

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HOUSE BILL 2571

AN ACT

AMENDING SECTIONS 3-107, 3-1003, 3-1003.02, 3-1211, 4-111, 4-112, 5-101.01, 5-105, 5-112, 5-224, 5-556, 5-604, 6-111, 6-112, 15-182, 15-203 AND 15-543, ARIZONA REVISED STATUTES; REPEALING SECTION 15-1331, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-1626, 15-1852, 15-2002, 17-211, 17-231, 20-141, 20-148, 23-108, 23-108.02, 23-391, 23-406, 23-1501, 26-101, 26-102, 26-305, 27-122, 27-151, 28-363, 30-103, 30-108, 30-652, 31-402, 32-106, 32-304, 32-503, 32-703, 32-802, 32-905, 32-1103, 32-1104, 32-1205, 32-1305, 32-1307, 32-1405, 32-1509, 32-1605.01, 32-1673, 32-1704, 32-1804, 32-1903, 32-1904, 32-2003, 32-2063, 32-2109, 32-2206, 32-2207, 32-2304, 32-2904, 32-2905, 32-3003, 32-3253, 32-3403, 32-3504, 32-3506, 32-3605, 32-3903, 32-3904, 35-196.01, 36-102, 36-103, 36-273, 36-446.03, 36-450.02, 36-1943, 36-2903.01, 36-2926, 37-132, 37-623.01, 37-1122, 38-401, 38-448, 38-532, 38-610.01, 38-610.02, 38-611, 38-612, 38-715, 38-848, 40-105, 40-108, 40-464, 41-121.02, 41-151.04, 41-151.05, 41-172, 41-192, 41-511.02, 41-511.05, 41-531, 41-542, 41-619.53 AND 41-701, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-709, 41-710 AND 41-711; AMENDING TITLE 41, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; REPEALING TITLE 41, CHAPTER 4, ARTICLE 5, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 5; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, TO "STATE PERSONNEL BOARD"; AMENDING SECTIONS 41-781 AND 41-782, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-783 AND 41-784, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTION 41-785, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 41, CHAPTER 4, ARTICLE 6, AS SECTION 41-783; AMENDING SECTION 41-783, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; REPEALING SECTION 41-786, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-821, 41-832,

41-902, 41-903, 41-941, 41-982, 41-1009, 41-1051, 41-1092.01, 41-1604, 41-1711, 41-1713, 41-1714, 41-1741, 41-1761, 41-1830.11, 41-1830.12 AND 41-1830.13, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1830.14, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-1830.15, 41-1833, 41-1952, 41-1954, 41-2061, 41-2065, 41-2147, 41-2305, 41-2405, 41-2513, 41-2804, 41-2831, 41-3016.06, 41-3451, 41-3503, 41-3505, 41-3952, 41-4253, 41-4301, 41-4801, 42-1002, 42-1004, 42-1252, 42-16155, 45-104, 45-418, 49-103 AND 49-1203, ARIZONA REVISED STATUTES; RELATING TO THE STATE PERSONNEL SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 3-107, Arizona Revised Statutes, is amended to
3 read:
4 3-107. Organizational and administrative powers and duties of
5 the director
6 A. The director shall:
7 1. Formulate the program and policies of the department and adopt
8 administrative rules to effect its program and policies.
9 2. Ensure coordination and cooperation in the department in order to
10 achieve a unified policy of administering and executing its responsibilities.
11 3. Subject to section 35-149, accept, expend and account for gifts,
12 grants, devises and other contributions of money or property from any public
13 or private source, including the federal government. All contributions shall
14 be included in the annual report under paragraph 6 of this subsection.
15 Monies received under this paragraph shall be deposited, pursuant to sections
16 35-146 and 35-147, in special funds for the purpose specified, which are
17 exempt from THE PROVISIONS OF section 35-190 relating to lapsing of
18 appropriations.
19 4. Contract and enter into interagency and intergovernmental
20 agreements pursuant to title 11, chapter 7, article 3 with any private party
21 or public agency.
22 5. Administer oaths to witnesses and issue and direct the service of
23 subpoenas requiring witnesses to attend and testify at or requiring the
24 production of evidence in hearings, investigations and other proceedings.
25 6. Not later than September 30 each year issue a report to the
26 governor and the legislature of the department's activities during the
27 preceding fiscal year. The report may recommend statutory changes to improve
28 the department's ability to achieve the purposes and policies established by
29 law. The director shall provide a copy of the report to the Arizona state
30 library, archives and public records.
31 7. Establish, equip and maintain a central office in Phoenix and field
32 offices as the director deems necessary.
33 8. Sign all vouchers to expend money under this title, which shall be
34 paid as other claims against this state out of the appropriations to the
35 department.
36 9. Coordinate agricultural education efforts to foster an
37 understanding of Arizona agriculture and to promote a more efficient
38 cooperation and understanding among agricultural educators, producers,
39 dealers, buyers, mass media and the consuming public to stimulate the
40 production, consumption and marketing of Arizona agricultural products.
41 10. Employ staff SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 and
42 terminate employment for cause as provided by title 41, chapter 4, article 5.

1 11. Conduct hearings on appeals of the portion of plow-up refunds
2 withheld as a penalty pursuant to criteria adopted pursuant to section
3 3-1087, subsection B. The director may adopt rules to implement this
4 paragraph.

5 12. Cooperate with the Arizona-Mexico commission in the governor's
6 office and with researchers at universities in this state to collect data and
7 conduct projects in the United States and Mexico on issues that are within
8 the scope of the department's duties and that relate to quality of life,
9 trade and economic development in this state in a manner that will help the
10 Arizona-Mexico commission to assess and enhance the economic competitiveness
11 of this state and of the Arizona-Mexico region.

12 B. The director may:

13 1. Authorize in writing any qualified officer or employee in the
14 department to perform any act that the director is authorized or required to
15 do by law.

16 2. Construct and operate border inspection stations or other necessary
17 facilities in this state and cooperate by joint agreement with an adjoining
18 state in constructing and operating border inspection stations or other
19 facilities within the boundaries of this state or of the adjoining state.

20 3. Cooperate with agencies of the United States and other states and
21 other agencies of this state and enter into agreements in developing and
22 administering state and federal agricultural programs regarding the use of
23 department officers, inspectors or other resources in this state, in other
24 states or in other countries.

25 4. Cooperate with the office of tourism in distributing Arizona
26 tourist information.

27 5. Enter into compliance agreements with any person, state or
28 regulatory agency. For the purposes of this paragraph, "compliance
29 agreement" means any written agreement or permit between a person and the
30 department for the purpose of enforcing the department's requirements.

31 6. Abate, suppress, control, regulate, seize, quarantine or destroy
32 any agricultural product or foodstuff that is adulterated or contaminated as
33 the result of an accident at a commercial nuclear generating station as
34 defined in section 26-301, paragraph 1. A person owning an agricultural
35 product or foodstuff that has been subject to this paragraph may request a
36 hearing pursuant to title 41, chapter 6, article 10.

37 7. Engage in joint venture activities with businesses and commodity
38 groups that are specifically designed to further the mission of the
39 department, that comply with the constitution and laws of the United States
40 and that do not compete with private enterprise.

41 8. Sell, exchange or otherwise dispose of personal property labeled
42 with the "Arizona grown" trademark. Revenues received pursuant to this
43 paragraph shall be credited to the commodity promotion fund established by
44 section 3-109.02.

1 Sec. 2. Section 3-1003, Arizona Revised Statutes, is amended to read:
2 3-1003. Arizona exposition and state fair board; powers and
3 duties; compensation of employees
4 A. The Arizona exposition and state fair board shall:
5 1. Have exclusive custody and direction of all state fair property,
6 construct and maintain necessary improvements in connection therewith, and
7 assist in raising funds therefor.
8 2. Direct and conduct state fairs, exhibits, contests and
9 entertainments for the purposes of promoting and advancing the pursuits and
10 interests of the several counties and of the state, and of producing
11 sufficient revenue to defray the expenses incurred by the board in conducting
12 such events.
13 3. Charge entrance fees and gate money, and temporarily lease stalls,
14 stands, booths and sites for the purpose of defraying the expenses incurred.
15 4. Give prizes or premiums for exhibits and contests which are
16 presented or sponsored by the board in connection with the annual state fair.
17 5. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ an executive
18 director, coliseum manager and comptroller. ~~Each contract of employment, if~~
19 ~~any, shall stipulate that the board at its option may terminate such~~
20 ~~employment by giving such employee ninety days' notice.~~
21 6. Delegate to the executive director any of the administrative
22 functions, powers or duties that the board believes the executive director
23 can competently, efficiently and properly perform.
24 7. When necessary in connection with business of the board, appoint
25 fair or ground marshals with the authority of peace officers.
26 8. Have the power to promote, co-promote or lease the state
27 fairgrounds for such events, exhibitions, entertainments or other purposes it
28 deems proper.
29 9. Have power to accept donations of money or other property from any
30 source, and expend them in accordance with directions of the donor. Monies
31 received pursuant to this paragraph shall not be placed in the general fund.
32 10. Adopt rules necessary to carry out the provisions of this chapter.
33 11. Prohibit the issuance of a free pass, ticket or box to any person
34 for any activity at the Arizona coliseum and exposition center, except that
35 this paragraph shall not apply to the state fair and any lessees of the
36 Arizona coliseum and exposition center.
37 B. The board may exempt from subsection A, paragraphs 2 and 3 such
38 educational, agricultural and mineral exhibits as in its opinion are in the
39 best interest of the state and not contrary to any outstanding obligations
40 the board might have incurred.
41 C. Compensation of all employees shall be as determined pursuant to
42 section 38-611.

1 Sec. 3. Section 3-1003.02, Arizona Revised Statutes, is amended to
2 read:

3 3-1003.02. Duties of the executive director and comptroller

4 A. The executive director shall be:

5 1. The chief executive and administrative officer of the Arizona
6 coliseum and exposition center, including the Arizona state fair.

7 2. Responsible for organizing and prescribing the duties of all
8 positions and departmental units in the Arizona coliseum and exposition
9 center, including the coliseum manager and comptroller. The executive
10 director shall:

11 (a) With the advice and consent of the board, appoint either the
12 coliseum manager or the comptroller as deputy director to perform the
13 functions, powers and duties of the executive director if the executive
14 director is unable to act.

15 (b) SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,
16 ARTICLE 5, appoint or remove in the manner prescribed by law such personnel
17 considered necessary for the efficient work of the Arizona coliseum and
18 exposition center.

19 3. Required to make and submit to the board monthly reports covering
20 all activities of the Arizona coliseum and exposition center.

21 B. In addition to other duties assigned by the executive director, the
22 comptroller shall:

23 1. Act as the fiscal agent with complete authority to process all cash
24 receipts.

25 2. Assume responsibility for the maintenance of satisfactory internal
26 accounting controls which are required for the preservation of assets.

27 3. Control all books, records or other data required for preparation
28 of a complete financial statement of the activities of the Arizona coliseum
29 and exposition center.

30 4. Maintain cost factors and accounting records which are sufficient
31 in scope to clearly reflect all profits and losses.

32 Sec. 4. Section 3-1211, Arizona Revised Statutes, is amended to read:

33 3-1211. State veterinarian; qualifications

34 A. The associate director, with the approval of the director and after
35 consulting with the division council, shall employ a state veterinarian
36 pursuant to title 41, chapter 4, ~~articles 5 and 6~~ ARTICLE 4.

37 B. The person employed shall be a skilled veterinarian who is a
38 graduate of a recognized school of veterinary medicine and licensed to
39 practice veterinary medicine in this state.

40 Sec. 5. Section 4-111, Arizona Revised Statutes, is amended to read:

41 4-111. State liquor board; department of liquor licenses and
42 control; members; director; appointment and removal

43 A. There is created the department of liquor licenses and control
44 which consists of the state liquor board and the office of director of the
45 department.

1 B. From and after January 31, 2003, the board consists of seven
2 members to be appointed by the governor pursuant to section 38-211. Five of
3 the members of the board shall not be financially interested directly or
4 indirectly in business licensed to deal with spirituous liquors. Two members
5 shall currently be engaged in business in the spirituous liquor industry or
6 have been engaged in the past in business in the spirituous liquor industry,
7 at least one of whom shall currently be a retail licensee or employee of a
8 retail licensee. One member shall be a member of a neighborhood association
9 recognized by a county, city or town. The term of members is three years.
10 Members' terms expire on the third Monday in January of the appropriate year.
11 The governor may remove any member of the board for cause. No member may
12 represent a licensee before the board or the department for a period of one
13 year after the conclusion of the member's service on the board.

14 C. The board shall annually elect from its membership a chairman and
15 vice-chairman. A majority of the board constitutes a quorum, and a
16 concurrence of a majority of a quorum is sufficient for taking any action.
17 If there are unfilled positions on the board, a majority of those persons
18 appointed and serving on the board constitutes a quorum.

19 D. The chairman may designate panels of not less than three members.
20 A panel may take any action which the board is authorized to take pursuant to
21 this title. Such action includes the ability to hold hearings and hear
22 appeals of administrative disciplinary proceedings of licenses issued
23 pursuant to this chapter. A panel shall not, however, adopt rules as
24 provided in section 4-112, subsection A, paragraph 2. The chairman may from
25 time to time add additional members or remove members from a panel. A
26 majority of a panel may upon the concurrence of a majority of the members of
27 the panel take final action on hearings and appeals of administrative
28 disciplinary proceedings concerning licenses issued pursuant to this chapter.

29 E. Members of the board are entitled to receive compensation at the
30 rate of fifty dollars per day while engaged in the business of the board.

31 F. A person shall not be appointed to serve on the board unless the
32 person has been a resident of this state for not less than five years prior
33 to the person's appointment. No more than four members may be of the same
34 political party. Persons eligible for appointment shall have a continuous
35 recorded registration pursuant to title 16, chapter 1 with the same political
36 party or as an independent for at least two years immediately preceding
37 appointment. No more than two members may be appointed from the same county.

38 G. The governor shall appoint the director, pursuant to section
39 38-211, who shall be a qualified elector of the state and experienced in
40 administrative matters and enforcement procedures. The director shall serve
41 ~~concurrently with~~ AT THE PLEASURE OF the governor. ~~but may be removed by the~~
42 ~~governor for any of the following causes:~~

- 43 ~~1. Fraud in securing appointment.~~
44 ~~2. Incompetency.~~
45 ~~3. Inefficiency.~~

- 1 ~~4. Inexcusable neglect of duty.~~
- 2 ~~5. Insubordination.~~
- 3 ~~6. Dishonesty.~~
- 4 ~~7. Drunkenness on duty.~~
- 5 ~~8. Addiction to the use of narcotics or habit forming drugs.~~
- 6 ~~9. Inexcusable absence without leave.~~
- 7 ~~10. Final conviction of a felony or a misdemeanor involving moral~~
- 8 ~~turpitude.~~
- 9 ~~11. Discourteous treatment of the public.~~
- 10 ~~12. Improper political activity.~~
- 11 ~~13. Wilful disobedience.~~
- 12 ~~14. Misuse of state property.~~

13 H. The director is entitled to receive a salary as determined pursuant
14 to section 38-611.

15 Sec. 6. Section 4-112, Arizona Revised Statutes, is amended to read:
16 4-112. Powers and duties of board and director of department of
17 liquor licenses and control; investigations; county
18 and municipal regulation

19 A. The board shall:

20 1. Grant and deny applications in accordance with the provisions of
21 this title.

22 2. Adopt rules in order to carry out the provisions of this section.

23 3. Hear appeals and hold hearings as provided in this section.

24 B. Except as provided in subsection A of this section, the director
25 shall administer the provisions of this title, including:

26 1. Adopting rules:

27 (a) For carrying out the provisions of this title.

28 (b) For the proper conduct of the business to be carried on under each
29 specific type of spirituous liquor license.

30 (c) To enable and assist state officials and political subdivisions to
31 collect taxes levied or imposed in connection with spirituous liquors.

32 (d) For the issuance and revocation of certificates of registration of
33 retail agents, including provisions governing the shipping, storage and
34 delivery of spirituous liquors by registered retail agents, the keeping of
35 records and the filing of reports by registered retail agents.

36 (e) To establish requirements for licensees under section 4-209,
37 subsection B, paragraph 12.

38 2. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employing necessary
39 personnel and fixing their compensation PURSUANT TO SECTION 38-611.

40 3. Keeping an index record which shall be a public record open to
41 public inspection and shall contain the name and address of each licensee and
42 the name and address of any person having an interest, either legal or
43 equitable, in each license as shown by any written document, which document
44 shall be placed on file in the office of the board.

1 4. Providing the board with such supplies and personnel as may be
2 directed by the board.

3 5. Responding in writing to any law enforcement agency that submits an
4 investigative report to the department relating to a violation of this title,
5 setting forth what action, if any, the department has taken or intends to
6 take on the report and, if the report lacks sufficient information or is
7 otherwise defective for use by the department, what the agency must do to
8 remedy the report.

9 6. Taking such steps as are necessary to maintain effective liaison
10 with the department of public safety and all local law enforcement agencies
11 in the enforcement of this title including the laws of this state against the
12 consumption of spirituous liquor by persons under the legal drinking age.

13 7. Providing training to law enforcement agencies in the proper
14 investigation and reporting of violations of this title.

15 C. The director shall establish within the department a separate
16 investigations unit which has as its sole responsibility the investigation of
17 compliance with this title including the investigation of licensees alleged
18 to have sold or distributed spirituous liquor in any form to persons under
19 the legal drinking age. Investigations conducted by this unit may include
20 covert undercover investigations.

21 D. All employees of the department of liquor licenses and control,
22 except members of the state liquor board and the director of the department,
23 shall be employed by the department in the manner prescribed by the
24 department of administration.

25 E. The director may enter into a contract or agreement with any public
26 agency for any joint or cooperative action as provided for by title 11,
27 chapter 7, article 3.

28 F. The board or the director may take evidence, administer oaths or
29 affirmations, issue subpoenas requiring attendance and testimony of
30 witnesses, cause depositions to be taken and require by subpoena duces tecum
31 the production of books, papers and other documents which are necessary for
32 the enforcement of this title. Proceedings held during the course of a
33 confidential investigation are exempt from title 38, chapter 3, article 3.1.
34 If a person refuses to obey a subpoena or fails to answer questions as
35 provided by this subsection, the board or the director may apply to the
36 superior court in the manner provided in section 12-2212. The board or
37 director may serve subpoenas by personal service or certified mail, return
38 receipt requested.

39 G. The director may:

40 1. Examine books, records and papers of a licensee.

41 2. Require applicants, licensees, employees who serve, sell or furnish
42 spirituous liquors to retail customers, managers and managing agents to take
43 training courses approved by the director in spirituous liquor handling and
44 spirituous liquor laws and rules. The director shall adopt rules that set
45 standards for approving training courses.

1 3. Delegate to employees of the department authority to exercise
2 powers of the director in order to administer the department.

3 4. Regulate signs that advertise a spirituous liquor product at
4 licensed retail premises.

5 5. Cause to be removed from the marketplace spirituous liquor that may
6 be contaminated.

7 6. Regulate the age and conduct of erotic entertainers at licensed
8 premises. The age limitation governing these erotic entertainers may be
9 different from other employees of the licensee.

10 7. Issue and enforce cease and desist orders against any person or
11 entity that sells beer, wine or spirituous liquor without an appropriate
12 license or permit.

13 8. Confiscate wines carrying a label including a reference to Arizona
14 or any Arizona city, town or place unless at least seventy-five per cent by
15 volume of the grapes used in making the wine were grown in this state.

16 9. Accept and expend private grants of monies, gifts and devises for
17 conducting educational programs for parents and students on the repercussions
18 of underage alcohol consumption. State general fund monies shall not be
19 expended for the purposes of this paragraph. If the director does not
20 receive sufficient monies from private sources to carry out the purposes of
21 this paragraph, the director shall not provide the educational programs
22 prescribed in this paragraph. Grant monies received pursuant to this
23 paragraph are nonlapsing and do not revert to the state general fund at the
24 close of the fiscal year.

25 10. Procure fingerprint scanning equipment and provide fingerprint
26 services to license applicants and licensees. Until January 1, 2015, the
27 department may charge a fee for providing these services.

28 11. Accept electronic signatures on all department and licensee forms
29 and documents and applications. The director may adopt requirements that
30 would require facsimile signatures to be followed by original signatures
31 within a specified time period.

32 H. A county or municipality may enact and enforce ordinances
33 regulating the age and conduct of erotic entertainers at licensed premises in
34 a manner at least as restrictive as rules adopted by the director.

35 Sec. 7. Section 5-101.01, Arizona Revised Statutes, is amended to
36 read:

37 5-101.01. Arizona department of racing; director;
38 qualifications; term; deputy director; conflict of
39 interest

40 A. There is established an Arizona department of racing.

41 B. The governor shall appoint a director of the department pursuant to
42 section 38-211 ~~and in accordance with the provisions of subsection C of this~~
43 ~~section~~. The director serves at the pleasure of the governor ~~for a term of~~
44 ~~five years~~. To be eligible for appointment as director, a person must have a
45 minimum of five years of experience in business and administration and shall

1 not have a financial interest in a racetrack or in the racing industry in
2 this state during ~~the term of~~ his appointment. The governor may appoint an
3 acting director if there is a vacancy in the office.

4 ~~C. Within sixty days after a vacancy occurs in the position of~~
5 ~~director, the commission shall forward a list of three candidates for~~
6 ~~appointment as director to the governor. The governor may request one~~
7 ~~additional list to be submitted by the commission. In the event the governor~~
8 ~~does not appoint the director within thirty days following receipt of the~~
9 ~~list submitted by the commission, the commission shall select a director for~~
10 ~~the department. In the event that the commission fails to submit the lists~~
11 ~~requested by the governor, the governor may appoint any qualified person to~~
12 ~~the position of director.~~

13 ~~D.~~ C. The commission may establish the position of deputy director of
14 the department.

15 ~~E.~~ D. The positions of director and deputy director, if applicable,
16 are exempt from title 41, chapter 4, articles 5 and 6. Persons holding the
17 positions of director and deputy director, if applicable, are eligible to
18 receive compensation pursuant to section 38-611.

19 ~~F.~~ E. The provisions of title 38, chapter 3, article 8, relating to
20 conflict of interest, apply to the director and all other employees of the
21 department.

22 ~~G.~~ F. Neither the director, any employee of the department nor any
23 member of the immediate family of the director or other employee of the
24 department may:

25 1. Have any pecuniary interest in a racetrack in this state or in any
26 kennel, stable, compound or farm licensed under this chapter.

27 2. Wager money at a racetrack enclosure or additional wagering
28 facility in this state or wager money on the results of any race held at a
29 racetrack enclosure in this state.

30 3. Hold more than a five per cent interest in any entity doing
31 business with a racetrack in this state.

32 4. Have any interest, whether direct or indirect, in a license issued
33 pursuant to this chapter or in a licensee, facility or entity that is
34 involved in any way with pari-mutuel wagering. For the purposes of this
35 paragraph, "interest" includes employment.

36 ~~H.~~ G. Failure to comply with subsection ~~G~~ F of this section is
37 grounds for dismissal.

38 ~~I.~~ H. For the purposes of subsection ~~G~~ F of this section, "immediate
39 family" means a spouse or children who regularly reside in the household of
40 the director or other employee of the department.

41 Sec. 8. Section 5-105, Arizona Revised Statutes, is amended to read:

42 5-105. Appointment of personnel; tests; reports; detention of
43 animals; testing facilities

44 A. For purposes of detecting violations of this article, the
45 department shall appoint qualified veterinarians, biochemists and such other

1 personnel SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 as the department
2 considers necessary or may contract with a duly qualified chemical laboratory
3 located either within or outside this state. The testing personnel may, in
4 accordance with such procedures as the commission by regulation prescribes:
5 1. Examine horses entered in a race within six hours before the start
6 of the race to determine if the horse has been desensitized or drugged. For
7 the purposes of the examination a horse does not have to be held in a
8 retaining barn.
9 2. Examine dogs at weigh-in or weigh-out time to determine if the dog
10 has been desensitized or drugged.
11 3. Perform such other tests and inspections as the department
12 considers necessary to carry out this article including the random splitting
13 of samples.
14 4. Store blood, urine and saliva samples in a frozen state or in any
15 other appropriate manner by which they may be preserved for future analysis.
16 5. Perform tests on horses or dogs that die while on property under
17 the jurisdiction of the department.
18 6. Analyze samples of urine, blood or saliva taken immediately after a
19 race from the horse that won the race to determine if the horse has been
20 drugged. The department may additionally analyze samples of any other animal
21 entered in a race.
22 7. Analyze samples of urine or saliva taken either immediately prior
23 to or after a race from the dog that won the race to determine if the dog has
24 been drugged. The department may additionally analyze samples of any other
25 animal entered in a race.
26 B. The veterinarian authorized by the department may order the taking
27 and analysis of samples from a losing favorite or from any other horse or dog
28 when the veterinarian, based upon the performance of the horse or dog in the
29 race, has probable cause to believe that the horse or dog has been drugged or
30 desensitized. If a blood sample is required, the veterinarian shall take the
31 sample.
32 C. The identity of any horse or dog determined under this section to
33 be drugged or desensitized shall, in accordance with such procedures as the
34 commission prescribes by regulation, be reported to a steward and the
35 appropriate county attorney. If any horse or dog is not made available in
36 accordance with such regulations as the commission prescribes for any test or
37 inspection required under this section the identity of such horse or dog
38 shall be reported to a steward.
39 D. A permittee shall, in accordance with regulations prescribed by the
40 commission, provide the testing personnel with adequate space and facilities
41 so that the inspections, tests and other procedures described in subsection A
42 may be performed. Access to such space and facilities shall be restricted in
43 accordance with regulations prescribed by the commission.
44 E. Testing personnel may detain for a period of not to exceed
45 twenty-four hours for examination, testing or the taking of evidence any

1 horse or dog at a race which is drugged or desensitized or which such person,
2 based upon the results of an inspection, test or other procedure conducted
3 under this section, has probable cause to believe is drugged or desensitized.
4 Any horse or dog which is detained may not be moved during such detention
5 from the place where the horse or dog is detained except as authorized by
6 testing personnel pursuant to rule and regulation of the commission.

7 F. The department shall retain for three years copies of all
8 post-mortem reports on animals. The department shall retain all such reports
9 which are used as evidence in a judicial proceeding at least until the
10 conclusion of the proceeding.

11 Sec. 9. Section 5-112, Arizona Revised Statutes, is amended to read:
12 5-112. Wagering legalized; simulcasting of races; unauthorized
13 wagering prohibited; classification; report

14 A. Except as provided in subsection L of this section, section
15 5-101.01, subsection ~~G~~ F and title 13, chapter 33, any person within the
16 enclosure of a racing meeting held pursuant to this article may wager on the
17 results of a race held at the meeting or televised to the racetrack enclosure
18 by simulcasting pursuant to this section by contributing money to a
19 pari-mutuel pool operated by the permittee as provided by this article.

20 B. The department, upon request by a permittee, may grant permission
21 for electronically televised simulcasts of horse, harness or dog races to be
22 received by the permittee. In counties having a population of one million
23 five hundred thousand persons or more according to the most recent United
24 States decennial census, the simulcasts shall be received at the racetrack
25 enclosure where a horse, harness or dog racing meeting is being conducted,
26 provided that the simulcast may only be received during, immediately before
27 or immediately after a minimum of nine posted races for that racing day. In
28 counties having a population of five hundred thousand persons or more but
29 less than one million five hundred thousand persons according to the most
30 recent United States decennial census, the simulcasts shall be received at
31 the racetrack enclosure where a horse, harness or dog racing meeting is being
32 conducted provided that the simulcast may only be received during,
33 immediately before or immediately after a minimum of four posted races for
34 that racing day. In all other counties, the simulcasts shall be received at
35 a racetrack enclosure at which authorized racing has been conducted whether
36 or not posted races have been offered for the day the simulcast is received.
37 The simulcasts shall be limited to horse, harness or dog races. The
38 simulcasts shall be limited to the same type of racing as authorized in the
39 permit for live racing conducted by the permittee. The department, upon
40 request by a permittee, may grant permission for the permittee to transmit
41 the live race from the racetrack enclosure where a horse, harness or dog
42 racing meeting is being conducted to a facility or facilities in another
43 state. All simulcasts of horse or harness races shall comply with the
44 interstate ~~horse racing~~ HORSERACING act of 1978 (P.L. 95-515; 92 Stat. 1811;
45 15 United States Code chapter 57). All forms of pari-mutuel wagering shall

1 be allowed on horse, harness or dog races televised by simulcasting. All
2 monies wagered by patrons on these horse, harness or dog races shall be
3 computed in the amount of money wagered each racing day for purposes of
4 section 5-111.

5 C. Notwithstanding subsection B of this section, in counties having a
6 population of one million five hundred thousand persons or more according to
7 the most recent United States decennial census, simulcasts may be received
8 at the racetrack enclosure and at any additional wagering facility used by a
9 permittee for handling wagering as provided in section 5-111, subsection A
10 during a permittee's racing meeting as approved by the commission, whether or
11 not posted races have been conducted on the day the simulcast is received,
12 if:

13 1. For horse and harness racing, the permittee's racing permit
14 requires the permittee to conduct a minimum of nine posted races on an
15 average of five racing days each week at the permittee's racetrack enclosure
16 during the period beginning on October 1 and ending on the first full week in
17 May.

18 2. For dog racing, the permittee is required to conduct a minimum of
19 twelve posted races on each of five days each week for fifty weeks during a
20 calendar year at the permittee's racetrack enclosure.

21 D. Notwithstanding subsection B of this section, in counties having a
22 population of five hundred thousand persons or more but less than one million
23 five hundred thousand persons according to the most recent United States
24 decennial census, simulcasts may be received at the racetrack enclosure and
25 at any additional wagering facility used by a permittee for handling wagering
26 as provided in section 5-111, subsection A during a permittee's racing
27 meeting as approved by the commission, whether or not posted races have been
28 conducted on the day the simulcast is received, subject to the following
29 conditions:

30 1. For horse and harness racing, the permittee may conduct wagering on
31 dark day simulcasts for twenty days, provided the permittee conducts a
32 minimum of seven posted races on each of the racing days mandated in the
33 permittee's commercial racing permit. In order to conduct wagering on dark
34 day simulcasts for more than twenty days, the permittee is required to
35 conduct a minimum of seven posted races on one hundred forty racing days at
36 the permittee's racetrack enclosure.

37 2. For dog racing, the permittee is required to conduct a minimum of
38 nine posted races on each of four days each week for fifty weeks during a
39 calendar year at the permittee's racetrack enclosure.

40 E. In an emergency and upon a showing of good cause by a permittee,
41 the commission may grant an exception to the minimum racing day requirements
42 of subsections C and D of this section.

43 F. The minimum racing day requirements of subsections C and D of this
44 section shall be computed by adding all racing days, including any county
45 fair racing days operated in accordance with section 5-110, subsection F,

1 allotted to the permittee's racetrack enclosure in one or more racing permits
2 and all racing days allotted to the permittee's racetrack enclosure pursuant
3 to section 5-110, subsection H.

4 G. Notwithstanding subsection B of this section and subject to
5 subsections C and D of this section, during the period of the permit for
6 horse racing, wagering on dark day simulcasts of horse races at a permittee's
7 additional wagering facilities shall only be allowed for a maximum number of
8 days equal to the number of days of live horse racing scheduled to be
9 conducted at that permittee's racetrack enclosure during the permittee's
10 racing meeting, and during the period of a permit for dog racing, wagering on
11 dark day simulcasts of dog races at a permittee's additional wagering
12 facilities shall only be allowed for a maximum number of days equal to the
13 number of days of live dog racing scheduled to be conducted at that
14 permittee's racetrack enclosure during the permittee's racing meeting. The
15 number of days allowed for dark day simulcasting under this subsection shall
16 be computed by adding all racing days, including any county fair racing days
17 operated in accordance with section 5-110, subsection F, allotted to the
18 permittee's racetrack enclosure in one or more racing permits and all racing
19 days allocated to the permittee's racetrack enclosure pursuant to section
20 5-110, subsection H.

21 H. Simulcast signals or teletracking of simulcast signals does not
22 prohibit live racing or teletracking of that live racing in any county at any
23 time.

24 I. Except as provided in subsection L of this section, section
25 5-101.01, subsection ~~G~~ F and title 13, chapter 33, any person within a
26 racetrack enclosure or an additional facility authorized for wagering
27 pursuant to section 5-111, subsection A may wager on the results of a race
28 televised to the facility pursuant to section 5-111, subsection A by
29 contributing to a pari-mutuel pool operated as provided by this article.

30 J. Notwithstanding subsection B of this section, the department, in
31 counties having a population of one million five hundred thousand persons or
32 more according to the most recent United States decennial census and on
33 request by a permittee for one day each year, may grant permission for
34 simulcasts to be received without compliance with the minimum of nine posted
35 races requirement.

36 K. Except as provided in this article and in title 13, chapter 33, all
37 forms of wagering or betting on the results of a race, including but not
38 limited to buying, selling, cashing, exchanging or acquiring a financial
39 interest in pari-mutuel tickets, except by operation of law, whether the race
40 is conducted in this state or elsewhere, are illegal.

41 L. A permittee shall not knowingly permit a person who is under
42 twenty-one years of age to be a patron of the pari-mutuel system of wagering.

43 M. Except as provided in title 13, chapter 33, any person who violates
44 this article with respect to any wagering or betting, whether the race is
45 conducted in or outside this state, is guilty of a class 6 felony.

1 N. Simulcasting may only be authorized for the same type of racing
2 authorized by a permittee's live racing permit.

3 O. Any person other than a permittee under this article who accepts a
4 wager or who bets on the results of a race, whether the race is conducted in
5 or outside this state, including buying, selling, cashing, exchanging or
6 acquiring a financial interest in a pari-mutuel ticket from a person in this
7 state outside of a racing enclosure or an additional wagering facility that
8 is approved by the commission and that is located in this state is guilty of
9 a class 6 felony.

10 P. Pursuant to section 13-108, a pari-mutuel wager or a bet placed or
11 made by a person in this state is deemed for all purposes to occur in this
12 state.

13 Q. The department and the attorney general shall enforce subsections O
14 and P of this section and shall submit an annual report that summarizes these
15 enforcement activities to the governor, the speaker of the house of
16 representatives and the president of the senate. The department and the
17 attorney general shall provide a copy of this report to the secretary of
18 state and the director of the Arizona state library, archives and public
19 records.

20 Sec. 10. Section 5-224, Arizona Revised Statutes, is amended to read:

21 5-224. Division of boxing and mixed martial arts regulation;
22 powers and duties

23 A. A division of boxing and mixed martial arts regulation is
24 established in the Arizona department of racing to provide staff support for
25 the Arizona state boxing and mixed martial arts commission. **SUBJECT TO TITLE**
26 **41, CHAPTER 4, ARTICLE 4**, the director of the department shall appoint an
27 executive director to perform the duties prescribed in this article. The
28 resources for the Arizona state boxing and mixed martial arts commission
29 shall come from monies appropriated to the department of racing.

30 B. The commission shall obtain from a physician licensed to practice
31 in this state rules and standards for the physical examination of boxers and
32 referees. A schedule of fees to be paid physicians by the promoter or
33 matchmaker for the examination shall be set by the commission.

34 C. The commission may adopt and issue rules pursuant to title 41,
35 chapter 6 to carry out the purposes of this chapter.

36 D. The commission shall hold a regular meeting quarterly and in
37 addition may hold special meetings. Except as provided in section 5-223,
38 subsection B, all meetings of the commission shall be open to the public and
39 reasonable notice of the meetings shall be given pursuant to title 38,
40 chapter 3, article 3.1.

41 E. The commission shall:

42 1. Make and maintain a record of the acts of the division, including
43 the issuance, denial, renewal, suspension or revocation of licenses.

44 2. Keep records of the commission open to public inspection at all
45 reasonable times.

1 3. Assist the director in the development of rules to be implemented
2 pursuant to section 5-104, subsection T.

3 4. Conform to the rules adopted pursuant to section 5-104,
4 subsection T.

5 F. The commission may enter into intergovernmental agreements with
6 Indian tribes, tribal councils or tribal organizations to provide for the
7 regulation of boxing and mixed martial arts contests on Indian reservations.
8 Nothing in this chapter shall be construed to diminish the authority of the
9 department of gaming.

10 Sec. 11. Section 5-556, Arizona Revised Statutes, is amended to read:

11 5-556. Powers and duties of director

12 In addition to other powers and duties prescribed in this chapter, the
13 director shall:

14 1. Supervise and administer the operation of the lottery in accordance
15 with this chapter and the rules adopted under this chapter, subject to the
16 continuous duty to take into account the particularly sensitive and
17 responsible nature of the commission's functions.

18 2. Enforce this chapter and the rules adopted under this chapter. The
19 director shall accept allegations of any violations of the laws of this state
20 or rules pertaining to the conduct of the lottery.

21 3. Pursuant to this chapter and the rules adopted by the commission,
22 license as agents to sell lottery tickets such persons as will best serve the
23 public convenience and promote the sale of tickets or shares.

24 4. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, hire such professional,
25 clerical, technical and administrative personnel as may be necessary to carry
26 out this chapter. The director shall conduct background checks of
27 prospective employees, and, in all employment decisions, shall take into
28 account the particularly sensitive and responsible nature of the operation of
29 the state lottery.

30 5. Act as secretary and executive officer of the commission.

31 6. Confer regularly as necessary or desirable and not less than once
32 every quarter with the commission on the operation and administration of the
33 lottery.

34 7. Make available for inspection by the commission, upon request, all
35 books, records, files and other information and documents of the commission.

36 8. Advise the commission and recommend matters as are necessary and
37 advisable to improve the operation and administration of the lottery.

38 9. Suspend or revoke any license issued pursuant to this chapter or
39 the rules adopted pursuant to this chapter, subject to appeal to the
40 commission.

41 10. Within thirty days after receiving an allegation of a violation of
42 the laws of this state or rules pertaining to the conduct of the lottery by a
43 licensed agent and evidence substantiating the allegation, determine whether
44 the agent has violated the rules or if a criminal investigation is warranted.

1 Sec. 12. Section 5-604, Arizona Revised Statutes, is amended to read:
2 5-604. Department of gaming; director; qualifications; term;
3 conflict of interest; grounds for dismissal

4 A. The department of gaming is established.

5 B. The governor shall appoint a director of the department of gaming
6 pursuant to section 38-211. The director serves at the pleasure of the
7 governor. To be eligible for appointment as director, a person shall not
8 have a financial interest in a gambling operation or in the gambling industry
9 in this state during the term of appointment. The governor may appoint an
10 acting director if there is a vacancy in the office.

11 C. The director and all other employees of the department are ~~exempt~~
12 ~~from~~ SUBJECT TO title 41, chapter 4, ~~articles 5 and 6~~ ARTICLE 4. The
13 director is eligible to receive compensation pursuant to section 38-611.

14 D. The employment or financial interest of any relative to the first
15 degree of consanguinity or affinity to the director or any other employee of
16 the department in the gambling industry in this state is grounds for the
17 dismissal of the director or ~~any other~~ employee of the department.

18 Sec. 13. Section 6-111, Arizona Revised Statutes, is amended to read:
19 6-111. Superintendent; appointment; qualifications; salary

20 A. The chief officer of the department shall be the superintendent who
21 shall be appointed by the governor pursuant to section 38-211.

22 B. The superintendent ~~in office on the effective date of this section~~
23 ~~shall hold office until the expiration of his term. The term of the~~
24 ~~superintendent first appointed after January 1, 1974 shall end January 17,~~
25 ~~1977, and, thereafter the term of office of the superintendent shall be four~~
26 ~~years and shall expire on the third Monday in January of the appropriate~~
27 ~~year. The superintendent may be removed by the governor for cause~~ SERVES AT
28 THE PLEASURE OF THE GOVERNOR.

29 C. Any person appointed as superintendent shall have had, within
30 fifteen years preceding his first appointment, at least five years active
31 experience in the financial institution business as an executive officer or
32 shall have served a like period of time in a financial institution examining
33 or supervisory capacity for this state or for any other state or for an
34 agency or instrumentality of the United States.

35 D. The salary of the superintendent shall be determined pursuant to
36 section 38-611.

37 Sec. 14. Section 6-112, Arizona Revised Statutes, is amended to read:
38 6-112. Deputy superintendent; examiners; personnel

39 ~~A.~~ SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the superintendent:

40 1. Shall appoint a deputy superintendent who shall have the power and
41 perform the duties of the superintendent. The deputy superintendent shall
42 hold such appointment at the will and pleasure of the superintendent.

43 ~~B. The superintendent~~

1 2. May appoint such assistants as he deems necessary whose powers
2 shall be limited to the powers, duties or functions set forth in the
3 appointment.

4 ~~C. The superintendent~~

5 3. Shall appoint such examiners and other personnel necessary.

6 Sec. 15. Section 15-182, Arizona Revised Statutes, is amended to read:

7 15-182. State board for charter schools; membership; terms;
8 compensation; duties

9 A. The state board for charter schools is established consisting of
10 the following members:

11 1. The superintendent of public instruction or the superintendent's
12 designee.

13 2. Six members of the general public, at least two of whom shall
14 reside in a school district where at least sixty per cent of the children who
15 attend school in the district meet the eligibility requirements established
16 under the national school lunch and child nutrition acts (42 United States
17 Code sections 1751 through 1785) for free lunches, and at least one of whom
18 shall reside on an Indian reservation, who are appointed by the governor
19 pursuant to section 38-211.

20 3. Two members of the business community who are appointed by the
21 governor pursuant to section 38-211.

22 4. A teacher who provides classroom instruction at a charter school
23 and who is appointed by the governor pursuant to section 38-211.

24 5. An operator of a charter school who is appointed by the governor
25 pursuant to section 38-211.

26 6. Three members of the legislature who shall serve as advisory
27 members and who are appointed jointly by the president of the senate and the
28 speaker of the house of representatives.

29 B. The superintendent of public instruction shall serve a term on the
30 state board for charter schools that runs concurrently with the
31 superintendent's term of office. The members appointed pursuant to
32 subsection A, paragraph 6 of this section shall serve two year terms on the
33 state board for charter schools that begin and end on the third Monday in
34 January and that run concurrently with their respective terms of office.
35 Members appointed pursuant to subsection A, paragraphs 2, 3, 4 and 5 of this
36 section shall serve staggered four year terms that begin and end on the third
37 Monday in January.

38 C. The state board for charter schools shall annually elect a
39 president and such other officers as it deems necessary from among its
40 membership.

41 D. Members of the state board for charter schools are not eligible to
42 receive compensation but are eligible for reimbursement of expenses pursuant
43 to title 38, chapter 4, article 2.

- 1 E. The state board for charter schools shall:
- 2 1. Exercise general supervision over charter schools sponsored by the
- 3 board and recommend legislation pertaining to charter schools to the
- 4 legislature.
- 5 2. Grant charter status to qualifying applicants for charter schools
- 6 pursuant to section 15-183.
- 7 3. Adopt and use an official seal in the authentication of its acts.
- 8 4. Keep a record of its proceedings.
- 9 5. Adopt rules for its own government.
- 10 6. Determine the policy of the board and the work undertaken by it.
- 11 7. Delegate to the superintendent of public instruction the execution
- 12 of board policies.
- 13 8. Prepare a budget for expenditures necessary for the proper
- 14 maintenance of the board and the accomplishment of its purpose.
- 15 F. The state board for charter schools may:
- 16 1. Contract.
- 17 2. Sue and be sued.
- 18 3. Use the services of the auditor general.
- 19 4. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND LEGISLATIVE**
- 20 **APPROPRIATION, EMPLOY STAFF.**
- 21 G. The state board for charter schools may accept gifts or grants of
- 22 monies or real or personal property from public and private organizations, if
- 23 the purpose of the gift or grant specified by the donor is approved by the
- 24 board and is within the scope of the board's powers and duties. The board
- 25 shall establish and administer a gift and grant fund for the deposit of
- 26 monies received pursuant to this subsection.
- 27 Sec. 16. Section 15-203, Arizona Revised Statutes, is amended to read:
- 28 **15-203. Powers and duties**
- 29 A. The state board of education shall:
- 30 1. Exercise general supervision over and regulate the conduct of the
- 31 public school system and adopt any rules and policies it deems necessary to
- 32 accomplish this purpose.
- 33 2. Keep a record of its proceedings.
- 34 3. Make rules for its own government.
- 35 4. Determine the policy and work undertaken by it.
- 36 5. ~~Appoint its employees,~~ **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,**
- 37 **EMPLOY STAFF** on the recommendation of the superintendent of public
- 38 instruction.
- 39 6. Prescribe the duties of its employees if not prescribed by statute.
- 40 7. Delegate to the superintendent of public instruction the execution
- 41 of board policies and rules.
- 42 8. Recommend to the legislature changes or additions to the statutes
- 43 pertaining to schools.
- 44 9. Prepare, publish and distribute reports concerning the educational
- 45 welfare of this state.

1 10. Prepare a budget for expenditures necessary for proper maintenance
2 of the board and accomplishment of its purposes and present the budget to the
3 legislature.

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

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

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

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

35 (a) Allow a variety of alternative teacher and administrator
36 preparation programs, with variations in program sequence and design, to
37 apply for program approval. The state board shall adopt rules pursuant to
38 this subdivision designed to allow for a variety of formats and shall not
39 require a prescribed answer or design from the program provider in order to
40 obtain approval from the state board. The state board shall evaluate each
41 program provider based on the program's ability to prepare teachers and
42 administrators and to recruit teachers and administrators with a variety of
43 experiences and talents. The state board shall permit universities under the
44 jurisdiction of the Arizona board of regents, community colleges in this
45 state, private postsecondary institutions licensed by this state, school

1 districts, charter schools and professional organizations to apply for
2 program approval and shall create application procedures and certification
3 criteria that are less restrictive than those for traditional preparation
4 programs. Alternative preparation program graduates shall:
5 (i) Hold a bachelor's degree from an accredited postsecondary
6 education institution.
7 (ii) Demonstrate professional knowledge and subject knowledge
8 proficiency pursuant to section 15-533.
9 (iii) Obtain a fingerprint clearance card pursuant to section 15-534.
10 (iv) Complete training in structured English immersion as prescribed
11 by the state board.
12 (v) Complete training in research based systematic phonics instruction
13 as prescribed in subdivision (b) of this paragraph.
14 (vi) Demonstrate the required proficiency in the constitutions of the
15 United States and Arizona as prescribed in section 15-532.
16 (b) Require applicants for all certificates for common school
17 instruction to complete a minimum of forty-five classroom hours or three
18 college level credit hours, or the equivalent, of training in research based
19 systematic phonics instruction from a public or private provider.
20 (c) Not require a teacher to obtain a master's degree or to take any
21 additional graduate courses as a condition of certification or
22 recertification.
23 (d) Allow a general equivalency diploma to be substituted for a high
24 school diploma in the certification of emergency substitute teachers.
25 (e) Allow but shall not require the superintendent of a school
26 district to obtain certification from the state board of education.
27 15. Adopt a list of approved tests for determining special education
28 assistance to gifted pupils as defined in and as provided in chapter 7,
29 article 4.1 of this title. The adopted tests shall provide separate scores
30 for quantitative reasoning, verbal reasoning and nonverbal reasoning and
31 shall be capable of providing reliable and valid scores at the highest ranges
32 of the score distribution.
33 16. Adopt rules governing the methods for the administration of all
34 proficiency examinations.
35 17. Adopt proficiency examinations for its use. The state board of
36 education shall determine the passing score for the proficiency examination.
37 18. Include within its budget the cost of contracting for the purchase,
38 distribution and scoring of the examinations as provided in paragraphs 16 and
39 17 of this subsection.
40 19. Supervise and control the qualifications of professional
41 nonteaching school personnel and prescribe standards relating to
42 qualifications. The standards shall not require the business manager of a
43 school district to obtain certification from the state board of education.

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

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

6 22. Adopt a rule to promote braille literacy pursuant to section
7 15-214.

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

11 24. For purposes of federal law, serve as the state board for
12 vocational and technological education and meet at least four times each year
13 solely to execute the powers and duties of the state board for vocational and
14 technological education.

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

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

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

33 27. Adopt rules that provide for teacher certification reciprocity.
34 The rules shall provide for a one year reciprocal teaching certificate with
35 minimum requirements, including valid teacher certification from a state with
36 substantially similar criminal history or teacher fingerprinting requirements
37 and proof of the submission of an application for a fingerprint clearance
38 card pursuant to title 41, chapter 12, article 3.1. For teachers who provide
39 Arizona online instruction pursuant to section 15-808, the rules shall allow
40 automatic certification reciprocity with other states that have similar
41 programs.

42 28. Adopt rules that provide for the presentation of an honorary high
43 school diploma to a person who has never obtained a high school diploma and
44 who meets both of the following requirements:

45 (a) Currently resides in this state.

1 (b) Provides documented evidence from the Arizona department of
2 veterans' services that the person enlisted in the armed forces of the United
3 States and served in World War I, World War II, the Korean conflict or the
4 Vietnam conflict.

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

12 30. Adopt rules to define and provide guidance to schools as to the
13 activities that would constitute immoral or unprofessional conduct of
14 certificated persons.

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

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

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

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

29 (d) Orientation and notification procedures of community service
30 opportunities for pupils entering grade nine, including the development of a
31 notification form. The notification form shall be signed by the pupil and
32 the pupil's parent or guardian, except that a pupil shall not be required to
33 participate in community service if the parent or guardian notifies the
34 principal of the pupil's school in writing that the parent or guardian does
35 not wish the pupil to participate in community service.

36 (e) Procedures for a pupil in grade nine to prepare a written proposal
37 that outlines the type of community service that the pupil would like to
38 perform and the goals that the pupil hopes to achieve as a result of
39 community service. The pupil's written proposal shall be reviewed by a
40 faculty advisor, a guidance counselor or any other school employee who is
41 designated as the community service program coordinator for that school. The
42 pupil may alter the written proposal at any time before performing community
43 service.

44 (f) Procedures for a faculty advisor, a guidance counselor or any
45 other school employee who is designated as the community service program

1 coordinator to evaluate and certify the completion of community service
2 performed by pupils.

3 32. To facilitate the transfer of military personnel and their
4 dependents to and from the public schools of this state, pursue, in
5 cooperation with the Arizona board of regents, reciprocity agreements with
6 other states concerning the transfer credits for military personnel and their
7 dependents. A reciprocity agreement entered into pursuant to this paragraph
8 shall:

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

10 (i) The transfer of student records.

11 (ii) Awarding credit for completed course work.

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

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

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

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

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

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

1 37. Adopt rules for the alternative certification of teachers of
2 nontraditional foreign languages that allow for the passing of a nationally
3 accredited test to substitute for the education coursework required for
4 certification.

5 38. On or before December 15, 2011, adopt and maintain a model
6 framework for a teacher and principal evaluation instrument that includes
7 quantitative data on student academic progress that accounts for between
8 thirty-three per cent and fifty per cent of the evaluation outcomes and best
9 practices for professional development and evaluator training. School
10 districts and charter schools shall use an instrument that meets the data
11 requirements established by the state board of education to annually evaluate
12 individual teachers and principals beginning in school year 2012-2013.

13 B. The state board of education may:

14 1. Contract.

15 2. Sue and be sued.

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

18 4. Provide for an advisory committee to conduct hearings and
19 screenings to determine whether grounds exist to impose disciplinary action
20 against a certificated person, whether grounds exist to reinstate a revoked
21 or surrendered certificate and whether grounds exist to approve or deny an
22 initial application for certification or a request for renewal of a
23 certificate. The board may delegate its responsibility to conduct hearings
24 and screenings to its advisory committee. Hearings shall be conducted
25 pursuant to title 41, chapter 6, article 6.

26 5. Proceed with the disposal of any complaint requesting disciplinary
27 action or with any disciplinary action against a person holding a certificate
28 as prescribed in subsection A, paragraph 14 of this section after the
29 suspension or expiration of the certificate or surrender of the certificate
30 by the holder.

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

35 Sec. 17. Section 15-543, Arizona Revised Statutes, is amended to read:

36 15-543. Appeal from decision of board

37 A. The decision of the governing board is final unless the
38 certificated teacher files, within thirty days after the date of the
39 decision, an appeal with the superior court in the county within which he was
40 employed.

41 B. The decision of the governing board may be reviewed by the court in
42 the same manner as the decision made in accordance with ~~the provisions of~~
43 section ~~41-785~~ 41-783. The proceeding shall be set for hearing at the
44 earliest possible date and shall take precedence over all other cases, except

1 older matters of the same character and matters to which special precedence
2 is otherwise given by law.

3 Sec. 18. Repeal

4 Section 15-1331, Arizona Revised Statutes, is repealed.

5 Sec. 19. Section 15-1626, Arizona Revised Statutes, is amended to
6 read:

7 15-1626. General administrative powers and duties of board

8 A. The board shall:

9 1. Have and exercise the powers necessary for the effective governance
10 and administration of the institutions under its control. To that end, the
11 board may adopt, and authorize each university to adopt, such regulations,
12 policies, rules or measures as are deemed necessary and may delegate in
13 writing to its committees, to its university presidents, or their designees,
14 or to other entities under its control, any part of its authority for the
15 administration and governance of such institutions, including those powers
16 enumerated in section 15-1625, subsection B, paragraphs 2 and 4, paragraphs
17 3, 4, 8, 9, 11 and 12 of this subsection and subsection B of this section.
18 Any delegation of authority may be rescinded by the board at any time in
19 whole or in part.

20 2. Appoint and employ and determine the compensation of presidents
21 with such power and authority and for such purposes in connection with the
22 operation of the institutions as the board deems necessary.

23 3. Appoint and employ and determine the compensation of
24 vice-presidents, deans, professors, instructors, lecturers, fellows and such
25 other officers and employees with such power and authority and for such
26 purposes in connection with the operation of the institutions as the board
27 deems necessary, or delegate its authority pursuant to paragraph 1 of this
28 subsection.

29 4. Remove any officer or employee when the interests of education in
30 this state so require in accordance with its personnel rules and policies.

31 5. Fix tuitions and fees to be charged and differentiate the tuitions
32 and fees between institutions and between residents, nonresidents,
33 undergraduate students, graduate students, students from foreign countries
34 and students who have earned credit hours in excess of the credit hour
35 threshold. For the purposes of this paragraph, the undergraduate credit hour
36 threshold is one hundred forty-five hours for students who attend a
37 university under the jurisdiction of the board. The undergraduate credit
38 hour threshold shall be based on the actual full-time equivalent student
39 enrollment counted on the forty-fifth day of every fall and spring semester,
40 divided by two, and any budget adjustment based on student enrollment shall
41 occur in the fiscal year following the actual full-time equivalent student
42 enrollment count. The undergraduate credit hour threshold shall not apply to
43 degree programs that require credit hours above the credit hour threshold,
44 credits earned in the pursuit of up to two baccalaureate degrees, credits
45 earned in the pursuit of up to two state regulated licensures or

1 certificates, credits earned in the pursuit of teaching certification,
2 credits transferred from a private institution of higher education, credits
3 transferred from an institution of higher education in another state, credits
4 earned at another institution of higher education but that are not accepted
5 as transfer credits at the university where the student is currently enrolled
6 and credits earned by students who enroll at a university under the
7 jurisdiction of the board more than twenty-four months after the end of that
8 student's previous enrollment at a public institution of higher education in
9 this state. On or before October 15 of each year, the board shall report to
10 the joint legislative budget committee the number of students who were
11 enrolled at universities under the jurisdiction of the board during the
12 previous fiscal year who met or exceeded the undergraduate credit hour
13 threshold prescribed in this paragraph. The amount of tuition, registration
14 fees and other revenues included in the operating budget for the university
15 adopted by the board as prescribed in paragraph 13 of this subsection shall
16 be deposited, pursuant to sections 35-146 and 35-147. All other tuition and
17 fee revenue shall be retained by each university for expenditure as approved
18 by the board, except that the universities shall not use any tuition or fee
19 revenue to fund or support an alumni association.

20 6. Except as provided in subsection I of this section, adopt rules to
21 govern its tuition and fee setting process that provide for the following:

22 (a) At least one public hearing at each university as an opportunity
23 for students and members of the public to comment on any proposed increase in
24 tuition or fees.

25 (b) Publication of the notice of public hearing at least ten days
26 prior to the hearing in a newspaper of general circulation in Maricopa
27 county, Coconino county and Pima county. The notice shall include the date,
28 time and location of the public hearing.

29 (c) Public disclosure by each university of any proposed increases in
30 tuition or fees at least ten days prior to the public hearing.

31 (d) Final board action on changes in tuition or fees shall be taken by
32 roll call vote.

33 The procedural requirements of subdivisions (a), (b), (c) and (d) of this
34 paragraph apply only to those changes in tuition or fees that require board
35 approval.

36 7. Pursuant to section 35-115, submit a budget request for each
37 institution under its jurisdiction that includes the estimated tuition and
38 fee revenue available to support the programs of the institution as described
39 in the budget request. The estimated available tuition and fee revenue shall
40 be based on the tuition and registration fee rates in effect at the time the
41 budget request is submitted with adjustments for projected changes in
42 enrollment as provided by the board.

43 8. Establish curriculums and designate courses at the several
44 institutions that in its judgment will best serve the interests of this
45 state.

1 9. Award such degrees and diplomas on the completion of such courses
2 and curriculum requirements as it deems appropriate.

3 10. Prescribe qualifications for admission of all students to the
4 universities. The board shall establish policies for guaranteed admission
5 that assure fair and equitable access to students in this state from public,
6 private and charter schools and homeschools. For the purpose of determining
7 the qualifications of honorably discharged veterans, veterans are those
8 persons who served in the armed forces for a minimum of two years and who
9 were previously enrolled at a university or community college in this state.
10 No prior failing grades received by the veteran at the university or
11 community college in this state may be considered.

12 11. Adopt any energy conservation standards promulgated by the
13 department of administration for the construction of new buildings.

14 12. Employ for such time and purposes as the board requires attorneys
15 whose compensation shall be fixed and paid by the board. Litigation to which
16 the board is a party and for which self-insurance is not provided may be
17 compromised or settled at the direction of the board.

18 13. Adopt annually an operating budget for each university equal to the
19 sum of appropriated general fund monies and the amount of tuition,
20 registration fees and other revenues approved by the board and allocated to
21 each university operating budget.

22 14. In consultation with the state board of education and other
23 education groups, develop and implement a program to award honors
24 endorsements to be affixed to the high school diplomas of qualifying high
25 school pupils and to be included in the transcripts of pupils who are awarded
26 endorsements. The board shall develop application procedures and testing
27 criteria and adopt testing instruments and procedures to administer the
28 program. In order to receive an honors endorsement, a pupil must demonstrate
29 an extraordinary level of knowledge, skill and competency as measured by the
30 testing instruments adopted by the board in mathematics, English, science and
31 social studies. Additional subjects may be added at the determination of the
32 board. The program is voluntary for pupils.

33 15. Require the publisher of each literary and nonliterary textbook
34 used in the universities of this state to furnish computer software in a
35 standardized format when software becomes available for nonliterary textbooks
36 to the Arizona board of regents from which braille versions of the textbooks
37 may be produced.

38 16. Require universities that provide a degree in education to require
39 courses that are necessary to obtain a provisional structured English
40 immersion endorsement as prescribed by the state board of education.

41 17. Acquire United States flags for each classroom that are
42 manufactured in the United States and that are at least two feet by three
43 feet and hardware to appropriately display the United States flags, acquire a
44 legible copy of the Constitution of the United States and the Bill of Rights,
45 display the flags in each classroom in accordance with title 4 of the United

1 States Code and display a legible copy of the Constitution of the United
2 States and the Bill of Rights adjacent to the flag.

3 18. To facilitate the transfer of military personnel and their
4 dependents to and from the public schools of this state, pursue, in
5 cooperation with the state board of education, reciprocity agreements with
6 other states concerning the transfer credits for military personnel and their
7 dependents. A reciprocity agreement entered into pursuant to this paragraph
8 shall:

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

10 (i) The transfer of student records.

11 (ii) Awarding credit for completed course work.

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

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

17 19. Require a university to publicly post notices of all of its
18 employment openings, including the title and description, instructions for
19 applying and relevant contact information.

20 20. In consultation with the community college districts in this state,
21 develop and implement common equivalencies for specific levels of achievement
22 on advanced placement examinations and international baccalaureate
23 examinations in order to award commensurate postsecondary academic credits at
24 community colleges and public universities in this state.

25 21. On or before August 1 of each year, report to the joint legislative
26 budget committee the graduation rate by university campus during the previous
27 fiscal year. The board shall also report the retention rate by university
28 campus and by class, as determined by date of entry during the previous
29 fiscal year.

30 B. The board shall adopt personnel ~~rules. All nonacademic employees~~
31 ~~of the universities are subject to these rules except for university~~
32 ~~presidents, university vice presidents, university deans, legal counsel and~~
33 ~~administrative officers. The personnel rules shall be similar to the~~
34 ~~personnel rules under section 41-783. The rules shall include provisions for~~
35 ~~listing available positions with the department of economic security,~~
36 ~~competitive employment processes for applicants, probationary status for new~~
37 ~~nonacademic employees, nonprobationary status on successful completion of~~
38 ~~probation and due process protections of nonprobationary employees after~~
39 ~~discharge. The board shall provide notice of proposed rule adoption and an~~
40 ~~opportunity for public comment on all personnel rules proposed for adoption~~
41 **POLICIES FOR ALL EMPLOYEES OF THE BOARD AND THE UNIVERSITIES.**

42 C. In conjunction with the auditor general, the board shall develop a
43 uniform accounting and reporting system, which shall be reviewed by the joint
44 legislative budget committee before final adoption by the board. The board

1 shall require each university to comply with the uniform accounting and
2 reporting system.

3 D. The board may employ legal assistance in procuring loans for the
4 institutions from the United States government. Fees or compensation paid
5 for such legal assistance shall not be a claim on the general fund of this
6 state but shall be paid from funds of the institutions.

7 E. The board shall approve or disapprove any contract or agreement
8 entered into by the university of Arizona hospital with the Arizona health
9 facilities authority.

10 F. The board may adopt policies that authorize the institutions under
11 its jurisdiction to enter into employment contracts with nontenured employees
12 for periods of more than one year but not more than five years. The policies
13 shall prescribe limitations on the authority of the institutions to enter
14 into employment contracts for periods of more than one year but not more than
15 five years, including the requirement that the board approve the contracts.

16 G. The board may adopt a plan or plans for employee benefits that
17 allow for participation in a cafeteria plan that meets the requirements of
18 the United States internal revenue code of 1986.

