking, limiting or modifying the subpoena if in the court's
42 opinion the evidence demanded does not relate to conduct that might
43 constitute grounds for disciplinary action, is not relevant to the subject
44 matter of the investigation or does not describe with sufficient
45 particularity the evidence whose production is required.

1 C. Any failure to obey an order of the court pursuant to subsection B
2 may be punished by the court as contempt.

3 Sec. 4. Section 15-350, Arizona Revised Statutes, is amended to read:

4 15-350. Investigation of immoral or unprofessional conduct;
5 confidentiality

6 A. On request of the ~~state board of education~~ PROFESSIONAL TEACHING
7 STANDARDS BOARD, any school or school district that has employed a
8 certificated person during the time in which the person is alleged to have
9 engaged in conduct constituting grounds for disciplinary action shall make
10 available the attendance and testimony of witnesses, documents and any
11 physical evidence within the school district's control for examination or
12 copying. All information received and records or reports kept by the ~~state~~
13 ~~board of education~~ PROFESSIONAL TEACHING STANDARDS BOARD during an
14 investigation of immoral or unprofessional conduct are confidential and are
15 not a public record.

16 B. Notwithstanding subsection A of this section, the ~~state board of~~
17 ~~education~~ PROFESSIONAL TEACHING STANDARDS BOARD may provide information,
18 records or reports relating to the investigation of a certificate holder to
19 any school or school district that currently employs OR IS CONSIDERING THE
20 EMPLOYMENT OF the certificate holder. All information, records or reports
21 received by any school or school district pursuant to this subsection shall
22 be used for employment purposes only, are confidential and are not a public
23 record.

24 C. An investigator who is regularly employed and paid by the ~~state~~
25 ~~board of education~~ PROFESSIONAL TEACHING STANDARDS BOARD has the authority to
26 access criminal history records and criminal history record information, as
27 defined in section 41-1750, from law enforcement agencies.

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

29 15-501. Definitions

30 In this chapter, unless the context otherwise requires:

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

34 2. "Certificated teacher" means a person who holds a certificate from
35 the state board of education OR THE PROFESSIONAL TEACHING STANDARDS BOARD to
36 work in the schools of this state and who is employed under contract in a
37 school district in a position ~~which~~ THAT requires certification except a
38 psychologist or an administrator devoting less than fifty per cent of his
39 time to classroom teaching.

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

43 4. "Governing board" means the governing board of a school district or
44 a county school superintendent in the case of accommodation schools located
45 in such county.

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

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

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

10 Sec. 6. Repeal

11 Section 15-508, Arizona Revised Statutes, is repealed.

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

13 15-512. Noncertificated personnel; fingerprinting personnel;
14 background investigations; affidavit; civil immunity;
15 violation; classification; definition

16 A. Noncertificated personnel and personnel who are not paid employees
17 of the school district and who are not either the parent or the guardian of a
18 pupil who attends school in the school district but who are required or
19 allowed to provide services directly to pupils without the supervision of a
20 certificated employee and who are initially hired by a school district after
21 January 1, 1990 shall be fingerprinted as a condition of employment except
22 for personnel who are required as a condition of licensing to be
23 fingerprinted if the license is required for employment or for personnel who
24 were previously employed by a school district and who reestablished
25 employment with that district within one year after the date that the
26 employee terminated employment with the district. A school district may
27 release the results of a background check to another school district for
28 employment purposes. The employee's fingerprints and the form prescribed in
29 subsection D of this section shall be submitted to the school district within
30 twenty days after the date an employee begins work. A school district may
31 terminate an employee if the information on the form provided under
32 subsection D of this section is inconsistent with the information received
33 from the fingerprint check. The school district shall develop procedures for
34 fingerprinting employees. For the purposes of this subsection, "supervision"
35 means under the direction of and, except for brief periods of time during a
36 school day or a school activity, within sight of a certificated employee when
37 providing direct services to pupils.

38 B. Fingerprints submitted pursuant to this section shall be used to
39 conduct a state and federal criminal records check pursuant to section
40 41-1750 and Public Law 92-544. The department of public safety may exchange
41 this fingerprint data with the federal bureau of investigation.

42 C. The school district shall assume the costs of fingerprint checks
43 and may charge these costs to its fingerprinted employee, except that the
44 school district may not charge the costs of the fingerprint check to
45 personnel of the school district who are not paid employees. The fees

1 charged for fingerprinting shall be deposited with the county treasurer who
2 shall credit the deposit to the fingerprint fund of the school district. The
3 costs charged to a fingerprinted employee are limited to and the proceeds in
4 the fund may only be applied to the actual costs, including personnel costs,
5 incurred as a result of the fingerprint checks. The fingerprint fund is a
6 continuing fund ~~which~~ THAT is not subject to reversion.

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

- 13 1. Sexual abuse of a minor.
- 14 2. Incest.
- 15 3. First or second degree murder.
- 16 4. Kidnapping.
- 17 5. Arson.
- 18 6. Sexual assault.
- 19 7. Sexual exploitation of a minor.
- 20 8. Felony offenses involving contributing to the delinquency of a
21 minor.
- 22 9. Commercial sexual exploitation of a minor.
- 23 10. Felony offenses involving sale, distribution or transportation of,
24 offer to sell, transport, or distribute or conspiracy to sell, transport or
25 distribute marijuana or dangerous or narcotic drugs.
- 26 11. Felony offenses involving the possession or use of marijuana,
27 dangerous drugs or narcotic drugs.
- 28 12. Misdemeanor offenses involving the possession or use of marijuana
29 or dangerous drugs.
- 30 13. Burglary in the first degree.
- 31 14. Burglary in the second or third degree.
- 32 15. Aggravated or armed robbery.
- 33 16. Robbery.
- 34 17. A dangerous crime against children as defined in section 13-705.
- 35 18. Child abuse.
- 36 19. Sexual conduct with a minor.
- 37 20. Molestation of a child.
- 38 21. Manslaughter.
- 39 22. Aggravated assault.
- 40 23. Assault.
- 41 24. Exploitation of minors involving drug offenses.

42 E. A school district may refuse to hire or may review or terminate
43 personnel who have been convicted of or admitted committing any of the
44 criminal offenses prescribed in subsection D of this section or of a similar
45 offense in another jurisdiction. A school district ~~which~~ THAT is considering

1 terminating an employee pursuant to this subsection shall hold a hearing to
2 determine whether a person already employed shall be terminated. In
3 conducting a review, ~~the governing board shall utilize the guidelines,~~
4 ~~including the list of offenses that are not subject to review, as prescribed~~
5 ~~by the state board of education pursuant to section 15-534, subsection C.~~ OR
6 in considering whether to hire or terminate the employment of a person, the
7 governing board shall take into account the following factors:

8 1. The nature of the crime and the potential for crimes against
9 children.

10 2. Offenses committed as a minor for which proceedings were held under
11 the jurisdiction of a juvenile or an adult court.

12 3. Offenses that have been expunged by a court of competent
13 jurisdiction, if the person has been pardoned or if the person's sentence has
14 been commuted.

15 4. The employment record of the person since the commission of the
16 crime if the crime was committed more than ten years before the governing
17 board's consideration of whether to hire or terminate the person.

18 5. The reliability of the evidence of an admission of a crime unless
19 made under oath in a court of competent jurisdiction.

