

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

CHAPTER 321

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, 31-401, 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 AND 38-611, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 38-611.01 AND 38-611.02; AMENDING SECTIONS 38-612, 38-654, 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, 41-1830.11, 41-1830.12 AND 41-1830.13, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1830.14, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1830.15, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1830.16; AMENDING SECTIONS 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.

43 11. Conduct hearings on appeals of the portion of plow-up refunds
44 withheld as a penalty pursuant to criteria adopted pursuant to section
45 3-1087, subsection B. The director may adopt rules to implement this
46 paragraph.

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

B. The director may:

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

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

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

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

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

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

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

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

Sec. 2. Section 3-1003, Arizona Revised Statutes, is amended to read:

3-1003. Arizona exposition and state fair board; powers and duties; compensation of employees

A. The Arizona exposition and state fair board shall:

1 1. Have exclusive custody and direction of all state fair property,
2 construct and maintain necessary improvements in connection therewith, and
3 assist in raising funds therefor.

4 2. Direct and conduct state fairs, exhibits, contests and
5 entertainments for the purposes of promoting and advancing the pursuits and
6 interests of the several counties and of the state, and of producing
7 sufficient revenue to defray the expenses incurred by the board in conducting
8 such events.

9 3. Charge entrance fees and gate money, and temporarily lease stalls,
10 stands, booths and sites for the purpose of defraying the expenses incurred.

11 4. Give prizes or premiums for exhibits and contests which are
12 presented or sponsored by the board in connection with the annual state fair.

13 5. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ an executive
14 director, coliseum manager and comptroller. ~~Each contract of employment, if~~
15 ~~any, shall stipulate that the board at its option may terminate such~~
16 ~~employment by giving such employee ninety days' notice.~~

17 6. Delegate to the executive director any of the administrative
18 functions, powers or duties that the board believes the executive director
19 can competently, efficiently and properly perform.

20 7. When necessary in connection with business of the board, appoint
21 fair or ground marshals with the authority of peace officers.

22 8. Have the power to promote, co-promote or lease the state
23 fairgrounds for such events, exhibitions, entertainments or other purposes it
24 deems proper.

25 9. Have power to accept donations of money or other property from any
26 source, and expend them in accordance with directions of the donor. Monies
27 received pursuant to this paragraph shall not be placed in the general fund.

28 10. Adopt rules necessary to carry out the provisions of this chapter.

29 11. Prohibit the issuance of a free pass, ticket or box to any person
30 for any activity at the Arizona coliseum and exposition center, except that
31 this paragraph shall not apply to the state fair and any lessees of the
32 Arizona coliseum and exposition center.

33 B. The board may exempt from subsection A, paragraphs 2 and 3 such
34 educational, agricultural and mineral exhibits as in its opinion are in the
35 best interest of the state and not contrary to any outstanding obligations
36 the board might have incurred.

37 C. Compensation of all employees shall be as determined pursuant to
38 section 38-611.

39 Sec. 3. Section 3-1003.02, Arizona Revised Statutes, is amended to
40 read:

41 3-1003.02. Duties of the executive director and comptroller

42 A. The executive director shall be:

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

45 2. Responsible for organizing and prescribing the duties of all
46 positions and departmental units in the Arizona coliseum and exposition

1 center, including the coliseum manager and comptroller. The executive
2 director shall:

3 (a) With the advice and consent of the board, appoint either the
4 coliseum manager or the comptroller as deputy director to perform the
5 functions, powers and duties of the executive director if the executive
6 director is unable to act.

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

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

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

15 1. Act as the fiscal agent with complete authority to process all cash
16 receipts.

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

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

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

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

25 3-1211. State veterinarian; qualifications

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

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

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

33 4-111. State liquor board; department of liquor licenses and
34 control; members; director; appointment and removal

35 A. There is created the department of liquor licenses and control
36 which consists of the state liquor board and the office of director of the
37 department.

38 B. From and after January 31, 2003, the board consists of seven
39 members to be appointed by the governor pursuant to section 38-211. Five of
40 the members of the board shall not be financially interested directly or
41 indirectly in business licensed to deal with spirituous liquors. Two members
42 shall currently be engaged in business in the spirituous liquor industry or
43 have been engaged in the past in business in the spirituous liquor industry,
44 at least one of whom shall currently be a retail licensee or employee of a
45 retail licensee. One member shall be a member of a neighborhood association
46 recognized by a county, city or town. The term of members is three years.

1 Members' terms expire on the third Monday in January of the appropriate year.
2 The governor may remove any member of the board for cause. No member may
3 represent a licensee before the board or the department for a period of one
4 year after the conclusion of the member's service on the board.

5 C. The board shall annually elect from its membership a chairman and
6 vice-chairman. A majority of the board constitutes a quorum, and a
7 concurrence of a majority of a quorum is sufficient for taking any action.
8 If there are unfilled positions on the board, a majority of those persons
9 appointed and serving on the board constitutes a quorum.

10 D. The chairman may designate panels of not less than three members.
11 A panel may take any action which the board is authorized to take pursuant to
12 this title. Such action includes the ability to hold hearings and hear
13 appeals of administrative disciplinary proceedings of licenses issued
14 pursuant to this chapter. A panel shall not, however, adopt rules as
15 provided in section 4-112, subsection A, paragraph 2. The chairman may from
16 time to time add additional members or remove members from a panel. A
17 majority of a panel may upon the concurrence of a majority of the members of
18 the panel take final action on hearings and appeals of administrative
19 disciplinary proceedings concerning licenses issued pursuant to this chapter.

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

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

29 G. The governor shall appoint the director, pursuant to section
30 38-211, who shall be a qualified elector of the state and experienced in
31 administrative matters and enforcement procedures. The director shall serve
32 ~~concurrently with~~ AT THE PLEASURE OF the governor. ~~but may be removed by the~~
33 ~~governor for any of the following causes:~~

- 34 ~~1. Fraud in securing appointment.~~
- 35 ~~2. Incompetency.~~
- 36 ~~3. Inefficiency.~~
- 37 ~~4. Inexcusable neglect of duty.~~
- 38 ~~5. Insubordination.~~
- 39 ~~6. Dishonesty.~~
- 40 ~~7. Drunkenness on duty.~~
- 41 ~~8. Addiction to the use of narcotics or habit-forming drugs.~~
- 42 ~~9. Inexcusable absence without leave.~~
- 43 ~~10. Final conviction of a felony or a misdemeanor involving moral~~
44 ~~turpitude.~~
- 45 ~~11. Discourteous treatment of the public.~~
- 46 ~~12. Improper political activity.~~

~~13. Wilful disobedience.~~

~~14. Misuse of state property.~~

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

Sec. 6. Section 4-112, Arizona Revised Statutes, is amended to read:

4-112. Powers and duties of board and director of department of liquor licenses and control; investigations; county and municipal regulation

A. The board shall:

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

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

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

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

1. Adopting rules:

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

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

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

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

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

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

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

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

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

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

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

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

9 D. All employees of the department of liquor licenses and control,
10 except members of the state liquor board and the director of the department,
11 shall be employed by the department in the manner prescribed by the
12 department of administration.

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

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

27 G. The director may:

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

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

34 3. Delegate to employees of the department authority to exercise
35 powers of the director in order to administer the department.

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

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

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

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

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

4 9. Accept and expend private grants of monies, gifts and devises for
5 conducting educational programs for parents and students on the repercussions
6 of underage alcohol consumption. State general fund monies shall not be
7 expended for the purposes of this paragraph. If the director does not
8 receive sufficient monies from private sources to carry out the purposes of
9 this paragraph, the director shall not provide the educational programs
10 prescribed in this paragraph. Grant monies received pursuant to this
11 paragraph are nonlapsing and do not revert to the state general fund at the
12 close of the fiscal year.

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

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

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

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

25 5-101.01. Arizona department of racing; director;
26 qualifications; term; deputy director; conflict of
27 interest

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

29 B. The governor shall appoint a director of the department pursuant to
30 section 38-211 ~~and in accordance with the provisions of subsection C of this~~
31 ~~section.~~ The director serves at the pleasure of the governor ~~for a term of~~
32 ~~five years.~~ To be eligible for appointment as director, a person must have a
33 minimum of five years of experience in business and administration and shall
34 not have a financial interest in a racetrack or in the racing industry in
35 this state during ~~the term of~~ his appointment. The governor may appoint an
36 acting director if there is a vacancy in the office.

37 ~~C. Within sixty days after a vacancy occurs in the position of~~
38 ~~director, the commission shall forward a list of three candidates for~~
39 ~~appointment as director to the governor. The governor may request one~~
40 ~~additional list to be submitted by the commission. In the event the governor~~
41 ~~does not appoint the director within thirty days following receipt of the~~
42 ~~list submitted by the commission, the commission shall select a director for~~
43 ~~the department. In the event that the commission fails to submit the lists~~
44 ~~requested by the governor, the governor may appoint any qualified person to~~
45 ~~the position of director.~~

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

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

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

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

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

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

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

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

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

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

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

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

A. For purposes of detecting violations of this article, the department shall appoint qualified veterinarians, biochemists and such other personnel SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 as the department considers necessary or may contract with a duly qualified chemical laboratory located either within or outside this state. The testing personnel may, in accordance with such procedures as the commission by regulation prescribes:

1. Examine horses entered in a race within six hours before the start of the race to determine if the horse has been desensitized or drugged. For the purposes of the examination a horse does not have to be held in a retaining barn.

2. Examine dogs at weigh-in or weigh-out time to determine if the dog has been desensitized or drugged.

3. Perform such other tests and inspections as the department considers necessary to carry out this article including the random splitting of samples.

1 4. Store blood, urine and saliva samples in a frozen state or in any
2 other appropriate manner by which they may be preserved for future analysis.

3 5. Perform tests on horses or dogs that die while on property under
4 the jurisdiction of the department.

5 6. Analyze samples of urine, blood or saliva taken immediately after a
6 race from the horse that won the race to determine if the horse has been
7 drugged. The department may additionally analyze samples of any other animal
8 entered in a race.

9 7. Analyze samples of urine or saliva taken either immediately prior
10 to or after a race from the dog that won the race to determine if the dog has
11 been drugged. The department may additionally analyze samples of any other
12 animal entered in a race.

13 B. The veterinarian authorized by the department may order the taking
14 and analysis of samples from a losing favorite or from any other horse or dog
15 when the veterinarian, based upon the performance of the horse or dog in the
16 race, has probable cause to believe that the horse or dog has been drugged or
17 desensitized. If a blood sample is required, the veterinarian shall take the
18 sample.

19 C. The identity of any horse or dog determined under this section to
20 be drugged or desensitized shall, in accordance with such procedures as the
21 commission prescribes by regulation, be reported to a steward and the
22 appropriate county attorney. If any horse or dog is not made available in
23 accordance with such regulations as the commission prescribes for any test or
24 inspection required under this section the identity of such horse or dog
25 shall be reported to a steward.

26 D. A permittee shall, in accordance with regulations prescribed by the
27 commission, provide the testing personnel with adequate space and facilities
28 so that the inspections, tests and other procedures described in subsection A
29 may be performed. Access to such space and facilities shall be restricted in
30 accordance with regulations prescribed by the commission.

31 E. Testing personnel may detain for a period of not to exceed
32 twenty-four hours for examination, testing or the taking of evidence any
33 horse or dog at a race which is drugged or desensitized or which such person,
34 based upon the results of an inspection, test or other procedure conducted
35 under this section, has probable cause to believe is drugged or desensitized.
36 Any horse or dog which is detained may not be moved during such detention
37 from the place where the horse or dog is detained except as authorized by
38 testing personnel pursuant to rule and regulation of the commission.

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

43 Sec. 9. Section 5-112, Arizona Revised Statutes, is amended to read:

44 5-112. Wagering legalized; simulcasting of races; unauthorized
45 wagering prohibited; classification; report

1 A. Except as provided in subsection L of this section, section
2 5-101.01, subsection ~~G~~ F and title 13, chapter 33, any person within the
3 enclosure of a racing meeting held pursuant to this article may wager on the
4 results of a race held at the meeting or televised to the racetrack enclosure
5 by simulcasting pursuant to this section by contributing money to a
6 pari-mutuel pool operated by the permittee as provided by this article.

7 B. The department, upon request by a permittee, may grant permission
8 for electronically televised simulcasts of horse, harness or dog races to be
9 received by the permittee. In counties having a population of one million
10 five hundred thousand persons or more according to the most recent United
11 States decennial census, the simulcasts shall be received at the racetrack
12 enclosure where a horse, harness or dog racing meeting is being conducted,
13 provided that the simulcast may only be received during, immediately before
14 or immediately after a minimum of nine posted races for that racing day. In
15 counties having a population of five hundred thousand persons or more but
16 less than one million five hundred thousand persons according to the most
17 recent United States decennial census, the simulcasts shall be received at
18 the racetrack enclosure where a horse, harness or dog racing meeting is being
19 conducted provided that the simulcast may only be received during,
20 immediately before or immediately after a minimum of four posted races for
21 that racing day. In all other counties, the simulcasts shall be received at
22 a racetrack enclosure at which authorized racing has been conducted whether
23 or not posted races have been offered for the day the simulcast is received.
24 The simulcasts shall be limited to horse, harness or dog races. The
25 simulcasts shall be limited to the same type of racing as authorized in the
26 permit for live racing conducted by the permittee. The department, upon
27 request by a permittee, may grant permission for the permittee to transmit
28 the live race from the racetrack enclosure where a horse, harness or dog
29 racing meeting is being conducted to a facility or facilities in another
30 state. All simulcasts of horse or harness races shall comply with the
31 interstate ~~horse racing~~ HORSERACING act of 1978 (P.L. 95-515; 92 Stat. 1811;
32 15 United States Code chapter 57). All forms of pari-mutuel wagering shall
33 be allowed on horse, harness or dog races televised by simulcasting. All
34 monies wagered by patrons on these horse, harness or dog races shall be
35 computed in the amount of money wagered each racing day for purposes of
36 section 5-111.

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

45 1. For horse and harness racing, the permittee's racing permit
46 requires the permittee to conduct a minimum of nine posted races on an

1 average of five racing days each week at the permittee's racetrack enclosure
2 during the period beginning on October 1 and ending on the first full week in
3 May.

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

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

16 1. For horse and harness racing, the permittee may conduct wagering on
17 dark day simulcasts for twenty days, provided the permittee conducts a
18 minimum of seven posted races on each of the racing days mandated in the
19 permittee's commercial racing permit. In order to conduct wagering on dark
20 day simulcasts for more than twenty days, the permittee is required to
21 conduct a minimum of seven posted races on one hundred forty racing days at
22 the permittee's racetrack enclosure.

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

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

29 F. The minimum racing day requirements of subsections C and D of this
30 section shall be computed by adding all racing days, including any county
31 fair racing days operated in accordance with section 5-110, subsection F,
32 allotted to the permittee's racetrack enclosure in one or more racing permits
33 and all racing days allotted to the permittee's racetrack enclosure pursuant
34 to section 5-110, subsection H.

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

18 H. Simulcast signals or teletracking of simulcast signals does not
19 prohibit live racing or teletracking of that live racing in any county at any
20 time.

21 I. Except as provided in subsection L of this section, section
22 5-101.01, subsection ~~G~~ F and title 13, chapter 33, any person within a
23 racetrack enclosure or an additional facility authorized for wagering
24 pursuant to section 5-111, subsection A may wager on the results of a race
25 televised to the facility pursuant to section 5-111, subsection A by
26 contributing to a pari-mutuel pool operated as provided by this article.

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

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

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

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

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

45 O. Any person other than a permittee under this article who accepts a
46 wager or who bets on the results of a race, whether the race is conducted in

1 or outside this state, including buying, selling, cashing, exchanging or
2 acquiring a financial interest in a pari-mutuel ticket from a person in this
3 state outside of a racing enclosure or an additional wagering facility that
4 is approved by the commission and that is located in this state is guilty of
5 a class 6 felony.

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

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

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

17 5-224. Division of boxing and mixed martial arts regulation;
18 powers and duties

19 A. A division of boxing and mixed martial arts regulation is
20 established in the Arizona department of racing to provide staff support for
21 the Arizona state boxing and mixed martial arts commission. SUBJECT TO TITLE
22 41, CHAPTER 4, ARTICLE 4, the director of the department shall appoint an
23 executive director to perform the duties prescribed in this article. The
24 resources for the Arizona state boxing and mixed martial arts commission
25 shall come from monies appropriated to the department of racing.

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

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

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

37 E. The commission shall:

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

40 2. Keep records of the commission open to public inspection at all
41 reasonable times.

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

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

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

6 Sec. 11. Section 5-556, Arizona Revised Statutes, is amended to read:
7 5-556. Powers and duties of director

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

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

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

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

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

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

27 6. Confer regularly as necessary or desirable and not less than once
28 every quarter with the commission on the operation and administration of the
29 lottery.

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

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

34 9. Suspend or revoke any license issued pursuant to this chapter or
35 the rules adopted pursuant to this chapter, subject to appeal to the
36 commission.

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

41 Sec. 12. Section 5-604, Arizona Revised Statutes, is amended to read:

42 5-604. Department of gaming; director; qualifications; term;
43 conflict of interest; grounds for dismissal

44 A. The department of gaming is established.

45 B. The governor shall appoint a director of the department of gaming
46 pursuant to section 38-211. The director serves at the pleasure of the

1 governor. To be eligible for appointment as director, a person shall not
2 have a financial interest in a gambling operation or in the gambling industry
3 in this state during the term of appointment. The governor may appoint an
4 acting director if there is a vacancy in the office.

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

8 D. The employment or financial interest of any relative to the first
9 degree of consanguinity or affinity to the director or any other employee of
10 the department in the gambling industry in this state is grounds for the
11 dismissal of the director or ~~any other~~ employee of the department.

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

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

16 B. The superintendent ~~in office on the effective date of this section~~
17 ~~shall hold office until the expiration of his term. The term of the~~
18 ~~superintendent first appointed after January 1, 1974 shall end January 17,~~
19 ~~1977, and, thereafter the term of office of the superintendent shall be four~~
20 ~~years and shall expire on the third Monday in January of the appropriate~~
21 ~~year. The superintendent may be removed by the governor for cause~~ SERVES AT
22 THE PLEASURE OF THE GOVERNOR.

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

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

31 Sec. 14. Section 6-112, Arizona Revised Statutes, is amended to read:
32 6-112. Deputy superintendent; examiners; personnel

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

34 1. Shall appoint a deputy superintendent who shall have the power and
35 perform the duties of the superintendent. The deputy superintendent shall
36 hold such appointment at the will and pleasure of the superintendent.

37 ~~B.—The superintendent~~

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

41 ~~C.—The superintendent~~

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

43 Sec. 15. Section 15-182, Arizona Revised Statutes, is amended to read:
44 15-182. State board for charter schools; membership; terms;

45 compensation; duties

46 A. The state board for charter schools is established consisting of

1 the following members:

2 1. The superintendent of public instruction or the superintendent's
3 designee.