19 H. The board may establish a program for the exchange of students
20 between the universities under the jurisdiction of the board and colleges and
21 universities located in the state of Sonora, Mexico. Notwithstanding
22 subsection A, paragraph 5 of this section, the program may provide for
23 in-state tuition at the universities under the jurisdiction of the board for
24 fifty Sonoran students in exchange for similar tuition provisions for up to
25 fifty Arizona students enrolled or seeking enrollment in Sonoran colleges or
26 universities. The board may direct the universities to work in conjunction
27 with the Arizona-Mexico commission to coordinate recruitment and admissions
28 activities.

29 I. Subsection A, paragraph 6, subdivisions (a), (b), (c) and (d) of
30 this section do not apply to fee increases that are set by individual
31 universities and that do not require approval by the Arizona board of regents
32 before the fee increase becomes effective.

33 Sec. 20. Section 15-1852, Arizona Revised Statutes, is amended to
34 read:

35 15-1852. Additional powers and duties

36 A. In addition to the powers and duties prescribed in section 15-1851,
37 the commission for postsecondary education shall:

- 38 1. Meet at least four times each year.
- 39 2. Adopt rules to carry out the purposes of this article.
- 40 3. Administer and enforce this article and rules adopted pursuant to
41 this article.
- 42 4. Keep a record of its proceedings.
- 43 5. Contract, on behalf of this state, with the United States secretary
44 of education for the purpose of complying with the provisions of title IV,
45 part H, subpart one of the higher education amendments of 1992.

1 5. Certify that plans for new school facilities meet the building
2 adequacy standards prescribed in section 15-2011.

3 6. Develop prototypical elementary and high school designs. The board
4 shall review the design differences between the schools with the highest
5 academic productivity scores and the schools with the lowest academic
6 productivity scores. The board shall also review the results of a valid and
7 reliable survey of parent quality rating in the highest performing schools
8 and the lowest performing schools in this state. The survey of parent
9 quality rating shall be administered by the department of education. The
10 board shall consider the design elements of the schools with the highest
11 academic productivity scores and parent quality ratings in the development of
12 elementary and high school designs. The board shall develop separate school
13 designs for elementary, middle and high schools with varying pupil
14 capacities.

15 7. Develop application forms, reporting forms and procedures to carry
16 out the requirements of this article.

17 8. Review and approve or reject requests submitted by school districts
18 to take actions pursuant to section 15-341, subsection G.

19 9. Submit electronically an annual report by December 15 to the
20 speaker of the house of representatives, the president of the senate, the
21 superintendent of public instruction, the director of the Arizona state
22 library, archives and public records and the governor that includes the
23 following information:

24 (a) A detailed description of the amount of monies distributed by the
25 school facilities board in the previous fiscal year.

26 (b) A list of each capital project that received monies from the
27 school facilities board during the previous fiscal year, a brief description
28 of each project that was funded and a summary of the board's reasons for the
29 distribution of monies for the project.

30 (c) A summary of the findings and conclusions of the building
31 maintenance inspections conducted pursuant to this article during the
32 previous fiscal year.

33 (d) A summary of the findings of common design elements and
34 characteristics of the highest performing schools and the lowest performing
35 schools based on academic productivity, including the results of the parent
36 quality rating survey. For the purposes of this subdivision, "academic
37 productivity" means academic year advancement per calendar year as measured
38 with student-level data using the statewide nationally standardized
39 norm-referenced achievement test.

40 10. By December 1 of each year, report electronically to the joint
41 committee on capital review the amounts necessary to fulfill the requirements
42 of sections 15-2022, 15-2031 and 15-2041 for the following fiscal year and
43 the estimated amounts necessary to fulfill the requirements of sections
44 15-2022, 15-2031 and 15-2041 for the fiscal year following the next fiscal

1 year. The board shall provide copies of the report to the president of the
2 senate, the speaker of the house of representatives and the governor.

3 11. Adopt minimum school facility adequacy guidelines to provide the
4 minimum quality and quantity of school buildings and the facilities and
5 equipment necessary and appropriate to enable pupils to achieve the
6 educational goals of the Arizona state schools for the deaf and the blind.
7 The school facilities board shall establish minimum school facility adequacy
8 guidelines applicable to the Arizona state schools for the deaf and the
9 blind.

10 12. In each even-numbered year, report electronically to the joint
11 committee on capital review the amounts necessary to fulfill the requirements
12 of sections 15-2031 and 15-2041 for the Arizona state schools for the deaf
13 and the blind for the following two fiscal years. The Arizona state schools
14 for the deaf and the blind shall incorporate the findings of the report in
15 any request for building renewal monies and new school facilities monies.
16 Any monies provided to the Arizona state schools for the deaf and the blind
17 for building renewal and for new school facilities are subject to legislative
18 appropriation.

19 13. By June 15 of each year, submit electronically detailed information
20 regarding demographic assumptions, a proposed construction schedule and new
21 school construction cost estimates for individual projects approved in the
22 current fiscal year and expected project approvals for the upcoming fiscal
23 year to the joint committee on capital review for its review. A copy of the
24 report shall also be submitted electronically to the governor's office of
25 strategic planning and budgeting. The joint legislative budget committee
26 staff, the governor's office of strategic planning and budgeting staff and
27 the school facilities board staff shall agree on the format of the report.

28 14. Every two years, provide school districts with information on
29 improving and maintaining the indoor environmental quality in school
30 buildings.

31 B. The school facilities board may contract for the following services
32 in compliance with the procurement practices prescribed in title 41,
33 chapter 23:

- 34 1. Private services.
- 35 2. Construction project management services.
- 36 3. Assessments for school buildings to determine if the buildings have
37 outlived their useful life pursuant to section 15-2041, subsection G.
- 38 4. Services related to land acquisition and development of a school
39 site.

40 C. The governor shall appoint an executive director of the school
41 facilities board pursuant to section 38-211. The executive director is
42 eligible to receive compensation as determined pursuant to section 38-611 and
43 may hire and fire necessary staff [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#)
44 [AND](#) as approved by the legislature in the budget. The executive director
45 shall have demonstrated competency in school finance, facilities design or

1 facilities management, either in private business or government service. The
2 executive director serves at the pleasure of the governor. The staff of the
3 school facilities board is exempt from title 41, chapter 4, articles 5 and 6.
4 The executive director:

5 1. Shall analyze applications for monies submitted to the board by
6 school districts.

7 2. Shall assist the board in developing forms and procedures for the
8 distribution and review of applications and the distribution of monies to
9 school districts.

10 3. May review or audit, or both, the expenditure of monies by a school
11 district for deficiencies corrections, building renewal and new school
12 facilities.

13 4. Shall assist the board in the preparation of the board's annual
14 report.

15 5. Shall research and provide reports on issues of general interest to
16 the board.

17 6. May aid school districts in the development of reasonable and
18 cost-effective school designs in order to avoid statewide duplicated efforts
19 and unwarranted expenditures in the area of school design.

20 7. May assist school districts in facilitating the development of
21 multijurisdictional facilities.

22 8. Shall assist the board in any other appropriate matter or method as
23 directed by the members of the board.

24 9. Shall establish procedures to ensure compliance with the notice and
25 hearing requirements prescribed in section 15-905. The notice and hearing
26 procedures adopted by the board shall include the requirement, with respect
27 to the board's consideration of any application filed after July 1, 2001 or
28 after December 31 of the year in which the property becomes territory in the
29 vicinity of a military airport or ancillary military facility as defined in
30 section 28-8461 for monies to fund the construction of new school facilities
31 proposed to be located in territory in the vicinity of a military airport or
32 ancillary military facility, that the military airport receive notification
33 of the application by first class mail at least thirty days before any
34 hearing concerning the application.

35 10. May expedite any request for monies in which the local match was
36 not obtained for a project that received preliminary approval by the state
37 board for school capital facilities.

38 11. Shall expedite any request for monies in which the school district
39 governing board submits an application that shows an immediate need for a new
40 school facility.

41 12. Shall make a determination as to administrative completion within
42 one month after the receipt of an application by a school district for monies
43 from the new school facilities fund.

44 13. Shall provide technical support to school districts as requested by
45 school districts in connection with the construction of new school facilities

1 and the maintenance of existing school facilities and may contract directly
2 with construction project managers pursuant to subsection B of this section.
3 This paragraph does not restrict a school district from contracting with a
4 construction project manager using district or state resources.

5 D. When appropriate, the school facilities board shall review and use
6 the statewide school facilities inventory and needs assessment conducted by
7 the joint committee on capital review and issued in July, 1995.

8 E. The school facilities board shall contract with one or more private
9 building inspectors to complete an initial assessment of school facilities
10 and equipment and shall inspect each school building in this state at least
11 once every five years to ensure compliance with section 15-2011. A copy of
12 the inspection report, together with any recommendations for building
13 maintenance, shall be provided to the school facilities board and the
14 governing board of the school district.

15 F. The school facilities board may consider appropriate combinations
16 of facilities or uses in making assessments of and curing deficiencies
17 pursuant to subsection A, paragraph 1 of this section and in certifying plans
18 for new school facilities pursuant to subsection A, paragraph 5 of this
19 section.

20 G. The board shall not award any monies to fund new facilities that
21 are financed by class A bonds that are issued by the school district.

22 H. The board shall not distribute monies to a school district for
23 replacement or repair of facilities if the costs associated with the
24 replacement or repair are covered by insurance or a performance or payment
25 bond.

26 I. The board may contract for construction services and materials that
27 are necessary to correct existing deficiencies in school district facilities.
28 The board may procure the construction services necessary pursuant to this
29 subsection by any method, including construction-manager-at-risk,
30 design-build, design-bid-build or job-order-contracting as provided by title
31 41, chapter 23. The construction planning and services performed pursuant to
32 this subsection are exempt from section 41-791.01.

33 J. The school facilities board may enter into agreements with school
34 districts to allow school facilities board staff and contractors access to
35 school property for the purposes of performing the construction services
36 necessary pursuant to subsection I of this section.

37 K. Each school district shall develop routine preventative maintenance
38 guidelines for its facilities. The guidelines shall include plumbing
39 systems, electrical systems, heating, ventilation and air conditioning
40 systems, special equipment and other systems and for roofing systems shall
41 recommend visual inspections performed by district staff for signs of
42 structural stress and weakness. The guidelines shall be submitted to the
43 school facilities board for review and approval. If on inspection by the
44 school facilities board it is determined that a school district facility was
45 inadequately maintained pursuant to the school district's routine

1 preventative maintenance guidelines, the school district shall use building
2 renewal monies pursuant to section 15-2031, subsection L to return the
3 building to compliance with the school district's routine preventative
4 maintenance guidelines. Once the district is in compliance, it no longer is
5 required to use building renewal monies for preventative maintenance.

6 L. The school facilities board may temporarily transfer monies between
7 the capital reserve fund established by section 15-2003, the emergency
8 deficiencies correction fund established by section 15-2022, the building
9 renewal fund established by section 15-2031 and the new school facilities
10 fund established by section 15-2041 if all of the following conditions are
11 met:

12 1. The transfer is necessary to avoid a temporary shortfall in the
13 fund into which the monies are transferred.

14 2. The transferred monies are restored to the fund where the monies
15 originated as soon as practicable after the temporary shortfall in the other
16 fund has been addressed.

17 3. The school facilities board reports to the joint committee on
18 capital review the amount of and the reason for any monies transferred.

19 M. After notifying each school district, and if a written objection
20 from the school district is not received by the school facilities board
21 within thirty days of the notification, the school facilities board may
22 access public utility company records of power, water, natural gas, telephone
23 and broadband usage to assemble consistent and accurate data on utility
24 consumption at school facilities to determine the effectiveness of facility
25 design, operation and maintenance measures intended to reduce energy and
26 water consumption and costs. Any public utility that provides service to a
27 school district in this state shall provide the data requested by the school
28 facilities board pursuant to this subsection.

29 N. The school facilities board shall not require a common school
30 district that provides instruction to pupils in grade nine to obtain approval
31 from the school facilities board to reconfigure its school facilities. A
32 common school district that provides instruction to pupils in grade nine is
33 not entitled to additional monies from the school facilities board for
34 facilities to educate pupils in grade nine.

35 Sec. 22. Section 17-211, Arizona Revised Statutes, is amended to read:

36 17-211. Director; selection; removal; powers and duties;
37 employees

38 A. The commission shall appoint a director of the Arizona game and
39 fish department, who shall be the chief administrative officer of the game
40 and fish department. The director shall receive compensation as determined
41 pursuant to section 38-611. The director shall be selected on the basis of
42 administrative ability and general knowledge of wildlife management. The
43 director shall act as secretary to the commission, and shall serve ~~for a term~~
44 ~~of five years, but may be removed by the commission, after public hearing,~~
45 ~~for inefficiency, neglect of duty or misconduct in office. If the director~~

1 ~~is removed, the commission shall make, in its minutes, a complete statement~~
2 ~~of the proceedings and all charges made against the director, and its~~
3 ~~findings~~ AT THE PLEASURE OF THE COMMISSION. The director shall not hold any
4 other office, and shall devote the entire time to the duties of office.

5 B. The commission shall prepare an examination for the post of
6 director to comply with the requirements of this title. The examination
7 shall be conducted at the offices of the commission at the capital to
8 establish an active list of eligible applicants. The director shall be
9 selected from those scoring satisfactory grades and having other qualities
10 deemed advisable by the commission. The commission may call for additional
11 examinations from time to time for selection of a new list of eligible
12 applicants to fill a vacancy.

13 C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the director may appoint
14 employees necessary to carry out the purposes of this title, when funds for
15 the payment of their salaries are appropriated. Department employees shall
16 be located in different sections of the state where their services are most
17 needed. ~~All appointments must be made in accordance with procedures and~~
18 ~~qualifications established by the commission.~~ Compensation for persons
19 appointed shall be as determined pursuant to section 38-611. ~~The director~~
20 ~~may dismiss an employee for inefficiency, neglect of duty or misconduct.~~
21 ~~Such employee shall be entitled to an appeal before the commission after~~
22 ~~filing a written request for a hearing within thirty days after the date of~~
23 ~~discharge. The director shall file in the department office a complete~~
24 ~~statement of charges made against the employee and the findings after such~~
25 ~~written request is received. If the employee fails to file such request~~
26 ~~within the thirty day period, the right of appeal is waived and the action of~~
27 ~~the director shall be final.~~

28 D. The director shall:

29 1. Have general supervision and control of all activities, functions
30 and employees of the department.

31 2. Enforce all provisions of this title, including all commission
32 rules.

33 3. Collaborate with the state forester in presentations to legislative
34 committees on issues associated with forest management and wildfire
35 prevention and suppression as provided by section 37-622, subsection B.

36 E. Game rangers and wildlife managers may, in addition to other
37 duties:

38 1. Execute all warrants issued for a violation of this title.

39 2. Execute subpoenas issued in any matter arising under this title.

40 3. Search without warrant any aircraft, boat, vehicle, box, game bag
41 or other package where there is sufficient cause to believe that wildlife or
42 parts of wildlife are possessed in violation of law.

43 4. Inspect all wildlife taken or transported and seize all wildlife
44 taken or possessed in violation of law, or showing evidence of illegal
45 taking.

1 5. Seize as evidence devices used illegally in taking wildlife and
2 hold them subject to the provisions of section 17-240.

3 6. Generally exercise the powers of peace officers with primary duties
4 the enforcement of this title.

5 7. Seize devices that cannot be lawfully used for the taking of
6 wildlife and are being so used and hold and dispose of them pursuant to
7 section 17-240.

8 Sec. 23. Section 17-231, Arizona Revised Statutes, is amended to read:
9 17-231. General powers and duties of the commission

10 A. The commission shall:

11 1. Adopt rules and establish services it deems necessary to carry out
12 the provisions and purposes of this title.

13 2. Establish broad policies and long-range programs for the
14 management, preservation and harvest of wildlife.

15 3. Establish hunting, trapping and fishing rules and prescribe the
16 manner and methods which may be used in taking wildlife.

17 4. Be responsible for the enforcement of laws for the protection of
18 wildlife.

19 ~~5. Prescribe grades, qualifications and salary schedules for~~
20 ~~department employees.~~

21 ~~6.~~ 5. Provide for the assembling and distribution of information to
22 the public relating to wildlife and activities of the department.

23 ~~7.~~ 6. Prescribe rules for the expenditure, by or under the control of
24 the director, of all funds arising from appropriation, licenses, gifts or
25 other sources.

26 ~~8.~~ 7. Exercise such powers and duties necessary to carry out fully
27 the provisions of this title and in general exercise powers and duties which
28 relate to adopting and carrying out policies of the department and control of
29 its financial affairs.

30 ~~9.~~ 8. Prescribe procedures for use of department personnel,
31 facilities, equipment, supplies and other resources in assisting search or
32 rescue operations on request of the director of the division of emergency
33 management.

34 ~~10.~~ 9. Cooperate with the Arizona-Mexico commission in the governor's
35 office and with researchers at universities in this state to collect data and
36 conduct projects in the United States and Mexico on issues that are within
37 the scope of the department's duties and that relate to quality of life,
38 trade and economic development in this state in a manner that will help the
39 Arizona-Mexico commission to assess and enhance the economic competitiveness
40 of this state and of the Arizona-Mexico region.

41 B. The commission may:

42 1. Conduct investigations, inquiries or hearings in the performance of
43 its powers and duties.

1 2. Establish game management units or refuges for the preservation and
2 management of wildlife.

3 3. Construct and operate game farms, fish hatcheries, fishing lakes or
4 other facilities for or relating to the preservation or propagation of
5 wildlife.

6 4. Expend funds to provide training in the safe handling and use of
7 firearms and safe hunting practices.

8 5. Remove or permit to be removed from public or private waters fish
9 which hinder or prevent propagation of game or food fish and dispose of such
10 fish in such manner as it may designate.

11 6. Purchase, sell or barter wildlife for the purpose of stocking
12 public or private lands and waters and take at any time in any manner
13 wildlife for research, propagation and restocking purposes or for use at a
14 game farm or fish hatchery and declare wildlife salable when in the public
15 interest or the interest of conservation.

16 7. Enter into agreements with the federal government, with other
17 states or political subdivisions of the state and with private organizations
18 for the construction and operation of facilities and for management studies,
19 measures or procedures for or relating to the preservation and propagation of
20 wildlife and expend funds for carrying out such agreements.

21 8. Prescribe rules for the sale, trade, importation, exportation or
22 possession of wildlife.

23 9. Expend monies for the purpose of producing publications relating to
24 wildlife and activities of the department for sale to the public and
25 establish the price to be paid for annual subscriptions and single copies of
26 such publications. All monies received from the sale of such publications
27 shall be deposited in the game and fish publications revolving fund.

28 10. Contract with any person or entity to design and produce artwork on
29 terms which, in the commission's judgment, will produce an original and
30 valuable work of art relating to wildlife or wildlife habitat.

31 11. Sell or distribute the artwork authorized under paragraph 10 of
32 this subsection on such terms and for such price as it deems acceptable.

33 12. Consider the adverse and beneficial short-term and long-term
34 economic impacts on resource dependent communities, small businesses and the
35 state of Arizona, of policies and programs for the management, preservation
36 and harvest of wildlife by holding a public hearing to receive and consider
37 written comments and public testimony from interested persons.

38 13. Adopt rules relating to range operations at public shooting ranges
39 operated by and under the jurisdiction of the commission, including the hours
40 of operation, the fees for the use of the range, the regulation of groups and
41 events, the operation of related range facilities, the type of firearms and
42 ammunition that may be used at the range, the safe handling of firearms at
43 the range, THE required safety equipment for a person using the range, the
44 sale of firearms, ammunition and shooting supplies at the range, and the

1 authority of range officers to enforce these rules, to remove violators from
2 the premises and to refuse entry for repeat violations.

3 C. The commission shall confer and coordinate with the director of
4 water resources with respect to the commission's activities, plans and
5 negotiations relating to water development and use, restoration projects
6 under the restoration acts pursuant to chapter 4, article 1 of this title,
7 where water development and use are involved, the abatement of pollution
8 injurious to wildlife and in the formulation of fish and wildlife aspects of
9 the director of water resources' plans to develop and utilize water resources
10 of the state and shall have jurisdiction over fish and wildlife resources and
11 fish and wildlife activities of projects constructed for the state under or
12 pursuant to the jurisdiction of the director of water resources.

13 D. The commission may enter into one or more agreements with a
14 multi-county water conservation district and other parties for participation
15 in the lower Colorado river multispecies conservation program under section
16 48-3713.03, including the collection and payment of any monies authorized by
17 law for the purposes of the lower Colorado river multispecies conservation
18 program.

19 Sec. 24. Section 20-141, Arizona Revised Statutes, is amended to read:

20 20-141. Director of insurance; appointment; qualifications;
21 compensation

22 A. There shall be a director of insurance who shall be appointed by
23 the governor pursuant to section 38-211.

24 B. The ~~term of the~~ director shall ~~be six years and shall expire on the~~
25 ~~third Monday in January of the appropriate year, but he may be removed by~~
26 ~~SERVE AT THE PLEASURE OF~~ the governor ~~for cause~~.

27 C. The director shall be a person well versed in insurance matters who
28 has been a resident of the state for at least three years prior to
29 appointment.

30 D. The director shall receive compensation as determined pursuant to
31 section 38-611.

32 Sec. 25. Section 20-148, Arizona Revised Statutes, is amended to read:

33 20-148. Deputies and other employees; special services

34 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the director shall
35 appoint such other deputies, assistants and clerks, as necessary properly to
36 discharge the duties imposed upon the director under this title.

37 B. The director may from time to time contract for and procure, on a
38 fee or part time basis, or both, such actuarial, technical and other
39 professional services as he may require for the operation of his office.

40 C. The compensation of each deputy, actuary, assistant and clerk shall
41 be as determined pursuant to section 38-611.

42 Sec. 26. Section 23-108, Arizona Revised Statutes, is amended to read:

43 23-108. Director; employees; compensation and expenses

44 A. The ~~commission shall employ a director~~ GOVERNOR SHALL APPOINT A
45 DIRECTOR OF THE INDUSTRIAL COMMISSION PURSUANT TO SECTION 38-211. SUBJECT TO

1 TITLE 41, CHAPTER 4, ARTICLE 4, the director may employ such personnel as
2 deemed necessary by the provisions of chapters 1, 2 and 6 and article 2 of
3 chapter 3 of this title.

4 B. The compensation of the director shall be as determined pursuant to
5 section 38-611. ~~The director shall have such administrative ability,~~
6 ~~education and training as the commission determines. He may be removed by~~
7 ~~the commission for cause.~~ THE DIRECTOR SHALL SERVE AT THE PLEASURE OF THE
8 GOVERNOR.

9 C. The compensation of the director and commission employees and
10 payment of subsistence and travel expenses allowed by law shall be paid from
11 the administrative fund.

12 Sec. 27. Section 23-108.02, Arizona Revised Statutes, is amended to
13 read:

14 23-108.02. Administrative law judges

15 A. The commission shall appoint administrative law judges of the
16 commission who shall be members of the Arizona state bar. ~~and who are~~
17 ~~subject to the state personnel board.~~

18 B. The annual compensation of the chief administrative law judge and
19 of the administrative law judges shall be as determined pursuant to section
20 38-611.

21 Sec. 28. Section 23-391, Arizona Revised Statutes, is amended to read:

22 23-391. Overtime pay; work week

23 A. Subject to availability of appropriated funds, an employee of ~~the~~
24 ~~THIS~~ state or any political subdivision, ~~—~~ serving in a position determined by
25 the law enforcement merit system council, the director of the department of
26 administration, the Arizona board of regents, the board of directors for the
27 Arizona state schools for the deaf and the blind or the governing body of a
28 political subdivision, in the discretion of ~~such~~ THE board or body, to be
29 eligible for overtime compensation who is required to work in excess of ~~such~~
30 ~~THE~~ person's normal work week, ~~—~~ shall be compensated for ~~such~~ THE excess time
31 at the following rates:

32 1. One and one-half times the regular rate at which ~~such~~ THE person is
33 employed or one and one-half hours of compensatory time off for each hour
34 worked if overtime compensation is mandated by federal law.

35 2. If federal law does not mandate overtime compensation, the person
36 shall receive the regular rate of pay or compensatory leave on an hour for
37 hour basis at the discretion of the board or governing body.

38 B. Notwithstanding subsection A OF THIS SECTION, the state or a
39 political subdivision may provide, by action of the law enforcement merit
40 system council, the ARIZONA board of regents, the board of directors for the
41 Arizona state schools for the deaf and the blind or the director of the
42 department of administration in the case of the state or of the governing
43 body of the political subdivision, for a work week of forty hours in less
44 than five days for certain classes of employees employed by the state or the
45 political subdivision.

1 C. FOR STATE AGENCIES OF THE STATE PERSONNEL SYSTEM, UNLESS OTHERWISE
2 PROVIDED BY LAW, THE STATE WORK WEEK IS THE PERIOD OF SEVEN CONSECUTIVE DAYS
3 STARTING SATURDAY AT 12:00 A.M. AND ENDING FRIDAY AT 11:59 P.M.
4 NOTWITHSTANDING ANY OTHER LAW, THE DIRECTOR OF THE DEPARTMENT OF
5 ADMINISTRATION MAY AUTHORIZE A WORKDAY, FOR THE METHOD AND PURPOSE OF
6 RECORDING TIME ENTRIES TO BE INCLUDED IN A WORK WEEK AND A PAY PERIOD FOR
7 EMPLOYEES OF THIS STATE WHO ARE IN THE CORRECTIONAL OFFICER CLASS SERIES OF
8 THE STATE DEPARTMENT OF CORRECTIONS WHO ARE REGULARLY SCHEDULED TO WORK A
9 SHIFT THAT SPANS TWO CALENDAR DAYS, DEFINED AS THE DAY A MAJORITY OF THE
10 HOURS ARE REGULARLY SCHEDULED TO BE WORKED. IF THE REGULARLY SCHEDULED HOURS
11 ARE EQUALLY SPLIT BETWEEN TWO CALENDAR DAYS, THE WORKDAY IS DEFINED AS THE
12 DAY THE SHIFT ENDS. SCHEDULED SHIFT START AND END TIMES SHALL NOT BE
13 ADJUSTED TO AVOID THE PAYMENT OF OVERTIME.

14 Sec. 29. Section 23-406, Arizona Revised Statutes, is amended to read:
15 23-406. Division of occupational safety and health; director;
16 appointment; qualifications; compensation

17 A. There shall be a division of occupational safety and health within
18 the industrial commission.

19 B. The director of the division of occupational safety and health
20 shall be the administrative head of the division under the control of the
21 commission. The director shall be appointed by the commission and shall ~~be~~
22 ~~subject to the rules and regulations of the personnel commission, pursuant to~~
23 ~~title 41, chapter 4, article 5~~ SERVE AT THE PLEASURE OF THE COMMISSION.

24 C. The director shall be:

25 1. A person who has been employed in the safety or health profession a
26 minimum of ten years in the aggregate and is currently engaged in the broad
27 practice of safety or health or one of its relevant specialties or holds a
28 degree from an accredited college or university appropriate to the field of
29 safety and health and has a minimum of five years' experience in the broad
30 practice of safety or one of its relevant specialties, and has been
31 registered or licensed by a state agency as a professional appropriate to his
32 field of safety and health or has been certified as competent within the
33 broad practice of safety or health or one of its relevant specialties by an
34 organization recognized as qualified by the American society of safety
35 engineers or American industrial hygiene association.

36 2. Competent to deal with the planning, design and needs of business
37 operations as the use of such operations ~~relate~~ RELATES to the safe,
38 convenient and economic performance of their business functions, with not
39 less than three years' experience in an administrative capacity in the field
40 of occupational safety and health.

41 D. The salary of the director shall be determined pursuant to section
42 38-611.

1 Sec. 30. Section 23-1501, Arizona Revised Statutes, is amended to
2 read:

3 23-1501. Severability of employment relationships; protection
4 from retaliatory discharges; exclusivity of
5 statutory remedies in employment

6 A. The public policy of this state is that:

7 1. The employment relationship is contractual in nature.

8 2. The employment relationship is severable at the pleasure of either
9 the employee or the employer unless both the employee and the employer have
10 signed a written contract to the contrary setting forth that the employment
11 relationship shall remain in effect for a specified duration of time or
12 otherwise expressly restricting the right of either party to terminate the
13 employment relationship. Both the employee and the employer must sign this
14 written contract, or this written contract must be set forth in the
15 employment handbook or manual or any similar document distributed to the
16 employee, if that document expresses the intent that it is a contract of
17 employment, or this written contract must be set forth in a writing signed by
18 the party to be charged. Partial performance of employment shall not be
19 deemed sufficient to eliminate the requirements set forth in this paragraph.
20 Nothing in this paragraph shall be construed to affect the rights of public
21 employees under the Constitution of Arizona and state and local laws of this
22 state or the rights of employees and employers as defined by a collective
23 bargaining agreement.

24 3. An employee has a claim against an employer for termination of
25 employment only if one or more of the following circumstances have occurred:

26 (a) The employer has terminated the employment relationship of an
27 employee in breach of an employment contract, as set forth in paragraph 2 of
28 this ~~section~~ SUBSECTION, in which case the remedies for the breach are
29 limited to the remedies for a breach of contract.

30 (b) The employer has terminated the employment relationship of an
31 employee in violation of a statute of this state. If the statute provides a
32 remedy to an employee for a violation of the statute, the remedies provided
33 to an employee for a violation of the statute are the exclusive remedies for
34 the violation of the statute or the public policy set forth in or arising out
35 of the statute, including the following:

36 (i) The civil rights act prescribed in title 41, chapter 9.

37 (ii) The occupational safety and health act prescribed in chapter 2,
38 article 10 of this title.

39 (iii) The statutes governing the hours of employment prescribed in
40 chapter 2 of this title.

41 (iv) The agricultural employment relations act prescribed in chapter
42 8, article 5 of this title.

43 (v) THE STATUTES GOVERNING DISCLOSURE OF INFORMATION BY PUBLIC
44 EMPLOYEES PRESCRIBED IN TITLE 38, CHAPTER 3, ARTICLE 9.

1 All definitions and restrictions contained in the statute also apply to any
2 civil action based on a violation of the public policy arising out of the
3 statute. If the statute does not provide a remedy to an employee for the
4 violation of the statute, the employee shall have the right to bring a tort
5 claim for wrongful termination in violation of the public policy set forth in
6 the statute.

7 (c) The employer has terminated the employment relationship of an
8 employee in retaliation for any of the following:

9 (i) The refusal by the employee to commit an act or omission that
10 would violate the Constitution of Arizona or the statutes of this state.

11 (ii) The disclosure by the employee in a reasonable manner that the
12 employee has information or a reasonable belief that the employer, or an
13 employee of the employer, has violated, is violating or will violate the
14 Constitution of Arizona or the statutes of this state to either the employer
15 or a representative of the employer who the employee reasonably believes is
16 in a managerial or supervisory position and has the authority to investigate
17 the information provided by the employee and to take action to prevent
18 further violations of the Constitution of Arizona or statutes of this state
19 or an employee of a public body or political subdivision of this state or any
20 agency of a public body or political subdivision.

21 (iii) The exercise of rights under the workers' compensation statutes
22 prescribed in chapter 6 of this title.

23 (iv) Service on a jury as protected by section 21-236.

24 (v) The exercise of voting rights as protected by section 16-1012.

25 (vi) The exercise of free choice with respect to nonmembership in a
26 labor organization as protected by section 23-1302.

27 (vii) Service in the national guard or armed forces as protected by
28 sections 26-167 and 26-168.

29 (viii) The exercise of the right to be free from the extortion of fees
30 or gratuities as a condition of employment as protected by section 23-202.

31 (ix) The exercise of the right to be free from coercion to purchase
32 goods or supplies from any particular person as a condition of employment as
33 protected by section 23-203.

34 (x) The exercise of a victim's ~~leaves~~ right **TO LEAVE WORK** as provided
35 in sections 8-420 and 13-4439.

36 ~~(d) In the case of a public employee, if the employee has a right to~~
37 ~~continued employment under the United States Constitution, the Arizona~~
38 ~~Constitution, Arizona Revised Statutes, any applicable regulation, policy,~~
39 ~~practice, or contract of the state, any subdivision of the state or other~~
40 ~~public entity, or any ordinance of any political subdivision of the state.~~

41 **B. IF THE STATUTE PROVIDES A REMEDY TO AN EMPLOYEE FOR A VIOLATION OF**
42 **THE STATUTE, THE REMEDIES PROVIDED TO AN EMPLOYEE FOR A VIOLATION OF THE**
43 **STATUTE ARE THE EXCLUSIVE REMEDIES FOR THE VIOLATION OF THE STATUTE OR THE**
44 **PUBLIC POLICY PRESCRIBED IN OR ARISING OUT OF THE STATUTE.**

1 Sec. 31. Section 26-101, Arizona Revised Statutes, is amended to read:

2 26-101. Department of emergency and military affairs:
3 organization; adjutant general; qualifications

4 A. The department of emergency and military affairs is established
5 consisting of a division of emergency management and other divisions or
6 offices as determined by the adjutant general pursuant to section 26-102,
7 subsection C, paragraph 8.

8 B. The department shall consist of the adjutant general and such other
9 officers, warrant officers, enlisted personnel and employees as deemed
10 necessary.

11 C. The department shall be administered and controlled by the governor
12 as commander-in-chief. The adjutant general shall be the director of the
13 department.

14 D. The adjutant general shall be appointed by the governor pursuant to
15 section 38-211 ~~for a term of office of five years or to the age provided by~~
16 ~~federal law relating to state adjutants general, whichever occurs first~~ AND
17 SHALL SERVE AT THE PLEASURE OF THE GOVERNOR. The person appointed shall be a
18 citizen of the United States and a resident of the state of Arizona. At the
19 time of the appointment, the person appointed shall have qualifications
20 required by the United States department of defense for the adjutant general
21 and shall attain federal recognition in a grade not less than brigadier
22 general not later than one year after the appointment. The adjutant general
23 shall have served not less than five years in the national guard of Arizona
24 in the last ten years. Failure to meet these qualifications, ~~or~~ FAILURE to
25 retain federal recognition OR ATTAINMENT OF THE AGE PROVIDED BY FEDERAL LAW
26 RELATING TO STATE ADJUTANTS GENERAL shall terminate the appointment.

27 E. The adjutant general shall receive compensation as determined
28 pursuant to section 38-611, and shall devote full time to the office.

29 F. At the time of appointment, the adjutant general shall receive the
30 state rank of major general and, at that time, shall become the ranking
31 officer in the department of emergency and military affairs.

32 Sec. 32. Section 26-102, Arizona Revised Statutes, is amended to read:

33 26-102. Powers and duties of the adjutant general

34 A. The adjutant general shall serve as head of the department. The
35 governor as commander in chief shall administer and control the national
36 guard, and the adjutant general is responsible to the governor for execution
37 of all orders relating to the militia, organization, activation,
38 reactivation, inactivation and allocation of units, recruiting of personnel,
39 public relations and discipline and training of the national guard and those
40 members of the militia inducted into the service of this state as provided in
41 this chapter. The adjutant general shall act as military chief of staff to
42 the governor and chief of all branches of the militia. The adjutant general
43 may belong to the national association and other organizations for the
44 betterment of the national guard, subscribe to and obtain periodicals,
45 literature and magazines of such other organizations and pay dues and charges

1 from monies of this state appropriated for that purpose. Except for the
2 authority expressly reserved for the governor, the adjutant general is
3 responsible for emergency management, and all emergency activities are
4 subject to the approval of the adjutant general.

5 B. The adjutant general, as the military chief of staff, shall:

6 1. Act as military advisor to the governor and perform, as the
7 governor prescribes, military duties not otherwise designated by law.

8 2. Adopt methods of administration for the national guard that are not
9 inconsistent with laws and regulations of the United States department of
10 defense or any subdivision of the United States department of defense.

11 3. Supervise and direct the organization, regulation, instruction and
12 other activities of the national guard.

13 4. Attest and record all commissions issued by the governor and
14 maintain a register of all commissioned personnel.

15 5. Keep a record of all orders and regulations pertaining to the
16 national guard and all other writings and papers relating to reports and
17 returns of units comprising the national guard and militia.

18 6. Superintend the preparation of returns, plans and estimates
19 required by this state, by the department of the army, air force or navy and
20 by the secretary of defense.

21 7. Control the use of and care for, preserve and maintain all military
22 property belonging to or issued to this state and pay from monies
23 appropriated by the legislature for these purposes the necessary expenses for
24 labor and material incurred in the repair of military property.

25 8. Dispose of unserviceable military property belonging to this state,
26 account for the proceeds and transmit them to the morale, welfare and
27 recreational fund established by section 26-153.

28 9. Authenticate with the seal of the office of the adjutant general
29 all orders and copies of orders issued by the adjutant general's office. An
30 authenticated copy has the same force and effect as the original.

31 10. Present to the governor before each regular session of the
32 legislature, or as otherwise required, an estimate of the financial
33 requirements for state monies for operation of the department and the
34 national guard during the next fiscal year.

35 C. The adjutant general, as head of the department, shall:

36 1. Be the administrator of the department.

37 2. Coordinate the functions of the divisions and offices of the
38 department.

39 3. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,**
40 **ARTICLE 5,** appoint, suspend, demote, promote or dismiss employees of the
41 department ~~who are subject to title 41, chapter 4, article 5 and employees~~
42 ~~who are exempt from state personnel administration~~. The adjutant general may
43 delegate this authority.

44 4. Appoint an auditor for the department to conduct periodic financial
45 and compliance audits of each division and office in the department and

1 perform such other duties as prescribed by law. At least annually the
2 auditor shall audit accounts that are open for more than twelve months. The
3 auditor shall determine within the department compliance with purchase and
4 bidding procedures prescribed by law.

5 5. Adopt, with the approval of the governor, rules necessary for the
6 operation of the department.

7 6. Establish and administer accounts for federal, state or other
8 monies made available to carry out the functions of the department.

9 7. As deemed necessary, appoint to peace officer status members of the
10 Arizona national guard who have been awarded a United States army military
11 occupational specialty as military policeman or a United States air force
12 specialty code as security policeman. Before appointment as peace officers,
13 such individuals must successfully complete a course of study to be
14 prescribed by the Arizona peace officer standards and training board.
15 Individuals appointed as peace officers pursuant to this section, when
16 performing duties at facilities or on land operated or controlled by or under
17 the jurisdiction of the adjutant general, have all the powers, privileges and
18 immunities of peace officers provided by law. Individuals appointed as peace
19 officers pursuant to this section are not eligible to participate in funding
20 provided by the peace officers' training fund established by section 41-1825
21 or in the public safety personnel retirement system.

22 8. Establish, abolish or reorganize the positions or organizational
23 structure within the department, subject to legislative appropriation, if, in
24 the adjutant general's judgment, the modification would make the operation of
25 the department more efficient, effective or economical.

26 9. Establish an educational program for persons who have previously
27 dropped out of high school and who are under twenty years of age but who are
28 not adjudicated delinquent. The educational program shall be designated
29 "project challenge", and the program shall be conducted by the national guard
30 of Arizona in a paramilitary environment. The goal of the educational
31 program is to provide persons enrolled in the program with the knowledge and
32 skills necessary to become productive citizens and to obtain a general
33 equivalency diploma. In addition to monies appropriated for the program, the
34 adjutant general may accept and spend monies from any other lawful public or
35 private source.

36 10. Submit to the governor, the president of the senate and the speaker
37 of the house of representatives annually by September 1 a report for the
38 department for the preceding fiscal year including:

- 39 (a) The strength and condition of the national guard.
40 (b) The business transactions of the department.
41 (c) A detailed statement of expenditures for all military and civilian
42 purposes.
43 (d) The disposition of all military and civilian property on hand or
44 issued.

1 (e) A description of the activity in the camp Navajo fund established
2 by section 26-152.

3 (f) A detailed statement of the national guard postsecondary education
4 reimbursement program pursuant to section 26-181, subsection D.

5 D. The adjutant general, with the approval of the governor, may:

6 1. Enter into contracts with individuals, this state, political
7 subdivisions of this state or the federal government and its agencies for the
8 purchase, acquisition, rental or lease of lands, buildings or military
9 materiel and take title in the name of this state for the establishment and
10 maintenance of armories, subject to legislative appropriation for these
11 purposes.

12 2. Procure and contract for procurement of equipment and its issuance
13 to members of the militia inducted into the service of this state.

14 3. Enter into agreements and plans with the state universities,
15 community colleges or any educational institution supported by federal or
16 state monies for promotion of the best interests of the national guard and
17 military training of students of the institutions.

18 4. Lease property acquired under this chapter for any public purpose
19 for a period of one year that is renewable.

20 5. Convey for any public purpose in the name of this state easements
21 on real property acquired under this chapter.

22 6. Enter into contracts or agreements with the federal government that
23 are deemed to be in the best interest of this state and the national guard.

24 7. Delegate the powers and duties in this section.

25 8. Adopt methods of security for the national guard reservations or
26 facilities that are consistent with the laws, regulations or directives of
27 the United States department of defense or any subdivision of the United
28 States department of defense and the laws of this state.

29 Sec. 33. Section 26-305, Arizona Revised Statutes, is amended to read:

30 26-305. Division of emergency management; duties; director;
31 term; qualifications; compensation; emergency
32 management training fund

33 A. There is established in the department of emergency and military
34 affairs the division of emergency management, which is administered by the
35 department under the authority of the adjutant general, subject to powers
36 vested in the governor as provided by law.

37 B. The division shall prepare for and coordinate those emergency
38 management activities that may be required to reduce the impact of disaster
39 on persons or property.

40 C. Through the powers vested in the governor, the division shall
41 coordinate the cooperative effort of all governmental agencies including the
42 federal government, this state and its political subdivisions to alleviate
43 suffering and loss resulting from disaster.

44 D. The adjutant general shall appoint the director who serves at the
45 pleasure of the adjutant general. The adjutant general shall select the

1 director on the basis of demonstrated ability in governmental functions or
2 business administration and general knowledge of contingency planning and
3 disaster preparedness.

4 E. The director is eligible to receive compensation pursuant to
5 section 38-611.

6 ~~F. Employees other than the director are employees as defined by~~
7 ~~section 41-762.~~

8 ~~G.~~ F. The emergency management training fund is established
9 consisting of monies received from fees collected by the division for
10 coordinating symposiums, training conferences and seminars relating to its
11 powers and duties. The director of the division shall deposit all fees
12 collected for these activities in the fund, which shall be used only for
13 expenses of the activities. All monies collected from each event that are in
14 excess of the expenses of the event shall revert to the state general fund by
15 the end of the fiscal year.

16 Sec. 34. Section 27-122, Arizona Revised Statutes, is amended to read:

17 27-122. Deputy inspectors

18 SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the state mine inspector may
19 appoint and assign such deputy inspectors to perform the duties of the state
20 mine inspector as prescribed by law. All deputies shall receive compensation
21 as determined pursuant to section 38-611.

22 Sec. 35. Section 27-151, Arizona Revised Statutes, is amended to read:

23 27-151. Arizona geological survey; state geologist; powers;
24 definition

25 A. The Arizona geological survey is established with offices located
26 in proximity to the university of Arizona in Tucson. The governor shall
27 appoint a state geologist, pursuant to section 38-211, to be the
28 administrative head of the Arizona geological survey and to serve at the
29 pleasure of the governor. The state geologist shall be registered as a
30 geologist by the state board of technical registration, a graduate of an
31 accredited institution and otherwise qualified by education and experience to
32 direct the research and information functions of the Arizona geological
33 survey.

34 B. The state geologist may organize the Arizona geological survey into
35 such administrative units, and, SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,
36 employ ~~such permanent, temporary, part-time and volunteer~~ professional and
37 support staff, as necessary to achieve the objectives and promote the
38 policies prescribed by this article.

39 C. The state geologist may:

40 1. Retain the services of faculty members or students, and shall have
41 reasonable access to the data and other resources, of the university of
42 Arizona or any other state university in this state to conduct or supervise
43 research, experimentation or other related work of the Arizona geological
44 survey.

1 2. Organize field expeditions to perform work for the Arizona
2 geological survey using university students who are sufficiently advanced in
3 their study of geology to be able to perform satisfactory work.

4 3. Establish and appoint an advisory board consisting of independent
5 practicing geologists, university or college faculty, mining geologists and
6 others who use and rely on data, information and other services of the
7 Arizona geological survey.

8 4. EMPLOY VOLUNTEER STAFF AS NECESSARY.

9 D. The expenses of the Arizona geological survey shall be paid by
10 annual appropriation from the state general fund and as otherwise provided by
11 this article and article 1 of this chapter.

12 E. For the purposes of this article, "mineral resources" means all
13 metallic, nonmetallic and energy resources, including coal, oil, natural gas,
14 geothermal resources, carbon dioxide and helium.

15 Sec. 36. Section 28-363, Arizona Revised Statutes, is amended to read:

16 28-363. Duties of the director; administration

17 A. The director shall:

18 1. Supervise and administer the overall activities of the department
19 and its divisions and employees.

20 2. Appoint assistant directors for each of the divisions.

21 3. Provide for the assembly and distribution of information to the
22 public concerning department activities.

23 4. Delegate functions, duties or powers as the director deems
24 necessary to carry out the efficient operation of the department.

25 5. Exercise complete and exclusive operational control and
26 jurisdiction over the use of state highways and routes.

27 6. Coordinate the design, right-of-way purchase and construction of
28 controlled access highways that are either state routes or state highways and
29 related grade separations of controlled access highways.

30 7. Coordinate the design, right-of-way purchase, construction,
31 standard and reduced clearance grade separation, extension and widening of
32 arterial streets and highways under chapters 17 and 18 of this title.

33 8. Assist regional transportation planning agencies, councils of
34 government, tribal governments, counties, cities and towns in the development
35 of their regional and local transportation plans to ensure that the streets,
36 highways and other regionally significant modes of transportation within each
37 county form an integrated and efficient regional system.

38 9. On or before December 1, present an annual report to the speaker of
39 the house of representatives and the president of the senate documenting the
40 expenditures of monies under chapters 17 and 18 of this title during the
41 previous fiscal year relating to the design, right-of-way purchase or
42 construction of controlled access highways that are accepted in the state
43 highway system as state routes or state highways or related grade separations
44 of controlled access highways that are included in the regional
45 transportation plans of the counties.

1 10. Designate the necessary agencies for enforcing the provisions of
2 the laws the director administers or enforces.

3 11. Exercise other duties or powers as the director deems necessary to
4 carry out the efficient operation of the department.

5 12. Cooperate with the Arizona-Mexico commission in the governor's
6 office and with researchers at universities in this state to collect data and
7 conduct projects in the United States and Mexico on issues that are within
8 the scope of the department's duties and that relate to quality of life,
9 trade and economic development in this state in a manner that will help the
10 Arizona-Mexico commission to assess and enhance the economic competitiveness
11 of this state and of the Arizona-Mexico region.

12 13. Develop a plan to increase use of bypass routes by vehicles on days
13 of poor visibility in the Phoenix metropolitan area.

14 B. The assistant directors appointed pursuant to subsection A **OF THIS**
15 **SECTION** are ~~exempt from the state personnel system~~ **SUBJECT TO TITLE 41,**
16 **CHAPTER 4, ARTICLE 4.**

17 C. The director shall not spend any monies, adopt any rules or
18 implement any policies or programs to convert signs to the metric system or
19 to require the use of the metric system with respect to designing or
20 preparing plans, specifications, estimates or other documents for any highway
21 project before the conversion or use is required by federal law, except that
22 the director may:

23 1. Spend monies and require the use of the metric system with respect
24 to designing or preparing plans, specifications, estimates or other documents
25 for a highway project that is awarded before October 1, 1997 and that is
26 exclusively metric from its inception.

27 2. Prepare for conversion to and use of the metric system not more
28 than six months before the conversion or use is required by federal law.

29 Sec. 37. Section 30-103, Arizona Revised Statutes, is amended to read:

30 30-103. Administrative powers of authority; compensation of
31 assistants

32 A. The authority shall determine its organizational structure and
33 methods of procedure in accordance with the provisions of this chapter, and
34 may adopt, amend or rescind the routine and general rules, regulations and
35 forms and prescribe a system of accounts.

36 B. The authority shall provide necessary records, including order,
37 resolution and minute books. It may act, effectuate, manifest and record its
38 actions by motion, resolution, order or other appropriate method. Minute,
39 order and resolution records shall be orderly arranged and conveniently
40 indexed. Records of the authority shall be public and open for inspection
41 during business hours.

42 C. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,** the authority may employ
43 engineering, accounting, skilled and other assistants, define their duties
44 and provide the conditions of employment. All positions shall be filled by

1 persons selected and appointed on a nonpartisan, fitness and qualification
2 basis.

3 D. Assistants, employed under the provisions of this section, shall
4 receive compensation as determined pursuant to section 38-611.

5 Sec. 38. Section 30-108, Arizona Revised Statutes, is amended to read:
6 30-108. Powers and duties of commission; annual report

7 A. The members of the commission shall devote to their duties as
8 members such time and attention as is necessary to effectuate the purposes of
9 this chapter and to carry out their duties and exercise their powers. The
10 commission shall designate a person or persons who shall execute all
11 documents and instruments on behalf of the authority.

12 B. The commission shall acquire suitable offices, furnishings and
13 articles of equipment and necessary supplies.

14 C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the commission may
15 employ a person in the capacity of director, manager or chief engineer who
16 shall be a duly licensed engineer, but who need not be a resident or licensed
17 in this state. Such person shall be actively engaged in the practice of his
18 profession and trained and experienced in the performance of his duties.
19 Such person shall not hold any other public office or have any interest in a
20 business that may be adversely affected by the operation of the authority in
21 the exercise of its powers and discharge of its duties.

22 D. The commission shall make and submit to the governor on or before
23 December 1 each year a report containing a full and complete account of its
24 transactions and proceedings for the preceding fiscal year, together with
25 other facts, suggestions and recommendations deemed of public value.

26 Sec. 39. Section 30-652, Arizona Revised Statutes, is amended to read:
27 30-652. Radiation regulatory agency; director; duties

28 A. There is established a radiation regulatory agency.

29 B. The governor shall appoint a director pursuant to section 38-211 to
30 administer the agency to serve at the pleasure of the governor. The director
31 is entitled to receive compensation as determined under section 38-611.

32 C. The director shall:

33 1. Administer and enforce this chapter and the rules and regulations
34 promulgated under this chapter.

35 2. Subject to title 41, chapter 4, ARTICLE 4 AND, AS APPLICABLE,
36 articles 5 and 6, employ, determine the conditions of employment and specify
37 the duties of inspectors, technical assistants and other employees of the
38 agency.

39 3. Subject to title 41, chapter 4, ~~articles 5 and 6~~ ARTICLE 4, employ
40 persons to act as investigators as deemed necessary by the agency to assist
41 the agency in carrying out the powers and duties prescribed in this chapter.

42 4. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ consultants or
43 persons possessing technical expertise as deemed necessary to assist the
44 agency in carrying out the agency's powers and duties prescribed in this
45 chapter.

1 (c) Impose additional terms and conditions on the offender while
2 keeping the offender on community supervision. If there is reasonable cause
3 to believe that an offender who has been kept on community supervision has
4 violated any term or condition of community supervision, any member of the
5 board may petition the board to revoke community supervision. After a
6 petition to revoke has been submitted, the chairman may issue a summons
7 directing the offender to appear on a specified date for a revocation hearing
8 or may issue a warrant for the offender's arrest. Nothing in this subsection
9 limits the state department of corrections' authority with respect to
10 submitting revocation petitions or issuing revocation warrants.

11 D. Any recommendation for commutation that is made unanimously by the
12 members present and voting and that is not acted on by the governor within
13 ninety days after the board submits its recommendation to the governor
14 automatically becomes effective.

15 E. The executive director shall perform all administrative,
16 operational and financial functions for the board.

17 F. The executive director may employ case analysts as deemed necessary
18 within the limits of legislative appropriation **AND SUBJECT TO TITLE 41,**
19 **CHAPTER 4, ARTICLE 4.** The analyst shall aid the board in making
20 investigations, in securing information and in performing necessary
21 administrative functions to assist the board in passing upon applications for
22 parole and commutation.

23 G. The executive director may employ hearing officers as deemed
24 necessary within the limits of legislative appropriation **AND SUBJECT TO TITLE**
25 **41, CHAPTER 4, ARTICLE 4.** The hearing officers shall conduct probable cause
26 hearings on parole, work furlough and home arrest revocations or rescissions.
27 Hearing officers shall assist the board in making investigations, securing
28 information and performing necessary administrative functions.

29 Sec. 41. Section 32-106, Arizona Revised Statutes, is amended to read:
30 **32-106. Powers and duties**

31 A. The board shall:

32 1. Adopt rules for the conduct of its meetings and performance of
33 duties imposed upon it by law.

34 2. Adopt an official seal for attestation of certificates of
35 registration and other official papers and documents.

36 3. Consider and pass upon applications for registration or
37 certification.

38 4. Conduct examinations for in-training and professional registration.

39 5. Hear and pass upon complaints or charges or direct an
40 administrative law judge to hear and pass on complaints and charges.

41 6. Compel attendance of witnesses, administer oaths and take testimony
42 concerning all matters coming within its jurisdiction. In exercising these
43 powers, the board may issue subpoenas for the attendance of witnesses and the
44 production of books, records, documents and other evidence it deems relevant
45 to an investigation or hearing.

1 7. Keep a record of its proceedings.

2 8. Keep a register which shall show the date of each application for
3 registration or certification, the name of the applicant, the practice or
4 branch of practice in which the applicant has applied for registration, if
5 applicable, and the disposition of the application.

6 9. Do other things necessary to carry out the purposes of this
7 chapter.

8 B. The board shall specify the proficiency designation in the branch
9 of engineering in which the applicant has designated proficiency on the
10 certificate of registration and renewal card issued to each registered
11 engineer and shall authorize the engineer to use the title of registered
12 professional engineer. The board shall decide what branches of engineering
13 it shall recognize.

14 C. The board may hold membership in and be represented at national
15 councils or organizations of proficiencies registered under this chapter and
16 may pay the appropriate membership fees. The board may conduct standard
17 examinations on behalf of national councils and may establish fees for those
18 examinations.

19 D. The board may employ and pay on a fee basis persons, including
20 full-time employees of a state institution, bureau or department, to prepare
21 and grade examinations given to applicants for registration and may fix the
22 fee to be paid for these services. These employees are authorized to
23 prepare, grade and monitor examinations and perform other services the board
24 authorizes, and to receive payment for these services from the technical
25 registration fund. The board may contract with an organization to administer
26 the registration examination including selecting the test site, scheduling
27 the examination, billing and collecting the fee directly from the applicant
28 and grading the examination if a national council of which the board is a
29 member or a professional association approved by the board does not provide
30 these services. If a national council of which the board is a member or a
31 professional association approved by the board does provide these services,
32 the board shall enter into an agreement with the national council or
33 professional association to administer the registration examination.

34 E. The board may rent necessary office space and pay the cost of this
35 office space from the technical registration fund.

36 F. The board may adopt rules establishing rules of professional
37 conduct for registrants.

38 G. The board may require evidence it deems necessary to establish the
39 continuing competency of registrants as a condition of renewal of licenses.

40 H. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, the board may employ
41 persons as it deems necessary.

42 I. The board shall issue a certificate and renewal card to each drug
43 laboratory site remediation firm, remediation supervisor and on-site worker.

1 Sec. 42. Section 32-304, Arizona Revised Statutes, is amended to read:

2 32-304. Powers and duties

3 A. The board shall:

4 1. Make and adopt rules which are necessary or proper for the
5 administration of this chapter, including sanitary and safety requirements
6 for schools and shops or salons, sanitary and safety standards for the
7 practice of barbering and mobile unit requirements.

8 2. Administer and enforce the provisions of this chapter and rules
9 adopted pursuant to this chapter.

10 3. Maintain a record of its acts and proceedings, including issuance,
11 refusal, renewal, suspension and revocation of licenses, and a record of the
12 name, address and license date of each licensee.

13 4. Keep the records of the board open to public inspection at all
14 reasonable times.

15 5. Furnish a copy of its rules to a barber or to the owner or manager
16 of each shop or salon on request.

17 6. Have a seal, the imprint of which shall be used to evidence its
18 official acts.

19 7. Prescribe minimum school curriculum requirements.

20 B. The board may:

21 1. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ an executive
22 director who has been a licensed barber for at least five years preceding
23 employment and other ~~permanent or temporary~~ personnel it deems necessary.
24 The board shall compensate its executive director and other ~~permanent and~~
25 ~~temporary~~ personnel as determined pursuant to section 38-611.

26 2. Inspect the premises of any school, shop or salon during business
27 hours.

28 Sec. 43. Section 32-503, Arizona Revised Statutes, is amended to read:

29 32-503. Organization; meetings; personnel; compensation

30 A. The board shall annually elect a chairman, vice-chairman and
31 secretary-treasurer from among its membership.

32 B. The board shall hold at least one regular meeting monthly and may
33 hold other meetings at times and places it designates.

34 C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ the
35 following personnel as it deems necessary to carry out the purposes of this
36 chapter and designate their duties:

37 1. An executive director who shall have been a licensed cosmetologist
38 for at least one of the five years immediately preceding employment.

39 2. A supervisor of examinations who is an instructor licensed pursuant
40 to this chapter and has worked at least two of the five years immediately
41 preceding employment as an instructor in a school licensed pursuant to this
42 chapter.

43 3. Examiners who shall not be employed as instructors in any school
44 licensed pursuant to this chapter.

45 4. Other ~~permanent or temporary~~ personnel.

1 D. Members of the board are eligible to receive compensation as
2 determined pursuant to section 38-611 for each day of actual service in the
3 business of the board. The board shall compensate its executive director and
4 other ~~permanent and temporary~~ personnel as determined pursuant to section
5 38-611.

6 Sec. 44. Section 32-703, Arizona Revised Statutes, is amended to read:
7 32-703. Powers and duties; rules; executive director; advisory
8 committees and individuals

9 A. The primary duty of the board is to protect the public from
10 unlawful, incompetent, unqualified or unprofessional certified public
11 accountants or public accountants through certification, regulation and
12 rehabilitation.

13 B. The board may:

14 1. Investigate complaints filed with the board or on its own motion to
15 determine whether a certified public accountant or public accountant has
16 engaged in conduct in violation of this chapter or rules adopted pursuant to
17 this chapter.

18 2. Establish and maintain high standards of competence, independence
19 and integrity in the practice of accounting by a certified public accountant
20 or by a public accountant as required by generally accepted auditing
21 standards and generally accepted accounting principles and, in the case of
22 publicly held corporations or enterprises offering securities for sale, in
23 accordance with state or federal securities agency accounting requirements.

24 3. Establish reporting requirements that require registrants to
25 report:

26 (a) The imposition of any discipline on the right to practice before
27 the federal securities and exchange commission, the internal revenue service,
28 any state board of accountancy, other government agencies or the public
29 company accounting oversight board.

30 (b) Any criminal conviction, any civil judgment involving negligence
31 in the practice of accounting by a certified public accountant or by a public
32 accountant and any judgment or order as described in section 32-741,
33 subsection A, paragraphs 7 and 8.

34 4. Establish basic requirements for continuing professional education
35 of certified public accountants and public accountants, except that the
36 requirements shall not exceed eighty classroom hours in any registration
37 renewal period.

38 5. Adopt procedures concerning disciplinary actions, administrative
39 hearings and consent decisions.

40 6. Issue to qualified applicants certificates executed for and on
41 behalf of the board by the signatures of the president and secretary of the
42 board.

43 7. Adopt procedures and rules concerning examination and grading the
44 examinations of individuals applying for a certificate as required by this
45 chapter.

1 8. Require peer review pursuant to rules adopted by the board on a
2 general and random basis of the professional work of a registrant engaged in
3 the practice of accounting.

4 9. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ an executive
5 director and other personnel that it considers necessary to administer and
6 enforce this chapter.

7 10. Appoint accounting and auditing, tax, peer review, law,
8 certification, continuing professional education or other committees or
9 individuals as it considers necessary to advise or assist the board in
10 administering and enforcing this chapter. These committees and individuals
11 serve at the pleasure of the board.

12 11. Take all action that is necessary and proper to effectuate the
13 purposes of this chapter.

14 12. Sue and be sued in its official name as an agency of this state.

15 13. Adopt and amend rules concerning the definition of terms, the
16 orderly conduct of the board's affairs and the effective administration of
17 this chapter.

18 C. The board or an authorized agent of the board may:

19 1. Issue subpoenas to compel the attendance of witnesses or the
20 production of documents. If a subpoena is disobeyed, the board may invoke
21 the aid of any court in requiring the attendance and testimony of witnesses
22 and the production of documents.

23 2. Administer oaths and take testimony.

24 3. Cooperate with the appropriate authorities in other jurisdictions
25 in investigation and enforcement concerning violations of this chapter and
26 comparable statutes of other jurisdictions.

27 4. Receive evidence concerning all matters within the scope of this
28 chapter.

29 Sec. 45. Section 32-802, Arizona Revised Statutes, is amended to read:

30 32-802. Board of podiatry examiners; compensation

31 A. There shall be a state board of podiatry examiners which shall
32 consist of five members appointed by the governor. Each member shall be
33 appointed for a term of five years, to begin and end on February 1.

34 B. Three members of the board shall have practiced podiatry
35 continuously in this state for not less than two years immediately preceding
36 appointment and shall have valid licenses to practice podiatry. Two members
37 of the board shall be lay persons. All members of the board shall be
38 citizens of the United States.

39 C. A vacancy on the board occurring other than by the expiration of a
40 term shall be filled by appointment by the governor for the unexpired term.

41 D. All appointments shall be made promptly, and in the case of the
42 vacancy of a professional member or members, appointment shall be made no
43 later than ninety days from the expiration of the term or vacancy.

1 E. The term of any member may, at the discretion of the board, end and
2 the office be declared vacant for failure to attend three consecutive
3 meetings of the board.

4 F. Members of the board shall receive compensation of fifty dollars
5 for each day of actual service in the business of the board.

6 G. The state board of podiatry examiners may hire practicing
7 podiatrists or other medical specialists, or both, as needed, in order to
8 assist the board in giving examinations. Such examiners shall receive the
9 same compensation as board members.

10 H. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ
11 ~~temporary and permanent~~ personnel, including trained investigators, as it
12 deems necessary to carry out the purposes of this chapter.

13 I. Members, ~~temporary and permanent~~ personnel and examiners of the
14 board are personally immune from suit with respect to all acts done and
15 actions taken in good faith and in furtherance of the purposes of this
16 chapter.