20 F. Before employment with the school district, the district shall make
21 documented, good faith efforts to contact previous employers of a person to
22 obtain information and recommendations ~~which~~ THAT may be relevant to a
23 person's fitness for employment. A governing board shall adopt procedures
24 for conducting background investigations required by this subsection,
25 including one or more standard forms for use by school district officials to
26 document their efforts to obtain information from previous employers. A
27 school district may provide information received as a result of a background
28 investigation required by this section to any other school district, to any
29 other public school and to any public entity that agrees pursuant to a
30 contract or intergovernmental agreement to perform background investigations
31 for school districts or other public schools. School districts and other
32 public schools may enter into intergovernmental agreements pursuant to
33 section 11-952 and cooperative purchasing agreements pursuant to rules
34 adopted in accordance with section 15-213 for the purposes of performing or
35 contracting for the performance of background investigations and for sharing
36 the results of background investigations required by this subsection.
37 Information obtained about an employee or applicant for employment by any
38 school district or other public school in the performance of a background
39 investigation may be retained by that school district or the other public
40 school or by any public entity that agrees pursuant to contract to perform
41 background investigations for school districts or other public schools and
42 may be provided to any school district or other public school that is
43 performing a background investigation required by this subsection.

44 G. A school district may fingerprint any other employee of the
45 district, whether paid or not, or any other applicant for employment with the

1 school district not otherwise required by this section to be fingerprinted on
2 the condition that the school district may not charge the costs of the
3 fingerprint check to the fingerprinted applicant or nonpaid employee.

4 H. A contractor, subcontractor or vendor or any employee of a
5 contractor, subcontractor or vendor who is contracted to provide services on
6 a regular basis at an individual school shall obtain a valid fingerprint
7 clearance card pursuant to title 41, chapter 12, article 3.1. ~~By December~~
8 ~~31, 2009,~~ A school district governing board shall adopt policies ~~to be~~
9 ~~implemented sixty days after adoption~~ that may exempt ~~from the requirements~~
10 ~~of this subsection persons who, as part of the normal job duties of the~~
11 ~~persons, are not likely to have independent access to or unsupervised contact~~
12 ~~with pupils~~ A PERSON FROM THE REQUIREMENTS OF THIS SUBSECTION IF THE PERSON'S
13 NORMAL JOB DUTIES ARE NOT LIKELY TO RESULT IN INDEPENDENT ACCESS TO OR
14 UNSUPERVISED CONTACT WITH PUPILS. A school district, its governing board
15 members, its school council members and its employees are exempt from civil
16 liability for the consequences of adoption and implementation of policies and
17 procedures pursuant to this subsection unless the school district, its
18 governing board members, its school council members or its employees are
19 guilty of gross negligence or intentional misconduct.

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

25 J. Public entities that agree pursuant to contract to perform
26 background investigations, public schools, the department of education and
27 previous employers who provide information pursuant to this section are
28 immune from civil liability unless the information provided is false and is
29 acted on by the school district to the harm of the employee and the public
30 entity, the public school, the previous employer or the department of
31 education knows the information is false or acts with reckless disregard of
32 the information's truth or falsity. A school district ~~which~~ THAT relies on
33 information obtained pursuant to this section in making employment decisions
34 is immune from civil liability for use of the information unless the
35 information obtained is false and the school district knows the information
36 is false or acts with reckless disregard of the information's truth or
37 falsity.

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

44 L. A school district may hire noncertificated personnel before
45 receiving the results of the fingerprint check but may terminate employment

1 if the information on the form provided in subsection D of this section is
2 inconsistent with the information received from the fingerprint check. In
3 addition to any other conditions or requirements deemed necessary by the
4 superintendent of public instruction to protect the health and safety of
5 pupils, noncertificated personnel who are required or allowed unsupervised
6 contact with pupils may be hired by school districts before the results of a
7 fingerprint check are received if all of the following conditions are met:

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

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

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

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

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

23 (d) Report to the superintendent of public instruction on June 30 and
24 December 31 **EACH YEAR** the number of applicants hired before the completion of
25 a fingerprint check. In addition, the school district shall report the
26 number of applicants for whom fingerprint checks were not received after one
27 hundred twenty days and after one hundred seventy-five days of hire.

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

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

34 O. For the purposes of this section, "background investigation" means
35 any communication with an employee's or applicant's former employer that
36 concerns the education, training, experience, qualifications and job
37 performance of the employee or applicant and that is used for the purpose of
38 evaluating the employee or applicant for employment. Background investigation
39 does not include the results of any state or federal criminal history records
40 check.

41 Sec. 8. Section 15-514, Arizona Revised Statutes, is amended to read:
42 **15-514. Reports of immoral or unprofessional conduct; immunity**

43 A. Any certificated person or governing board member who reasonably
44 suspects or receives a reasonable allegation that a person certificated by
45 the state board of education **OR THE PROFESSIONAL TEACHING STANDARDS BOARD** has

1 engaged in conduct involving minors that would be subject to the reporting
2 requirements of section 13-3620 shall report or cause reports to be made to
3 the ~~department of education~~ PROFESSIONAL TEACHING STANDARDS BOARD in writing
4 as soon as is reasonably practicable but not later than three business days
5 after the person first suspects or receives an allegation of the conduct.

6 B. The superintendent of a school district or the chief administrator
7 of a charter school who reasonably suspects or receives a reasonable
8 allegation that an act of immoral or unprofessional conduct that would
9 constitute grounds for dismissal or criminal charges by a certificated person
10 has occurred shall report the conduct to the ~~department of education~~
11 PROFESSIONAL TEACHING STANDARDS BOARD.

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

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

- 23 1. Disciplinary action.
- 24 2. Transfer or reassignment.
- 25 3. Suspension, demotion or dismissal.
- 26 4. An unfavorable performance evaluation.
- 27 5. Other significant changes in duties or responsibilities that are
28 inconsistent with the employee's salary or employment classification.

29 E. Failure to report information as required by this section by a
30 certificated person constitutes grounds for disciplinary action by the ~~state~~
31 ~~board of education~~ PROFESSIONAL TEACHING STANDARDS BOARD.

32 F. A governing board or school district employee who has control over
33 personnel decisions and who reasonably suspects or receives a reasonable
34 allegation that a person certificated by the state board of education OR THE
35 PROFESSIONAL TEACHING STANDARDS BOARD has engaged in conduct involving minors
36 that would be subject to the reporting requirements of section 13-3620 and
37 this article shall not accept the resignation of the certificate holder until
38 these suspicions or allegations have been reported to the ~~state board of~~
39 ~~education~~ PROFESSIONAL TEACHING STANDARDS BOARD.

40 Sec. 9. Repeal

41 Sections 15-531, 15-531.01, 15-532 and 15-533, Arizona Revised
42 Statutes, are repealed.

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

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

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

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

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

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

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

22 ~~G.~~ E. Any person who participates in a teacher preparation program
23 that is approved by the state board of education or any person who is
24 contracted by this state, by a school district or by a charter school to
25 provide tutoring services shall obtain a fingerprint clearance card pursuant
26 to this section before the person participates in field experience in this
27 state in which services will be provided directly to pupils. A person who
28 participates in a teacher preparation program that is approved by the state
29 board OF EDUCATION and who does not participate in field experience or
30 student teaching in this state shall not be required to obtain a fingerprint
31 clearance card pursuant to this section.

32 ~~H.~~ F. The ~~state board of education~~ PROFESSIONAL TEACHING STANDARDS
33 BOARD shall notify the department of public safety if the ~~state board of~~
34 ~~education~~ PROFESSIONAL TEACHING STANDARDS BOARD receives credible evidence
35 that a person who possesses a valid fingerprint clearance card either:

36 1. Is arrested for or charged with an offense listed in section
37 41-1758.03, subsection B.

38 2. Falsified information on the form required by subsection A of this
39 section.

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

1 department of education or by any other method that is reasonably calculated
2 to give actual notice to the applicant or the certificated person.

3 B. Each applicant or certificated person shall inform the department
4 of education of any change of address within thirty days of the change of
5 address.