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

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

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

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

17 6. Three members of the legislature who shall serve as advisory
18 members and who are appointed jointly by the president of the senate and the
19 speaker of the house of representatives.

20 B. The superintendent of public instruction shall serve a term on the
21 state board for charter schools that runs concurrently with the
22 superintendent's term of office. The members appointed pursuant to
23 subsection A, paragraph 6 of this section shall serve two year terms on the
24 state board for charter schools that begin and end on the third Monday in
25 January and that run concurrently with their respective terms of office.
26 Members appointed pursuant to subsection A, paragraphs 2, 3, 4 and 5 of this
27 section shall serve staggered four year terms that begin and end on the third
28 Monday in January.

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

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

35 E. The state board for charter schools shall:

36 1. Exercise general supervision over charter schools sponsored by the
37 board and recommend legislation pertaining to charter schools to the
38 legislature.

39 2. Grant charter status to qualifying applicants for charter schools
40 pursuant to section 15-183.

41 3. Adopt and use an official seal in the authentication of its acts.

42 4. Keep a record of its proceedings.

43 5. Adopt rules for its own government.

44 6. Determine the policy of the board and the work undertaken by it.

45 7. Delegate to the superintendent of public instruction the execution
46 of board policies.

1 8. Prepare a budget for expenditures necessary for the proper
2 maintenance of the board and the accomplishment of its purpose.

3 F. The state board for charter schools may:

4 1. Contract.

5 2. Sue and be sued.

6 3. Use the services of the auditor general.

7 4. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND LEGISLATIVE
8 APPROPRIATION, EMPLOY STAFF.

9 G. The state board for charter schools may accept gifts or grants of
10 monies or real or personal property from public and private organizations, if
11 the purpose of the gift or grant specified by the donor is approved by the
12 board and is within the scope of the board's powers and duties. The board
13 shall establish and administer a gift and grant fund for the deposit of
14 monies received pursuant to this subsection.

15 Sec. 16. Section 15-203, Arizona Revised Statutes, is amended to read:

16 15-203. Powers and duties

17 A. The state board of education shall:

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

21 2. Keep a record of its proceedings.

22 3. Make rules for its own government.

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

24 5. ~~Appoint its employees,~~ SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,
25 EMPLOY STAFF on the recommendation of the superintendent of public
26 instruction.

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

28 7. Delegate to the superintendent of public instruction the execution
29 of board policies and rules.

30 8. Recommend to the legislature changes or additions to the statutes
31 pertaining to schools.

32 9. Prepare, publish and distribute reports concerning the educational
33 welfare of this state.

34 10. Prepare a budget for expenditures necessary for proper maintenance
35 of the board and accomplishment of its purposes and present the budget to the
36 legislature.

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

38 12. Prescribe a minimum course of study in the common schools, minimum
39 competency requirements for the promotion of pupils from the third grade and
40 minimum course of study and competency requirements for the promotion of
41 pupils from the eighth grade. The state board of education shall prepare a
42 fiscal impact statement of any proposed changes to the minimum course of
43 study or competency requirements and, on completion, shall send a copy to the
44 director of the joint legislative budget committee and the executive director
45 of the school facilities board. The state board of education shall not adopt
46 any changes in the minimum course of study or competency requirements in

1 effect on July 1, 1998 that will have a fiscal impact on school capital
2 costs.

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

12 14. Supervise and control the certification of persons engaged in
13 instructional work directly as any classroom, laboratory or other teacher or
14 indirectly as a supervisory teacher, speech therapist, principal or
15 superintendent in a school district, including school district preschool
16 programs, or any other educational institution below the community college,
17 college or university level, and prescribe rules for certification, including
18 rules for certification of teachers who have teaching experience and who are
19 trained in other states, which are not unnecessarily restrictive and are
20 substantially similar to the rules prescribed for the certification of
21 teachers trained in this state. The rules shall:

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

37 (i) Hold a bachelor's degree from an accredited postsecondary
38 education institution.

39 (ii) Demonstrate professional knowledge and subject knowledge
40 proficiency pursuant to section 15-533.

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

42 (iv) Complete training in structured English immersion as prescribed
43 by the state board.

44 (v) Complete training in research based systematic phonics instruction
45 as prescribed in subdivision (b) of this paragraph.

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

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

7 (c) Not require a teacher to obtain a master's degree or to take any
8 additional graduate courses as a condition of certification or
9 recertification.

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

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

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

20 16. Adopt rules governing the methods for the administration of all
21 proficiency examinations.

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

24 18. Include within its budget the cost of contracting for the purchase,
25 distribution and scoring of the examinations as provided in paragraphs 16 and
26 17 of this subsection.

27 19. Supervise and control the qualifications of professional
28 nonteaching school personnel and prescribe standards relating to
29 qualifications. The standards shall not require the business manager of a
30 school district to obtain certification from the state board of education.

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

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

36 22. Adopt a rule to promote braille literacy pursuant to section
37 15-214.

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

41 24. For purposes of federal law, serve as the state board for
42 vocational and technological education and meet at least four times each year
43 solely to execute the powers and duties of the state board for vocational and
44 technological education.

45 25. Develop and maintain a handbook for use in the schools of this
46 state that provides guidance for the teaching of moral, civic and ethical

1 education. The handbook shall promote existing curriculum frameworks and
2 shall encourage school districts to recognize moral, civic and ethical values
3 within instructional and programmatic educational development programs for
4 the general purpose of instilling character and ethical principles in pupils
5 in kindergarten programs and grades one through twelve.

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

11 We hold these truths to be self-evident, that all men are
12 created equal, that they are endowed by their creator with
13 certain unalienable rights, that among these are life, liberty
14 and the pursuit of happiness. That to secure these rights,
15 governments are instituted among men, deriving their just powers
16 from the consent of the governed. . . .

17 27. Adopt rules that provide for teacher certification reciprocity.
18 The rules shall provide for a one year reciprocal teaching certificate with
19 minimum requirements, including valid teacher certification from a state with
20 substantially similar criminal history or teacher fingerprinting requirements
21 and proof of the submission of an application for a fingerprint clearance
22 card pursuant to title 41, chapter 12, article 3.1. For teachers who provide
23 Arizona online instruction pursuant to section 15-808, the rules shall allow
24 automatic certification reciprocity with other states that have similar
25 programs.

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

29 (a) Currently resides in this state.

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

34 29. 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 duties of the department of education and that relate to
38 quality of life, trade and economic development in this state in a manner
39 that will help the Arizona-Mexico commission to assess and enhance the
40 economic competitiveness of this state and of the Arizona-Mexico region.

41 30. Adopt rules to define and provide guidance to schools as to the
42 activities that would constitute immoral or unprofessional conduct of
43 certificated persons.

44 31. Adopt guidelines to encourage pupils in grades nine, ten, eleven
45 and twelve to volunteer for twenty hours of community service before
46 graduation from high school. A school district that complies with the

1 guidelines adopted pursuant to this paragraph is not liable for damages
2 resulting from a pupil's participation in community service unless the school
3 district is found to have demonstrated wanton or reckless disregard for the
4 safety of the pupil and other participants in community service. For the
5 purposes of this paragraph, "community service" may include service learning.
6 The guidelines shall include the following:

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

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

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

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

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

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

31 32. To facilitate the transfer of military personnel and their
32 dependents to and from the public schools of this state, pursue, in
33 cooperation with the Arizona board of regents, reciprocity agreements with
34 other states concerning the transfer credits for military personnel and their
35 dependents. A reciprocity agreement entered into pursuant to this paragraph
36 shall:

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

38 (i) The transfer of student records.

39 (ii) Awarding credit for completed course work.

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

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

45 33. Adopt guidelines that school district governing boards shall use in
46 identifying pupils who are eligible for gifted programs and in providing

1 gifted education programs and services. The state board of education shall
2 adopt any other guidelines and rules that it deems necessary in order to
3 carry out the purposes of chapter 7, article 4.1 of this title.

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

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

17 36. Adopt rules to prohibit a person who violates the notification
18 requirements prescribed in section 15-183, subsection C, paragraph 8 or
19 section 15-550, subsection C from certification pursuant to this title until
20 the person is no longer charged or is acquitted of any offenses listed in
21 section 41-1758.03, subsection B. The board shall also adopt rules to
22 prohibit a person who violates the notification requirements, certification
23 surrender requirements or fingerprint clearance card surrender requirements
24 prescribed in section 15-183, subsection C, paragraph 9 or section 15-550,
25 subsection D from certification pursuant to this title for at least ten years
26 after the date of the violation.

27 37. Adopt rules for the alternative certification of teachers of
28 nontraditional foreign languages that allow for the passing of a nationally
29 accredited test to substitute for the education coursework required for
30 certification.

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

39 B. The state board of education may:

40 1. Contract.

41 2. Sue and be sued.

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

44 4. Provide for an advisory committee to conduct hearings and
45 screenings to determine whether grounds exist to impose disciplinary action
46 against a certificated person, whether grounds exist to reinstate a revoked

1 or surrendered certificate and whether grounds exist to approve or deny an
2 initial application for certification or a request for renewal of a
3 certificate. The board may delegate its responsibility to conduct hearings
4 and screenings to its advisory committee. Hearings shall be conducted
5 pursuant to title 41, chapter 6, article 6.

6 5. Proceed with the disposal of any complaint requesting disciplinary
7 action or with any disciplinary action against a person holding a certificate
8 as prescribed in subsection A, paragraph 14 of this section after the
9 suspension or expiration of the certificate or surrender of the certificate
10 by the holder.

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

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

16 15-543. Appeal from decision of board

17 A. The decision of the governing board is final unless the
18 certificated teacher files, within thirty days after the date of the
19 decision, an appeal with the superior court in the county within which he was
20 employed.

21 B. The decision of the governing board may be reviewed by the court in
22 the same manner as the decision made in accordance with ~~the provisions of~~
23 section ~~41-785~~ 41-783. The proceeding shall be set for hearing at the
24 earliest possible date and shall take precedence over all other cases, except
25 older matters of the same character and matters to which special precedence
26 is otherwise given by law.

27 Sec. 18. Repeal

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

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

31 15-1626. General administrative powers and duties of board

32 A. The board shall:

33 1. Have and exercise the powers necessary for the effective governance
34 and administration of the institutions under its control. To that end, the
35 board may adopt, and authorize each university to adopt, such regulations,
36 policies, rules or measures as are deemed necessary and may delegate in
37 writing to its committees, to its university presidents, or their designees,
38 or to other entities under its control, any part of its authority for the
39 administration and governance of such institutions, including those powers
40 enumerated in section 15-1625, subsection B, paragraphs 2 and 4, paragraphs
41 3, 4, 8, 9, 11 and 12 of this subsection and subsection B of this section.
42 Any delegation of authority may be rescinded by the board at any time in
43 whole or in part.

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

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

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

9 5. Fix tuitions and fees to be charged and differentiate the tuitions
10 and fees between institutions and between residents, nonresidents,
11 undergraduate students, graduate students, students from foreign countries
12 and students who have earned credit hours in excess of the credit hour
13 threshold. For the purposes of this paragraph, the undergraduate credit hour
14 threshold is one hundred forty-five hours for students who attend a
15 university under the jurisdiction of the board. The undergraduate credit
16 hour threshold shall be based on the actual full-time equivalent student
17 enrollment counted on the forty-fifth day of every fall and spring semester,
18 divided by two, and any budget adjustment based on student enrollment shall
19 occur in the fiscal year following the actual full-time equivalent student
20 enrollment count. The undergraduate credit hour threshold shall not apply to
21 degree programs that require credit hours above the credit hour threshold,
22 credits earned in the pursuit of up to two baccalaureate degrees, credits
23 earned in the pursuit of up to two state regulated licensures or
24 certificates, credits earned in the pursuit of teaching certification,
25 credits transferred from a private institution of higher education, credits
26 transferred from an institution of higher education in another state, credits
27 earned at another institution of higher education but that are not accepted
28 as transfer credits at the university where the student is currently enrolled
29 and credits earned by students who enroll at a university under the
30 jurisdiction of the board more than twenty-four months after the end of that
31 student's previous enrollment at a public institution of higher education in
32 this state. On or before October 15 of each year, the board shall report to
33 the joint legislative budget committee the number of students who were
34 enrolled at universities under the jurisdiction of the board during the
35 previous fiscal year who met or exceeded the undergraduate credit hour
36 threshold prescribed in this paragraph. The amount of tuition, registration
37 fees and other revenues included in the operating budget for the university
38 adopted by the board as prescribed in paragraph 13 of this subsection shall
39 be deposited, pursuant to sections 35-146 and 35-147. All other tuition and
40 fee revenue shall be retained by each university for expenditure as approved
41 by the board, except that the universities shall not use any tuition or fee
42 revenue to fund or support an alumni association.

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

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

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

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

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

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

15 7. Pursuant to section 35-115, submit a budget request for each
16 institution under its jurisdiction that includes the estimated tuition and
17 fee revenue available to support the programs of the institution as described
18 in the budget request. The estimated available tuition and fee revenue shall
19 be based on the tuition and registration fee rates in effect at the time the
20 budget request is submitted with adjustments for projected changes in
21 enrollment as provided by the board.

22 8. Establish curriculums and designate courses at the several
23 institutions that in its judgment will best serve the interests of this
24 state.

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

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

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

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

42 13. Adopt annually an operating budget for each university equal to the
43 sum of appropriated general fund monies and the amount of tuition,
44 registration fees and other revenues approved by the board and allocated to
45 each university operating budget.

1 14. In consultation with the state board of education and other
2 education groups, develop and implement a program to award honors
3 endorsements to be affixed to the high school diplomas of qualifying high
4 school pupils and to be included in the transcripts of pupils who are awarded
5 endorsements. The board shall develop application procedures and testing
6 criteria and adopt testing instruments and procedures to administer the
7 program. In order to receive an honors endorsement, a pupil must demonstrate
8 an extraordinary level of knowledge, skill and competency as measured by the
9 testing instruments adopted by the board in mathematics, English, science and
10 social studies. Additional subjects may be added at the determination of the
11 board. The program is voluntary for pupils.

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

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

20 17. Acquire United States flags for each classroom that are
21 manufactured in the United States and that are at least two feet by three
22 feet and hardware to appropriately display the United States flags, acquire a
23 legible copy of the Constitution of the United States and the Bill of Rights,
24 display the flags in each classroom in accordance with title 4 of the United
25 States Code and display a legible copy of the Constitution of the United
26 States and the Bill of Rights adjacent to the flag.

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

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

34 (i) The transfer of student records.

35 (ii) Awarding credit for completed course work.

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

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

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

44 20. In consultation with the community college districts in this state,
45 develop and implement common equivalencies for specific levels of achievement
46 on advanced placement examinations and international baccalaureate

1 examinations in order to award commensurate postsecondary academic credits at
2 community colleges and public universities in this state.

3 21. On or before August 1 of each year, report to the joint legislative
4 budget committee the graduation rate by university campus during the previous
5 fiscal year. The board shall also report the retention rate by university
6 campus and by class, as determined by date of entry during the previous
7 fiscal year.

8 B. The board shall adopt personnel ~~rules. All nonacademic employees~~
9 ~~of the universities are subject to these rules except for university~~
10 ~~presidents, university vice-presidents, university deans, legal counsel and~~
11 ~~administrative officers. The personnel rules shall be similar to the~~
12 ~~personnel rules under section 41-783. The rules shall include provisions for~~
13 ~~listing available positions with the department of economic security,~~
14 ~~competitive employment processes for applicants, probationary status for new~~
15 ~~nonacademic employees, nonprobationary status on successful completion of~~
16 ~~probation and due process protections of nonprobationary employees after~~
17 ~~discharge. The board shall provide notice of proposed rule adoption and an~~
18 ~~opportunity for public comment on all personnel rules proposed for adoption~~
19 **POLICIES FOR ALL EMPLOYEES OF THE BOARD AND THE UNIVERSITIES.**

20 C. In conjunction with the auditor general, the board shall develop a
21 uniform accounting and reporting system, which shall be reviewed by the joint
22 legislative budget committee before final adoption by the board. The board
23 shall require each university to comply with the uniform accounting and
24 reporting system.

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

29 E. The board shall approve or disapprove any contract or agreement
30 entered into by the university of Arizona hospital with the Arizona health
31 facilities authority.

32 F. The board may adopt policies that authorize the institutions under
33 its jurisdiction to enter into employment contracts with nontenured employees
34 for periods of more than one year but not more than five years. The policies
35 shall prescribe limitations on the authority of the institutions to enter
36 into employment contracts for periods of more than one year but not more than
37 five years, including the requirement that the board approve the contracts.

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

41 H. The board may establish a program for the exchange of students
42 between the universities under the jurisdiction of the board and colleges and
43 universities located in the state of Sonora, Mexico. Notwithstanding
44 subsection A, paragraph 5 of this section, the program may provide for
45 in-state tuition at the universities under the jurisdiction of the board for
46 fifty Sonoran students in exchange for similar tuition provisions for up to

1 fifty Arizona students enrolled or seeking enrollment in Sonoran colleges or
2 universities. The board may direct the universities to work in conjunction
3 with the Arizona-Mexico commission to coordinate recruitment and admissions
4 activities.

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

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

11 15-1852. Additional powers and duties

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

14 1. Meet at least four times each year.

15 2. Adopt rules to carry out the purposes of this article.

16 3. Administer and enforce this article and rules adopted pursuant to
17 this article.

18 4. Keep a record of its proceedings.

19 5. Contract, on behalf of this state, with the United States secretary
20 of education for the purpose of complying with the provisions of title IV,
21 part H, subpart one of the higher education amendments of 1992.

22 6. Comply with title 38, chapter 3, article 3.1 and title 39.

23 B. The commission may:

24 1. Adopt an official seal.

25 2. Contract.

26 3. Sue and be sued.

27 4. Receive, hold, make and take leases of and sell personal property
28 for the benefit of the commission.

29 5. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ ~~permanent or~~
30 ~~temporary~~ personnel as the commission deems necessary to carry out this
31 article. The commission may designate the duties of these personnel. The
32 commission employees are subject to title 41, chapter 4, ARTICLE 4 AND, AS
33 APPLICABLE, articles 5 and 6.

34 6. Conduct investigations, hold hearings and determine methods of
35 enforcement of this article.

36 7. Issue subpoenas to compel the attendance of witnesses and the
37 production of documents, administer oaths, take testimony, hear proof and
38 receive exhibits into evidence.

39 8. Establish policy centers under its control to conduct studies.

40 9. Coordinate and promote studies of interest to postsecondary
41 institutions in this state.

42 C. The commission is exempt from title 41, chapter 6 but shall adopt
43 rules in a manner substantially similar to title 41, chapter 6.

44 Sec. 21. Section 15-2002, Arizona Revised Statutes, is amended to
45 read:

1 15-2002. Powers and duties; executive director; staffing;
2 report

3 A. The school facilities board shall:

4 1. Make assessments of school facilities and equipment deficiencies
5 and approve the distribution of grants as appropriate.