17 Sec. 46. Section 32-905, Arizona Revised Statutes, is amended to read:
18 32-905. Executive director of board; duties; other personnel;
19 immunity

20 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
21 an executive director who is not a member of the board and who shall serve at
22 the pleasure of the board.

23 B. The executive director shall:

- 24 1. Keep a record of the proceedings of the board.
- 25 2. Collect all monies due and payable to the board.
- 26 3. Deposit, pursuant to sections 35-146 and 35-147, all monies
27 received by the board in the board of chiropractic examiners fund.
- 28 4. Prepare bills for authorized expenditures of the board and obtain
29 warrants from the director of the department of administration for payment of
30 bills.

31 5. Administer oaths.

32 6. Act as custodian of the seal, books, minutes, records and
33 proceedings of the board.

34 7. At the request of the board, do and perform any other duty not
35 prescribed for the executive director elsewhere in this chapter.

36 C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ
37 other ~~permanent and temporary~~ personnel as it deems necessary to carry out
38 the purposes of this chapter.

39 D. The executive director and a person acting pursuant to the
40 executive director's direction is personally immune from civil liability for
41 all actions taken in good faith pursuant to this chapter.

1 Sec. 47. Section 32-1103, Arizona Revised Statutes, is amended to
2 read:

3 32-1103. Registrar of contractors; salary

4 The governor shall appoint a registrar of contractors pursuant to
5 section 38-211 ~~for a term coterminous with that of the governor or until his~~
6 ~~successor is appointed and qualifies.~~ **THE REGISTRAR SHALL SERVE AT THE**
7 **PLEASURE OF THE GOVERNOR.** The registrar is vested with all functions and
8 duties relating to administration of this chapter. ~~He~~ **THE REGISTRAR** shall
9 receive compensation as determined pursuant to section 38-611.

10 Sec. 48. Section 32-1104, Arizona Revised Statutes, is amended to
11 read:

12 32-1104. Powers and duties

13 A. The registrar, in addition to other duties and rights provided for
14 in this chapter, shall:

15 1. Maintain an office in Phoenix and in such other cities and towns in
16 the state as the registrar deems advisable and necessary.

17 2. Maintain a complete indexed record of all applications and licenses
18 issued, renewed, terminated, cancelled, revoked or suspended under this
19 chapter, including timely notation of any judicial disposition on appeal, for
20 a period of not less than seven years.

21 3. Furnish a certified copy of any license issued or an affidavit that
22 no license exists or that a license has been cancelled or suspended including
23 information as to the status on appeal of such cancellation or suspension,
24 upon receipt of the prescribed fee, and such certified copy shall be received
25 in all courts and elsewhere as prima facie evidence of the facts stated
26 therein. The registrar shall also furnish certified copies of license bonds
27 or cash deposit certificates upon receipt of the prescribed fee. Fees
28 charged pursuant to this paragraph shall be at a rate of ten dollars per
29 hour, except that the minimum fee charged pursuant to this paragraph shall be
30 ten dollars.

31 4. Employ such deputies, investigators and assistants **SUBJECT TO TITLE**
32 **41, CHAPTER 4, ARTICLE 4,** and procure such equipment and records, as are
33 necessary to enforce this chapter. With respect to the enforcement of
34 section 32-1164, the registrar or the registrar's investigators are vested
35 with the authority to issue a citation to any violators of this chapter in
36 accordance with section 13-3903. When the registrar or the registrar's
37 investigators conduct investigations they are authorized to receive criminal
38 history record information from the department of public safety and other law
39 enforcement agencies.

40 5. Make rules the registrar deems necessary to effectually carry out
41 the provisions and intent of this chapter. Such rules shall include the
42 adoption of minimum standards for good and workmanlike construction. In the
43 adoption of such rules of minimum standards, the registrar shall be guided by
44 established usage and procedure as found in the construction business in this
45 state. If the rules of minimum standards adopted by the registrar are in any

1 manner inconsistent with a building or other code of the state, a county,
2 city or other political subdivision or local authority of the state,
3 compliance with such code shall constitute good and workmanlike construction
4 for the purposes of this chapter.

5 6. Apply the following to proposed rule changes:

6 (a) The registrar of contractors, at the time the registrar files
7 notice of proposed rule change with the secretary of state in compliance with
8 title 41, chapter 6, shall mail to each trade association that qualifies in
9 accordance with subdivision (b), and any other individual holding a bona fide
10 contractor's license who qualifies in accordance with subdivision (b), a copy
11 of the notice of proposed rule change.

12 (b) Every trade association in this state allied with the contracting
13 business that files a written request that a notice be mailed to it and shows
14 that the association has an interest in the rules of the registrar of
15 contractors shall receive a copy thereof, as set forth in subdivision (a).
16 Such filing of a request shall be made every two years during the month of
17 January, and it shall contain information as to the nature of the association
18 and its mailing address. Any duly licensed contractor who files a written
19 request shall receive a copy of the proposed rule changes in accordance with
20 this paragraph. Each such request shall be made every two years during the
21 month of January.

22 7. Prepare and furnish decals and business management books when
23 deemed advisable by the registrar. A reasonable fee may be charged for such
24 decals and business management books.

25 8. Refer criminal violations of this chapter committed by persons
26 previously named on a license which has been revoked to the appropriate law
27 enforcement agency or prosecuting authority.

28 B. The registrar may develop and institute programs to do any of the
29 following:

30 1. Educate the public and contractors licensed pursuant to this
31 chapter regarding statutes, rules, policies and operations of the agency.

32 2. Assist in the resolution of disputes in an informal process before
33 a reportable written complaint is filed. The registrar shall notify the
34 licensed contractor in an alleged dispute before a written complaint is filed
35 and allow the contractor the opportunity to be present at any inspection
36 regarding the alleged dispute. The registrar shall give the contractor at
37 least five days' notice before the inspection. Issues in the alleged dispute
38 under this section shall not be limited in number and shall not be considered
39 formal written complaints. The homeowner reserves the right to deny access
40 to the contractor under this informal complaint process. The registrar shall
41 notify the contractor and the homeowner in writing of the registrar's
42 findings within five days after the date of the inspection. The registrar
43 shall not post any information regarding the informal complaint process as
44 part of a licensee's record on the registrar's web site.

1 3. Develop, manage, operate and sponsor construction related programs
2 designed to benefit the public in conjunction with other private and public
3 entities.

4 C. The registrar may adopt rules for the posting of names of
5 applicants and personnel of applicants for contractors' licenses and furnish
6 copies of such posting lists upon written request. The name and address of
7 the applicant, together with the names and addresses and official capacity of
8 all persons associated with the applicant who have signed the application,
9 shall be publicly posted in the place and manner to be prescribed by the
10 registrar for a period of not less than twenty days, except as otherwise
11 provided in this subsection, commencing on the day designated by the
12 registrar of contractors. The registrar may waive a part of the posting
13 period when the records reflect that the applicant or qualifying party has
14 previously undergone the twenty day posting for a previous license. A
15 reasonable charge of not to exceed two dollars per month may be made for
16 compilation, printing and postage for such posting lists.

17 D. The registrar may accept voluntary gifts, grants or matching monies
18 from public agencies or enterprises for the conduct of programs that are
19 authorized by this section or that are consistent with the purpose of this
20 chapter.

21 Sec. 49. Section 32-1205, Arizona Revised Statutes, is amended to
22 read:

23 32-1205. Organization; meetings; quorum; staff

24 A. The board shall elect from its membership a president and a
25 vice-president who shall act also as secretary-treasurer.

26 B. Board meetings shall be conducted pursuant to title 38, chapter 3,
27 article 3.1. A majority of the board constitutes a quorum.

28 C. The board may employ an executive director, subject to [TITLE 41,](#)
29 [CHAPTER 4, ARTICLE 4 AND](#) legislative appropriation.

30 D. The board or the executive director may employ personnel, as
31 necessary, subject to [TITLE 41, CHAPTER 4, ARTICLE 4 AND](#) legislative
32 appropriation.

33 Sec. 50. Section 32-1305, Arizona Revised Statutes, is amended to
34 read:

35 32-1305. Executive director; compensation; duties

36 A. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,](#) the board shall appoint
37 an executive director who serves at the pleasure of the board. The executive
38 director shall not be a board member and shall not have a pecuniary or
39 proprietary interest in a funeral establishment or crematory or in the sale
40 of funeral goods and services.

41 B. The executive director is eligible to receive compensation pursuant
42 to section 38-611.

43 C. The executive director shall perform duties as directed by the
44 board.

1 Sec. 51. Section 32-1307, Arizona Revised Statutes, is amended to
2 read:

3 32-1307. Powers and duties of board

4 A. The board shall:

5 1. Administer and enforce this chapter and the rules adopted pursuant
6 to this chapter.

7 2. Adopt a seal.

8 3. Maintain a record of the name and the mailing or employer's
9 business address of each licensee and registrant.

10 4. Investigate alleged violations of this chapter and the rules
11 adopted pursuant to this chapter.

12 5. Adopt rules in accordance with title 41, chapter 6. Rules adopted
13 by the board shall include provisions relating to the following:

14 (a) The keeping and disposition of records by licensees and
15 registrants.

16 (b) Standards of practice, professional conduct, competence and
17 consumer disclosure relating to owning or operating a funeral establishment
18 or crematory, funeral directing, embalming and cremation.

19 (c) The prohibition of deceptive, misleading or professionally
20 negligent practices in advertising, offering or selling funeral goods or
21 services by funeral establishments, crematories, licensees and registrants
22 and agents of funeral establishments, crematories, licensees and registrants.
23 The rules shall specifically prohibit misrepresentation of the legal
24 requirements concerning the preparation and interment of dead human bodies.

25 (d) Standard price disclosure formats and price list requirements and
26 definitions to facilitate price comparisons by members of the public.

27 (e) Guidelines to enable members of the public to determine the
28 substantial equivalency of funeral goods available for sale to the public.

29 (f) Administrative and investigative procedures.

30 (g) The efficient administration of the board's affairs and the
31 enforcement of the provisions of this chapter.

32 (h) The inspection of all funeral establishments and crematories at
33 least once every five years.

34 (i) Any other matters the board deems necessary to carry out the
35 provisions of this chapter.

36 B. The board may:

37 1. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ investigative,
38 professional and clerical employees as it deems necessary to carry out this
39 chapter. Compensation of these employees shall be determined pursuant to
40 section 38-611.

41 2. Appoint citizen advisory committees to make recommendations to the
42 board concerning enforcement and the administration of this chapter.

43 3. In connection with investigations or administrative hearings, issue
44 subpoenas to compel the attendance of witnesses and the production of books,
45 papers, contracts, agreements and other documents or records in any form,

1 administer oaths and take testimony and evidence concerning all matters
2 within its jurisdiction. The board may pay the fees and expenses of
3 witnesses who appear in any proceeding before the board. If a person refuses
4 to obey a subpoena issued by the board, the board may invoke the aid of any
5 court in this state to require the attendance and testimony of witnesses and
6 the production of documentary evidence.

7 4. Contract with other state and federal agencies as it deems
8 necessary to carry out this chapter.

9 5. Charge reasonable fees for the distribution of materials that the
10 board prints or has printed at its expense and for the costs of mailing these
11 materials.

12 6. Charge the reasonable costs of a fingerprint background check to an
13 applicant for licensure or registration.

14 Sec. 52. Section 32-1405, Arizona Revised Statutes, is amended to
15 read:

16 32-1405. Executive director; compensation; duties; appeal to
17 the board

18 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
19 an executive director who shall serve at the pleasure of the board. The
20 executive director shall not be a board member, except that the board may
21 authorize the executive director to represent the board and to vote on behalf
22 of the board at meetings of the federation of state medical boards of the
23 United States.

24 B. The executive director is eligible to receive compensation set by
25 the board within the range determined under section 38-611.

26 C. The executive director or the executive director's designee shall:

27 1. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,
28 ARTICLES 5 AND 6, employ, evaluate, dismiss, discipline and direct
29 professional, clerical, technical, investigative and administrative personnel
30 necessary to carry on the work of the board.

31 2. Set compensation for board employees within the range determined
32 under section 38-611.

33 3. As directed by the board, prepare and submit recommendations for
34 amendments to the medical practice act for consideration by the legislature.

35 4. ~~Appoint and~~ SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ
36 medical consultants and agents necessary to conduct investigations, gather
37 information and perform those duties the executive director determines are
38 necessary and appropriate to enforce this chapter.

39 5. Issue licenses, registrations and permits to applicants who meet
40 the requirements of this chapter.

41 6. Manage the board's offices.

42 7. Prepare minutes, records, reports, registries, directories, books
43 and newsletters and record all board transactions and orders.

44 8. Collect all monies due and payable to the board.

- 1 9. Pay all bills for authorized expenditures of the board and its
2 staff.
- 3 10. Prepare an annual budget.
- 4 11. Submit a copy of the budget each year to the governor, the speaker
5 of the house of representatives and the president of the senate.
- 6 12. Initiate an investigation if evidence appears to demonstrate that a
7 physician may be engaged in unprofessional conduct or may be medically
8 incompetent or mentally or physically unable to safely practice medicine.
- 9 13. Issue subpoenas if necessary to compel the attendance and testimony
10 of witnesses and the production of books, records, documents and other
11 evidence.
- 12 14. Provide assistance to the attorney general in preparing and sign
13 and execute disciplinary orders, rehabilitative orders and notices of
14 hearings as directed by the board.
- 15 15. Enter into contracts for goods and services pursuant to title 41,
16 chapter 23 that are necessary to carry out board policies and directives.
- 17 16. Execute board directives.
- 18 17. Manage and supervise the operation of the Arizona regulatory board
19 of physician assistants.
- 20 18. Issue licenses to physician assistant applicants who meet the
21 requirements of chapter 25 of this title.
- 22 19. Represent the board with the federal government, other states or
23 jurisdictions of the United States, this state, political subdivisions of
24 this state, the news media and the public.
- 25 20. On behalf of the Arizona medical board, enter into stipulated
26 agreements with persons under the jurisdiction of either the Arizona medical
27 board or the Arizona regulatory board of physician assistants for the
28 treatment, rehabilitation and monitoring of chemical substance abuse or
29 misuse.
- 30 21. Review all complaints filed pursuant to section 32-1451. If
31 delegated by the board, the executive director may also dismiss a complaint
32 if the complaint is without merit. The executive director shall not dismiss
33 a complaint if a court has entered a medical malpractice judgment against a
34 physician. The executive director shall submit a report of the cases
35 dismissed with the complaint number, the name of the physician and the
36 investigation timeline to the board for review at its regular board meetings.
- 37 22. If delegated by the board, directly refer cases to a formal
38 hearing.
- 39 23. If delegated by the board, close cases resolved through mediation.
- 40 24. If delegated by the board, issue advisory letters.
- 41 25. If delegated by the board, enter into a consent agreement if there
42 is evidence of danger to the public health and safety.
- 43 26. If delegated by the board, grant uncontested requests for inactive
44 status and cancellation of a license pursuant to sections 32-1431 and
45 32-1433.

1 27. If delegated by the board, refer cases to the board for a formal
2 interview.

3 28. Perform all other administrative, licensing or regulatory duties
4 required by the board.

5 D. Medical consultants and agents appointed pursuant to subsection C,
6 paragraph 4 of this section are eligible to receive compensation determined
7 by the executive director in an amount not to exceed two hundred dollars for
8 each day of service.

9 E. A person who is aggrieved by an action taken by the executive
10 director pursuant to subsection C, paragraphs 21 through 27 of this section
11 or section 32-1422, subsection E, may request the board to review that action
12 by filing with the board a written request within thirty days after that
13 person is notified of the executive director's action by personal delivery
14 or, if the notification is mailed to that person's last known residence or
15 place of business, within thirty-five days after the date on the
16 notification. At the next regular board meeting, the board shall review the
17 executive director's action. On review, the board shall approve, modify or
18 reject the executive director's action.

19 Sec. 53. Section 32-1509, Arizona Revised Statutes, is amended to
20 read:

21 32-1509. Executive director; compensation; duties

22 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
23 an executive director who serves at the pleasure of the board. The executive
24 director shall not be a board member and shall not have any financial
25 interests in the practice of naturopathic medicine or the training of
26 naturopathic physicians. The board may authorize the executive director to
27 represent the board and to vote on behalf of the board at meetings of
28 national organizations of which the board is a dues paying member.

29 B. The executive director ~~is~~ AND OTHER BOARD STAFF ARE eligible to
30 receive compensation ~~set by the board within the range~~ AS determined ~~under~~
31 PURSUANT TO section 38-611.

32 C. The executive director or that person's designee shall:

33 1. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,
34 ARTICLES 5 AND 6, employ, evaluate, dismiss, discipline and direct
35 professional, clerical, technical, investigative and administrative personnel
36 necessary to carry on the work of the board.

37 ~~2. Set compensation for board employees within the range determined~~
38 ~~under section 38-611.~~

39 ~~3.~~ 2. As directed by the board, prepare and submit recommendations to
40 the board for amendments to this chapter for consideration by the
41 legislature.

42 ~~4.~~ 3. Appoint and SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ
43 medical consultants and agents necessary to conduct investigations, gather
44 information and perform those duties the executive director determines are
45 necessary and appropriate to enforce this chapter.

- 1 ~~5.~~ 4. Issue licenses and certificates pursuant to section 32-1526 to
2 applicants who meet the requirements of this chapter.
- 3 ~~6.~~ 5. Maintain a record of board actions and proceedings, including
4 the issuance, denial, renewal, suspension or revocation of licenses and
5 certificates.
- 6 ~~7.~~ 6. Manage the board's offices.
- 7 ~~8.~~ 7. Prepare minutes, records, reports, registries, directories,
8 books and newsletters and record all board transactions and orders.
- 9 ~~9.~~ 8. Collect all monies due and payable to the board.
- 10 ~~10.~~ 9. Pay all bills for authorized expenditures of the board and its
11 staff.
- 12 ~~11.~~ 10. Prepare an annual budget.
- 13 ~~12.~~ 11. Submit a copy of the budget each year to the governor, the
14 speaker of the house of representatives and the president of the senate.
- 15 ~~13.~~ 12. Initiate an investigation if evidence appears to demonstrate
16 that a person licensed or certified by the board may be engaged in
17 unprofessional conduct or may be medically incompetent or mentally or
18 physically unable to safely practice medicine.
- 19 ~~14.~~ 13. Issue subpoenas if necessary to compel the attendance and
20 testimony of witnesses and the production of books, records, documents and
21 other evidence.
- 22 ~~15.~~ 14. Sign and execute and provide assistance to the attorney
23 general in preparing disciplinary orders, rehabilitative orders and notices
24 of hearings as directed by the board.
- 25 ~~16.~~ 15. Enter into contracts for goods and services pursuant to title
26 41, chapter 23 that are necessary to carry out board policies and directives.
- 27 ~~17.~~ 16. Execute board directives.
- 28 ~~18.~~ 17. Represent the board with the federal government, other states
29 or jurisdictions of the United States, this state, political subdivisions of
30 this state, the news media and the public.
- 31 ~~19.~~ 18. Maintain a roster of all persons who are licensed or certified
32 under this chapter that indicates:
 - 33 (a) The person's name.
 - 34 (b) The person's current address of record.
 - 35 (c) The date of issuance and the number of the person's license or
36 certificate.
 - 37 (d) The status of the person's license or certificate.
- 38 ~~20.~~ 19. Maintain an accurate account of all receipts, expenditures and
39 refunds granted pursuant to this chapter.
- 40 ~~21.~~ 20. Conduct periodic inspection of the dispensing practices and
41 the prescribing practices of doctors of naturopathic medicine and report
42 dispensing and prescribing restrictions imposed by the board against doctors
43 of naturopathic medicine to other state and federal regulatory agencies.

1 ~~22.~~ 21. Affix the seal of the board to necessary documents. The
2 imprint of the seal with the signature of the executive director is evidence
3 of official board action.

4 ~~23.~~ 22. On behalf of the board, enter into stipulated agreements with
5 persons who are under the jurisdiction of the board for the treatment,
6 rehabilitation and monitoring of chemical substance abuse or misuse.

7 ~~24.~~ 23. Review all complaints filed pursuant to section 32-1551. If
8 delegated by the board, the executive director may dismiss complaints.

9 ~~25.~~ 24. If delegated by the board, refer cases directly to a formal
10 interview or a formal hearing.

11 ~~26.~~ 25. If delegated by the board, enter into a consent agreement if
12 there is evidence of danger to the public health and safety.

13 ~~27.~~ 26. If delegated by the board, grant uncontested requests for
14 retired status or cancellation of a license.

15 ~~28.~~ 27. Perform all other duties required by the board.

16 D. Medical consultants and agents appointed pursuant to subsection C,
17 paragraph ~~4~~ 3 of this section are eligible to receive compensation
18 determined by the executive director of not more than two hundred dollars for
19 each day of service.

20 E. A person who is aggrieved by an action taken by the executive
21 director may request a board review of that action by filing with the board a
22 written request within thirty days after that person has been notified of the
23 action. Notification shall be by personal delivery or certified mail to the
24 person's last known address on file with the board. The board shall review
25 the decision at its next regularly scheduled meeting and either approve,
26 modify or reject the executive director's action.

27 Sec. 54. Section 32-1605.01, Arizona Revised Statutes, is amended to
28 read:

29 32-1605.01. Executive director; compensation; powers; duties

30 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
31 an executive director who is not a member of the board. The executive
32 director is eligible to receive compensation set by the board within the
33 range determined under section 38-611.

34 B. The executive director or the executive director's designee shall:

35 1. Perform the administrative duties of the board.

36 2. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ personnel needed
37 to carry out the functions of the board.

38 3. Issue and renew temporary and permanent licenses, certificates and
39 prescribing or dispensing authority.

40 4. Issue single state and multistate licenses pursuant to this chapter
41 and nursing assistant certificates to applicants who are not under
42 investigation and who meet the qualifications for licensure or nursing
43 assistant certification prescribed in this chapter.

44 5. Perform other duties as directed by the board.

1 6. On behalf of the board, enter into stipulated agreements with a
2 licensee for the confidential treatment, rehabilitation and monitoring of
3 chemical dependency. A licensee who materially fails to comply with a
4 program requirement shall be reported to the board and terminated from the
5 confidential program. Any records of a licensee who is terminated from a
6 confidential program are no longer confidential or exempt from the public
7 records law. Notwithstanding any law to the contrary, stipulated agreements
8 are not public records if the following conditions are met:

9 (a) The licensee voluntarily agrees to participate in the confidential
10 program.

11 (b) The licensee complies with all treatment requirements or
12 recommendations, including participation in alcoholics anonymous or an
13 equivalent twelve step program and nurse support group.

14 (c) The licensee refrains from the practice of nursing until the
15 return to nursing has been approved by the treatment program and the
16 executive director or the executive director's designee.

17 (d) The licensee complies with all monitoring requirements of the
18 stipulated agreement, including random bodily fluid testing.

19 (e) The licensee's nursing employer is notified of the licensee's
20 chemical dependency and participation in the confidential program and is
21 provided a copy of the stipulated agreement.

22 7. Approve nursing assistant training programs that meet the
23 requirements of this chapter.

24 C. If the board adopts a substantive policy statement pursuant to
25 section 41-1091 and the executive director or designee reports all actions
26 taken pursuant to this subsection to the board at the next regular board
27 meeting, the executive director or designee may:

28 1. Dismiss a complaint pursuant to section 32-1664 if the complainant
29 does not wish to address the board and either there is no evidence
30 substantiating the complaint or, after conducting an investigation, there is
31 insufficient evidence that the regulated party violated this chapter or a
32 rule adopted pursuant to this chapter.

33 2. Enter into a stipulated agreement with the licensee or certificate
34 holder for the treatment, rehabilitation and monitoring of the licensee's or
35 certificate holder's abuse or misuse of a chemical substance.

36 3. Close complaints resolved through settlement.

37 4. Issue letters of concern.

38 5. In lieu of a summary suspension hearing, enter into a consent
39 agreement if there is sufficient evidence that the public health, safety or
40 welfare imperatively requires emergency action.

41 D. The executive director may accept the voluntary surrender of a
42 license, certificate or approval to resolve a pending complaint that is
43 subject to disciplinary action. The voluntary surrender or revocation of a
44 license, certificate or approval is a disciplinary action, and the board
45 shall report this action if required by federal law.

1 Sec. 55. Section 32-1673, Arizona Revised Statutes, is amended to
2 read:

3 32-1673. Powers and duties of the board

4 A. The board shall adopt rules to administer and enforce this
5 chapter. Rules adopted pursuant to this section shall include rules to
6 specify the lawful scope of the practice of dispensing opticians and
7 necessary evidence that may support a charge of substandard care rendered by
8 a dispensing optician or an optical establishment.

9 B. The board may:

10 1. Hire INVESTIGATORS SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 or
11 contract with investigators to assist in the investigation of violations of
12 this chapter.

13 2. Hire employees SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 and
14 contract with other state agencies as necessary to carry out this chapter.

15 3. In connection with board hearings and investigations, issue
16 subpoenas for the attendance of witnesses and the production of books,
17 records, documents and other necessary evidence.

18 Sec. 56. Section 32-1704, Arizona Revised Statutes, is amended to
19 read:

20 32-1704. Powers and duties of the board

21 A. The board shall adopt, and may amend, rules consistent with this
22 chapter governing the practice of the profession of optometry, for the
23 performance of its duties under this chapter and for the examination of
24 applicants for licenses. The board shall adopt and use a seal, administer
25 oaths and take testimony concerning any matter within its jurisdiction.

26 B. The board may not adopt a rule that:

27 1. Regulates a licensee's fees or charges to a patient.

28 2. Regulates the place in which a licensee may practice.

29 3. Prescribes the manner or method of accounting, billing or
30 collection of fees.

31 4. Prohibits advertising by a licensee unless the advertising is
32 inconsistent with section 44-1481.

33 C. The board shall maintain its records in accordance with a retention
34 schedule approved by the Arizona state library, archives and public records.

35 D. The board shall adopt rules for criteria it must use to approve
36 continuing education programs for licensees. Programs shall be designed to
37 assist licensees to maintain competency, to become aware of new developments
38 in the practice of the profession of optometry and to increase management
39 skills and administrative efficiency. The board shall approve programs that
40 meet these criteria.

41 E. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may hire an
42 executive director as an employee of the board. The executive director is
43 responsible for the performance of the regular administrative functions of
44 the board and such other administrative duties as the board may direct. The

1 executive director is eligible to receive compensation in an amount as
2 determined pursuant to section 38-611.

3 F. The board may hire [INVESTIGATORS SUBJECT TO TITLE 41, CHAPTER 4,](#)
4 [ARTICLE 4](#) or contract with investigators to assist in the investigation of
5 violations of this chapter, hire other employees [SUBJECT TO TITLE 41, CHAPTER](#)
6 [4, ARTICLE 4](#) required to carry out this chapter and contract with other state
7 agencies when required to carry out this chapter.

8 G. The board may:

9 1. Appoint advisory committees.

10 2. Issue subpoenas for the attendance of witnesses and the production
11 of books, records, documents and other evidence it deems relevant to an
12 investigation or hearing.

13 3. Charge reasonable fees for materials it has printed at its own
14 expense.

15 4. Delegate to the executive director, board staff and persons with
16 whom the board contracts the board's licensing and regulatory duties. The
17 board shall adopt rules for each specific licensing and regulatory duty the
18 board delegates pursuant to this paragraph.

19 H. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board may hire
20 consultants and professional and clerical personnel as required to perform
21 its duties.

22 I. The board may contract with other state or federal agencies as
23 required to carry out this chapter.

24 J. Subject to the limitations of section 41-2544, the executive
25 director may enter into agreements to allow licensees to pay fees by
26 alternative methods, including credit cards, charge cards, debit cards and
27 electronic funds transfers.

28 K. A person who is aggrieved by an action taken by the executive
29 director, board staff or person with whom the board contracts may request the
30 board to review that action by filing with the board a written request within
31 thirty days after that person is notified of the action by personal delivery
32 or certified mail to that person's last known residence or place of business.
33 At the next regular board meeting, the board shall review the action and
34 approve, modify or reject the action.

35 Sec. 57. Section 32-1804, Arizona Revised Statutes, is amended to
36 read:

37 [32-1804. Executive director; compensation; duties](#)

38 A. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board shall appoint
39 an executive director who is not a member of the board. The executive
40 director shall serve at the pleasure of the board and shall receive
41 compensation as determined pursuant to section 38-611 to be paid from the
42 board fund.

43 B. The executive director or that person's designee shall:

44 1. Serve as administrative assistant to the board and manage the
45 board's offices.

- 1 2. Collect all monies due and payable to the board.
- 2 3. Deposit, pursuant to sections 35-146 and 35-147, all monies
- 3 received by the board in the appropriate fund.
- 4 4. Pay all bills for authorized board expenditures.
- 5 5. Administer oaths.
- 6 6. Act as custodian of the board's seal and books.
- 7 7. Employ special consultants or other agents **SUBJECT TO TITLE 41,**
- 8 **CHAPTER 4, ARTICLE 4** to make investigations, gather information, review
- 9 complaints, review malpractice claims, suits and settlements, prepare reports
- 10 and perform other duties the executive director determines are necessary to
- 11 enforce this chapter.
- 12 8. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,**
- 13 **ARTICLES 5 AND 6,** employ, evaluate, dismiss, discipline and direct
- 14 professional, clerical, technical, investigative and administrative ~~permanent~~
- 15 ~~or temporary~~ personnel necessary to carry out the purposes of this chapter.
- 16 The personnel are eligible to receive compensation pursuant to section
- 17 38-611.
- 18 9. Issue licenses, limited licenses, registrations, permits, license
- 19 renewal extensions and waivers to applicants who meet the requirements of
- 20 this chapter.
- 21 10. Enter into contracts pursuant to title 41, chapter 23 for goods and
- 22 services that are necessary to carry out board policies and directives.
- 23 11. Prepare minutes, reports and records of all board transactions and
- 24 orders.
- 25 12. Prepare a biannual budget.
- 26 13. As directed by the board, prepare and submit recommendations for
- 27 changes to this chapter for consideration by the legislature.
- 28 14. Initiate an investigation if evidence appears to demonstrate that a
- 29 physician may be engaged in unprofessional conduct or may be mentally
- 30 incompetent or physically unable to safely practice medicine.
- 31 15. Issue subpoenas to compel the attendance and testimony of a witness
- 32 and the production of evidence.
- 33 16. As directed by the board, provide assistance to the attorney
- 34 general in preparing and executing disciplinary orders, rehabilitation orders
- 35 and notices of hearings.
- 36 17. Represent the board with the federal government, other states and
- 37 jurisdictions of the United States, this state, political subdivisions of
- 38 this state, the news media and the public.
- 39 18. If delegated by the board, dismiss complaints that, after an
- 40 investigation, demonstrate insufficient evidence that the physician's conduct
- 41 violated this chapter.
- 42 19. If delegated by the board, enter into a stipulated agreement with a
- 43 licensee for the treatment, rehabilitation and monitoring of the licensee's
- 44 abuse or misuse of a chemical substance.

1 20. Review all complaints filed pursuant to section 32-1855. If
2 delegated by the board, the executive director may also dismiss a complaint
3 if the complaint is without merit. The executive director shall not dismiss
4 a complaint if a court has entered a medical malpractice judgment against a
5 physician. The executive director shall submit to the board a report of each
6 complaint the executive director dismisses for its review at its next regular
7 board meeting. The report shall include the complaint number, the name of
8 the physician and the investigation timeline for each dismissed complaint.

9 21. If delegated by the board, directly refer complaints for an
10 investigative interview.

11 22. If delegated by the board, close complaints resolved through
12 mediation.

13 23. If delegated by the board, issue letters of concern or orders for
14 nondisciplinary education, or both.

15 24. If delegated by the board, enter into a consent agreement if there
16 is evidence of danger to the public health and safety.

17 25. If delegated by the board, grant uncontested requests for
18 cancellation of a license pursuant to section 32-1827.

19 26. If delegated by the board, refer cases to the board for an
20 investigative interview.

21 ~~27. As directed by the board, provide assistance to the attorney
22 general in preparing and executing disciplinary orders, rehabilitation orders
23 and notices of hearings.~~

24 ~~28.~~ 27. Perform any other duty required by the board.

25 Sec. 58. Section 32-1903, Arizona Revised Statutes, is amended to
26 read:

27 32-1903. Organization; meetings; quorum; compensation of board;
28 executive director; compensation; powers and duties

29 A. The board shall annually elect a president and a vice-president
30 from among its membership and, **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,**
31 select an executive director who may or may not be a member of the board.
32 The executive director shall serve at the pleasure of the board.

33 B. The president of the board shall preside at all of its meetings.
34 The vice-president shall act if the president is absent. A majority of the
35 membership of the board constitutes a quorum.

36 C. The executive director is the executive officer in charge of the
37 board's office and shall administer this chapter under the direction of the
38 board. The executive director shall make, keep and be in charge of all
39 records and record books required to be kept by the board, including a
40 register of all licensees and registered businesses under this chapter. The
41 executive director shall attend to the correspondence of the board and
42 perform other duties the board requires. The executive director is eligible
43 to receive compensation as determined pursuant to section 38-611.

44 D. Any member of the board or the executive director may administer
45 oaths in connection with the duties of the board. The books, registers and

1 records of the board as made and kept by the executive director or under the
2 executive director's supervision are prima facie evidence of the matter
3 therein recorded in any court of law. Members of the board are eligible to
4 receive compensation in the amount of two hundred dollars for each day of
5 actual service in the business of the board and reimbursement for all
6 expenses necessarily and properly incurred in attending meetings of or for
7 the board.

8 E. The executive director may designate the deputy director to sign
9 claims and other documents in the executive director's absence. If the
10 executive director dies, becomes incapacitated or resigns, the deputy
11 director shall serve as the executive director until the board selects a new
12 executive director.

13 F. The executive director may cause to be published reports
14 summarizing judgments, decrees, court orders and board action that may have
15 been rendered under this chapter, including the nature of charges and the
16 disposition of the charges. The executive director may disseminate
17 information regarding drugs, devices, poisons or hazardous substances in
18 situations the executive director believes involve imminent danger to health
19 or gross deception of the consumer and report the results of investigations
20 carried out under this chapter.

21 Sec. 59. Section 32-1904, Arizona Revised Statutes, is amended to
22 read:

23 32-1904. Powers and duties of board; immunity

24 A. The board shall:

25 1. Make bylaws and adopt rules that are necessary for the protection
26 of the public and that pertain to the practice of pharmacy, the
27 manufacturing, wholesaling or supplying of drugs, devices, poisons or
28 hazardous substances, the use of pharmacy technicians and support personnel
29 and the lawful performance of its duties.

30 2. Fix standards and requirements for the registration and
31 reregistration of pharmacies, except as otherwise specified.

32 3. Investigate compliance as to the quality, label and labeling of all
33 drugs, devices, poisons or hazardous substances and take action necessary to
34 prevent the sale of these if they do not conform to the standards prescribed
35 in this chapter, the official compendium or the federal act.

36 4. Enforce its rules. In so doing, the board or its agents have free
37 access at all reasonable hours to any pharmacy, manufacturer, wholesaler,
38 nonprescription drug permittee or other establishment in which drugs,
39 devices, poisons or hazardous substances are manufactured, processed, packed
40 or held, or to enter any vehicle being used to transport or hold such drugs,
41 devices, poisons or hazardous substances for the purpose:

42 (a) Of inspecting the establishment or vehicle to determine if any
43 provisions of this chapter or the federal act are being violated.

44 (b) Of securing samples or specimens of any drug, device, poison or
45 hazardous substance after paying or offering to pay for such sample.

- 1 (c) Of detaining or embargoing a drug, device, poison or hazardous
2 substance in accordance with section 32-1994.
- 3 5. Examine and license as pharmacists and pharmacy interns all
4 qualified applicants as provided by this chapter.
- 5 6. Issue duplicates of lost or destroyed permits on the payment of a
6 fee as prescribed by the board.
- 7 7. Adopt rules for the rehabilitation of pharmacists and pharmacy
8 interns as provided by this chapter.
- 9 8. At least once every three months, notify pharmacies regulated
10 pursuant to this chapter of any modifications on prescription writing
11 privileges of podiatrists, dentists, doctors of medicine, registered nurse
12 practitioners, osteopathic physicians, veterinarians, physician assistants,
13 optometrists and homeopathic physicians of which it receives notification
14 from the board of podiatry examiners, board of dental examiners, Arizona
15 medical board, board of nursing, board of osteopathic examiners in medicine
16 and surgery, veterinary medical examining board, Arizona regulatory board of
17 physician assistants, board of optometry or board of homeopathic and
18 integrated medicine examiners.
- 19 B. The board may:
- 20 1. Employ chemists, compliance officers, clerical help and other
21 employees [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#) and provide laboratory
22 facilities for the proper conduct of its business.
- 23 2. Provide, by education of and information to the licensees and to
24 the public, assistance in the curtailment of abuse in the use of drugs,
25 devices, poisons and hazardous substances.
- 26 3. Approve or reject the manner of storage and security of drugs,
27 devices, poisons and hazardous substances.
- 28 4. Accept monies and services to assist in the enforcement of this
29 chapter from other than licensees:
- 30 (a) For performing inspections and other board functions.
31 (b) For the cost of copies of the pharmacy and controlled substances
32 laws, the annual report of the board and other information from the board.
- 33 5. Adopt rules for professional conduct appropriate to the
34 establishment and maintenance of a high standard of integrity and dignity in
35 the profession of pharmacy.
- 36 6. Grant permission to deviate from a state requirement for
37 experimentation and technological advances.
- 38 7. Adopt rules for the training and practice of pharmacy interns,
39 pharmacy technicians and support personnel.
- 40 8. Investigate alleged violations of this chapter, conduct hearings in
41 respect to violations, subpoena witnesses and take such action as it deems
42 necessary to revoke or suspend a license or a permit, place a licensee or
43 permittee on probation or warn a licensee or permittee under this chapter or
44 to bring notice of violations to the county attorney of the county in which a
45 violation took place or to the attorney general.

- 1 9. By rule, approve colleges or schools of pharmacy.
- 2 10. By rule, approve programs of practical experience, clinical
3 programs, internship training programs, programs of remedial academic work
4 and preliminary equivalency examinations as provided by this chapter.
- 5 11. Assist in the continuing education of pharmacists and pharmacy
6 interns.
- 7 12. Issue inactive status licenses as provided by this chapter.
- 8 13. Accept monies and services from the federal government or others
9 for educational, research or other purposes pertaining to the enforcement of
10 this chapter.
- 11 14. By rule, except from the application of all or any part of this
12 chapter any material, compound, mixture or preparation containing any
13 stimulant or depressant substance included in section 13-3401, paragraph 6,
14 subdivision (b) or (c) from the definition of dangerous drug if the material,
15 compound, mixture or preparation contains one or more active medicinal
16 ingredients not having a stimulant or depressant effect on the central
17 nervous system, provided that such admixtures are included in such
18 combinations, quantity, proportion or concentration as to vitiate the
19 potential for abuse of the substances that do have a stimulant or depressant
20 effect on the central nervous system.
- 21 15. Adopt rules for the revocation, suspension or reinstatement of
22 licenses or permits or the probation of licensees or permittees as provided
23 by this chapter.
- 24 C. The executive director and other ~~permanent or temporary~~ personnel
25 or agents of the board are not subject to civil liability for any act done or
26 proceeding undertaken or performed in good faith and in furtherance of the
27 purposes of this chapter.
- 28 Sec. 60. Section 32-2003, Arizona Revised Statutes, is amended to
29 read:
- 30 32-2003. Board; powers and duties
- 31 A. The board shall:
- 32 1. Evaluate the qualifications of applicants for licensure and
33 certification.
- 34 2. Provide for national examinations for physical therapists and
35 physical therapist assistants and adopt passing scores for these
36 examinations.
- 37 3. Issue licenses, permits and certificates to persons who meet the
38 requirements of this chapter.
- 39 4. Regulate the practice of physical therapy by interpreting and
40 enforcing this chapter.
- 41 5. Adopt and revise rules to enforce this chapter.
- 42 6. Meet at least once each quarter in compliance with the open meeting
43 requirements of title 38, chapter 3, article 3.1 and keep an official record
44 of these meetings.

1 7. Establish the mechanisms for assessing continuing professional
2 competence of physical therapists to engage in the practice of physical
3 therapy and the competence of physical therapist assistants to work in the
4 field of physical therapy.

5 8. At its first regular meeting after the start of each calendar year,
6 elect officers from among its members and as necessary to accomplish board
7 business.

8 9. Provide for the timely orientation and training of new professional
9 and public appointees to the board regarding board licensing and disciplinary
10 procedures, this chapter, board rules and board procedures.

11 10. Maintain a current list of all persons regulated under this
12 chapter. This list shall include the person's name, current business and
13 residential addresses, telephone numbers and license or certificate number.

14 11. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ necessary
15 personnel to carry out the administrative work of the board. Board personnel
16 are eligible to receive compensation pursuant to section 38-611.

17 12. Enter into contracts for services necessary for adequate
18 enforcement of this chapter.

19 13. Report final disciplinary action taken against a licensee or a
20 certificate holder to a national disciplinary database recognized by the
21 board.

22 14. Publish, at least annually, final disciplinary actions taken
23 against a licensee or a certificate holder.

24 15. Publish, at least annually, board rulings, opinions and
25 interpretations of statutes or rules in order to guide persons regulated
26 pursuant to this chapter.

27 16. Not later than December 31 of each year, submit a written report of
28 its actions and proceedings to the governor.

29 17. Establish and collect fees.

30 18. Provide information to the public regarding the board, its
31 processes and consumer rights.

32 B. The board may establish a committee or committees to assist it in
33 carrying out its duties for a time prescribed by the board. The board may
34 require a committee appointed pursuant to this subsection to make regular
35 reports to the board.

36 Sec. 61. Section 32-2063, Arizona Revised Statutes, is amended to
37 read:

38 32-2063. Powers and duties

39 A. The board shall:

40 1. Administer and enforce this chapter and board rules.

41 2. Regulate disciplinary actions, the granting, denial, revocation,
42 renewal and suspension of licenses and the rehabilitation of licensees
43 pursuant to this chapter and board rules.

1 3. Prescribe the forms, content and manner of application for
2 licensure and renewal of licensure and set deadlines for the receipt of
3 materials required by the board.

4 4. Keep a record of all licensees, board actions taken on all
5 applicants and licensees and the receipt and disbursal of monies.

6 5. Adopt an official seal for attestation of licenses and other
7 official papers and documents.

8 6. Investigate charges of violations of this chapter and board rules
9 and orders.

10 7. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), employ an executive
11 director who serves at the pleasure of the board.

12 8. Annually elect from among its membership a chairman, a
13 vice-chairman and a secretary, who serve at the pleasure of the board.

14 9. Adopt rules pursuant to title 41, chapter 6 to carry out this
15 chapter and to define unprofessional conduct.

16 10. Engage in a full exchange of information with other regulatory
17 boards and psychological associations, national psychology organizations and
18 the Arizona psychological association and its components.

19 11. By rule, adopt a code of ethics relating to the practice of
20 psychology. The board shall base this code on the code of ethics adopted and
21 published by the American psychological association. The board shall apply
22 the code to all board enforcement policies and disciplinary case evaluations
23 and development of licensing examinations.

24 B. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board may employ
25 ~~permanent or temporary~~ personnel it deems necessary to carry out this
26 chapter. The board, in investigating violations of this chapter, may employ
27 investigators who may be psychologists. The board or its executive director
28 may take and hear evidence, administer oaths and affirmations and compel by
29 subpoena the attendance of witnesses and the production of books, papers,
30 records, documents and other information relating to the investigation or
31 hearing.

32 C. Subject to section 35-149, the board may accept, expend and account
33 for gifts, grants, devises and other contributions, money or property from
34 any public or private source, including the federal government. The board
35 shall deposit, pursuant to sections 35-146 and 35-147, monies received
36 pursuant to this subsection in special funds for the purpose specified, and
37 monies in these funds are exempt from the provisions of section 35-190
38 relating to lapsing of appropriations.

39 D. Compensation for all personnel shall be determined pursuant to
40 section 38-611.

41 Sec. 62. Section 32-2109, Arizona Revised Statutes, is amended to
42 read:

43 32-2109. [Employment; compensation](#)

44 [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the commissioner shall
45 appoint a secretary and such deputies, assistants, and clerks as are

1 necessary. The compensation of all such employees shall be as determined
2 pursuant to section 38-611.

3 Sec. 63. Section 32-2206, Arizona Revised Statutes, is amended to
4 read:

5 32-2206. Board personnel
6 SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ
7 personnel as it deems necessary to provide investigative, professional and
8 clerical assistance as required to perform its duties under this article.
9 Personnel are eligible to receive compensation in an amount as determined
10 pursuant to section 38-611. The board may contract with other state or
11 federal agencies as required to carry out this article.

12 Sec. 64. Section 32-2207, Arizona Revised Statutes, is amended to
13 read:

14 32-2207. Veterinary board; powers and duties
15 The primary duty of the board is to protect the public from unlawful,
16 incompetent, unqualified, impaired or unprofessional practitioners of
17 veterinary medicine through licensure and regulation of the profession in
18 this state. The powers and duties of the board include:

- 19 1. Administering and enforcing this chapter and board rules.
- 20 2. Regulating disciplinary actions, the granting, denial, revocation,
21 renewal and suspension of licenses and certificates and the rehabilitation of
22 licensees and certificate holders pursuant to this chapter and board rules.
- 23 3. Prescribing the forms, content and manner of application for
24 licensure and certification and renewal of licensure and certification and
25 setting deadlines for the receipt of materials required by the board.
- 26 4. Keeping a record of all licensees and certificate holders, board
27 actions taken concerning all applicants, licensees and certificate holders
28 and the receipt and disbursal of monies.
- 29 5. Adopting an official seal for attestation of licenses, certificates
30 and other official papers and documents.
- 31 6. Investigating charges of violations of this chapter and board rules
32 and orders.
- 33 7. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employing an executive
34 director who serves at the pleasure of the board.
- 35 8. Adopting rules pursuant to title 41, chapter 6 that relate to the
36 qualifications and regulation of doctors of veterinary medicine, certified
37 veterinary technicians, veterinary premises, mobile veterinary clinics and
38 crematories and other rules that the board deems necessary for the
39 administration of this chapter. The rules may include continuing education
40 requirements for licensees and certificate holders and shall include:
 - 41 (a) Minimum standards of veterinary practice.
 - 42 (b) Provisions to ensure that the public has reasonable access to
43 nonconfidential information about the licensing or certification status of
44 persons regulated under this chapter and about resolved complaints against
45 licensees and certificate holders.

1 (c) Provisions to ensure that members of the public have an
2 opportunity to evaluate the services that the board provides to the public.

3 9. Establishing by rule fees and penalties as provided in this
4 chapter, including fees for the following:

5 (a) Reproduction of documents.

6 (b) Verification of information about a licensed veterinarian at the
7 request of a veterinary licensing board in another jurisdiction.

8 (c) Return of checks due to insufficient funds, an order to stop
9 payment or a closed account.

10 (d) Provision of a list of the names of veterinarians, certified
11 veterinary technicians or veterinary premises licensed or certified by the
12 board.

13 10. Adopting rules that require the board to inform members of the
14 public about the existence of the office of the ombudsman-citizens aide
15 established by section 41-1375.

16 Sec. 65. Section 32-2304, Arizona Revised Statutes, is amended to
17 read:

18 32-2304. Powers and duties

19 A. The acting director is responsible for administering this chapter
20 and shall:

21 1. Adopt rules that are necessary or proper for the administration of
22 this chapter, including administrative provisions, education requirements,
23 health and safety provisions and provisions for the use, storage and
24 application of pesticides and devices used in structural pest control.

25 2. Administer and enforce this chapter and rules adopted pursuant to
26 this chapter.

27 3. Notify the business licensee, applicator and qualifying party in
28 writing of any complaint against the business licensee, qualifying party or
29 employee of the business licensee by the close of business on the tenth
30 business day after the day on which the acting director initiated the
31 complaint.

32 4. Issue subpoenas for the taking of depositions, the production of
33 documents and things and the entry on land for inspection and measuring,
34 surveying, photographing, testing or sampling the property or any designated
35 object or operation on the property relevant to the complaint.

36 5. Conduct or contract to conduct applicator license and qualifying
37 party license tests at locations throughout this state. If the acting
38 director contracts for these tests, the contracts may provide for specific
39 examination fees or a reasonable range of fees determined by the acting
40 director to be paid directly to the contractor by the applicant. The acting
41 director shall make all efforts to contract with private parties to
42 electronically administer the applicator and qualifying party license tests.

43 6. Maintain a computer system for the benefit and protection of the
44 public that includes the following information on termite treatments that are
45 done before or during construction, initial termite corrective projects,

- 1 preventative termite treatments and wood-destroying insect inspection
2 reports:
- 3 (a) The name of the individual who performed the work.
 - 4 (b) The address or location of the work or project.
 - 5 (c) The name of the pest management company.
 - 6 (d) The name of the qualifying party.
 - 7 (e) The applicator license numbers.
 - 8 (f) The nature and date of the work performed.
 - 9 (g) Any other information that is required by rule.
- 10 7. Establish offices ~~+~~ THE ACTING DIRECTOR deems necessary to carry
11 out the purposes of this chapter.
- 12 8. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ ~~permanent or~~
13 ~~temporary~~ personnel ~~+~~ THE ACTING DIRECTOR deems necessary to carry out the
14 purposes of this chapter and designate their duties.
- 15 9. Investigate violations of this chapter and rules adopted pursuant
16 to this chapter.
- 17 10. Oversee the approval, content and method of delivery of continuing
18 education courses.
- 19 11. Deny a license to any person who has had a license revoked for a
20 period of five years from the time of revocation.
- 21 12. License applicators, qualifying parties and businesses in
22 accordance with this chapter and rules adopted pursuant to this chapter.
- 23 13. Require the payment of a penalty for any late license renewal.
- 24 14. Require either completion of the continuing education requirement
25 or successful completion of the license examination for failure to renew a
26 license on time.
- 27 15. Suspend a license if a licensee fails to renew the license within
28 thirty calendar days after the renewal date.
- 29 16. Refuse to issue a business license in a name that is not registered
30 with the secretary of state or filed with the Arizona corporation commission.
- 31 17. Adopt a wood-destroying insect inspection report form for use by
32 business licensees.
- 33 B. The acting director may charge to the holder of a business license
34 the actual cost of providing mailed copies of rules, forms or policies that
35 are proposed for adoption and for educational materials.
- 36 C. The acting director shall administer and enforce this chapter and
37 the rules adopted pursuant to this chapter.
- 38 D. The acting director may:
- 39 1. Compel attendance of witnesses, administer oaths or affirmations
40 and take testimony concerning all matters coming within the acting director's
41 jurisdiction.
 - 42 2. Require a person who seeks a license pursuant to this chapter to
43 submit to the office a full set of fingerprints and the fees required by
44 section 41-1750. The acting director shall submit the fingerprints and fees
45 to the department of public safety for the purpose of obtaining a state and

1 federal criminal records check pursuant to section 41-1750 and Public Law
2 92-544. The department of public safety may exchange this fingerprint data
3 with the federal bureau of investigation.

4 3. Enter into intergovernmental agreements.

5 4. With at least twenty-four hours' notice, request specific records
6 from a business licensee, qualifying party or applicator at the person's
7 place of business during normal business hours.

8 5. Deny or revoke a license based on the information in the
9 application or information that the acting director receives from the
10 criminal background check.

11 6. On a showing of good cause by the business licensee, excuse a
12 failure to timely comply with a records request.

13 7. Issue advisory notices for de minimis violations.

14 8. Require inspectors to be licensed applicators in all categories
15 within their scope of work during their probationary period. Inspectors
16 shall attend and complete an investigative training class that is prescribed
17 by the acting director.

18 9. Investigate alleged violations of all applicable federal and state
19 statutes, rules or orders or alleged violations of any condition imposed in
20 connection with a license.

21 10. Pursuant to section 32-2329, summarily suspend a license issued
22 under this chapter to protect the health, safety and welfare of the public.

23 11. Issue a corrective work order requiring a licensee to remedy
24 deficiencies in treatment or to comply with this chapter or any rules adopted
25 pursuant to this chapter before or after a formal hearing.

26 12. Do at least one of the following in relation to unlicensed pest
27 management business operations:

28 (a) Issue a cease and desist order requiring an unlicensed pest
29 management business to immediately cease operations.

30 (b) Except as provided in section 32-2311, subsection D, impose on an
31 unlicensed pest management business a civil penalty of not more than one
32 thousand dollars for the first occurrence and not more than two thousand
33 dollars for the second or subsequent occurrence.

34 13. Refer all cases for formal hearing to the office of administrative
35 hearings.

36 14. Refuse to issue a business license in a name that is likely to be
37 misleading or to imply any distorted representation about the business.

38 15. Issue a renewable and revocable temporary qualifying party license
39 to a licensed applicator who is a representative of a business licensee if
40 the qualifying party becomes disassociated with the business licensee.

41 16. Provide and conduct classes to train applicators and qualifying
42 parties in preparation for license tests. The acting director may assess a
43 fee for each class. The acting director may contract with a commercial
44 enterprise or an accredited institution to conduct the class.

1 17. Provide and conduct continuing education classes quarterly. The
2 acting director may assess a fee for each credit hour. The acting director
3 may contract with a commercial enterprise or an accredited institution to
4 conduct the class under the supervision of office staff.

5 18. Appoint an employee of the office to conduct an informal settlement
6 conference with a licensee against whom an inquiry is received or a complaint
7 is filed.

8 19. Prepare a consent order only after either an informal settlement
9 conference is conducted pursuant to section 32-2321 or a formal hearing is
10 conducted pursuant to title 41, chapter 6, article 10.

11 20. Apply to the appropriate court, through the attorney general or
12 county attorney, for an order enjoining any act or practice that constitutes
13 a violation of this chapter or any rule adopted pursuant to this chapter.

14 21. Approve proposed consent orders.

15 E. Each completed form for a termite treatment that is done before or
16 during construction, initial termite corrective treatment project or
17 wood-destroying insect inspection report shall be accompanied by a fee. The
18 initial fee is eight dollars. The acting director may:

19 1. Adjust the fee upward or downward to a level that is calculated to
20 produce sufficient revenue to carry out the functions prescribed under this
21 section.

22 2. Establish tiered fees according to the means of submission to
23 encourage electronic submission of the termite action registration form.

24 3. Assess a penalty of not to exceed one hundred dollars per form for
25 failing to submit the required form or fee, or both, within thirty calendar
26 days.

27 F. Subject to the limitations of section 41-2544, the acting director
28 may enter into agreements for the purpose of enabling the office to accept
29 payment for fees imposed under this chapter by alternative payment methods,
30 including credit cards, charge cards, debit cards and electronic funds
31 transfers. Before the monies are transferred to the acting director pursuant
32 to section 32-2305, the person collecting the fees shall deduct any amount
33 charged or withheld by a company providing the alternative payment method
34 under an agreement with the office.

35 G. In the enforcement of this article, the acting director or any duly
36 authorized agents may enter with the authority of a warrant issued by a court
37 of competent jurisdiction at reasonable times on any private or public
38 property on which pesticides are located or are reasonably believed to be
39 located to be used for purposes related to pest management. The owner,
40 managing agent or occupant of the property shall permit entry for the purpose
41 of inspecting and investigating conditions relating to the use, storage,
42 application and disposal of pesticides.

1 Sec. 66. Section 32-2904, Arizona Revised Statutes, is amended to
2 read:
3 32-2904. Powers and duties
4 A. The board shall:
5 1. Conduct all examinations for applicants for a license under this
6 chapter, issue licenses, conduct hearings, regulate the conduct of licensees
7 and administer and enforce this chapter.
8 2. Enforce the standards of practice prescribed by this chapter and
9 board rules.
10 3. Collect and account for all fees under this chapter and deposit,
11 pursuant to sections 35-146 and 35-147, the monies in the appropriate fund.
12 4. Maintain a record of its acts and proceedings, including the
13 issuance, refusal to issue, renewal, suspension or revocation of licenses to
14 practice according to this chapter.
15 5. Maintain a roster of all persons who are licensed pursuant to this
16 chapter that includes:
17 (a) The licensee's name.
18 (b) The current professional office address.
19 (c) The date and number of the license issued under this chapter.
20 (d) Whether the licensee is in good standing.
21 6. Adopt and use a seal, the imprint of which, together with the
22 signatures of the president or vice-president of the board and the
23 secretary-treasurer, shall evidence its official acts.
24 7. Contract with the department of administration for administrative
25 and record keeping services.
26 8. Charge additional fees that do not exceed the cost of the services
27 for services the board deems necessary to carry out its intent and purposes.
28 9. Adopt rules regarding the regulation and the qualifications of
29 medical assistants.
30 10. Keep board records open to public inspection during normal business
31 hours.
32 B. The board may:
33 1. Adopt rules necessary or proper for the administration of this
34 chapter.
35 2. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, hire ~~permanent or~~
36 ~~temporary~~ personnel to carry out the purposes of this chapter.
37 3. Hire INVESTIGATORS SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 or
38 contract with investigators to assist in the investigation of violations of
39 this chapter and contract with other state agencies if required to carry out
40 this chapter.
41 4. Appoint one of its members to the jurisdiction arbitration panel
42 pursuant to section 32-2907, subsection B.
43 5. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ consultants to
44 perform duties the board determines are necessary to implement this chapter.

1 6. Appoint from its membership a temporary secretary to perform the
2 duties of the executive director if that office is vacant. The temporary
3 secretary is eligible to receive compensation pursuant to section 38-611.

4 7. Compile and publish an annual directory.

5 8. Adopt rules to establish competency or professional review
6 standards for any minor surgical procedure.

7 9. Appoint two or more board members to a subcommittee that reviews
8 and approves applications and issues permits pertaining to homeopathic
9 medical assistants and associated practical educational programs, pursuant to
10 board rules.

11 10. Appoint two or more board members to a subcommittee that reviews
12 and approves applications and issues permits pertaining to drugs and device
13 dispensing practices, pursuant to board rules.

14 Sec. 67. Section 32-2905, Arizona Revised Statutes, is amended to
15 read:

16 32-2905. Executive director; compensation; duties

17 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
18 an executive director from outside its membership. The executive director
19 serves at the pleasure of the board and is eligible to receive compensation
20 determined pursuant to section 38-611.

21 B. The executive director shall:

22 1. Collect all monies due and payable to the board.

23 2. Deposit, pursuant to sections 35-146 and 35-147, all monies
24 received by the board in the appropriate fund.

25 3. Prepare bills for authorized expenditures of the board and obtain
26 warrants from the department of administration for payment of bills certified
27 by the president or vice-president and secretary-treasurer of the board.

28 4. Act as custodian of the seal, books, records, minutes and
29 proceedings.

30 5. Perform all duties prescribed by the board.

31 Sec. 68. Section 32-3003, Arizona Revised Statutes, is amended to
32 read:

33 32-3003. Powers and duties

34 A. The board shall:

35 1. Annually select a chairman from among its members.

36 2. Meet at least four times a year.

37 3. Adopt rules which are necessary or proper for the administration of
38 this chapter.

39 4. Administer and enforce this chapter and rules adopted pursuant to
40 this chapter.

41 5. Establish minimum standards for private vocational program
42 licensure requirements.

43 6. Adopt an official seal for attestation of licenses or other
44 official papers and documents.

- 1 7. Consider and pass upon applications for private vocational program
2 licenses and licenses to grant degrees.
- 3 8. Hear and pass upon complaints or charges.
- 4 9. Compel attendance of witnesses, administer oaths and take testimony
5 concerning all matters coming within its jurisdiction.
- 6 10. Keep a record of its proceedings.
- 7 11. Keep a register which shows the date of each application for a
8 private vocational program license, qualifications and place of business of
9 the applicant and disposition of the application.
- 10 12. Keep a register which shows the date of each application for a
11 license to grant degrees, qualifications and place of business of the
12 applicant and disposition of the application.
- 13 13. Maintain a list of institutions licensed pursuant to this chapter
14 which is open to public inspection at all reasonable times. The board shall
15 give a copy of the list to any person who requests it.
- 16 14. Engage in a full exchange of information with other regulatory
17 boards, governmental agencies, accrediting agencies and the United States
18 department of education.
- 19 15. Do other things necessary to carry out the purposes of this
20 chapter.
- 21 B. The board may:
- 22 1. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ ~~temporary or~~
23 ~~permanent~~ personnel it deems necessary to carry out the purposes of this
24 chapter and designate their duties. These duties may include considering and
25 passing on license applications, considering and passing on complaints or
26 charges, making investigations, compelling attendance of witnesses and
27 issuing official papers and documents.
- 28 2. Make investigations, hold hearings and make decisions to enforce
29 this chapter.
- 30 3. Issue subpoenas to compel the attendance of witnesses and the
31 production of documents and administer oaths, take testimony, hear proof and
32 receive exhibits in evidence.
- 33 4. Accept and spend federal monies and private grants, gifts,
34 contributions and devises to assist in carrying out the purposes of this
35 chapter. These monies do not revert to the state general fund at the end of
36 a fiscal year.
- 37 Sec. 69. Section 32-3253, Arizona Revised Statutes, is amended to
38 read:
- 39 32-3253. Powers and duties
- 40 A. The board shall:
- 41 1. Adopt rules consistent with and necessary or proper to carry out
42 the purposes of this chapter.
- 43 2. Administer and enforce this chapter, rules adopted pursuant to this
44 chapter and orders of the board.