6 Sec. 14. Repeal

7 Section 15-535, Arizona Revised Statutes, is repealed.

8 Sec. 15. Section 15-539, Arizona Revised Statutes, is amended to read:

9 15-539. Dismissal of certificated teacher; due process; written
10 charges; notice; hearing on request

11 A. On a written statement of charges presented by the superintendent,
12 charging that there exists cause for the suspension without pay for a period
13 of time greater than ten school days or dismissal of a certificated teacher
14 of the district, the governing board, except as otherwise provided in this
15 article, shall give notice to the teacher of its intention to suspend without
16 pay or dismiss the teacher at the expiration of ten days from the date of the
17 service of the notice.

18 B. Whenever the superintendent presents a statement of charges wherein
19 the alleged cause for dismissal constitutes immoral or unprofessional
20 conduct, the governing board may adopt a resolution that a complaint be filed
21 with the department of education OR THE PROFESSIONAL TEACHING STANDARDS
22 BOARD. Pending disciplinary action by the ~~state board of education~~
23 PROFESSIONAL TEACHING STANDARDS BOARD, the certificated teacher may be
24 reassigned by the superintendent or placed on administrative leave by the
25 GOVERNING board pursuant to section 15-540.

26 C. The governing board shall give a certificated teacher who has been
27 employed by the school district for more than the major portion of three
28 consecutive school years notice of intention to dismiss if its intention to
29 dismiss is based on charges of inadequacy of classroom performance as defined
30 by the governing board pursuant to subsection D of this section. The
31 governing board or its authorized representative shall give the teacher a
32 written preliminary notice of inadequacy of classroom performance at least
33 ten instructional days before the start of the period of time within which to
34 correct the inadequacy and overcome the grounds for the charge. The
35 governing board may delegate to employees of the governing board the general
36 authority to issue preliminary notices of inadequacy of classroom performance
37 to teachers pursuant to this section without the need for prior approval of
38 each notice by the governing board. In all cases in which an employee of the
39 governing board issues a preliminary notice of inadequacy of classroom
40 performance without prior approval by the governing board, the employee shall
41 report its issuance to the governing board within five school days. The
42 written preliminary notice of inadequacy of classroom performance shall
43 specify the nature of the inadequacy of classroom performance with such
44 particularity as to furnish the teacher an opportunity to correct the
45 teacher's inadequacies and overcome the grounds for the charge. The written

1 preliminary notice of inadequacy of classroom performance shall be based on a
2 valid evaluation according to school district procedure, shall include a copy
3 of any evaluation pertinent to the charges made and shall state the date by
4 which the teacher has to correct the inadequacy and overcome the grounds for
5 the charge. That evaluation shall not be conducted within two instructional
6 days of any school break of one week or more. The written preliminary notice
7 of inadequacy of classroom performance shall allow the teacher not less than
8 sixty instructional days within which to correct the inadequacy and overcome
9 the grounds for the charge. If within the time specified in the written
10 preliminary notice of inadequacy of classroom performance the teacher does
11 not demonstrate adequate classroom performance, the governing board shall
12 dismiss the teacher either within ten days of the service of a subsequent
13 notice of intention to dismiss or by the end of the contract year in which
14 the subsequent notice of intention to dismiss is served unless the teacher
15 has requested a hearing as provided in subsection G of this section. If the
16 teacher demonstrates adequate classroom performance during the period allowed
17 to correct such deficiencies as specified in the written preliminary notice
18 of inadequacy of classroom performance, the governing board may not dismiss
19 the teacher for the reasons specified in the written preliminary notice of
20 inadequacy of classroom performance. If the governing board of a school
21 district has received approval to budget for a career ladder program, the
22 governing board may define inadequacy of classroom performance by
23 establishing a single level of performance that is required of all teachers
24 or by establishing more than one required level of performance. If more than
25 one level is established, the same level of performance for minimum adequacy
26 shall be required of all teachers who have completed the same number of years
27 of teaching in the district.

28 D. The governing board shall develop a definition of inadequacy of
29 classroom performance that applies to notices issued pursuant to section
30 15-536, section 15-538 and this section. The governing board shall develop
31 its definition of inadequacy of classroom performance in consultation with
32 its certificated teachers. The consultation may be accomplished by holding a
33 public hearing, forming an advisory committee, providing teachers the
34 opportunity to respond to a proposed definition or obtaining teacher approval
35 of a career ladder program that defines inadequacy of classroom performance.

36 E. Any written statement of charges alleging unprofessional conduct,
37 conduct in violation of the rules or policies of the governing board or
38 inadequacy of classroom performance shall specify instances of behavior and
39 the acts or omissions constituting the charge so that the certificated
40 teacher will be able to prepare a defense. If applicable, it shall state the
41 statutes, rules or written objectives of the governing board that the
42 certificated teacher is alleged to have violated and set forth the facts
43 relevant to each occasion of alleged unprofessional conduct, conduct in
44 violation of the rules or policies of the governing board or inadequacy of
45 classroom performance.

1 F. The notice shall be in writing and shall be served on the
2 certificated teacher personally or by United States registered or certified
3 mail addressed to the teacher's last known address. A copy of the charges,
4 together with a copy of this section and sections 15-501, 15-538.01, 15-540,
5 15-541, 15-542 and 15-544 through 15-547, shall be attached to the notice.

6 G. The certificated teacher who receives notice that there exists
7 cause for dismissal or suspension without pay shall have the right to a
8 hearing if the teacher files a written request with the governing board
9 within ten days of service of notice. The filing of a timely request shall
10 suspend the imposition of a suspension without pay or a dismissal pending
11 completion of the hearing.

12 Sec. 16. Section 15-545, Arizona Revised Statutes, is amended to read:
13 15-545. Resignation restrictions; unprofessional act; penalty

14 A certificated teacher shall not resign after signing and returning his
15 contract, unless the resignation is first approved by the governing board. A
16 teacher who resigns contrary to this section shall be deemed to commit an
17 unprofessional act and, upon request of the governing board, shall be subject
18 to such disciplinary action, including suspension or revocation of
19 certificate, as the ~~state board of education~~ PROFESSIONAL TEACHING STANDARDS
20 BOARD deems appropriate.

21 Sec. 17. Repeal

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

23 Sec. 18. Section 15-551, Arizona Revised Statutes, is amended to read:
24 15-551. Confidentiality of pupil's name; disciplinary hearing;

25 civil penalty

26 A. The governing board and the ~~state board of education~~ PROFESSIONAL
27 TEACHING STANDARDS BOARD shall keep confidential the name of a pupil involved
28 in a hearing before either board regarding the dismissal or discipline of a
29 school district employee or an action on a certificate. The GOVERNING board
30 AND THE PROFESSIONAL TEACHING STANDARDS BOARD shall not disclose the pupil's
31 name without the consent of the pupil's parent or guardian except by order of
32 the superior court. This section does not prevent either board from
33 disclosing the pupil's name to any party to the hearing.

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

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

43 D. The ~~state board~~ PROFESSIONAL TEACHING STANDARDS BOARD shall adopt
44 rules for the implementation of this section.

1 Sec. 19. Heading repeal

2 The article heading of former title 15, chapter 5, article 4, Arizona
3 Revised Statutes, is repealed.

4 Sec. 20. Title 15, chapter 5, Arizona Revised Statutes, is amended by
5 adding a new article 4, to read:

6 ARTICLE 4. PROFESSIONAL TEACHING STANDARDS BOARD

7 15-561. Professional teaching standards board; membership;
8 terms; quorum; expenses; immunity

9 A. THE PROFESSIONAL TEACHING STANDARDS BOARD IS ESTABLISHED CONSISTING
10 OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE GOVERNOR PURSUANT TO
11 SECTION 38-211 FOR A TERM OF FOUR YEARS BEGINNING AND ENDING ON THE THIRD
12 MONDAY IN JANUARY:

13 1. EIGHT TEACHERS WHO ARE CERTIFICATED BY THIS STATE AND WHO ARE
14 ACTIVELY TEACHING IN A PUBLIC SCHOOL IN THIS STATE. OF THESE MEMBERS:

15 (a) THREE SHALL PROVIDE INSTRUCTION IN KINDERGARTEN PROGRAMS OR IN ANY
16 OF GRADES ONE THROUGH SIX IN A SCHOOL DISTRICT.