6 2. Develop a database for administering the building renewal formula
7 prescribed in section 15-2031 and administer the distribution of monies to
8 school districts for building renewal.

9 3. Inspect school buildings at least once every five years to ensure
10 compliance with the building adequacy standards prescribed in section 15-2011
11 and routine preventative maintenance guidelines as prescribed in this section
12 with respect to construction of new buildings and maintenance of existing
13 buildings. The school facilities board shall randomly select twenty school
14 districts every thirty months and inspect them pursuant to this paragraph.

15 4. Review and approve student population projections submitted by
16 school districts to determine to what extent school districts are entitled to
17 monies to construct new facilities pursuant to section 15-2041. The board
18 shall make a final determination within six months of the receipt of an
19 application by a school district for monies from the new school facilities
20 fund.

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

23 6. Develop prototypical elementary and high school designs. The board
24 shall review the design differences between the schools with the highest
25 academic productivity scores and the schools with the lowest academic
26 productivity scores. The board shall also review the results of a valid and
27 reliable survey of parent quality rating in the highest performing schools
28 and the lowest performing schools in this state. The survey of parent
29 quality rating shall be administered by the department of education. The
30 board shall consider the design elements of the schools with the highest
31 academic productivity scores and parent quality ratings in the development of
32 elementary and high school designs. The board shall develop separate school
33 designs for elementary, middle and high schools with varying pupil
34 capacities.

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

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

39 9. Submit electronically an annual report by December 15 to the
40 speaker of the house of representatives, the president of the senate, the
41 superintendent of public instruction, the director of the Arizona state
42 library, archives and public records and the governor that includes the
43 following information:

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

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

5 (c) A summary of the findings and conclusions of the building
6 maintenance inspections conducted pursuant to this article during the
7 previous fiscal year.

8 (d) A summary of the findings of common design elements and
9 characteristics of the highest performing schools and the lowest performing
10 schools based on academic productivity, including the results of the parent
11 quality rating survey. For the purposes of this subdivision, "academic
12 productivity" means academic year advancement per calendar year as measured
13 with student-level data using the statewide nationally standardized
14 norm-referenced achievement test.

15 10. By December 1 of each year, report electronically to the joint
16 committee on capital review the amounts necessary to fulfill the requirements
17 of sections 15-2022, 15-2031 and 15-2041 for the following fiscal year and
18 the estimated amounts necessary to fulfill the requirements of sections
19 15-2022, 15-2031 and 15-2041 for the fiscal year following the next fiscal
20 year. The board shall provide copies of the report to the president of the
21 senate, the speaker of the house of representatives and the governor.

22 11. Adopt minimum school facility adequacy guidelines to provide the
23 minimum quality and quantity of school buildings and the facilities and
24 equipment necessary and appropriate to enable pupils to achieve the
25 educational goals of the Arizona state schools for the deaf and the blind.
26 The school facilities board shall establish minimum school facility adequacy
27 guidelines applicable to the Arizona state schools for the deaf and the
28 blind.

29 12. In each even-numbered year, report electronically to the joint
30 committee on capital review the amounts necessary to fulfill the requirements
31 of sections 15-2031 and 15-2041 for the Arizona state schools for the deaf
32 and the blind for the following two fiscal years. The Arizona state schools
33 for the deaf and the blind shall incorporate the findings of the report in
34 any request for building renewal monies and new school facilities monies.
35 Any monies provided to the Arizona state schools for the deaf and the blind
36 for building renewal and for new school facilities are subject to legislative
37 appropriation.

38 13. By June 15 of each year, submit electronically detailed information
39 regarding demographic assumptions, a proposed construction schedule and new
40 school construction cost estimates for individual projects approved in the
41 current fiscal year and expected project approvals for the upcoming fiscal
42 year to the joint committee on capital review for its review. A copy of the
43 report shall also be submitted electronically to the governor's office of
44 strategic planning and budgeting. The joint legislative budget committee
45 staff, the governor's office of strategic planning and budgeting staff and
46 the school facilities board staff shall agree on the format of the report.

1 14. Every two years, provide school districts with information on
2 improving and maintaining the indoor environmental quality in school
3 buildings.

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

7 1. Private services.

8 2. Construction project management services.

9 3. Assessments for school buildings to determine if the buildings have
10 outlived their useful life pursuant to section 15-2041, subsection G.

11 4. Services related to land acquisition and development of a school
12 site.

13 C. The governor shall appoint an executive director of the school
14 facilities board pursuant to section 38-211. The executive director is
15 eligible to receive compensation as determined pursuant to section 38-611 and
16 may hire and fire necessary staff [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#)
17 [AND](#) as approved by the legislature in the budget. The executive director
18 shall have demonstrated competency in school finance, facilities design or
19 facilities management, either in private business or government service. The
20 executive director serves at the pleasure of the governor. The staff of the
21 school facilities board is exempt from title 41, chapter 4, articles 5 and 6.
22 The executive director:

23 1. Shall analyze applications for monies submitted to the board by
24 school districts.

25 2. Shall assist the board in developing forms and procedures for the
26 distribution and review of applications and the distribution of monies to
27 school districts.

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

31 4. Shall assist the board in the preparation of the board's annual
32 report.

33 5. Shall research and provide reports on issues of general interest to
34 the board.

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

38 7. May assist school districts in facilitating the development of
39 multijurisdictional facilities.

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

42 9. Shall establish procedures to ensure compliance with the notice and
43 hearing requirements prescribed in section 15-905. The notice and hearing
44 procedures adopted by the board shall include the requirement, with respect
45 to the board's consideration of any application filed after July 1, 2001 or
46 after December 31 of the year in which the property becomes territory in the

1 vicinity of a military airport or ancillary military facility as defined in
2 section 28-8461 for monies to fund the construction of new school facilities
3 proposed to be located in territory in the vicinity of a military airport or
4 ancillary military facility, that the military airport receive notification
5 of the application by first class mail at least thirty days before any
6 hearing concerning the application.

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

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

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

16 13. Shall provide technical support to school districts as requested by
17 school districts in connection with the construction of new school facilities
18 and the maintenance of existing school facilities and may contract directly
19 with construction project managers pursuant to subsection B of this section.
20 This paragraph does not restrict a school district from contracting with a
21 construction project manager using district or state resources.

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

25 E. The school facilities board shall contract with one or more private
26 building inspectors to complete an initial assessment of school facilities
27 and equipment and shall inspect each school building in this state at least
28 once every five years to ensure compliance with section 15-2011. A copy of
29 the inspection report, together with any recommendations for building
30 maintenance, shall be provided to the school facilities board and the
31 governing board of the school district.

32 F. The school facilities board may consider appropriate combinations
33 of facilities or uses in making assessments of and curing deficiencies
34 pursuant to subsection A, paragraph 1 of this section and in certifying plans
35 for new school facilities pursuant to subsection A, paragraph 5 of this
36 section.

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

39 H. The board shall not distribute monies to a school district for
40 replacement or repair of facilities if the costs associated with the
41 replacement or repair are covered by insurance or a performance or payment
42 bond.

43 I. The board may contract for construction services and materials that
44 are necessary to correct existing deficiencies in school district facilities.
45 The board may procure the construction services necessary pursuant to this
46 subsection by any method, including construction-manager-at-risk,

1 design-build, design-bid-build or job-order-contracting as provided by title
2 41, chapter 23. The construction planning and services performed pursuant to
3 this subsection are exempt from section 41-791.01.

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

8 K. Each school district shall develop routine preventative maintenance
9 guidelines for its facilities. The guidelines shall include plumbing
10 systems, electrical systems, heating, ventilation and air conditioning
11 systems, special equipment and other systems and for roofing systems shall
12 recommend visual inspections performed by district staff for signs of
13 structural stress and weakness. The guidelines shall be submitted to the
14 school facilities board for review and approval. If on inspection by the
15 school facilities board it is determined that a school district facility was
16 inadequately maintained pursuant to the school district's routine
17 preventative maintenance guidelines, the school district shall use building
18 renewal monies pursuant to section 15-2031, subsection L to return the
19 building to compliance with the school district's routine preventative
20 maintenance guidelines. Once the district is in compliance, it no longer is
21 required to use building renewal monies for preventative maintenance.

22 L. The school facilities board may temporarily transfer monies between
23 the capital reserve fund established by section 15-2003, the emergency
24 deficiencies correction fund established by section 15-2022, the building
25 renewal fund established by section 15-2031 and the new school facilities
26 fund established by section 15-2041 if all of the following conditions are
27 met:

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

30 2. The transferred monies are restored to the fund where the monies
31 originated as soon as practicable after the temporary shortfall in the other
32 fund has been addressed.

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

35 M. After notifying each school district, and if a written objection
36 from the school district is not received by the school facilities board
37 within thirty days of the notification, the school facilities board may
38 access public utility company records of power, water, natural gas, telephone
39 and broadband usage to assemble consistent and accurate data on utility
40 consumption at school facilities to determine the effectiveness of facility
41 design, operation and maintenance measures intended to reduce energy and
42 water consumption and costs. Any public utility that provides service to a
43 school district in this state shall provide the data requested by the school
44 facilities board pursuant to this subsection.

45 N. The school facilities board shall not require a common school
46 district that provides instruction to pupils in grade nine to obtain approval

1 from the school facilities board to reconfigure its school facilities. A
2 common school district that provides instruction to pupils in grade nine is
3 not entitled to additional monies from the school facilities board for
4 facilities to educate pupils in grade nine.

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

6 17-211. Director: selection: removal: powers and duties:
7 employees

8 A. The commission shall appoint a director of the Arizona game and
9 fish department, who shall be the chief administrative officer of the game
10 and fish department. The director shall receive compensation as determined
11 pursuant to section 38-611. The director shall be selected on the basis of
12 administrative ability and general knowledge of wildlife management. The
13 director shall act as secretary to the commission, and shall serve ~~for a term~~
14 ~~of five years, but may be removed by the commission, after public hearing,~~
15 ~~for inefficiency, neglect of duty or misconduct in office. If the director~~
16 ~~is removed, the commission shall make, in its minutes, a complete statement~~
17 ~~of the proceedings and all charges made against the director, and its~~
18 ~~findings~~ AT THE PLEASURE OF THE COMMISSION. The director shall not hold any
19 other office, and shall devote the entire time to the duties of office.

20 B. The commission shall prepare an examination for the post of
21 director to comply with the requirements of this title. The examination
22 shall be conducted at the offices of the commission at the capital to
23 establish an active list of eligible applicants. The director shall be
24 selected from those scoring satisfactory grades and having other qualities
25 deemed advisable by the commission. The commission may call for additional
26 examinations from time to time for selection of a new list of eligible
27 applicants to fill a vacancy.

28 C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the director may appoint
29 employees necessary to carry out the purposes of this title, when funds for
30 the payment of their salaries are appropriated. Department employees shall
31 be located in different sections of the state where their services are most
32 needed. ~~All appointments must be made in accordance with procedures and~~
33 ~~qualifications established by the commission.~~ Compensation for persons
34 appointed shall be as determined pursuant to section 38-611. ~~The director~~
35 ~~may dismiss an employee for inefficiency, neglect of duty or misconduct.~~
36 ~~Such employee shall be entitled to an appeal before the commission after~~
37 ~~filing a written request for a hearing within thirty days after the date of~~
38 ~~discharge. The director shall file in the department office a complete~~
39 ~~statement of charges made against the employee and the findings after such~~
40 ~~written request is received. If the employee fails to file such request~~
41 ~~within the thirty-day period, the right of appeal is waived and the action of~~
42 ~~the director shall be final.~~

43 D. The director shall:

44 1. Have general supervision and control of all activities, functions
45 and employees of the department.

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

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

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

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

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

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

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

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

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

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

Sec. 23. Section 17-231, Arizona Revised Statutes, is amended to read:

17-231. General powers and duties of the commission

A. The commission shall:

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

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

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

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

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

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

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

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

~~9.~~ 8. Prescribe procedures for use of department personnel, facilities, equipment, supplies and other resources in assisting search or

1 rescue operations on request of the director of the division of emergency
2 management.

3 ~~10-~~ 9. 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 B. The commission may:

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

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

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

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

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

23 6. Purchase, sell or barter wildlife for the purpose of stocking
24 public or private lands and waters and take at any time in any manner
25 wildlife for research, propagation and restocking purposes or for use at a
26 game farm or fish hatchery and declare wildlife salable when in the public
27 interest or the interest of conservation.

28 7. Enter into agreements with the federal government, with other
29 states or political subdivisions of the state and with private organizations
30 for the construction and operation of facilities and for management studies,
31 measures or procedures for or relating to the preservation and propagation of
32 wildlife and expend funds for carrying out such agreements.

33 8. Prescribe rules for the sale, trade, importation, exportation or
34 possession of wildlife.

35 9. Expend monies for the purpose of producing publications relating to
36 wildlife and activities of the department for sale to the public and
37 establish the price to be paid for annual subscriptions and single copies of
38 such publications. All monies received from the sale of such publications
39 shall be deposited in the game and fish publications revolving fund.

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

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

45 12. Consider the adverse and beneficial short-term and long-term
46 economic impacts on resource dependent communities, small businesses and the

1 state of Arizona, of policies and programs for the management, preservation
2 and harvest of wildlife by holding a public hearing to receive and consider
3 written comments and public testimony from interested persons.

4 13. Adopt rules relating to range operations at public shooting ranges
5 operated by and under the jurisdiction of the commission, including the hours
6 of operation, the fees for the use of the range, the regulation of groups and
7 events, the operation of related range facilities, the type of firearms and
8 ammunition that may be used at the range, the safe handling of firearms at
9 the range, THE required safety equipment for a person using the range, the
10 sale of firearms, ammunition and shooting supplies at the range, and the
11 authority of range officers to enforce these rules, to remove violators from
12 the premises and to refuse entry for repeat violations.

13 C. The commission shall confer and coordinate with the director of
14 water resources with respect to the commission's activities, plans and
15 negotiations relating to water development and use, restoration projects
16 under the restoration acts pursuant to chapter 4, article 1 of this title,
17 where water development and use are involved, the abatement of pollution
18 injurious to wildlife and in the formulation of fish and wildlife aspects of
19 the director of water resources' plans to develop and utilize water resources
20 of the state and shall have jurisdiction over fish and wildlife resources and
21 fish and wildlife activities of projects constructed for the state under or
22 pursuant to the jurisdiction of the director of water resources.

23 D. The commission may enter into one or more agreements with a
24 multi-county water conservation district and other parties for participation
25 in the lower Colorado river multispecies conservation program under section
26 48-3713.03, including the collection and payment of any monies authorized by
27 law for the purposes of the lower Colorado river multispecies conservation
28 program.

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

30 20-141. Director of insurance; appointment; qualifications;
31 compensation

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

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

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

40 D. The director shall receive compensation as determined pursuant to
41 section 38-611.

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

43 20-148. Deputies and other employees; special services

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

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

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

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

7 23-108. Director; employees; compensation and expenses

8 A. The commission shall employ a director WHO IS SUBJECT TO
9 CONFIRMATION BY THE SENATE. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the
10 director may employ such personnel as deemed necessary by the provisions of
11 chapters 1, 2 and 6 and article 2 of chapter 3 of this title.

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

17 C. The compensation of the director and commission employees and
18 payment of subsistence and travel expenses allowed by law shall be paid from
19 the administrative fund.

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

22 23-108.02. Administrative law judges

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

26 B. The annual compensation of the chief administrative law judge and
27 of the administrative law judges shall be as determined pursuant to section
28 38-611.

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

30 23-391. Overtime pay; work week

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

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

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

1 B. Notwithstanding subsection A OF THIS SECTION, the state or a
2 political subdivision may provide, by action of the law enforcement merit
3 system council, the ARIZONA board of regents, the board of directors for the
4 Arizona state schools for the deaf and the blind or the director of the
5 department of administration in the case of the state or of the governing
6 body of the political subdivision, for a work week of forty hours in less
7 than five days for certain classes of employees employed by the state or the
8 political subdivision.

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

22 Sec. 29. Section 23-406, Arizona Revised Statutes, is amended to read:

23 23-406. Division of occupational safety and health; director;
24 appointment; qualifications; compensation

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

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

32 C. The director shall be:

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

44 2. Competent to deal with the planning, design and needs of business
45 operations as the use of such operations ~~relate~~ RELATES to the safe,
46 convenient and economic performance of their business functions, with not

1 less than three years' experience in an administrative capacity in the field
2 of occupational safety and health.

3 D. The salary of the director shall be determined pursuant to section
4 38-611.

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

7 23-1501. Severability of employment relationships; protection
8 from retaliatory discharges; exclusivity of
9 statutory remedies in employment

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

11 1. The employment relationship is contractual in nature.

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

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

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

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

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

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

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

45 (iv) The agricultural employment relations act prescribed in chapter
46 8, article 5 of this title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 B. IF THE STATUTE PROVIDES A REMEDY TO AN EMPLOYEE FOR A VIOLATION OF
44 THE STATUTE, THE REMEDIES PROVIDED TO AN EMPLOYEE FOR A VIOLATION OF THE
45 STATUTE ARE THE EXCLUSIVE REMEDIES FOR THE VIOLATION OF THE STATUTE OR THE
46 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
46 from monies of this state appropriated for that purpose. Except for the

1 authority expressly reserved for the governor, the adjutant general is
2 responsible for emergency management, and all emergency activities are
3 subject to the approval of the adjutant general.

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

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

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

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

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

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

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

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

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

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

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

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

35 1. Be the administrator of the department.

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

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

43 4. Appoint an auditor for the department to conduct periodic financial
44 and compliance audits of each division and office in the department and
45 perform such other duties as prescribed by law. At least annually the
46 auditor shall audit accounts that are open for more than twelve months. The

1 auditor shall determine within the department compliance with purchase and
2 bidding procedures prescribed by law.

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

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

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

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

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

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

37 (a) The strength and condition of the national guard.

38 (b) The business transactions of the department.

39 (c) A detailed statement of expenditures for all military and civilian
40 purposes.

41 (d) The disposition of all military and civilian property on hand or
42 issued.

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

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

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

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

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

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

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

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

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

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

21 8. Adopt methods of security for the national guard reservations or
22 facilities that are consistent with the laws, regulations or directives of
23 the United States department of defense or any subdivision of the United
24 States department of defense and the laws of this state.

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

26 26-305. Division of emergency management: duties: director:
27 term: qualifications: compensation: emergency
28 management training fund

29 A. There is established in the department of emergency and military
30 affairs the division of emergency management, which is administered by the
31 department under the authority of the adjutant general, subject to powers
32 vested in the governor as provided by law.

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

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

40 D. The adjutant general shall appoint the director who serves at the
41 pleasure of the adjutant general. The adjutant general shall select the
42 director on the basis of demonstrated ability in governmental functions or
43 business administration and general knowledge of contingency planning and
44 disaster preparedness.