- 1 3. Issue a license by examination, reciprocity or temporary
2 recognition to, and renew the license of, each person who is qualified to be
3 licensed pursuant to this chapter. The board must issue or deny a license
4 within one hundred eighty days after the applicant submits a completed
5 application.
- 6 4. Establish a licensure fee schedule annually, by a formal vote at a
7 regular board meeting.
- 8 5. Collect fees and spend monies.
- 9 6. Keep a record of all persons licensed pursuant to this chapter,
10 actions taken on all applications for licensure, actions involving renewal,
11 suspension, revocation or denial of a license or probation of licensees and
12 the receipt and disbursal of monies.
- 13 7. Adopt an official seal for attestation of licensure and other
14 official papers and documents.
- 15 8. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, employ ~~temporary or~~
16 ~~permanent~~ personnel as it deems necessary.
- 17 9. Conduct investigations and determine on its own motion if a
18 licensee or an applicant has engaged in unprofessional conduct, is
19 incompetent or is mentally or physically unable to engage in the practice of
20 behavioral health.
- 21 10. Conduct disciplinary actions pursuant to this chapter and board
22 rules.
- 23 11. Establish and enforce standards or criteria of programs or other
24 mechanisms to ensure the continuing competence of licensees.
- 25 12. Establish and enforce compliance with professional standards and
26 rules of conduct for licensees.
- 27 13. Engage in a full exchange of information with the licensing and
28 disciplinary boards and professional associations for behavioral health
29 professionals in this state and other jurisdictions.
- 30 14. Subject to section 35-149, accept, expend and account for gifts,
31 grants, devises and other contributions, money or property from any public or
32 private source, including the federal government. Monies received under this
33 paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in
34 special funds for the purpose specified, which are exempt from **THE PROVISIONS**
35 **OF** section 35-190 relating to lapsing of appropriations.
- 36 B. The board may join professional organizations and associations
37 organized exclusively to promote the improvement of the standards of the
38 practice of behavioral health, protect the health and welfare of the public
39 or assist and facilitate the work of the board.
- 40 C. The board may establish a confidential program for the monitoring
41 of licensees who are chemically dependent and who enroll in a rehabilitation
42 program that meets the criteria prescribed by the board. The board may take
43 further action if a licensee refuses to enter into a stipulated agreement or
44 fails to comply with the terms of a stipulated agreement. In order to
45 protect the public health and safety, the confidentiality requirements of

1 this subsection do not apply if a licensee does not comply with the
2 stipulated agreement.

3 Sec. 70. Section 32-3403, Arizona Revised Statutes, is amended to
4 read:

5 32-3403. Executive director; personnel; duties; compensation

6 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ and
7 discharge an executive director and other officers and employees as it deems
8 necessary and designate their duties. Board personnel are eligible to receive
9 compensation as determined pursuant to section 38-611.

10 B. The executive director shall:

11 1. Issue and document licenses approved by the board.

12 2. Keep a record of the status of licenses and licensees.

13 3. Keep a record of the status of applicants, including those whose
14 applications are denied.

15 4. Perform tasks and duties assigned by the board.

16 5. Collect fees and maintain accounting records according to generally
17 accepted accounting principles.

18 Sec. 71. Section 32-3504, Arizona Revised Statutes, is amended to
19 read:

20 32-3504. Powers and duties; inspection of records; personnel
21 examinations; immunity

22 A. The board shall:

23 1. Enforce and administer the provisions of this chapter.

24 2. Adopt rules necessary to administer this chapter.

25 3. Examine applicants for licensure pursuant to this chapter at times
26 and places it designates.

27 4. Investigate each applicant for licensure, before a license is
28 issued, in order to determine if the applicant is qualified pursuant to this
29 chapter.

30 5. Keep a record of all its acts and proceedings pursuant to this
31 chapter, including the issuance, refusal, renewal, suspension or revocation
32 of licenses.

33 6. Beginning on January 1, 1999, require each applicant for initial
34 licensure to submit a full set of fingerprints to the board for a state and
35 federal criminal history records check pursuant to section 41-1750 and Public
36 Law 92-544.

37 7. Maintain a register which contains the name, the last known place
38 of residence and the date and number of the license of all persons licensed
39 pursuant to this chapter.

40 8. Compile, once every two years, a list of licensed respiratory care
41 practitioners who are authorized to practice in this state.

42 9. Establish minimum annual continuing education requirements for
43 persons licensed under this chapter.

44 B. The board, in approving training programs for respiratory
45 therapists and training programs for respiratory therapy technicians shall

1 consider the requirements and standards set by the American medical
2 association's committee on allied health education and accreditation in
3 collaboration with the joint review committee for respiratory therapy
4 education. The board may recognize examinations administered by a national
5 board for respiratory care approved by the board.

6 ~~C. The board may employ an executive officer and other temporary and
7 permanent personnel it deems necessary. The executive officer and other
8 personnel are eligible to receive compensation pursuant to section 38-611.~~

9 ~~D.~~ C. The board may conduct examinations under a uniform examination
10 system and may make arrangements with the national board of respiratory care
11 or other organizations regarding examination materials it determines
12 necessary and desirable.

13 ~~E.~~ D. The board and its members, ~~temporary and permanent~~ personnel
14 and board examiners are personally immune from suit with respect to all acts
15 done and actions taken in good faith and in furtherance of the purposes of
16 this chapter.

17 Sec. 72. Section 32-3506, Arizona Revised Statutes, is amended to
18 read:

19 32-3506. Executive director; duties; compensation

20 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
21 an executive director who serves at the pleasure of the board. The executive
22 director shall not be a board member.

23 B. The executive director ~~is~~ AND OTHER BOARD EMPLOYEES ARE eligible to
24 receive compensation AS DETERMINED pursuant to section 38-611.

25 C. The executive director shall:

26 1. Perform the board's administrative duties.

27 2. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,
28 ARTICLES 5 AND 6, employ, evaluate, dismiss, discipline and direct personnel
29 as necessary to carry out board functions.

30 ~~3. Set compensation for board employees pursuant to section 38-611.~~

31 ~~4.~~ 3. Issue temporary license certificates and temporary license
32 renewal certificates pursuant to section 32-3521 and board rules.

33 ~~5.~~ 4. Initiate an investigation if there is reason to believe that a
34 licensee is incompetent, mentally or physically unable to safely practice
35 respiratory care or engaged in unprofessional conduct.

36 ~~6.~~ 5. Issue subpoenas if necessary to compel the attendance and
37 testimony of witnesses and the production of books, records, documents and
38 evidence.

39 ~~7.~~ 6. As directed by the board, sign and execute disciplinary orders,
40 rehabilitative orders and notices of hearings.

41 ~~8.~~ 7. On behalf of the board, enter into stipulated agreements with
42 licensees for the treatment, rehabilitation and monitoring of chemical
43 substance abuse or misuse.

44 ~~9.~~ 8. Perform all other duties required by the board.

1 Sec. 73. Section 32-3605, Arizona Revised Statutes, is amended to
2 read:

3 32-3605. State board of appraisal; duties

4 A. The board shall adopt rules in aid or in furtherance of this
5 chapter.

6 B. The state board of appraisal shall:

7 1. In prescribing standards of professional appraisal practice, adopt
8 standards that at a minimum are equal to the standards prescribed by the
9 appraisal standards board.

10 2. In prescribing criteria for certification, adopt criteria that at a
11 minimum are equal to the minimum criteria for certification adopted by the
12 appraiser qualifications board.

13 3. In prescribing criteria for licensing, adopt criteria that at a
14 minimum are equal to the minimum criteria for licensing adopted by the
15 appraiser qualifications board.

16 4. Further define by rule with respect to state licensed or state
17 certified appraisers appropriate and reasonable educational experience,
18 appraisal experience and equivalent experience that meets the statutory
19 requirement of this chapter.

20 5. Establish the examination specifications for state certified
21 appraisers, provide or procure appropriate examination questions and answers,
22 administer examinations and establish procedures for grading examinations
23 consistent with and equivalent to the criteria adopted by the appraiser
24 qualifications board.

25 6. Establish the examination specifications for state licensed
26 appraisers, provide or procure appropriate examination questions and answers,
27 administer examinations and establish procedures for grading examinations
28 consistent with and equivalent to the criteria adopted by the appraiser
29 qualifications board.

30 7. Establish administrative procedures for approving or disapproving
31 applications for licensure and certification and issuing licenses and
32 certificates.

33 8. Define by rule, with respect to state licensed and certified
34 appraisers, the continuing education requirements for the renewal of licenses
35 or certificates that satisfy the statutory requirements provided in this
36 chapter.

37 9. Periodically review the requirements for the development and
38 communication of appraisals provided in this chapter and adopt rules
39 explaining and interpreting the requirements.

40 10. Define and explain by rule each stage and step associated with the
41 administrative procedures for the disciplinary process pursuant to this
42 chapter including:

43 (a) Prescribing minimum criteria for accepting a complaint against a
44 licensed or certified appraiser.

- 1 (b) Defining the process and procedures used in investigating the
2 allegations of the complaint.
- 3 (c) Defining the process and procedures used in hearings on the
4 complaint, including a description of the rights of the board and any person
5 who is alleged to have committed the violation.
- 6 (d) Establishing criteria to be used in determining the appropriate
7 actions for violations.
- 8 11. Communicate information that is useful to the public and appraisers
9 relating to actions for violations.
- 10 12. Censure, suspend and revoke licenses and certificates pursuant to
11 the disciplinary proceedings provided for in section 32-3631.
- 12 13. At least monthly transmit to the appraisal subcommittee a roster
13 listing individuals who have received a state certificate or license in
14 accordance with this chapter.
- 15 14. Report on the disposition of any matter referred by the appraisal
16 subcommittee or any other federal agency or instrumentality or federally
17 recognized entity reporting any action of a state licensed or state certified
18 appraiser that is contrary to this chapter.
- 19 15. Make a determination and finding if there exists a scarcity of
20 state certified or state licensed appraisers to perform appraisals in
21 connection with federally related transactions in this state and issue
22 resident temporary licenses and certificates pursuant to section 32-3626.
- 23 16. Transmit the national registry fee collected pursuant to section
24 32-3607 to the appraisal subcommittee.
- 25 17. Establish the fees in accordance with the limits established in
26 section 32-3607.
- 27 18. Perform such other functions and duties as may be necessary to
28 carry out this chapter.
- 29 C. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board may employ an
30 executive director and other personnel and designate their duties. The
31 executive director shall serve at the pleasure of the board.
- 32 D. The executive director shall not change or amend actions of the
33 board.
- 34 Sec. 74. Section 32-3903, Arizona Revised Statutes, is amended to
35 read:
- 36 [32-3903. Powers and duties of the board](#)
- 37 A. The board shall:
- 38 1. Adopt rules necessary to enforce this chapter.
- 39 2. Initiate investigations and take disciplinary actions to enforce
40 this chapter.
- 41 3. Evaluate the qualifications of applicants and issue licenses to
42 qualified applicants.
- 43 4. Adopt and use a seal to authenticate official board documents.
- 44 5. Establish fees pursuant to section 32-3927.

1 director and shall receive compensation as determined pursuant to section
2 38-611.

3 Sec. 79. Section 36-273, Arizona Revised Statutes, is amended to read:
4 36-273. Powers and duties

5 A. The department may:

6 1. Use monies in the disease control research fund established
7 pursuant to section 36-274 to contract with individuals, organizations,
8 corporations and institutions, public or private, in this state for any
9 projects or services that the department determines may advance research into
10 the causes, the epidemiology and diagnosis, the formulation of cures, the
11 medically accepted treatment or the prevention of diseases, including new
12 drug discovery and development. Public monies in the disease control
13 research fund shall not be used for capital construction projects.

14 2. Enter into research and development agreements, royalty agreements,
15 development agreements, licensing agreements and profit sharing agreements
16 concerning the research, development and production of new products developed
17 or to be developed through department funded research.

18 3. Accept or receive monies from any source, including restricted or
19 unrestricted gifts and contributions from individuals, foundations,
20 corporations and other organizations and institutions.

21 4. Obtain expert services to assist in the evaluation of requests and
22 proposals.

23 5. Request cooperation from any state agency for the purposes of this
24 article.

25 6. Provide information and technical assistance to other jurisdictions
26 and agencies.

27 7. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, EMPLOY PERSONNEL NEEDED
28 TO CARRY OUT THE DUTIES OF THIS ARTICLE.

29 B. The department shall:

30 1. Review and evaluate proposals or requests for projects or services.

31 2. Establish a mechanism to review the contracts awarded to ensure
32 that the monies are used in accordance with the proposals approved by the
33 department.

34 3. Prepare and submit a report on or before January 15 of each year to
35 the governor, the president of the senate and the speaker of the house of
36 representatives that describes the projects or services proposed to the
37 department pursuant to this article, the projects or services for which the
38 department has awarded a contract and the amount of monies necessary for each
39 proposal, the cost of each proposal for which a contract was awarded, the
40 names and addresses of the recipients of each contract and the purpose for
41 which each contract was made. The department shall provide a copy of this
42 report to the secretary of state.

1 Sec. 80. Section 36-446.03, Arizona Revised Statutes, is amended to
2 read:

3 36-446.03. Powers and duties of the board; fees

4 A. The board may adopt, amend or repeal reasonable and necessary rules
5 and standards for the administration of this article in compliance with title
6 XIX of the social security act, as amended.

7 B. The board by rule may adopt nonrefundable fees for the following:
8 1. Initial application for certification as an assisted living
9 facility manager.

10 2. Examination for certification as an assisted living facility
11 manager.

12 3. Issuance of a certificate as an assisted living facility manager,
13 prorated monthly.

14 4. Biennial renewal of a certificate as an assisted living facility
15 manager.

16 5. Issuance of a temporary certificate as an assisted living facility
17 manager.

18 6. Readministering an examination for certification as an assisted
19 living facility manager.

20 7. Issuance of a duplicate certificate as an assisted living facility
21 manager.

22 8. Reviewing the sponsorship of continuing education programs, for
23 each credit hour.

24 9. Late renewal of an assisted living facility manager certificate.

25 10. Reviewing an individual's request for continuing education credit
26 hours, for each credit hour.

27 11. Reviewing initial applications for assisted living facility
28 training programs.

29 12. Annual renewal of approved assisted living facility training
30 programs.

31 C. The board may elect officers it deems necessary.

32 D. The board shall apply appropriate techniques, including
33 examinations and investigations, to determine if a person meets the
34 qualifications prescribed in section 36-446.04.

35 E. On its own motion or in response to any complaint against or report
36 of a violation by an administrator of a nursing care institution, or a
37 manager of an assisted living facility, the board may conduct investigations,
38 hearings and other proceedings concerning any violation of this article or of
39 rules adopted by the board or by the department.

40 F. In connection with an investigation or administrative hearing, the
41 board may administer oaths and affirmations, subpoena witnesses, take
42 evidence and require by subpoena the production of documents, records or
43 other information in any form concerning matters the board deems relevant to
44 the investigation or hearing. If any subpoena issued by the board is
45 disobeyed, the board may invoke the aid of any court in this state in

1 requiring the attendance and testimony of witnesses and the production of
2 evidence.

3 G. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ
4 persons to provide investigative, professional and clerical assistance as
5 required to perform its powers and duties under this article. Compensation
6 for board employees shall be as determined pursuant to section 38-611. The
7 board may contract with other state or federal agencies as required to carry
8 out this article.

9 H. The board may appoint review committees to make recommendations
10 concerning enforcement matters and the administration of this article.

11 I. The board by rule may establish a program to monitor licensees and
12 certificate holders who are chemically dependent and who enroll in
13 rehabilitation programs that meet board requirements. The board may take
14 disciplinary action if a licensee or a certificate holder refuses to enter
15 into an agreement to enroll in and complete a board approved rehabilitation
16 program or fails to abide by that agreement.

17 J. The board shall adopt and use an official seal.

18 K. The board shall adopt rules for the examination and licensure of
19 nursing care institution administrators and the examination and certification
20 of assisted living facility managers.

21 L. The board shall adopt rules governing payment to a person for the
22 direct or indirect solicitation or procurement of assisted living facility
23 patronage.

24 M. The board must provide the senate and the house of representatives
25 health committee chairmen with copies of all board minutes and executive
26 decisions.

27 N. The board by rule shall limit by percentage the amount it may
28 increase a fee above the amount of a fee previously prescribed by the board
29 pursuant to this section.

30 O. The board by rule shall prescribe standards for assisted living
31 facility training programs.

32 P. The board may:

33 1. Grant, deny, suspend or revoke approval of, or place on probation,
34 an assisted living facility training program.

35 2. Impose a civil penalty on an assisted living facility training
36 program that violates this chapter or rules adopted pursuant to this chapter.

37 Sec. 81. Section 36-450.02, Arizona Revised Statutes, is amended to
38 read:

39 36-450.02. Nonretaliatory policy

40 A. Each health care institution licensed pursuant to this chapter
41 shall adopt a policy that prohibits retaliatory action against a health
42 professional who in good faith:

43 1. Makes a report to the health care institution pursuant to the
44 requirements of section 36-450.01.

1 2. Having provided the health care institution a reasonable
2 opportunity to address the report, provides information to a private health
3 care accreditation organization or governmental entity concerning the
4 activity, policy or practice that was the subject of the report.

5 B. This section does not prohibit a health care institution licensed
6 pursuant to this chapter from taking action against a health professional for
7 a purpose not related to a report filed pursuant to section 36-450.01.

8 C. Except as provided in section 23-1501, **SUBSECTION A**, paragraph 3,
9 subdivisions (a), ~~AND~~ (c) ~~and (d)~~, this section shall only be enforced
10 through the provisions of this chapter.

11 D. There shall be a rebuttable presumption that any termination or
12 other adverse action that occurs more than one hundred eighty days after the
13 date of a report made pursuant to either subsection A, paragraph 1 or 2 of
14 this section is not a retaliatory action.

15 Sec. 82. Section 36-1943, Arizona Revised Statutes, is amended to
16 read:

17 36-1943. Executive director; duties

18 A. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, the commission shall
19 appoint an executive director who serves at the pleasure of the commission.
20 **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, the commission may ~~appoint~~ EMPLOY
21 other employees as necessary ~~and shall fix~~, **DETERMINE** their compensation
22 **PURSUANT TO SECTION 38-611** and prescribe their powers and duties. With the
23 approval of the commission, the executive director may contract for
24 professional, technical and clerical services necessary to carry out
25 functions of the commission.

26 B. The executive director shall be a trained professional experienced
27 in problems of the deaf and the hard of hearing and skilled in the use of
28 manual communication, commonly referred to as sign language, and may be
29 either a deaf person, a person who is hard of hearing or a person with normal
30 hearing. The executive director shall assist the commission to implement its
31 programs and activities and to implement this chapter. The executive
32 director shall not be a commission member. The executive director is
33 eligible to receive compensation set by the commission within the range
34 determined pursuant to section 38-611.

35 Sec. 83. Section 36-2903.01, Arizona Revised Statutes, is amended to
36 read:

37 36-2903.01. Additional powers and duties; report

38 A. The director of the Arizona health care cost containment system
39 administration may adopt rules that provide that the system may withhold or
40 forfeit payments to be made to a noncontracting provider by the system if the
41 noncontracting provider fails to comply with this article, the provider
42 agreement or rules that are adopted pursuant to this article and that relate
43 to the specific services rendered for which a claim for payment is made.

1 B. The director shall:

2 1. Prescribe uniform forms to be used by all contractors. The rules
3 shall require a written and signed application by the applicant or an
4 applicant's authorized representative, or, if the person is incompetent or
5 incapacitated, a family member or a person acting responsibly for the
6 applicant may obtain a signature or a reasonable facsimile and file the
7 application as prescribed by the administration.

8 2. Enter into an interagency agreement with the department to
9 establish a streamlined eligibility process to determine the eligibility of
10 all persons defined pursuant to section 36-2901, paragraph 6,
11 subdivision (a). At the administration's option, the interagency agreement
12 may allow the administration to determine the eligibility of certain persons,
13 including those defined pursuant to section 36-2901, paragraph 6,
14 subdivision (a).

15 3. Enter into an intergovernmental agreement with the department to:

16 (a) Establish an expedited eligibility and enrollment process for all
17 persons who are hospitalized at the time of application.

18 (b) Establish performance measures and incentives for the department.

19 (c) Establish the process for management evaluation reviews that the
20 administration shall perform to evaluate the eligibility determination
21 functions performed by the department.

22 (d) Establish eligibility quality control reviews by the
23 administration.

24 (e) Require the department to adopt rules, consistent with the rules
25 adopted by the administration for a hearing process, that applicants or
26 members may use for appeals of eligibility determinations or
27 redeterminations.

28 (f) Establish the department's responsibility to place sufficient
29 eligibility workers at federally qualified health centers to screen for
30 eligibility and at hospital sites and level one trauma centers to ensure that
31 persons seeking hospital services are screened on a timely basis for
32 eligibility for the system, including a process to ensure that applications
33 for the system can be accepted on a twenty-four hour basis, seven days a
34 week.

35 (g) Withhold payments based on the allowable sanctions for errors in
36 eligibility determinations or redeterminations or failure to meet performance
37 measures required by the intergovernmental agreement.

38 (h) Recoup from the department all federal fiscal sanctions that
39 result from the department's inaccurate eligibility determinations. The
40 director may offset all or part of a sanction if the department submits a
41 corrective action plan and a strategy to remedy the error.

42 4. By rule establish a procedure and time frames for the intake of
43 grievances and requests for hearings, for the continuation of benefits and
44 services during the appeal process and for a grievance process at the
45 contractor level. Notwithstanding sections 41-1092.02, 41-1092.03 and

1 41-1092.05, the administration shall develop rules to establish the procedure
2 and time frame for the informal resolution of grievances and appeals. A
3 grievance that is not related to a claim for payment of system covered
4 services shall be filed in writing with and received by the administration or
5 the prepaid capitated provider or program contractor not later than sixty
6 days after the date of the adverse action, decision or policy implementation
7 being grieved. A grievance that is related to a claim for payment of system
8 covered services must be filed in writing and received by the administration
9 or the prepaid capitated provider or program contractor within twelve months
10 after the date of service, within twelve months after the date that
11 eligibility is posted or within sixty days after the date of the denial of a
12 timely claim submission, whichever is later. A grievance for the denial of a
13 claim for reimbursement of services may contest the validity of any adverse
14 action, decision, policy implementation or rule that related to or resulted
15 in the full or partial denial of the claim. A policy implementation may be
16 subject to a grievance procedure, but it may not be appealed for a hearing.
17 The administration is not required to participate in a mandatory settlement
18 conference if it is not a real party in interest. In any proceeding before
19 the administration, including a grievance or hearing, persons may represent
20 themselves or be represented by a duly authorized agent who is not charging a
21 fee. A legal entity may be represented by an officer, partner or employee
22 who is specifically authorized by the legal entity to represent it in the
23 particular proceeding.

24 5. Apply for and accept federal funds available under title XIX of the
25 social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section
26 1396 (1980)) in support of the system. The application made by the director
27 pursuant to this paragraph shall be designed to qualify for federal funding
28 primarily on a prepaid capitated basis. Such funds may be used only for the
29 support of persons defined as eligible pursuant to title XIX of the social
30 security act or the approved section 1115 waiver.

31 6. At least thirty days before the implementation of a policy or a
32 change to an existing policy relating to reimbursement, provide notice to
33 interested parties. Parties interested in receiving notification of policy
34 changes shall submit a written request for notification to the
35 administration.

36 7. In addition to the cost sharing requirements specified in
37 subsection D, paragraph 4 of this section:

38 (a) Charge monthly premiums up to the maximum amount allowed by
39 federal law to all populations of eligible persons who may be charged.

40 (b) Implement this paragraph to the extent permitted under the federal
41 deficit reduction act of 2005 and other federal laws, subject to the approval
42 of federal waiver authority and to the extent that any changes in the cost
43 sharing requirements under this paragraph would permit this state to receive
44 any enhanced federal matching rate.

1 C. The director is authorized to apply for any federal funds available
2 for the support of programs to investigate and prosecute violations arising
3 from the administration and operation of the system. Available state funds
4 appropriated for the administration and operation of the system may be used
5 as matching funds to secure federal funds pursuant to this subsection.

6 D. The director may adopt rules or procedures to do the following:

7 1. Authorize advance payments based on estimated liability to a
8 contractor or a noncontracting provider after the contractor or
9 noncontracting provider has submitted a claim for services and before the
10 claim is ultimately resolved. The rules shall specify that any advance
11 payment shall be conditioned on the execution before payment of a contract
12 with the contractor or noncontracting provider that requires the
13 administration to retain a specified percentage, which shall be at least
14 twenty per cent, of the claimed amount as security and that requires
15 repayment to the administration if the administration makes any overpayment.

16 2. Defer liability, in whole or in part, of contractors for care
17 provided to members who are hospitalized on the date of enrollment or under
18 other circumstances. Payment shall be on a capped fee-for-service basis for
19 services other than hospital services and at the rate established pursuant to
20 subsection G or H of this section for hospital services or at the rate paid
21 by the health plan, whichever is less.

22 3. Deputize, in writing, any qualified officer or employee in the
23 administration to perform any act that the director by law is empowered to do
24 or charged with the responsibility of doing, including the authority to issue
25 final administrative decisions pursuant to section 41-1092.08.

26 4. Notwithstanding any other law, require persons eligible pursuant to
27 section 36-2901, paragraph 6, subdivision (a), section 36-2931 and section
28 36-2981, paragraph 6 to be financially responsible for any cost sharing
29 requirements established in a state plan or a section 1115 waiver and
30 approved by the centers for medicare and medicaid services. Cost sharing
31 requirements may include copayments, coinsurance, deductibles, enrollment
32 fees and monthly premiums for enrolled members, including households with
33 children enrolled in the Arizona long-term care system.

34 E. The director shall adopt rules that further specify the medical
35 care and hospital services that are covered by the system pursuant to section
36 36-2907.

37 F. In addition to the rules otherwise specified in this article, the
38 director may adopt necessary rules pursuant to title 41, chapter 6 to carry
39 out this article. Rules adopted by the director pursuant to this subsection
40 shall consider the differences between rural and urban conditions on the
41 delivery of hospitalization and medical care.

42 G. For inpatient hospital admissions and all outpatient hospital
43 services before March 1, 1993, the administration shall reimburse a
44 hospital's adjusted billed charges according to the following procedures:

1 1. The director shall adopt rules that, for services rendered from and
2 after September 30, 1985 until October 1, 1986, define "adjusted billed
3 charges" as that reimbursement level that has the effect of holding constant
4 whichever of the following is applicable:

5 (a) The schedule of rates and charges for a hospital in effect on
6 April 1, 1984 as filed pursuant to chapter 4, article 3 of this title.

7 (b) The schedule of rates and charges for a hospital that became
8 effective after May 31, 1984 but before July 2, 1984, if the hospital's
9 previous rate schedule became effective before April 30, 1983.

10 (c) The schedule of rates and charges for a hospital that became
11 effective after May 31, 1984 but before July 2, 1984, limited to five per
12 cent over the hospital's previous rate schedule, and if the hospital's
13 previous rate schedule became effective on or after April 30, 1983 but before
14 October 1, 1983.

15 For the purposes of this paragraph, "constant" means equal to or lower than.

16 2. The director shall adopt rules that, for services rendered from and
17 after September 30, 1986, define "adjusted billed charges" as that
18 reimbursement level that has the effect of increasing by four per cent a
19 hospital's reimbursement level in effect on October 1, 1985 as prescribed in
20 paragraph 1 of this subsection. Beginning January 1, 1991, the Arizona
21 health care cost containment system administration shall define "adjusted
22 billed charges" as the reimbursement level determined pursuant to this
23 section, increased by two and one-half per cent.

24 3. In no event shall a hospital's adjusted billed charges exceed the
25 hospital's schedule of rates and charges filed with the department of health
26 services and in effect pursuant to chapter 4, article 3 of this title.

27 4. For services rendered the administration shall not pay a hospital's
28 adjusted billed charges in excess of the following:

29 (a) If the hospital's bill is paid within thirty days of the date the
30 bill was received, eighty-five per cent of the adjusted billed charges.

31 (b) If the hospital's bill is paid any time after thirty days but
32 within sixty days of the date the bill was received, ninety-five per cent of
33 the adjusted billed charges.

34 (c) If the hospital's bill is paid any time after sixty days of the
35 date the bill was received, one hundred per cent of the adjusted billed
36 charges.

37 5. The director shall define by rule the method of determining when a
38 hospital bill will be considered received and when a hospital's billed
39 charges will be considered paid. Payment received by a hospital from the
40 administration pursuant to this subsection or from a contractor either by
41 contract or pursuant to section 36-2904, subsection I shall be considered
42 payment of the hospital bill in full, except that a hospital may collect any
43 unpaid portion of its bill from other third party payors or in situations
44 covered by title 33, chapter 7, article 3.

1 H. For inpatient hospital admissions and outpatient hospital services
2 on and after March 1, 1993 the administration shall adopt rules for the
3 reimbursement of hospitals according to the following procedures:

4 1. For inpatient hospital stays, the administration shall use a
5 prospective tiered per diem methodology, using hospital peer groups if
6 analysis shows that cost differences can be attributed to independently
7 definable features that hospitals within a peer group share. In peer
8 grouping the administration may consider such factors as length of stay
9 differences and labor market variations. If there are no cost differences,
10 the administration shall implement a stop loss-stop gain or similar
11 mechanism. Any stop loss-stop gain or similar mechanism shall ensure that
12 the tiered per diem rates assigned to a hospital do not represent less than
13 ninety per cent of its 1990 base year costs or more than one hundred ten per
14 cent of its 1990 base year costs, adjusted by an audit factor, during the
15 period of March 1, 1993 through September 30, 1994. The tiered per diem
16 rates set for hospitals shall represent no less than eighty-seven and
17 one-half per cent or more than one hundred twelve and one-half per cent of
18 its 1990 base year costs, adjusted by an audit factor, from October 1, 1994
19 through September 30, 1995 and no less than eighty-five per cent or more than
20 one hundred fifteen per cent of its 1990 base year costs, adjusted by an
21 audit factor, from October 1, 1995 through September 30, 1996. For the
22 periods after September 30, 1996 no stop loss-stop gain or similar mechanisms
23 shall be in effect. An adjustment in the stop loss-stop gain percentage may
24 be made to ensure that total payments do not increase as a result of this
25 provision. If peer groups are used the administration shall establish
26 initial peer group designations for each hospital before implementation of
27 the per diem system. The administration may also use a negotiated rate
28 methodology. The tiered per diem methodology may include separate
29 consideration for specialty hospitals that limit their provision of services
30 to specific patient populations, such as rehabilitative patients or children.
31 The initial per diem rates shall be based on hospital claims and encounter
32 data for dates of service November 1, 1990 through October 31, 1991 and
33 processed through May of 1992.

34 2. For rates effective on October 1, 1994, and annually thereafter,
35 the administration shall adjust tiered per diem payments for inpatient
36 hospital care by the data resources incorporated market basket index for
37 prospective payment system hospitals. For rates effective beginning on
38 October 1, 1999, the administration shall adjust payments to reflect changes
39 in length of stay for the maternity and nursery tiers.

40 3. Through June 30, 2004, for outpatient hospital services, the
41 administration shall reimburse a hospital by applying a hospital specific
42 outpatient cost-to-charge ratio to the covered charges. Beginning on July 1,
43 2004 through June 30, 2005, the administration shall reimburse a hospital by
44 applying a hospital specific outpatient cost-to-charge ratio to covered
45 charges. If the hospital increases its charges for outpatient services filed

1 with the Arizona department of health services pursuant to chapter 4, article
2 3 of this title, by more than 4.7 per cent for dates of service effective on
3 or after July 1, 2004, the hospital specific cost-to-charge ratio will be
4 reduced by the amount that it exceeds 4.7 per cent. If charges exceed 4.7
5 per cent, the effective date of the increased charges will be the effective
6 date of the adjusted Arizona health care cost containment system
7 cost-to-charge ratio. The administration shall develop the methodology for a
8 capped fee-for-service schedule and a statewide cost-to-charge ratio. Any
9 covered outpatient service not included in the capped fee-for-service
10 schedule shall be reimbursed by applying the statewide cost-to-charge ratio
11 that is based on the services not included in the capped fee-for-service
12 schedule. Beginning on July 1, 2005, the administration shall reimburse
13 clean claims with dates of service on or after July 1, 2005, based on the
14 capped fee-for-service schedule or the statewide cost-to-charge ratio
15 established pursuant to this paragraph. The administration may make
16 additional adjustments to the outpatient hospital rates established pursuant
17 to this section based on other factors, including the number of beds in the
18 hospital, specialty services available to patients and the geographic
19 location of the hospital.

20 4. Except if submitted under an electronic claims submission system, a
21 hospital bill is considered received for purposes of this paragraph on
22 initial receipt of the legible, error-free claim form by the administration
23 if the claim includes the following error-free documentation in legible form:

- 24 (a) An admission face sheet.
- 25 (b) An itemized statement.
- 26 (c) An admission history and physical.
- 27 (d) A discharge summary or an interim summary if the claim is split.
- 28 (e) An emergency record, if admission was through the emergency room.
- 29 (f) Operative reports, if applicable.
- 30 (g) A labor and delivery room report, if applicable.

31 Payment received by a hospital from the administration pursuant to this
32 subsection or from a contractor either by contract or pursuant to section
33 36-2904, subsection I is considered payment by the administration or the
34 contractor of the administration's or contractor's liability for the hospital
35 bill. A hospital may collect any unpaid portion of its bill from other third
36 party payors or in situations covered by title 33, chapter 7, article 3.

37 5. For services rendered on and after October 1, 1997, the
38 administration shall pay a hospital's rate established according to this
39 section subject to the following:

- 40 (a) If the hospital's bill is paid within thirty days of the date the
41 bill was received, the administration shall pay ninety-nine per cent of the
42 rate.
- 43 (b) If the hospital's bill is paid after thirty days but within sixty
44 days of the date the bill was received, the administration shall pay one
45 hundred per cent of the rate.

1 (c) If the hospital's bill is paid any time after sixty days of the
2 date the bill was received, the administration shall pay one hundred per cent
3 of the rate plus a fee of one per cent per month for each month or portion of
4 a month following the sixtieth day of receipt of the bill until the date of
5 payment.

6 6. In developing the reimbursement methodology, if a review of the
7 reports filed by a hospital pursuant to section 36-125.04 indicates that
8 further investigation is considered necessary to verify the accuracy of the
9 information in the reports, the administration may examine the hospital's
10 records and accounts related to the reporting requirements of section
11 36-125.04. The administration shall bear the cost incurred in connection
12 with this examination unless the administration finds that the records
13 examined are significantly deficient or incorrect, in which case the
14 administration may charge the cost of the investigation to the hospital
15 examined.

16 7. Except for privileged medical information, the administration shall
17 make available for public inspection the cost and charge data and the
18 calculations used by the administration to determine payments under the
19 tiered per diem system, provided that individual hospitals are not identified
20 by name. The administration shall make the data and calculations available
21 for public inspection during regular business hours and shall provide copies
22 of the data and calculations to individuals requesting such copies within
23 thirty days of receipt of a written request. The administration may charge a
24 reasonable fee for the provision of the data or information.

25 8. The prospective tiered per diem payment methodology for inpatient
26 hospital services shall include a mechanism for the prospective payment of
27 inpatient hospital capital related costs. The capital payment shall include
28 hospital specific and statewide average amounts. For tiered per diem rates
29 beginning on October 1, 1999, the capital related cost component is frozen at
30 the blended rate of forty per cent of the hospital specific capital cost and
31 sixty per cent of the statewide average capital cost in effect as of
32 January 1, 1999 and as further adjusted by the calculation of tier rates for
33 maternity and nursery as prescribed by law. The administration shall adjust
34 the capital related cost component by the data resources incorporated market
35 basket index for prospective payment system hospitals.

36 9. For graduate medical education programs:

37 (a) Beginning September 30, 1997, the administration shall establish a
38 separate graduate medical education program to reimburse hospitals that had
39 graduate medical education programs that were approved by the administration
40 as of October 1, 1999. The administration shall separately account for
41 monies for the graduate medical education program based on the total
42 reimbursement for graduate medical education reimbursed to hospitals by the
43 system in federal fiscal year 1995-1996 pursuant to the tiered per diem
44 methodology specified in this section. The graduate medical education
45 program reimbursement shall be adjusted annually by the increase or decrease

1 in the index published by the global insight hospital market basket index for
2 prospective hospital reimbursement. Subject to legislative appropriation, on
3 an annual basis, each qualified hospital shall receive a single payment from
4 the graduate medical education program that is equal to the same percentage
5 of graduate medical education reimbursement that was paid by the system in
6 federal fiscal year 1995-1996. Any reimbursement for graduate medical
7 education made by the administration shall not be subject to future
8 settlements or appeals by the hospitals to the administration. The monies
9 available under this subdivision shall not exceed the fiscal year 2005-2006
10 appropriation adjusted annually by the increase or decrease in the index
11 published by the global insight hospital market basket index for prospective
12 hospital reimbursement, except for monies distributed for expansions pursuant
13 to subdivision (b) of this paragraph.

14 (b) The monies available for graduate medical education programs
15 pursuant to this subdivision shall not exceed the fiscal year 2006-2007
16 appropriation adjusted annually by the increase or decrease in the index
17 published by the global insight hospital market basket index for prospective
18 hospital reimbursement. Graduate medical education programs eligible for
19 such reimbursement are not precluded from receiving reimbursement for funding
20 under subdivision (c) of this paragraph. Beginning July 1, 2006, the
21 administration shall distribute any monies appropriated for graduate medical
22 education above the amount prescribed in subdivision (a) of this paragraph in
23 the following order or priority:

24 (i) For the direct costs to support the expansion of graduate medical
25 education programs established before July 1, 2006 at hospitals that do not
26 receive payments pursuant to subdivision (a) of this paragraph. These
27 programs must be approved by the administration.

28 (ii) For the direct costs to support the expansion of graduate medical
29 education programs established on or before October 1, 1999. These programs
30 must be approved by the administration.

31 (c) The administration shall distribute to hospitals any monies
32 appropriated for graduate medical education above the amount prescribed in
33 subdivisions (a) and (b) of this paragraph for the following purposes:

34 (i) For the direct costs of graduate medical education programs
35 established or expanded on or after July 1, 2006. These programs must be
36 approved by the administration.

37 (ii) For a portion of additional indirect graduate medical education
38 costs for programs that are located in a county with a population of less
39 than five hundred thousand persons at the time the residency position was
40 created or for a residency position that includes a rotation in a county with
41 a population of less than five hundred thousand persons at the time the
42 residency position was established. These programs must be approved by the
43 administration.

44 (d) The administration shall develop, by rule, the formula by which
45 the monies are distributed.

1 (e) Each graduate medical education program that receives funding
2 pursuant to subdivision (b) or (c) of this paragraph shall identify and
3 report to the administration the number of new residency positions created by
4 the funding provided in this paragraph, including positions in rural areas.
5 The program shall also report information related to the number of funded
6 residency positions that resulted in physicians locating their practice in
7 this state. The administration shall report to the joint legislative budget
8 committee by February 1 of each year on the number of new residency positions
9 as reported by the graduate medical education programs.

10 (f) Local, county and tribal governments and any university under the
11 jurisdiction of the Arizona board of regents may provide monies in addition
12 to any state general fund monies appropriated for graduate medical education
13 in order to qualify for additional matching federal monies for providers,
14 programs or positions in a specific locality and costs incurred pursuant to a
15 specific contract between the administration and providers or other entities
16 to provide graduate medical education services as an administrative activity.
17 Payments by the administration pursuant to this subdivision may be limited to
18 those providers designated by the funding entity and may be based on any
19 methodology deemed appropriate by the administration, including replacing any
20 payments that might otherwise have been paid pursuant to subdivision (a), (b)
21 or (c) of this paragraph had sufficient state general fund monies or other
22 monies been appropriated to fully fund those payments. These programs,
23 positions, payment methodologies and administrative graduate medical
24 education services must be approved by the administration and the centers for
25 medicare and medicaid services. The administration shall report to the
26 president of the senate, the speaker of the house of representatives and the
27 director of the joint legislative budget committee on or before July 1 of
28 each year on the amount of money contributed and number of residency
29 positions funded by local, county and tribal governments, including the
30 amount of federal matching monies used.

31 (g) Any funds appropriated but not allocated by the administration for
32 subdivision (b) or (c) of this paragraph may be reallocated if funding for
33 either subdivision is insufficient to cover appropriate graduate medical
34 education costs.

35 10. Notwithstanding section 41-1005, subsection A, paragraph 9, the
36 administration shall adopt rules pursuant to title 41, chapter 6 establishing
37 the methodology for determining the prospective tiered per diem payments.

38 11. For inpatient hospital services rendered on or after October 1,
39 2011, the prospective tiered per diem payment rates are permanently reset to
40 the amounts payable for those services as of September 30, 2011 pursuant to
41 this subsection.

42 I. The director may adopt rules that specify enrollment procedures,
43 including notice to contractors of enrollment. The rules may provide for
44 varying time limits for enrollment in different situations. The
45 administration shall specify in contract when a person who has been

1 determined eligible will be enrolled with that contractor and the date on
2 which the contractor will be financially responsible for health and medical
3 services to the person.

4 J. The administration may make direct payments to hospitals for
5 hospitalization and medical care provided to a member in accordance with this
6 article and rules. The director may adopt rules to establish the procedures
7 by which the administration shall pay hospitals pursuant to this subsection
8 if a contractor fails to make timely payment to a hospital. Such payment
9 shall be at a level determined pursuant to section 36-2904, subsection H
10 or I. The director may withhold payment due to a contractor in the amount of
11 any payment made directly to a hospital by the administration on behalf of a
12 contractor pursuant to this subsection.

13 K. The director shall establish a special unit within the
14 administration for the purpose of monitoring the third party payment
15 collections required by contractors and noncontracting providers pursuant to
16 section 36-2903, subsection B, paragraph 10 and subsection F and section
17 36-2915, subsection E. The director shall determine by rule:

18 1. The type of third party payments to be monitored pursuant to this
19 subsection.

20 2. The percentage of third party payments that is collected by a
21 contractor or noncontracting provider and that the contractor or
22 noncontracting provider may keep and the percentage of such payments that the
23 contractor or noncontracting provider may be required to pay to the
24 administration. Contractors and noncontracting providers must pay to the
25 administration one hundred per cent of all third party payments that are
26 collected and that duplicate administration fee-for-service payments. A
27 contractor that contracts with the administration pursuant to section
28 36-2904, subsection A may be entitled to retain a percentage of third party
29 payments if the payments collected and retained by a contractor are reflected
30 in reduced capitation rates. A contractor may be required to pay the
31 administration a percentage of third party payments that are collected by a
32 contractor and that are not reflected in reduced capitation rates.

33 L. The administration shall establish procedures to apply to the
34 following if a provider that has a contract with a contractor or
35 noncontracting provider seeks to collect from an individual or financially
36 responsible relative or representative a claim that exceeds the amount that
37 is reimbursed or should be reimbursed by the system:

38 1. On written notice from the administration or oral or written notice
39 from a member that a claim for covered services may be in violation of this
40 section, the provider that has a contract with a contractor or noncontracting
41 provider shall investigate the inquiry and verify whether the person was
42 eligible for services at the time that covered services were provided. If
43 the claim was paid or should have been paid by the system, the provider that
44 has a contract with a contractor or noncontracting provider shall not
45 continue billing the member.

1 2. If the claim was paid or should have been paid by the system and
2 the disputed claim has been referred for collection to a collection agency or
3 referred to a credit reporting bureau, the provider that has a contract with
4 a contractor or noncontracting provider shall:

5 (a) Notify the collection agency and request that all attempts to
6 collect this specific charge be terminated immediately.

7 (b) Advise all credit reporting bureaus that the reported delinquency
8 was in error and request that the affected credit report be corrected to
9 remove any notation about this specific delinquency.

10 (c) Notify the administration and the member that the request for
11 payment was in error and that the collection agency and credit reporting
12 bureaus have been notified.

13 3. If the administration determines that a provider that has a
14 contract with a contractor or noncontracting provider has billed a member for
15 charges that were paid or should have been paid by the administration, the
16 administration shall send written notification by certified mail or other
17 service with proof of delivery to the provider that has a contract with a
18 contractor or noncontracting provider stating that this billing is in
19 violation of federal and state law. If, twenty-one days or more after
20 receiving the notification, a provider that has a contract with a contractor
21 or noncontracting provider knowingly continues billing a member for charges
22 that were paid or should have been paid by the system, the administration may
23 assess a civil penalty in an amount equal to three times the amount of the
24 billing and reduce payment to the provider that has a contract with a
25 contractor or noncontracting provider accordingly. Receipt of delivery
26 signed by the addressee or the addressee's employee is prima facie evidence
27 of knowledge. Civil penalties collected pursuant to this subsection shall be
28 deposited in the state general fund. Section 36-2918, subsections C, D and
29 F, relating to the imposition, collection and enforcement of civil penalties,
30 apply to civil penalties imposed pursuant to this paragraph.

31 M. The administration may conduct postpayment review of all claims
32 paid by the administration and may recoup any monies erroneously paid. The
33 director may adopt rules that specify procedures for conducting postpayment
34 review. A contractor may conduct a postpayment review of all claims paid by
35 the contractor and may recoup monies that are erroneously paid.

36 N. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, the director or the
37 director's designee may employ and supervise personnel necessary to assist
38 the director in performing the functions of the administration.

39 O. The administration may contract with contractors for obstetrical
40 care who are eligible to provide services under title XIX of the social
41 security act.

42 P. Notwithstanding any other law, on federal approval the
43 administration may make disproportionate share payments to private hospitals,
44 county operated hospitals, including hospitals owned or leased by a special
45 health care district, and state operated institutions for mental disease

1 beginning October 1, 1991 in accordance with federal law and subject to
2 legislative appropriation. If at any time the administration receives
3 written notification from federal authorities of any change or difference in
4 the actual or estimated amount of federal funds available for
5 disproportionate share payments from the amount reflected in the legislative
6 appropriation for such purposes, the administration shall provide written
7 notification of such change or difference to the president and the minority
8 leader of the senate, the speaker and the minority leader of the house of
9 representatives, the director of the joint legislative budget committee, the
10 legislative committee of reference and any hospital trade association within
11 this state, within three working days not including weekends after receipt of
12 the notice of the change or difference. In calculating disproportionate
13 share payments as prescribed in this section, the administration may use
14 either a methodology based on claims and encounter data that is submitted to
15 the administration from contractors or a methodology based on data that is
16 reported to the administration by private hospitals and state operated
17 institutions for mental disease. The selected methodology applies to all
18 private hospitals and state operated institutions for mental disease
19 qualifying for disproportionate share payments. For the purposes of this
20 subsection, "disproportionate share payment" means a payment to a hospital
21 that serves a disproportionate share of low-income patients as described by
22 42 United States Code section 1396r-4.

23 Q. Notwithstanding any law to the contrary, the administration may
24 receive confidential adoption information to determine whether an adopted
25 child should be terminated from the system.

26 R. The adoption agency or the adoption attorney shall notify the
27 administration within thirty days after an eligible person receiving services
28 has placed that person's child for adoption.

29 S. If the administration implements an electronic claims submission
30 system, it may adopt procedures pursuant to subsection H of this section
31 requiring documentation different than prescribed under subsection H,
32 paragraph 4 of this section.

33 T. In addition to any requirements adopted pursuant to subsection D,
34 paragraph 4 of this section, notwithstanding any other law, subject to
35 approval by the centers for medicare and medicaid services, beginning July 1,
36 2011, members eligible pursuant to section 36-2901, paragraph 6, subdivision
37 (a), section 36-2931 and section 36-2981, paragraph 6 shall pay the
38 following:

- 39 1. A monthly premium of fifteen dollars, except that the total monthly
40 premium for an entire household shall not exceed sixty dollars.
- 41 2. A copayment of five dollars for each physician office visit.
- 42 3. A copayment of ten dollars for each urgent care visit.
- 43 4. A copayment of thirty dollars for each emergency department visit.

1 6. Have authority to lease for grazing, agricultural, homesite or
2 other purposes, except commercial, all land owned or held in trust by the
3 state.

4 7. Have authority to lease for commercial purposes and sell all land
5 owned or held in trust by the state, but any such lease for commercial
6 purposes or any such sale shall first be approved by the board of appeals.

7 8. Except as otherwise provided, determine all disputes, grievances or
8 other questions pertaining to the administration of state lands.

9 9. Appoint deputies and other assistants and employees necessary to
10 perform the duties of the department, ~~AND~~ assign their duties **SUBJECT TO**
11 **TITLE 41, CHAPTER 4, ARTICLE 4** and require of them such surety bonds as the
12 commissioner deems proper. The compensation of the deputy, assistants or
13 employees shall be as determined pursuant to section 38-611.

14 10. Make a written report to the governor annually, not later than
15 September 1, disclosing in detail the activities of the department for the
16 preceding fiscal year, and publish it for distribution. The report shall
17 include an evaluation of auctions of state land leases held during the
18 preceding fiscal year considering the advantages and disadvantages to the
19 state trust of the existence and exercise of preferred rights to lease
20 reclassified state land.

21 11. Withdraw state land from surface or subsurface sales or lease
22 applications if the commissioner deems it to be in the best interest of the
23 trust. This closure of state lands to new applications for sale or lease
24 does not affect the rights that existing lessees have under law for renewal
25 of their leases and reimbursement for improvements.

26 B. The commissioner may:

27 1. Take evidence relating to, and may require of the various county
28 officers information on, any matter that the commissioner has the power to
29 investigate or determine.

30 2. Under such rules as the commissioner adopts, use private real
31 estate brokers to assist in any sale or long-term lease of state land and
32 pay, from fees collected under section 37-107, subsection B, paragraph 1, a
33 commission to a broker that is licensed pursuant to title 32, chapter 20 and
34 that provides the purchaser or lessee at auction. The purchaser or lessee at
35 auction is not eligible to receive a commission pursuant to this subsection.
36 A commission shall not be paid on a sale or a long-term lease if the
37 purchaser or lessee is a political subdivision of this state.

38 3. Require a permittee, lessee or grantee to post a surety bond or any
39 form of collateral deemed sufficient by the commissioner for performance or
40 restoration purposes. The commissioner shall use the proceeds of a bond or
41 collateral only for the purposes determined at the time the bond or
42 collateral is posted. For agricultural lessees, the commissioner may require
43 collateral as follows:

1 (a) As security for payment of the annual assessments levied by the
2 irrigation district in which the state land is located if the lessee has a
3 history of late payments or defaults. The amount of the collateral required
4 shall not exceed the annual assessment levied by the irrigation district.

5 (b) As security for payment of rent, if an extension of time for
6 payment is requested or if the lessee has a history of late payments of rent.
7 The collateral shall be submitted at the time any extension of time for
8 payment is requested. The amount of the collateral required shall not exceed
9 the annual amount of rent for the land.

10 (c) A surety bond shall be required only if the commissioner
11 determines that other forms of collateral are insufficient.

12 4. Withhold market and economic analyses, preliminary engineering,
13 site and area studies and appraisals that are collected during the urban
14 planning process from public viewing before they are submitted to local
15 planning and zoning authorities.

16 5. Withhold from public inspection proprietary information received
17 during lease negotiations. The proprietary information shall be released to
18 public inspection unless the release may harm the competitive position of the
19 applicant and the information could not have been obtained by other
20 legitimate means.

21 6. Issue permits for short-term use of state land for specific
22 purposes as prescribed by rule.

23 7. Contract with a third party to sell recreational permits. A third
24 party under contract pursuant to this paragraph may assess a surcharge for
25 its services as provided in the contract, in addition to the fees prescribed
26 pursuant to section 37-107.

27 8. Close urban lands to specific uses as prescribed by rule if
28 necessary for dust abatement, to reduce a risk from hazardous environmental
29 conditions that pose a risk to human health or safety or for remediation
30 purposes.

31 9. Notwithstanding subsection A, paragraph 4 of this section,
32 authorize, in the best interest of the trust, the extension of public
33 services and facilities either:

34 (a) That are necessary to implement plans of the local governing body,
35 including plans adopted or amended pursuant to section 9-461.06 or 11-805.

36 (b) Across state lands that are either:

37 (i) Classified as suitable for conservation pursuant to section
38 37-312.

39 (ii) Sold or leased at auction for conservation purposes.

40 C. The commissioner or any deputy or employee of the department shall
41 not have, own or acquire, directly or indirectly, any state lands or the
42 products on any state lands, any interest in or to such lands or products, or
43 improvements on leased state lands, or be interested in any state irrigation
44 project affecting state lands.

1 matters before other departments and agencies of this state and represent the
2 commission in litigation concerning the affairs of the commission. Contracts
3 for legal and professional services are exempt from section 41-192 and title
4 41, chapter 23.

5 Sec. 88. Section 38-401, Arizona Revised Statutes, is amended to read:

6 38-401. Office hours for state offices

7 ~~Unless otherwise provided by law, and except on holidays,~~ State offices
8 shall be kept open for transaction of business from eight o'clock a.m. until
9 five o'clock p.m. each day from Monday through Friday EXCEPT:

10 1. ON HOLIDAYS.

11 2. IN IMPLEMENTING AN AGENCY FURLOUGH IF THE DEPARTMENT OF
12 ADMINISTRATION HAS AUTHORIZED THE STATE OFFICE TO BE CLOSED IN ORDER TO MEET
13 THE FURLOUGH REQUIREMENTS. AN AGENCY THAT RECEIVES THIS AUTHORIZATION SHALL
14 ENSURE THAT APPROPRIATE NOTICE IS GIVEN TO NOTIFY THE PUBLIC OF THE OFFICE
15 CLOSURE.

16 3. AS OTHERWISE PROVIDED BY LAW.

17 Sec. 89. Section 38-448, Arizona Revised Statutes, is amended to read:

18 38-448. State employees; access to internet pornography
19 prohibited; cause for dismissal; definitions

20 A. Except to the extent required in conjunction with a bona fide,
21 agency approved research project or other agency approved undertaking, an
22 employee of an agency shall not knowingly use agency owned or agency leased
23 computer equipment to access, download, print or store any information
24 infrastructure files or services that depict nudity, sexual activity, sexual
25 excitement or ultimate sexual acts as defined in section 13-3501. Agency
26 heads shall give, in writing, any agency approvals. Agency approvals are
27 available for public inspection pursuant to section 39-121.

28 B. An employee who violates this section ~~performs an act that is cause~~
29 ~~for~~ MAY BE SUBJECT TO discipline or dismissal ~~of the employee and for an~~
30 ~~employee in state service is considered misuse or unauthorized use of state~~
31 ~~property pursuant to section 41-770.~~

32 C. All agencies shall immediately furnish their current employees with
33 copies of this section. All agencies shall furnish all new employees with
34 copies of this section at the time of authorizing an employee to use an
35 agency computer.

36 D. For the purposes of this section:

37 1. "Agency" means:

38 (a) All offices, agencies, departments, boards, councils or
39 commissions of this state.

40 (b) All state universities.

41 (c) All community college districts.

42 (d) All legislative agencies.

43 (e) All departments or agencies of the state supreme court or the
44 court of appeals.

1 2. "Information infrastructure" means telecommunications, cable and
2 computer networks and includes the internet, the world wide web, usenet,
3 bulletin board systems, on-line systems and telephone networks.

4 Sec. 90. Section 38-532, Arizona Revised Statutes, is amended to read:

5 38-532. Prohibited personnel practice: violation:
6 reinstatement: exceptions: civil penalty

7 A. It is a prohibited personnel practice for an employee who has
8 control over personnel actions to take reprisal against an employee for a
9 disclosure of information of a matter of public concern by the employee to a
10 public body that the employee reasonably believes evidences:

11 1. A violation of any law.

12 2. Mismanagement, a gross waste of monies or an abuse of authority.

13 B. The disclosure by an employee to a public body alleging a violation
14 of law, mismanagement, gross waste of monies or abuse of authority shall be
15 in writing and shall contain the following information:

16 1. The date of the disclosure.

17 2. The name of the employee making the disclosure.

18 3. The nature of the alleged violation of law, mismanagement, gross
19 waste of monies or abuse of authority.

20 4. If possible, the date or range of dates on which the alleged
21 violation of law, mismanagement, gross waste of monies or abuse of authority
22 occurred.

23 C. An employee who knowingly commits a prohibited personnel practice
24 shall be ordered by the state personnel board, a community college district
25 governing board, a school district governing board, a city or town personnel
26 board or any other appropriate independent personnel board established or
27 authorized pursuant to section 38-534 to pay a civil penalty of up to five
28 thousand dollars to the state general fund, a county general fund, a
29 community college district unrestricted general fund, a school district
30 maintenance and operation fund or a city or town general fund, whichever is
31 appropriate. The employee who committed the prohibited personnel practice,
32 not the governmental entity, shall pay the civil penalty. On a finding that
33 an employee committed a prohibited personnel practice, the employer shall
34 take appropriate disciplinary action including dismissal, **EXCEPT THAT ON A**
35 **FINDING THAT AN EMPLOYEE COMMITTED A PROHIBITED PERSONNEL PRACTICE AGAINST AN**
36 **EMPLOYEE WHO DISCLOSED INFORMATION THAT THE EMPLOYEE REASONABLY BELIEVED**
37 **EVIDENCED A VIOLATION OF ANY LAW, THE EMPLOYEE WHO KNOWINGLY COMMITTED THE**
38 **PROHIBITED PERSONNEL PRACTICE IS SUBJECT TO A CIVIL PENALTY OF UP TO TEN**
39 **THOUSAND DOLLARS, THE EMPLOYER SHALL DISMISS THE EMPLOYEE AND THE EMPLOYEE IS**
40 **BARRED FROM ANY FUTURE EMPLOYMENT BY THE GOVERNMENT ENTITY.**

41 D. An employee or former employee against whom a prohibited personnel
42 practice is committed may recover attorney fees, costs, back pay, general and
43 special damages and full reinstatement for any reprisal resulting from the
44 prohibited personnel practice as determined by the court.

1 E. An employee does not commit a prohibited personnel practice if he
2 takes reprisal against an employee if that employee discloses information in
3 a manner prohibited by law or the materials or information are prescribed as
4 confidential by law.

5 F. This section may not be used as a defense in a disciplinary action
6 where the employee is being disciplined for cause pursuant to section ~~41-770~~
7 ~~41-773~~, except in a hearing on a complaint brought pursuant to this section
8 by an employee or former employee who believes he has been the subject of a
9 prohibited personnel practice as prescribed in this section as the result of
10 a disclosure of information.

11 G. On request or at any time an employee alleges reprisal, an employer
12 shall provide an employee who is subject to disciplinary or corrective
13 action, suspension, demotion or dismissal with a copy of this section.

14 H. If an employee or former employee believes that a personnel action
15 taken against him is the result of his disclosure of information under this
16 section, he may make a complaint to an appropriate independent personnel
17 board, if one is established or authorized pursuant to section 38-534, or to
18 a community college district governing board, school district governing board
19 or city or town council. If an independent personnel board has not been
20 established or authorized, or if a school district governing board, a
21 community college district governing board or A city or town council does not
22 hear and decide personnel matters brought pursuant to this section, the
23 employee or former employee may make a complaint to the state personnel
24 board. A complaint made pursuant to this subsection shall be made within ten
25 days of the effective date of the action taken against him. The state
26 personnel board, a school district governing board, a community college
27 district governing board, a city or town council or any other appropriate
28 independent personnel board shall, pursuant to the rules governing appeals
29 under section ~~41-785~~ ~~41-783~~, make a determination concerning:

30 1. The validity of the complaint.

31 2. Whether a prohibited personnel practice was committed against the
32 employee or former employee as a result of disclosure of information by the
33 employee or former employee.

34 I. If the state personnel board, a community college district
35 governing board, a school district governing board, a city or town council or
36 any other appropriate independent personnel board established or authorized
37 pursuant to section 38-534 determines that a prohibited personnel practice
38 was committed as a result of disclosure of information by the employee or
39 former employee, it shall rescind the personnel action and order that all
40 lost pay and benefits be returned to the employee or former employee. The
41 employee, former employee, employee alleged to have committed a prohibited
42 personnel practice pursuant to subsection A of this section or employer may
43 appeal the decision of the state personnel board, a community college
44 district governing board, a school district governing board, a city or town
45 council or any other appropriate independent personnel board established or

1 authorized pursuant to section 38-534 to the superior court as provided in
2 title 12, chapter 7, article 6. Notwithstanding section 12-910, an appeal to
3 the superior court under this subsection shall be tried de novo.

4 J. For purposes of a hearing by the state personnel board, a school
5 district governing board, a community college district governing board, a
6 city or town council or any other appropriate independent personnel board
7 conducted under this section, the employee, former employee, employee alleged
8 to have committed the prohibited personnel practice pursuant to subsection A
9 of this section and employer may be represented by counsel. In addition,
10 representation by counsel in such hearings shall meet any other requirements
11 stipulated by the state personnel board, a school district governing board, a
12 community college district governing board, a city or town council or any
13 other appropriate independent personnel board or as required by law.

14 K. An employee or former employee may also seek injunctive relief as
15 is otherwise available in civil actions. A COURT MAY AWARD REASONABLE
16 ATTORNEY FEES TO AN EMPLOYEE OR FORMER EMPLOYEE WHO PREVAILS IN AN ACTION
17 PURSUANT TO THIS SECTION, BUT THE AWARD OF ATTORNEY FEES SHALL NOT EXCEED TEN
18 THOUSAND DOLLARS.

19 L. This section shall not be construed to limit or extend the civil or
20 criminal liability of an employee or former employee for any disclosure of
21 information or to limit an employee's right to a separate pretermination
22 hearing with the employee's employer, as provided by law.

23 M. An employee who knowingly makes a false accusation that a public
24 officer or employee who has control over personnel actions has engaged in a
25 violation of any law, mismanagement, a gross waste of monies or an abuse of
26 authority is personally subject to a civil penalty of up to twenty-five
27 thousand dollars and dismissal from employment by the employer.

28 Sec. 91. Section 38-610.01, Arizona Revised Statutes, is amended to
29 read:

30 38-610.01. Leave of absence and compensation for officers and
31 employees during active military service

32 A. If the president of the United States or the governor of this state
33 declares that a state of emergency exists, an officer or employee of this
34 state who is ordered to active military service of the United States or this
35 state as a member of the national guard, air national guard, army reserve,
36 naval reserve, marine corps reserve, air force reserve or coast guard reserve
37 and whose state employment is ~~covered by~~ SUBJECT TO title 41, chapter 4,
38 ~~articles 5 and 6~~ ARTICLE 4 or who is exempt pursuant to section ~~41-771~~
39 ~~41-742~~, subsection ~~A~~ D, paragraph 1, 2, 3, ~~4~~, OR ~~5, 7, 8, 9, 10, 11, 12 or~~
40 ~~13 or subsection B, paragraph 1, 2, 3, 4, 5, 7 or 8~~ is eligible for an
41 additional leave of absence until released from active duty by competent
42 authority. During the additional leave of absence, the officer or employee
43 shall continue to receive the officer's or employee's salary or compensation,
44 less the amount of all pay and allowances for military activities while on
45 active duty.

1 B. An officer or employee who receives salary or compensation pursuant
2 to subsection A of this section is not entitled to accrue annual leave or
3 sick leave during the period of active duty. Before qualifying for the
4 compensation pursuant to subsection A of this section, the officer or
5 employee must exhaust all military leave balances by the time of activation
6 or at any time during the active duty period.