17 (b) ONE SHALL PROVIDE INSTRUCTION IN GRADE SEVEN OR EIGHT IN A SCHOOL
18 DISTRICT.

19 (c) TWO SHALL PROVIDE INSTRUCTION IN GRADES NINE THROUGH TWELVE IN A
20 SCHOOL DISTRICT.

21 (d) ONE SHALL TEACH IN A SPECIALIZED INSTRUCTIONAL AREA IN A SCHOOL
22 DISTRICT.

23 (e) ONE SHALL TEACH IN A CHARTER SCHOOL.

24 2. THREE ADMINISTRATORS WHO ARE CERTIFICATED BY THIS STATE AND WHO ARE
25 ACTIVELY WORKING IN AN ADMINISTRATIVE POSITION IN A SCHOOL DISTRICT IN THIS
26 STATE. OF THESE MEMBERS:

27 (a) ONE SHALL BE A SCHOOL DISTRICT SUPERINTENDENT.

28 (b) ONE SHALL BE THE PRINCIPAL OF AN ELEMENTARY SCHOOL, A MIDDLE
29 SCHOOL OR A JUNIOR HIGH SCHOOL.

30 (c) ONE SHALL BE THE PRINCIPAL OF A HIGH SCHOOL.

31 3. ONE MEMBER OF A SCHOOL DISTRICT GOVERNING BOARD IN THIS STATE.

32 4. ONE NONCERTIFICATED EMPLOYEE WHO IS ACTIVELY WORKING IN A SCHOOL
33 DISTRICT IN THIS STATE.

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

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

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

40 8. THE SUPERINTENDENT OF PUBLIC INSTRUCTION OR THE SUPERINTENDENT'S
41 DESIGNEE.

42 B. NO TWO MEMBERS OF THE BOARD MAY BE APPOINTED FROM THE SAME SCHOOL
43 DISTRICT.

1 C. THE GOVERNOR SHALL FILL VACANCIES THAT OCCUR FROM ANY CAUSE BY
2 APPOINTING A REPLACEMENT MEMBER FOR THE UNEXPIRED TERM PURSUANT TO SECTION
3 38-211.

4 D. THE BOARD SHALL ANNUALLY ELECT FROM ITS MEMBERSHIP A CHAIRPERSON
5 AND A VICE-CHAIRPERSON.

6 E. A MAJORITY OF THE BOARD CONSTITUTES A QUORUM FOR THE TRANSACTION OF
7 BUSINESS. CONCURRENCE BY A MAJORITY OF A QUORUM IS NECESSARY FOR THE BOARD
8 TO TAKE OFFICIAL ACTION.

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

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

14 15-562. Powers and duties; certification; hearing; appeal

15 A. THE PROFESSIONAL TEACHING STANDARDS BOARD SHALL ADOPT RULES THAT
16 PROVIDE FOR THE FOLLOWING:

17 1. THE ESTABLISHMENT OF PROFESSIONAL STANDARDS FOR EDUCATION
18 EMPLOYEES.

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

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

22 4. THE ESTABLISHMENT OF STANDARDS FOR INDUCTION AND PROFESSIONAL
23 DEVELOPMENT.

24 5. THE CERTIFICATION AND LICENSURE OF SCHOOL EMPLOYEES.

25 6. TEACHER CERTIFICATION RECIPROCITY.

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

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

31 B. THE PROFESSIONAL TEACHING STANDARDS BOARD MAY:

32 1. REVIEW AND DETERMINE WHETHER TO RENEW OR NOT ISSUE A CERTIFICATE TO
33 AN APPLICANT FOR CERTIFICATION OR A CERTIFICATE HOLDER OR TO TAKE ACTION
34 AGAINST A CERTIFICATE HOLDER ON A FINDING THAT THE APPLICANT OR CERTIFICATE
35 HOLDER ENGAGED IN IMMORAL OR UNPROFESSIONAL CONDUCT OR CONDUCT THAT WOULD
36 WARRANT DISCIPLINARY ACTION IF THE PERSON HAD BEEN CERTIFIED AT THE TIME THE
37 ALLEGED CONDUCT OCCURRED.

38 2. INITIATE A COMPLAINT THAT SEEKS DISCIPLINARY ACTION AGAINST A
39 CERTIFICATE HOLDER.

40 3. IMPOSE DISCIPLINARY ACTION, INCLUDING THE ISSUANCE OF A LETTER OF
41 CENSURE OR SUSPENSION, SUSPENSION WITH CONDITIONS OR REVOCATION OF A
42 CERTIFICATE, ON A FINDING OF IMMORAL OR UNPROFESSIONAL CONDUCT.

43 4. PROCEED WITH THE DISPOSAL OF ANY COMPLAINT THAT REQUESTS
44 DISCIPLINARY ACTION OR WITH ANY DISCIPLINARY ACTION AGAINST A CERTIFICATE

1 HOLDER AFTER THE SUSPENSION OR EXPIRATION OF THE CERTIFICATE OR SURRENDER OF
2 THE CERTIFICATE BY THE HOLDER.

3 5. ENTER INTO INTERGOVERNMENTAL AGREEMENTS OR CONTRACTS PURSUANT TO
4 TITLE 11, CHAPTER 7, ARTICLE 3 FOR THE ADMINISTRATION AND EVALUATION OF
5 PROFICIENCY EXAMINATIONS, INCLUDING EXAMINATIONS ON THE CONSTITUTION OF THE
6 UNITED STATES AND THE CONSTITUTION OF ARIZONA.

7 6. FIX AND COLLECT FEES FOR CERTIFICATION OF PERSONS PURSUANT TO THIS
8 ARTICLE.

9 7. HIRE AN EXECUTIVE DIRECTOR TO ADMINISTER THE POLICIES OF THE
10 PROFESSIONAL TEACHING STANDARDS BOARD.

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

22 15-563. Professional teaching standards board fund

23 A. THE PROFESSIONAL TEACHING STANDARDS BOARD FUND IS ESTABLISHED
24 CONSISTING OF ALL MONIES COLLECTED UNDER THIS ARTICLE. SUBJECT TO
25 LEGISLATIVE APPROPRIATION, MONIES IN THE PROFESSIONAL TEACHING STANDARDS
26 BOARD FUND SHALL BE USED FOR THE OPERATIONAL COSTS OF THE PROFESSIONAL
27 TEACHING STANDARDS BOARD ESTABLISHED BY SECTION 15-561.

28 B. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190
29 RELATING TO LAPSING OF APPROPRIATIONS.

30 Sec. 21. Section 15-779.02, Arizona Revised Statutes, is amended to
31 read:

32 15-779.02. Gifted pupils; scope and sequence; annual financial
33 report

34 A. The governing board of each school district shall develop a scope
35 and sequence for the identification process of and curriculum modifications
36 for gifted pupils to ensure that gifted pupils receive gifted education
37 commensurate with their academic abilities and potentials. Programs and
38 services for gifted pupils shall be provided as an integrated, differentiated
39 learning experience during the regular school day. The scope and the
40 sequence shall:

41 1. Provide for routine screening for gifted pupils using one or more
42 tests adopted by the state board as prescribed in section 15-203, subsection
43 A, paragraph ~~15~~ 14 and section 15-779.01. School districts may identify any
44 number of pupils as gifted but shall identify as gifted at least those pupils

1 who score at or above the ninety-seventh percentile, based on national norms,
2 on a test adopted by the state board of education.