45 E. The director is eligible to receive compensation pursuant to
46 section 38-611.

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

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

11 Sec. 34. Section 27-122, Arizona Revised Statutes, is amended to read:
12 27-122. Deputy inspectors
13 SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the state mine inspector may
14 appoint and assign such deputy inspectors to perform the duties of the state
15 mine inspector as prescribed by law. All deputies shall receive compensation
16 as determined pursuant to section 38-611.

17 Sec. 35. Section 27-151, Arizona Revised Statutes, is amended to read:
18 27-151. Arizona geological survey; state geologist; powers;
19 definition

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

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

34 C. The state geologist may:

35 1. Retain the services of faculty members or students, and shall have
36 reasonable access to the data and other resources, of the university of
37 Arizona or any other state university in this state to conduct or supervise
38 research, experimentation or other related work of the Arizona geological
39 survey.

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

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

1 4. EMPLOY VOLUNTEER STAFF AS NECESSARY.

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

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

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

9 28-363. Duties of the director; administration

10 A. The director shall:

11 1. Supervise and administer the overall activities of the department
12 and its divisions and employees.

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

14 3. Provide for the assembly and distribution of information to the
15 public concerning department activities.

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

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

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

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

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

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

39 10. Designate the necessary agencies for enforcing the provisions of
40 the laws the director administers or enforces.

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

43 12. Cooperate with the Arizona-Mexico commission in the governor's
44 office and with researchers at universities in this state to collect data and
45 conduct projects in the United States and Mexico on issues that are within
46 the scope of the department's duties and that relate to quality of life,

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

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

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

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

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

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

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

22 **30-103. Administrative powers of authority; compensation of**
23 **assistants**

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

28 B. The authority shall provide necessary records, including order,
29 resolution and minute books. It may act, effectuate, manifest and record its
30 actions by motion, resolution, order or other appropriate method. Minute,
31 order and resolution records shall be orderly arranged and conveniently
32 indexed. Records of the authority shall be public and open for inspection
33 during business hours.

34 C. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,** the authority may employ
35 engineering, accounting, skilled and other assistants, define their duties
36 and provide the conditions of employment. All positions shall be filled by
37 persons selected and appointed on a nonpartisan, fitness and qualification
38 basis.

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

41 Sec. 38. Section 30-108, Arizona Revised Statutes, is amended to read:

42 **30-108. Powers and duties of commission; annual report**

43 A. The members of the commission shall devote to their duties as
44 members such time and attention as is necessary to effectuate the purposes of
45 this chapter and to carry out their duties and exercise their powers. The

1 commission shall designate a person or persons who shall execute all
2 documents and instruments on behalf of the authority.

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

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

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

17 Sec. 39. Section 30-652, Arizona Revised Statutes, is amended to read:
18 30-652. Radiation regulatory agency; director; duties

19 A. There is established a radiation regulatory agency.

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

23 C. The director shall:

24 1. Administer and enforce this chapter and the rules and regulations
25 promulgated under this chapter.

26 2. Subject to title 41, chapter 4, ARTICLE 4 AND, AS APPLICABLE,
27 articles 5 and 6, employ, determine the conditions of employment and specify
28 the duties of inspectors, technical assistants and other employees of the
29 agency.

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

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

37 Sec. 40. Section 31-401, Arizona Revised Statutes, is amended to read:
38 31-401. Board of executive clemency; qualifications;

39 appointment; officers; quorum; meeting

40 A. The board of executive clemency is established consisting of five
41 members who are appointed by the governor pursuant to this subsection and
42 section 38-211. ~~The governor shall appoint a selection committee consisting~~
43 ~~of the director of the department of public safety, the director of the state~~
44 ~~department of corrections and three other persons who shall submit a list of~~
45 ~~three qualified candidates to the governor for each vacancy on the board.~~

~~The governor shall fill the vacancy by appointing a member to the board of executive clemency from the list.~~

B. The members of the board shall serve on a full-time basis and the compensation of members shall be as determined pursuant to section 38-611. Each member shall be appointed on the basis of broad professional or educational qualifications and experience and shall have demonstrated an interest in the state's correctional program. No more than two members from the same professional discipline shall be members of the board at the same time.

C. Each member appointed to the board shall complete a four week course relating to the duties and activities of the board. The course shall be designed and administered by the chairman of the board and shall be conducted by the office of the board of executive clemency and the office of the attorney general. The course shall include training in all statutes that pertain to the board and participation in a decision making workshop.

D. Members shall be appointed for a term of five years to expire on the third Monday in January of the appropriate year.

E. A member of the board may be removed by the governor for cause.

F. The governor shall select a member of the board as chairman. The chairman shall select other officers as are advisable. The term of the chairman is two years, except that the chairman may be removed as chairman at the pleasure of the governor. If a board member's term expires while the member is serving as chairman, the chair shall be deemed vacant and a new chairman shall be selected.

G. The board may adopt rules, not inconsistent with law, as it deems proper for the conduct of its business. The board may from time to time amend or change the rules and publish and distribute the rules as provided by the administrative procedures act.

H. The board shall meet at least once a month at the state prison and at other times or places as the board deems necessary.

I. The presence of three members of the board constitutes a quorum, except that the chairman may designate that the presence of two members of the board constitutes a quorum.

J. If two members of the board constitute a quorum pursuant to subsection I of this section and the two members do not concur on the action under consideration, the chairman of the board, if the chairman is not one of the members who constituted the quorum and after reviewing the information considered by the two members, shall cast the deciding vote. If the chairman of the board is one of the two members constituting a quorum at a hearing under subsection I of this section, and there is not concurrence on the action under consideration, the action fails.

K. The board shall employ an executive director whose compensation shall be determined pursuant to section 38-611. The chairman of the board may act as the executive director.

Sec. 41. Section 31-402, Arizona Revised Statutes, is amended to read:

1 31-402. Powers of board; powers and duties of governor; powers
2 and duties of executive director

3 A. For all persons who committed felony offenses before January 1,
4 1994, the board of executive clemency shall have exclusive power to pass upon
5 and recommend reprieves, commutations, paroles and pardons. No reprieve,
6 commutation or pardon may be granted by the governor unless it has first been
7 recommended by the board.

8 B. For all persons who committed felony offenses before January 1,
9 1994, all applications for reprieves, commutations and pardons made to the
10 governor shall be at once transmitted to the chairman of the board, and the
11 board shall return the applications with its recommendation to the governor.
12 All applications for reprieves, commutations and pardons made to the governor
13 shall include documentation that the victim or the victim's family was
14 notified pursuant to section 31-411, subsection H.

15 C. For all persons who committed felony offenses on or after
16 January 1, 1994, in addition to the powers and duties prescribed in
17 subsection A of this section, the board of executive clemency:

18 1. Is vested with the powers and duties of the board of pardons and
19 paroles as they existed before January 1, 1994 to carry out the provisions of
20 articles 3 ~~through~~, 4.1, 5, 6 AND 7 of this chapter.

21 2. After a hearing for which the victim, county attorney and presiding
22 judge are given notice and an opportunity to be heard, may make
23 recommendations to the governor for commutation of sentence after finding by
24 clear and convincing evidence that the sentence imposed is clearly excessive
25 given the nature of the offense and the record of the offender and that there
26 is a substantial probability that when released the offender will conform the
27 offender's conduct to the requirements of the law.

28 3. Shall receive petitions from individuals for whom the court has
29 entered a special order allowing the person to petition the board pursuant to
30 section 13-603, subsection L and may make recommendations to the governor.

31 4. Shall receive petitions from individuals, organizations or the
32 department for review and commutation of sentences and pardoning of offenders
33 in extraordinary cases and may make recommendations to the governor.

34 5. Shall receive petitions from the state department of corrections
35 alleging that an offender has violated the offender's terms and conditions of
36 community supervision and has lapsed or is probably about to lapse into
37 criminal ways or company. If the board determines that an offender on
38 community supervision has violated the terms and conditions of community
39 supervision the board may do any of the following:

40 (a) If the offender has not committed an additional offense, place the
41 offender on electronic monitoring and order the offender to participate in a
42 community accountability program pursuant to section 41-1609.05.

43 (b) Revoke community supervision and return the offender to prison for
44 the remainder of the offender's community supervision.

45 (c) Impose additional terms and conditions on the offender while
46 keeping the offender on community supervision. If there is reasonable cause

1 to believe that an offender who has been kept on community supervision has
2 violated any term or condition of community supervision, any member of the
3 board may petition the board to revoke community supervision. After a
4 petition to revoke has been submitted, the chairman may issue a summons
5 directing the offender to appear on a specified date for a revocation hearing
6 or may issue a warrant for the offender's arrest. Nothing in this subsection
7 limits the state department of corrections' authority with respect to
8 submitting revocation petitions or issuing revocation warrants.

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

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

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

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

27 Sec. 42. Section 32-106, Arizona Revised Statutes, is amended to read:
28 32-106. Powers and duties

29 A. The board shall:

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

32 2. Adopt an official seal for attestation of certificates of
33 registration and other official papers and documents.

34 3. Consider and pass upon applications for registration or
35 certification.

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

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

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

44 7. Keep a record of its proceedings.

45 8. Keep a register which shall show the date of each application for
46 registration or certification, the name of the applicant, the practice or

1 branch of practice in which the applicant has applied for registration, if
2 applicable, and the disposition of the application.

3 9. Do other things necessary to carry out the purposes of this
4 chapter.

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

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

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

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

33 F. The board may adopt rules establishing rules of professional
34 conduct for registrants.

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

37 H. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board may employ
38 persons as it deems necessary.

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

41 Sec. 43. Section 32-304, Arizona Revised Statutes, is amended to read:

42 [32-304. Powers and duties](#)

43 A. The board shall:

44 1. Make and adopt rules which are necessary or proper for the
45 administration of this chapter, including sanitary and safety requirements

1 for schools and shops or salons, sanitary and safety standards for the
2 practice of barbering and mobile unit requirements.

3 2. Administer and enforce the provisions of this chapter and rules
4 adopted pursuant to this chapter.

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

8 4. Keep the records of the board open to public inspection at all
9 reasonable times.

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

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

14 7. Prescribe minimum school curriculum requirements.

15 B. The board may:

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

21 2. Inspect the premises of any school, shop or salon during business
22 hours.

23 Sec. 44. Section 32-503, Arizona Revised Statutes, is amended to read:
24 32-503. Organization; meetings; personnel; compensation

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

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

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

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

34 2. A supervisor of examinations who is an instructor licensed pursuant
35 to this chapter and has worked at least two of the five years immediately
36 preceding employment as an instructor in a school licensed pursuant to this
37 chapter.

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

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

41 D. Members of the board are eligible to receive compensation as
42 determined pursuant to section 38-611 for each day of actual service in the
43 business of the board. The board shall compensate its executive director and
44 other ~~permanent and temporary~~ personnel as determined pursuant to section
45 38-611.

46 Sec. 45. Section 32-703, Arizona Revised Statutes, is amended to read:

1 32-703. Powers and duties; rules; executive director; advisory
2 committees and individuals

3 A. The primary duty of the board is to protect the public from
4 unlawful, incompetent, unqualified or unprofessional certified public
5 accountants or public accountants through certification, regulation and
6 rehabilitation.

7 B. The board may:

8 1. Investigate complaints filed with the board or on its own motion to
9 determine whether a certified public accountant or public accountant has
10 engaged in conduct in violation of this chapter or rules adopted pursuant to
11 this chapter.

12 2. Establish and maintain high standards of competence, independence
13 and integrity in the practice of accounting by a certified public accountant
14 or by a public accountant as required by generally accepted auditing
15 standards and generally accepted accounting principles and, in the case of
16 publicly held corporations or enterprises offering securities for sale, in
17 accordance with state or federal securities agency accounting requirements.

18 3. Establish reporting requirements that require registrants to
19 report:

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

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

28 4. Establish basic requirements for continuing professional education
29 of certified public accountants and public accountants, except that the
30 requirements shall not exceed eighty classroom hours in any registration
31 renewal period.

32 5. Adopt procedures concerning disciplinary actions, administrative
33 hearings and consent decisions.

34 6. Issue to qualified applicants certificates executed for and on
35 behalf of the board by the signatures of the president and secretary of the
36 board.

37 7. Adopt procedures and rules concerning examination and grading the
38 examinations of individuals applying for a certificate as required by this
39 chapter.

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

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

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

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

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

9 13. Adopt and amend rules concerning the definition of terms, the
10 orderly conduct of the board's affairs and the effective administration of
11 this chapter.

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

13 1. Issue subpoenas to compel the attendance of witnesses or the
14 production of documents. If a subpoena is disobeyed, the board may invoke
15 the aid of any court in requiring the attendance and testimony of witnesses
16 and the production of documents.

17 2. Administer oaths and take testimony.

18 3. Cooperate with the appropriate authorities in other jurisdictions
19 in investigation and enforcement concerning violations of this chapter and
20 comparable statutes of other jurisdictions.

21 4. Receive evidence concerning all matters within the scope of this
22 chapter.

23 Sec. 46. Section 32-802, Arizona Revised Statutes, is amended to read:

24 32-802. Board of podiatry examiners; compensation

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

28 B. Three members of the board shall have practiced podiatry
29 continuously in this state for not less than two years immediately preceding
30 appointment and shall have valid licenses to practice podiatry. Two members
31 of the board shall be lay persons. All members of the board shall be
32 citizens of the United States.

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

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

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

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

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

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

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

8 Sec. 47. Section 32-905, Arizona Revised Statutes, is amended to read:

9 32-905. Executive director of board; duties; other personnel;
10 immunity

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

14 B. The executive director shall:

15 1. Keep a record of the proceedings of the board.

16 2. Collect all monies due and payable to the board.

17 3. Deposit, pursuant to sections 35-146 and 35-147, all monies
18 received by the board in the board of chiropractic examiners fund.

19 4. Prepare bills for authorized expenditures of the board and obtain
20 warrants from the director of the department of administration for payment of
21 bills.

22 5. Administer oaths.

23 6. Act as custodian of the seal, books, minutes, records and
24 proceedings of the board.

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

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

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

33 Sec. 48. Section 32-1103, Arizona Revised Statutes, is amended to
34 read:

35 32-1103. Registrar of contractors; salary

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

42 Sec. 49. Section 32-1104, Arizona Revised Statutes, is amended to
43 read:

44 32-1104. Powers and duties

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

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

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

7 3. Furnish a certified copy of any license issued or an affidavit that
8 no license exists or that a license has been cancelled or suspended including
9 information as to the status on appeal of such cancellation or suspension,
10 upon receipt of the prescribed fee, and such certified copy shall be received
11 in all courts and elsewhere as prima facie evidence of the facts stated
12 therein. The registrar shall also furnish certified copies of license bonds
13 or cash deposit certificates upon receipt of the prescribed fee. Fees
14 charged pursuant to this paragraph shall be at a rate of ten dollars per
15 hour, except that the minimum fee charged pursuant to this paragraph shall be
16 ten dollars.

17 4. Employ such deputies, investigators and assistants [SUBJECT TO TITLE](#)
18 [41, CHAPTER 4, ARTICLE 4](#), and procure such equipment and records, as are
19 necessary to enforce this chapter. With respect to the enforcement of
20 section 32-1164, the registrar or the registrar's investigators are vested
21 with the authority to issue a citation to any violators of this chapter in
22 accordance with section 13-3903. When the registrar or the registrar's
23 investigators conduct investigations they are authorized to receive criminal
24 history record information from the department of public safety and other law
25 enforcement agencies.

26 5. Make rules the registrar deems necessary to effectually carry out
27 the provisions and intent of this chapter. Such rules shall include the
28 adoption of minimum standards for good and workmanlike construction. In the
29 adoption of such rules of minimum standards, the registrar shall be guided by
30 established usage and procedure as found in the construction business in this
31 state. If the rules of minimum standards adopted by the registrar are in any
32 manner inconsistent with a building or other code of the state, a county,
33 city or other political subdivision or local authority of the state,
34 compliance with such code shall constitute good and workmanlike construction
35 for the purposes of this chapter.

36 6. Apply the following to proposed rule changes:

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

43 (b) Every trade association in this state allied with the contracting
44 business that files a written request that a notice be mailed to it and shows
45 that the association has an interest in the rules of the registrar of
46 contractors shall receive a copy thereof, as set forth in subdivision (a).

1 Such filing of a request shall be made every two years during the month of
2 January, and it shall contain information as to the nature of the association
3 and its mailing address. Any duly licensed contractor who files a written
4 request shall receive a copy of the proposed rule changes in accordance with
5 this paragraph. Each such request shall be made every two years during the
6 month of January.

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

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

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

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

17 2. Assist in the resolution of disputes in an informal process before
18 a reportable written complaint is filed. The registrar shall notify the
19 licensed contractor in an alleged dispute before a written complaint is filed
20 and allow the contractor the opportunity to be present at any inspection
21 regarding the alleged dispute. The registrar shall give the contractor at
22 least five days' notice before the inspection. Issues in the alleged dispute
23 under this section shall not be limited in number and shall not be considered
24 formal written complaints. The homeowner reserves the right to deny access
25 to the contractor under this informal complaint process. The registrar shall
26 notify the contractor and the homeowner in writing of the registrar's
27 findings within five days after the date of the inspection. The registrar
28 shall not post any information regarding the informal complaint process as
29 part of a licensee's record on the registrar's web site.

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

33 C. The registrar may adopt rules for the posting of names of
34 applicants and personnel of applicants for contractors' licenses and furnish
35 copies of such posting lists upon written request. The name and address of
36 the applicant, together with the names and addresses and official capacity of
37 all persons associated with the applicant who have signed the application,
38 shall be publicly posted in the place and manner to be prescribed by the
39 registrar for a period of not less than twenty days, except as otherwise
40 provided in this subsection, commencing on the day designated by the
41 registrar of contractors. The registrar may waive a part of the posting
42 period when the records reflect that the applicant or qualifying party has
43 previously undergone the twenty day posting for a previous license. A
44 reasonable charge of not to exceed two dollars per month may be made for
45 compilation, printing and postage for such posting lists.

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

5 Sec. 50. Section 32-1205, Arizona Revised Statutes, is amended to
6 read:

7 32-1205. Organization; meetings; quorum; staff

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

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

12 C. The board may employ an executive director, subject to TITLE 41,
13 CHAPTER 4, ARTICLE 4 AND legislative appropriation.

14 D. The board or the executive director may employ personnel, as
15 necessary, subject to TITLE 41, CHAPTER 4, ARTICLE 4 AND legislative
16 appropriation.

17 Sec. 51. Section 32-1305, Arizona Revised Statutes, is amended to
18 read:

19 32-1305. Executive director; compensation; duties

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 and shall not have a pecuniary or
23 proprietary interest in a funeral establishment or crematory or in the sale
24 of funeral goods and services.

25 B. The executive director is eligible to receive compensation pursuant
26 to section 38-611.

27 C. The executive director shall perform duties as directed by the
28 board.

29 Sec. 52. Section 32-1307, Arizona Revised Statutes, is amended to
30 read:

31 32-1307. Powers and duties of board

32 A. The board shall:

33 1. Administer and enforce this chapter and the rules adopted pursuant
34 to this chapter.