7 C. An officer or employee may receive compensation pursuant to
8 subsection A of this section for the continuous duration of the officer's or
9 employee's order.

10 D. Within sixty days after an officer or employee who receives pay
11 differential pursuant to this section completes the period of active duty,
12 the officer or employee shall provide proof that the officer or employee
13 rendered honorable service while on active duty during any period for which
14 the officer or employee received the pay differential pursuant to this
15 section. The state may seek recovery of the pay differential from any person
16 who fails to provide proof of honorable service.

17 E. The director of the department of administration shall establish
18 procedures to be used by an eligible officer or employee to receive
19 compensation pursuant to subsection A of this section.

20 Sec. 92. Section 38-610.02, Arizona Revised Statutes, is amended to
21 read:

22 38-610.02. Leave of absence and compensation for national
23 disaster medical system employment

24 A. An officer or employee of this state who is called into employment
25 to the national disaster medical system under the United States department of
26 health and human services and whose state employment is ~~covered by~~ SUBJECT TO
27 title 41, chapter 4, ~~articles 5 and 6~~ ARTICLE 4 or who is exempt pursuant to
28 section ~~41-771~~ 41-742, subsection ~~A- D~~, paragraph 1, 2, 3, ~~4, OR 5, 7, 8, 9,~~
29 ~~10, 11, 12 or 13 or subsection B, paragraph 1, 2, 3, 4, 5, 7 or 8~~ is eligible
30 for an additional leave of absence until released from active duty by
31 competent authority. During the additional leave of absence, the officer or
32 employee shall continue to receive the officer's or employee's salary or
33 compensation, less the amount of all pay and allowances for activities while
34 on active duty with the national disaster medical system.

35 B. An officer or employee who receives salary or compensation pursuant
36 to subsection A of this section is not entitled to accrue annual leave or
37 sick leave during the period of active duty.

38 C. An officer or employee may receive compensation pursuant to
39 subsection A of this section for the continuous duration of the officer's or
40 employee's order.

41 D. Within sixty days after an officer or employee who receives pay
42 differential pursuant to this section completes the period of active duty,
43 the officer or employee shall provide proof that the officer or employee
44 rendered honorable service while on active duty during any period for which
45 the officer or employee received the pay differential pursuant to this

1 section. This state may seek recovery of the pay differential from any
2 person who fails to provide proof of honorable service.

3 E. The rights and duties of an officer or employee who is subject to
4 this section is subject to the uniformed services employment and reemployment
5 rights act (38 United States Code chapter 43).

6 F. The director of the department of administration shall establish
7 procedures to be used by an eligible officer or employee to receive
8 compensation pursuant to subsection A of this section.

9 Sec. 93. Section 38-611, Arizona Revised Statutes, is amended to read:

10 38-611. Compensation of certain state officers and employees

11 A. Except as otherwise provided in subsections ~~C~~ B and ~~D~~ C OF THIS
12 SECTION, any officer or employee of the state, or any of its agencies, ~~who is~~
13 ~~exempt from the state personnel system shall~~ IS ENTITLED TO receive a salary
14 within the range as recommended DETERMINED by the department of
15 administration ~~in its annual recommendation to the legislature and the joint~~
16 ~~legislative budget committee~~ unless modified by the legislature.

17 ~~B. Any officer or employee of the state, or any of its agencies, who~~
18 ~~is subject to the provisions of the state personnel system shall receive a~~
19 ~~salary within the range of the department of administration salary plan as~~
20 ~~adopted or modified by the legislature.~~

21 ~~C~~ B. Elected state officers, employees of the supreme court,
22 employees of the court of appeals, employees of the legislature, employees of
23 the governor's office, employees of the Arizona state ~~school~~ SCHOOLS for the
24 deaf and the blind except the superintendent and the medical officer and all
25 employees of THE ARIZONA BOARD OF REGENTS AND the state universities are
26 exempt from the provisions of this section.

27 ~~D~~ C. Except as otherwise provided by statute or specific legislative
28 appropriation, members of boards, commissions, councils or advisory
29 committees who are authorized by law to receive compensation may receive
30 compensation at the rate of not to exceed thirty dollars for each day engaged
31 in the service of such board, commission, council or advisory committee.

32 Sec. 94. Section 38-612, Arizona Revised Statutes, is amended to read:

33 38-612. Administration of payroll salary deductions

34 A. There shall be no payroll salary deductions from the compensation
35 of state officers or employees except as specifically authorized by federal
36 law or regulation or by a statute of this state. No administrative agency of
37 this state may authorize any other deduction.

38 B. In addition to those payroll salary deductions required by federal
39 law or regulation or by statute, state officers or employees may authorize
40 deductions to be made from their salaries or wages for the payment of:

41 1. Premiums on any health benefits, disability plans or group life
42 plans provided for by statute and any existing insurance programs already
43 provided by payroll deduction.

1 2. Shares or obligations to any state or federally chartered credit
2 union established primarily for the purpose of serving state officers and
3 employees and their families.

4 3. Dues in a recognized association comprised principally of employees
5 and former employees of agencies of this state, subject to the following
6 criteria:

7 (a) When comprised of at least one thousand state employees other than
8 employees of the state universities, the department of public safety and
9 academic personnel of the Arizona state schools for the deaf and the blind.

10 (b) When comprised of at least twenty-five per cent of the academic
11 personnel or of the nonacademic employees of any state university.

12 (c) When comprised of at least twenty-five per cent of the academic
13 personnel of the Arizona state schools for the deaf and the blind.

14 (d) When comprised of at least five hundred state employees who are
15 certified as peace officers by the Arizona peace officer standards and
16 training board established by section 41-1821.

17 4. Deferred compensation or tax sheltered annuity salary reductions
18 when made under approved plans.

19 5. Federal savings bond plans.

20 6. Recurrent fees, charges or other payments payable to a state agency
21 under a collection plan approved by the director of the department of
22 administration.

23 7. Contributions made to a charitable organization:

24 (a) Organized and operated exclusively for charitable purposes and
25 selected by the presidents of the state universities. Employees of the state
26 universities shall be advised by form of the charitable organizations to
27 which they may contribute through payroll salary deductions. The advisory
28 provided under this subdivision shall be substantially similar to the
29 following and prominently printed:

30 "You may contribute to any charitable organization registered under
31 internal revenue code section 501(c)(3), tax exempt status.

32 _____
33 Charitable organization name"

34 This subdivision applies only to academic personnel and nonacademic
35 employees of the state universities.

36 (b) Organized and operated exclusively for charitable purposes,
37 provided a fund drive by such an organization shall be applicable to all
38 state agencies except the state universities covered under subdivision (a) of
39 this paragraph and no state officer or employee of state agencies subject to
40 this subdivision may authorize more than one deduction for charitable
41 purposes to be in effect at the same time. This subdivision applies to all
42 state agencies except the universities covered under subdivision (a) of this
43 paragraph.

44 8. Contributions made for the purpose of contributing to a fund
45 raising campaign for a university or a club for faculty or staff, or both,

1 which is recognized by the university president and authorized by the Arizona
2 board of regents. This paragraph applies only to academic personnel and
3 nonacademic employees of the state universities.

4 9. Charges payable for transportation expenses pursuant to section
5 ~~41-786~~ 41-711.

6 10. Payments ordered by courts of competent jurisdiction within this
7 state.

8 11. Automobile or homeowner's insurance premiums.

9 12. Premiums for the following state sponsored group benefits that are
10 established primarily for the purpose of serving state officers and employees
11 and their families:

12 (a) Long-term care insurance.

13 (b) Critical care insurance.

14 (c) Prepaid legal services.

15 (d) Identity theft protection services.

16 13. A computer system as defined in section 13-2301 for personal use.

17 C. In order for the department of administration to establish and
18 maintain a dues deduction pursuant to subsection B, paragraph 3 of this
19 section, the department of administration may establish and maintain the
20 deduction without the appropriation of any additional monies or technological
21 improvements. The department of administration shall track all personnel
22 hours dedicated to dues deduction. The department of administration may
23 charge a fee to a recognized association that qualifies under subsection B,
24 paragraph 3 of this section for establishing the automatic dues deduction and
25 anytime changes are needed in the automatic dues deduction system as a result
26 of an increase or decrease in association dues. If the membership criteria
27 of a recognized association falls below the criteria set forth in subsection
28 B, paragraph 3 of this section, the recognized association shall be on
29 probation for one year. If the membership of a recognized association falls
30 below the criteria set forth in subsection B, paragraph 3 of this section for
31 more than one year, or if the members of the association engage in a work
32 slowdown or work stoppage, the dues deduction authorized by this section
33 shall immediately be discontinued.

34 D. For those state officers and employees under payroll systems which
35 are under the direction of the director of the department of administration,
36 the director shall provide for the administration of payroll deductions for
37 the purposes set forth in this section. For all other state officers and
38 employees and for persons receiving allowances or benefits under other state
39 payroll and retirement systems, the appropriate state officer shall provide
40 for such administration of payroll deductions. Such administration shall
41 operate without cost or contribution from the state other than the incidental
42 expense of making the deductions and remittances to the payees. If any payee
43 requests additional services, the director of the department of
44 administration or any other appropriate state officer may require payment for
45 the additional cost of providing such services.

1 E. As a means of readily identifying the employee from whom payroll
2 deductions are to be made, the state officer administering payroll deductions
3 may request an employee to enter such employee's social security
4 identification number on the payroll deduction authorization. Such number
5 shall not be used for any other purpose.

6 F. The state, the director of the department of administration or any
7 other appropriate state officer shall be relieved of any liability to
8 employees authorizing deductions or organizations receiving deductions that
9 may result from authorizations pursuant to this section.

10 Sec. 95. Section 38-715, Arizona Revised Statutes, is amended to read:

11 38-715. Director; powers and duties

12 A. The board shall appoint a director. ~~The term of the director is~~
13 ~~one year and expires on June 30. On expiration of a director's term, the~~
14 ~~board may reappoint the director for another term. The board may remove the~~
15 ~~director at any time for cause~~ SHALL SERVE AT THE PLEASURE OF THE BOARD.

16 B. The director shall appoint a deputy director and assistant
17 directors with the approval of the board.

18 C. The director, under the supervision of the board, shall:

19 1. Administer this article, except the investment powers and duties of
20 investment management.

21 2. Hire employees and services the director deems necessary and
22 prescribe their duties.

23 3. Prescribe procedures to be followed by members and their
24 beneficiaries in filing applications for benefits.

25 4. Be responsible for:

26 (a) Income and the collection of income and the accuracy of all
27 expenditures.

28 (b) Maintaining books and maintaining and processing records of ASRS.

29 (c) The investment of temporary surplus monies only in obligations of
30 the United States government or agencies whose obligations are guaranteed by
31 the United States government, commercial paper or banker's acceptances for a
32 term of not more than fifteen days.

33 (d) Providing continuing education programs for the board to keep the
34 board members informed of current issues and information needed to carry out
35 their duties.

36 5. Perform additional powers and duties as may be prescribed by the
37 board and delegated to the director.

38 D. The director, under the supervision and approval of the board, may:

39 1. Delegate duties and responsibilities to such state departments as
40 the director deems feasible and desirable to administer this article.

41 2. Appoint a custodian for the safekeeping of all investments owned by
42 ASRS and register stocks, bonds and other investments in the name of a
43 nominee.

1 3. Invest marketable securities owned by ASRS by entering into
2 security loan agreements with one or more security lending entities. For the
3 purpose of this paragraph:

4 (a) "Marketable securities" means securities that are freely and
5 regularly traded on recognized exchanges or marketplaces.

6 (b) "Security loan agreement" means a written contract under which
7 ASRS, as lender, agrees to lend specific marketable securities for a period
8 of not more than one year. ASRS, under a security loan agreement, shall
9 retain the right to collect from the borrower all dividends, interest,
10 premiums and rights and any other distributions to which ASRS otherwise would
11 have been entitled. During the term of a security loan agreement ASRS shall
12 waive the right to vote the securities that are the subject of the agreement.
13 A security loan agreement shall provide for termination by either party on
14 terms mutually acceptable to the parties. The borrower shall deliver
15 collateral to ASRS or its designated representative. At all times during the
16 term of any security loan agreement the collateral shall be in an amount
17 equal to at least one hundred per cent of the market value of the loaned
18 securities. A security loan agreement shall provide for payment of
19 additional collateral on a daily basis, or at such other less frequent
20 intervals as the value of the loaned securities increases. A security loan
21 agreement with a security lending entity shall contain the terms and
22 conditions of the fees to be paid to a security lending entity for servicing
23 the security loan agreement. ASRS shall pay the fees approved by the board
24 to the security lending entity for servicing a security loan agreement from
25 the revenues of the security lending program.

26 4. Establish one or more reserve holding accounts, into which the
27 board shall close periodically the account balances of inactive accounts. If
28 any person files a claim and furnishes proof of ownership of any amounts in
29 any inactive account the claim shall be paid from the reserve holding account
30 on the same basis as if no action had been taken under this paragraph.
31 Interest and supplemental credits shall be allocated to each reserve holding
32 account on June 30 of each year, as determined by the board. For the
33 purposes of this paragraph, "inactive account" means an account to which
34 contributions have not been paid for six months or more.

35 5. Make retirement under this article effective retroactively to on or
36 after the day following the date employment is terminated if the member was
37 unable to apply before the retroactive effective date through no fault of the
38 member.

39 E. The director, under supervision of the governing committee for tax
40 deferred annuity and deferred compensation plans, may hire and supervise
41 employees and obtain services the director deems necessary to administer
42 article 5 of this chapter. The tax deferred annuity and deferred
43 compensation programs established pursuant to article 5 of this chapter shall
44 bear the costs for these employees and services.

1 F. The director and all persons employed by the director are ~~not~~
2 subject to section 38-611 ~~or~~ AND title 41, chapter 4, article ~~5 or 6~~ 4.

3 Sec. 96. Section 38-848, Arizona Revised Statutes, is amended to read:
4 38-848. Board of trustees; powers and duties; independent trust
5 fund; administrator; agents and employees

6 A. The board of trustees shall consist of seven members and shall have
7 the rights, powers and duties that are set forth in this section. The term
8 of office of members shall be five years to expire on the third Monday in
9 January of the appropriate year. Members are eligible to receive
10 compensation in an amount of fifty dollars a day, but not to exceed one
11 thousand dollars in any one fiscal year, and are eligible for reimbursement
12 of expenses pursuant to chapter 4, article 2 of this title. The board
13 consists of the following members appointed by the governor pursuant to
14 section 38-211:

15 1. Two elected members from a local board to represent the employees.

16 2. One member to represent this state as an employer of public safety
17 personnel. This member shall have the qualifications prescribed in
18 subsection ~~R~~ S of this section.

19 3. One member to represent the cities as employers of public safety
20 personnel.

21 4. An elected county or state official or a judge of the superior
22 court, court of appeals or supreme court.

23 5. Two public members. These members shall have the qualifications
24 prescribed in subsection ~~R~~ S of this section.

25 B. All monies in the fund shall be deposited and held in a public
26 safety personnel retirement system depository. Monies in the fund shall be
27 disbursed from the depository separate and apart from all monies or funds of
28 this state and the agencies, instrumentalities and subdivisions of this
29 state, except that the board may commingle the assets of the fund and the
30 assets of all other plans entrusted to its management in one or more group
31 trusts, subject to the crediting of receipts and earnings and charging of
32 payments to the appropriate employer, system or plan. The monies shall be
33 secured by the depository in which they are deposited and held to the same
34 extent and in the same manner as required by the general depository law of
35 this state. For purposes of making the decision to invest in securities
36 owned by the fund or any plan administered by the board, the fund and assets
37 of the plans are subject to the sole management of the board for the purpose
38 of this article except that, on the board's election to invest in a
39 particular security or make a particular investment, the assets comprising
40 the security or investment may be chosen and managed by third parties
41 approved by the board. The board may invest in portfolios of securities
42 chosen and managed by a third party. The board's decision to invest in
43 securities such as mutual funds, commingled investment funds, exchange traded
44 funds, private equity or venture capital limited partnerships, real estate
45 limited partnerships or limited liability companies and real estate

1 investment trusts whose assets are chosen and managed by third parties does
2 not constitute an improper delegation of the board's investment authority.

3 C. All contributions under this system and other retirement plans that
4 the board administers shall be forwarded to the board and shall be held,
5 invested and reinvested by the board as provided in this article. All
6 property and monies of the fund and other retirement plans that the board
7 administers, including income from investments and from all other sources,
8 shall be retained for the exclusive benefit of members, as provided in the
9 system and other retirement plans that the board administers, and shall be
10 used to pay benefits to members or their beneficiaries or to pay expenses of
11 operation and administration of the system and fund and other retirement
12 plans that the board administers.

13 D. The board shall have the full power in its sole discretion to
14 invest and reinvest, alter and change the monies accumulated under the system
15 and other retirement plans that the board administers as provided in this
16 article. In addition to its power to make investments managed by others, the
17 board may delegate the authority the board deems necessary and prudent to
18 investment management pursuant to section 38-848.03, as well as to the
19 administrator, employed by the board pursuant to subsection K, paragraph 6 of
20 this section, and any assistant administrators to invest the monies of the
21 system and other retirement plans that the board administers if the
22 administrator, investment management and any assistant administrators follow
23 the investment policies that are promulgated by the board. The board may
24 commingle securities and monies of the fund, the elected officials'
25 retirement plan, the corrections officer retirement plan and other plans or
26 monies entrusted to its care, subject to the crediting of receipts and
27 earnings and charging of payments to the account of the appropriate employer,
28 system or plan. In making every investment, the board shall exercise the
29 judgment and care under the circumstances then prevailing which persons of
30 ordinary prudence, discretion and intelligence exercise in the management of
31 their own affairs, not in regard to speculation but in regard to the
32 permanent disposition of their funds, considering the probable income from
33 their funds as well as the probable safety of their capital, provided:

34 1. That not more than eighty per cent of the combined assets of the
35 system or other plans that the board manages shall be invested at any given
36 time in corporate stocks, based on cost value of such stocks irrespective of
37 capital appreciation.

38 2. That no more than five per cent of the combined assets of the
39 system or other plans that the board manages shall be invested in corporate
40 stock issued by any one corporation, other than corporate stock issued by
41 corporations chartered by the United States government or corporate stock
42 issued by a bank or insurance company.

43 3. That not more than five per cent of the voting stock of any one
44 corporation shall be owned by the system and other plans that the board

1 administers, except that this limitation does not apply to membership
2 interests in limited liability companies.

3 4. That corporate stocks and exchange traded funds eligible for
4 purchase shall be restricted to stocks and exchange traded funds that, except
5 for bank stocks, insurance stocks and membership interests in limited
6 liability companies, are either:

7 (a) Listed or approved on issuance for listing on an exchange
8 registered under the securities exchange act of 1934, as amended (15 United
9 States Code sections 78a through 7811).

10 (b) Designated or approved on notice of issuance for designation on
11 the national market system of a national securities association registered
12 under the securities exchange act of 1934, as amended (15 United States Code
13 sections 78a through 7811).

14 (c) Listed or approved on issuance for listing on an exchange
15 registered under the laws of this state or any other state.

16 (d) Listed or approved on issuance for listing on an exchange of a
17 foreign country with which the United States is maintaining diplomatic
18 relations at the time of purchase, except that no more than twenty per cent
19 of the combined assets of the system and other plans that the board manages
20 shall be invested in foreign securities, based on the cost value of the
21 stocks irrespective of capital appreciation.

22 (e) An exchange traded fund that is recommended by the chief
23 investment officer of the system, that is registered under the investment
24 company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and
25 that is both traded on a public exchange and based on a publicly recognized
26 index.

27 E. Notwithstanding any other law, the board shall not be required to
28 invest in any type of investment that is dictated or required by any entity
29 of the federal government and that is intended to fund economic development
30 projects, public works or social programs, but may consider such economically
31 targeted investments pursuant to its fiduciary responsibility. The board, on
32 behalf of the system and all other plans or trusts the ~~fund-manager~~ BOARD
33 administers, may invest in, lend monies to or guarantee the repayment of
34 monies by a limited liability company, limited partnership, joint venture,
35 partnership, limited liability partnership or trust in which the system and
36 plans or trusts have a financial interest, whether the entity is closely held
37 or publicly traded and that, in turn, may be engaged in any lawful activity,
38 including venture capital, private equity, the ownership, development,
39 management, improvement or operation of real property and any improvements or
40 businesses on real property or the lending of monies.

41 F. Conference call meetings of the board that are held for investment
42 purposes only are not subject to chapter 3, article 3.1 of this title, except
43 that the board shall maintain minutes of these conference call meetings and
44 make them available for public inspection within twenty-four hours after the
45 meeting. The board shall review the minutes of each conference call meeting

1 and shall ratify all legal actions taken during each conference call meeting
2 at the next scheduled meeting of the board.

3 G. The board shall not be held liable for the exercise of more than
4 ordinary care and prudence in the selection of investments and performance of
5 its duties under the system and shall not be limited to so-called "legal
6 investments for trustees", but all monies of the system and other plans that
7 the board administers shall be invested subject to all of the conditions,
8 limitations and restrictions imposed by law.

9 H. Except as provided in subsection D of this section, the board may:

10 1. Invest and reinvest the principal and income of all assets that the
11 board manages without distinction between principal and income.

12 2. Sell, exchange, convey, transfer or otherwise dispose of any
13 investments made on behalf of the system or other plans the board administers
14 in the name of the system or plans by private contract or at public auction.

15 3. Also:

16 (a) Vote on any stocks, bonds or other securities.

17 (b) Give general or special proxies or powers of attorney with or
18 without power of substitution.

19 (c) Exercise any conversion privileges, subscription rights or other
20 options and make any payments incidental to the exercise of the conversion
21 privileges, subscription rights or other options.

22 (d) Consent to or otherwise participate in corporate reorganizations
23 or other changes affecting corporate securities, delegate discretionary
24 powers and pay any assessments or charges in connection therewith.

25 (e) Generally exercise any of the powers of an owner with respect to
26 stocks, bonds, securities or other investments held in or owned by the system
27 or other plans whose assets the board administers.

28 4. Make, execute, acknowledge and deliver any other instruments that
29 may be necessary or appropriate to carry out the powers granted in this
30 section.

31 5. Register any investment held by the system or other plans whose
32 assets the board administers in the name of the system or plan or in the name
33 of a nominee or trust.

34 6. At the expense of the system or other plans that the board
35 administers, enter into an agreement with any bank or banks for the
36 safekeeping and handling of securities and other investments coming into the
37 possession of the board. The agreement shall be entered into under terms and
38 conditions that secure the proper safeguarding, inventory, withdrawal and
39 handling of the securities and other investments. No access to and no
40 deposit or withdrawal of the securities from any place of deposit selected by
41 the board shall be permitted or made except as the terms of the agreement may
42 provide.

43 7. Appear before local boards and the courts of this state and
44 political subdivisions of this state through counsel or appointed
45 representative to protect the fund or the assets of other plans that the

1 board administers. The board is not responsible for the actions or omissions
2 of the local boards under this system but may seek review or rehearing of
3 actions or omissions of local boards. The board does not have a duty to
4 review actions of the local boards but may do so in its discretion in order
5 to protect the fund. No limitations period precludes the ~~fund-manager~~ BOARD
6 or administrator from contesting, or requires the ~~fund-manager~~ BOARD or
7 administrator to implement or comply with, a local board decision that
8 violates the internal revenue code or that threatens to impair the tax
9 qualified status of the system or any plan administered by the ~~fund-manager~~
10 BOARD or administrator.

11 8. Empower the fund administrator to take actions on behalf of the
12 board that are necessary for the protection and administration of the fund or
13 the assets of other plans that the board administers pursuant to the
14 guidelines of the board.

15 9. Do all acts, whether or not expressly authorized, that may be
16 deemed necessary or proper for the protection of the investments held in the
17 fund or owned by other plans or trusts that the board administers.

18 10. Settle threatened or actual litigation against any system or plan
19 that the ~~fund-manager~~ BOARD administers.

20 I. Investment expenses and operation and administrative expenses of
21 the board shall be accounted for separately and allocated against investment
22 income.

23 J. The board, as soon as possible within a period of six months
24 following the close of any fiscal year, shall transmit to the governor and
25 the legislature a comprehensive annual financial report on the operation of
26 the system and other plans that the board administers containing, among other
27 things:

- 28 1. A balance sheet.
- 29 2. A statement of income and expenditures for the year.
- 30 3. A report on an actuarial valuation of its assets and liabilities.
- 31 4. A list of investments owned.
- 32 5. The total rate of return, yield on cost, and per cent of cost to
33 market value of the fund and the assets of other plans that the board
34 administers.

35 6. Any other statistical and financial data that may be necessary for
36 the proper understanding of the financial condition of the system and other
37 plans that the board administers and the results of their operations. A
38 synopsis of the annual report shall be published for the information of
39 members of the system, the elected officials' retirement plan or the
40 corrections officer retirement plan.

41 K. The board shall:

- 42 1. Maintain the accounts of the system and other plans that the board
43 administers and issue statements to each employer annually and to each member
44 who may request it.

- 1 2. Report the results of the actuarial valuations to the local boards
2 and employers.
- 3 3. Contract on a fee basis with an independent investment counsel to
4 advise the board in the investment management of the fund and assets of other
5 plans that the board administers and with an independent auditing firm to
6 audit the board's accounting.
- 7 4. Permit the auditor general to make an annual audit and the results
8 shall be transmitted to the governor and the legislature.
- 9 5. Contract on a fee basis with an actuary who shall make actuarial
10 valuations of the system and other plans that the board administers, be the
11 technical adviser of the board on matters regarding the operation of the
12 funds created by the provisions of the system, the elected officials'
13 retirement plan, the corrections officer retirement plan and the fire fighter
14 and peace officer cancer insurance policy program and perform other duties
15 required in connection therewith. The actuary must be a member of a
16 nationally recognized association or society of actuaries.
- 17 6. Employ, as administrator, a person, state department or other body
18 to serve at the pleasure of the board.
- 19 7. Establish procedures and guidelines for contracts with actuaries,
20 auditors, investment counsel and legal counsel and for safeguarding of
21 securities.
- 22 L. The administrator, under the direction of the board, shall:
- 23 1. Administer this article.
- 24 2. Invest the funds of the system and other plans that the board
25 administers as the board deems necessary and prudent as provided in
26 subsections D and H of this section and subject to the investment policies
27 and fund objectives promulgated by the board.
- 28 3. Establish and maintain an adequate system of accounts and records
29 for the system and other plans that the board administers, which shall be
30 integrated with the accounts, records and procedures of the employers so that
31 the system and other plans that the board administers operates most
32 effectively and at minimum expense and that duplication of records and
33 accounts is avoided.
- 34 4. In accordance with the board's governance policy ~~and personnel~~
35 ~~rules~~ and procedures and the budget adopted by the board, hire such employees
36 and services the administrator deems necessary and prescribe their duties,
37 including the hiring of one or more assistant administrators to manage the
38 system's operations, investments and legal affairs.
- 39 5. Be responsible for income, the collection of the income and the
40 accuracy of all expenditures.
- 41 6. Recommend to the board annual contracts for the system's actuary,
42 auditor, investment counsel, legal counsel and safeguarding of securities.
- 43 7. Perform additional duties and powers prescribed by the board and
44 delegated to the administrator.

1 M. The system is an independent trust fund and the board, ~~the~~
2 ~~administrator, the assistant administrators and all persons employed by them~~
3 ~~are not under the jurisdiction of the department of administration or any~~
4 ~~other agency, department or instrumentality of this state or subject to~~
5 ~~section 38-611 or title 41, chapter 4 or 6. The salaries of the~~
6 ~~administrator, assistant administrators and other employees of the board are~~
7 ~~the sole determination of the board~~ IS NOT SUBJECT TO TITLE 41, CHAPTER 6.
8 Contracts for goods and services approved by the board are not subject to
9 title 41, chapter 23. As an independent trust fund whose assets are separate
10 and apart from all other funds of this state, the system and the board are
11 not subject to the restrictions prescribed in section 35-154 or article IX,
12 sections 5 and 8, Constitution of Arizona.

13 N. THE BOARD, THE ADMINISTRATOR, THE ASSISTANT ADMINISTRATORS AND ALL
14 PERSONS EMPLOYED BY THEM ARE SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4. THE
15 ADMINISTRATOR, ASSISTANT ADMINISTRATORS AND OTHER EMPLOYEES OF THE BOARD ARE
16 ENTITLED TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611.

17 ~~N.~~ O. The attorney general or an attorney approved by the attorney
18 general and paid by the fund shall be the attorney for the board and shall
19 represent the board in any legal proceeding or forum that the board deems
20 appropriate. The board, administrator, assistant administrators and
21 employees of the board are not personally liable for any acts done in their
22 official capacity in good faith reliance on the written opinions of the
23 board's attorney.

24 ~~O.~~ P. At least once in each five-year period after the effective
25 date, the actuary shall make an actuarial investigation into the mortality,
26 service and compensation experience of the members and beneficiaries of the
27 system and other plans that the board administers and shall make a special
28 valuation of the assets and liabilities of the monies of the system and
29 plans. Taking into account the results of the investigation and special
30 valuation, the board shall adopt for the system and other plans that the
31 board administers those mortality, service and other tables deemed necessary.

32 ~~P.~~ Q. On the basis of the tables the board adopts, the actuary shall
33 make a valuation of the assets and liabilities of the funds of the system and
34 other plans that the board administers not less frequently than every year.
35 By November 1 of each year the board shall provide a preliminary report and
36 by December 15 of each year provide a final report to the governor, the
37 speaker of the house of representatives and the president of the senate on
38 the contribution rate for the ensuing fiscal year.

39 ~~Q.~~ R. Neither the board nor any member or employee of the board shall
40 directly or indirectly, for himself or as an agent, in any manner use the
41 monies or deposits of the fund except to make current and necessary payments,
42 nor shall the board or any member or employee become an endorser or surety or
43 in any manner an obligor for monies loaned by or borrowed from the fund or
44 the assets of any other plans that the board administers.

1 ~~R.~~ S. The members of the board who are appointed pursuant to
2 subsection A, paragraphs 2 and 5 of this section shall have at least ten
3 years' substantial experience as any one or a combination of the following:
4 1. A portfolio manager acting in a fiduciary capacity.
5 2. A securities analyst.
6 3. An employee or principal of a trust institution, investment
7 organization or endowment fund acting either in a management or an investment
8 related capacity.
9 4. A chartered financial analyst in good standing as determined by the
10 association for investment management and research.
11 5. A professor at the university level teaching economics or
12 investment related subjects.
13 6. An economist.
14 7. Any other professional engaged in the field of public or private
15 finances.

16 ~~S.~~ T. Financial or commercial information that is provided to the
17 board, employees of the board and attorneys of the board in connection with
18 investments in which the board has invested or investments the board has
19 considered for investment is confidential, proprietary and not a public
20 record if the information is information that would customarily not be
21 released to the public by the person or entity from whom the information was
22 obtained.

23 Sec. 97. Section 40-105, Arizona Revised Statutes, is amended to read:
24 40-105. Executive director; appointment; powers and duties

25 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the corporation
26 commission shall appoint an executive director, who shall have the power to
27 serve warrants and other process in any county of the state.

28 B. The executive director shall if directed by the commission:

29 1. Keep a record of all proceedings of the commission, issue necessary
30 writs, warrants and notices, and perform other duties the commission
31 prescribes.

32 2. Supervise and administer the overall activities of the commission
33 divisions and employees.

34 3. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ experts,
35 engineers, statisticians, accountants, inspectors and employees necessary to
36 perform the duties and exercise the powers of the commission.

37 4. Make and submit to the governor and legislature an annual report
38 containing a complete account of the commission's transactions and
39 proceedings for the preceding fiscal year, together with other facts,
40 suggestions and recommendations of value to the people of this state.

41 C. The executive director may if directed by the commission:

42 1. Act as the authorized officer of the commission when performing
43 duties necessary for processing rules adopted by the commission.

1 2. Contract for the services of outside advisers, consultants and
2 aides reasonably necessary or desirable to enable the commission to
3 adequately perform its duties.

4 3. Contract and incur obligations reasonably necessary or desirable
5 within the scope of commission activities and operations to enable the
6 commission to adequately perform its duties.

7 4. Use monies, facilities or services to provide matching
8 contributions for other governmental programs which further the objectives
9 and programs of the commission.

10 5. Employ attorneys to represent the commission and each commissioner
11 as provided in section 40-106.

12 6. Establish accounts for the purpose of receiving and expending
13 monies for educational and safety programs within the scope of the duties of
14 the commission.

15 Sec. 98. Section 40-108, Arizona Revised Statutes, is amended to read:

16 40-108. Compensation of appointees and employees

17 A. The compensation of corporation commission appointees and employees
18 except as provided in section 40-408 shall be determined pursuant to section
19 38-611 and shall be paid from the state general fund and the appropriation
20 made to the commission in the general appropriations act.

21 B. ~~Notwithstanding subsection A of this section, if the commission is~~
22 ~~unable to employ utilities division professional staff under the provisions~~
23 ~~of section 38-611, the commission may request an exemption from the~~
24 ~~provisions of section 38-611 from the joint legislative budget committee for~~
25 ~~each such employee.~~ Employee compensation of the utilities division and a
26 part of the administration, hearing and legal divisions **SHALL BE DETERMINED**
27 **PURSUANT TO SECTION 38-611 AND** is payable from the utility regulation
28 revolving fund established pursuant to section 40-408.

29 Sec. 99. Section 40-464, Arizona Revised Statutes, is amended to read:

30 40-464. Powers and duties

31 A. The director may:

32 1. Research, study and analyze residential utility consumer interests.

33 2. Prepare and present briefs, arguments, proposed rates or orders and
34 intervene or appear on behalf of residential utility consumers before hearing
35 officers and the corporation commission as a party in interest and also
36 participate as a party in interest pursuant to sections 40-254 and 40-254.01
37 in proceedings relating to rate making or rate design and involving public
38 service corporations, except that the director shall not participate in any
39 proceedings pursuant to this paragraph involving a member-owned nonprofit
40 cooperative corporation.

41 3. Make and execute contracts and other instruments as necessary to
42 perform his duties.

43 4. Hire employees **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4** as
44 necessary to carry out this article and contract for special services as
45 needed.

1 5. Employ such attorneys as are required to represent the interests of
2 residential utility consumers.

3 B. The director shall adopt administrative rules necessary to carry
4 out the purposes of this article.

5 C. All contacts by residential utility consumers with regard to
6 quality or quantity of service provided by a public service corporation shall
7 be recorded by the office for the purpose of determining general concerns of
8 consumers. The office may advise the consumer of other agencies that may be
9 of further assistance and shall refer the consumer to the corporation
10 commission utilities division consumer services section established in
11 section 40-110.

12 Sec. 100. Section 41-121.02, Arizona Revised Statutes, is amended to
13 read:

14 41-121.02. Department of state

15 A. There is established the department of state, which shall be
16 composed of the office of the secretary of state.

17 B. The secretary of state shall have charge of and direct the
18 department of state.

19 C. Except as otherwise provided by law, employees of the department
20 are ~~exempt from~~ SUBJECT TO chapter 4, ARTICLE 4 AND, AS APPLICABLE, articles
21 5 and 6 of this title.

22 D. Purchases and contracts for goods and services entered into by the
23 Arizona state library, archives and public records are exempt from chapter 23
24 of this title.

25 E. The Arizona state library, archives and public records is exempt
26 from chapter 6 of this title.

27 Sec. 101. Section 41-151.04, Arizona Revised Statutes, is amended to
28 read:

29 41-151.04. Compensation of director

30 The compensation of the director shall be as determined by the
31 secretary of state PURSUANT TO SECTION 38-611.

32 Sec. 102. Section 41-151.05, Arizona Revised Statutes, is amended to
33 read:

34 41-151.05. Powers and duties of director

35 A. The director shall:

36 1. Adopt rules for the use of books or other materials in the custody
37 of the state library and for the removal of books from the library, including
38 assessment of reasonable penalties for failure to return books or other
39 materials when due. The proceeds from the assessment of reasonable penalties
40 shall be deposited, pursuant to sections 35-146 and 35-147, in the state
41 library fund established by section 41-151.06. The monies shall be used only
42 for the purchase of other books or materials.

43 2. Sell or exchange undesired duplicate copies of books or other
44 materials, or books or other materials not of value for the purposes of the
45 library, or photographic reproductions of state library holdings, and

1 deposit, pursuant to sections 35-146 and 35-147, the proceeds in the state
2 library fund established by section 41-151.06. The monies shall be used for
3 the purchase of other books or materials.

4 3. Bring actions for the recovery of books or other materials, or for
5 three times the value of the books or other materials, against any person who
6 has them in the person's possession or who is responsible for the books or
7 other materials, and who has failed or refused to return them on demand. If
8 a book or other material is one of a set the value of the book or other
9 material may be deemed the value of the entire set. Monies recovered
10 pursuant to this paragraph shall be transmitted to the state treasurer for
11 credit to the state library fund established by section 41-151.06.

12 4. Certify copies from books, documents or other archival or public
13 records which have been deposited in the custody of the state library. The
14 fee for certification shall be the same as prescribed for the certification
15 of records by the secretary of state. These fees shall be transmitted to the
16 state treasurer for credit to the state library fund established by section
17 41-151.06. These certificates have the same force and effect as if made by
18 the officer originally in charge of the record.

19 5. As the director deems necessary:

20 (a) Arrange with the federal government, other states and foreign
21 countries for a system of exchange of official state reports and
22 publications, session laws, statutes, legislative journals and supreme court
23 reports.

24 (b) Enter into agreements to establish a depository system and an
25 exchange program with any municipal, county or regional public library, state
26 college or state university library and out-of-state research libraries.

27 (c) Enter into agreements with libraries in this state for the state
28 documents program described in section 41-151.08, subsection A, paragraph
29 2. Any library that enters into an agreement pursuant to this subdivision
30 shall continue to contribute at least the same level of support to the state
31 documents program and shall not use any monies received pursuant to the
32 agreement to supplant other monies available to the library.

33 6. Adopt rules for the acquisition, maintenance, access and
34 preservation of state publications.

35 7. After consultation with other agencies, adopt rules as provided by
36 statute, including rules for the:

37 (a) Description of state publications in all formats.

38 (b) Supervision of county free libraries pursuant to section 11-910.

39 (c) Certification of signs, plaques and markings pursuant to sections
40 28-7051 and 41-151.10.

41 (d) Enforcement of section 34-502.

42 8. Provide access to an official compilation or revision of the laws
43 of this state to each public or court library in this state that applies for
44 access. The director may provide the access electronically. On request, the

1 director may provide a certified copy of a law pursuant to paragraph 4 of
2 this subsection.

3 9. As part of the secretary of state's annual report to the governor,
4 report on the condition of the state library, its activities and the
5 disposition of monies spent for its maintenance.

6 10. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, appoint personnel,
7 including security personnel, necessary to perform the duties of the state
8 library and assign their duties.

9 11. Cooperate with the legislative council in carrying out section
10 41-1304, subsection B.

11 B. The governor, the secretary of state, the president of the senate,
12 the speaker of the house of representatives, the heads of departments and all
13 officers and agents of this state shall supply at no cost the number of
14 copies of official reports, public documents and publications required for
15 the state library or its agents to satisfy the requirements of the state
16 documents program or arrangements or agreements entered into pursuant to
17 subsection A, paragraph 5 of this section.

18 C. The governmental units described in subsection B of this section
19 shall:

20 1. Notify the state library if the reports, documents and publications
21 subject to this section are posted on an internet website.

22 2. Pay the state library the fee charged pursuant to section
23 41-151.12 if the governmental unit refuses the state library's request to
24 supply, and the state library incurs any expenses in obtaining, the copies
25 that are required to be supplied pursuant to this section.

26 Sec. 103. Section 41-172, Arizona Revised Statutes, is amended to
27 read:

28 41-172. Powers and duties; administering oaths; appointment of
29 deputy state treasurer

30 A. The state treasurer shall:

31 1. Authenticate writings and documents certified by him with the seal
32 of his office.

33 2. Receive and keep in secure custody all monies that belong to the
34 state and that are not required to be received and kept by some other person.

35 3. File and keep the documentation delivered to the treasurer when
36 monies are deposited into the treasury.

37 4. Deliver to each person depositing money into the treasury a
38 confirmation showing the date, amount and depositing agency and shall provide
39 a unique identifying number for each confirmation.

40 5. Pay warrants drawn by the department of administration in the order
41 in which they are presented.

42 6. Keep an account of all monies received and disbursed, and keep
43 separate accounts of the different funds and appropriations of money.

1 7. Give information in writing as to the condition of the state
2 treasury, or on any subject relating to the duties of the treasurer, at the
3 request of a member of the legislature.

4 8. Deliver to the governor and the department of administration,
5 monthly, an accurate statement of receipts and expenditures of public monies
6 for the preceding month, containing a complete exhibit of all the public
7 monies received and paid from the state treasury, showing, under separate
8 heads, on what accounts and from what sources received, and for what
9 particular object or service the monies have been paid. The treasurer shall
10 deliver to the governor a similar statement on or before November 1 each year
11 for the preceding fiscal year. The statement shall also include an estimate
12 of the invested balance including the general fund share of that balance as
13 of June 30 of the preceding fiscal year. The statements are public records
14 available for inspection at the office of the state treasurer.

15 9. On or before February 1 of each year, in coordination with the
16 director of the department of administration, submit to the joint legislative
17 budget committee a report explaining any differences between the department
18 of administration's estimate of the previous fiscal year's state general fund
19 ending balance submitted pursuant to section 35-131 and the state treasurer's
20 estimate of the invested balance including the general fund share of that
21 balance as of June 30 of the previous fiscal year submitted pursuant to
22 paragraph 8.

23 10. Exercise those specific powers of the surveyor-general as a member
24 of the selection board established under section 37-202.

25 B. The state treasurer may administer all oaths prescribed by law in
26 matters touching the duties of the office of the state treasurer, [SUBJECT TO](#)
27 [CHAPTER 4, ARTICLE 4 OF THIS TITLE](#), may appoint a deputy state treasurer, may
28 qualify and select investment managers or advisors pursuant to section 35-318
29 and shall perform other duties required by other laws of this state.

30 C. [EMPLOYEES OF THE STATE TREASURER'S OFFICE ARE SUBJECT TO CHAPTER 4,](#)
31 [ARTICLE 4 OF THIS TITLE](#). For prospective or current employees of the state
32 treasurer's office, the state treasurer may:

33 1. Require the submission of a full set of fingerprints for the
34 purpose of obtaining a state and federal criminal records check pursuant to
35 section 41-1750 and Public Law 92-544. The department of public safety may
36 exchange this fingerprint data with the federal bureau of investigation.

37 2. Conduct a periodic review of credit standing.

38 Sec. 104. Section 41-192, Arizona Revised Statutes, is amended to
39 read:

40 41-192. [Powers and duties of attorney general; restrictions on](#)
41 [state agencies as to legal counsel; exceptions](#)

42 A. The attorney general shall have charge of and direct the department
43 of law and shall serve as chief legal officer of the state. The attorney
44 general shall:

- 1 1. Be the legal advisor of the departments of this state and render
2 such legal services as the departments require.
- 3 2. Establish administrative and operational policies and procedures
4 within his department.
- 5 3. Approve long-range plans for developing departmental programs
6 therein, and coordinate the legal services required by other departments of
7 this state or other state agencies.
- 8 4. Represent school districts and governing boards of school districts
9 in any lawsuit involving a conflict of interest with other county offices.
- 10 5. Represent political subdivisions, school districts and
11 municipalities in suits to enforce state or federal statutes pertaining to
12 antitrust, restraint of trade or price-fixing activities or conspiracies, if
13 the attorney general notifies in writing the political subdivisions, school
14 districts and municipalities of the attorney general's intention to bring any
15 such action on its behalf. At any time within thirty days after the
16 notification, the political subdivisions, school districts and
17 municipalities, by formal resolution of its governing body, may withdraw the
18 authority of the attorney general to bring the intended action on its behalf.
- 19 6. In any action brought by the attorney general pursuant to state or
20 federal statutes pertaining to antitrust, restraint of trade, or price-fixing
21 activities or conspiracies for the recovery of damages by this state or any
22 of its political subdivisions, school districts or municipalities, in
23 addition to the attorney general's other powers and authority, the attorney
24 general on behalf of this state may enter into contracts relating to the
25 investigation and prosecution of such action with any other party plaintiff
26 who has brought a similar action for the recovery of damages and with whom
27 the attorney general finds it advantageous to act jointly or to share common
28 expenses or to cooperate in any manner relative to such action. In any such
29 action, notwithstanding any other laws to the contrary, the attorney general
30 may undertake, among other things, to render legal services as special
31 counsel or to obtain the legal services of special counsel from any
32 department or agency of the United States, of this state or any other state
33 or any department or agency thereof or any county, city, public corporation
34 or public district in this state or in any other state that has brought or
35 intends to bring a similar action for the recovery of damages or their duly
36 authorized legal representatives in such action.
- 37 7. Organize the civil rights division within the department of law and
38 administer such division pursuant to the powers and duties provided in
39 chapter 9 of this title.
- 40 8. Compile, publish and distribute to all state agencies, departments,
41 boards, commissions and councils, and to other persons and government
42 entities on request, at least every ten years, the Arizona agency handbook
43 that sets forth and explains the major state laws that govern state agencies,
44 including information on the laws relating to bribery, conflicts of interest,
45 contracting with the government, disclosure of public information,

1 discrimination, nepotism, financial disclosure, gifts and extra compensation,
2 incompatible employment, political activity by employees, public access and
3 misuse of public resources for personal gain. A supplement to the handbook
4 reflecting revisions to the information contained in the handbook shall be
5 compiled and distributed by the attorney general as deemed necessary.

6 B. Except as otherwise provided by law, the attorney general may:

7 1. Organize the department into such bureaus, subdivisions or units as
8 he deems most efficient and economical, and consolidate or abolish them.

9 2. Adopt rules for the orderly conduct of the business of the
10 department.

11 3. ~~SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE~~, employ and assign
12 assistant attorneys general and other employees necessary to perform the
13 functions of the department.

14 4. Compromise or settle any action or claim by or against this state
15 or any department, board or agency of this state. If the compromise or
16 settlement involves a particular department, board or agency of this state,
17 the compromise or settlement shall be first approved by the department, board
18 or agency. If no department or agency is named or otherwise materially
19 involved, the approval of the governor shall be first obtained.

20 5. Charge reasonable fees for distributing official publications,
21 including attorney general legal opinions and the Arizona agency handbook.
22 The fees received shall be transmitted to the state treasurer for deposit in
23 the state general fund.

24 ~~C. Assistants and employees in any legal division subject to a merit
25 system prior to March 6, 1953 shall remain subject thereto.~~

26 ~~D.~~ C. The powers and duties of a bureau, subdivision or unit shall be
27 limited to those assigned by law to the department.

28 ~~E.~~ D. Notwithstanding any law to the contrary, except as provided in
29 subsections ~~F~~ E and ~~G~~ F of this section, no state agency other than the
30 attorney general shall employ legal counsel or make an expenditure or incur
31 an indebtedness for legal services, but the following are exempt from this
32 section:

33 1. The director of water resources.

34 2. The residential utility consumer office.

35 3. The industrial commission.

36 4. The Arizona board of regents.

37 5. The auditor general.

38 6. The corporation commissioners and the corporation commission other
39 than the securities division.

40 7. The office of the governor.

41 8. The constitutional defense council.

42 9. The office of the state treasurer.

43 10. The Arizona commerce authority.

44 ~~F.~~ E. If the attorney general determines that he is disqualified from
45 providing judicial or quasi-judicial legal representation or legal services

1 on behalf of any state agency in relation to any matter, the attorney general
2 shall give written notification to the state agency affected. If the agency
3 has received written notification from the attorney general that the attorney
4 general is disqualified from providing judicial or quasi-judicial legal
5 representation or legal services in relation to any particular matter, the
6 state agency is authorized to make expenditures and incur indebtedness to
7 employ attorneys to provide the representation or services.

8 ~~F.~~ F. If the attorney general and the director of the department of
9 agriculture cannot agree on the final disposition of a pesticide complaint
10 under section 3-368, if the attorney general and the director determine that
11 a conflict of interest exists as to any matter or if the attorney general and
12 the director determine that the attorney general does not have the expertise
13 or attorneys available to handle a matter, the director is authorized to make
14 expenditures and incur indebtedness to employ attorneys to provide
15 representation or services to the department with regard to that matter.

16 ~~H.~~ G. Any department or agency of this state authorized by law to
17 maintain a legal division or incur expenses for legal services from funds
18 derived from sources other than the general revenue of the state, or from any
19 special or trust fund, shall pay from such source of revenue or special or
20 trust fund into the general fund of the state, to the extent such funds are
21 available and upon a reimbursable basis for warrants drawn, the amount
22 actually expended by the department of law within legislative appropriations
23 for such legal division or legal services.

24 ~~I.~~ H. Appropriations made pursuant to subsection ~~H.~~ G of this section
25 shall not be subject to lapsing provisions otherwise provided by law.
26 Services for departments or agencies to which this subsection and subsection
27 ~~G.~~ F of this section are applicable shall be performed by special or regular
28 assistants to the attorney general.

29 ~~J.~~ I. Notwithstanding section 35-148, monies received by the attorney
30 general from charges to state agencies and political subdivisions for legal
31 services relating to interagency service agreements shall be deposited,
32 pursuant to sections 35-146 and 35-147, in an attorney general agency
33 services fund. Monies in the fund are subject to legislative appropriation
34 and are exempt from the provisions of section 35-190 relating to lapsing of
35 appropriations.

36 Sec. 105. Section 41-511.02, Arizona Revised Statutes, is amended to
37 read:

38 41-511.02. Director; qualifications; state historic
39 preservation officer

40 A. The ~~board~~ GOVERNOR shall ~~employ~~ APPOINT a full-time director
41 PURSUANT TO SECTION 38-211 who shall:

- 42 1. Not be ~~one of its members~~ A MEMBER OF THE ARIZONA STATE PARKS
43 BOARD.
44 2. Serve at the pleasure of the ~~board~~ GOVERNOR.

1 3. Be qualified by successful experience in administration in business
2 or in government.

3 4. Have a knowledge of or training in the multiple use of lands and
4 the conservation of natural resources.

5 B. The governor shall designate a full-time employee of the board with
6 professional competence and expertise in the field of historic preservation
7 as the "state historic preservation officer" to administer the state historic
8 preservation program.

9 Sec. 106. Section 41-511.05, Arizona Revised Statutes, is amended to
10 read:

11 41-511.05. Powers; compensation

12 The board may, subject to legislative budgetary control within the
13 limitations of this article:

14 1. SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF
15 THIS TITLE, employ, determine conditions of employment and specify the duties
16 of such administrative, secretarial and clerical workers and technical
17 employees such as naturalists, archaeologists, landscape architects, rangers,
18 park supervisors, caretakers, guides, skilled tradesmen, laborers, historians
19 and engineers, and contract to have the services of such advisors or
20 consultants as are reasonably necessary or desirable to enable it to perform
21 adequately its duties. The compensation of the director and of all workers
22 and employees shall be as determined pursuant to section 38-611.

23 2. Make such contracts, leases and agreements and incur such
24 obligations as are reasonably necessary or desirable within the general scope
25 of its activities and operations to enable it to perform adequately its
26 duties.

27 3. Acquire through purchase, lease, agreement, donation, grant,
28 bequest or otherwise real and personal property and acquire real property
29 through eminent domain for state park or monument purposes. No property may
30 be acquired in the manner provided in this paragraph which will require an
31 expenditure in excess of funds budgeted or received for such purposes. No
32 state park or monument, or additions to a state park or monument, shall be
33 created containing in excess of one hundred sixty acres of land unless
34 created by an act of the legislature. This acreage limitation shall not
35 apply in the case of lands given or donated for state park or monument
36 purposes nor to state owned lands that are selected by the board and that are
37 not subject to outstanding leases, permits or other rights for the use of the
38 lands including preferential rights to renew such leases and permits.

39 4. Sell, lease, exchange or otherwise dispose of real and personal
40 property. Any disposition of real property shall be submitted for approval
41 of the joint committee on capital review. The disposition of office
42 equipment, furnishings, vehicles and other materials is subject to chapter
43 23, article 8 of this title. The disposition of artifacts and other property
44 of scientific, archaeological, historical or sociological interest is exempt
45 from chapter 23, article 8 of this title, but the board shall consult with

1 the Arizona historical society in disposing of property of historical
2 interest.

3 5. Construct at state parks and monuments necessary sanitary and other
4 facilities including picnic tables, fireplaces, campsites, service buildings
5 and maintenance shops, and contract with private persons for the construction
6 and operation of cabins, hotels and restaurants, and like establishments.

7 6. Erect suitable signs and markers at parks and monuments and write,
8 prepare and publish written material describing the historical significance
9 of monuments and other places of historical or other significance.

10 7. Solicit and work in cooperation with the department of
11 transportation and the highway departments of various counties and the United
12 States federal highway administration for necessary roads and trails within
13 the state parks and monuments and access roads to state parks and monuments.
14 For the purposes of this paragraph, the board may designate roads, spurs and
15 other traffic related appurtenances within state park boundaries as public
16 highways. Designation of roads, spurs or other traffic related appurtenances
17 as public highways shall not prohibit the board from closing such public
18 highways when the park is closed, charging for admission to the park to
19 persons using the public highway within the park or otherwise managing such
20 public highways in the same manner as other lands within the park.

21 8. Levy and collect reasonable fees or other charges for the use of
22 such privileges and conveniences as may be provided under the jurisdiction of
23 the board. The board may enter into agreements for the purpose of accepting
24 payment for fees or other charges imposed pursuant to this article by
25 alternative payment methods, including credit cards, charge cards, debit
26 cards and electronic funds transfers. The collecting officer shall deduct
27 any fee charged or withheld by a company providing the alternative payment
28 method under an agreement with the board before the revenues are transferred
29 to the board.

30 9. Make reasonable rules for the protection of, and maintain and keep
31 the peace in, state parks and monuments. Such rules adopted by the parks
32 board are subject to review and approval by the legislature. After a board
33 rule has been finally adopted pursuant to chapter 6 of this title, the board
34 shall immediately forward a certified copy of the rule to the legislature.
35 The legislature may review and, by concurrent resolution, approve, disapprove
36 or modify such rule. However, such rule shall be given full force and effect
37 pending legislative review. If no concurrent resolution is passed by the
38 legislature with respect to the rule within one year following receipt of a
39 certified copy of the rule, the rule shall be deemed to have been approved by
40 the legislature. If the legislature disapproves a rule or a section of a
41 rule, the board shall immediately discontinue the use of any procedure,
42 action or proceeding authorized or required by the rule or section of the
43 rule. If the legislature modifies a rule or section of a rule, the board
44 shall immediately suspend the use of any procedure, action or proceeding
45 authorized or required by the rule or section of the rule until the modified

1 rule has been adopted in accordance with chapter 6 of this title, after which
2 all proceedings pursuant to the rule shall be conducted in accordance with
3 the modified version of the rule.

4 10. Furnish advisory services to city and county park or recreation
5 boards and organizations.

6 11. Delegate to the director, the deputy director or the director's
7 designee any of its powers and duties, whether ministerial or discretionary,
8 which are prescribed by law, except that the board may not delegate its power
9 or duty to make rules.

10 12. Reimburse board volunteers for travel and lodging expenses and per
11 diem subsistence allowances incurred while on public business for the
12 board. Reimbursement amounts shall not exceed those allowed under title 38,
13 chapter 4, article 2.

14 13. In consultation with the conservation acquisition board, develop a
15 grant program and adopt guidelines for allocating and obligating monies in
16 the land conservation fund pursuant to section 41-511.23. The guidelines
17 shall include consideration of both qualification issues relating to
18 applicants for grants and issues relating to the proposed use of the grant
19 money in a manner consistent with existing municipal, county and regional
20 land use plans.

21 Sec. 107. Section 41-531, Arizona Revised Statutes, is amended to
22 read:

23 41-531. Arizona commission of African-American affairs

24 A. The Arizona commission of African-American affairs is established
25 and consists of the governor, the superintendent of public instruction, the
26 director of the department of health services, the director of the department
27 of transportation, the attorney general, the director of the department of
28 economic security, the director of the office of tourism and the director of
29 the department of commerce, or their representatives, who shall be ex officio
30 members, and nine members who are appointed by the governor, seven of whom
31 are African-American and two of whom are not African-American.

32 B. The term of office of each appointed member is three years. Each
33 member shall hold office until the member's successor is appointed and
34 qualifies. Appointment to fill a vacancy caused other than by expiration of
35 a term shall be for the unexpired portion of the term.

36 C. Members of the commission shall serve without compensation.

37 D. The commission shall elect a chairperson and a vice-chairperson
38 from among its appointed members and adopt rules for the conduct of meetings.
39 A record shall be kept of all proceedings and transactions.

40 E. Section 41-2955, subsection D does not apply to the commission.

41 F. The commission shall meet at least quarterly on the second Thursday
42 of the first month of each quarter and may hold additional meetings on the
43 call of the chairperson. A majority of the appointed members of the
44 commission constitute a quorum for the transaction of business, but ex

1 officio members may vote. Members who fail to attend three consecutive
2 meetings are deemed to have resigned.

3 G. The appointed members of the commission shall ~~appoint~~ EMPLOY,
4 SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, an executive director of the
5 commission who shall not be a member of the commission. The director is
6 eligible to receive compensation as determined by the commission from monies
7 available in the Arizona commission of African-American affairs fund
8 established by section 41-533. The commission may employ clerical,
9 professional and technical personnel subject to CHAPTER 4, ARTICLE 4 OF THIS
10 TITLE AND monies available in the Arizona commission of African-American
11 affairs fund and shall prescribe their duties and determine their
12 compensation.

13 Sec. 108. Section 41-542, Arizona Revised Statutes, is amended to
14 read:

15 41-542. Powers and duties; information; report; director;
16 appointment; personnel; limitation; fees; directory

17 A. The commission shall assist and support state and federal agencies
18 in assisting Indians and tribal councils in this state to develop mutual
19 goals, to design projects for achieving goals and to implement their plans.
20 The commission shall also:

21 1. Assemble and make available facts needed by tribal, state and
22 federal agencies to work together effectively.

23 2. Assist this state in its responsibilities to Indians and tribes of
24 this state by making recommendations to the governor and the legislature.

25 3. Confer and coordinate with officials and agencies of other
26 governmental units and legislative committees regarding Indian needs and
27 goals.

28 4. Work for greater understanding and improved relationships between
29 Indians and non-Indians by creating an awareness of the legal, social and
30 economic needs of Indians in this state.

31 5. Promote increased participation by Indians in local and state
32 affairs.

33 6. Assist tribal groups in developing increasingly effective methods
34 of self-government.

35 7. Assist urban Indians. For the purposes of this paragraph, "urban
36 Indian" means an Indian who:

37 (a) Is a resident of this state.

38 (b) Resides in a county of this state with a population of more than
39 two hundred thousand persons.

40 (c) Does not reside on an Indian reservation in such a county.

41 B. State and local public officers and employees, on request, shall
42 furnish the commission with information that it may require for its purposes
43 except information which is not subject to disclosure pursuant to a provision
44 of law.

1 C. The commission shall make a written annual report, giving an
2 account of its proceedings, transactions, findings and recommendations, to
3 the governor and the legislature and may submit such recommendations to the
4 legislature in the form of proposed legislation.

5 D. The governor shall appoint an executive director of the commission
6 pursuant to section 38-211 who shall not be a member of the commission. The
7 director is eligible to receive compensation pursuant to section 38-611. The
8 commission may employ clerical, professional and technical personnel subject
9 to CHAPTER 4, ARTICLE 4 OF THIS TITLE AND appropriated funds and shall
10 prescribe their duties and determine their compensation PURSUANT TO SECTION
11 38-611.

12 E. The commission may initiate or assist programs on a reservation
13 only upon the request or with the approval of the tribal council for such
14 reservation.

15 F. The commission may publish an annual directory of tribal
16 governments in this state and other tribal and Indian related organizations
17 and entities. The commission shall charge a fee for nongovernmental
18 distribution of the directory and other commission publications based on the
19 costs of compiling, publishing and distributing the directory and other
20 commission publications.

21 Sec. 109. Section 41-619.53, Arizona Revised Statutes, is amended to
22 read:

23 41-619.53. Board of fingerprinting; powers and duties;
24 personnel; liability

25 A. The board of fingerprinting shall:

26 1. Determine good cause exceptions pursuant to section 41-619.55. The
27 board may appoint a hearing officer to recommend that an applicant be granted
28 or denied a good cause exception after the hearing officer conducts an
29 expedited review or a good cause exception hearing.

30 2. Adopt rules to implement this article, including rules to establish
31 good cause exceptions for the issuance of fingerprint clearance cards
32 pursuant to sections 41-1758.03 and 41-1758.07. This rule making is exempt
33 from the requirements of chapter 6 of this title.

34 3. Administer and enforce this article and rules adopted pursuant to
35 this article.

36 4. Furnish a copy of its rules, on request, to all applicants who
37 petition the board for a good cause exception pursuant to sections 41-1758.03
38 and 41-1758.07 and, on request, to licensees, contract providers and state
39 agencies.

40 5. Establish fees.

41 B. In order to grant a good cause exception, a majority plus an
42 additional member, of the members present, must vote to approve the
43 application. If the board grants a good cause exception, the board shall
44 request in writing that the department of public safety issue a card to the
45 applicant.

1 C. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the board may employ
2 clerical, professional and technical personnel subject to fee monies that are
3 collected and to the budget that is approved by the board members and shall
4 prescribe personnel duties and determine personnel compensation. Personnel
5 employed by the board must have a valid fingerprint clearance card issued
6 pursuant to section 41-1758.07. If the applicant is denied a fingerprint
7 clearance card, in order to be employed by the board, the board must grant a
8 good cause exception pursuant to this article by a unanimous vote.

9 D. In making any recommendation to the board to grant or deny a good
10 cause exception, the hearing officer shall consider all of the reasons and
11 criteria prescribed in section 41-619.55, subsection E.

12 E. Members and employees of the board are not liable for acts done or
13 actions taken by any board member or employee if the members or employees act
14 in good faith following the requirements of this article.

15 Sec. 110. Section 41-701, Arizona Revised Statutes, is amended to
16 read:

17 41-701. Department of administration; director; appointment

18 A. A department of administration is established.

19 B. The direction, operation and control of the department is the
20 responsibility of the director.

21 C. The director shall be appointed by the governor, ~~from a list of~~
22 ~~qualified candidates submitted by the committee as provided in subsection D,~~
23 with the advice and consent of the senate and shall serve at the pleasure of
24 the governor.