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

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

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

7 (c) Product, including variety and complexity.

8 (d) Learning environment, including flexibility.

9 3. Include criteria, which shall be reviewed by the state board of
10 education and the department of education at least once every four years,
11 that address the elements of program design, identification, curriculum,
12 instruction, social development, emotional development, professional
13 development of administrators, teachers, school psychologists and counselors,
14 parent involvement, community involvement, program assessment and budgeting.
15 The budget information shall include separate data on identification and
16 program costs and any other data required by the superintendent of public
17 instruction to administer and evaluate the program effectively.

18 B. The governing board shall submit the scope and the sequence to the
19 department of education for approval on or before July 1 if any changes were
20 made during the previous fiscal year. The governing board shall submit the
21 scope and the sequence to the department of education for approval on or
22 before July 1 every five years if no changes were made during the previous
23 five years. All school districts shall provide to gifted pupils gifted
24 education commensurate with their academic abilities and potentials.

25 C. If the governing board fails to submit the scope and sequence for
26 gifted pupils as prescribed in subsection B of this section or if the scope
27 and sequence submitted by the governing board fails to receive full approval
28 by the superintendent of public instruction, the school district is not
29 eligible to receive state aid for the group A weight for seven per cent of
30 the student count and shall compute the weighted student count for pupils in
31 group A as provided in section 15-943 by adjustment of the student count
32 accordingly. On or before December 1 of each year, the department of
33 education shall notify those school districts that appear to be in
34 noncompliance and note the specific areas of deficiencies that must be
35 corrected on or before April 1 of the following year to be eligible to use
36 the actual student count rather than an adjusted student count. On or before
37 April 15 of each year, the department shall notify those districts that must
38 use an adjusted student count for the next fiscal year's state aid as
39 provided in chapter 9 of this title.

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

1 Sec. 22. Section 15-914.01, Arizona Revised Statutes, is amended to
2 read:

3 15-914.01. Accounting responsibility; definition

4 A. School districts may apply to the state board of education to
5 assume accounting responsibility.

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

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

12 (a) Procedures for approving, preparing and signing vouchers and
13 warrants.

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

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

21 (d) Procedures for reconciling the accounting records monthly to the
22 county treasurer.

23 2. A compilation of resources required to implement accounting
24 responsibility, including, at a minimum, personnel, training and equipment,
25 and a comprehensive analysis of the budgetary implications of accounting
26 responsibility for the school district and the county treasurer.

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

35 1. The most recent financial statements audited by an independent
36 certified public accountant.

37 2. The most recent report on internal control, report on compliance
38 and uniform system of financial records compliance questionnaire prepared by
39 an independent certified public accountant or procedural review completed by
40 the auditor general.

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

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

1 D. School districts that are approved by the state board of education
2 to assume accounting responsibility shall contract with an independent
3 certified public accountant for an annual financial and compliance audit.
4 The auditor general may reevaluate the school district annually based on the
5 audit to determine compliance with the uniform system of financial records.
6 If permitted by federal law, a school district may convert to a biennial
7 audit schedule if the previous annual audit conducted pursuant to this
8 subsection did not contain any significant negative findings. If a biennial
9 audit of a school district conducted pursuant to this subsection contains any
10 significant negative findings, the school district shall convert back to an
11 annual audit schedule. If a school district is required to convert back to
12 an annual audit schedule pursuant to this subsection because of significant
13 negative findings, the school district may subsequently convert to a biennial
14 audit schedule if the previous two annual audits did not contain any
15 significant negative findings. For the purposes of this subsection,
16 "significant negative finding" means a finding that results in the issuance
17 of a letter of noncompliance from the auditor general.

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

26 F. Any school district that fails to maintain accounting standards as
27 provided by the uniform system of financial records and that is found to be
28 in noncompliance with the uniform system of financial records by the state
29 board of education as provided in section 15-272 is not eligible to
30 participate in the program provided by this section.

31 G. Any school district that has assumed accounting responsibility
32 pursuant to this section, that fails to maintain accounting standards as
33 provided by the uniform system of financial records and that is found to be
34 in noncompliance with the uniform system of financial records by the state
35 board of education as provided in section 15-272 is no longer eligible to
36 participate in the program provided by this section.

37 H. For the purposes of this section, "accounting responsibility" means
38 authority for a school district to operate with full independence from the
39 county school superintendent with respect to revenues and expenditures,
40 including allocating revenues, monitoring vouchers, authorizing and issuing
41 warrants and maintaining and verifying staff records for certification and
42 payroll purposes.

1 Sec. 23. Section 41-1092.02, Arizona Revised Statutes, is amended to
2 read:

3 41-1092.02. Appealable agency actions; application of
4 procedural rules; exemption from article

5 A. This article applies to all contested cases as defined in section
6 41-1001 and all appealable agency actions, except contested cases with or
7 appealable agency actions of:

- 8 1. The state department of corrections.
- 9 2. The board of executive clemency.
- 10 3. The industrial commission of Arizona.
- 11 4. The Arizona corporation commission.
- 12 5. The Arizona board of regents and institutions under its
13 jurisdiction.
- 14 6. The state personnel board.
- 15 7. The department of juvenile corrections.
- 16 8. The department of transportation.
- 17 9. The department of economic security except as provided in sections
18 8-506.01, 8-811 and 46-458.
- 19 10. The department of revenue regarding:
 - 20 (a) Income tax, withholding tax or estate tax.
 - 21 (b) Any tax issue related to information associated with the reporting
22 of income tax, withholding tax or estate tax unless the taxpayer requests in
23 writing that this article apply and waives confidentiality under title 42,
24 chapter 2, article 1.
 - 25 11. The board of tax appeals.
 - 26 12. The state board of equalization.
 - 27 ~~13. The state board of education, but only in connection with contested~~
28 ~~cases and appealable agency actions related to applications for issuance or~~
29 ~~renewal of a certificate and discipline of certificate holders pursuant to~~
30 ~~sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.~~
 - 31 13. THE PROFESSIONAL TEACHING STANDARDS BOARD.
 - 32 14. The board of fingerprinting.

33 B. Unless waived by all parties, an administrative law judge shall
34 conduct all hearings under this article, and the procedural rules set forth
35 in this article and rules made by the director apply.

36 C. Except as provided in subsection A of this section:

37 1. A contested case heard by the office of administrative hearings
38 regarding taxes administered under title 42 shall be subject to ~~the~~
39 ~~provisions under~~ section 42-1251.

40 2. A final decision of the office of administrative hearings regarding
41 taxes administered under title 42 may be appealed by either party to the
42 director of the department of revenue, or a taxpayer may file and appeal
43 directly to the board of tax appeals pursuant to section 42-1253.

1 D. Except as provided in subsections A, B, E, F and G of this section
2 and notwithstanding any other administrative proceeding or judicial review
3 process established in statute or administrative rule, this article applies
4 to all appealable agency actions and to all contested cases.

5 E. Except for a contested case or an appealable agency action
6 regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09
7 do not apply to the department of revenue.

8 F. The board of appeals established by section 37-213 is exempt from:
9 1. The time frames for hearings and decisions provided in section
10 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

11 2. The requirement in section 41-1092.06, subsection A to hold an
12 informal settlement conference at the appellant's request if the sole subject
13 of an appeal pursuant to section 37-215 is the estimate of value reported in
14 an appraisal of lands or improvements.

15 G. Auction protest procedures pursuant to title 37, chapter 2, article
16 4.1 are exempt from this article.

17 Sec. 24. Section 41-1750, Arizona Revised Statutes, is amended to
18 read:

19 41-1750. Central state repository; department of public safety;
20 duties; funds; accounts; definitions

21 A. The department is responsible for the effective operation of the
22 central state repository in order to collect, store and disseminate complete
23 and accurate Arizona criminal history records and related criminal justice
24 information. The department shall:

25 1. Procure from all criminal justice agencies in this state accurate
26 and complete personal identification data, fingerprints, charges, process
27 control numbers and dispositions and such other information as may be
28 pertinent to all persons who have been charged with, arrested for, convicted
29 of or summoned to court as a criminal defendant for a felony offense or an
30 offense involving domestic violence as defined in section 13-3601 or a
31 violation of title 13, chapter 14 or title 28, chapter 4.