35 2. Adopt a seal.

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

38 4. Investigate alleged violations of this chapter and the rules
39 adopted pursuant to this chapter.

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

42 (a) The keeping and disposition of records by licensees and
43 registrants.

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

1 (c) The prohibition of deceptive, misleading or professionally
2 negligent practices in advertising, offering or selling funeral goods or
3 services by funeral establishments, crematories, licensees and registrants
4 and agents of funeral establishments, crematories, licensees and registrants.
5 The rules shall specifically prohibit misrepresentation of the legal
6 requirements concerning the preparation and interment of dead human bodies.

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

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

11 (f) Administrative and investigative procedures.

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

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

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

18 B. The board may:

19 1. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), employ investigative,
20 professional and clerical employees as it deems necessary to carry out this
21 chapter. Compensation of these employees shall be determined pursuant to
22 section 38-611.

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

25 3. In connection with investigations or administrative hearings, issue
26 subpoenas to compel the attendance of witnesses and the production of books,
27 papers, contracts, agreements and other documents or records in any form,
28 administer oaths and take testimony and evidence concerning all matters
29 within its jurisdiction. The board may pay the fees and expenses of
30 witnesses who appear in any proceeding before the board. If a person refuses
31 to obey a subpoena issued by the board, the board may invoke the aid of any
32 court in this state to require the attendance and testimony of witnesses and
33 the production of documentary evidence.

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

36 5. Charge reasonable fees for the distribution of materials that the
37 board prints or has printed at its expense and for the costs of mailing these
38 materials.

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

41 Sec. 53. Section 32-1405, Arizona Revised Statutes, is amended to
42 read:

43 [32-1405. Executive director; compensation; duties; appeal to](#)
44 [the board](#)

45 A. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board shall appoint
46 an executive director who shall serve at the pleasure of the board. The

1 executive director shall not be a board member, except that the board may
2 authorize the executive director to represent the board and to vote on behalf
3 of the board at meetings of the federation of state medical boards of the
4 United States.

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

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

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

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

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

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

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

22 6. Manage the board's offices.

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

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

26 9. Pay all bills for authorized expenditures of the board and its
27 staff.

28 10. Prepare an annual budget.

29 11. Submit a copy of the budget each year to the governor, the speaker
30 of the house of representatives and the president of the senate.

31 12. Initiate an investigation if evidence appears to demonstrate that a
32 physician may be engaged in unprofessional conduct or may be medically
33 incompetent or mentally or physically unable to safely practice medicine.

34 13. Issue subpoenas if necessary to compel the attendance and testimony
35 of witnesses and the production of books, records, documents and other
36 evidence.

37 14. Provide assistance to the attorney general in preparing and sign
38 and execute disciplinary orders, rehabilitative orders and notices of
39 hearings as directed by the board.

40 15. Enter into contracts for goods and services pursuant to title 41,
41 chapter 23 that are necessary to carry out board policies and directives.

42 16. Execute board directives.

43 17. Manage and supervise the operation of the Arizona regulatory board
44 of physician assistants.

45 18. Issue licenses to physician assistant applicants who meet the
46 requirements of chapter 25 of this title.

1 19. Represent the board with the federal government, other states or
2 jurisdictions of the United States, this state, political subdivisions of
3 this state, the news media and the public.

4 20. On behalf of the Arizona medical board, enter into stipulated
5 agreements with persons under the jurisdiction of either the Arizona medical
6 board or the Arizona regulatory board of physician assistants for the
7 treatment, rehabilitation and monitoring of chemical substance abuse or
8 misuse.

9 21. Review all complaints filed pursuant to section 32-1451. If
10 delegated by the board, the executive director may also dismiss a complaint
11 if the complaint is without merit. The executive director shall not dismiss
12 a complaint if a court has entered a medical malpractice judgment against a
13 physician. The executive director shall submit a report of the cases
14 dismissed with the complaint number, the name of the physician and the
15 investigation timeline to the board for review at its regular board meetings.

16 22. If delegated by the board, directly refer cases to a formal
17 hearing.

18 23. If delegated by the board, close cases resolved through mediation.

19 24. If delegated by the board, issue advisory letters.

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

22 26. If delegated by the board, grant uncontested requests for inactive
23 status and cancellation of a license pursuant to sections 32-1431 and
24 32-1433.

25 27. If delegated by the board, refer cases to the board for a formal
26 interview.

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

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

33 E. A person who is aggrieved by an action taken by the executive
34 director pursuant to subsection C, paragraphs 21 through 27 of this section
35 or section 32-1422, subsection E, may request the board to review that action
36 by filing with the board a written request within thirty days after that
37 person is notified of the executive director's action by personal delivery
38 or, if the notification is mailed to that person's last known residence or
39 place of business, within thirty-five days after the date on the
40 notification. At the next regular board meeting, the board shall review the
41 executive director's action. On review, the board shall approve, modify or
42 reject the executive director's action.

43 Sec. 54. Section 32-1509, Arizona Revised Statutes, is amended to
44 read:

45 32-1509. Executive director; compensation; duties

1 A. ~~SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,~~ the board shall appoint
2 an executive director who serves at the pleasure of the board. The executive
3 director shall not be a board member and shall not have any financial
4 interests in the practice of naturopathic medicine or the training of
5 naturopathic physicians. The board may authorize the executive director to
6 represent the board and to vote on behalf of the board at meetings of
7 national organizations of which the board is a dues paying member.

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

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

12 1. ~~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 personnel
15 necessary to carry on the work of the board.

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

18 ~~3.~~ 2. As directed by the board, prepare and submit recommendations to
19 the board for amendments to this chapter for consideration by the
20 legislature.

21 ~~4.~~ 3. ~~Appoint and~~ ~~SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,~~ employ
22 medical consultants and agents necessary to conduct investigations, gather
23 information and perform those duties the executive director determines are
24 necessary and appropriate to enforce this chapter.

25 ~~5.~~ 4. Issue licenses and certificates pursuant to section 32-1526 to
26 applicants who meet the requirements of this chapter.

27 ~~6.~~ 5. Maintain a record of board actions and proceedings, including
28 the issuance, denial, renewal, suspension or revocation of licenses and
29 certificates.

30 ~~7.~~ 6. Manage the board's offices.

31 ~~8.~~ 7. Prepare minutes, records, reports, registries, directories,
32 books and newsletters and record all board transactions and orders.

33 ~~9.~~ 8. Collect all monies due and payable to the board.

34 ~~10.~~ 9. Pay all bills for authorized expenditures of the board and its
35 staff.

36 ~~11.~~ 10. Prepare an annual budget.

37 ~~12.~~ 11. Submit a copy of the budget each year to the governor, the
38 speaker of the house of representatives and the president of the senate.

39 ~~13.~~ 12. Initiate an investigation if evidence appears to demonstrate
40 that a person licensed or certified by the board may be engaged in
41 unprofessional conduct or may be medically incompetent or mentally or
42 physically unable to safely practice medicine.

43 ~~14.~~ 13. Issue subpoenas if necessary to compel the attendance and
44 testimony of witnesses and the production of books, records, documents and
45 other evidence.

1 ~~15.~~ 14. Sign and execute and provide assistance to the attorney
2 general in preparing disciplinary orders, rehabilitative orders and notices
3 of hearings as directed by the board.

4 ~~16.~~ 15. Enter into contracts for goods and services pursuant to title
5 41, chapter 23 that are necessary to carry out board policies and directives.

6 ~~17.~~ 16. Execute board directives.

7 ~~18.~~ 17. Represent the board with the federal government, other states
8 or jurisdictions of the United States, this state, political subdivisions of
9 this state, the news media and the public.

10 ~~19.~~ 18. Maintain a roster of all persons who are licensed or certified
11 under this chapter that indicates:

12 (a) The person's name.

13 (b) The person's current address of record.

14 (c) The date of issuance and the number of the person's license or
15 certificate.

16 (d) The status of the person's license or certificate.

17 ~~20.~~ 19. Maintain an accurate account of all receipts, expenditures and
18 refunds granted pursuant to this chapter.

19 ~~21.~~ 20. Conduct periodic inspection of the dispensing practices and
20 the prescribing practices of doctors of naturopathic medicine and report
21 dispensing and prescribing restrictions imposed by the board against doctors
22 of naturopathic medicine to other state and federal regulatory agencies.

23 ~~22.~~ 21. Affix the seal of the board to necessary documents. The
24 imprint of the seal with the signature of the executive director is evidence
25 of official board action.

26 ~~23.~~ 22. On behalf of the board, enter into stipulated agreements with
27 persons who are under the jurisdiction of the board for the treatment,
28 rehabilitation and monitoring of chemical substance abuse or misuse.

29 ~~24.~~ 23. Review all complaints filed pursuant to section 32-1551. If
30 delegated by the board, the executive director may dismiss complaints.

31 ~~25.~~ 24. If delegated by the board, refer cases directly to a formal
32 interview or a formal hearing.

33 ~~26.~~ 25. If delegated by the board, enter into a consent agreement if
34 there is evidence of danger to the public health and safety.

35 ~~27.~~ 26. If delegated by the board, grant uncontested requests for
36 retired status or cancellation of a license.

37 ~~28.~~ 27. Perform all other duties required by the board.

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

42 E. A person who is aggrieved by an action taken by the executive
43 director may request a board review of that action by filing with the board a
44 written request within thirty days after that person has been notified of the
45 action. Notification shall be by personal delivery or certified mail to the
46 person's last known address on file with the board. The board shall review

1 the decision at its next regularly scheduled meeting and either approve,
2 modify or reject the executive director's action.

3 Sec. 55. Section 32-1605.01, Arizona Revised Statutes, is amended to
4 read:

5 32-1605.01. Executive director; compensation; powers; duties

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

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

11 1. Perform the administrative duties of the board.

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

14 3. Issue and renew temporary and permanent licenses, certificates and
15 prescribing or dispensing authority.

16 4. Issue single state and multistate licenses pursuant to this chapter
17 and nursing assistant certificates to applicants who are not under
18 investigation and who meet the qualifications for licensure or nursing
19 assistant certification prescribed in this chapter.

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

21 6. On behalf of the board, enter into stipulated agreements with a
22 licensee for the confidential treatment, rehabilitation and monitoring of
23 chemical dependency. A licensee who materially fails to comply with a
24 program requirement shall be reported to the board and terminated from the
25 confidential program. Any records of a licensee who is terminated from a
26 confidential program are no longer confidential or exempt from the public
27 records law. Notwithstanding any law to the contrary, stipulated agreements
28 are not public records if the following conditions are met:

29 (a) The licensee voluntarily agrees to participate in the confidential
30 program.

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

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

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

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

42 7. Approve nursing assistant training programs that meet the
43 requirements of this chapter.

44 C. If the board adopts a substantive policy statement pursuant to
45 section 41-1091 and the executive director or designee reports all actions

1 taken pursuant to this subsection to the board at the next regular board
2 meeting, the executive director or designee may:

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

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

11 3. Close complaints resolved through settlement.

12 4. Issue letters of concern.

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

16 D. The executive director may accept the voluntary surrender of a
17 license, certificate or approval to resolve a pending complaint that is
18 subject to disciplinary action. The voluntary surrender or revocation of a
19 license, certificate or approval is a disciplinary action, and the board
20 shall report this action if required by federal law.

21 Sec. 56. Section 32-1673, Arizona Revised Statutes, is amended to
22 read:

23 32-1673. Powers and duties of the board

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

29 B. The board may:

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

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

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

38 Sec. 57. Section 32-1704, Arizona Revised Statutes, is amended to
39 read:

40 32-1704. Powers and duties of the board

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

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

- 1 1. Regulates a licensee's fees or charges to a patient.
- 2 2. Regulates the place in which a licensee may practice.
- 3 3. Prescribes the manner or method of accounting, billing or
- 4 collection of fees.
- 5 4. Prohibits advertising by a licensee unless the advertising is
- 6 inconsistent with section 44-1481.
- 7 C. The board shall maintain its records in accordance with a retention
- 8 schedule approved by the Arizona state library, archives and public records.
- 9 D. The board shall adopt rules for criteria it must use to approve
- 10 continuing education programs for licensees. Programs shall be designed to
- 11 assist licensees to maintain competency, to become aware of new developments
- 12 in the practice of the profession of optometry and to increase management
- 13 skills and administrative efficiency. The board shall approve programs that
- 14 meet these criteria.
- 15 E. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board may hire an
- 16 executive director as an employee of the board. The executive director is
- 17 responsible for the performance of the regular administrative functions of
- 18 the board and such other administrative duties as the board may direct. The
- 19 executive director is eligible to receive compensation in an amount as
- 20 determined pursuant to section 38-611.
- 21 F. The board may hire [INVESTIGATORS SUBJECT TO TITLE 41, CHAPTER 4,](#)
- 22 [ARTICLE 4](#) or contract with investigators to assist in the investigation of
- 23 violations of this chapter, hire other employees [SUBJECT TO TITLE 41, CHAPTER](#)
- 24 [4, ARTICLE 4](#) required to carry out this chapter and contract with other state
- 25 agencies when required to carry out this chapter.
- 26 G. The board may:
- 27 1. Appoint advisory committees.
- 28 2. Issue subpoenas for the attendance of witnesses and the production
- 29 of books, records, documents and other evidence it deems relevant to an
- 30 investigation or hearing.
- 31 3. Charge reasonable fees for materials it has printed at its own
- 32 expense.
- 33 4. Delegate to the executive director, board staff and persons with
- 34 whom the board contracts the board's licensing and regulatory duties. The
- 35 board shall adopt rules for each specific licensing and regulatory duty the
- 36 board delegates pursuant to this paragraph.
- 37 H. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board may hire
- 38 consultants and professional and clerical personnel as required to perform
- 39 its duties.
- 40 I. The board may contract with other state or federal agencies as
- 41 required to carry out this chapter.
- 42 J. Subject to the limitations of section 41-2544, the executive
- 43 director may enter into agreements to allow licensees to pay fees by
- 44 alternative methods, including credit cards, charge cards, debit cards and
- 45 electronic funds transfers.

1 K. A person who is aggrieved by an action taken by the executive
2 director, board staff or person with whom the board contracts may request the
3 board to review that action by filing with the board a written request within
4 thirty days after that person is notified of the action by personal delivery
5 or certified mail to that person's last known residence or place of business.
6 At the next regular board meeting, the board shall review the action and
7 approve, modify or reject the action.

8 Sec. 58. Section 32-1804, Arizona Revised Statutes, is amended to
9 read:

10 32-1804. Executive director; compensation; duties

11 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
12 an executive director who is not a member of the board. The executive
13 director shall serve at the pleasure of the board and shall receive
14 compensation as determined pursuant to section 38-611 to be paid from the
15 board fund.

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

17 1. Serve as administrative assistant to the board and manage the
18 board's offices.

19 2. Collect all monies due and payable to the board.

20 3. Deposit, pursuant to sections 35-146 and 35-147, all monies
21 received by the board in the appropriate fund.

22 4. Pay all bills for authorized board expenditures.

23 5. Administer oaths.

24 6. Act as custodian of the board's seal and books.

25 7. Employ special consultants or other agents SUBJECT TO TITLE 41,
26 CHAPTER 4, ARTICLE 4 to make investigations, gather information, review
27 complaints, review malpractice claims, suits and settlements, prepare reports
28 and perform other duties the executive director determines are necessary to
29 enforce this chapter.

30 8. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,
31 ARTICLES 5 AND 6, employ, evaluate, dismiss, discipline and direct
32 professional, clerical, technical, investigative and administrative ~~permanent~~
33 ~~or temporary~~ personnel necessary to carry out the purposes of this chapter.
34 The personnel are eligible to receive compensation pursuant to section
35 38-611.

36 9. Issue licenses, limited licenses, registrations, permits, license
37 renewal extensions and waivers to applicants who meet the requirements of
38 this chapter.

39 10. Enter into contracts pursuant to title 41, chapter 23 for goods and
40 services that are necessary to carry out board policies and directives.

41 11. Prepare minutes, reports and records of all board transactions and
42 orders.

43 12. Prepare a biannual budget.

44 13. As directed by the board, prepare and submit recommendations for
45 changes to this chapter for consideration by the legislature.

1 14. Initiate an investigation if evidence appears to demonstrate that a
2 physician may be engaged in unprofessional conduct or may be mentally
3 incompetent or physically unable to safely practice medicine.

4 15. Issue subpoenas to compel the attendance and testimony of a witness
5 and the production of evidence.

6 16. As directed by the board, provide assistance to the attorney
7 general in preparing and executing disciplinary orders, rehabilitation orders
8 and notices of hearings.

9 17. Represent the board with the federal government, other states and
10 jurisdictions of the United States, this state, political subdivisions of
11 this state, the news media and the public.

12 18. If delegated by the board, dismiss complaints that, after an
13 investigation, demonstrate insufficient evidence that the physician's conduct
14 violated this chapter.

15 19. If delegated by the board, enter into a stipulated agreement with a
16 licensee for the treatment, rehabilitation and monitoring of the licensee's
17 abuse or misuse of a chemical substance.

18 20. Review all complaints filed pursuant to section 32-1855. If
19 delegated by the board, the executive director may also dismiss a complaint
20 if the complaint is without merit. The executive director shall not dismiss
21 a complaint if a court has entered a medical malpractice judgment against a
22 physician. The executive director shall submit to the board a report of each
23 complaint the executive director dismisses for its review at its next regular
24 board meeting. The report shall include the complaint number, the name of
25 the physician and the investigation timeline for each dismissed complaint.

26 21. If delegated by the board, directly refer complaints for an
27 investigative interview.

28 22. If delegated by the board, close complaints resolved through
29 mediation.

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

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

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

36 26. If delegated by the board, refer cases to the board for an
37 investigative interview.

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

41 ~~28.~~ 27. Perform any other duty required by the board.

42 Sec. 59. Section 32-1903, Arizona Revised Statutes, is amended to
43 read:

44 32-1903. Organization; meetings; quorum; compensation of board;
45 executive director; compensation; powers and duties

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

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

8 C. The executive director is the executive officer in charge of the
9 board's office and shall administer this chapter under the direction of the
10 board. The executive director shall make, keep and be in charge of all
11 records and record books required to be kept by the board, including a
12 register of all licensees and registered businesses under this chapter. The
13 executive director shall attend to the correspondence of the board and
14 perform other duties the board requires. The executive director is eligible
15 to receive compensation as determined pursuant to section 38-611.

16 D. Any member of the board or the executive director may administer
17 oaths in connection with the duties of the board. The books, registers and
18 records of the board as made and kept by the executive director or under the
19 executive director's supervision are prima facie evidence of the matter
20 therein recorded in any court of law. Members of the board are eligible to
21 receive compensation in the amount of two hundred dollars for each day of
22 actual service in the business of the board and reimbursement for all
23 expenses necessarily and properly incurred in attending meetings of or for
24 the board.