25 ~~D. The department's human resources division shall assist the governor~~
26 ~~in preparing a job description for the position of director and recruiting~~
27 ~~candidates for the position. The qualifications of the candidates shall be~~
28 ~~reviewed by a committee of seven persons selected by the governor. The names~~
29 ~~of all those candidates determined by the committee to be qualified for the~~
30 ~~position shall be submitted to the governor for the governor's consideration.~~
31 ~~The governor may request additional names from the committee if the governor~~
32 ~~deems necessary. For each subsequent vacancy in the position of director, a~~
33 ~~new committee shall be appointed by the governor.~~

34 Sec. 111. Title 41, chapter 4, article 1, Arizona Revised Statutes, is
35 amended by adding sections 41-709, 41-710 and 41-711, to read:

36 41-709. Gifts and donations for employee recognition

37 A STATE DEPARTMENT OR AGENCY MAY ACCEPT GIFTS AND DONATIONS FROM A
38 PUBLIC ENTITY, A PRIVATE ENTITY OR ANY PERSON FOR THE CONDUCT OF EMPLOYEE
39 RECOGNITION PROGRAMS. GIFTS AND DONATIONS FOR EMPLOYEE RECOGNITION PROGRAMS
40 ARE SUBJECT TO THE REQUIREMENTS OF TITLE 35, CHAPTER 1, ARTICLE 3 AND CHAPTER
41 23 OF THIS TITLE.

42 41-710. Information technology personnel; criminal history
43 records; definitions

44 A. BEFORE ACCEPTING AN OFFER OF EMPLOYMENT, AN APPLICANT FOR AN
45 INFORMATION TECHNOLOGY POSITION IN THE DEPARTMENT OF ADMINISTRATION SHALL

1 SUBMIT A FULL SET OF FINGERPRINTS TO THE DEPARTMENT OF ADMINISTRATION FOR THE
2 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO
3 SECTION 41-1750 AND PUBLIC LAW 92-544. THE DIRECTOR OF THE DEPARTMENT OF
4 ADMINISTRATION SHALL REQUEST PERSONNEL WHO WERE EMPLOYED IN INFORMATION
5 TECHNOLOGY POSITIONS ON OR BEFORE JULY 18, 2000 TO SUBMIT A FULL SET OF
6 FINGERPRINTS IF THE DIRECTOR DETERMINES THAT IT IS NECESSARY TO ENSURE THE
7 PRIVACY, CONFIDENTIALITY OR INTEGRITY OF DATA WITHIN THE DEPARTMENT'S
8 CONTROL. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA
9 WITH THE FEDERAL BUREAU OF INVESTIGATION.

10 B. THE DEPARTMENT OF ADMINISTRATION SHALL NOT DISCLOSE INFORMATION
11 OBTAINED PURSUANT TO SUBSECTION A OF THIS SECTION EXCEPT TO MEMBERS OF THE
12 DEPARTMENT'S STAFF SOLELY FOR THE PURPOSE OF EMPLOYMENT OF INFORMATION
13 TECHNOLOGY PERSONNEL BY THE DEPARTMENT.

14 C. FOR THE PURPOSES OF THIS SECTION:

15 1. "APPLICANT" MEANS ANY PERSON WHO SEEKS EMPLOYMENT AS A NEW HIRE OR
16 ANY EMPLOYEE OF THE DEPARTMENT OF ADMINISTRATION WHO SEEKS A TRANSFER, A
17 RECLASSIFICATION OR A REASSIGNMENT TO AN INFORMATION TECHNOLOGY POSITION.

18 2. "INFORMATION TECHNOLOGY POSITION" MEANS ANY POSITION THAT IS IN THE
19 DEPARTMENT OF ADMINISTRATION, THAT REQUIRES THE OPERATION OF COMPUTER SYSTEMS
20 THAT CONTAIN OR TRANSMIT DATA TO WHICH ACCESS IS RESTRICTED BY VIRTUE OF
21 APPLICABLE FEDERAL OR STATE LAWS, RULES OR REGULATIONS AND THAT REQUIRES
22 ACCESS TO THE RESTRICTED DATA IN ORDER TO FULFILL THE REQUIREMENTS OF THE
23 POSITION.

24 41-711. Reimbursement of transportation and telecommuting
25 costs; definition

26 A. THE DIRECTOR SHALL ADOPT RULES TO PROVIDE FOR THE REIMBURSEMENT OF
27 UP TO ONE HUNDRED PER CENT OF THE COST TO STATE EMPLOYEES OF EITHER:

28 1. PUBLIC TRANSPORTATION, VANPOOL OR PRIVATE BUS SERVICE TO AND FROM
29 THEIR PLACE OF EMPLOYMENT.

30 2. TELECOMMUTING CONNECTIVITY.

31 B. FOR THE PURPOSES OF THIS SECTION, "PUBLIC TRANSPORTATION" MEANS
32 LOCAL TRANSPORTATION OF PASSENGERS BY MEANS OF A PUBLIC CONVEYANCE OPERATED
33 OR LICENSED BY AN INCORPORATED CITY OR TOWN OR A REGIONAL PUBLIC
34 TRANSPORTATION AUTHORITY.

35 Sec. 112. Title 41, chapter 4, Arizona Revised Statutes, is amended by
36 adding article 4, to read:

37 ARTICLE 4. STATE PERSONNEL SYSTEM

38 41-741. Definitions

39 IN THIS ARTICLE AND ARTICLES 5 AND 6, UNLESS THE CONTEXT OTHERWISE
40 REQUIRES:

41 1. "APPOINTING AUTHORITY" MEANS THE PERSON OR GROUP OF PERSONS
42 AUTHORIZED BY LAW OR DELEGATED AUTHORITY TO MAKE APPOINTMENTS TO FILL
43 POSITIONS.

- 1 2. "AT WILL" MEANS AN EMPLOYMENT RELATIONSHIP WHERE EITHER PARTY TO
2 THE RELATIONSHIP MAY SEVER THE RELATIONSHIP AT ANY TIME FOR ANY REASON OTHER
3 THAN AN UNLAWFUL REASON.
- 4 3. "BREAK IN SERVICE" MEANS A SEPARATION FROM STATE EMPLOYMENT,
5 REGARDLESS OF THE REASON FOR SEPARATION.
- 6 4. "CHANGE IN ASSIGNMENT" MEANS MOVEMENT OF AN EMPLOYEE TO A DIFFERENT
7 POSITION IN THE SAME STATE AGENCY OR ANOTHER STATE AGENCY.
- 8 5. "COVERED EMPLOYEE" MEANS AN EMPLOYEE WHO:
9 (a) BEFORE SEPTEMBER 29, 2012, IS IN THE STATE SERVICE, IS NOT
10 UNCOVERED PURSUANT TO SECTION 41-742, SUBSECTION A AND HAS REMAINED IN
11 COVERED STATUS WITHOUT A BREAK IN SERVICE SINCE THAT DATE.
12 (b) BEFORE SEPTEMBER 29, 2012, IS IN THE STATE SERVICE, IS EMPLOYED AS
13 A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER III
14 OR COMMUNITY CORRECTIONS OFFICER AND HAS REMAINED IN COVERED STATUS WITHOUT A
15 BREAK IN SERVICE SINCE THAT DATE.
16 (c) BEFORE SEPTEMBER 29, 2012, IS A CIVILIAN EMPLOYEE IN THE LAW
17 ENFORCEMENT MERIT SYSTEM COUNCIL, IS NOT A SUPERVISOR AND HAS REMAINED IN
18 THAT STATUS WITHOUT A BREAK IN SERVICE SINCE THAT DATE.
19 (d) BEFORE SEPTEMBER 29, 2012, IS IN THE STATE SERVICE, IS A FULL
20 AUTHORITY PEACE OFFICER AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS
21 AND TRAINING BOARD AND HAS REMAINED IN THAT STATUS WITHOUT A BREAK IN SERVICE
22 SINCE THAT DATE.
23 (e) ON OR AFTER SEPTEMBER 29, 2012, IS A CORRECTIONAL OFFICER I,
24 CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER III OR COMMUNITY CORRECTIONS
25 OFFICER AND IS APPOINTED TO A POSITION IN THE COVERED SERVICE, BUT DOES NOT
26 INCLUDE A POSITION IN ANY OTHER CLASS IN THE CORRECTIONAL OFFICER CLASS
27 SERIES OR THE COMMUNITY CORRECTIONAL OFFICER CLASS SERIES OR IN ANY OTHER
28 CORRECTIONAL CLASS SERIES.
29 (f) ON OR AFTER SEPTEMBER 29, 2012, IS A FULL AUTHORITY PEACE OFFICER
30 AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD AND IS
31 APPOINTED TO A POSITION THAT REQUIRES SUCH A CERTIFICATION IN THE COVERED
32 SERVICE.
- 33 6. "COVERED SERVICE" MEANS THAT EMPLOYMENT STATUS CONFERRING RIGHTS OF
34 APPEAL AS PRESCRIBED IN SECTIONS 41-782 AND 41-783.
- 35 7. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION,
36 OR THE DIRECTOR'S DESIGNEE, WHO IS RESPONSIBLE FOR ADMINISTERING THE STATE
37 PERSONNEL SYSTEM PURSUANT TO APPLICABLE STATE AND FEDERAL LAWS.
- 38 8. "EMPLOYEE" MEANS ALL OFFICERS AND EMPLOYEES OF THIS STATE, WHETHER
39 IN COVERED SERVICE OR UNCOVERED SERVICE, UNLESS OTHERWISE PRESCRIBED.
- 40 9. "ORIGINAL PROBATIONARY PERIOD" MEANS THE SPECIFIED PERIOD FOLLOWING
41 INITIAL APPOINTMENT TO COVERED SERVICE.
- 42 10. "PROBATIONARY PERIOD" MEANS A WORKING TEST PERIOD OF EMPLOYMENT IN
43 A COVERED SERVICE POSITION FOR EVALUATION OF THE EMPLOYEE'S WORK.

1 11. "PROMOTIONAL PROBATION" MEANS THE SPECIFIED PERIOD OF EMPLOYMENT
2 FOLLOWING PROMOTION OF A PERMANENT STATUS EMPLOYEE TO ANOTHER COVERED SERVICE
3 POSITION THAT HAS A HIGHER PAY GRADE.

4 12. "RULES" MEANS RULES ADOPTED BY THE DEPARTMENT OF ADMINISTRATION,
5 HUMAN RESOURCES DIVISION.

6 13. "STATE AGENCY" MEANS A DEPARTMENT, BOARD, OFFICE, AUTHORITY,
7 COMMISSION OR OTHER GOVERNMENTAL BUDGET UNIT OF THIS STATE AND INCLUDES AN
8 AGENCY ASSIGNED TO A DEPARTMENT FOR ADMINISTRATIVE PURPOSES. STATE AGENCY
9 DOES NOT INCLUDE THE LEGISLATIVE AND JUDICIAL BRANCHES, THE ARIZONA BOARD OF
10 REGENTS, STATE UNIVERSITIES, THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE
11 BLIND, THE COTTON RESEARCH AND PROTECTION COUNCIL OR PUBLIC CORPORATIONS.

12 14. "STATE PERSONNEL BOARD" MEANS THE BOARD ESTABLISHED BY SECTION
13 41-781.

14 15. "STATE PERSONNEL SYSTEM" MEANS ALL STATE AGENCIES AND EMPLOYEES OF
15 THOSE AGENCIES THAT ARE NOT EXEMPTED BY THIS ARTICLE.

16 16. "STATE SERVICE" MEANS ALL OFFICES AND POSITIONS OF EMPLOYMENT IN
17 STATE GOVERNMENT THAT, BEFORE SEPTEMBER 29, 2012, WERE SUBJECT TO THE
18 PROVISIONS OF ARTICLES 5 AND 6 OF THIS CHAPTER THAT WERE IN EFFECT BEFORE
19 SEPTEMBER 29, 2012.

20 17. "SUPERVISOR" MEANS A STATE EMPLOYEE WHO HAS ONE OR MORE OTHER STATE
21 EMPLOYEES REPORTING DIRECTLY TO THE PERSON AND, FOR THOSE STATE EMPLOYEES,
22 TYPICALLY HAS THE AUTHORITY TO:

- 23 (a) APPROVE SICK OR ANNUAL LEAVE.
- 24 (b) RECOMMEND HIRING, DISCIPLINE OR DISMISSAL.
- 25 (c) ASSIGN OR SCHEDULE DAILY WORK.
- 26 (d) COMPLETE A PERFORMANCE EVALUATION.

27 18. "UNCOVERED EMPLOYEE" MEANS AN EMPLOYEE IN UNCOVERED SERVICE.

28 19. "UNCOVERED SERVICE" MEANS EMPLOYMENT AT WILL AND INCLUDES ALL STATE
29 EMPLOYEES EXCEPT THOSE IN COVERED SERVICE.

30 41-742. State personnel system; covered and uncovered
31 employees; application; exemptions

32 A. BEGINNING SEPTEMBER 29, 2012, UNLESS OTHERWISE PRESCRIBED IN THIS
33 ARTICLE:

34 1. ALL NEW HIRES ARE AT WILL UNCOVERED EMPLOYEES.

35 2. ANY EMPLOYEE WHO MEETS ANY OF THE FOLLOWING CRITERIA IS AN AT WILL
36 UNCOVERED EMPLOYEE:

37 (a) IS EMPLOYED AS AN ATTORNEY IN A POSITION ASSIGNED TO THE ATTORNEY
38 SALARY SCHEDULE.

39 (b) A SUPERVISOR.

40 (c) IS AT A PAY GRADE OF NINETEEN OR ABOVE OR, IF A SUCCESSOR
41 COMPENSATION SYSTEM IS ESTABLISHED, IN AN EQUIVALENT PAY RANGE AS DETERMINED
42 BY THE DIRECTOR.

43 (d) IS IN A POSITION ASSIGNED TO THE INFORMATION TECHNOLOGY SALARY
44 SCHEDULE, IN A POSITION ASSIGNED TO AN INFORMATION TECHNOLOGY CLASSIFICATION

1 OR, IF A SUCCESSOR COMPENSATION SYSTEM IS ESTABLISHED, IN AN EQUIVALENT PAY
2 RANGE AS DETERMINED BY THE DIRECTOR.

3 3. ANY COVERED EMPLOYEE WHO VOLUNTARILY ACCEPTS A CHANGE IN ASSIGNMENT
4 TO A POSITION IN THE UNCOVERED SERVICE, REGARDLESS OF WHETHER THE VOLUNTARY
5 CHANGE IN ASSIGNMENT IS A PROMOTION, DEMOTION OR LATERAL TRANSFER, IS AN AT
6 WILL UNCOVERED EMPLOYEE ON THE START DATE OF THE VOLUNTARY CHANGE IN
7 ASSIGNMENT.

8 4. A COVERED EMPLOYEE MAY VOLUNTARILY ELECT TO BECOME AN AT WILL
9 UNCOVERED EMPLOYEE WITHOUT A CHANGE IN ASSIGNMENT ON APPROVAL BY THE STATE
10 AGENCY HEAD AND THE DIRECTOR. IF APPROVED, THE CHANGE FROM COVERED TO
11 UNCOVERED STATUS IS IMMEDIATE.

12 5. ONCE A COVERED EMPLOYEE BECOMES AN AT WILL UNCOVERED EMPLOYEE, THE
13 CHANGE IS IRREVOCABLE.

14 B. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, THE PURPOSE OF
15 THIS ARTICLE IS FOR ALL STATE AGENCIES IN THE STATE PERSONNEL SYSTEM TO TREAT
16 EMPLOYEES PURSUANT TO THE FOLLOWING PRINCIPLES:

17 1. RECRUITING, SELECTING AND ADVANCING EMPLOYEES ON THE BASIS OF THE
18 EMPLOYEE'S RELATIVE ABILITY, KNOWLEDGE AND SKILLS AFTER OPEN COMPETITION.

19 2. PROVIDING COMPENSATION BASED ON MERIT, PERFORMANCE, JOB VALUE AND
20 COMPETITIVENESS WITHIN APPLICABLE LABOR MARKETS.

21 3. TRAINING EMPLOYEES IF THE TRAINING WILL RESULT IN BETTER
22 ORGANIZATIONAL AND INDIVIDUAL PERFORMANCE.

23 4. RETAINING EMPLOYEES ON THE BASIS OF THE ADEQUACY OF THEIR
24 PERFORMANCE, CORRECT INADEQUATE PERFORMANCE WHERE POSSIBLE AND APPROPRIATE
25 AND SEPARATE EMPLOYEES WHOSE PERFORMANCE IS INADEQUATE.

26 5. MANAGING APPLICANTS AND EMPLOYEES IN ALL ASPECTS OF PERSONNEL
27 ADMINISTRATION WITHOUT REGARD TO POLITICAL AFFILIATION, RACE, COLOR, NATIONAL
28 ORIGIN, SEX, AGE, DISABILITY OR RELIGIOUS CREED AND WITH PROPER REGARD FOR
29 THEIR PRIVACY AND CONSTITUTIONAL RIGHTS AS CITIZENS.

30 6. ENSURING THAT EMPLOYEES ARE PROTECTED AGAINST COERCION FOR PARTISAN
31 POLITICAL PURPOSES AND ARE PROHIBITED FROM USING THEIR OFFICIAL AUTHORITY FOR
32 THE PURPOSE OF INTERFERING WITH OR AFFECTING THE RESULT OF AN ELECTION OR
33 NOMINATION FOR OFFICE.

34 C. THE DIRECTOR SHALL ESTABLISH AND ADMINISTER THE STATE PERSONNEL
35 SYSTEM, INCLUDING:

36 1. A CLASSIFICATION SYSTEM AND JOB CLASSES AND ASSOCIATED KNOWLEDGE,
37 SKILLS AND ABILITIES FOR THOSE CLASSES.

38 2. A CENTRALIZED JOB ANNOUNCEMENT SYSTEM TO STREAMLINE STATEWIDE
39 RECRUITING FOR APPLICANTS.

40 3. A CENTRALIZED EMPLOYMENT SYSTEM TO BE USED BY ALL SUCCESSFUL
41 APPLICANTS, INCLUDING A COMMON APPLICATION FORM TO BE USED BY ALL STATE
42 AGENCIES.

43 4. A COMPENSATION SYSTEM, INCLUDING ASSIGNING PAY RANGES FOR ALL JOB
44 CLASSES, A SPECIAL PAY PLAN FOR INVESTMENT MANAGERS AND OTHER SPECIAL PAY
45 PLANS FOR CERTAIN CLASSES OR GROUPS OF EMPLOYEES CONSIDERING SUCH FACTORS AS

1 OCCUPATIONAL PATTERNS, ECONOMIC CONDITIONS AND PAY PLANS COMMON TO
2 GOVERNMENT, BUSINESS AND INDUSTRY.

3 5. A STATEWIDE TRAINING PROGRAM.

4 6. A STATEWIDE PERFORMANCE MANAGEMENT SYSTEM.

5 7. AN AUDIT FUNCTION TO REVIEW STATE AGENCIES' PROCESSES AND
6 COMPLIANCE WITH APPLICABLE STATUTES, PERSONNEL RULES AND POLICIES.

7 8. AN INTEGRATED SYSTEM TO PROCESS PERSONNEL, PAYROLL AND BENEFITS
8 TRANSACTIONS AND SERVE AS THE SYSTEM OF RECORD FOR STATE EMPLOYEES.

9 D. THIS ARTICLE DOES NOT APPLY TO:

10 1. AN ELECTED STATE OFFICER. AN ELECTED STATE OFFICER MEANS ONLY
11 ELECTED OFFICIALS AND DOES NOT INCLUDE THE EMPLOYEES OF ELECTED STATE
12 OFFICERS UNLESS EXPRESSLY PROVIDED.

13 2. MEMBERS OF BOARDS AND COMMISSIONS WHO ARE APPOINTED BY THE
14 LEGISLATURE OR THE GOVERNOR, BOARD MEMBERS APPOINTED PURSUANT TO SECTION
15 41-619.52 UNLESS OTHERWISE PRESCRIBED BY LAW, EMPLOYEES OF THE ARIZONA
16 LEGISLATIVE COUNCIL, EMPLOYEES APPOINTED OR EMPLOYED BY THE LEGISLATURE OR
17 EITHER HOUSE OF THE LEGISLATURE AND EMPLOYEES OF THE SUPREME COURT AND THE
18 COURT OF APPEALS.

19 3. THE ARIZONA BOARD OF REGENTS, OFFICERS OR EMPLOYEES OF STATE
20 UNIVERSITIES AND PERSONNEL OF THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE
21 BLIND.

22 4. PATIENTS OR INMATES EMPLOYED IN STATE INSTITUTIONS.

23 5. OFFICERS AND ENLISTED PERSONNEL OF THE NATIONAL GUARD OF ARIZONA
24 AND EMPLOYEES OF THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS WHO OCCUPY
25 ARIZONA NATIONAL GUARD POSITIONS IDENTIFIED AS MOBILIZATION ASSETS.

26 6. THE COTTON RESEARCH AND PROTECTION COUNCIL.

27 7. EMPLOYEES OF THE DEPARTMENT OF PUBLIC SAFETY OR EMPLOYEES OF THE
28 ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD WHO ARE EMPLOYED AS A FULL
29 AUTHORITY PEACE OFFICER AS CERTIFIED BY THE BOARD AND WHO ARE IN POSITIONS
30 THAT REQUIRE SUCH A CERTIFICATION.

31 E. UNLESS OTHERWISE PRESCRIBED IN THIS ARTICLE, SUBSECTION A,
32 PARAGRAPHS 1, 2 AND 3 OF THIS SECTION DO NOT APPLY TO EITHER AN INITIAL
33 APPOINTMENT TO OR CHANGES IN ASSIGNMENT TO:

34 1. AN EMPLOYEE OF ANY STATE AGENCY WHO IS A FULL AUTHORITY PEACE
35 OFFICER AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING
36 BOARD.

37 2. AN EMPLOYEE OF THE STATE DEPARTMENT OF CORRECTIONS WHO IS EMPLOYED
38 AS A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER
39 III, COMMUNITY CORRECTIONS OFFICER OR, IF A SUCCESSOR CLASSIFICATION SYSTEM
40 IS ESTABLISHED, IN AN EQUIVALENT JOB CLASS AS DETERMINED BY THE DIRECTOR.

41 F. SUBSECTION B, PARAGRAPH 1 OF THIS SECTION, RELATING TO OPEN
42 COMPETITION AND SUBSECTION B, PARAGRAPH 4 OF THIS SECTION AND SUBSECTION B,
43 PARAGRAPH 5 OF THIS SECTION, RELATING TO POLITICAL AFFILIATION, DO NOT APPLY
44 TO:

45 1. EMPLOYEES OF THE GOVERNOR'S OFFICE.

1 2. EMPLOYEES OF OFFICES OF ELECTED OFFICIALS WHO EITHER:
2 (a) REPORT DIRECTLY TO THE ELECTED OFFICIAL.
3 (b) HEAD A PRIMARY COMPONENT OR REPORT DIRECTLY TO THE HEAD OF A
4 PRIMARY COMPONENT OF THE OFFICE OF THE ELECTED OFFICIAL.
5 (c) AS A PRIMARY DUTY, DETERMINE OR PUBLICLY ADVOCATE SUBSTANTIVE
6 PROGRAM POLICY FOR THE OFFICE OF THE ELECTED OFFICIAL.
7 3. THE STATE AGENCY HEAD AND EACH DEPUTY DIRECTOR, OR EQUIVALENT, OF
8 EACH STATE AGENCY AND EMPLOYEES OF THE STATE AGENCY WHO REPORT DIRECTLY TO
9 EITHER THE STATE AGENCY HEAD OR DEPUTY DIRECTOR.
10 4. EACH ASSISTANT DIRECTOR, OR EQUIVALENT, OF EACH STATE AGENCY AND
11 EMPLOYEES IN THE STATE AGENCY WHO REPORT DIRECTLY TO AN ASSISTANT DIRECTOR.
12 5. ATTORNEYS IN THE OFFICE OF THE ATTORNEY GENERAL.
13 G. THIS ARTICLE AND ARTICLES 5 AND 6 OF THIS CHAPTER DO NOT CONFER ANY
14 RIGHTS IN EXCESS OF, OR IN ADDITION TO, THOSE PREVIOUSLY AUTHORIZED TO ANY
15 STATE EMPLOYEE.
16 H. THIS ARTICLE DOES NOT CREATE OR CONFER ANY CONTRACTUAL EMPLOYMENT
17 RIGHT FOR ANY EMPLOYEE AND, UNLESS OTHERWISE PROVIDED BY LAW, STATE AGENCIES
18 ARE PROHIBITED FROM EXECUTING EMPLOYMENT CONTRACTS WITH ANY STATE EMPLOYEE.
19 I. ANY COMMUNICATIONS, INCLUDING POLICY MANUALS, EMPLOYEE HANDBOOKS,
20 JOB OFFERS AND PERFORMANCE APPRAISALS AND OTHER COMMUNICATIONS AS DETERMINED
21 BY THE DIRECTOR, WHETHER IN WRITING OR ORAL, THAT CONFLICT WITH ARTICLE 1, 5
22 OR 6 OF THIS CHAPTER OR THIS ARTICLE ARE VOID AND DO NOT ALTER OR SUPERSEDE
23 ARTICLE 1, 5 OR 6 OF THIS CHAPTER OR THIS ARTICLE.
24 41-743. Powers and duties of the director
25 A. THE DIRECTOR IS RESPONSIBLE FOR THE DIRECTION AND CONTROL OF
26 PERSONNEL ADMINISTRATION.
27 B. THE DIRECTOR SHALL:
28 1. EMPLOY STAFF AS NECESSARY TO PERFORM THE DUTIES PRESCRIBED BY THIS
29 ARTICLE.
30 2. ESTABLISH THOSE OFFICES AS THE DIRECTOR DETERMINES NECESSARY TO
31 MAINTAIN AN EFFECTIVE AND EFFICIENT PROGRAM OF PERSONNEL ADMINISTRATION.
32 3. ADOPT RULES AND PROCEDURES RELATING TO PERSONNEL AND PERSONNEL
33 ADMINISTRATION FOR BOTH COVERED AND UNCOVERED EMPLOYEES. THE RULES SHALL
34 INCLUDE:
35 (a) THE ESTABLISHMENT AND MAINTENANCE OF CLASSIFICATION AND
36 COMPENSATION PLANS.
37 (b) THE RECRUITMENT, SELECTION AND APPOINTMENT PROCESS OF ELIGIBLE
38 APPLICANTS.
39 (c) LEAVE BENEFITS AND ADMINISTRATION.
40 (d) PROCEDURES FOR THE PERIODIC AND REGULAR REVIEW AND EVALUATION OF
41 THE QUALITY AND QUANTITY OF WORK PERFORMED BY EMPLOYEES.
42 (e) CHANGES TO EMPLOYMENT STATUS.
43 (f) PROCEDURES FOR THE REVIEW OF COMPLAINTS IF THE COMPLAINT CONTAINS
44 AN ALLEGATION OF DISCRIMINATION OR HARASSMENT.

1 (g) PROCEDURES REQUIRING REVIEW BY THE DIRECTOR OF DISMISSALS,
2 SUSPENSIONS FOR MORE THAN EIGHTY WORKING HOURS OR INVOLUNTARY DEMOTIONS
3 BEFORE ADMINISTERING THE ACTION.
4 (h) GRIEVANCE RIGHTS SPECIFIC TO COVERED EMPLOYEES.
5 (i) APPEAL RIGHTS AND OTHER RULES SPECIFIC TO COVERED EMPLOYEES.
6 (j) ANY OTHER ASPECTS OF PERSONNEL ADMINISTRATION AS DETERMINED BY THE
7 DIRECTOR.
8 4. PROVIDE AN ANNUAL REPORT AND RECOMMENDATION TO THE LEGISLATURE AND
9 THE JOINT LEGISLATIVE BUDGET COMMITTEE AS PROVIDED IN SECTION 41-751.
10 5. ESTABLISH A MANDATORY PROGRAM OF PERSONNEL MANAGEMENT TRAINING FOR
11 ALL EMPLOYEES WITH SUPERVISORY RESPONSIBILITY THAT IS APPROPRIATE TO THE
12 NATURE AND SCOPE OF THE EMPLOYEES' RESPONSIBILITIES. THE DIRECTOR MAY WAIVE
13 THE MANDATORY TRAINING ON A CASE BY CASE BASIS. THE TRAINING SHALL INCLUDE
14 AT LEAST THE FOLLOWING SUBJECTS:
15 (a) BASIC EMPLOYEE SUPERVISION.
16 (b) EMPLOYEE PERFORMANCE EVALUATIONS.
17 (c) EMPLOYEE DISCIPLINE.
18 (d) OTHER SUBJECTS AS THE DIRECTOR DETERMINES.
19 6. PROVIDE CONSULTATION TO STATE AGENCY MANAGEMENT IN ALL ASPECTS OF
20 PERSONNEL MANAGEMENT TO INCREASE EFFICIENCY AND ECONOMY IN STATE AGENCIES BY
21 IMPROVING THE METHODS OF PERSONNEL ADMINISTRATION WITH FULL RECOGNITION OF
22 THE REQUIREMENTS AND NEEDS OF MANAGEMENT.
23 C. THE DIRECTOR MAY:
24 1. DELEGATE SPECIFIC PERSONNEL FUNCTIONS TO A STATE AGENCY HEAD
25 CONSISTENT WITH LEGAL REQUIREMENTS.
26 2. ENTER INTO AGREEMENTS WITH ANY STATE AGENCY OR POLITICAL
27 SUBDIVISION OF THIS STATE OR ANY AGENCY OF A POLITICAL SUBDIVISION OF THIS
28 STATE TO FURNISH PERSONNEL ADMINISTRATION SERVICES AND FACILITIES OF THE
29 DEPARTMENT. UNLESS MONIES HAVE BEEN APPROPRIATED BY THE LEGISLATURE FOR THIS
30 PURPOSE, ANY AGREEMENT SHALL PROVIDE FOR REIMBURSEMENT TO THIS STATE OF THE
31 ACTUAL COST OF THE SERVICES AND FACILITIES FURNISHED, AS DETERMINED BY THE
32 DEPARTMENT.
33 3. SUBJECT TO LEGISLATIVE APPROPRIATION, CONTRACT FOR THE SERVICES OF
34 CONSULTANTS NECESSARY TO PERFORM THE ANNUAL SALARY PLAN AND SALARY PLAN
35 ADJUSTMENT RECOMMENDATIONS.
36 41-744. Nonconformity with federal regulations granting federal
37 monies
38 ANY PROVISION OF THIS ARTICLE THAT CONFLICTS OR IS INCONSISTENT WITH
39 FEDERAL RULES, REGULATIONS OR STANDARDS GOVERNING THE GRANT OF FEDERAL MONIES
40 TO ANY AGENCY OR DEPARTMENT OF THIS STATE DOES NOT APPLY TO THE AGENCY OR
41 DEPARTMENT. THE DIRECTOR MAY VARY OR WAIVE THE TERMS OF THE RULES AND
42 PROCEDURES AS APPLICABLE TO THESE AGENCIES AND DEPARTMENTS TO COMPLY WITH THE
43 CONDITIONS FOR FEDERAL GRANTS.

1 MAKE DOCUMENTED, GOOD FAITH EFFORTS TO CONTACT CURRENT AND PREVIOUS EMPLOYERS
2 OF A CANDIDATE TO OBTAIN INFORMATION AND RECOMMENDATIONS THAT MAY BE RELEVANT
3 TO THE CANDIDATE'S FITNESS FOR EMPLOYMENT.

4 41-747. Employment procedures; violation; classification

5 A. AN APPOINTING AUTHORITY SHALL COMPLY WITH THE PROCEDURES PRESCRIBED
6 IN THIS ARTICLE AND THE RULES ADOPTED BY THE DIRECTOR FOR THE RECRUITMENT,
7 SELECTION, HIRING AND SEPARATION OF EMPLOYEES IN THE STATE PERSONNEL SYSTEM.
8 THE APPOINTING AUTHORITY SHALL PRESCRIBE THE COMPENSATION OF AN EMPLOYEE AT
9 ALL TIMES PURSUANT TO SECTION 38-611.

10 B. AN APPOINTING AUTHORITY THAT VIOLATES SUBSECTION A OF THIS SECTION
11 AND INCURS AN OBLIGATION IS SUBJECT TO THE CIVIL AND CRIMINAL PENALTIES
12 PRESCRIBED IN TITLE 35, CHAPTER 1.

13 41-748. Transfer of accumulated annual leave; definitions

14 A. THE DIRECTOR SHALL ADOPT PROCEDURES FOR THE TRANSFER OF ACCUMULATED
15 ANNUAL LEAVE FROM ONE EMPLOYEE TO ANOTHER EMPLOYEE IN THE SAME STATE AGENCY
16 AND FOR TRANSFER OF ACCUMULATED ANNUAL LEAVE FROM ONE EMPLOYEE TO ANOTHER
17 STATE EMPLOYEE IN ANOTHER STATE AGENCY IF THE EMPLOYEES ARE MEMBERS OF THE
18 SAME FAMILY. THE TRANSFERS MAY OCCUR IF THE EMPLOYEE TO WHOM THE LEAVE IS
19 TRANSFERRED HAS A SERIOUSLY INCAPACITATING AND EXTENDED ILLNESS OR INJURY OR
20 A SERIOUSLY INCAPACITATING AND EXTENDED DISABILITY THAT IS CAUSED BY
21 PREGNANCY OR CHILDBIRTH OR A MEMBER OF THE EMPLOYEE'S IMMEDIATE FAMILY HAS A
22 SERIOUSLY INCAPACITATING AND EXTENDED ILLNESS OR INJURY OR A SERIOUSLY
23 INCAPACITATING AND EXTENDED DISABILITY THAT IS CAUSED BY PREGNANCY OR
24 CHILDBIRTH AND THE EMPLOYEE HAS EXHAUSTED ALL AVAILABLE LEAVE BALANCES.
25 TRANSFERRED ANNUAL LEAVE SHALL BE INCREASED OR REDUCED PROPORTIONALLY BY THE
26 DIFFERENCE IN THE SALARIES OF THE EMPLOYEES AS DETERMINED BY DEPARTMENT RULE.
27 AN EMPLOYEE WHO RECEIVES TRANSFERRED ANNUAL LEAVE IS LIMITED TO USING SIX
28 CONSECUTIVE MONTHS OF LEAVE PER OCCURRENCE UNLESS THE EMPLOYEE HAS APPLIED
29 FOR LONG-TERM DISABILITY INSURANCE AS PROVIDED BY RULE.

30 B. FOR THE PURPOSES OF THIS SECTION:

31 1. "IMMEDIATE FAMILY" MEANS AN EMPLOYEE'S PARENT, SPOUSE, OR CHILD,
32 WHETHER NATURAL, ADOPTED, FOSTER OR STEP.

33 2. "SAME FAMILY" MEANS AN EMPLOYEE'S SPOUSE, NATURAL CHILD, ADOPTED
34 CHILD, FOSTER CHILD, STEPCHILD, NATURAL PARENT, STEPPARENT, ADOPTIVE PARENT,
35 GRANDPARENT, GRANDCHILD, BROTHER, SISTER, SISTER-IN-LAW, BROTHER-IN-LAW,
36 SON-IN-LAW, DAUGHTER-IN-LAW, MOTHER-IN-LAW, FATHER-IN-LAW, AUNT, UNCLE,
37 NEPHEW OR NIECE.

38 41-749. Administrative leave; reporting

39 A. A STATE AGENCY HEAD SHALL REPORT TO THE DIRECTOR IF AN EMPLOYEE IS
40 PLACED ON ADMINISTRATIVE LEAVE WITH PAY DURING THE INVESTIGATION OF ALLEGED
41 WRONGDOING BY THE EMPLOYEE WHEN THE EMPLOYEE'S ADMINISTRATIVE LEAVE TOTALS
42 EIGHTY CONSECUTIVE HOURS AND, THEREAFTER, SHALL REPORT TO THE DIRECTOR ON A
43 WEEKLY BASIS UNTIL THE ADMINISTRATIVE LEAVE IS TERMINATED.

44 B. A STATE AGENCY HEAD SHALL OBTAIN APPROVAL FROM THE DIRECTOR IF AN
45 EMPLOYEE'S ADMINISTRATIVE LEAVE WITH PAY EXCEEDS THIRTY WORKING DAYS.

1 SHALL PROVIDE ANY INFORMATION REQUESTED BY THE DIRECTOR TO PREPARE THE ANNUAL
2 REPORT.

3 2. INFORMATION CONCERNING TURNOVER, INCLUDING THE NUMBER OF EMPLOYEES
4 SEPARATING FROM STATE EMPLOYMENT AND THE REASONS FOR SEPARATION.

5 3. INFORMATION CONCERNING THE COMPENSATION DURING THE PRECEDING YEAR
6 AND THE COMING YEAR OF STATE EMPLOYEES AND THE COMPENSATION OF OTHER PUBLIC
7 EMPLOYEES AND PRIVATE EMPLOYEES.

8 4. AN ADVISORY RECOMMENDATION ON STATE EMPLOYEES' SALARIES. IN
9 ESTABLISHING THE RECOMMENDATION, THE DIRECTOR SHALL CONSIDER THE RELATIVE
10 LEVELS OF DUTIES AND RESPONSIBILITIES OF THE VARIOUS CLASSES OF POSITIONS,
11 RATES PAID FOR COMPARABLE POSITIONS ELSEWHERE AND OTHER RELEVANT FACTORS.
12 SALARY RECOMMENDATIONS ARE NOT REQUIRED FOR ELECTED OFFICIALS. THE DIRECTOR
13 SHALL MAKE ADVISORY SALARY RECOMMENDATIONS FOR SPECIFIC POSITIONS IN THE
14 GOVERNOR'S OFFICE, THE LEGISLATURE AND THE COURTS IF REQUESTED BY THE
15 RESPECTIVE ADMINISTRATIVE HEADS OF THESE UNITS OF STATE GOVERNMENT.

16 5. THE OVERTIME PAY OF ALL STATE AGENCIES.

17 6. OTHER INFORMATION AS DETERMINED BY THE DIRECTOR.

18 C. THE ANNUAL REPORT AND RECOMMENDATIONS SHALL BE PRESENTED TO THE
19 GOVERNOR AND THE LEGISLATURE ON OR BEFORE SEPTEMBER 1 OF EACH YEAR. THE
20 DIRECTOR SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE.

21 D. THE ARIZONA BOARD OF REGENTS, THE JUDICIAL DEPARTMENT AND THE
22 ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND SHALL EACH PREPARE AND
23 SUBMIT AN ANNUAL REPORT ON THEIR PERSONNEL AS PRESCRIBED IN THIS SECTION.
24 THE REPORT SHALL INCLUDE:

25 1. INFORMATION CONCERNING THE NUMBER OF EMPLOYEES AFFECTED BY AND
26 REASONS FOR TURNOVER OF THEIR EMPLOYEES.

27 2. INFORMATION CONCERNING THE COMPENSATION DURING THE PRECEDING YEAR
28 AND THE COMING YEAR OF THEIR EMPLOYEES AND THE COMPENSATION OF OTHER PUBLIC
29 EMPLOYEES AND PRIVATE EMPLOYEES.

30 3. AN ADVISORY RECOMMENDATION ON THE SALARY PLAN AND ADJUSTMENTS FOR
31 THEIR EMPLOYEES. IN ESTABLISHING THE SALARY PLAN, THEY SHALL CONSIDER THE
32 RELATIVE LEVELS OF DUTIES AND RESPONSIBILITIES OF THE VARIOUS CLASSES OF
33 POSITIONS, RATES PAID FOR COMPARABLE POSITIONS ELSEWHERE AND OTHER RELEVANT
34 FACTORS.

35 4. THE OVERTIME PAY FOR THEIR EMPLOYEES.

36 41-752. Protections of civil or political liberties;
37 prohibitions; civil penalty; violation;
38 classification

39 A. EXCEPT FOR EXPRESSING AN OPINION OR PURSUANT TO SECTION 16-402, AN
40 EMPLOYEE SHALL NOT ENGAGE IN ANY ACTIVITIES PERMITTED BY THIS SECTION WHILE
41 ON DUTY, WHILE IN UNIFORM OR AT PUBLIC EXPENSE.

42 B. AN EMPLOYEE SHALL NOT:

43 1. USE ANY POLITICAL ENDORSEMENT IN CONNECTION WITH ANY APPOINTMENT TO
44 A POSITION IN THE STATE PERSONNEL SYSTEM.

1 2. USE OR PROMISE TO USE ANY OFFICIAL AUTHORITY OR INFLUENCE FOR THE
2 PURPOSE OF INFLUENCING THE VOTE OR POLITICAL ACTION OF ANY PERSON OR FOR ANY
3 CONSIDERATION.

4 C. AN EMPLOYEE, A MEMBER OF THE STATE PERSONNEL BOARD OR A MEMBER OF
5 THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL SHALL NOT BE A MEMBER OF ANY
6 NATIONAL, STATE OR LOCAL COMMITTEE OF A POLITICAL PARTY, AN OFFICER OR
7 CHAIRPERSON OF A COMMITTEE OF A PARTISAN POLITICAL CLUB OR A CANDIDATE FOR
8 NOMINATION OR ELECTION TO ANY PAID PUBLIC OFFICE, SHALL NOT HOLD ANY PAID,
9 ELECTIVE PUBLIC OFFICE OR SHALL NOT TAKE ANY PART IN THE MANAGEMENT OR
10 AFFAIRS OF ANY POLITICAL PARTY OR IN THE MANAGEMENT OF ANY PARTISAN OR
11 NONPARTISAN CAMPAIGN OR RECALL EFFORT, EXCEPT THAT ANY EMPLOYEE MAY:

12 1. EXPRESS AN OPINION.

13 2. ATTEND MEETINGS FOR THE PURPOSE OF BECOMING INFORMED CONCERNING THE
14 CANDIDATES FOR PUBLIC OFFICE AND THE POLITICAL ISSUES.

15 3. CAST A VOTE AND SIGN NOMINATION OR RECALL PETITIONS.

16 4. MAKE CONTRIBUTIONS TO CANDIDATES, POLITICAL PARTIES OR CAMPAIGN
17 COMMITTEES CONTRIBUTING TO CANDIDATES OR ADVOCATING THE ELECTION OR DEFEAT OF
18 CANDIDATES.

19 5. CIRCULATE CANDIDATE NOMINATION PETITIONS OR RECALL PETITIONS.

20 6. ENGAGE IN ACTIVITIES TO ADVOCATE THE ELECTION OR DEFEAT OF ANY
21 CANDIDATE.

22 7. SOLICIT OR ENCOURAGE CONTRIBUTIONS TO BE MADE DIRECTLY TO
23 CANDIDATES OR CAMPAIGN COMMITTEES CONTRIBUTING TO CANDIDATES OR ADVOCATING
24 THE ELECTION OR DEFEAT OF CANDIDATES.

25 D. A PERSON SHALL NOT:

26 1. SOLICIT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
27 OF THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL TO ENGAGE OR NOT ENGAGE IN
28 ACTIVITIES PERMITTED BY THIS SECTION WITH THE DIRECT OR INDIRECT USE OF ANY
29 THREAT, INTIMIDATION OR COERCION, INCLUDING THREATS OF DISCRIMINATION,
30 REPRISAL, FORCE OR ANY OTHER ADVERSE CONSEQUENCE, INCLUDING THE LOSS OF ANY
31 BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR COMPENSATION.

32 2. SUBJECT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
33 OF THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL ENGAGING IN ACTIVITY PERMITTED BY
34 THIS SECTION TO ANY DIRECT OR INDIRECT DISCRIMINATION, REPRISAL, FORCE,
35 COERCION OR INTIMIDATION OR ANY OTHER ADVERSE CONSEQUENCE, INCLUDING THE LOSS
36 OF ANY BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR COMPENSATION.

37 3. SUBJECT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
38 OF THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL WHO CHOOSES NOT TO ENGAGE IN ANY
39 ACTIVITY PERMITTED BY THIS SECTION TO ANY DIRECT OR INDIRECT DISCRIMINATION,
40 REPRISAL, FORCE, COERCION OR INTIMIDATION OR ANY OTHER ADVERSE CONSEQUENCE,
41 INCLUDING THE LOSS OF ANY BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR
42 COMPENSATION.

43 E. SUBSECTIONS B AND C OF THIS SECTION DO NOT APPLY TO THOSE EMPLOYEES
44 LISTED IN SECTION 41-742, SUBSECTION F.

1 F. THIS SECTION DOES NOT APPLY TO SCHOOL BOARD ELECTIONS OR COMMUNITY
2 COLLEGE DISTRICT GOVERNING BOARD ELECTIONS, AND AN EMPLOYEE MAY SERVE AS A
3 MEMBER OF THE GOVERNING BOARD OF A COMMON OR HIGH SCHOOL DISTRICT OR AS A
4 MEMBER OF A COMMUNITY COLLEGE DISTRICT GOVERNING BOARD.

5 G. AN EMPLOYEE WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION IS
6 SUBJECT TO SUSPENSION OF NOT LESS THAN THIRTY DAYS OR DISMISSAL.

7 H. A PERSON WHO VIOLATES:

8 1. SUBSECTION D OF THIS SECTION IS GUILTY OF A CLASS 6 FELONY.

9 2. ANY OTHER PROVISION OF THIS SECTION IS GUILTY OF A CLASS 1
10 MISDEMEANOR.

11 I. IN ADDITION TO ANY OTHER PENALTY, ANY PERSON SOLICITING OR
12 ENCOURAGING A CONTRIBUTION IN A MANNER PROHIBITED BY THIS SECTION IS SUBJECT
13 TO A CIVIL PENALTY OF UP TO THREE TIMES THE AMOUNT OF THE CONTRIBUTION
14 SOLICITED OR ENCOURAGED PLUS COSTS, EXPENSES AND REASONABLE ATTORNEY FEES.

15 J. THIS SECTION DOES NOT DENY ANY EMPLOYEE OR BOARD MEMBER ANY CIVIL
16 OR POLITICAL LIBERTIES AS GUARANTEED BY THE UNITED STATES AND ARIZONA
17 CONSTITUTIONS.

18 K. IT IS THE PUBLIC POLICY OF THIS STATE, REFLECTED IN THIS SECTION,
19 THAT GOVERNMENT PROGRAMS BE ADMINISTERED IN AN UNBIASED MANNER AND WITHOUT
20 FAVORITISM FOR OR AGAINST ANY POLITICAL PARTY OR GROUP OR ANY MEMBER IN ORDER
21 TO PROMOTE PUBLIC CONFIDENCE IN GOVERNMENT, GOVERNMENTAL INTEGRITY AND THE
22 EFFICIENT DELIVERY OF GOVERNMENTAL SERVICES AND TO ENSURE THAT ALL EMPLOYEES
23 ARE FREE FROM ANY EXPRESS OR IMPLIED REQUIREMENT OR ANY POLITICAL OR OTHER
24 PRESSURE OF ANY KIND TO ENGAGE OR NOT ENGAGE IN ANY ACTIVITY PERMITTED BY
25 THIS SECTION. TOWARD THIS END, ANY PERSON OR ENTITY CHARGED WITH THE
26 INTERPRETATION OF THIS SECTION SHALL TAKE INTO ACCOUNT THE POLICY OF THIS
27 SECTION AND SHALL CONSTRUE ANY OF ITS PROVISIONS ACCORDINGLY.

28 41-753. Unlawful acts; violation; classification

29 A. A PERSON SHALL NOT MAKE ANY FALSE STATEMENT, CERTIFICATE, MARK,
30 RATING OR REPORT WITH REGARD TO ANY TEST, CERTIFICATION OR APPOINTMENT MADE
31 UNDER THIS ARTICLE OR IN ANY MANNER COMMIT ANY FRAUD PREVENTING THE IMPARTIAL
32 EXECUTION OF THIS ARTICLE OR RULES ADOPTED UNDER THIS ARTICLE.

33 B. A PERSON SHALL NOT, DIRECTLY OR INDIRECTLY, GIVE, RENDER, PAY,
34 OFFER, SOLICIT OR ACCEPT ANY MONEY, SERVICE OR OTHER VALUABLE CONSIDERATION
35 FOR OR ON ACCOUNT OF ANY APPOINTMENT, PROPOSED APPOINTMENT, PROMOTION OR
36 PROPOSED PROMOTION TO, OR ANY ADVANTAGE IN, A POSITION IN THE STATE PERSONNEL
37 SYSTEM.

38 C. AN EMPLOYEE OF ANY STATE AGENCY, EXAMINER OR OTHER PERSON SHALL NOT
39 OBSTRUCT ANY PERSON IN THE PERSON'S RIGHT TO EXAMINATION, ELIGIBILITY,
40 CERTIFICATION OR APPOINTMENT UNDER THIS ARTICLE, OR FURNISH TO ANY PERSON ANY
41 SPECIAL OR SECRET INFORMATION FOR THE PURPOSE OF AFFECTING THE RIGHTS OR
42 PROSPECTS OF ANY PERSON WITH RESPECT TO EMPLOYMENT IN THE STATE PERSONNEL
43 SYSTEM.

44 D. ANY PERSON WHO KNOWINGLY VIOLATES SUBSECTION A, B, OR C OF THIS
45 SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.

1 E. AN ELECTED OR APPOINTED OFFICIAL SHALL NOT WITH CORRUPT INTENT USE
2 THE OFFICIAL'S POLITICAL INFLUENCE OR POSITION TO CAUSE THE FIRING, PROMOTION
3 OR DEMOTION OF ANY PUBLIC EMPLOYEE OR THE HIRING OF OR FAILURE TO HIRE ANY
4 APPLICANT FOR PUBLIC EMPLOYMENT.

5 F. AN ELECTED OR APPOINTED OFFICIAL WHO KNOWINGLY AND WITH CORRUPT
6 INTENT VIOLATES SUBSECTION E OF THIS SECTION IS GUILTY OF A CLASS 2
7 MISDEMEANOR.

8 G. ANY PERSON WHO IS CONVICTED OF A CLASS 2 MISDEMEANOR UNDER THIS
9 ARTICLE, FOR A PERIOD OF FIVE YEARS, IS INELIGIBLE FOR APPOINTMENT TO OR
10 EMPLOYMENT IN A POSITION IN THE STATE PERSONNEL SYSTEM AND, IF THE PERSON IS
11 AN EMPLOYEE OF THIS STATE AT THE TIME OF CONVICTION, IS SUBJECT TO SUSPENSION
12 FOR NOT LESS THAN NINETY DAYS OR DISMISSAL.

13 H. A CONTACT BY AN ELECTED OR APPOINTED OFFICIAL WITH A PUBLIC AGENCY
14 REGARDING THE QUALIFICATIONS OF AN APPLICANT SHALL NOT BE CONSTRUED AS
15 ILLEGALLY USING POLITICAL INFLUENCE OR POSITION.

16 41-754. Required reduction in hours

17 AN AGENCY DIRECTOR MAY REQUIRE AN AGENCY EMPLOYEE TO WORK REDUCED HOURS
18 IN ORDER TO COMPLY WITH ANY REDUCTION IN APPROPRIATIONS. THE DIRECTOR SHALL
19 PRESCRIBE PROCEDURES TO IMPLEMENT THESE REDUCTIONS.

20 Sec. 113. Repeal

21 Title 41, chapter 4, article 5, Arizona Revised Statutes, is repealed.

22 Sec. 114. Title 41, chapter 4, Arizona Revised Statutes, is amended by
23 adding a new article 5, to read:

24 ARTICLE 5. COVERED SERVICE

25 41-771. Powers and duties of director relating to employees in
26 covered service

27 THE DIRECTOR SHALL ADOPT RULES AND PROCEDURES THAT ARE APPLICABLE ONLY
28 TO EMPLOYEES IN COVERED SERVICE. THE RULES AND PROCEDURES SHALL PROVIDE FOR:

29 1. THE CONTINUATION OF A PROBATIONARY PERIOD FOR PROBATIONARY
30 EMPLOYEES.

31 2. A MINIMUM PERIOD OF ORIGINAL PROBATIONARY SERVICE FOLLOWING THE
32 INITIAL APPOINTMENT OF A FULL AUTHORITY PEACE OFFICER AS CERTIFIED BY THE
33 ARIZONA PEACE OFFICERS STANDARDS AND TRAINING BOARD OR THE INITIAL
34 APPOINTMENT OF A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II,
35 CORRECTIONAL OFFICER III OR COMMUNITY CORRECTIONS OFFICER. DURING AN
36 ORIGINAL PROBATIONARY PERIOD, THE PROBATIONARY EMPLOYEE SHALL PERFORM THE
37 ACTUAL DUTIES OF THE POSITION AND MAY BE DISCHARGED WITHOUT CAUSE. THE
38 DIRECTOR SHALL ESTABLISH A PERIOD OF PROMOTIONAL PROBATION SERVICE.

39 3. DISCIPLINARY ACTION TO BE TAKEN AGAINST AN EMPLOYEE ONLY IF CAUSE
40 EXISTS.

41 4. REDUCTION IN FORCE BY REASON OF LACK OF MONIES OR WORK, ABOLITION
42 OF A POSITION OR A MATERIAL CHANGE IN DUTIES OR ORGANIZATION AS PROVIDED IN
43 SECTION 41-772.

1 SHALL BE USED BY COVERED EMPLOYEES AND THE STATE PERSONNEL BOARD IN
2 EVALUATING DISMISSALS AND DISCIPLINARY ACTIONS.

3 Sec. 115. Heading change

4 The article heading of title 41, chapter 4, article 6, Arizona Revised
5 Statutes, is changed from "PERSONNEL BOARD" to "STATE PERSONNEL BOARD".

6 Sec. 116. Section 41-781, Arizona Revised Statutes, is amended to
7 read:

8 41-781. State personnel board; members; appointment; term;
9 meetings; compensation

10 A. The state personnel board ~~shall consist~~ CONSISTS of five members
11 appointed by the governor pursuant to section 38-211. No more than three
12 members shall belong to the same political party. Persons eligible for
13 appointment shall have had a continuous recorded registration pursuant to
14 title 16, chapter 1 with either the same political party or as an independent
15 for at least two years immediately preceding appointment. Of the members
16 appointed one shall be a person who for more than five years has managed a
17 component or unit of government or industry with more than twenty employees,
18 one shall be a professional personnel administrator, one a state employee,
19 one a person active in business management and one a member of the public.
20 Members may be removed by the governor for cause. The chairperson of the
21 STATE personnel board shall serve as an ex officio member of the law
22 enforcement merit system council established by section 41-1830.11 without
23 voting privileges.

24 B. The term of office for each member is three years, each term to
25 expire three years from the date of appointment. ~~Upon~~ ON the expiration of
26 the term of a member a successor shall be appointed for a full term of three
27 years.

28 C. The STATE personnel board may hold regular monthly meetings and, in
29 addition, may hold special meetings the board deems necessary. A chairperson
30 and vice chairperson shall be elected by the members at the first meeting of
31 each year and the chairperson shall not serve successive terms as
32 chairperson. Meetings of the STATE personnel board shall be open to the
33 public, and executive sessions may be held as provided by law.

34 D. Any one of the following ~~shall constitute~~ CONSTITUTES the
35 resignation of a board member and ~~authorize~~ AUTHORIZES the governor to
36 appoint a new member to fill the unexpired term so vacated:

37 1. Becoming a candidate for any elective public office.

38 2. Accepting any appointive office or employment in the state ~~service~~
39 PERSONNEL SYSTEM, except the state employee who is designated to serve on the
40 board.

41 E. Members of the STATE personnel board, except the person designated
42 as the state employee, are eligible to receive compensation ~~as determined~~
43 ~~pursuant to section 38-611 for each day actually spent for meetings of the~~
44 ~~personnel board~~ OF TWO HUNDRED DOLLARS FOR EACH MEETING ATTENDED, PRORATED
45 FOR PARTIAL DAYS FOR EACH MEETING ATTENDED. The member of the STATE

1 personnel board designated as the state employee shall be paid the state
2 employee's regular compensation for meetings of the board.

3 Sec. 117. Section 41-782, Arizona Revised Statutes, is amended to
4 read:

5 41-782. Powers and duties of the state personnel board

6 A. EXCEPT AS PROVIDED BY CHAPTER 12, ARTICLE 10 OF THIS TITLE, the
7 STATE personnel board shall hear and review appeals as provided in this
8 article relating to dismissal OF A COVERED EMPLOYEE from ~~state~~ COVERED
9 service, suspension for more than ~~forty~~ EIGHTY working hours or INVOLUNTARY
10 demotion resulting from disciplinary action as defined in the personnel rules
11 FOR AN EMPLOYEE IN COVERED SERVICE.

12 B. EXCEPT AS PROVIDED BY CHAPTER 12, ARTICLE 10 OF THIS TITLE, THE
13 STATE personnel board shall hear and review complaints as provided in title
14 38, chapter 3, article 9, relating to any personnel action taken against an
15 employee or former employee of this state, except an employee or former
16 employee of a state university or the board of regents, which the employee or
17 former employee believes was taken in reprisal for the employee's or former
18 employee's disclosure of information to a public body. The state personnel
19 board shall recommend the dismissal of a supervisor or other responsible
20 person, other than an elected official, who it determines committed a
21 prohibited personnel practice.

22 C. The STATE personnel board may adopt rules it deems necessary for
23 the administration of hearings and the review of appeals and complaints as
24 prescribed in this section.

25 D. THE STATE PERSONNEL BOARD SHALL ONLY EXERCISE AUTHORITY THAT IS
26 SPECIFICALLY GRANTED TO THE BOARD PURSUANT TO THIS ARTICLE.

27 Sec. 118. Repeal

28 Sections 41-783 and 41-784, Arizona Revised Statutes, are repealed.

29 Sec. 119. Section 41-785, Arizona Revised Statutes, is transferred and
30 renumbered for placement in title 41, chapter 4, article 6, Arizona Revised
31 Statutes, as section 41-783 and, as so renumbered, is amended to read:

32 41-783. Appeals to the state personnel board for covered
33 employees; notice of charges; hearings

34 A. ~~Any~~ EXCEPT AS PROVIDED BY CHAPTER 12, ARTICLE 10 OF THIS TITLE, A
35 COVERED employee who has completed the COVERED employee's original
36 probationary period of service as provided by the personnel rules may appeal
37 to the STATE personnel board ~~seeking relief from~~ THE COVERED EMPLOYEE'S
38 dismissal from ~~state~~ COVERED service, suspension for more than ~~forty~~ EIGHTY
39 working hours or INVOLUNTARY demotion resulting from disciplinary action.
40 The appeal shall be filed not later than ten working days after the effective
41 date of such action. The COVERED employee shall be furnished with specified
42 charges in writing when the action is taken. Such appeal shall be in writing
43 and must state specific facts relating directly to the charges on which the
44 appeal is based and shall be heard by the STATE personnel board within thirty
45 days after its receipt. The STATE personnel board shall provide the

1 employing agency with a copy of the appeal not less than twenty days in
2 advance of the hearing.

3 B. Hearings on such appeals shall be open to the public, except in
4 cases where the COVERED employee requests a confidential hearing, and shall
5 be informal with technical rules of evidence not applying to the proceedings
6 except the rule of privilege recognized by law. Both the COVERED employee
7 and the employing agency shall be notified of any hearing or meeting date not
8 less than twenty days in advance of the hearing or not less than ten days in
9 advance of a meeting and may select representatives of their choosing,
10 present and cross-examine witnesses and give evidence before the STATE
11 personnel board. The STATE personnel board may appoint a hearing officer to
12 conduct the hearing and take evidence on behalf of the board and exercise the
13 rights prescribed by section 12-2212. The STATE personnel board shall
14 prepare an official record of the hearing, including all testimony recorded
15 manually or by mechanical device, and exhibits. Either party may request
16 that the record be transcribed. If a party requests that the record be
17 transcribed, an entity, other than the STATE personnel board, selected by the
18 requesting party shall transcribe the record at the cost of the requesting
19 party. If the disciplinary hearing would involve evidence the state is
20 prevented by law from disclosing, then a confidential hearing upon the
21 state's request shall be granted.

22 C. The STATE PERSONNEL board: ~~may reverse an agency's action on~~
23 ~~appeal only if the board finds the action to be arbitrary, capricious or~~
24 ~~otherwise contrary to law.~~

25 ~~D. The board may modify the disciplinary penalty chosen by an agency~~
26 ~~only if the board finds the penalty to be disproportionate to the proven~~
27 ~~offense in light of mitigating circumstances or made for reasons that are~~
28 ~~arbitrary, capricious or otherwise contrary to law.~~

29 1. SHALL DETERMINE WHETHER THE STATE AGENCY HAS PROVEN BY A
30 PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS
31 BASED. ON SUCH A FINDING, THE BOARD SHALL AFFIRM THE DECISION OF THE STATE
32 AGENCY HEAD, UNLESS THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS.

33 2. MAY RECOMMEND MODIFICATION OF A DISCIPLINARY ACTION IF THE AGENCY
34 HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH
35 THE DISCIPLINE WAS BASED OR IF A DISCIPLINARY DECISION IS FOUND TO BE
36 ARBITRARY AND CAPRICIOUS.

37 3. SHALL REVERSE THE DECISION OF THE STATE AGENCY HEAD IF THE BOARD
38 FINDS THAT CAUSE DID NOT EXIST FOR ANY DISCIPLINE TO BE IMPOSED AND, IN THE
39 CASE OF DISMISSAL OR DEMOTION, RETURN THE COVERED EMPLOYEE TO THE SAME
40 POSITION THE EMPLOYEE HELD BEFORE THE DISMISSAL OR DEMOTION WITH OR WITHOUT
41 BACK PAY.

42 D. ON A FINDING THAT THE AGENCY HAS NOT PROVEN BY A PREPONDERANCE OF
43 THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED, THE BOARD
44 SHALL IDENTIFY THE MATERIAL FACTS THAT THE BOARD FOUND WERE NOT SUPPORTED BY
45 A PREPONDERANCE OF THE EVIDENCE AND MAY RECOMMEND A PROPOSED DISCIPLINARY

1 ACTION IN LIGHT OF THE FACTS PROVEN. ON A FINDING THAT THE DISCIPLINARY
2 DECISION WAS ARBITRARY AND CAPRICIOUS, THE BOARD SHALL INCLUDE THE BOARD'S
3 REASONS FOR THE BOARD'S FINDING AND MAY RECOMMEND A PROPOSED DISCIPLINARY
4 ACTION IN LIGHT OF THE FACTS PROVEN.