32 2. Collect information concerning the number and nature of offenses
33 known to have been committed in this state and of the legal steps taken in
34 connection with these offenses, such other information that is useful in the
35 study of crime and in the administration of criminal justice and all other
36 information deemed necessary to operate the statewide uniform crime reporting
37 program and to cooperate with the federal government uniform crime reporting
38 program.

39 3. Collect information concerning criminal offenses that manifest
40 evidence of prejudice based on race, color, religion, national origin, sexual
41 orientation, gender or disability.

42 4. Cooperate with the central state repositories in other states and
43 with the appropriate agency of the federal government in the exchange of
44 information pertinent to violators of the law.

1 5. Ensure the rapid exchange of information concerning the commission
2 of crime and the detection of violators of the law among the criminal justice
3 agencies of other states and of the federal government.

4 6. Furnish assistance to peace officers throughout this state in crime
5 scene investigation for the detection of latent fingerprints and in the
6 comparison of latent fingerprints.

7 7. Conduct periodic operational audits of the central state repository
8 and of a representative sample of other agencies that contribute records to
9 or receive criminal justice information from the central state repository or
10 through the Arizona criminal justice information system.

11 8. Establish and enforce the necessary physical and system safeguards
12 to ensure that the criminal justice information maintained and disseminated
13 by the central state repository or through the Arizona criminal justice
14 information system is appropriately protected from unauthorized inquiry,
15 modification, destruction or dissemination as required by this section.

16 9. Aid and encourage coordination and cooperation among criminal
17 justice agencies through the statewide and interstate exchange of criminal
18 justice information.

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

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

24 12. Provide criminal history record information to the fingerprinting
25 division for the purpose of screening applicants for fingerprint clearance
26 cards.

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

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

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

43 E. The chief officers of criminal justice agencies of this state or
44 its political subdivisions shall comply with the training and proficiency

1 testing guidelines as required by the department to comply with the federal
2 national crime information center mandates.

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

7 G. The director shall authorize the exchange of criminal justice
8 information between the central state repository, or through the Arizona
9 criminal justice information system, whether directly or through any
10 intermediary, only as follows:

11 1. With criminal justice agencies of the federal government, Indian
12 tribes, this state or its political subdivisions and other states, on request
13 by the chief officers of such agencies or their designated representatives,
14 specifically for the purposes of the administration of criminal justice and
15 for evaluating the fitness of current and prospective criminal justice
16 employees.

17 2. With any noncriminal justice agency pursuant to a statute,
18 ordinance or executive order that specifically authorizes the noncriminal
19 justice agency to receive criminal history record information for the purpose
20 of evaluating the fitness of current or prospective licensees, employees,
21 contract employees or volunteers, on submission of the subject's fingerprints
22 and the prescribed fee. Each statute, ordinance, ~~or~~ or executive order that
23 authorizes noncriminal justice agencies to receive criminal history record
24 information for these purposes shall identify the specific categories of
25 licensees, employees, contract employees or volunteers, and shall require
26 that fingerprints of the specified individuals be submitted in conjunction
27 with such requests for criminal history record information.

28 3. With the board of fingerprinting for the purpose of conducting good
29 cause exceptions pursuant to section 41-619.55.

30 4. With any individual for any lawful purpose on submission of the
31 subject of record's fingerprints and the prescribed fee.

32 5. With the governor, if the governor elects to become actively
33 involved in the investigation of criminal activity or the administration of
34 criminal justice in accordance with the governor's constitutional duty to
35 ensure that the laws are faithfully executed or as needed to carry out the
36 other responsibilities of the governor's office.

37 6. With regional computer centers that maintain authorized
38 computer-to-computer interfaces with the department, that are criminal
39 justice agencies or under the management control of a criminal justice agency
40 and that are established by a statute, ordinance or executive order to
41 provide automated data processing services to criminal justice agencies
42 specifically for the purposes of the administration of criminal justice or
43 evaluating the fitness of regional computer center employees who have access
44 to the Arizona criminal justice information system and the national crime
45 information center system.

1 7. With an individual who asserts a belief that criminal history
2 record information relating to the individual is maintained by an agency or
3 in an information system in this state that is subject to this section. On
4 submission of fingerprints, the individual may review this information for
5 the purpose of determining its accuracy and completeness by making
6 application to the agency operating the system. Rules adopted under this
7 section shall include provisions for administrative review and necessary
8 correction of any inaccurate or incomplete information. The review and
9 challenge process authorized by this paragraph is limited to criminal history
10 record information.

11 8. With individuals and agencies pursuant to a specific agreement with
12 a criminal justice agency to provide services required for the administration
13 of criminal justice pursuant to that agreement if the agreement specifically
14 authorizes access to data, limits the use of data to purposes for which given
15 and ensures the security and confidentiality of the data consistent with this
16 section.

17 9. With individuals and agencies for the express purpose of research,
18 evaluative or statistical activities pursuant to an agreement with a criminal
19 justice agency if the agreement specifically authorizes access to data,
20 limits the use of data to research, evaluative or statistical purposes and
21 ensures the confidentiality and security of the data consistent with this
22 section.

23 10. With the auditor general for audit purposes.

24 11. With central state repositories of other states for noncriminal
25 justice purposes for dissemination in accordance with the laws of those
26 states.

27 12. On submission of the fingerprint card, with the department of
28 economic security to provide criminal history record information on
29 prospective adoptive parents for the purpose of conducting the preadoption
30 certification investigation under title 8, chapter 1, article 1 if the
31 department of economic security is conducting the investigation, or with an
32 agency or a person appointed by the court, if the agency or person is
33 conducting the investigation. Information received under this paragraph
34 shall only be used for the purposes of the preadoption certification
35 investigation.

36 13. With the department of economic security and the superior court for
37 the purpose of evaluating the fitness of custodians or prospective custodians
38 of juveniles, including parents, relatives and prospective guardians.
39 Information received under this paragraph shall only be used for the purposes
40 of that evaluation. The information shall be provided on submission of
41 either:

42 (a) The fingerprint card.

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

1 14. On submission of a fingerprint card, provide criminal history
2 record information to the superior court for the purpose of evaluating the
3 fitness of investigators appointed under section 14-5303 or 14-5407, or
4 guardians appointed under section 14-5206.

5 15. With the supreme court to provide criminal history record
6 information on prospective fiduciaries pursuant to section 14-5651.

7 16. With the department of juvenile corrections to provide criminal
8 history record information pursuant to section 41-2814.

9 17. On submission of the fingerprint card, provide criminal history
10 record information to the Arizona peace officer standards and training board
11 or a board certified law enforcement academy to evaluate the fitness of
12 prospective cadets.

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

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

20 20. With the ~~state board of education~~ PROFESSIONAL TEACHING STANDARDS
21 BOARD for the purpose of evaluating the fitness of a certificated teacher or
22 administrator or an applicant for a teaching or an administrative
23 certificate, provided that the ~~state board of education~~ PROFESSIONAL TEACHING
24 STANDARDS BOARD or its employees or agents have reasonable suspicion that the
25 certificated person engaged in conduct that would be a criminal violation of
26 the laws of this state or was involved in immoral or unprofessional conduct
27 or that the applicant engaged in conduct that would warrant disciplinary
28 action if the applicant were certificated at the time of the alleged conduct.
29 The information shall be provided on the submission of either:

30 (a) The fingerprint card.