25 E. The executive director may designate the deputy director to sign
26 claims and other documents in the executive director's absence. If the
27 executive director dies, becomes incapacitated or resigns, the deputy
28 director shall serve as the executive director until the board selects a new
29 executive director.

30 F. The executive director may cause to be published reports
31 summarizing judgments, decrees, court orders and board action that may have
32 been rendered under this chapter, including the nature of charges and the
33 disposition of the charges. The executive director may disseminate
34 information regarding drugs, devices, poisons or hazardous substances in
35 situations the executive director believes involve imminent danger to health
36 or gross deception of the consumer and report the results of investigations
37 carried out under this chapter.

38 Sec. 60. Section 32-1904, Arizona Revised Statutes, is amended to
39 read:

40 32-1904. Powers and duties of board; immunity

41 A. The board shall:

42 1. Make bylaws and adopt rules that are necessary for the protection
43 of the public and that pertain to the practice of pharmacy, the
44 manufacturing, wholesaling or supplying of drugs, devices, poisons or
45 hazardous substances, the use of pharmacy technicians and support personnel
46 and the lawful performance of its duties.

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

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

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

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

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

17 (c) Of detaining or embargoing a drug, device, poison or hazardous
18 substance in accordance with section 32-1994.

19 5. Examine and license as pharmacists and pharmacy interns all
20 qualified applicants as provided by this chapter.

21 6. Issue duplicates of lost or destroyed permits on the payment of a
22 fee as prescribed by the board.

23 7. Adopt rules for the rehabilitation of pharmacists and pharmacy
24 interns as provided by this chapter.

25 8. At least once every three months, notify pharmacies regulated
26 pursuant to this chapter of any modifications on prescription writing
27 privileges of podiatrists, dentists, doctors of medicine, registered nurse
28 practitioners, osteopathic physicians, veterinarians, physician assistants,
29 optometrists and homeopathic physicians of which it receives notification
30 from the board of podiatry examiners, board of dental examiners, Arizona
31 medical board, board of nursing, board of osteopathic examiners in medicine
32 and surgery, veterinary medical examining board, Arizona regulatory board of
33 physician assistants, board of optometry or board of homeopathic and
34 integrated medicine examiners.

35 B. The board may:

36 1. Employ chemists, compliance officers, clerical help and other
37 employees [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#) and provide laboratory
38 facilities for the proper conduct of its business.

39 2. Provide, by education of and information to the licensees and to
40 the public, assistance in the curtailment of abuse in the use of drugs,
41 devices, poisons and hazardous substances.

42 3. Approve or reject the manner of storage and security of drugs,
43 devices, poisons and hazardous substances.

44 4. Accept monies and services to assist in the enforcement of this
45 chapter from other than licensees:

46 (a) For performing inspections and other board functions.

1 (b) For the cost of copies of the pharmacy and controlled substances
2 laws, the annual report of the board and other information from the board.

3 5. Adopt rules for professional conduct appropriate to the
4 establishment and maintenance of a high standard of integrity and dignity in
5 the profession of pharmacy.

6 6. Grant permission to deviate from a state requirement for
7 experimentation and technological advances.

8 7. Adopt rules for the training and practice of pharmacy interns,
9 pharmacy technicians and support personnel.

10 8. Investigate alleged violations of this chapter, conduct hearings in
11 respect to violations, subpoena witnesses and take such action as it deems
12 necessary to revoke or suspend a license or a permit, place a licensee or
13 permittee on probation or warn a licensee or permittee under this chapter or
14 to bring notice of violations to the county attorney of the county in which a
15 violation took place or to the attorney general.

16 9. By rule, approve colleges or schools of pharmacy.

17 10. By rule, approve programs of practical experience, clinical
18 programs, internship training programs, programs of remedial academic work
19 and preliminary equivalency examinations as provided by this chapter.

20 11. Assist in the continuing education of pharmacists and pharmacy
21 interns.

22 12. Issue inactive status licenses as provided by this chapter.

23 13. Accept monies and services from the federal government or others
24 for educational, research or other purposes pertaining to the enforcement of
25 this chapter.

26 14. By rule, except from the application of all or any part of this
27 chapter any material, compound, mixture or preparation containing any
28 stimulant or depressant substance included in section 13-3401, paragraph 6,
29 subdivision (b) or (c) from the definition of dangerous drug if the material,
30 compound, mixture or preparation contains one or more active medicinal
31 ingredients not having a stimulant or depressant effect on the central
32 nervous system, provided that such admixtures are included in such
33 combinations, quantity, proportion or concentration as to vitiate the
34 potential for abuse of the substances that do have a stimulant or depressant
35 effect on the central nervous system.

36 15. Adopt rules for the revocation, suspension or reinstatement of
37 licenses or permits or the probation of licensees or permittees as provided
38 by this chapter.

39 C. The executive director and other ~~permanent or temporary~~ personnel
40 or agents of the board are not subject to civil liability for any act done or
41 proceeding undertaken or performed in good faith and in furtherance of the
42 purposes of this chapter.

43 Sec. 61. Section 32-2003, Arizona Revised Statutes, is amended to
44 read:

45 32-2003. Board; powers and duties

46 A. The board shall:

1 1. Evaluate the qualifications of applicants for licensure and
2 certification.

3 2. Provide for national examinations for physical therapists and
4 physical therapist assistants and adopt passing scores for these
5 examinations.

6 3. Issue licenses, permits and certificates to persons who meet the
7 requirements of this chapter.

8 4. Regulate the practice of physical therapy by interpreting and
9 enforcing this chapter.

10 5. Adopt and revise rules to enforce this chapter.

11 6. Meet at least once each quarter in compliance with the open meeting
12 requirements of title 38, chapter 3, article 3.1 and keep an official record
13 of these meetings.

14 7. Establish the mechanisms for assessing continuing professional
15 competence of physical therapists to engage in the practice of physical
16 therapy and the competence of physical therapist assistants to work in the
17 field of physical therapy.

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

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

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

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

30 12. Enter into contracts for services necessary for adequate
31 enforcement of this chapter.

32 13. Report final disciplinary action taken against a licensee or a
33 certificate holder to a national disciplinary database recognized by the
34 board.

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

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

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

42 17. Establish and collect fees.

43 18. Provide information to the public regarding the board, its
44 processes and consumer rights.

45 B. The board may establish a committee or committees to assist it in
46 carrying out its duties for a time prescribed by the board. The board may

1 require a committee appointed pursuant to this subsection to make regular
2 reports to the board.

3 Sec. 62. Section 32-2063, Arizona Revised Statutes, is amended to
4 read:

5 32-2063. Powers and duties

6 A. The board shall:

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

8 2. Regulate disciplinary actions, the granting, denial, revocation,
9 renewal and suspension of licenses and the rehabilitation of licensees
10 pursuant to this chapter and board rules.

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

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

16 5. Adopt an official seal for attestation of licenses and other
17 official papers and documents.

18 6. Investigate charges of violations of this chapter and board rules
19 and orders.

20 7. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ an executive
21 director who serves at the pleasure of the board.

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

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

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

29 11. By rule, adopt a code of ethics relating to the practice of
30 psychology. The board shall base this code on the code of ethics adopted and
31 published by the American psychological association. The board shall apply
32 the code to all board enforcement policies and disciplinary case evaluations
33 and development of licensing examinations.

34 B. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ
35 ~~permanent or temporary~~ personnel it deems necessary to carry out this
36 chapter. The board, in investigating violations of this chapter, may employ
37 investigators who may be psychologists. The board or its executive director
38 may take and hear evidence, administer oaths and affirmations and compel by
39 subpoena the attendance of witnesses and the production of books, papers,
40 records, documents and other information relating to the investigation or
41 hearing.

42 C. Subject to section 35-149, the board may accept, expend and account
43 for gifts, grants, devises and other contributions, money or property from
44 any public or private source, including the federal government. The board
45 shall deposit, pursuant to sections 35-146 and 35-147, monies received
46 pursuant to this subsection in special funds for the purpose specified, and

monies in these funds are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

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

Sec. 63. Section 32-2109, Arizona Revised Statutes, is amended to read:

32-2109. Employment; compensation

SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the commissioner shall appoint a secretary and such deputies, assistants, and clerks as are necessary. The compensation of all such employees shall be as determined pursuant to section 38-611.

Sec. 64. Section 32-2206, Arizona Revised Statutes, is amended to read:

32-2206. Board personnel

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

Sec. 65. Section 32-2207, Arizona Revised Statutes, is amended to read:

32-2207. Veterinary board; powers and duties

The primary duty of the board is to protect the public from unlawful, incompetent, unqualified, impaired or unprofessional practitioners of veterinary medicine through licensure and regulation of the profession in this state. The powers and duties of the board include:

1. Administering and enforcing this chapter and board rules.
2. Regulating disciplinary actions, the granting, denial, revocation, renewal and suspension of licenses and certificates and the rehabilitation of licensees and certificate holders pursuant to this chapter and board rules.
3. Prescribing the forms, content and manner of application for licensure and certification and renewal of licensure and certification and setting deadlines for the receipt of materials required by the board.
4. Keeping a record of all licensees and certificate holders, board actions taken concerning all applicants, licensees and certificate holders and the receipt and disbursal of monies.
5. Adopting an official seal for attestation of licenses, certificates and other official papers and documents.
6. Investigating charges of violations of this chapter and board rules and orders.

7. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employing an executive director who serves at the pleasure of the board.

8. Adopting rules pursuant to title 41, chapter 6 that relate to the qualifications and regulation of doctors of veterinary medicine, certified veterinary technicians, veterinary premises, mobile veterinary clinics and

1 crematories and other rules that the board deems necessary for the
2 administration of this chapter. The rules may include continuing education
3 requirements for licensees and certificate holders and shall include:

4 (a) Minimum standards of veterinary practice.

5 (b) Provisions to ensure that the public has reasonable access to
6 nonconfidential information about the licensing or certification status of
7 persons regulated under this chapter and about resolved complaints against
8 licensees and certificate holders.

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

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

13 (a) Reproduction of documents.

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

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

18 (d) Provision of a list of the names of veterinarians, certified
19 veterinary technicians or veterinary premises licensed or certified by the
20 board.

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

24 Sec. 66. Section 32-2304, Arizona Revised Statutes, is amended to
25 read:

26 32-2304. Powers and duties

27 A. The acting director is responsible for administering this chapter
28 and shall:

29 1. Adopt rules that are necessary or proper for the administration of
30 this chapter, including administrative provisions, education requirements,
31 health and safety provisions and provisions for the use, storage and
32 application of pesticides and devices used in structural pest control.

33 2. Administer and enforce this chapter and rules adopted pursuant to
34 this chapter.

35 3. Notify the business licensee, applicator and qualifying party in
36 writing of any complaint against the business licensee, qualifying party or
37 employee of the business licensee by the close of business on the tenth
38 business day after the day on which the acting director initiated the
39 complaint.

40 4. Issue subpoenas for the taking of depositions, the production of
41 documents and things and the entry on land for inspection and measuring,
42 surveying, photographing, testing or sampling the property or any designated
43 object or operation on the property relevant to the complaint.

44 5. Conduct or contract to conduct applicator license and qualifying
45 party license tests at locations throughout this state. If the acting
46 director contracts for these tests, the contracts may provide for specific

1 examination fees or a reasonable range of fees determined by the acting
2 director to be paid directly to the contractor by the applicant. The acting
3 director shall make all efforts to contract with private parties to
4 electronically administer the applicator and qualifying party license tests.

5 6. Maintain a computer system for the benefit and protection of the
6 public that includes the following information on termite treatments that are
7 done before or during construction, initial termite corrective projects,
8 preventative termite treatments and wood-destroying insect inspection
9 reports:

10 (a) The name of the individual who performed the work.

11 (b) The address or location of the work or project.

12 (c) The name of the pest management company.

13 (d) The name of the qualifying party.

14 (e) The applicator license numbers.

15 (f) The nature and date of the work performed.

16 (g) Any other information that is required by rule.

17 7. Establish offices ~~if~~ THE ACTING DIRECTOR deems necessary to carry
18 out the purposes of this chapter.

19 8. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ ~~permanent or~~
20 ~~temporary~~ personnel ~~if~~ THE ACTING DIRECTOR deems necessary to carry out the
21 purposes of this chapter and designate their duties.

22 9. Investigate violations of this chapter and rules adopted pursuant
23 to this chapter.

24 10. Oversee the approval, content and method of delivery of continuing
25 education courses.

26 11. Deny a license to any person who has had a license revoked for a
27 period of five years from the time of revocation.

28 12. License applicators, qualifying parties and businesses in
29 accordance with this chapter and rules adopted pursuant to this chapter.

30 13. Require the payment of a penalty for any late license renewal.

31 14. Require either completion of the continuing education requirement
32 or successful completion of the license examination for failure to renew a
33 license on time.

34 15. Suspend a license if a licensee fails to renew the license within
35 thirty calendar days after the renewal date.

36 16. Refuse to issue a business license in a name that is not registered
37 with the secretary of state or filed with the Arizona corporation commission.

38 17. Adopt a wood-destroying insect inspection report form for use by
39 business licensees.

40 B. The acting director may charge to the holder of a business license
41 the actual cost of providing mailed copies of rules, forms or policies that
42 are proposed for adoption and for educational materials.

43 C. The acting director shall administer and enforce this chapter and
44 the rules adopted pursuant to this chapter.

1 D. The acting director may:

2 1. Compel attendance of witnesses, administer oaths or affirmations
3 and take testimony concerning all matters coming within the acting director's
4 jurisdiction.

5 2. Require a person who seeks a license pursuant to this chapter to
6 submit to the office a full set of fingerprints and the fees required by
7 section 41-1750. The acting director shall submit the fingerprints and fees
8 to the department of public safety for the purpose of obtaining a state and
9 federal criminal records check pursuant to section 41-1750 and Public Law
10 92-544. The department of public safety may exchange this fingerprint data
11 with the federal bureau of investigation.

12 3. Enter into intergovernmental agreements.

13 4. With at least twenty-four hours' notice, request specific records
14 from a business licensee, qualifying party or applicator at the person's
15 place of business during normal business hours.

16 5. Deny or revoke a license based on the information in the
17 application or information that the acting director receives from the
18 criminal background check.

19 6. On a showing of good cause by the business licensee, excuse a
20 failure to timely comply with a records request.

21 7. Issue advisory notices for de minimis violations.

22 8. Require inspectors to be licensed applicators in all categories
23 within their scope of work during their probationary period. Inspectors
24 shall attend and complete an investigative training class that is prescribed
25 by the acting director.

26 9. Investigate alleged violations of all applicable federal and state
27 statutes, rules or orders or alleged violations of any condition imposed in
28 connection with a license.

29 10. Pursuant to section 32-2329, summarily suspend a license issued
30 under this chapter to protect the health, safety and welfare of the public.

31 11. Issue a corrective work order requiring a licensee to remedy
32 deficiencies in treatment or to comply with this chapter or any rules adopted
33 pursuant to this chapter before or after a formal hearing.

34 12. Do at least one of the following in relation to unlicensed pest
35 management business operations:

36 (a) Issue a cease and desist order requiring an unlicensed pest
37 management business to immediately cease operations.

38 (b) Except as provided in section 32-2311, subsection D, impose on an
39 unlicensed pest management business a civil penalty of not more than one
40 thousand dollars for the first occurrence and not more than two thousand
41 dollars for the second or subsequent occurrence.

42 13. Refer all cases for formal hearing to the office of administrative
43 hearings.

44 14. Refuse to issue a business license in a name that is likely to be
45 misleading or to imply any distorted representation about the business.

1 15. Issue a renewable and revocable temporary qualifying party license
2 to a licensed applicator who is a representative of a business licensee if
3 the qualifying party becomes disassociated with the business licensee.

4 16. Provide and conduct classes to train applicators and qualifying
5 parties in preparation for license tests. The acting director may assess a
6 fee for each class. The acting director may contract with a commercial
7 enterprise or an accredited institution to conduct the class.

8 17. Provide and conduct continuing education classes quarterly. The
9 acting director may assess a fee for each credit hour. The acting director
10 may contract with a commercial enterprise or an accredited institution to
11 conduct the class under the supervision of office staff.

12 18. Appoint an employee of the office to conduct an informal settlement
13 conference with a licensee against whom an inquiry is received or a complaint
14 is filed.

15 19. Prepare a consent order only after either an informal settlement
16 conference is conducted pursuant to section 32-2321 or a formal hearing is
17 conducted pursuant to title 41, chapter 6, article 10.

18 20. Apply to the appropriate court, through the attorney general or
19 county attorney, for an order enjoining any act or practice that constitutes
20 a violation of this chapter or any rule adopted pursuant to this chapter.

21 21. Approve proposed consent orders.

22 E. Each completed form for a termite treatment that is done before or
23 during construction, initial termite corrective treatment project or
24 wood-destroying insect inspection report shall be accompanied by a fee. The
25 initial fee is eight dollars. The acting director may:

26 1. Adjust the fee upward or downward to a level that is calculated to
27 produce sufficient revenue to carry out the functions prescribed under this
28 section.

29 2. Establish tiered fees according to the means of submission to
30 encourage electronic submission of the termite action registration form.

31 3. Assess a penalty of not to exceed one hundred dollars per form for
32 failing to submit the required form or fee, or both, within thirty calendar
33 days.

34 F. Subject to the limitations of section 41-2544, the acting director
35 may enter into agreements for the purpose of enabling the office to accept
36 payment for fees imposed under this chapter by alternative payment methods,
37 including credit cards, charge cards, debit cards and electronic funds
38 transfers. Before the monies are transferred to the acting director pursuant
39 to section 32-2305, the person collecting the fees shall deduct any amount
40 charged or withheld by a company providing the alternative payment method
41 under an agreement with the office.

42 G. In the enforcement of this article, the acting director or any duly
43 authorized agents may enter with the authority of a warrant issued by a court
44 of competent jurisdiction at reasonable times on any private or public
45 property on which pesticides are located or are reasonably believed to be
46 located to be used for purposes related to pest management. The owner,

1 managing agent or occupant of the property shall permit entry for the purpose
2 of inspecting and investigating conditions relating to the use, storage,
3 application and disposal of pesticides.

4 Sec. 67. Section 32-2904, Arizona Revised Statutes, is amended to
5 read:

6 32-2904. Powers and duties

7 A. The board shall:

8 1. Conduct all examinations for applicants for a license under this
9 chapter, issue licenses, conduct hearings, regulate the conduct of licensees
10 and administer and enforce this chapter.

11 2. Enforce the standards of practice prescribed by this chapter and
12 board rules.

13 3. Collect and account for all fees under this chapter and deposit,
14 pursuant to sections 35-146 and 35-147, the monies in the appropriate fund.

15 4. Maintain a record of its acts and proceedings, including the
16 issuance, refusal to issue, renewal, suspension or revocation of licenses to
17 practice according to this chapter.

18 5. Maintain a roster of all persons who are licensed pursuant to this
19 chapter that includes:

20 (a) The licensee's name.