5 E. Within forty-five days after the conclusion of the hearing, the
6 STATE PERSONNEL board shall enter its decision OR RECOMMENDATION and shall at
7 the same time send a copy of the decision OR RECOMMENDATION by certified mail
8 to the employing agency and to the COVERED employee at the employee's address
9 as given at the hearing or to a representative designated by the COVERED
10 employee to receive a copy of the decision OR RECOMMENDATION. THE AGENCY
11 DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL ACCEPT, MODIFY OR REVERSE THE
12 BOARD'S DECISION OR ACCEPT, MODIFY OR REJECT THE BOARD'S RECOMMENDATION
13 WITHIN FOURTEEN DAYS OF RECEIPT OF THE FINDINGS OR RECOMMENDATION FROM THE
14 STATE PERSONNEL BOARD. THE DECISION OF THE AGENCY DIRECTOR OR DIRECTOR'S
15 DESIGNEE IS FINAL AND BINDING. THE AGENCY DIRECTOR SHALL SEND A COPY OF THE
16 AGENCY'S FINAL DETERMINATION TO THE COVERED EMPLOYEE PURSUANT TO THIS
17 SECTION.

18 F. Any party may appeal the decision of the STATE PERSONNEL board OR
19 THE FINAL DECISION OF THE AGENCY pursuant to title 12, chapter 7, article 6
20 to the superior court in the COVERED employee's county of residence on one or
21 more of the following grounds that the order was:

- 22 1. Founded on or contained error of law ~~which~~ THAT shall specifically
23 include error of construction or application of any pertinent rules.
- 24 2. Unsupported by any evidence as disclosed by the entire record.
- 25 3. Materially affected by unlawful procedure.
- 26 4. Based on a violation of any constitutional provision.
- 27 5. Arbitrary or capricious.

28 G. An appeal shall be available to the court of appeals from the order
29 of the superior court pursuant to title 12, chapter 7, article 6 as in other
30 civil cases.

31 H. ~~An~~ A COVERED employee may represent himself or designate a
32 representative, not necessarily an attorney, before any board hearing or any
33 quasi-judicial hearing held pursuant to this section providing that no fee
34 may be charged for any services rendered in connection with such hearing by
35 any such designated representative who is not an attorney admitted to
36 practice.

37 Sec. 120. Repeal

38 Section 41-786, Arizona Revised Statutes, is repealed.

39 Sec. 121. Section 41-821, Arizona Revised Statutes, is amended to
40 read:

41 41-821. Arizona historical society; powers; officers; duties of
42 board of directors

43 A. An Arizona historical society is established.

44 B. Subject to limitations imposed by law, the society may purchase,
45 receive, hold, lease and sell property, real and personal, for the benefit of

1 this state and use of the society. The society may solicit private monetary
2 donations for program activities.

3 C. The society shall have a president, a treasurer, a board of
4 directors and other officers who shall be elected by the members of the
5 society at times and by methods the bylaws of the society prescribe. The
6 board of directors may designate from among its members an executive
7 committee with authority to act in place of the board of directors and in
8 accordance with directions the board of directors may give when the board of
9 directors is not in session.

10 D. The president shall preside at meetings of the society and of the
11 board of directors.

12 E. The treasurer shall have custody of the monies of the society,
13 other than legislative appropriations. The treasurer shall hold the monies
14 of the society deposited in trust for the society's use and for the benefit
15 of this state and shall disburse them only as prescribed by law and the
16 bylaws of the society.

17 F. The board of directors shall hold in trust for this state and
18 administer for the benefit of this state and use of the society all property
19 acquired by the society.

20 G. All expenditures of legislative appropriations to the society shall
21 be made on claims duly itemized, verified and approved by the executive
22 director. The executive director shall present and file claims for payment
23 with the director of the department of administration. The director of the
24 department of administration shall draw the warrant on the state treasurer.
25 The society may expend nonappropriated private funds related to program
26 activities.

27 H. The board of directors shall annually designate one or more
28 historical organizations within each county of this state that are
29 incorporated as nonprofit organizations and that are deemed to have a
30 functioning program of historical value based on criteria established by the
31 board of directors. The board of directors may organize chapters made up of
32 groups of its members who have a common interest in a geographical area of
33 this state or a common interest in a field of history, may provide for the
34 governance of these chapters and may grant to any chapter the power to
35 exercise authority of the society as the board of directors may determine.

36 I. The board of directors, subject to legislative appropriation, may
37 contract with certified historical organizations for services to be performed
38 for the benefit of this state. The contracts shall be prepared by the
39 Arizona historical society. The board of directors shall annually review the
40 contracts to ensure fulfillment of their provisions.

41 J. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, the board of
42 directors may employ an executive director and may employ or authorize the
43 employment of other employees it considers appropriate to carry out the
44 functions of the society. The executive director and all other employees
45 shall have duties and exercise authority as may be prescribed by the board of

1 directors or by the executive director acting under the direction of the
2 board of directors.

3 K. The board may operate a program for the establishment and
4 maintenance of historical markers at various locations in this state.

5 L. In cooperation with the advisory council established by section
6 41-827.01, the board shall operate and maintain the centennial museum that
7 houses the mining and mineral museum and may engage in other activities
8 related to the museum as determined by the board or the executive director.
9 Monies received pursuant to this subsection shall be credited to an account
10 to be used for the maintenance and operations of the centennial museum that
11 houses the mining and mineral museum.

12 Sec. 122. Section 41-832, Arizona Revised Statutes, is amended to
13 read:

14 41-832. Meetings of society; nominations; bylaws of society;
15 election of officers; meetings; rules and
16 regulations; employment of director and other
17 personnel

18 A. The society shall meet annually on the first Monday of June at the
19 call of the president for the purpose of nominating new members of the board
20 of trustees and to conduct such other business as may properly come before
21 it. The nominations shall be made by a nominating committee chosen by the
22 members of the society. Members of the board of trustees shall serve for a
23 term of three years.

24 B. The society may adopt bylaws for its government.

25 C. The board of trustees shall elect annually from its membership a
26 president, vice president, secretary and a treasurer.

27 D. Regular meetings of the board of trustees shall be held at least
28 once during each calendar quarter. Special meetings may be held at the call
29 of the president or upon petition of any three of its members. Members of
30 the board of trustees shall receive no compensation but shall be reimbursed
31 for subsistence and travel expenses incurred in the performance of their
32 duties as provided for other state officers.

33 E. The board of trustees shall adopt rules and regulations for the
34 administration of the work of the society and for carrying out the provisions
35 of this article. The rules and regulations may divide membership of the
36 society in four classes named life, one year, associate and honorary and may
37 define each class. The fees for each class shall be fixed by the board of
38 trustees, provided that the fee for any class may not exceed twenty-five
39 dollars per annum.

40 F. The board of trustees may employ, **SUBJECT TO CHAPTER 4, ARTICLE 4**
41 **OF THIS TITLE**, a director, assistant director, custodians, archivists,
42 librarians, researchers, maintenance personnel, gardeners or other necessary
43 personnel, define their duties and fix their compensation **PURSUANT TO SECTION**
44 **38-611 AND** within the limits of legislative appropriation ~~therefor~~. The

1 board may also employ the services of professional consultants on a fee basis
2 within the limits of legislative appropriation ~~therefor~~.

3 Sec. 123. Section 41-902, Arizona Revised Statutes, is amended to
4 read:

5 41-902. Fiscal controls on institutions

6 A. ~~Salary schedules~~ COMPENSATION FOR OFFICERS AND EMPLOYEES of state
7 institutions under the control of the governor shall be fixed by the governor
8 PURSUANT TO SECTION 38-611 unless otherwise provided by law. ~~Salary~~
9 ~~schedules~~ EMPLOYEE COMPENSATION shall be included in the estimate of expenses
10 submitted by the chief executive officer of the institution.

11 B. Each chief executive officer shall furnish a semi-monthly payroll
12 for the institution under his charge, showing the name, monthly salary and
13 length of service of each officer and employee. The payroll shall be audited
14 by the governor and a statement of the amount found due each employee shall
15 be filed with the director of the department of administration who shall
16 issue a separate warrant to each employee.

17 C. A bond in an amount to be fixed by the governor shall be required
18 from each official and employee having custody of funds or property belonging
19 to the state.

20 D. The remittance of money and other things of value received by the
21 institution shall be governed by ~~the provisions of~~ TITLE 35, chapter 1, ~~title~~
22 ~~35~~ so far as applicable, and the proper executive officer of each institution
23 shall in addition make a detailed statement showing the sources of such
24 receipts to the governor.

25 Sec. 124. Section 41-903, Arizona Revised Statutes, is amended to
26 read:

27 41-903. Officers and employees; employment

28 SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the chief executive
29 officer of each institution under the control of the governor shall appoint
30 assistants, clerks, guards and employees required to operate the institution,
31 the number to be determined by the governor, except as otherwise provided by
32 law. ~~The chief executive officer of the institution may discharge an~~
33 ~~employee for cause. An officer or employee may be removed by the governor~~
34 ~~for misconduct, incompetency or neglect of duty.~~

35 Sec. 125. Section 41-941, Arizona Revised Statutes, is amended to
36 read:

37 41-941. Location; superintendent; claims

38 A. There shall be a state hospital for disabled miners as a separate
39 facility for the benefit of disabled miners at the Arizona pioneers' home at
40 Prescott which shall be managed by the governor.

41 B. The superintendent of the Arizona pioneers' home shall serve as
42 superintendent of the miner's hospital and, SUBJECT TO CHAPTER 4, ARTICLE 4
43 OF THIS TITLE, may appoint assistants and employees and prescribe their
44 duties, subject to approval of the governor.

1 C. Claims for salaries and expenses authorized by this article shall
2 be presented and paid as other state claims.

3 Sec. 126. Section 41-982, Arizona Revised Statutes, is amended to
4 read:

5 41-982. Powers and duties

6 A. The commission may:

7 1. With the consent of a majority of the commission, employ, **SUBJECT**
8 **TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, such personnel as may be required
9 within the limits of funds available in the arts fund. The compensation for
10 such personnel shall be as determined pursuant to section 38-611.

11 2. Hold hearings.

12 3. Enter into contracts, within the limits of funds available, with
13 local and regional associations, individuals, organizations and institutions
14 for any services which further the broad objectives of the commission's
15 program.

16 4. Accept gifts, contributions and bequests of unrestricted funds for
17 deposit in the arts fund or the arts trust fund from individuals,
18 foundations, corporations, and other organizations or institutions for the
19 purpose of furthering the broad objectives of the commission's program.

20 5. Make agreements to carry out the purposes of this article.

21 6. Request cooperation from any state agency for the purposes of this
22 article.

23 B. The commission shall:

24 1. Stimulate and encourage throughout the state the study and
25 presentation of the performing arts, fine arts, and public interest and
26 participation therein.

27 2. Make such surveys of public and private institutions engaged within
28 the state in artistic and cultural activities, as may be deemed advisable,
29 and make recommendations concerning appropriate methods to encourage
30 participation in and appreciation of the arts to meet the legitimate needs
31 and aspirations of persons in all parts of the state.

32 3. Take such steps as may be necessary and appropriate to encourage
33 public interest in the cultural heritage of our state and to expand the
34 state's cultural resources.

35 4. Encourage and assist freedom of artistic and scholarly expression
36 essential for the well-being of the arts.

37 5. Formulate policies and adopt rules and regulations which are
38 consistent with the purposes of this article.

39 Sec. 127. Section 41-1009, Arizona Revised Statutes, is amended to
40 read:

41 41-1009. Inspections; applicability

42 A. An agency inspector or regulator who enters any premises of a
43 regulated person for the purpose of conducting an inspection shall:

44 1. Present photo identification on entry of the premises.

1 2. On initiation of the inspection, state the purpose of the
2 inspection and the legal authority for conducting the inspection.
3 3. Disclose any applicable inspection fees.
4 4. Afford an opportunity to have an authorized on-site representative
5 of the regulated person accompany the agency inspector or regulator on the
6 premises, except during confidential interviews.
7 5. Provide notice of the right to have on request:
8 (a) Copies of any original documents taken by the agency during the
9 inspection if the agency is permitted by law to take original documents.
10 (b) A split of any samples taken during the inspection if the split of
11 any samples would not prohibit an analysis from being conducted or render an
12 analysis inconclusive.
13 (c) Copies of any analysis performed on samples taken during the
14 inspection.
15 (d) Copies of any documents to be relied on to determine compliance
16 with licensure or regulatory requirements if the agency is otherwise
17 permitted by law to do so.
18 6. Inform each person whose conversation with the agency inspector or
19 regulator during the inspection is tape recorded that the conversation is
20 being tape recorded.
21 7. Inform each person interviewed during the inspection that
22 statements made by the person may be included in the inspection report.
23 B. On initiation of an inspection of any premises of a regulated
24 person, an agency inspector or regulator shall provide the following in
25 writing:
26 1. The rights described in subsection A of this section.
27 2. The name and telephone number of a contact person available to
28 answer questions regarding the inspection.
29 3. The due process rights relating to an appeal of a final decision of
30 an agency based on the results of the inspection, including the name and
31 telephone number of a person to contact within the agency and any appropriate
32 state government ombudsman.
33 C. An agency inspector or regulator shall obtain the signature of the
34 regulated person or on-site representative of the regulated person on the
35 writing prescribed in subsection B of this section indicating that the
36 regulated person or on-site representative of the regulated person has read
37 the writing prescribed in subsection B of this section and is notified of the
38 regulated person's or on-site representative of the regulated person's
39 inspection and due process rights. The agency shall maintain a copy of this
40 signature with the inspection report and shall leave a copy with the
41 regulated person or on-site representative of the regulated person. If a
42 regulated person or on-site representative of the regulated person is not at
43 the site or refuses to sign the writing prescribed in subsection B of this
44 section, the agency inspector or regulator shall note that fact on the
45 writing prescribed in subsection B of this section.

1 D. An agency that conducts an inspection shall give a copy of the
2 inspection report to the regulated person or on-site representative of the
3 regulated person either:

- 4 1. At the time of the inspection.
- 5 2. Notwithstanding any other state law, within thirty working days
6 after the inspection.
- 7 3. As otherwise required by federal law.

8 E. The inspection report shall contain deficiencies identified during
9 an inspection. Unless otherwise provided by law, the agency may provide the
10 regulated person an opportunity to correct the deficiencies unless the agency
11 determines that the deficiencies are:

- 12 1. Committed intentionally.
- 13 2. Not correctable within a reasonable period of time as determined by
14 the agency.
- 15 3. Evidence of a pattern of noncompliance.
- 16 4. A risk to any person, the public health, safety or welfare or the
17 environment.

18 F. If the agency allows the regulated person an opportunity to correct
19 the deficiencies pursuant to subsection E of this section, the regulated
20 person shall notify the agency when the deficiencies have been corrected.
21 Within thirty days of receipt of notification from the regulated person that
22 the deficiencies have been corrected, the agency shall determine if the
23 regulated person is in substantial compliance and notify the regulated person
24 whether or not the regulated person is in substantial compliance. If the
25 regulated person fails to correct the deficiencies or the agency determines
26 the deficiencies have not been corrected within a reasonable period of time,
27 the agency may take any enforcement action authorized by law for the
28 deficiencies.

29 G. For agencies with authority under title 49, if the agency does not
30 allow the regulated person an opportunity to correct deficiencies pursuant to
31 subsection E of this section, on the request of the regulated person, the
32 agency shall provide a written explanation of the reason that an opportunity
33 to correct was not allowed.

34 H. An agency decision pursuant to subsection E or F of this section is
35 not an appealable agency action.

36 I. At least once every month after the commencement of the inspection
37 an agency shall provide a regulated person with an update on the status of
38 any agency action resulting from an inspection of the regulated person. An
39 agency is not required to provide an update after the regulated person is
40 notified that no agency action will result from the agency inspection or
41 after the completion of agency action resulting from the agency inspection.

42 J. For agencies with authority under title 49, if, as a result of an
43 inspection or any other investigation, an agency alleges that a regulated
44 person is not in compliance with licensure or other applicable regulatory

1 requirements, the agency shall provide written notice of that allegation to
2 the regulated person. The notice shall contain the following information:

3 1. A citation to the statute, regulation, license or permit condition
4 on which the allegation of noncompliance is based, including the specific
5 provisions in the statute, regulation, license or permit condition that are
6 alleged to be violated.

7 2. Identification of any documents relied on as a basis for the
8 allegation of noncompliance.

9 3. An explanation stated with reasonable specificity of the regulatory
10 and factual basis for the allegation of noncompliance.

11 4. Instructions for obtaining a timely opportunity to discuss the
12 alleged violation with the agency.

13 K. Subsection J of this section applies only to inspections necessary
14 for the issuance of a license or to determine compliance with licensure or
15 other regulatory requirements. Subsection J of this section does not apply
16 to an action taken pursuant to section 11-871, 11-876, 11-877, 49-457.01,
17 49-457.03 or 49-474.01. Issuance of a notice under subsection J of this
18 section is not a prerequisite to otherwise lawful agency actions seeking an
19 injunction or issuing an order if the agency determines that the action is
20 necessary on an expedited basis to abate an imminent and substantial
21 endangerment to public health or the environment and documents the basis for
22 that determination in the documents initiating the action.

23 L. This section does not authorize an inspection or any other act that
24 is not otherwise authorized by law.

25 M. Except as otherwise provided in subsection K of this section, this
26 section applies only to inspections necessary for the issuance of a license
27 or to determine compliance with licensure or other regulatory requirements
28 applicable to a licensee. This section does not apply:

29 1. To criminal investigations, investigations under tribal state
30 gaming compacts and undercover investigations that are generally or
31 specifically authorized by law.

32 2. If the inspector or regulator has reasonable suspicion to believe
33 that the regulated person may be engaged in criminal activity.

34 3. To the Arizona peace officer standards and training board
35 established by section 41-1821.

36 N. If an inspector or regulator gathers evidence in violation of this
37 section, the violation may be a basis to exclude the evidence in a civil or
38 administrative proceeding.

39 O. Failure of an agency, board or commission employee to comply with
40 this section:

41 1. ~~Constitutes cause for~~ MAY SUBJECT THE EMPLOYEE TO disciplinary
42 action or dismissal ~~of an employee~~.

43 2. Shall be considered by the judge and administrative law judge as
44 grounds for reduction of any fine or civil penalty.

1 P. An agency may make rules to implement subsection A, paragraph 5 of
2 this section.

3 Q. Nothing in this section shall be used to exclude evidence in a
4 criminal proceeding.

5 Sec. 128. Section 41-1051, Arizona Revised Statutes, is amended to
6 read:

7 41-1051. Governor's regulatory review council; membership;
8 terms; compensation; powers

9 A. A governor's regulatory review council is established that consists
10 of six members who are appointed by the governor pursuant to section 38-211,
11 and the director of the department of administration or the assistant
12 director of the department of administration who is responsible for
13 administering the council. The director or assistant director is an ex
14 officio member and chairperson of the council. The council shall elect a
15 vice-chairperson to serve as chairperson in the chairperson's absence. The
16 governor shall appoint at least one member who represents the public
17 interest, at least one member who represents the business community, one
18 member from a list of three persons who are not legislators submitted by the
19 president of the senate and one member from a list of three persons who are
20 not legislators submitted by the speaker of the house of representatives. At
21 least one member of the council shall be an attorney licensed to practice law
22 in this state. The governor shall appoint the members of the council for
23 staggered terms of three years. A vacancy occurring during the term of
24 office of any member shall be filled by appointment by the governor for the
25 unexpired portion of the term in the same manner as provided in this section.

26 B. The council shall meet at least once a month at a time and place
27 set by the chairperson and at other times and places as the chairperson deems
28 necessary.

29 C. Members of the council are eligible to receive compensation in an
30 amount of two hundred dollars for each day on which the council meets and
31 reimbursement of expenses pursuant to title 38, chapter 4, article 2.

32 D. The chairperson, subject to chapter 4, **ARTICLE 4 AND, AS**
33 **APPLICABLE**, articles 5 and 6 of this title, shall employ, determine the
34 conditions of employment of and specify the duties of administrative,
35 secretarial and clerical employees as the chairperson deems necessary.

36 E. The council may make rules pursuant to this chapter to carry out
37 the purposes of this chapter.

38 F. The council shall make the following information available to the
39 public on request and on the council's website:

40 1. A list of agency rules approved or returned pursuant to section
41 41-1052.

42 2. A list of agencies not certifying compliance as provided in section
43 41-1091.

44 3. A list of agencies that report a lack of progress pursuant to
45 section 41-1056, subsection H.

1 9. Annually report the following to the governor, the president of the
2 senate and the speaker of the house of representatives by December 1 for the
3 prior fiscal year:

4 (a) The number of administrative law judge decisions rejected or
5 modified by agency heads.

6 (b) By category, the number and disposition of motions filed pursuant
7 to section 41-1092.07, subsection A to disqualify office administrative law
8 judges for bias, prejudice, personal interest or lack of expertise.

9 (c) By agency, the number and type of violations of section 41-1009.

10 10. Schedule hearings pursuant to section 41-1092.05 upon the request
11 of an agency or the filing of a notice of appeal pursuant to section
12 41-1092.03.

13 D. The director shall not require legal representation to appear
14 before an administrative law judge.

15 E. Except as provided in subsection F of this section, all state
16 agencies supported by state general fund sources, unless exempted by this
17 article, and the registrar of contractors shall use the services and
18 personnel of the office to conduct administrative hearings. All other
19 agencies shall contract for services and personnel of the office to conduct
20 administrative hearings.

21 F. An agency head, board or commission that directly conducts an
22 administrative hearing as an administrative law judge is not required to use
23 the services and personnel of the office for that hearing.

24 G. Each state agency, and each political subdivision contracting for
25 office services pursuant to subsection I of this section, shall make its
26 facilities available, as necessary, for use by the office in conducting
27 proceedings pursuant to this article.

28 H. The office shall employ full-time administrative law judges to
29 conduct hearings required by this article or other laws as follows:

30 1. The director shall assign administrative law judges from the office
31 to an agency, on either a temporary or a permanent basis, at supervisory or
32 other levels, to preside over contested cases and appealable agency actions
33 in accordance with the special expertise of the administrative law judge in
34 the subject matter of the agency.

35 2. The director shall establish the subject matter and agency sections
36 within the office that are necessary to carry out this article. Each subject
37 matter and agency section shall provide training in the technical and subject
38 matter areas of the section as prescribed in subsection C, paragraph 7 of
39 this section.

40 I. If the office cannot furnish an office administrative law judge
41 promptly in response to an agency request, the director may contract with
42 qualified individuals to serve as temporary administrative law judges. These
43 temporary administrative law judges are not employees of this state.

44 J. The office may provide administrative law judges on a contract
45 basis to any governmental entity to conduct any hearing not covered by this

1 article. The director may enter into contracts with political subdivisions
2 of this state, and these political subdivisions may contract with the
3 director for the purpose of providing administrative law judges and reporters
4 for administrative proceedings or informal dispute resolution. The contract
5 may define the scope of the administrative law judge's duties. Those duties
6 may include the preparation of findings, conclusions, decisions or
7 recommended decisions or a recommendation for action by the political
8 subdivision. For these services, the director shall request payment for
9 services directly from the political subdivision for which the services are
10 performed, and the director may accept payment on either an advance or
11 reimbursable basis.

12 K. The office shall apply monies received pursuant to subsections E
13 and J of this section to offset its actual costs for providing personnel and
14 services.

15 Sec. 130. Section 41-1604, Arizona Revised Statutes, is amended to
16 read:

17 41-1604. Duties and powers of director

18 A. The director shall:

19 1. Be responsible for the overall operations and policies of the
20 department.

21 2. Maintain and administer all institutions and programs within the
22 department, including prisons, reception and diagnostic centers, conservation
23 camps, community correctional centers and such other facilities and programs
24 as may be required and established for the custody, control, correction,
25 treatment and rehabilitation of all adult offenders who are committed to the
26 department.

27 3. Be responsible for the administration and execution of all
28 community supervision services, including those for adult offenders who are
29 released in accordance with law.

30 4. Develop a program to provide uniform statewide community
31 supervision field services in this state and employ parole or community
32 supervision officers based on qualifications prescribed by the director,
33 including physical, psychological and educational qualifications and
34 practical experience.

35 5. Be responsible for the development of policies and programs that
36 shall be recommended to the governor and the legislature for the purpose of
37 improving the various adult correctional programs of this state.

38 6. Develop and establish a uniform statewide method of reporting
39 statistics as related to this chapter.

40 7. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, employ deputy
41 directors and other key personnel based on qualifications prescribed by the
42 director that require education and practical experience.

43 8. Adopt rules pursuant to chapter 6 of this title for the development
44 of incentives to encourage good behavior and the faithful performance of work
45 by prisoners.

1 9. Adopt rules pursuant to chapter 6 of this title to limit inmate
2 access to the internet through the use of a computer, computer system,
3 network, computer service provider or remote computing service.

4 10. Cooperate with the Arizona-Mexico commission in the governor's
5 office and with researchers at universities in this state to collect data and
6 conduct projects in the United States and Mexico on issues that are within
7 the scope of the department's duties and that relate to quality of life,
8 trade and economic development in this state in a manner that will help the
9 Arizona-Mexico commission to assess and enhance the economic competitiveness
10 of this state and of the Arizona-Mexico region.

11 B. The director may:

12 1. Adopt rules to implement the purposes of the department and the
13 duties and powers of the director.

14 2. Take any administrative action to improve the efficiency of the
15 department, including the following:

16 (a) Create new divisions or units or consolidate divisions or units.

17 (b) [SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE](#), transfer employees
18 between the various divisions and units of the department.

19 (c) Shift duties between divisions or units.

20 (d) Delegate to appropriate personnel the administrative functions,
21 powers or duties that the director believes can be competently, efficiently
22 and properly performed. The director shall not delegate the responsibilities
23 in subsection A, paragraphs 1 and 5 of this section.

24 (e) Transfer adult inmates between adult institutions or adult
25 facilities.

26 (f) Authorize work crews to perform acceptable tasks in any part of
27 the state.

28 (g) Accept unconvicted persons pursuant to a court order for purposes
29 of examination and treatment regarding competency to understand any stage of
30 a criminal proceeding after indictment or information or their ability to
31 assist in their own defense.

32 (h) Accept convicted yet unsentenced persons pursuant to a court order
33 for purposes of conducting a mental health examination or a diagnostic
34 evaluation.

35 (i) [SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF](#)
36 [THIS TITLE](#), appoint certain employees of the department to peace officer
37 status for purposes of guarding, transporting or pursuing persons who are
38 under the jurisdiction of the department and appoint certain employees of the
39 department to peace officer status for purposes of investigating or arresting
40 persons who commit or attempt to commit offenses directly relating to the
41 operations of the department. Peace officers of the department shall not
42 preempt the authority and jurisdiction of established agencies of this state
43 and political subdivisions of this state. Such officers shall notify
44 agencies of this state and political subdivisions of this state before
45 conducting an investigation within the jurisdiction of the agency and before

1 making an arrest within the jurisdiction of the agency and shall ask, except
2 in an emergency, if the agency wishes to participate, perform the
3 investigation or arrest the person to be arrested before proceeding.
4 Personnel who are appointed as peace officers by the director shall have the
5 minimum qualifications established for peace officers pursuant to section
6 41-1822. Personnel who are appointed by the director pursuant to this
7 subdivision are not eligible to participate in the public safety personnel
8 retirement system except as otherwise provided in title 38, chapter 5,
9 article 4.

10 (j) Operate travel reduction programs that are subsidized by the
11 department for employees who commute between work and home by vanpools,
12 carpools and buses or in vehicles that are purchased or leased by the
13 department.

14 3. Establish by rule a one-time fee for conducting background checks
15 on any person who enters a department facility to visit a prisoner. A fee
16 shall not be charged for a person who is under eighteen years of age. The
17 director may adopt rules that waive all or part of the fee. The director
18 shall deposit, pursuant to sections 35-146 and 35-147, any monies collected
19 pursuant to this paragraph in the department of corrections building renewal
20 fund established by section 41-797.

21 Sec. 131. Section 41-1711, Arizona Revised Statutes, is amended to
22 read:

23 41-1711. Department of public safety; purpose; location;
24 qualifications of director; responsibilities

25 A. There shall be a department of public safety which is responsible
26 for creating and coordinating services for use by local law enforcement
27 agencies in protecting the public safety. The principal office and
28 headquarters of the department shall be in Phoenix.

29 B. The department shall formulate plans with a view to establishing
30 modern services for prevention of crime, apprehension of violators, training
31 of law enforcement personnel, and the promotion of public safety. The
32 department shall in no way preempt the authority and jurisdiction of
33 established agencies of political subdivisions of the state.

34 C. The director shall be selected on the basis of training and
35 experience with a minimum of five years' experience in the administration of
36 law enforcement.

37 D. The director shall be appointed by the governor pursuant to
38 section 38-211 to serve ~~for a term of five years~~ **CONCURRENTLY WITH THE**
39 **APPOINTING GOVERNOR** and shall be subject to removal for cause, including but
40 not limited to malfeasance, misfeasance and nonfeasance in office. ~~The term~~
41 ~~shall expire on the third Monday in January of the appropriate year.~~ The
42 director shall receive annual compensation as determined pursuant to section
43 38-611.

1 E. The director shall be directly responsible to the governor for the
2 conduct and the administration of the department. If the director is unable
3 to act, the deputy director shall direct the activities of the department
4 during the period in which the director is unable to act. If the director
5 and deputy director are unable to act, the governor shall direct the
6 activities of the department during the period in which the director and
7 deputy director are unable to act.

8 F. The director shall prescribe procedures for use of department
9 personnel, facilities, equipment, supplies and other resources in assisting
10 search or rescue operations.

11 G. The director shall be responsible for the establishment, operation
12 and maintenance of the statewide emergency medical services communication
13 system prescribed by section 41-1835.

14 H. The director may purchase, lease, equip, staff and operate air
15 ambulances, including ambulance helicopters, pursuant to section 41-1834.

16 I. To limit the expenditures of monies derived from the state highway
17 fund established pursuant to article IX, section 14, Constitution of
18 Arizona, to traffic safety and traffic law enforcement purposes, the
19 department of public safety shall:

20 1. Maintain a strict account of all costs incurred by each function
21 of the department. Such costs shall be determined and allocated between
22 traffic safety or traffic law enforcement functions and all other
23 departmental functions and shall include such costs as wages or salaries,
24 materials or supplies and equipment or facility use.

25 2. Immediately following the determination of all such costs certify
26 to the office of strategic planning and budgeting the full amount of all
27 such costs relating to the various functions within the department.

28 J. The office of strategic planning and budgeting shall annually
29 submit a separate report to the legislature compiled from the department's
30 functional costs certification indicating the complete breakdown between
31 those costs which are related to traffic safety or traffic law enforcement
32 functions and the various other functions within the department. The
33 director of the department of administration shall include within the
34 director's annual report to the legislature a recommendation for a separate
35 appropriation to reimburse the state highway fund from the state general
36 fund for any expenditures from the state highway fund during the prior
37 fiscal year in excess of the total of all costs related to traffic safety or
38 traffic law enforcement functions of the department.

39 K. The director shall establish a special hazardous materials
40 emergency response organizational unit within the department to function as
41 the initial response element of the hazardous materials emergency management
42 program pursuant to section 26-305.02.

43 L. The department is designated as this state's recipient of federal
44 victims of crime act grants.

1 that would preclude the person from holding a license or registration
2 certificate issued pursuant to title 32, chapter 26.

3 ~~9.~~ 10. Cooperate with the Arizona-Mexico commission in the governor's
4 office and with researchers at universities in this state to collect data and
5 conduct projects in the United States and Mexico on issues that are within
6 the scope of the department's duties and that relate to quality of life,
7 trade and economic development in this state in a manner that will help the
8 Arizona-Mexico commission to assess and enhance the economic competitiveness
9 of this state and of the Arizona-Mexico region.

10 ~~10.~~ 11. Adopt and administer the breath, blood or other bodily
11 substances test rules pursuant to title 28, chapter 4.

12 ~~11.~~ 12. Develop procedures to exchange information with the department
13 of transportation for any purpose related to sections 28-1324, 28-1325,
14 28-1326, 28-1462 and 28-3318.

15 ~~12.~~ 13. Collaborate with the state forester in presentations to
16 legislative committees on issues associated with wildfire prevention,
17 suppression and emergency management as provided by section 37-622,
18 subsection B.

19 B. The director may:

20 1. Issue commissions to officers of the department.

21 2. Request the cooperation of the utilities, communication media and
22 public and private agencies and any sheriff or other peace officer in any
23 county or municipality, within the limits of their respective jurisdictions
24 when necessary, to aid and assist in the performance of any duty imposed by
25 this chapter.

26 3. Cooperate with any public or private agency or person to receive or
27 give necessary assistance and may contract for such assistance subject to
28 legislative appropriation controls.

29 4. Utilize the advice of the board and cooperate with sheriffs, local
30 police and peace officers within the state for the prevention and discovery
31 of crimes, the apprehension of criminals and the promotion of public safety.

32 5. Acquire in the name of the state, either in fee or lesser estate or
33 interest, all real or any personal property that the director considers
34 necessary for the department's use, by purchase, donation, dedication,
35 exchange or other lawful means. All acquisitions of personal property
36 pursuant to this paragraph shall be made as prescribed in chapter 23 of this
37 title unless otherwise provided by law.

38 6. Dispose of any property, real or personal, or any right, title or
39 interest in the property, when the director determines that the property is
40 no longer needed or necessary for the department's use. Disposition of
41 personal property shall be as prescribed in chapter 23 of this title. The
42 real property shall be sold by public auction or competitive bidding after
43 notice published in a daily newspaper of general circulation, not less than
44 three times, two weeks before the sale and subject to the approval of the
45 director of the department of administration. When real property is sold, it

1 shall not be sold for less than the appraised value as established by a
2 competent real estate appraiser. Any monies derived from the disposal of
3 real or personal property shall be deposited, pursuant to sections 35-146 and
4 35-147, in the Arizona highway patrol fund as authorized by section 41-1752,
5 subsection B, paragraph 6.

6 7. Sell, lend or lease personal property directly to any state, county
7 or local law enforcement agency. Personal property may be sold or leased at
8 a predetermined price without competitive bidding. Any state, county or
9 local law enforcement agency receiving personal property may not resell or
10 lease the property to any person or organization except for educational
11 purposes.

12 8. Dispose of surplus property by transferring the property to the
13 department of administration for disposition to another state budget unit or
14 political subdivision if the state budget unit or political subdivision is
15 not a law enforcement agency.

16 9. Lease or rent personal property directly to any state law
17 enforcement officer for the purpose of traffic safety, traffic control or
18 other law enforcement related activity.

19 10. Sell for one dollar, without public bidding, the department issued
20 handgun or shotgun to a department officer on duty related retirement
21 pursuant to title 38, chapter 5, article 4. Any monies derived from the sale
22 of the handgun or shotgun to the retiring department officer shall be
23 deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway
24 patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

25 11. Conduct state criminal history records checks for the purpose of
26 updating and verifying the status of current licensees or registrants who
27 have a license or certificate issued pursuant to title 32, chapter 26. The
28 director shall investigate, on receipt, credible evidence that a licensee or
29 registrant has been arrested for, charged with or convicted of an offense
30 that would preclude the person from holding a registration certificate issued
31 pursuant to title 32, chapter 26.

32 12. Grant a maximum of two thousand eighty hours of industrial injury
33 leave to any sworn department employee who is injured in the course of the
34 employee's duty, any civilian department employee who is injured in the
35 course of performing or assisting in law enforcement or hazardous duties or
36 any civilian department employee who was injured as a sworn department
37 employee rehired after August 9, 2001 and would have been eligible pursuant
38 to this paragraph and whose work-related injury prevents the employee from
39 performing the normal duties of that employee's classification. This
40 industrial injury leave is in addition to any vacation or sick leave earned
41 or granted to the employee and does not affect the employee's eligibility for
42 any other benefits, including workers' compensation. The employee is not
43 eligible for payment pursuant to section 38-615 of industrial injury leave
44 that is granted pursuant to this paragraph. Subject to approval by the law
45 enforcement merit system council, the director shall adopt rules and

1 procedures regarding industrial injury leave hours granted pursuant to this
2 paragraph.

3 13. Sell at current replacement cost, without public bidding, the
4 department issued badge of authority to an officer of the department on the
5 officer's promotion or separation from the department. Any monies derived
6 from the sale of the badge to an officer shall be deposited, pursuant to
7 sections 35-146 and 35-147, in the department of public safety administration
8 fund to offset replacement costs.

9 C. The director and any employees of the department that the director
10 designates in writing may use the seal adopted pursuant to subsection A,
11 paragraph 7 of this section to fully authenticate any department records and
12 copies of these records. These authenticated records or authenticated copies
13 of records shall be judicially noticed and shall be received in evidence by
14 the courts of this state without any further proof of their authenticity.

15 Sec. 133. Section 41-1714, Arizona Revised Statutes, is amended to
16 read:

17 41-1714. Merit system for sworn department employees

18 The SWORN employees of the department shall be included under the merit
19 system council of the Arizona highway patrol or its successor, the law
20 enforcement merit system council, if established by law.

21 Sec. 134. Section 41-1741, Arizona Revised Statutes, is amended to
22 read:

23 41-1741. Arizona highway patrol; employees; authority;
24 compensation

25 A. The department shall maintain a division known as the Arizona
26 highway patrol.

27 B. The division shall be composed of a patrol superintendent,
28 patrolmen, and clerical and technical assistants as designated by the
29 director.

30 C. THE DIRECTOR SHALL EMPLOY:

31 1. CIVILIAN EMPLOYEES OF THE DIVISION SUBJECT TO CHAPTER 4, ARTICLE 4
32 AND, AS APPLICABLE, ARTICLE 5 OF THIS TITLE AND WHO ARE COMPENSATED PURSUANT
33 TO SECTION 38-611.

34 2. SWORN DIVISION EMPLOYEES SUBJECT TO THE RULES ESTABLISHED BY THE
35 LAW ENFORCEMENT MERIT SYSTEM COUNCIL AND SECTION 41-1830.15.

36 ~~E.~~ D. The patrol superintendent and patrolmen are vested with the
37 authority of peace officers, primarily for the purpose of enforcing laws
38 relating to the use of highways and operation of vehicles thereon.

39 ~~D.~~ E. THE DIRECTOR SHALL DETERMINE the compensation of SWORN
40 employees of the division ~~shall be determined by the director,~~ and shall,
41 together with expenses of the division, be budgeted and paid from the state
42 highway fund.

43 ~~E.~~ F. This division shall also consist of the following sections:

- 44 1. Communications.
45 2. Criminal identification.

1 agency, department, board or commission if the employees are members of the
2 same family. The transfers may occur if the employee to whom the leave is
3 transferred has a seriously incapacitating and extended illness or injury or
4 a member of the employee's immediate family has a seriously incapacitating
5 and extended illness or injury and the employee has exhausted all available
6 leave balances. Transferred annual leave shall be increased or reduced
7 proportionally by the difference in the salaries of the employees ~~as~~
8 ~~determined by council rule~~. For the purposes of this subsection, "family"
9 means spouse, natural child, adopted child, foster child, stepchild, natural
10 parent, stepparent, adoptive parent, grandparent, grandchild, brother,
11 sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law,
12 mother-in-law or father-in-law.

13 D. IN HEARING AND REVIEWING AN APPEAL FROM ANY ORDER OF THE DIRECTOR
14 OF THE EMPLOYING AGENCY, THE COUNCIL:

15 1. SHALL DETERMINE WHETHER THE EMPLOYING AGENCY HAS PROVEN BY A
16 PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS
17 BASED. ON SUCH A FINDING, THE COUNCIL SHALL AFFIRM THE DECISION OF THE
18 DIRECTOR OF THE EMPLOYING AGENCY, UNLESS THE DISCIPLINARY DECISION WAS
19 ARBITRARY AND CAPRICIOUS.

20 2. MAY RECOMMEND MODIFICATION OF A DISCIPLINARY ACTION IF THE DIRECTOR
21 OF THE EMPLOYING AGENCY HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE
22 MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED OR IF A DISCIPLINARY
23 DECISION IS FOUND TO BE ARBITRARY AND CAPRICIOUS.

24 3. SHALL REVERSE THE DECISION OF THE DIRECTOR OF THE EMPLOYING AGENCY
25 IF THE COUNCIL FINDS THAT CAUSE DID NOT EXIST FOR ANY DISCIPLINE TO BE
26 IMPOSED AND, IN THE CASE OF DISMISSAL OR DEMOTION, RETURN THE EMPLOYEE TO THE
27 SAME POSITION THE EMPLOYEE HELD BEFORE THE DISMISSAL OR DEMOTION WITH OR
28 WITHOUT BACK PAY.

29 E. ON A FINDING THAT THE DIRECTOR OF THE EMPLOYING AGENCY HAS NOT
30 PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE
31 DISCIPLINE WAS BASED, THE COUNCIL SHALL IDENTIFY THE MATERIAL FACTS THAT THE
32 COUNCIL FOUND WERE NOT SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE AND MAY
33 RECOMMEND A PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN. ON A
34 FINDING THAT THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS, THE
35 COUNCIL SHALL INCLUDE THE COUNCIL'S REASONS FOR THE COUNCIL'S FINDING AND MAY
36 RECOMMEND A PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN.

37 F. WITHIN FORTY-FIVE DAYS AFTER THE CONCLUSION OF THE HEARING, THE
38 COUNCIL SHALL ENTER ITS DECISION OR RECOMMENDATION AND SHALL AT THE SAME TIME
39 SEND A COPY OF THE DECISION OR RECOMMENDATION BY CERTIFIED MAIL TO THE
40 EMPLOYING AGENCY AND TO THE EMPLOYEE AT THE EMPLOYEE'S ADDRESS AS GIVEN AT
41 THE HEARING OR TO A REPRESENTATIVE DESIGNATED BY THE EMPLOYEE TO RECEIVE A
42 COPY OF THE DECISION OR RECOMMENDATION.

43 ~~D.~~ G. The council shall select and the director of the department of
44 public safety shall appoint a business manager who is a certified peace
45 officer and an employee of the department of public safety but who is not a

1 member of the council. The business manager shall perform and discharge all
2 of the powers and duties that are vested in the council, except that adoption
3 of rules, creation and adjustment of classifications and grades, compensation
4 and hearing appeals for dismissal, demotion, reduction in pay, suspensions or
5 other punitive action remain the duty of the council. Any power or duty that
6 the council may lawfully delegate to the business manager is conclusively
7 presumed to have been delegated to the business manager unless it is shown
8 that the council by an affirmative vote recorded in its minutes has
9 specifically reserved the power or duty to itself. At the request of the
10 council, the business manager may make inquiries regarding or investigate
11 infractions of council rules within the department of public safety SWORN
12 DEPARTMENT EMPLOYEES. The business manager shall report the result of the
13 inquiry or investigation to the council for appropriate action. The business
14 manager may delegate the business manager's powers and duties to the business
15 manager's subordinates unless by council rule or express provision of law the
16 business manager is specifically required to act personally.

17 ~~E.~~ H. For the purposes of this section AND SECTION 41-1830.13,
18 "director of the employing agency" means the director of the department of
19 public safety with respect to SWORN employees of the department and the
20 executive director of the Arizona peace officer standards and training board
21 with respect to employees of the board.

22 Sec. 138. Section 41-1830.13, Arizona Revised Statutes, is amended to
23 read:

24 41-1830.13. Review of council decision by agency director;
25 appeal; reinstatement

26 A. WITHIN FOURTEEN DAYS OF RECEIPT OF THE FINDING OR RECOMMENDATION BY
27 THE COUNCIL PURSUANT TO SECTION 41-1830.12, THE DIRECTOR OF THE EMPLOYING
28 AGENCY SHALL ACCEPT, MODIFY OR REVERSE THE COUNCIL'S DECISION OR ACCEPT,
29 MODIFY OR REJECT THE COUNCIL'S RECOMMENDATION. THE DECISION OF THE DIRECTOR
30 OF THE EMPLOYING AGENCY IS FINAL AND BINDING. THE DIRECTOR OF THE EMPLOYING
31 AGENCY SHALL SEND A COPY OF THE AGENCY'S FINAL DETERMINATION TO THE EMPLOYEE
32 PURSUANT TO SECTION 41-1830.12.

33 ~~A.~~ B. Except as provided in section 41-1092.08, subsection H, AN
34 ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD EMPLOYEE OR a ~~classified~~
35 SWORN DEPARTMENT OF PUBLIC SAFETY employee who is suspended, is demoted, has
36 pay reduced, loses accrued leave time or is dismissed pursuant to this
37 article, after a fair hearing and review before the law enforcement merit
38 system council and ~~confirmation~~ REVIEW of the suspension, demotion, reduction
39 in pay, loss of accrued leave time or dismissal by the director of the
40 ~~department of public safety~~ EMPLOYING AGENCY, may appeal the ~~final~~
41 determination of the council AND THE FINAL DETERMINATION OF THE DIRECTOR OF
42 THE EMPLOYING AGENCY pursuant to title 12, chapter 7, article 6 ON ONE OR
43 MORE OF THE FOLLOWING GROUNDS THAT THE ORDER WAS:

44 1. FOUNDED ON OR CONTAINED ERROR OF LAW THAT SHALL SPECIFICALLY
45 INCLUDE ERROR OF CONSTRUCTION OR APPLICATION OF ANY PERTINENT RULES.

- 1 2. UNSUPPORTED BY ANY EVIDENCE AS DISCLOSED BY THE ENTIRE RECORD.
- 2 3. MATERIALLY AFFECTED BY UNLAWFUL PROCEDURE.
- 3 4. BASED ON A VIOLATION OF ANY CONSTITUTIONAL PROVISION.
- 4 5. ARBITRARY OR CAPRICIOUS.

5 ~~B-~~ C. In addition to the trial court's powers as prescribed in
6 section 12-911, if the court overrules the determination of the council OR
7 THE DIRECTOR OF THE EMPLOYING AGENCY, the employee shall be reinstated in the
8 employee's position and the employee shall receive full compensation for any
9 salary withheld pending the determination by the council, THE DIRECTOR OF THE
10 EMPLOYING AGENCY and court.

11 Sec. 139. Repeal

12 Section 41-1830.14, Arizona Revised Statutes, is repealed.

13 Sec. 140. Section 41-1830.15, Arizona Revised Statutes, is amended to
14 read:

15 41-1830.15. Causes for dismissal or discipline; definitions

16 A. The director of the department of public safety may dismiss or
17 discipline any ~~classified~~ SWORN employee based on any of the following
18 causes:

- 19 1. Fraud or misrepresentation in securing employment.
- 20 2. Incompetency.
- 21 3. Inefficiency.
- 22 4. Inexcusable neglect of duty or unauthorized absence.
- 23 5. Insubordination.
- 24 6. Dishonesty.
- 25 7. Physical or mental disability subject to the provisions of the
26 Americans with disabilities act of 1990 (42 United States Code sections 12101
27 through 12213).
- 28 8. Unauthorized drinking on duty or drunkenness on duty.
- 29 9. Being impaired by alcohol or drugs, as provided in title 13,
30 chapter 34, while on duty.
- 31 10. Commission of any crime classified as a felony.
- 32 11. Discourteous treatment of the public or other employees.
- 33 12. Commission of any crime involving moral turpitude.
- 34 13. Improper political activity as proscribed in section ~~41-772~~ 41-752.
- 35 14. Misuse or unauthorized use of state property.
- 36 15. Addiction to the illegal use of a narcotic or dangerous drug.
- 37 16. Any other failure of good behavior or acts either during or outside
38 of duty hours that are incompatible with or inimical to the interest of the
39 department of public safety.

40 B. For the purposes of this section:

- 41 1. "Incompetency" means the lack of ability or judgment, legal
42 qualifications or fitness to discharge required duties.
- 43 2. "Inefficiency" means the failure to produce as required for reasons
44 other than incompetency.

1 Sec. 141. Section 41-1833, Arizona Revised Statutes, is amended to
2 read:

3 41-1833. Powers and duties of the director

4 A. The director shall:

5 1. Subject to ~~the law enforcement merit system council classifications~~
6 ~~and pay scales~~ CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF THIS
7 TITLE, appoint, define the duties and prescribe the terms and conditions of
8 employment of all employees necessary to carry out the purposes of this
9 chapter.

10 2. Adopt rules necessary for carrying out the purposes of this
11 chapter.

12 3. Cooperate with the state director of emergency management when a
13 state of emergency or a state of war emergency has been declared by the
14 governor.

15 B. The director may:

16 1. Request the cooperation of utilities, communications media and
17 public and private agencies to aid and assist in the implementation and
18 maintenance of departmental components of the statewide emergency medical
19 services system.

20 2. Cooperate with any agency or group which provides a similar program
21 of emergency medical services in a contiguous state.

22 3. Enter into contracts and agreements for the acquisition and
23 purchase of any equipment, tools, supplies and materials necessary in the
24 administration of this chapter.

25 4. Accept and expend federal funds and private grants, gifts,
26 contributions and devises to assist in carrying out the purposes of this
27 chapter. Such funds shall not revert to the state general fund at the close
28 of a fiscal year.

29 Sec. 142. Section 41-1952, Arizona Revised Statutes, is amended to
30 read:

31 41-1952. Department of economic security; director;
32 appointment; compensation

33 A. A department of economic security is established.

34 B. The direction, operation and control of the department are the
35 responsibility of the director.

36 C. The director shall be appointed by the governor ~~with the advice and~~
37 ~~consent of the senate~~ PURSUANT TO SECTION 38-211 and shall serve at the
38 pleasure of the governor.

39 ~~D. The department of administration shall assist the governor in~~
40 ~~preparing a job description for the position of director and recruiting~~
41 ~~candidates for the position. The qualifications of the candidates shall be~~
42 ~~reviewed by a committee of seven persons selected by the governor. The names~~
43 ~~of all those candidates determined by the committee to be qualified for the~~
44 ~~position shall be submitted to the governor for the governor's consideration.~~
45 ~~The governor may request additional names from the committee if the governor~~

1 ~~deems necessary. For each subsequent vacancy in the position of director, a~~
2 ~~new committee shall be appointed by the governor.~~

3 ~~E.~~ D. Compensation for the director shall be established pursuant to
4 section 38-611.

5 Sec. 143. Section 41-1954, Arizona Revised Statutes, is amended to
6 read:

7 41-1954. Powers and duties

8 A. In addition to the powers and duties of the agencies listed in
9 section 41-1953, subsection E, the department shall:

10 1. Administer the following services:

11 (a) Employment services, which shall include manpower programs and
12 work training, field operations, technical services, unemployment
13 compensation, community work and training and other related functions in
14 furtherance of programs under the social security act, as amended, the
15 Wagner-Peyser act, as amended, the federal unemployment tax act, as amended,
16 33 United States Code, the family support act of 1988 (P.L. 100-485) and
17 other related federal acts and titles.

18 (b) Individual and family services, which shall include a section on
19 aging, services to children, youth and adults and other related functions in
20 furtherance of social service programs under the social security act, as
21 amended, title IV, grants to states for aid and services to needy families
22 with children and for child-welfare services, title XX, grants to states for
23 services, the older Americans act, as amended, the family support act of 1988
24 (P.L. 100-485) and other related federal acts and titles.

25 (c) Income maintenance services, which shall include categorical
26 assistance programs, special services unit, child support collection
27 services, establishment of paternity services, maintenance and operation of a
28 state case registry of child support orders, a state directory of new hires,
29 a support payment clearinghouse and other related functions in furtherance of
30 programs under the social security act, title IV, grants to states for aid
31 and services to needy families with children and for child-welfare services,
32 title XX, grants to states for services, as amended, and other related
33 federal acts and titles.

34 (d) Rehabilitation services, which shall include vocational
35 rehabilitation services and sections for the blind and visually impaired,
36 communication disorders, correctional rehabilitation and other related
37 functions in furtherance of programs under the vocational rehabilitation act,
38 as amended, the Randolph-Sheppard act, as amended, and other related federal
39 acts and titles.

40 (e) Administrative services, which shall include the coordination of
41 program evaluation and research, interagency program coordination and
42 in-service training, planning, grants, development and management,
43 information, legislative liaison, budget, licensing and other related
44 functions.

1 (f) Manpower planning, which shall include a state manpower planning
2 council for the purposes of the federal-state-local cooperative manpower
3 planning system and other related functions in furtherance of programs under
4 the comprehensive employment and training act of 1973, as amended, and other
5 related federal acts and titles.

6 (g) Economic opportunity services, which shall include the furtherance
7 of programs prescribed under the economic opportunity act of 1967, as
8 amended, and other related federal acts and titles.

9 (h) Intellectual disability and other developmental disability
10 programs, with emphasis on referral and purchase of services. The program
11 shall include educational, rehabilitation, treatment and training services
12 and other related functions in furtherance of programs under the
13 developmental disabilities services and facilities construction act, Public
14 Law 91-517, and other related federal acts and titles.

15 (i) Nonmedical home and community based services and functions,
16 including department designated case management, housekeeping services, chore
17 services, home health aid, personal care, visiting nurse services, adult day
18 care or adult day health, respite sitter care, attendant care, home delivered
19 meals and other related services and functions.

20 2. Provide a coordinated system of initial intake, screening,
21 evaluation and referral of persons served by the department.

22 3. Adopt rules it deems necessary or desirable to further the
23 objectives and programs of the department.

24 4. Formulate policies, plans and programs to effectuate the missions
25 and purposes of the department.

26 5. Employ, determine the conditions of employment and prescribe the
27 duties and powers of administrative, professional, technical, secretarial,
28 clerical and other persons **SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS**
29 **APPLICABLE, ARTICLE 5 OF THIS TITLE** as may be necessary in the performance of
30 its duties, contract for the services of outside advisors, consultants and
31 aides as may be reasonably necessary and reimburse department volunteers,
32 designated by the director, for expenses in transporting clients of the
33 department on official business.

34 6. Make contracts and incur obligations within the general scope of
35 its activities and operations subject to the availability of funds.

36 7. Contract with or assist other departments, agencies and
37 institutions of the state, local and federal governments in the furtherance
38 of its purposes, objectives and programs.

39 8. Be designated as the single state agency for the purposes of
40 administering and in furtherance of each federally supported state plan.

41 9. Accept and disburse grants, matching funds and direct payments from
42 public or private agencies for the conduct of programs that are consistent
43 with the overall purposes and objectives of the department.

44 10. Provide information and advice on request by local, state and
45 federal agencies and by private citizens, business enterprises and community

1 organizations on matters within the scope of its duties subject to the
2 departmental rules on the confidentiality of information.

3 11. Establish and maintain separate financial accounts as required by
4 federal law or regulations.

5 12. Advise and make recommendations to the governor and the legislature
6 on all matters concerning its objectives.

7 13. Have an official seal that shall be judicially noticed.

8 14. Annually estimate the current year's population of each county,
9 city and town in this state, using the periodic census conducted by the
10 United States department of commerce, or its successor agency, as the basis
11 for such estimates and deliver such estimates to the economic estimates
12 commission before December 15.

13 15. Estimate the population of any newly annexed areas of a political
14 subdivision as of July 1 of the fiscal year in which the annexation occurs
15 and deliver such estimates as promptly as is feasible after the annexation
16 occurs to the economic estimates commission.

17 16. Establish and maintain a statewide program of services for persons
18 who are both hearing impaired and visually impaired and coordinate
19 appropriate services with other agencies and organizations to avoid
20 duplication of these services and to increase efficiency. The department of
21 economic security shall enter into agreements for the utilization of the
22 personnel and facilities of the department of economic security, the
23 department of health services and other appropriate agencies and
24 organizations in providing these services.

25 17. Establish and charge fees for deposit in the department of economic
26 security prelayoff assistance services fund to employers who voluntarily
27 participate in the services of the department that provide job service and
28 retraining for persons who have been or are about to be laid off from
29 employment. The department shall charge only those fees necessary to cover
30 the costs of administering the job service and retraining services.

31 18. Establish a focal point for addressing the issue of hunger in
32 Arizona and provide coordination and assistance to public and private
33 nonprofit organizations that aid hungry persons and families throughout this
34 state. Specifically such activities shall include:

35 (a) Collecting and disseminating information regarding the location
36 and availability of surplus food for distribution to needy persons, the
37 availability of surplus food for donation to charity food bank organizations,
38 and the needs of charity food bank organizations for surplus food.

39 (b) Coordinating the activities of federal, state, local and private
40 nonprofit organizations that provide food assistance to the hungry.

41 (c) Accepting and disbursing federal monies, and any state monies
42 appropriated by the legislature, to private nonprofit organizations in
43 support of the collection, receipt, handling, storage and distribution of
44 donated or surplus food items.

1 (d) Providing technical assistance to private nonprofit organizations
2 that provide or intend to provide services to the hungry.

3 (e) Developing a state plan on hunger that, at a minimum, identifies
4 the magnitude of the hunger problem in this state, the characteristics of the
5 population in need, the availability and location of charity food banks and
6 the potential sources of surplus food, assesses the effectiveness of the
7 donated food collection and distribution network and other efforts to
8 alleviate the hunger problem, and recommends goals and strategies to improve
9 the status of the hungry. The state plan on hunger shall be incorporated
10 into the department's state comprehensive plan prepared pursuant to section
11 41-1956.

12 (f) Establishing a special purpose advisory council on hunger pursuant
13 to section 41-1981.

14 19. Establish an office to address the issue of homelessness and to
15 provide coordination and assistance to public and private nonprofit
16 organizations that prevent homelessness or aid homeless individuals and
17 families throughout this state. These activities shall include:

18 (a) Promoting and participating in planning for the prevention of
19 homelessness and the development of services to homeless persons.

20 (b) Identifying and developing strategies for resolving barriers in
21 state agency service delivery systems that inhibit the provision and
22 coordination of appropriate services to homeless persons and persons in
23 danger of being homeless.

24 (c) Assisting in the coordination of the activities of federal, state
25 and local governments and the private sector that prevent homelessness or
26 provide assistance to homeless people.

27 (d) Assisting in obtaining and increasing funding from all appropriate
28 sources to prevent homelessness or assist in alleviating homelessness.

29 (e) Serving as a clearinghouse on information regarding funding and
30 services available to assist homeless persons and persons in danger of being
31 homeless.

32 (f) Developing an annual state comprehensive homeless assistance plan
33 to prevent and alleviate homelessness.

34 (g) Submitting an annual report to the governor, the president of the
35 senate and the speaker of the house of representatives on the status of
36 homelessness and efforts to prevent and alleviate homelessness.

37 20. Cooperate with the Arizona-Mexico commission in the governor's
38 office and with researchers at universities in this state to collect data and
39 conduct projects in the United States and Mexico on issues that are within
40 the scope of the department's duties and that relate to quality of life,
41 trade and economic development in this state in a manner that will help the
42 Arizona-Mexico commission to assess and enhance the economic competitiveness
43 of this state and of the Arizona-Mexico region.

44 B. If the department OF ECONOMIC SECURITY has responsibility for the
45 care, custody or control of a child or is paying the cost of care for a

1 child, it may serve as representative payee to receive and administer social
2 security and ~~veterans-administration~~ UNITED STATES DEPARTMENT OF VETERANS
3 AFFAIRS benefits and other benefits payable to such child. Notwithstanding
4 any law to the contrary, the department OF ECONOMIC SECURITY:

5 1. Shall deposit, pursuant to sections 35-146 and 35-147, such monies
6 as it receives to be retained separate and apart from the state general fund
7 on the books of the department of administration.

8 2. May use such monies to defray the cost of care and services
9 expended by the department OF ECONOMIC SECURITY for the benefit, welfare and
10 best interests of the child and invest any of the monies that the director
11 determines are not necessary for immediate use.

12 3. Shall maintain separate records to account for the receipt,
13 investment and disposition of funds received for each child.

14 4. On termination of the ~~department's~~ DEPARTMENT OF ECONOMIC
15 SECURITY'S responsibility for the child, shall release any funds remaining to
16 the child's credit in accordance with the requirements of the funding source
17 or in the absence of such requirements shall release the remaining funds to:

18 (a) The child, if the child is at least eighteen years of age or is
19 emancipated.

20 (b) The person responsible for the child if the child is a minor and
21 not emancipated.

22 C. Subsection B of this section does not pertain to benefits payable
23 to or for the benefit of a child receiving services under title 36.

24 D. Volunteers reimbursed for expenses pursuant to subsection A,
25 paragraph 5 of this section are not eligible for workers' compensation under
26 title 23, chapter 6.

27 E. In implementing the temporary assistance for needy families program
28 pursuant to Public Law 104-193, the department shall provide for cash
29 assistance to two parent families if both parents are able to work only on
30 documented participation by both parents in work activities described in
31 title 46, chapter 2, article 5, except that payments may be made to families
32 who do not meet the participation requirements if:

33 1. It is determined on an individual case basis that they have
34 emergency needs.

35 2. The family is determined to be eligible for diversion from
36 long-term cash assistance pursuant to title 46, chapter 2, article 5.

37 F. The department shall provide for cash assistance under temporary
38 assistance for needy families pursuant to Public Law 104-193 to two parent
39 families for no longer than six months if both parents are able to work,
40 except that additional assistance may be provided on an individual case basis
41 to families with extraordinary circumstances. The department shall establish
42 by rule the criteria to be used to determine eligibility for additional cash
43 assistance.

44 G. The department shall adopt the following discount medical payment
45 system for persons who the department determines are eligible and who are

1 receiving rehabilitation services pursuant to subsection A, paragraph 1,
2 subdivision (d) of this section:

3 1. For inpatient hospital admissions and outpatient hospital services
4 the department shall reimburse a hospital according to the tiered per diem
5 rates and outpatient cost-to-charge ratios established by the Arizona health
6 care cost containment system administration pursuant to section 36-2903.01,
7 subsection H.

8 2. The department's liability for a hospital claim under this
9 subsection is subject to availability of funds.

10 3. A hospital bill is considered received for purposes of paragraph 5
11 of this subsection on initial receipt of the legible, error-free claim form
12 by the department if the claim includes the following error-free
13 documentation in legible form:

14 (a) An admission face sheet.

15 (b) An itemized statement.

16 (c) An admission history and physical.

17 (d) A discharge summary or an interim summary if the claim is split.

18 (e) An emergency record, if admission was through the emergency room.

19 (f) Operative reports, if applicable.

20 (g) A labor and delivery room report, if applicable.

21 4. The department shall require that the hospital pursue other
22 third-party payors before submitting a claim to the department. Payment
23 received by a hospital from the department pursuant to this subsection is
24 considered payment by the department of the department's liability for the
25 hospital bill. A hospital may collect any unpaid portion of its bill from
26 other third party payors or in situations covered by title 33, chapter 7,
27 article 3.