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

32 21. With each school district and charter school in this state. The
33 state board of education and the state board for charter schools shall
34 provide the department of public safety with a current list of e-mail
35 addresses for each school district and charter school in this state and shall
36 periodically provide the department of public safety with updated e-mail
37 addresses. If the department of public safety is notified that a person who
38 is required to have a fingerprint clearance card to be employed by or to
39 engage in volunteer activities at a school district or charter school has
40 been arrested for or convicted of an offense listed in section 41-1758.03,
41 subsection B or has been arrested for or convicted of an offense that amounts
42 to unprofessional conduct PURSUANT TO RULES ADOPTED under section ~~15-550~~
43 15-562, the department of public safety shall notify each school district and
44 charter school in this state that the person's fingerprint clearance card has
45 been suspended or revoked.

1 22. With the child protective services division of the department of
2 economic security as provided by law, which currently is the Adam Walsh child
3 protection and safety act of 2006 (42 United States Code section 16961), for
4 the purposes of investigating or responding to reports of child abuse,
5 neglect or exploitation. Information received pursuant to this paragraph
6 from the national crime information center, the interstate identification
7 index and the Arizona criminal justice information system network shall only
8 be used for the purposes of investigating or responding as prescribed in this
9 paragraph. The information shall be provided on submission to the department
10 of public safety of either:

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

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

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

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

17 J. The director shall establish a fee in an amount necessary to cover
18 the cost of federal noncriminal justice fingerprint processing for criminal
19 history record information checks that are authorized by law for noncriminal
20 justice employment, licensing or other lawful purposes. An additional fee
21 may be charged by the department for state noncriminal justice fingerprint
22 processing. Fees submitted to the department for state noncriminal justice
23 fingerprint processing are not refundable.

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

28 L. Except as provided in subsection 0 of this section, each agency
29 authorized by this section may charge a fee, in addition to any other fees
30 prescribed by law, in an amount necessary to cover the cost of state and
31 federal noncriminal justice fingerprint processing for criminal history
32 record information checks that are authorized by law for noncriminal justice
33 employment, licensing or other lawful purposes.

34 M. A fingerprint account within the records processing fund is
35 established for the purpose of separately accounting for the collection and
36 payment of fees for noncriminal justice fingerprint processing by the
37 department. Monies collected for this purpose shall be credited to the
38 account, and payments by the department to the United States for federal
39 noncriminal justice fingerprint processing shall be charged against the
40 account. Monies in the account not required for payment to the United States
41 shall be used by the department in support of the department's noncriminal
42 justice fingerprint processing duties. At the end of each fiscal year, any
43 balance in the account not required for payment to the United States or to
44 support the department's noncriminal justice fingerprint processing duties
45 reverts to the state general fund.

1 N. A records processing fund is established for the purpose of
2 separately accounting for the collection and payment of fees for department
3 reports and photographs of traffic accident scenes processed by the
4 department. Monies collected for this purpose shall be credited to the fund
5 and shall be used by the department in support of functions related to
6 providing copies of department reports and photographs. At the end of each
7 fiscal year, any balance in the fund not required for support of the
8 functions related to providing copies of department reports and photographs
9 reverts to the state general fund.

10 O. The department of economic security may pay from appropriated
11 monies the cost of federal fingerprint processing or federal criminal history
12 record information checks that are authorized by law for employees and
13 volunteers of the department, guardians pursuant to section 46-134,
14 subsection A, paragraph 15, the licensing of foster parents or the
15 certification of adoptive parents.

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

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

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

20 Q. The director shall ensure that the following limitations are
21 observed regarding dissemination of criminal justice information obtained
22 from the central state repository or through the Arizona criminal justice
23 information system:

24 1. Any criminal justice agency that obtains criminal justice
25 information from the central state repository or through the Arizona criminal
26 justice information system assumes responsibility for the security of the
27 information and shall not secondarily disseminate this information to any
28 individual or agency not authorized to receive this information directly from
29 the central state repository or originating agency.

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

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

38 4. The existence or nonexistence of criminal history record
39 information shall not be confirmed to any individual or agency not authorized
40 to receive the information itself.

41 5. Criminal history record information to be released for noncriminal
42 justice purposes to agencies of other states shall only be released to the
43 central state repositories of those states for dissemination in accordance
44 with the laws of those states.

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

4 R. This section and the rules adopted under this section apply to all
5 agencies and individuals collecting, storing or disseminating criminal
6 justice information processed by manual or automated operations if the
7 collection, storage or dissemination is funded in whole or in part with
8 monies made available by the law enforcement assistance administration after
9 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
10 all agencies that interact with or receive criminal justice information from
11 or through the central state repository and through the Arizona criminal
12 justice information system.

13 S. This section does not apply to criminal history record information
14 contained in:

15 1. Posters, arrest warrants, announcements or lists for identifying or
16 apprehending fugitives or wanted persons.

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

21 3. Transcripts or records of judicial proceedings if released by a
22 court or legislative or administrative proceedings.

23 4. Announcements of executive clemency or pardon.

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

28 T. Nothing in this section prevents a criminal justice agency from
29 disclosing to the public criminal history record information that is
30 reasonably contemporaneous to the event for which an individual is currently
31 within the criminal justice system, including information noted on traffic
32 accident reports concerning citations, blood alcohol tests or arrests made in
33 connection with the traffic accident being investigated.

34 U. In order to ensure that complete and accurate criminal history
35 record information is maintained and disseminated by the central state
36 repository:

37 1. The arresting authority shall take legible ten-print fingerprints
38 of all persons who are arrested for offenses listed in subsection C of this
39 section including persons who are arrested and released pursuant to section
40 13-3903, subsection C. The arresting authority may transfer an arrestee to a
41 booking agency for ten-print fingerprinting. The arresting authority or
42 booking agency shall obtain a process control number and provide to the
43 person fingerprinted a document that indicates proof of the fingerprinting
44 and that informs the person that the document must be presented to the court.

1 2. The mandatory fingerprint compliance form shall contain the
2 following information:

3 (a) Whether ten-print fingerprints have been obtained from the person.

4 (b) Whether a process control number was obtained.

5 (c) The offense or offenses for which the process control number was
6 obtained.

7 (d) Any report number of the arresting authority.

8 (e) Instructions on reporting for ten-print fingerprinting, including
9 available times and locations for reporting for ten-print fingerprinting.

10 (f) Instructions that direct the person to provide the form to the
11 court at the person's next court appearance.

12 3. Within ten days after a person is fingerprinted, the arresting
13 authority or agency that took the fingerprints shall forward the fingerprints
14 to the department in the manner or form required by the department.

15 4. On the issuance of a summons for a defendant who is charged with an
16 offense listed in subsection C of this section, the summons shall direct the
17 defendant to provide ten-print fingerprints to the appropriate law
18 enforcement agency.

19 5. At the initial appearance or on the arraignment of a summoned
20 defendant who is charged with an offense listed in subsection C of this
21 section, if the person does not present a completed mandatory fingerprint
22 compliance form to the court or if the court has not received the process
23 control number, the court shall order that within twenty calendar days the
24 defendant be ten-print fingerprinted at a designated time and place by the
25 appropriate law enforcement agency.

26 6. If the defendant fails to present a completed mandatory fingerprint
27 compliance form or if the court has not received the process control number,
28 the court, on its own motion, may remand the defendant into custody for
29 ten-print fingerprinting. If otherwise eligible for release, the defendant
30 shall be released from custody after being ten-print fingerprinted.

31 7. In every criminal case in which the defendant is incarcerated or
32 fingerprinted as a result of the charge, an originating law enforcement
33 agency or prosecutor, within forty days of the disposition, shall advise the
34 central state repository of all dispositions concerning the termination of
35 criminal proceedings against an individual arrested for an offense specified
36 in subsection C of this section. This information shall be submitted on a
37 form or in a manner required by the department.