21 (b) The current professional office address.

22 (c) The date and number of the license issued under this chapter.

23 (d) Whether the licensee is in good standing.

24 6. Adopt and use a seal, the imprint of which, together with the
25 signatures of the president or vice-president of the board and the
26 secretary-treasurer, shall evidence its official acts.

27 7. Contract with the department of administration for administrative
28 and record keeping services.

29 8. Charge additional fees that do not exceed the cost of the services
30 for services the board deems necessary to carry out its intent and purposes.

31 9. Adopt rules regarding the regulation and the qualifications of
32 medical assistants.

33 10. Keep board records open to public inspection during normal business
34 hours.

35 B. The board may:

36 1. Adopt rules necessary or proper for the administration of this
37 chapter.

38 2. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, hire ~~permanent or~~
39 ~~temporary~~ personnel to carry out the purposes of this chapter.

40 3. Hire INVESTIGATORS SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 or
41 contract with investigators to assist in the investigation of violations of
42 this chapter and contract with other state agencies if required to carry out
43 this chapter.

44 4. Appoint one of its members to the jurisdiction arbitration panel
45 pursuant to section 32-2907, subsection B.

1 5. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ consultants to
2 perform duties the board determines are necessary to implement this chapter.

3 6. Appoint from its membership a temporary secretary to perform the
4 duties of the executive director if that office is vacant. The temporary
5 secretary is eligible to receive compensation pursuant to section 38-611.

6 7. Compile and publish an annual directory.

7 8. Adopt rules to establish competency or professional review
8 standards for any minor surgical procedure.

9 9. Appoint two or more board members to a subcommittee that reviews
10 and approves applications and issues permits pertaining to homeopathic
11 medical assistants and associated practical educational programs, pursuant to
12 board rules.

13 10. Appoint two or more board members to a subcommittee that reviews
14 and approves applications and issues permits pertaining to drugs and device
15 dispensing practices, pursuant to board rules.

16 Sec. 68. Section 32-2905, Arizona Revised Statutes, is amended to
17 read:

18 32-2905. Executive director; compensation; duties

19 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
20 an executive director from outside its membership. The executive director
21 serves at the pleasure of the board and is eligible to receive compensation
22 determined pursuant to section 38-611.

23 B. The executive director shall:

24 1. Collect all monies due and payable to the board.

25 2. Deposit, pursuant to sections 35-146 and 35-147, all monies
26 received by the board in the appropriate fund.

27 3. Prepare bills for authorized expenditures of the board and obtain
28 warrants from the department of administration for payment of bills certified
29 by the president or vice-president and secretary-treasurer of the board.

30 4. Act as custodian of the seal, books, records, minutes and
31 proceedings.

32 5. Perform all duties prescribed by the board.

33 Sec. 69. Section 32-3003, Arizona Revised Statutes, is amended to
34 read:

35 32-3003. Powers and duties

36 A. The board shall:

37 1. Annually select a chairman from among its members.

38 2. Meet at least four times a year.

39 3. Adopt rules which are necessary or proper for the administration of
40 this chapter.

41 4. Administer and enforce this chapter and rules adopted pursuant to
42 this chapter.

43 5. Establish minimum standards for private vocational program
44 licensure requirements.

45 6. Adopt an official seal for attestation of licenses or other
46 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. 70. 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.

45 3. Issue a license by examination, reciprocity or temporary
46 recognition to, and renew the license of, each person who is qualified to be

1 licensed pursuant to this chapter. The board must issue or deny a license
2 within one hundred eighty days after the applicant submits a completed
3 application.

4 4. Establish a licensure fee schedule annually, by a formal vote at a
5 regular board meeting.

6 5. Collect fees and spend monies.

7 6. Keep a record of all persons licensed pursuant to this chapter,
8 actions taken on all applications for licensure, actions involving renewal,
9 suspension, revocation or denial of a license or probation of licensees and
10 the receipt and disbursal of monies.

11 7. Adopt an official seal for attestation of licensure and other
12 official papers and documents.

13 8. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,** employ ~~temporary or~~
14 ~~permanent~~ personnel as it deems necessary.

15 9. Conduct investigations and determine on its own motion if a
16 licensee or an applicant has engaged in unprofessional conduct, is
17 incompetent or is mentally or physically unable to engage in the practice of
18 behavioral health.

19 10. Conduct disciplinary actions pursuant to this chapter and board
20 rules.

21 11. Establish and enforce standards or criteria of programs or other
22 mechanisms to ensure the continuing competence of licensees.

23 12. Establish and enforce compliance with professional standards and
24 rules of conduct for licensees.

25 13. Engage in a full exchange of information with the licensing and
26 disciplinary boards and professional associations for behavioral health
27 professionals in this state and other jurisdictions.

28 14. Subject to section 35-149, accept, expend and account for gifts,
29 grants, devises and other contributions, money or property from any public or
30 private source, including the federal government. Monies received under this
31 paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in
32 special funds for the purpose specified, which are exempt from **THE PROVISIONS**
33 **OF** section 35-190 relating to lapsing of appropriations.

34 B. The board may join professional organizations and associations
35 organized exclusively to promote the improvement of the standards of the
36 practice of behavioral health, protect the health and welfare of the public
37 or assist and facilitate the work of the board.

38 C. The board may establish a confidential program for the monitoring
39 of licensees who are chemically dependent and who enroll in a rehabilitation
40 program that meets the criteria prescribed by the board. The board may take
41 further action if a licensee refuses to enter into a stipulated agreement or
42 fails to comply with the terms of a stipulated agreement. In order to
43 protect the public health and safety, the confidentiality requirements of
44 this subsection do not apply if a licensee does not comply with the
45 stipulated agreement.

1 Sec. 71. Section 32-3403, Arizona Revised Statutes, is amended to
2 read:

3 32-3403. Executive director; personnel; duties; compensation

4 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ and
5 discharge an executive director and other officers and employees as it deems
6 necessary and designate their duties. Board personnel are eligible to receive
7 compensation as determined pursuant to section 38-611.

8 B. The executive director shall:

- 9 1. Issue and document licenses approved by the board.
10 2. Keep a record of the status of licenses and licensees.
11 3. Keep a record of the status of applicants, including those whose
12 applications are denied.
13 4. Perform tasks and duties assigned by the board.
14 5. Collect fees and maintain accounting records according to generally
15 accepted accounting principles.

16 Sec. 72. Section 32-3504, Arizona Revised Statutes, is amended to
17 read:

18 32-3504. Powers and duties; inspection of records; personnel
19 examinations; immunity

20 A. The board shall:

- 21 1. Enforce and administer the provisions of this chapter.
22 2. Adopt rules necessary to administer this chapter.
23 3. Examine applicants for licensure pursuant to this chapter at times
24 and places it designates.
25 4. Investigate each applicant for licensure, before a license is
26 issued, in order to determine if the applicant is qualified pursuant to this
27 chapter.
28 5. Keep a record of all its acts and proceedings pursuant to this
29 chapter, including the issuance, refusal, renewal, suspension or revocation
30 of licenses.
31 6. Beginning on January 1, 1999, require each applicant for initial
32 licensure to submit a full set of fingerprints to the board for a state and
33 federal criminal history records check pursuant to section 41-1750 and Public
34 Law 92-544.
35 7. Maintain a register which contains the name, the last known place
36 of residence and the date and number of the license of all persons licensed
37 pursuant to this chapter.

38 8. Compile, once every two years, a list of licensed respiratory care
39 practitioners who are authorized to practice in this state.

40 9. Establish minimum annual continuing education requirements for
41 persons licensed under this chapter.

42 B. The board, in approving training programs for respiratory
43 therapists and training programs for respiratory therapy technicians shall
44 consider the requirements and standards set by the American medical
45 association's committee on allied health education and accreditation in
46 collaboration with the joint review committee for respiratory therapy

1 education. The board may recognize examinations administered by a national
2 board for respiratory care approved by the board.

3 ~~C. The board may employ an executive officer and other temporary and~~
4 ~~permanent personnel it deems necessary. The executive officer and other~~
5 ~~personnel are eligible to receive compensation pursuant to section 38-611.~~

6 ~~D.~~ C. The board may conduct examinations under a uniform examination
7 system and may make arrangements with the national board of respiratory care
8 or other organizations regarding examination materials it determines
9 necessary and desirable.

10 ~~E.~~ D. The board and its members, ~~temporary and permanent~~ personnel
11 and board examiners are personally immune from suit with respect to all acts
12 done and actions taken in good faith and in furtherance of the purposes of
13 this chapter.

14 Sec. 73. Section 32-3506, Arizona Revised Statutes, is amended to
15 read:

16 32-3506. Executive director; duties; compensation

17 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
18 an executive director who serves at the pleasure of the board. The executive
19 director shall not be a board member.

20 B. The executive director ~~is~~ AND OTHER BOARD EMPLOYEES ARE eligible to
21 receive compensation AS DETERMINED pursuant to section 38-611.

22 C. The executive director shall:

23 1. Perform the board's administrative duties.

24 2. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,
25 ARTICLES 5 AND 6, employ, evaluate, dismiss, discipline and direct personnel
26 as necessary to carry out board functions.

27 ~~3. Set compensation for board employees pursuant to section 38-611.~~

28 ~~4.~~ 3. Issue temporary license certificates and temporary license
29 renewal certificates pursuant to section 32-3521 and board rules.

30 ~~5.~~ 4. Initiate an investigation if there is reason to believe that a
31 licensee is incompetent, mentally or physically unable to safely practice
32 respiratory care or engaged in unprofessional conduct.

33 ~~6.~~ 5. Issue subpoenas if necessary to compel the attendance and
34 testimony of witnesses and the production of books, records, documents and
35 evidence.

36 ~~7.~~ 6. As directed by the board, sign and execute disciplinary orders,
37 rehabilitative orders and notices of hearings.

38 ~~8.~~ 7. On behalf of the board, enter into stipulated agreements with
39 licensees for the treatment, rehabilitation and monitoring of chemical
40 substance abuse or misuse.

41 ~~9.~~ 8. Perform all other duties required by the board.

42 Sec. 74. Section 32-3605, Arizona Revised Statutes, is amended to
43 read:

44 32-3605. State board of appraisal; duties

45 A. The board shall adopt rules in aid or in furtherance of this
46 chapter.

1 B. The state board of appraisal shall:

2 1. In prescribing standards of professional appraisal practice, adopt
3 standards that at a minimum are equal to the standards prescribed by the
4 appraisal standards board.

5 2. In prescribing criteria for certification, adopt criteria that at a
6 minimum are equal to the minimum criteria for certification adopted by the
7 appraiser qualifications board.

8 3. In prescribing criteria for licensing, adopt criteria that at a
9 minimum are equal to the minimum criteria for licensing adopted by the
10 appraiser qualifications board.

11 4. Further define by rule with respect to state licensed or state
12 certified appraisers appropriate and reasonable educational experience,
13 appraisal experience and equivalent experience that meets the statutory
14 requirement of this chapter.

15 5. Establish the examination specifications for state certified
16 appraisers, provide or procure appropriate examination questions and answers,
17 administer examinations and establish procedures for grading examinations
18 consistent with and equivalent to the criteria adopted by the appraiser
19 qualifications board.

20 6. Establish the examination specifications for state licensed
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 7. Establish administrative procedures for approving or disapproving
26 applications for licensure and certification and issuing licenses and
27 certificates.

28 8. Define by rule, with respect to state licensed and certified
29 appraisers, the continuing education requirements for the renewal of licenses
30 or certificates that satisfy the statutory requirements provided in this
31 chapter.

32 9. Periodically review the requirements for the development and
33 communication of appraisals provided in this chapter and adopt rules
34 explaining and interpreting the requirements.

35 10. Define and explain by rule each stage and step associated with the
36 administrative procedures for the disciplinary process pursuant to this
37 chapter including:

38 (a) Prescribing minimum criteria for accepting a complaint against a
39 licensed or certified appraiser.

40 (b) Defining the process and procedures used in investigating the
41 allegations of the complaint.

42 (c) Defining the process and procedures used in hearings on the
43 complaint, including a description of the rights of the board and any person
44 who is alleged to have committed the violation.

45 (d) Establishing criteria to be used in determining the appropriate
46 actions for violations.

11. Communicate information that is useful to the public and appraisers relating to actions for violations.

12. Censure, suspend and revoke licenses and certificates pursuant to the disciplinary proceedings provided for in section 32-3631.

13. At least monthly transmit to the appraisal subcommittee a roster listing individuals who have received a state certificate or license in accordance with this chapter.

14. Report on the disposition of any matter referred by the appraisal subcommittee or any other federal agency or instrumentality or federally recognized entity reporting any action of a state licensed or state certified appraiser that is contrary to this chapter.

15. Make a determination and finding if there exists a scarcity of state certified or state licensed appraisers to perform appraisals in connection with federally related transactions in this state and issue resident temporary licenses and certificates pursuant to section 32-3626.

16. Transmit the national registry fee collected pursuant to section 32-3607 to the appraisal subcommittee.

17. Establish the fees in accordance with the limits established in section 32-3607.

18. Perform such other functions and duties as may be necessary to carry out this chapter.

C. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board may employ an executive director and other personnel and designate their duties. The executive director shall serve at the pleasure of the board.

D. The executive director shall not change or amend actions of the board.

Sec. 75. Section 32-3903, Arizona Revised Statutes, is amended to read:

32-3903. Powers and duties of the board

A. The board shall:

1. Adopt rules necessary to enforce this chapter.

2. Initiate investigations and take disciplinary actions to enforce this chapter.

3. Evaluate the qualifications of applicants and issue licenses to qualified applicants.

4. Adopt and use a seal to authenticate official board documents.

5. Establish fees pursuant to section 32-3927.

6. Adopt rules for establishing and approving preceptorships and clinical training.

B. The board may:

1. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), employ personnel needed to carry out board functions.

2. Purchase, lease, rent, sell or otherwise dispose of personal and real property for the operations of the board.

3. Approve examinations for licensure.

1 Sec. 76. Section 32-3904, Arizona Revised Statutes, is amended to
2 read:

3 32-3904. Executive director; personnel; duties; compensation

4 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may appoint an
5 executive director who serves at the pleasure of the board. The executive
6 director shall not be a board member.

7 B. The executive director is eligible to receive compensation set by
8 the board within the range determined pursuant to section 38-611.

9 C. The executive director shall:

10 1. Perform the administrative duties of the board.

11 2. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ personnel needed
12 to carry out board functions.

13 3. Perform other duties as directed by the board.

14 Sec. 77. Section 35-196.01, Arizona Revised Statutes, is amended to
15 read:

16 35-196.01. Expenditure of state monies for certain purposes;
17 report

18 A. SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE DEPARTMENT OF
19 ADMINISTRATION, a budget unit ~~shall not~~ MAY spend any ~~appropriated~~ monies for
20 either of the following ~~unless monies are appropriated for the specific~~
21 ~~purpose~~:

22 1. Transportation or other travel expenses necessary for bringing any
23 person into this state who is not a resident of this state for an interview
24 for prospective employment.

25 2. Transportation or moving expenses for any person newly employed or
26 retained.

27 B. A budget unit may spend monies to reimburse current employees for
28 reasonable relocation expenses related to management initiated geographical
29 reassignments of more than fifty miles from an employee's current work site
30 pursuant to rules adopted by the director of the department of
31 administration.

32 C. ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, A BUDGET UNIT SHALL REPORT
33 TO THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING AND THE JOINT
34 LEGISLATIVE BUDGET COMMITTEE REGARDING ANY MONIES SPENT FOR THE PRIOR FISCAL
35 YEAR FOR THE PURPOSES PRESCRIBED IN THIS SECTION.

36 Sec. 78. Section 36-102, Arizona Revised Statutes, is amended to read:

37 36-102. Department of health services; director; appointment;
38 compensation

39 A. There is established a department of health services.

40 B. The direction, operation and control of the department ~~is~~ ARE the
41 responsibility of the director.

42 C. The director shall be appointed by the governor ~~from a list of~~
43 ~~names submitted by the search committee~~ pursuant to section 38-211 and shall
44 serve at the pleasure of the governor. The director shall be a person who
45 has:

1 1. Administrative experience in the private sector, with progressively
2 increasing responsibilities.

3 2. An educational background that prepares the director for the
4 administrative responsibilities assigned to the position.

5 3. Health related experience which insures familiarity with the
6 peculiarities of health problems.

7 ~~D. Qualifications of candidates for the position of director shall be
8 reviewed by a search committee of seven persons selected by the governor.
9 The names of all those candidates determined by the committee to be qualified
10 for the position shall be submitted to the governor for his consideration.
11 The governor may request additional names from the committee if he deems
12 necessary. For each subsequent vacancy in the position of director, a new
13 committee shall be appointed by the governor as provided herein.~~

14 ~~E.~~ D. Compensation for the director shall be established pursuant to
15 section 38-611.

16 Sec. 79. Section 36-103, Arizona Revised Statutes, is amended to read:

17 36-103. Department organization; deputy director; assistant
18 directors

19 A. The director may establish, abolish or reorganize the positions or
20 organizational units within the department to carry out the functions
21 provided by this section and section 36-104, subject to legislative
22 appropriation, if in his judgment such modification of organization would
23 make the operation of the department more efficient, effective or economical.
24 The director or his deputy shall enforce cooperation among the divisions in
25 the provision and integration of all functions.

26 B. There shall be a deputy director of the department who is appointed
27 by the director with the approval of the governor. The deputy director shall
28 be ~~exempt from the state personnel system~~ SUBJECT TO TITLE 41, CHAPTER 4,
29 ARTICLE 4, shall serve at the pleasure of the director and shall receive
30 compensation as determined pursuant to section 38-611. The deputy director
31 shall assist the director in administering the department and its services.

32 C. The director may appoint an assistant director to each
33 organizational unit that ~~he may establish~~ THE DIRECTOR ESTABLISHES. Each
34 such assistant director shall be ~~exempt from the state personnel system~~
35 SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, shall serve at the pleasure of the
36 director and shall receive compensation as determined pursuant to section
37 38-611.

38 Sec. 80. Section 36-273, Arizona Revised Statutes, is amended to read:

39 36-273. Powers and duties

40 A. The department may:

41 1. Use monies in the disease control research fund established
42 pursuant to section 36-274 to contract with individuals, organizations,
43 corporations and institutions, public or private, in this state for any
44 projects or services that the department determines may advance research into
45 the causes, the epidemiology and diagnosis, the formulation of cures, the
46 medically accepted treatment or the prevention of diseases, including new

1 drug discovery and development. Public monies in the disease control
2 research fund shall not be used for capital construction projects.

3 2. Enter into research and development agreements, royalty agreements,
4 development agreements, licensing agreements and profit sharing agreements
5 concerning the research, development and production of new products developed
6 or to be developed through department funded research.

7 3. Accept or receive monies from any source, including restricted or
8 unrestricted gifts and contributions from individuals, foundations,
9 corporations and other organizations and institutions.