28 5. For inpatient hospital admissions and outpatient hospital services
29 rendered on and after October 1, 1997, if the department receives the claim
30 directly from the hospital, the department shall pay a hospital's rate
31 established according to this section subject to the following:

32 (a) If the hospital's bill is paid within thirty days of the date the
33 bill was received, the department shall pay ninety-nine per cent of the rate.

34 (b) If the hospital's bill is paid after thirty days but within sixty
35 days of the date the bill was received, the department shall pay one hundred
36 per cent of the rate.

37 (c) If the hospital's bill is paid any time after sixty days of the
38 date the bill was received, the department shall pay one hundred per cent of
39 the rate plus a fee of one per cent per month for each month or portion of a
40 month following the sixtieth day of receipt of the bill until the date of
41 payment.

42 6. For medical services other than those for which a rate has been
43 established pursuant to section 36-2903.01, subsection H, the department
44 shall pay according to the Arizona health care cost containment system capped

1 fee-for-service schedule adopted pursuant to section 36-2904, subsection K or
2 any other established fee schedule the department determines reasonable.

3 H. The department shall not pay claims for services pursuant to this
4 section that are submitted more than nine months after the date of service
5 for which the payment is claimed.

6 I. To assist in the location of persons or assets for the purpose of
7 establishing paternity, establishing, modifying or enforcing child support
8 obligations and other related functions, the department has access, including
9 automated access if the records are maintained in an automated database, to
10 records of state and local government agencies, including:

- 11 1. Vital statistics, including records of marriage, birth and divorce.
- 12 2. State and local tax and revenue records, including information on
13 residence address, employer, income and assets.
- 14 3. Records concerning real and titled personal property.
- 15 4. Records of occupational and professional licenses.
- 16 5. Records concerning the ownership and control of corporations,
17 partnerships and other business entities.
- 18 6. Employment security records.
- 19 7. Records of agencies administering public assistance programs.
- 20 8. Records of the motor vehicle division of the department of
21 transportation.
- 22 9. Records of the state department of corrections.
- 23 10. Any system used by a state agency to locate a person for motor
24 vehicle or law enforcement purposes, including access to information
25 contained in the Arizona criminal justice information system.

26 J. Notwithstanding subsection I of this section, the department or its
27 agents shall not seek or obtain information on the assets of an individual
28 unless paternity is presumed pursuant to section 25-814 or established.

29 K. Access to records of the department of revenue pursuant to
30 subsection I of this section shall be provided in accordance with section
31 42-2003.

32 L. The department also has access to certain records held by private
33 entities with respect to child support obligors or obligees, or individuals
34 against whom such an obligation is sought. The information shall be obtained
35 as follows:

- 36 1. In response to a child support subpoena issued by the department
37 pursuant to section 25-520, the names and addresses of these persons and the
38 names and addresses of the employers of these persons, as appearing in
39 customer records of public utilities and cable television companies.
- 40 2. Information on these persons held by financial institutions.

41 M. Pursuant to department rules, the department may compromise or
42 settle any support debt owed to the department if the director or an
43 authorized agent determines that it is in the best interest of the state and
44 after considering each of the following factors:

- 1 1. The obligor's financial resources.
- 2 2. The cost of further enforcement action.
- 3 3. The likelihood of recovering the full amount of the debt.
- 4 N. Notwithstanding any law to the contrary, a state or local
- 5 governmental agency or private entity is not subject to civil liability for
- 6 the disclosure of information made in good faith to the department pursuant
- 7 to this section.

8 Sec. 144. Section 41-2061, Arizona Revised Statutes, is amended to
9 read:

10 41-2061. Administration of chapter; director; appointment;
11 compensation; advisory committee

12 A. The director shall administer the provisions of this chapter.

13 B. The director shall be appointed by the governor pursuant to section
14 38-211 ~~from the names submitted by the search committee in accordance with~~
15 ~~subsection C of this section~~ and is eligible to receive compensation pursuant
16 to section 38-611.

17 ~~C. A search committee is established for the purpose of soliciting and~~
18 ~~screening applicants and submitting up to three names to the governor for the~~
19 ~~position of director of the department when a vacancy in the office of~~
20 ~~director exists. The governor may reject the names submitted by the search~~
21 ~~committee and direct the search committee to submit additional names for~~
22 ~~consideration. The committee shall consist of nine members appointed by the~~
23 ~~governor from the following groups:~~

24 ~~1. One member representing retail trade.~~

25 ~~2. One member representing wholesale trade.~~

26 ~~3. One member representing the liquid petroleum industry.~~

27 ~~4. One member representing agriculture.~~

28 ~~5. One member representing the weight and measure manufacturing~~
29 ~~industry.~~

30 ~~6. Four members representing consumers.~~

31 ~~D. The names for director shall be chosen based on practical~~
32 ~~experience, training and knowledge in weights and measures practices,~~
33 ~~procedures, laws and administrative functions. Members of the search~~
34 ~~committee shall select a chairman from the membership, and members of the~~
35 ~~search committee are not eligible to receive compensation or reimbursement of~~
36 ~~expenses.~~

37 ~~E.~~ C. The director may appoint an advisory committee consisting of
38 five members to review, advise and make recommendations to the director in
39 the administration of the provisions of this chapter and regarding proposed
40 rules provided for in this chapter.

41 Sec. 145. Section 41-2065, Arizona Revised Statutes, is amended to
42 read:

43 41-2065. Powers and duties; definition

44 A. The department shall:

- 1 1. Maintain custody of the state reference standards of weights and
2 measures that are traceable to the United States prototype standards and that
3 are supplied to the states by the federal government or that are otherwise
4 approved as being satisfactory by the national institute of standards and
5 technology.
- 6 2. Keep the state reference standards in a safe and suitable place in
7 the metrology laboratory of the department and ensure that they shall not be
8 removed from the laboratory except for repairs or for calibration as may be
9 prescribed by the national institute of standards and technology.
- 10 3. Keep accurate records of all standards and equipment.
- 11 4. Adopt any rules necessary to carry out this chapter and adopt
12 reasonable rules for the enforcement of this chapter. These rules have the
13 force and effect of law and shall be adopted pursuant to chapter 6 of this
14 title. In adopting these rules, the director shall consider, as far as is
15 practicable, the requirements established by other states and by authority of
16 the United States, except that rules shall not be made in conflict with this
17 chapter.
- 18 5. Publish rules adopted pursuant to this chapter and issue
19 appropriate copies at no cost to all new applicants for licensure and
20 certification. Updated copies of the rules shall be distributed, on request,
21 at no cost to the public.
- 22 6. Investigate complaints made to the department concerning violations
23 of this chapter and, on its own initiative, conduct investigations it deems
24 appropriate to develop information relating to prevailing procedures in
25 commercial quantity determination and relating to possible violations of this
26 chapter, and in order to promote the general objective of accuracy in the
27 determination and representation of quantity in commercial transactions.
- 28 7. Establish labeling standards, establish standards of weight,
29 measure or count and establish reasonable standards of fill for any packaged
30 commodity, and may establish standards for open dating information.
- 31 8. Grant, pursuant to this chapter, exemptions from the licensing
32 provisions of this chapter for weighing and measuring instruments, standards
33 or devices when the ownership or use of the instrument or device is limited
34 to federal, state or local government agencies in the performance of official
35 functions. On request, the department may conduct inspections of the
36 instruments, standards or devices and shall charge a fee pursuant to section
37 41-2092, subsection B.
- 38 9. Delegate to appropriate personnel any of the responsibilities of
39 the director for the proper administration of this chapter.
- 40 10. Inspect and test weights and measures kept, offered or exposed for
41 sale.
- 42 11. Inspect and test, to ascertain if they are correct, weights and
43 measures commercially used either:

1 (a) In determining the weight, measure or count of commodities or
2 things sold, or offered or exposed for sale, on the basis of weight, measure
3 or count.

4 (b) In computing the basic charge or payment for services rendered on
5 the basis of weight, measure or count.

6 12. Test, at random, commodities, weights and measures used in public
7 institutions for which monies are appropriated by the legislature. The
8 testing of commodities, weights and measures in public institutions shall
9 include, but not be limited to, items:

10 (a) That have historically been of short weight, measure or count.

11 (b) Found to be of short weight, measure or count by other
12 jurisdictions.

13 (c) To be tested as part of a regional or national survey.

14 13. Test, approve for use and affix a seal of approval for use of all
15 weights, measures and commercial devices manufactured in or brought into this
16 state as it finds to be correct and shall reject and mark as rejected
17 weights, measures and devices it finds to be incorrect. Weights, measures
18 and devices that have been rejected may be seized by the department if not
19 corrected within the time specified or if used or disposed of in a manner not
20 specifically authorized. The department shall condemn and may seize weights,
21 measures and devices that are found to be incorrect and that are not capable
22 of being made correct.

23 14. Sample and test motor fuel that is stored, sold or exposed or
24 offered for sale or that is stored for use by a fleet owner to determine
25 whether the motor fuel meets the standards for motor fuel set forth in
26 section 41-2083 and article 6 of this chapter and in any rule adopted by the
27 director pursuant to this chapter. For the purposes of this paragraph,
28 "fleet owner" has the same meaning prescribed in section 41-2121.

29 15. Randomly witness tests on all mandated stage I and stage II vapor
30 recovery systems that are installed or operated in this state not less than
31 annually and if the systems are determined to be in compliance with the law
32 approve those systems for use and reject, mark as rejected and stop the use
33 of those systems determined not to be in compliance with the law.

34 16. Inspect facilities at which motor fuel is stored, sold or exposed
35 or offered for sale to determine whether dispensing devices are properly
36 labeled.

37 17. Publish and distribute to consumers weighing and measuring
38 information.

39 18. Weigh, measure or inspect commodities kept, offered or exposed for
40 sale, sold or in the process of delivery to determine whether they contain
41 the amounts represented and whether they are kept, offered or exposed for
42 sale in accordance with this chapter or rules adopted pursuant to this
43 chapter. In carrying out the provisions of this section, the director shall
44 employ recognized sampling procedures, such as are designated in appropriate

1 national institute of standards and technology handbooks and supplements to
2 those handbooks, except as modified or rejected by rule.

3 19. Allow reasonable variations from the stated quantity of contents
4 only after a commodity has entered intrastate commerce. These variations
5 shall include those caused by loss or gain of moisture during the course of
6 good distribution practice or by unavoidable deviations in good manufacturing
7 practice.

8 20. Prescribe the standards of weight and measure and additional
9 equipment methods of test and inspection to be employed in the enforcement of
10 this chapter. The director may prescribe or provide the official test and
11 inspection forms to be used in the enforcement of this chapter.

12 21. Apply to any court of competent jurisdiction for a temporary or
13 permanent injunction restraining any person from violating this chapter.

14 22. Report to the governor on August 1 each year and at such other
15 times as may be required on the work accomplished under this chapter.

16 23. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, employ such
17 personnel as needed to assist in administering this chapter.

18 24. Ensure that any information that is required to be filed with the
19 department, that relates to the contents of motor fuels that are sold in this
20 state and that is a trade secret as defined in section 49-201 is not
21 disclosed.

22 25. Establish by rule labeling standards for tanks and containers of
23 motor fuels.

24 B. The director may provide for the periodic examination and
25 inspection of metering devices, including but not limited to devices utilized
26 to measure usage of electricity, natural gas or water by a consumer.
27 Examination and inspection authority shall not apply to metering devices
28 owned by federal, state or local government agencies unless requested by the
29 government agency that owns the metering devices.

30 C. The director may establish standards for the presentation of
31 cost-per-unit information. Nothing in this subsection shall be construed to
32 mandate the use of cost-per-unit information in connection with the sale of
33 any standard packed commodity.

34 D. The director, when necessary to carry out this chapter, may adopt
35 and enforce rules relating to quality standards for motor fuel, kerosene,
36 oil, except used oil fuel, and hazardous waste fuel, lubricating oils,
37 lubricants, antifreeze and other liquid or gaseous fuels. The director shall
38 adopt rules to assure that oxygenated fuels, as described in article 6 of
39 this chapter, stored, used, sold or exposed or offered for use or sale are
40 blended and stored, sold, exposed or offered in such a manner as to assure
41 that the oxygenated fuels are properly blended, that they meet the standards
42 set forth in section 41-2083 and article 6 of this chapter, and in rules
43 adopted pursuant to this chapter, and that dispensers at which the oxygenated
44 fuels are dispensed are labeled as defined by rule of the department in such
45 a manner as to notify persons of the type of oxygenated fuel being dispensed

1 and the maximum percentage of oxygenate by volume contained in the oxygenated
2 fuel. The director of the department of weights and measures shall consult
3 with the director of the department of environmental quality in adopting
4 rules pursuant to this subsection.

5 E. Testing and inspection conducted pursuant to this chapter shall be
6 done, to the extent practicable, without prior notice, by a random systematic
7 method determined by the director or in response to a complaint by the
8 public. The testing and inspection may be done by private persons and firms
9 pursuant to contracts entered into by the director in accordance with chapter
10 23 of this title or by a registered service agency or registered service
11 representative licensed pursuant to section 41-2094. The director shall
12 establish qualifications of persons and firms for selection for purposes of
13 this subsection. The persons or firms conducting the testing and inspection
14 shall immediately report to the department any violations of this chapter and
15 incorrect weights, measures, devices, vapor recovery systems or vapor
16 recovery components for investigation and enforcement by the department. A
17 person or firm that tests or inspects a weight, measure, device, vapor
18 recovery system or vapor recovery component that is rejected shall not
19 correct the defect causing the rejection without the permission of the
20 department.

21 F. During the course of an investigation or an enforcement action by
22 the department, information regarding the complainant is confidential and is
23 exempt from title 39, chapter 1, unless the complainant authorizes the
24 information to be public.

25 G. For the purposes of the labeling requirements prescribed in this
26 section, "oxygenated fuel" means a motor fuel blend containing 1.5 per cent
27 or more by weight of oxygen.

28 Sec. 146. Section 41-2147, Arizona Revised Statutes, is amended to
29 read:

30 41-2147. Director; qualifications; appointment; salary; powers
31 and duties

32 A. The governor shall appoint a director of the department pursuant to
33 section 38-211. The director shall serve at the pleasure of the governor.

34 B. The director shall be experienced in administration and the
35 technical knowledge necessary to administer this chapter.

36 C. The compensation of the director shall be as determined pursuant to
37 section 38-611.

38 D. The director with the approval of the governor shall appoint a
39 deputy director, a deputy director of the office of manufactured housing, the
40 state fire marshal of the office of fire marshal, the state fire training
41 officer and the fire resource coordinator, all of whom serve at the pleasure
42 of the director and are ~~exempt from~~ SUBJECT TO chapter 4, article ~~5- 4~~ of
43 this title. Compensation for the deputy directors and the fire marshal shall
44 be as determined pursuant to section 38-611.

1 E. The director shall establish and have authority over the functions
2 of the office of manufactured housing, the office of state fire marshal and
3 the office of administration and, **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS**
4 **TITLE**, shall appoint employees necessary to perform the duties of articles 2,
5 3 and 4 of this chapter.

6 F. The director shall employ any deputies, investigators and
7 assistants **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE** and shall procure
8 all equipment and records that are necessary to enforce this chapter. With
9 respect to the enforcement of section 41-2194, the director or the director's
10 designees are vested with the authority to issue a citation in accordance
11 with section 13-3903 or to issue a cease and desist order to any violators of
12 this chapter. When the director or the director's designees conduct
13 investigations they may receive criminal history record information from the
14 department of public safety and other law enforcement entities.

15 G. In order to protect public health, safety and welfare, the director
16 may revoke or suspend a license.

17 H. The director may issue citations to licensees for alleged
18 violations of this chapter or rules adopted pursuant to this chapter.

19 I. The director, on the director's motion or on the written request of
20 the licensee, may reduce, at the director's discretion, the amount of any
21 administrative penalty imposed.

22 Sec. 147. Section 41-2305, Arizona Revised Statutes, is amended to
23 read:

24 **41-2305. Powers and duties**

25 A. In addition to other duties prescribed by law, the office of
26 tourism shall:

27 1. Stimulate and encourage all local, state, regional and federal
28 governmental agencies and all private persons and enterprises to participate
29 and cooperate in the promotion of tourism and tourism development in this
30 state.

31 2. Undertake a comprehensive research program designed to establish
32 the office as the central repository and clearinghouse for all data which
33 relates to tourism.

34 3. Perform research necessary to determine a long-range tourism
35 development plan for this state.

36 4. Conduct research at the request of the governor, the legislature or
37 state or local agencies, pertaining to any of its objectives.

38 5. Formulate policies, plans and programs designed to promote tourism
39 in this state.

40 6. Provide information and advice on request by local, state and
41 federal agencies and by private citizens and business enterprises on all
42 matters concerning its objectives. The office may provide information and
43 literature in the same manner as described in section 11-259, subsection A.

44 7. Advise with and make recommendations to the governor and the
45 legislature on all matters concerning tourism.

1 8. Make an annual report to the governor and the legislature on its
2 activities, finances and the scope of its operations.

3 9. Conduct an annual statewide tourism symposium to discuss tourism
4 promotion efforts, problems and matters of interest to the tourism industry.

5 10. Cooperate with the Arizona-Mexico commission in the governor's
6 office and with researchers at universities in this state to collect data and
7 conduct projects in the United States and Mexico on issues that are within
8 the scope of the office's duties and that relate to quality of life, trade
9 and economic development in this state in a manner that will help the
10 Arizona-Mexico commission to assess and enhance the economic competitiveness
11 of this state and of the Arizona-Mexico region.

12 B. The office may:

13 1. ~~SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE~~, employ, determine
14 the conditions of employment and specify the duties of administrative,
15 secretarial and clerical assistants and contract for the services of outside
16 advisors, consultants and aides reasonably necessary or desirable to enable
17 it adequately to perform its duties. The compensation of such assistants
18 shall be as determined pursuant to section 38-611. The positions of the
19 director, the assistant director and all employees of the office of tourism
20 shall be exempt positions of chapter 4, articles 5 and 6 of this title.

21 2. Make contracts and incur obligations reasonably necessary or
22 desirable within the general scope of its activities and operations to enable
23 it adequately to perform its duties.

24 3. Utilize any and all media of communication, publication and
25 exhibition in the dissemination of information, advertising and publicity in
26 any field relating to its purposes, objectives or duties.

27 4. Use its funds, facilities and services to provide matching
28 contributions under federal or other programs which further the objectives
29 and programs of the office.

30 5. Adopt rules ~~and regulations~~ it deems necessary or desirable to
31 ~~govern its procedures and business~~ IMPLEMENT THE PURPOSES OF THE DEPARTMENT
32 AND THE DUTIES AND POWERS OF THE DIRECTOR.

33 6. Accept gifts, grants, matching funds and direct payments from
34 public or private agencies or persons for the conduct of programs which are
35 consistent with the general purposes and objectives of this chapter.

36 7. Conduct tourism education and discussion seminars and workshops to
37 discuss tourism promotion efforts, problems and matters of interest to the
38 tourism industry.

39 8. Designate, establish and operate state visitor or tourist
40 information centers in the state which furnish tourist information and
41 literature, subject to legislative appropriation.

42 9. Conduct research pertaining to any of its objectives.

43 10. Establish a reporting system for public agencies and private
44 persons or enterprises in order to monitor state tourism.

1 41-2401, subsection D and section 41-2402 through the biennial agency budget
2 request.

3 8. Adopt rules for the purpose of allocating fund monies as provided
4 in sections 41-2401, 41-2402 and 41-2407 that are consistent with the
5 purposes set forth in those sections and that promote effective and efficient
6 use of the monies.

7 9. Make reports to the governor and the legislature as they require.

8 10. Oversee the research, analysis, studies, reports and publication of
9 crime and criminal justice statistics prepared by the Arizona statistical
10 analysis center, which is an operating section of the Arizona criminal
11 justice commission.

12 11. Prepare an annual report on law enforcement activities in this
13 state funded by the drug enforcement account or the criminal justice
14 enhancement fund and relating to illicit drugs and drug related gang
15 activity. The report shall be submitted by October 31 of each year to the
16 governor, the president of the senate and the speaker of the house of
17 representatives. The report shall include:

18 (a) The name and a description of each law enforcement program dealing
19 with illegal drug activity or street gang activity, or both.

20 (b) The objective and goals of each program.

21 (c) The source and amount of monies received by each program.

22 (d) The name of the agency or entity that administers each program.

23 (e) The effectiveness of each program.

24 12. Compile and disseminate information on best practices for cold case
25 investigations, including effective victim communication procedures. For the
26 purposes of this paragraph, "cold case" means a homicide or a felony sexual
27 offense that remains unsolved for one year or more after being reported to a
28 law enforcement agency and that has no viable and unexplored investigatory
29 leads.

30 B. The Arizona criminal justice commission may, as necessary to
31 perform its functions:

32 1. Request any state or local criminal justice agency to submit any
33 necessary information.

34 2. Form subcommittees, make studies, conduct inquiries and hold
35 hearings.

36 3. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, employ consultants
37 for special projects and such staff as deemed necessary or advisable to carry
38 out this section.

39 4. Delegate its duties to carry out this section, including:

40 (a) The authority to enter into contracts and agreements on behalf of
41 the commission.

42 (b) **SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLES 5 AND**
43 **6 OF THIS TITLE**, the authority to appoint, hire, terminate and discipline all
44 personnel of the commission including consultants.

1 5. Establish joint research and information facilities with
2 governmental and private agencies.

3 6. Accept and expend public and private grants of monies, gifts and
4 contributions and expend, distribute or allocate monies appropriated to it
5 for the purpose of enhancing efforts to investigate or prosecute and
6 adjudicate any crime and to implement this chapter.

7 Sec. 149. Section 41-2513, Arizona Revised Statutes, is amended to
8 read:

9 41-2513. Authority to contract for certain services

10 A. For the purpose of procuring the services of clergy, certified
11 public accountants, legal counsel pursuant to section 41-192, subsection
12 ~~E- D~~, physicians or dentists as defined by the laws of this state, any state
13 governmental unit may act as a purchasing agency and contract on its own
14 behalf for such services, subject to this chapter and rules adopted by the
15 director.

16 B. In accordance with the provisions of section 41-192, subsection
17 ~~E- D~~ and notwithstanding any contrary statute, no contract for the services
18 of legal counsel may be awarded without the approval of the attorney general.

19 C. The auditor general shall approve state agency contracting for
20 financial and compliance auditing services except if specific statutory
21 authority is otherwise provided. The auditor general shall ensure that such
22 contract audits are conducted in accordance with generally accepted
23 governmental auditing standards. An audit shall not be accepted until it has
24 been approved by the auditor general.

25 D. The department may approve all information technology purchases
26 exceeding twenty-five thousand dollars for a budget unit as defined in
27 section 41-3501. Purchases shall not be artificially divided to avoid review.

28 E. Payment for any services, including those services described in
29 subsections A, B and C of this section, procured under this chapter shall not
30 be made unless pursuant to a fully approved written contract.

31 Sec. 150. Section 41-2804, Arizona Revised Statutes, is amended to
32 read:

33 41-2804. Duties and powers of director

34 A. The director shall:

35 1. Be responsible for the overall operations and policies of the
36 department.

37 2. Maintain and administer all secure care facilities and programs
38 within the department required and established for the custody, control,
39 treatment, education and rehabilitation of all youths committed to the
40 department.

41 3. Be responsible for the administration and execution of all
42 conditional liberty services for youths released pursuant to rules adopted by
43 the director in accordance with law.

- 1 4. Be responsible for the development of policies and programs which
2 shall be recommended to the governor and the legislature for the purpose of
3 improving the youth rehabilitative and treatment programs of this state.
- 4 5. Develop and establish a uniform statewide method of reporting
5 statistics as related to this chapter.
- 6 6. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, employ deputy
7 directors and other key personnel based on qualifications prescribed by the
8 director which require education and practical experience.
- 9 B. The director may:
- 10 1. Adopt rules to implement the purposes of the department and the
11 duties and powers of the director.
- 12 2. Take any administrative action to improve the efficiency of the
13 department, including the following:
- 14 (a) Create new divisions or units or consolidate divisions or units.
- 15 (b) **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, transfer employees
16 between the various divisions and units of the department.
- 17 (c) Shift duties between divisions or units.
- 18 (d) Delegate authority to appoint, hire, terminate and discipline all
19 personnel of the department, including specialists and consultants **SUBJECT TO**
20 **CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF THIS TITLE**.
- 21 (e) Transfer committed youths between secure care facilities.
- 22 (f) Transfer youths who have been committed to the department or to
23 any facility under its jurisdiction between the various secure care
24 facilities for youths, foster homes and public and private agencies on
25 notification to the committing court.
- 26 (g) **SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF**
27 **THIS TITLE**, appoint certain employees of the department to peace officer
28 status for purposes of guarding, transporting or pursuing persons under the
29 jurisdiction of the department and appoint certain employees of the
30 department to peace officer status for purposes of investigating or arresting
31 persons who commit or attempt to commit offenses directly relating to the
32 operations of the department.
- 33 3. Contract with other agencies or institutions in furtherance of any
34 department program.
- 35 4. Authorize the temporary escort of a youth for compassionate leave
36 or for the purposes of treatment, education or rehabilitation. The director
37 shall consider the public safety and any other relevant factors before
38 approving the temporary escort of a youth. Department staff shall escort and
39 maintain custody of a youth authorized for temporary escort.
- 40 5. Adopt guidelines to dispose of property that is no longer needed or
41 necessary for use in a department educational, vocational, treatment,
42 training or work program. The disposition of property is exempt from chapter
43 23, article 8 of this title. Any monies derived from the disposition of the
44 property shall be deposited, pursuant to sections 35-146 and 35-147, in the

1 department of juvenile corrections career technical education fund
2 established by section 41-2828.

3 6. Accept and spend private grants of monies to effectuate the
4 purposes of section 41-2827. Monies collected pursuant to this paragraph
5 shall be deposited and administered pursuant to section 41-2828.

6 C. Peace officers of the department shall not preempt the authority
7 and jurisdiction of established agencies of this state and political
8 subdivisions of this state. Such officers shall notify agencies of this
9 state and political subdivisions of this state before conducting an
10 investigation within the jurisdiction of the agency and before making an
11 arrest within the jurisdiction of the agency and shall ask, except in an
12 emergency, if the agency wishes to participate, perform the investigation or
13 arrest the person to be arrested before proceeding. Personnel appointed as
14 peace officers by the director shall have the minimum qualifications
15 established for peace officers pursuant to section 41-1822. Personnel
16 appointed by the director pursuant to subsection B, paragraph 2, subdivision
17 (g) of this section are not eligible to participate in the public safety
18 personnel retirement system except as otherwise provided in title 38, chapter
19 5, article 4.

20 Sec. 151. Section 41-2831, Arizona Revised Statutes, is amended to
21 read:

22 41-2831. State educational system for committed youth; report

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

25 B. The director shall identify three persons who are qualified to
26 serve as superintendent of the state educational system for committed youth.
27 The director and the superintendent of public instruction shall agree on one
28 of the three persons whom the director shall employ as superintendent to
29 manage the educational system. The superintendent of the educational system
30 shall employ teachers and other personnel as needed in accordance with
31 chapter 4, article ~~5~~ 4 of this title, subject to the approval of the
32 director. All persons who are employed to work in the educational system
33 including the superintendent shall hold the appropriate certificate
34 prescribed by the state board of education in section 15-203, subsection A,
35 paragraph 14.

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

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

41 E. The state educational system for committed youth shall provide
42 appropriate education to all committed youth as required by state and federal
43 law. If not otherwise required by law, the educational system shall provide
44 an appropriate education to all committed youth who have not received a high
45 school diploma or a high school certificate of equivalency.

1 F. On entrance of a youth to the state educational system for
2 committed youth, the educational system shall administer a basic skills
3 examination to the youth to determine the educational needs of the youth. A
4 similar examination shall be administered on the youth's exit from the
5 educational system to assess the youth's progress while enrolled in the
6 educational system.

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

10 H. The superintendent shall:

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

13 2. Prepare an annual financial report containing information similar
14 to that provided by school districts in the report prescribed in section
15 15-904 in a format prescribed by the department of administration in
16 consultation with the auditor general and submit the report to the governor,
17 the speaker of the house of representatives, the president of the senate and
18 the department of education by November 1. When submitting the report to the
19 speaker and president, the superintendent shall send a copy of the report to
20 the chairmen of the house and senate education committees and shall send a
21 notice to all other legislators that the report is available on request.

22 3. Establish a system for communicating with each youth's school
23 district of residence in order to facilitate the transfer of records, the
24 determination of the most appropriate educational program and the transfer of
25 educational credit.

26 I. The department of administration shall develop and maintain a
27 special pay plan for teachers and other professional educational personnel
28 within the state educational system for committed youth. The pay plan shall
29 attempt to keep salaries at a comparable level to that of public school
30 district personnel. ~~Recommendations for this pay plan shall be included
31 within the department of administration's annual recommendation to the
32 legislature pursuant to section 41-763.01.~~

33 Sec. 152. Section 41-3016.06, Arizona Revised Statutes, is amended to
34 read:

35 41-3016.06. Department of administration; termination July 1,
36 2016

37 A. The department of administration terminates on July 1, 2016.

38 B. Title 41, chapter 4, articles 1, 2, 3, 4, 5 and 7 and chapter 32
39 are repealed on January 1, 2017.

40 Sec. 153. Section 41-3451, Arizona Revised Statutes, is amended to
41 read:

42 41-3451. Automobile theft authority; powers and duties; fund;
43 audit

44 A. An automobile theft authority is established consisting of the
45 following members:

- 1 1. Two police chiefs who are appointed by the Arizona chiefs' of
2 police association, one of whom represents a city or town with a population
3 of one hundred thousand or more persons and one of whom represents a city or
4 town with a population of less than one hundred thousand persons, or their
5 designees.
- 6 2. Two sheriffs who are appointed by the Arizona sheriffs'
7 association, one of whom represents a county with a population of five
8 hundred thousand or more persons and one of whom represents a county with a
9 population of less than five hundred thousand persons, or their designees.
- 10 3. Two county attorneys who are appointed by the governor, one of whom
11 represents a county with a population of two million or more persons and one
12 of whom represents a county with a population of less than two million
13 persons, or their designees.
- 14 4. Two employees of insurers who are licensed to write motor vehicle
15 liability insurance in this state and who are appointed by the governor.
- 16 5. Two members of the general public who are appointed by the
17 governor.
- 18 6. The assistant director for the motor vehicle division in the
19 department of transportation or the assistant director's designee.
- 20 7. The director of the department of public safety or the director's
21 designee.
- 22 B. Members serve staggered four year terms beginning and ending on the
23 third Monday in January. At the first meeting each year, the members shall
24 select a chairman from among the members. The authority shall meet at the
25 call of the chairman or seven members.
- 26 C. The authority may:
 - 27 1. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, hire staff members
28 as necessary, including an executive director. The executive director's
29 annual compensation shall not be more than seventy-five thousand dollars.
 - 30 2. Provide work facilities and equipment as necessary.
 - 31 3. Determine the scope of the problem of motor vehicle theft,
32 including particular areas of the state where the problem is greatest.
 - 33 4. Analyze the various methods of combating the problem of motor
34 vehicle theft.
 - 35 5. Develop and implement a plan of operation.
 - 36 6. Develop and implement a financial plan.
 - 37 7. Solicit and accept gifts and grants.
 - 38 8. Report by December 31 of each year to the governor, the president
39 of the senate, the speaker of the house of representatives, the secretary of
40 state and the director of the Arizona state library, archives and public
41 records on its activities during the preceding fiscal year.
- 42 D. If the chairman of the authority knows that a potential ground for
43 the removal of a member of the authority exists under this subsection, the
44 chairman shall notify the governor. The governor shall remove the member if
45 the governor finds that any of the following applies:

1 1. The member was not qualified to serve at the time the member was
2 appointed.

3 2. The member does not maintain the member's qualifications to serve.

4 3. The member cannot discharge the member's duties for a substantial
5 part of the term due to illness or other disability.

6 4. The member is absent from more than one-half of the regularly
7 scheduled meetings during a calendar year unless the member's absence is
8 excused by a majority vote of the authority.

9 E. The automobile theft authority fund is established consisting of
10 any public or private monies that the authority may receive. The automobile
11 theft authority shall administer the fund. Subject to legislative
12 appropriation, monies in the fund shall only be used to pay the expenses of
13 the authority and to carry out the purposes of this section. Monies in the
14 fund are exempt from the provisions of sections 35-143.01 and 35-190 relating
15 to lapsing of appropriations. On notice from the authority, the state
16 treasurer shall invest and divest monies in the fund as provided by section
17 35-313, and monies earned from investment shall be credited to the fund.

18 F. The authority may accept nonmonetary contributions, including the
19 services of individuals, office and secretarial assistance, mailings,
20 printing, office equipment, facilities and supplies, that are necessary to
21 carry out its functions. The nonmonetary contributions shall not be included
22 in the costs of administration limitation prescribed by subsection H of this
23 section.

24 G. The automobile theft authority shall allocate monies in the fund to
25 public agencies for the purpose of establishing, maintaining and supporting
26 programs that are designed to prevent motor vehicle theft, including:

27 1. Financial support to law enforcement and prosecution agencies for
28 programs that are designed to increase the effectiveness of motor vehicle
29 theft prosecution.

30 2. Financial support for programs that are designed to educate and
31 assist the public in the prevention of motor vehicle theft.

32 H. The costs of administration shall not exceed ten per cent of the
33 monies in the fund in any one year so that the greatest possible portion of
34 the monies available to the authority is expended on combating motor vehicle
35 theft.

36 I. Monies expended from the automobile theft authority fund shall be
37 used to supplement, not supplant, other monies that are available for motor
38 vehicle theft prevention.

39 J. Each insurer issuing motor vehicle liability insurance policies in
40 this state shall pay a semiannual fee of fifty cents per vehicle insured
41 under a motor vehicle liability insurance policy issued by the insurer. The
42 fee shall be fully earned and nonrefundable at the time the insurer collects
43 the premium for the motor vehicle liability insurance policy. Each insurer
44 shall transmit the fee on or before January 31 and on or before July 31 of
45 each year to the automobile theft authority for deposit in the automobile

1 theft authority fund. The payment due on or before January 31 shall cover
2 vehicles insured under policies that are issued during the period from July 1
3 through December 31 of the previous year. The payment due on or before July
4 31 shall cover vehicles insured under policies that are issued during the
5 period from January 1 through June 30 of the same year.

6 K. The authority shall cause an audit to be made of the automobile
7 theft authority fund. The audit shall be conducted by a certified public
8 accountant every two years. The authority shall file a certified copy of the
9 audit with the auditor general immediately. The auditor general may make
10 further audits and examinations as the auditor general deems necessary and
11 may take appropriate action relating to the audit pursuant to chapter 7,
12 article 10.1 of this title.

13 L. Authority members are not eligible to receive compensation but are
14 eligible for reimbursement of expenses pursuant to title 38, chapter 4,
15 article 2.

16 M. This section does not apply to vehicles or vehicle combinations
17 with a declared gross weight of more than twenty-six thousand pounds. Motor
18 vehicle liability insurance policies issued in this state for vehicles or
19 vehicle combinations with a declared gross weight of more than twenty-six
20 thousand pounds are exempt from subsection J of this section.

21 Sec. 154. Section 41-3503, Arizona Revised Statutes, is amended to
22 read:

23 41-3503. Powers and duties of director

24 In regard to government information technology, the director shall:

25 1. Appoint a chief information officer for information technology.

26 2. Establish minimum qualifications for each position authorized for
27 the department for government information technology. The qualifications
28 shall be subject to the review of the information technology authorization
29 committee.

30 3. Employ, determine the conditions of employment and prescribe the
31 duties and powers of administrative, professional, technical, secretarial,
32 clerical and other persons SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE as
33 may be necessary in the performance of the department's duties and contract
34 for the services of outside advisors, consultants and aides as may be
35 reasonably necessary. Employees of the department ~~are exempt from chapter 4,~~
36 ~~article 5 of this title but~~ shall meet the minimum qualifications established
37 pursuant to this section.

38 Sec. 155. Section 41-3505, Arizona Revised Statutes, is amended to
39 read:

40 41-3505. Information technology fund

41 A. The information technology fund is established for use by the
42 department and the committee. Monies in the fund are subject to legislative
43 appropriation.

44 B. State ~~service~~ agencies subject to section ~~41-764~~ 41-750, all budget
45 units and the legislative and judicial branches of state government, ~~—~~ shall

1 contribute a pro rata share of the overall cost of information technology
2 services provided by the department or committee. The pro rata share is
3 payable by payroll fund source, and the resultant amount shall be deposited
4 in the information technology fund. For all budget units and the legislative
5 and judicial branches of state government, the pro rata share shall be .20
6 per cent of the total payroll. Total payroll includes all fund sources
7 including the state general fund, federal monies, special revenue funds,
8 intergovernmental revenue monies, trust funds and other payroll fund sources.

9 C. A claim for the pro rata share percentage payment shall be
10 submitted according to the fund source, with the accompanying payroll, to the
11 department of administration for deposit in the information technology fund.

12 D. Notwithstanding section 35-190, monies in the information
13 technology fund do not revert to the state general fund at the end of each
14 fiscal year.

15 Sec. 156. Section 41-3952, Arizona Revised Statutes, is amended to
16 read:

17 41-3952. Arizona department of housing; director

18 A. The Arizona department of housing is established.

19 B. The governor shall appoint the director pursuant to section 38-211.
20 The ~~term of the director is five years and expires on the third Monday in~~
21 ~~January of the appropriate year, except that~~ **SERVES AT THE PLEASURE OF** the
22 governor. ~~may remove the director for cause. On expiration of the~~
23 ~~director's term, the governor may reappoint the director for another term.~~

24 C. The director shall administer the department.

25 D. The director and such other employees as the director determines
26 are entitled to receive compensation as determined under section 38-611.

27 E. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, the director shall
28 appoint a deputy director and, subject to legislative appropriation, may
29 appoint assistant directors as the director deems appropriate.

30 F. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, the director shall
31 employ, determine the conditions of employment and specify the duties of
32 administrative, secretarial and clerical employees the director deems
33 necessary.

34 G. The director may organize the department into divisions the
35 director deems appropriate.

36 Sec. 157. Section 41-4253, Arizona Revised Statutes, is amended to
37 read:

38 41-4253. Department employees

39 Subject to chapter 4, **ARTICLE 4 AND, AS APPLICABLE**, articles 5 and 6 of
40 this title, the director shall employ, determine the conditions of employment
41 of and specify the duties of administrative, secretarial and clerical
42 employees the director deems necessary.

1 Sec. 158. Section 41-4301, Arizona Revised Statutes, is amended to
2 read:

3 41-4301. State capital postconviction public defender; office;
4 appointment; qualifications; powers and duties

5 A. The state capital postconviction public defender office is
6 established.

7 B. The state is responsible for funding the state capital
8 postconviction public defender office, including start-up costs.

9 C. The governor shall appoint the state capital postconviction public
10 defender and fill any vacancy in the office on the basis of merit alone
11 without regard to political affiliation from the list of names that are
12 submitted pursuant to sections 41-4302 and 38-211. The state capital
13 postconviction public defender serves ~~a four year term and serves until the~~
14 ~~appointment and qualification of a successor in office. After appointment,~~
15 ~~the state capital postconviction public defender is subject to removal from~~
16 ~~office only for good cause as determined by a majority vote of the~~
17 ~~nomination, retention and standards commission on indigent defense. A~~
18 ~~vacancy shall be filled for the balance of the unexpired term~~ AT THE PLEASURE
19 OF THE GOVERNOR.

20 D. The state capital postconviction public defender shall meet all of
21 the following criteria:

22 1. Be a member in good standing of the state bar of Arizona or become
23 a member of the state bar of Arizona within one year after appointment.

24 2. Have been a member of the state bar of Arizona or admitted to
25 practice in any other state for the five years immediately preceding the
26 appointment.

27 3. Have had substantial experience in the representation of accused or
28 convicted persons in criminal or juvenile proceedings.

29 4. Meet or exceed the standards for appointment of counsel in capital
30 cases under rule 6.8, Arizona rules of criminal procedure, as determined by
31 the nomination, retention and standards commission on indigent defense.

32 E. The salary of the state capital postconviction public defender
33 shall equal the annual salary of the chief counsel of the capital litigation
34 section in the office of the attorney general.

35 F. The state capital postconviction public defender shall:

36 1. Represent any person who is not financially able to employ counsel
37 in postconviction relief proceedings in state court after a judgment of death
38 has been rendered. Notwithstanding section 11-584, subsection A, paragraph
39 7, after a judgment of death has been rendered, a county employed indigent
40 defense counsel shall not handle postconviction relief proceedings in state
41 court unless a conflict exists with the state capital postconviction public
42 defender and a county employed indigent defense counsel is appointed.

43 2. Supervise the operation, activities, policies and procedures of the
44 state capital postconviction public defender office.

1 3. Beginning in fiscal year 2007-2008, submit an annual budget for the
2 operation of the office to the legislature.

3 4. Not engage in the private practice of law or represent a person who
4 is not assigned by the supreme court.

5 5. Not provide trial or direct appeal assistance to attorneys outside
6 of the state capital postconviction public defender office. For the purposes
7 of this paragraph, trial or direct appeal assistance does not include general
8 training.

9 6. Not lobby, during working hours, the state legislature or the
10 Congress of the United States, except as provided by paragraph 3 of this
11 subsection.

12 7. Allocate personnel and resources to postconviction relief
13 proceedings so long as there are no conflicts of interest in representation
14 and all state capital postconviction public defender attorneys are appointed
15 to postconviction relief cases that are eligible for appointment of counsel
16 under section 13-4041.

17 G. The state capital postconviction public defender may:

18 1. Accept and spend public and private gifts and grants for use in
19 improving and enhancing the ability to perform the responsibilities of the
20 state capital postconviction public defender office pursuant to this chapter.

21 2. Employ not more than three deputies and not more than four other
22 employees and establish and operate any offices as needed for the proper
23 performance of the duties of the office.

24 H. For each person represented, the state capital postconviction
25 public defender office shall request reimbursement from the county in which
26 the person was convicted for fees it incurs pursuant to this section arising
27 out of its representation of that person. The county shall pay fifty per
28 cent of the fees incurred by the state capital postconviction public defender
29 office. The state treasurer shall deposit the reimbursement fees from the
30 county in the capital postconviction public defender office fund established
31 by section 41-4303.

32 Sec. 159. Section 41-4801, Arizona Revised Statutes, is amended to
33 read:

34 41-4801. Definitions

35 In this chapter, unless the context otherwise requires:

36 1. "Government attorney" means an attorney employed by this state as a
37 staff attorney in the attorney general's office.

38 2. "Private attorney" means any private attorney or law firm.

39 3. "State" means this state, including state officers, agencies,
40 departments, boards and commissions and units of organization, however
41 designated, of the executive branch of this state, and any of its agents, but
42 does not include those agencies as provided in section 41-192,
43 subsection ~~E~~ D.

- 1 5. Accept grants, matching funds and direct payments from public or
2 private agencies for the conduct of programs which are consistent with the
3 overall purposes and objectives of the department.
- 4 6. Provide information and advice within the scope of its duties
5 subject to the laws on confidentiality of information and departmental rules
6 adopted pursuant to such laws.
- 7 7. Advise with and make recommendations to the governor and the
8 legislature on all matters concerning its objectives.
- 9 8. Have an official seal which shall be judicially noticed.
- 10 9. Provide an integrated, coordinated and uniform system of tax
11 administration and revenue collection for the state.
- 12 B. The department may:
- 13 1. With the approval of the attorney general:
- 14 (a) Abate any balance owed by a taxpayer if the balance is
15 uncollectible. Related liens, if any, are extinguished on abatement.
- 16 (b) Abate all or part of the unpaid portion of any tax if the director
17 determines that the administration and collection costs involved would exceed
18 the amount of the tax.
- 19 2. Offer publications relating to the administration of state taxes
20 for sale at a price equal to the pro rata cost of publication and
21 distribution. Monies received from the sale of publications shall be placed
22 in a revenue publications revolving fund. Monies in the fund:
- 23 (a) Shall be used to meet publication and distribution expenses.
- 24 (b) Are exempt from the provisions of section 35-190 relating to
25 lapsing of appropriations.
- 26 3. Enter into contingent fee contracts to collect delinquent state
27 taxes, penalties, interest and other amounts owed to the department under
28 title 43 and chapter 5, article 1 of this title, consistent with the
29 requirements of chapter 2, article 1 of this title. No contract may be
30 entered into for the hiring of auditors on a contingent fee basis except
31 auditors that are hired to enforce title 44, chapter 3.
- 32 C. In the determination of any issue of law or fact under this title
33 or title 43, neither the department, nor any officer or agency having any
34 administrative duties under this title or title 43, nor any court is bound by
35 the determination of any other executive officer or administrative agency of
36 this state. In the determination of any case arising under this title or
37 title 43, the rule of res judicata is applicable only if the liability
38 involved is for the same year or period as was involved in another case
39 previously determined under this title or title 43.
- 40 D. The remedies of this state provided for in this title and title 43
41 are cumulative, and no action taken by the department constitutes an election
42 by this state to pursue any remedy to the exclusion of any other remedy
43 provided by law.
- 44 E. The attorney general shall prosecute in the name of this state all
45 actions necessary to enforce this title and title 43. The attorney general

1 may defend all actions brought against this state or an officer or agency of
2 this state arising under this title and title 43. The attorney general may
3 delegate the prosecuting authority to any county attorney for prosecution in
4 that county.

5 F. A special collections account is established in the state general
6 fund. All monies collected pursuant to contracts authorized by subsection B,
7 paragraph 3 of this section shall be deposited in the special collections
8 account. The department shall pay from the account all fees and court costs
9 provided for in the contracts authorized under subsection B, paragraph 3 of
10 this section. The department shall allocate the remainder of the amounts
11 collected under subsection B, paragraph 3 of this section to the state or the
12 political subdivision in the proportion that the monies would have been
13 distributed pursuant to chapter 5 of this title or section 43-206,
14 respectively.

15 Sec. 162. Section 42-1252, Arizona Revised Statutes, is amended to
16 read:

17 42-1252. State board of tax appeals

18 A. The state board of tax appeals is established as an independent
19 agency which shall not in any way be subject to the supervision or control of
20 the department of revenue. The board shall have full power to hear and
21 decide all appeals from decisions of the department of revenue.

22 B. The state board shall consist of three members appointed by the
23 governor pursuant to section 38-211. Members shall be residents of this
24 state.

25 C. Members shall be selected on the basis of their knowledge of and
26 experience in taxation. Not more than two members may be primarily engaged
27 in the same occupation or profession. The board shall handle all matters
28 entrusted by law to it dealing with income taxation, estate taxation,
29 transaction privilege, use and luxury taxation and any other taxation
30 assigned to it by law and shall hear and decide appeals from the department
31 of revenue on such matters.

32 D. Not more than two members of the board shall be members of the same
33 political party. No member of the board shall hold any other public office
34 under the laws of this state or any of its political subdivisions. No member
35 shall be a candidate for an elective office under the laws of this state, nor
36 of any other state. No member of the board shall hold any position of trust
37 nor provide or engage in any occupation or business which would corruptly
38 conflict with the duties of a member of the board, nor take part directly or
39 indirectly in any election campaign in the interest of any political party or
40 other organization or any candidate or measure to be voted on by the people.
41 This subsection does not prohibit a person from properly and lawfully
42 engaging in a business or profession.

43 E. The term of board members is six years. The member of the board
44 having the shortest term remaining shall act as chairperson if that member
45 has served on the board at least two years. If the member having the

1 shortest term remaining does not qualify to act as chairperson or if two or
2 more members have an equal right by virtue of their remaining terms to serve
3 as chairperson, the board shall elect a chairperson. A member may not be
4 appointed for more than two terms.

5 F. Each member of the board shall receive:

6 1. One hundred fifty dollars per day for time spent in the performance
7 of official duties.

8 2. Such travel and other expenses as provided by law for other state
9 officers.

10 G. The governor may remove any member for cause.

11 H. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board shall appoint
12 a clerk, hearing officers and such other employees as it deems necessary to
13 carry out its duties. The hearing officer qualifications shall be the same
14 as the selection criteria for the members as prescribed by this section.
15 Notwithstanding section 41-192, subsection ~~E~~ D, upon request of the board,
16 the attorney general shall designate, for such time and purposes as the board
17 requires, an attorney, acceptable to the board, whose compensation shall be
18 fixed and paid by the board.

19 I. The board shall hold hearings and meetings at the call of the
20 chairperson or a majority of the board and otherwise as may be prescribed by
21 the rules of the board as required to carry out its duties. The principal
22 office of the board shall be at the capitol, but the board may sit or hold
23 hearings at any other place within the state. A majority of the board
24 constitutes a quorum for making orders and decisions or transacting other
25 official business, and the board may act even though one position on the
26 board is vacant. The board shall keep a record of its proceedings.

27 J. In conducting the business of the board:

28 1. The board may not act if more than one position is vacant.

29 2. One or more members or a hearing officer of the board may hold
30 hearings and take testimony to be reported for action by the board when
31 authorized by rule or order of the board.

32 Sec. 163. Section 42-16155, Arizona Revised Statutes, is amended to
33 read:

34 ~~42-16155.~~ [Hearing officers and employees](#)

35 A. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the state board of
36 equalization may employ one or more hearing officers who must meet the same
37 qualifications prescribed for the members of the board by section 42-16153.

38 B. Any training activity for hearing officers shall be held in public
39 with notice as prescribed by title 38, chapter 3, article 3.1.

40 C. A hearing officer is eligible to receive up to three hundred
41 dollars per day for time spent in performing official duties.

42 D. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the state board may
43 appoint a chief clerk and any other employees that it considers to be
44 necessary to carry out its duties.

1 Sec. 164. Section 45-104, Arizona Revised Statutes, is amended to
2 read:

3 45-104. Department organization; deputy directors; employees;
4 legal counsel; branch offices; consultants

5 A. The director may establish and organize divisions within the
6 department and otherwise organize the department in the manner the director
7 deems necessary to make the operation of the department efficient and
8 effective.

9 B. The director may appoint a deputy director to each division or
10 organizational unit that the director may establish. SUBJECT TO TITLE 41,
11 CHAPTER 4, ARTICLE 4, deputy directors ~~are exempt from the state personnel~~
12 ~~system,~~ shall serve at the pleasure of the director and are entitled to
13 receive compensation pursuant to section 38-611.

14 C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,
15 ARTICLES 5 AND 6, the director, ~~within the classification and pay scales~~
16 ~~adopted by the state personnel board,~~ may employ, define the duties of and
17 prescribe the terms and conditions of employment of such clerical, technical,
18 professional and administrative personnel as necessary to efficiently perform
19 the responsibilities of the department. Compensation for all employees shall
20 be pursuant to section 38-611.

21 D. The director may employ on a contract basis geologists,
22 hydrologists, consulting engineers, other expert consultants and engineering
23 and other assistants as the director deems advisable, who are not subject to
24 the classification provided for in title 41, chapter 4, article 5.

25 E. The director may utilize the services of accounting, legal or
26 engineering personnel made available by any department or agency of this
27 state, who shall serve without additional compensation.

28 F. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the director may employ
29 legal counsel to advise and represent the department in connection with legal
30 matters before other departments and agencies of this state, and represent
31 the department and this state in litigation concerning affairs of the
32 department. Legal counsel is not subject to the classification provided for
33 in title 41, chapter 4, article 5.

34 G. The director shall maintain the director's office in Phoenix and
35 may establish a branch office of the department in each active management
36 area established pursuant to chapter 2, article 2 of this title.

37 H. The director on behalf of the department may contract with private
38 consultants for the purposes of assisting the department in reviewing
39 applications for licenses, permits or other authorizations to determine
40 whether an applicant meets the criteria for issuance of the license, permit
41 or other authorization. If the department contracts with a consultant under
42 this subsection, an applicant may request that the department expedite the
43 application review by requesting that the department use the services of the
44 consultant and by agreeing to pay the department the costs of the
45 consultant's services. Notwithstanding any other law, monies paid by

1 applicants for expedited reviews pursuant to this subsection are appropriated
2 to the department for use in paying consultants for services.

3 Sec. 165. Section 45-418, Arizona Revised Statutes, is amended to
4 read:

5 45-418. Area director; appointment; qualifications;
6 compensation

7 A. The director shall appoint an area director for each active
8 management area. For reasons of economy and efficiency in administration,
9 one person may be the area director for more than one active management area.
10 The area director shall serve at the pleasure of the director.

11 B. The area director is ~~exempt from the state personnel system~~ SUBJECT
12 TO TITLE 41, CHAPTER 4, ARTICLE 4 and is entitled to receive compensation as
13 determined pursuant to section 38-611.

14 Sec. 166. Section 49-103, Arizona Revised Statutes, is amended to
15 read:

16 49-103. Department employees; legal counsel

17 A. The director, subject to title 41, chapter 4, ARTICLE 4 AND, AS
18 APPLICABLE, articles 5 and 6, shall employ, determine the conditions of
19 employment and specify the duties of administrative, secretarial and clerical
20 employees as he deems necessary.

21 B. The attorney general shall be the legal advisor of the department
22 and shall give legal services as the department requires. Compensation for
23 personnel assigned by the attorney general to perform such services shall be
24 a charge against appropriations to the department. The attorney general
25 shall prosecute and defend in the name of this state all actions necessary to
26 carry out the provisions of this title.

27 Sec. 167. Section 49-1203, Arizona Revised Statutes, is amended to
28 read:

29 49-1203. Powers and duties of authority; definition

30 A. The authority is a corporate and politic body and shall have an
31 official seal that shall be judicially noticed. The authority may sue and be
32 sued, contract and acquire, hold, operate and dispose of property.

33 B. The authority, through its board, may:

34 1. Issue negotiable water quality bonds pursuant to section 49-1261
35 for the following purposes:

36 (a) To generate the state match required by the clean water act for
37 the clean water revolving fund and to generate the match required by the safe
38 drinking water act for the drinking water revolving fund.

39 (b) To provide financial assistance to political subdivisions, Indian
40 tribes and eligible drinking water facilities for constructing, acquiring or
41 improving wastewater treatment facilities, drinking water facilities,
42 nonpoint source projects and other related water quality facilities and
43 projects.

- 1 2. Issue water supply development bonds for the purpose of providing
2 financial assistance to water providers for water supply development purposes
3 pursuant to sections 49-1274 and 49-1275.
- 4 3. Provide financial assistance to political subdivisions and Indian
5 tribes from monies in the clean water revolving fund to finance wastewater
6 treatment projects.
- 7 4. Provide financial assistance to drinking water facilities from
8 monies in the drinking water revolving fund to finance these facilities.
- 9 5. Provide financial assistance to water providers from monies in the
10 water supply development revolving fund to finance water supply development.
- 11 6. Guarantee debt obligations of, and provide linked deposit
12 guarantees through third party lenders to:
 - 13 (a) Political subdivisions that are issued to finance wastewater
14 treatment projects.
 - 15 (b) Drinking water facilities that are issued to finance these
16 facilities.
 - 17 (c) Water providers that are issued to finance water supply
18 development projects.
- 19 7. Provide linked deposit guarantees through third party lenders to
20 political subdivisions, drinking water facilities and water providers.
- 21 8. Apply for, accept and administer grants and other financial
22 assistance from the United States government and from other public and
23 private sources.
- 24 9. Enter into capitalization grant agreements with the United States
25 environmental protection agency.
- 26 10. Adopt rules pursuant to title 41, chapter 6 governing the
27 application for and awarding of wastewater treatment facility, drinking water
28 facility and nonpoint source project financial assistance under this chapter,
29 the administration of the clean water revolving fund and the drinking water
30 revolving fund and the issuance of water quality bonds.
- 31 11. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), hire a director and
32 staff for the authority.
- 33 12. Contract for the services of outside advisors, attorneys,
34 consultants and aides reasonably necessary or desirable to allow the
35 authority to adequately perform its duties.
- 36 13. Contract and incur obligations as reasonably necessary or desirable
37 within the general scope of authority activities and operations to allow the
38 authority to adequately perform its duties.
- 39 14. Assess financial assistance origination fees and annual fees to
40 cover the reasonable costs of administering the authority and the monies
41 administered by the authority. Any fees collected pursuant to this paragraph
42 constitute governmental revenue and may be used for any purpose consistent
43 with the mission and objectives of the authority.
- 44 15. Perform any function of a fund manager under the CERCLA Brownfields
45 cleanup revolving loan fund program as requested by the department. The

1 board shall perform any action authorized under this article on behalf of the
2 Brownfields cleanup revolving loan fund program established pursuant to
3 chapter 2, article 1.1 of this title at the request of the department. In
4 order to perform these functions, the board shall enter into a written
5 agreement with the department.

6 16. Provide grants, staff assistance or technical assistance in the
7 form of loan repayment agreements and other professional assistance to
8 political subdivisions, any county with a population of less than five
9 hundred thousand persons, Indian tribes and community water systems in
10 connection with the development or financing of wastewater, drinking water,
11 water reclamation or related water infrastructure. Assistance provided under
12 a technical assistance loan repayment agreement shall be in a form and under
13 terms determined by the authority and shall be repaid not more than three
14 years after the date that the monies are advanced to the applicant. The
15 provision of technical assistance by the authority does not create any
16 liability for the authority or this state regarding the design, construction
17 or operation of any infrastructure project.

18 17. Provide grants, staff assistance or technical assistance in the
19 form of loan repayment agreements and other professional assistance to water
20 providers in connection with the planning or design of water supply
21 development projects as determined by the committee pursuant to section
22 49-1274. A single grant shall not exceed one hundred thousand dollars.
23 Assistance provided under a technical assistance loan repayment agreement
24 shall be in a form and under terms determined by the committee and shall be
25 repaid not more than three years after the date that the monies are advanced
26 to the applicant. The provision of technical assistance by the authority or
27 the committee does not create any liability for the authority, the committee
28 or this state regarding the design, construction or operation of any water
29 supply development project.

30 C. The authority, in consultation with the committee, may:

31 1. Adopt rules pursuant to title 41, chapter 6 governing the
32 application for and awarding of water supply development fund project
33 financial assistance under this chapter and the administration of the water
34 supply development revolving fund.

35 2. Appoint a technical advisory subcommittee of not more than five
36 persons with expertise in water resource planning and development to advise
37 the committee regarding the technical feasibility of water supply development
38 projects.

39 D. The board shall deposit, pursuant to sections 35-146 and 35-147,
40 any monies received pursuant to subsection B, paragraph 8 of this section in
41 the appropriate fund as prescribed by the grant or other financial assistance
42 agreement.

43 E. Disbursements of monies by the water infrastructure finance
44 authority pursuant to a financial assistance agreement are not subject to
45 title 41, chapter 23.

1 F. For the purposes of the safe drinking water act, the department of
2 environmental quality is the state agency with primary responsibility for
3 administration of this state's public water system supervision program and,
4 in consultation with other appropriate state agencies, is the lead agency in
5 establishing assistance priorities as prescribed by section 49-1243,
6 subsection A, paragraph 6 and section 49-1244, subsection B, paragraph 3.

7 G. For the purposes of this section, "CERCLA" has the same meaning
8 prescribed in section 49-201.

9 Sec. 168. Initial terms of additional members of the law
10 enforcement merit system council

11 A. Notwithstanding section 41-1830.11, Arizona Revised Statutes, as
12 amended by this act, the initial terms of additional members of the law
13 enforcement merit system council are:

- 14 1. One term ending July 1, 2016.
- 15 2. One term ending July 1, 2014.

16 B. Notwithstanding section 41-1830.11, Arizona Revised Statutes, as
17 amended by this act, members of the law enforcement merit system council who
18 are serving on the effective date of this act may continue to serve the
19 remainder of their terms.

20 C. The governor shall make all subsequent appointments as prescribed
21 by statute.

22 Sec. 169. Retention of agency heads appointed for term of
23 office

24 Notwithstanding sections 4-111, 5-101.01, 6-111, 17-211, 20-141,
25 26-101, 38-715, 41-1711, 41-3952 and 41-4301, Arizona Revised Statutes, as
26 amended by this act, all persons serving as agency heads for a specified term
27 of office on January 1, 2014 may continue to serve until the expiration of
28 their normal terms. The governor, board or commission shall make all
29 subsequent appointments as prescribed by statute.

30 Sec. 170. Purpose

31 In order to promote public confidence in government, governmental
32 integrity, increased accountability and the efficient delivery of services to
33 its citizens, this act intends to reform this state's outdated personnel
34 system. The current system consists of rules and regulations adopted many
35 years ago that served a valuable purpose at the time, but now actually makes
36 it difficult to manage the workforce effectively. The current emphasis on
37 job security rewards longevity over performance that often results in the
38 retention of lower performers and the separation of our best talent. The new
39 personnel system pursuant to this act is intended to support this state's
40 ability to attract, hire and retain high-performing employees.

41 Sec. 171. Exemption from rule making; department of
42 administration; state personnel board; law
43 enforcement merit system council; retroactivity

44 A. For the purpose of implementing the provisions of this act, until
45 October 31, 2012, the department of administration is exempt from the rule

1 making requirements of title 41, chapter 6, Arizona Revised Statutes, except
2 that the department shall provide, as appropriate under the circumstances,
3 for notice of and opportunity for comment on the rules proposed for adoption.
4 In order to implement or change any rule during the exemption period, the
5 department of administration shall provide at least two opportunities for
6 public comment.

7 B. For the purpose of amending rules pertaining to the administration
8 of hearings and the review of appeals pursuant to section 41-782, Arizona
9 Revised Statutes, as amended by this act, until October 31, 2012 the state
10 personnel board is exempt from the rule making requirements of title 41,
11 chapter 6, Arizona Revised Statutes. The board shall provide public notice
12 and an opportunity for public comment on proposed rules at least thirty days
13 before rules are adopted or amended pursuant to this section.

14 C. For the purpose of adopting rules pertaining to the administration
15 of hearings and the review of appeals pursuant to section 41-1830.11, Arizona
16 Revised Statutes, as amended by this act, until October 31, 2012 the law
17 enforcement merit system council is exempt from the rule making requirements
18 of title 41, chapter 6, Arizona Revised Statutes. The board shall provide
19 public notice and an opportunity for public comment on proposed rules at
20 least thirty days before rules are adopted pursuant to this section.

21 D. This section is effective retroactively to from and after April
22 30, 2012.

23 Sec. 172. Effective date

24 This act becomes effective from and after September 28, 2012.