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

1 9. The state department of corrections or the department of juvenile
 2 corrections, within forty days, shall advise the central state repository
 3 that it has assumed supervision of a person convicted of an offense specified
 4 in subsection C of this section or section 8-341, subsection V. The state
 5 department of corrections or the department of juvenile corrections shall
 6 also report dispositions that occur thereafter to the central state
 7 repository within forty days of the date of the dispositions. This
 8 information shall be submitted on a form or in a manner required by the
 9 department of public safety.

10 10. Each criminal justice agency shall query the central state
 11 repository before dissemination of any criminal history record information to
 12 ensure the completeness of the information. Inquiries shall be made before
 13 any dissemination except in those cases in which time is of the essence and
 14 the repository is technically incapable of responding within the necessary
 15 time period. If time is of the essence, the inquiry shall still be made and
 16 the response shall be provided as soon as possible.

17 V. The director shall adopt rules specifying that any agency that
 18 collects, stores or disseminates criminal justice information that is subject
 19 to this section shall establish effective security measures to protect the
 20 information from unauthorized access, disclosure, modification or
 21 dissemination. The rules shall include reasonable safeguards to protect the
 22 affected information systems from fire, flood, wind, theft, sabotage or other
 23 natural or man-made hazards or disasters.

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

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

32 Y. For the purposes of this section:

33 1. "Administration of criminal justice" means performance of the
 34 detection, apprehension, detention, pretrial release, posttrial release,
 35 prosecution, adjudication, correctional supervision or rehabilitation of
 36 criminal offenders. Administration of criminal justice includes enforcement
 37 of criminal traffic offenses and civil traffic violations, including parking
 38 violations, when performed by a criminal justice agency. Administration of
 39 criminal justice also includes criminal identification activities and the
 40 collection, storage and dissemination of criminal history record information.

41 2. "Administrative records" means records that contain adequate and
 42 proper documentation of the organization, functions, policies, decisions,
 43 procedures and essential transactions of the agency and that are designed to
 44 furnish information to protect the rights of this state and of persons
 45 directly affected by the agency's activities.

1 3. "Arizona criminal justice information system" or "system" means the
2 statewide information system managed by the director for the collection,
3 processing, preservation, dissemination and exchange of criminal justice
4 information and includes the electronic equipment, facilities, procedures and
5 agreements necessary to exchange this information.

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

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

19 6. "Criminal justice agency" means either:

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

23 (b) A government agency or subunit of a government agency that is
24 specifically authorized to perform as its principal function the
25 administration of criminal justice pursuant to a statute, ordinance or
26 executive order and that allocates more than fifty per cent of its annual
27 budget to the administration of criminal justice. This subdivision includes
28 agencies of any foreign sovereignty duly recognized by the federal
29 government.

30 7. "Criminal justice information" means information that is collected
31 by criminal justice agencies and that is needed for the performance of their
32 legally authorized and required functions, such as criminal history record
33 information, citation information, stolen property information, traffic
34 accident reports, wanted persons information and system network log searches.
35 Criminal justice information does not include the administrative records of a
36 criminal justice agency.

37 8. "Disposition" means information disclosing that a decision has been
38 made not to bring criminal charges or that criminal proceedings have been
39 concluded or information relating to sentencing, correctional supervision,
40 release from correctional supervision, the outcome of an appellate review of
41 criminal proceedings or executive clemency.

42 9. "Dissemination" means the written, oral or electronic communication
43 or transfer of criminal justice information to individuals and agencies other
44 than the criminal justice agency that maintains the information.

1 Dissemination includes the act of confirming the existence or nonexistence of
2 criminal justice information.

3 10. "Management control":

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

5 (i) Priorities regarding development and operation of criminal justice
6 information systems and programs.

7 (ii) Standards for the selection, supervision and termination of
8 personnel involved in the development of criminal justice information systems
9 and programs and in the collection, maintenance, analysis and dissemination
10 of criminal justice information.

11 (iii) Policies governing the operation of computers, circuits and
12 telecommunications terminals used to process criminal justice information to
13 the extent that the equipment is used to process, store or transmit criminal
14 justice information.

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

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

22 12. "Secondary dissemination" means the dissemination of criminal
23 justice information from an individual or agency that originally obtained the
24 information from the central state repository or through the Arizona criminal
25 justice information system to another individual or agency.

26 13. "Sexual orientation" means consensual homosexuality or
27 heterosexuality.

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

30 Sec. 25. Section 41-2831, Arizona Revised Statutes, is amended to
31 read:

32 41-2831. State educational system for committed youth; report

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

35 B. The director shall identify three persons who are qualified to
36 serve as superintendent of the state educational system for committed youth.
37 The director and the superintendent of public instruction shall agree on one
38 of the three persons whom the director shall employ as superintendent to
39 manage the educational system. The superintendent of the educational system
40 shall employ teachers and other personnel as needed in accordance with
41 chapter 4, article 5 of this title, subject to the approval of the director.
42 All persons who are employed to work in the educational system including the
43 superintendent shall hold the appropriate certificate prescribed by the ~~state~~
44 ~~board of education in section 15-203, subsection A, paragraph 14~~ PROFESSIONAL
45 TEACHING STANDARDS BOARD.

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

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

6 E. The state educational system for committed youth shall provide
7 appropriate education to all committed youth as required by state and federal
8 law. If not otherwise required by law, the educational system shall provide
9 an appropriate education to all committed youth who have not received a high
10 school diploma or a high school certificate of equivalency.

11 F. On entrance of a youth to the state educational system for
12 committed youth, the educational system shall administer a basic skills
13 examination to the youth to determine the educational needs of the youth. A
14 similar examination shall be administered on the youth's exit from the
15 educational system to assess the youth's progress while enrolled in the
16 educational system.

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

20 H. The superintendent shall:

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

23 2. Prepare an annual financial report containing information similar
24 to that provided by school districts in the report prescribed in section
25 15-904 in a format prescribed by the department of administration in
26 consultation with the auditor general and submit the report to the governor,
27 the speaker of the house of representatives, the president of the senate and
28 the department of education by November 1. When submitting the report to the
29 speaker and president, the superintendent shall send a copy of the report to
30 the chairmen of the house and senate education committees and shall send a
31 notice to all other legislators that the report is available on request.

32 3. Establish a system for communicating with each youth's school
33 district of residence in order to facilitate the transfer of records, the
34 determination of the most appropriate educational program and the transfer of
35 educational credit.

36 I. The department of administration shall develop and maintain a
37 special pay plan for teachers and other professional educational personnel
38 within the state educational system for committed youth. The pay plan shall
39 attempt to keep salaries at a comparable level to that of public school
40 district personnel. Recommendations for this pay plan shall be included
41 within the department of administration's annual recommendation to the
42 legislature pursuant to section 41-763.01.

1 professional teaching standards board fund established by section 15-563,
2 Arizona Revised Statutes, as added by this act.

3 Sec. 28. Professional teaching standards board; initial
4 appointments

5 A. Notwithstanding section 15-561, Arizona Revised Statutes, as added
6 by this act, the initial terms of the appointed members of the professional
7 teaching standards board are:

8 1. Four terms ending January 21, 2013.

9 2. Four terms ending January 20, 2014.

10 3. Four terms ending January 19, 2015.

11 4. Four terms ending January 18, 2016.

12 B. The governor shall make the initial appointment of the professional
13 teaching standards board as prescribed by section 15-561, Arizona Revised
14 Statutes, as added by this act, no later than January 16, 2012.

15 C. The governor shall make all subsequent appointments as prescribed
16 by statute.

17 Sec. 29. Purpose

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

22 Sec. 30. Effective date

23 This act is effective from and after December 31, 2011.