10 4. Obtain expert services to assist in the evaluation of requests and
11 proposals.

12 5. Request cooperation from any state agency for the purposes of this
13 article.

14 6. Provide information and technical assistance to other jurisdictions
15 and agencies.

16 7. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, EMPLOY PERSONNEL NEEDED**
17 **TO CARRY OUT THE DUTIES OF THIS ARTICLE.**

18 B. The department shall:

19 1. Review and evaluate proposals or requests for projects or services.

20 2. Establish a mechanism to review the contracts awarded to ensure
21 that the monies are used in accordance with the proposals approved by the
22 department.

23 3. Prepare and submit a report on or before January 15 of each year to
24 the governor, the president of the senate and the speaker of the house of
25 representatives that describes the projects or services proposed to the
26 department pursuant to this article, the projects or services for which the
27 department has awarded a contract and the amount of monies necessary for each
28 proposal, the cost of each proposal for which a contract was awarded, the
29 names and addresses of the recipients of each contract and the purpose for
30 which each contract was made. The department shall provide a copy of this
31 report to the secretary of state.

32 Sec. 81. Section 36-446.03, Arizona Revised Statutes, is amended to
33 read:

34 **36-446.03. Powers and duties of the board; fees**

35 A. The board may adopt, amend or repeal reasonable and necessary rules
36 and standards for the administration of this article in compliance with title
37 XIX of the social security act, as amended.

38 B. The board by rule may adopt nonrefundable fees for the following:

39 1. Initial application for certification as an assisted living
40 facility manager.

41 2. Examination for certification as an assisted living facility
42 manager.

43 3. Issuance of a certificate as an assisted living facility manager,
44 prorated monthly.

45 4. Biennial renewal of a certificate as an assisted living facility
46 manager.

1 5. Issuance of a temporary certificate as an assisted living facility
2 manager.

3 6. Readministering an examination for certification as an assisted
4 living facility manager.

5 7. Issuance of a duplicate certificate as an assisted living facility
6 manager.

7 8. Reviewing the sponsorship of continuing education programs, for
8 each credit hour.

9 9. Late renewal of an assisted living facility manager certificate.

10 10. Reviewing an individual's request for continuing education credit
11 hours, for each credit hour.

12 11. Reviewing initial applications for assisted living facility
13 training programs.

14 12. Annual renewal of approved assisted living facility training
15 programs.

16 C. The board may elect officers it deems necessary.

17 D. The board shall apply appropriate techniques, including
18 examinations and investigations, to determine if a person meets the
19 qualifications prescribed in section 36-446.04.

20 E. On its own motion or in response to any complaint against or report
21 of a violation by an administrator of a nursing care institution, or a
22 manager of an assisted living facility, the board may conduct investigations,
23 hearings and other proceedings concerning any violation of this article or of
24 rules adopted by the board or by the department.

25 F. In connection with an investigation or administrative hearing, the
26 board may administer oaths and affirmations, subpoena witnesses, take
27 evidence and require by subpoena the production of documents, records or
28 other information in any form concerning matters the board deems relevant to
29 the investigation or hearing. If any subpoena issued by the board is
30 disobeyed, the board may invoke the aid of any court in this state in
31 requiring the attendance and testimony of witnesses and the production of
32 evidence.

33 G. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board may employ
34 persons to provide investigative, professional and clerical assistance as
35 required to perform its powers and duties under this article. Compensation
36 for board employees shall be as determined pursuant to section 38-611. The
37 board may contract with other state or federal agencies as required to carry
38 out this article.

39 H. The board may appoint review committees to make recommendations
40 concerning enforcement matters and the administration of this article.

41 I. The board by rule may establish a program to monitor licensees and
42 certificate holders who are chemically dependent and who enroll in
43 rehabilitation programs that meet board requirements. The board may take
44 disciplinary action if a licensee or a certificate holder refuses to enter
45 into an agreement to enroll in and complete a board approved rehabilitation
46 program or fails to abide by that agreement.

1 J. The board shall adopt and use an official seal.

2 K. The board shall adopt rules for the examination and licensure of
3 nursing care institution administrators and the examination and certification
4 of assisted living facility managers.

5 L. The board shall adopt rules governing payment to a person for the
6 direct or indirect solicitation or procurement of assisted living facility
7 patronage.

8 M. The board must provide the senate and the house of representatives
9 health committee chairmen with copies of all board minutes and executive
10 decisions.

11 N. The board by rule shall limit by percentage the amount it may
12 increase a fee above the amount of a fee previously prescribed by the board
13 pursuant to this section.

14 O. The board by rule shall prescribe standards for assisted living
15 facility training programs.

16 P. The board may:

17 1. Grant, deny, suspend or revoke approval of, or place on probation,
18 an assisted living facility training program.

19 2. Impose a civil penalty on an assisted living facility training
20 program that violates this chapter or rules adopted pursuant to this chapter.

21 Sec. 82. Section 36-450.02, Arizona Revised Statutes, is amended to
22 read:

23 36-450.02. Nonretaliatory policy

24 A. Each health care institution licensed pursuant to this chapter
25 shall adopt a policy that prohibits retaliatory action against a health
26 professional who in good faith:

27 1. Makes a report to the health care institution pursuant to the
28 requirements of section 36-450.01.

29 2. Having provided the health care institution a reasonable
30 opportunity to address the report, provides information to a private health
31 care accreditation organization or governmental entity concerning the
32 activity, policy or practice that was the subject of the report.

33 B. This section does not prohibit a health care institution licensed
34 pursuant to this chapter from taking action against a health professional for
35 a purpose not related to a report filed pursuant to section 36-450.01.

36 C. Except as provided in section 23-1501, SUBSECTION A, paragraph 3,
37 subdivisions (a), ~~AND~~ (c) ~~and (d)~~, this section shall only be enforced
38 through the provisions of this chapter.

39 D. There shall be a rebuttable presumption that any termination or
40 other adverse action that occurs more than one hundred eighty days after the
41 date of a report made pursuant to either subsection A, paragraph 1 or 2 of
42 this section is not a retaliatory action.

43 Sec. 83. Section 36-1943, Arizona Revised Statutes, is amended to
44 read:

45 36-1943. Executive director; duties

1 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the commission shall
2 appoint an executive director who serves at the pleasure of the commission.
3 SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the commission may ~~appoint~~ EMPLOY
4 other employees as necessary ~~and shall fix~~, DETERMINE their compensation
5 PURSUANT TO SECTION 38-611 and prescribe their powers and duties. With the
6 approval of the commission, the executive director may contract for
7 professional, technical and clerical services necessary to carry out
8 functions of the commission.

9 B. The executive director shall be a trained professional experienced
10 in problems of the deaf and the hard of hearing and skilled in the use of
11 manual communication, commonly referred to as sign language, and may be
12 either a deaf person, a person who is hard of hearing or a person with normal
13 hearing. The executive director shall assist the commission to implement its
14 programs and activities and to implement this chapter. The executive
15 director shall not be a commission member. The executive director is
16 eligible to receive compensation set by the commission within the range
17 determined pursuant to section 38-611.

18 Sec. 84. Section 36-2903.01, Arizona Revised Statutes, is amended to
19 read:

20 36-2903.01. Additional powers and duties; report

21 A. The director of the Arizona health care cost containment system
22 administration may adopt rules that provide that the system may withhold or
23 forfeit payments to be made to a noncontracting provider by the system if the
24 noncontracting provider fails to comply with this article, the provider
25 agreement or rules that are adopted pursuant to this article and that relate
26 to the specific services rendered for which a claim for payment is made.

27 B. The director shall:

28 1. Prescribe uniform forms to be used by all contractors. The rules
29 shall require a written and signed application by the applicant or an
30 applicant's authorized representative, or, if the person is incompetent or
31 incapacitated, a family member or a person acting responsibly for the
32 applicant may obtain a signature or a reasonable facsimile and file the
33 application as prescribed by the administration.

34 2. Enter into an interagency agreement with the department to
35 establish a streamlined eligibility process to determine the eligibility of
36 all persons defined pursuant to section 36-2901, paragraph 6,
37 subdivision (a). At the administration's option, the interagency agreement
38 may allow the administration to determine the eligibility of certain persons,
39 including those defined pursuant to section 36-2901, paragraph 6,
40 subdivision (a).

41 3. Enter into an intergovernmental agreement with the department to:

42 (a) Establish an expedited eligibility and enrollment process for all
43 persons who are hospitalized at the time of application.

44 (b) Establish performance measures and incentives for the department.

1 (c) Establish the process for management evaluation reviews that the
2 administration shall perform to evaluate the eligibility determination
3 functions performed by the department.

4 (d) Establish eligibility quality control reviews by the
5 administration.

6 (e) Require the department to adopt rules, consistent with the rules
7 adopted by the administration for a hearing process, that applicants or
8 members may use for appeals of eligibility determinations or
9 redeterminations.

10 (f) Establish the department's responsibility to place sufficient
11 eligibility workers at federally qualified health centers to screen for
12 eligibility and at hospital sites and level one trauma centers to ensure that
13 persons seeking hospital services are screened on a timely basis for
14 eligibility for the system, including a process to ensure that applications
15 for the system can be accepted on a twenty-four hour basis, seven days a
16 week.

17 (g) Withhold payments based on the allowable sanctions for errors in
18 eligibility determinations or redeterminations or failure to meet performance
19 measures required by the intergovernmental agreement.

20 (h) Recoup from the department all federal fiscal sanctions that
21 result from the department's inaccurate eligibility determinations. The
22 director may offset all or part of a sanction if the department submits a
23 corrective action plan and a strategy to remedy the error.

24 4. By rule establish a procedure and time frames for the intake of
25 grievances and requests for hearings, for the continuation of benefits and
26 services during the appeal process and for a grievance process at the
27 contractor level. Notwithstanding sections 41-1092.02, 41-1092.03 and
28 41-1092.05, the administration shall develop rules to establish the procedure
29 and time frame for the informal resolution of grievances and appeals. A
30 grievance that is not related to a claim for payment of system covered
31 services shall be filed in writing with and received by the administration or
32 the prepaid capitated provider or program contractor not later than sixty
33 days after the date of the adverse action, decision or policy implementation
34 being grieved. A grievance that is related to a claim for payment of system
35 covered services must be filed in writing and received by the administration
36 or the prepaid capitated provider or program contractor within twelve months
37 after the date of service, within twelve months after the date that
38 eligibility is posted or within sixty days after the date of the denial of a
39 timely claim submission, whichever is later. A grievance for the denial of a
40 claim for reimbursement of services may contest the validity of any adverse
41 action, decision, policy implementation or rule that related to or resulted
42 in the full or partial denial of the claim. A policy implementation may be
43 subject to a grievance procedure, but it may not be appealed for a hearing.
44 The administration is not required to participate in a mandatory settlement
45 conference if it is not a real party in interest. In any proceeding before
46 the administration, including a grievance or hearing, persons may represent

1 themselves or be represented by a duly authorized agent who is not charging a
2 fee. A legal entity may be represented by an officer, partner or employee
3 who is specifically authorized by the legal entity to represent it in the
4 particular proceeding.

5 5. Apply for and accept federal funds available under title XIX of the
6 social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section
7 1396 (1980)) in support of the system. The application made by the director
8 pursuant to this paragraph shall be designed to qualify for federal funding
9 primarily on a prepaid capitated basis. Such funds may be used only for the
10 support of persons defined as eligible pursuant to title XIX of the social
11 security act or the approved section 1115 waiver.

12 6. At least thirty days before the implementation of a policy or a
13 change to an existing policy relating to reimbursement, provide notice to
14 interested parties. Parties interested in receiving notification of policy
15 changes shall submit a written request for notification to the
16 administration.

17 7. In addition to the cost sharing requirements specified in
18 subsection D, paragraph 4 of this section:

19 (a) Charge monthly premiums up to the maximum amount allowed by
20 federal law to all populations of eligible persons who may be charged.

21 (b) Implement this paragraph to the extent permitted under the federal
22 deficit reduction act of 2005 and other federal laws, subject to the approval
23 of federal waiver authority and to the extent that any changes in the cost
24 sharing requirements under this paragraph would permit this state to receive
25 any enhanced federal matching rate.

26 C. The director is authorized to apply for any federal funds available
27 for the support of programs to investigate and prosecute violations arising
28 from the administration and operation of the system. Available state funds
29 appropriated for the administration and operation of the system may be used
30 as matching funds to secure federal funds pursuant to this subsection.

31 D. The director may adopt rules or procedures to do the following:

32 1. Authorize advance payments based on estimated liability to a
33 contractor or a noncontracting provider after the contractor or
34 noncontracting provider has submitted a claim for services and before the
35 claim is ultimately resolved. The rules shall specify that any advance
36 payment shall be conditioned on the execution before payment of a contract
37 with the contractor or noncontracting provider that requires the
38 administration to retain a specified percentage, which shall be at least
39 twenty per cent, of the claimed amount as security and that requires
40 repayment to the administration if the administration makes any overpayment.

41 2. Defer liability, in whole or in part, of contractors for care
42 provided to members who are hospitalized on the date of enrollment or under
43 other circumstances. Payment shall be on a capped fee-for-service basis for
44 services other than hospital services and at the rate established pursuant to
45 subsection G or H of this section for hospital services or at the rate paid
46 by the health plan, whichever is less.

1 3. Deputize, in writing, any qualified officer or employee in the
2 administration to perform any act that the director by law is empowered to do
3 or charged with the responsibility of doing, including the authority to issue
4 final administrative decisions pursuant to section 41-1092.08.

5 4. Notwithstanding any other law, require persons eligible pursuant to
6 section 36-2901, paragraph 6, subdivision (a), section 36-2931 and section
7 36-2981, paragraph 6 to be financially responsible for any cost sharing
8 requirements established in a state plan or a section 1115 waiver and
9 approved by the centers for medicare and medicaid services. Cost sharing
10 requirements may include copayments, coinsurance, deductibles, enrollment
11 fees and monthly premiums for enrolled members, including households with
12 children enrolled in the Arizona long-term care system.

13 E. The director shall adopt rules that further specify the medical
14 care and hospital services that are covered by the system pursuant to section
15 36-2907.

16 F. In addition to the rules otherwise specified in this article, the
17 director may adopt necessary rules pursuant to title 41, chapter 6 to carry
18 out this article. Rules adopted by the director pursuant to this subsection
19 shall consider the differences between rural and urban conditions on the
20 delivery of hospitalization and medical care.

21 G. For inpatient hospital admissions and all outpatient hospital
22 services before March 1, 1993, the administration shall reimburse a
23 hospital's adjusted billed charges according to the following procedures:

24 1. The director shall adopt rules that, for services rendered from and
25 after September 30, 1985 until October 1, 1986, define "adjusted billed
26 charges" as that reimbursement level that has the effect of holding constant
27 whichever of the following is applicable:

28 (a) The schedule of rates and charges for a hospital in effect on
29 April 1, 1984 as filed pursuant to chapter 4, article 3 of this title.

30 (b) The schedule of rates and charges for a hospital that became
31 effective after May 31, 1984 but before July 2, 1984, if the hospital's
32 previous rate schedule became effective before April 30, 1983.

33 (c) The schedule of rates and charges for a hospital that became
34 effective after May 31, 1984 but before July 2, 1984, limited to five per
35 cent over the hospital's previous rate schedule, and if the hospital's
36 previous rate schedule became effective on or after April 30, 1983 but before
37 October 1, 1983.

38 For the purposes of this paragraph, "constant" means equal to or lower than.

39 2. The director shall adopt rules that, for services rendered from and
40 after September 30, 1986, define "adjusted billed charges" as that
41 reimbursement level that has the effect of increasing by four per cent a
42 hospital's reimbursement level in effect on October 1, 1985 as prescribed in
43 paragraph 1 of this subsection. Beginning January 1, 1991, the Arizona
44 health care cost containment system administration shall define "adjusted
45 billed charges" as the reimbursement level determined pursuant to this
46 section, increased by two and one-half per cent.

1 3. In no event shall a hospital's adjusted billed charges exceed the
2 hospital's schedule of rates and charges filed with the department of health
3 services and in effect pursuant to chapter 4, article 3 of this title.

4 4. For services rendered the administration shall not pay a hospital's
5 adjusted billed charges in excess of the following:

6 (a) If the hospital's bill is paid within thirty days of the date the
7 bill was received, eighty-five per cent of the adjusted billed charges.

8 (b) If the hospital's bill is paid any time after thirty days but
9 within sixty days of the date the bill was received, ninety-five per cent of
10 the adjusted billed charges.

11 (c) If the hospital's bill is paid any time after sixty days of the
12 date the bill was received, one hundred per cent of the adjusted billed
13 charges.

14 5. The director shall define by rule the method of determining when a
15 hospital bill will be considered received and when a hospital's billed
16 charges will be considered paid. Payment received by a hospital from the
17 administration pursuant to this subsection or from a contractor either by
18 contract or pursuant to section 36-2904, subsection I shall be considered
19 payment of the hospital bill in full, except that a hospital may collect any
20 unpaid portion of its bill from other third party payors or in situations
21 covered by title 33, chapter 7, article 3.

22 H. For inpatient hospital admissions and outpatient hospital services
23 on and after March 1, 1993 the administration shall adopt rules for the
24 reimbursement of hospitals according to the following procedures:

25 1. For inpatient hospital stays, the administration shall use a
26 prospective tiered per diem methodology, using hospital peer groups if
27 analysis shows that cost differences can be attributed to independently
28 definable features that hospitals within a peer group share. In peer
29 grouping the administration may consider such factors as length of stay
30 differences and labor market variations. If there are no cost differences,
31 the administration shall implement a stop loss-stop gain or similar
32 mechanism. Any stop loss-stop gain or similar mechanism shall ensure that
33 the tiered per diem rates assigned to a hospital do not represent less than
34 ninety per cent of its 1990 base year costs or more than one hundred ten per
35 cent of its 1990 base year costs, adjusted by an audit factor, during the
36 period of March 1, 1993 through September 30, 1994. The tiered per diem
37 rates set for hospitals shall represent no less than eighty-seven and
38 one-half per cent or more than one hundred twelve and one-half per cent of
39 its 1990 base year costs, adjusted by an audit factor, from October 1, 1994
40 through September 30, 1995 and no less than eighty-five per cent or more than
41 one hundred fifteen per cent of its 1990 base year costs, adjusted by an
42 audit factor, from October 1, 1995 through September 30, 1996. For the
43 periods after September 30, 1996 no stop loss-stop gain or similar mechanisms
44 shall be in effect. An adjustment in the stop loss-stop gain percentage may
45 be made to ensure that total payments do not increase as a result of this
46 provision. If peer groups are used the administration shall establish

1 initial peer group designations for each hospital before implementation of
2 the per diem system. The administration may also use a negotiated rate
3 methodology. The tiered per diem methodology may include separate
4 consideration for specialty hospitals that limit their provision of services
5 to specific patient populations, such as rehabilitative patients or children.
6 The initial per diem rates shall be based on hospital claims and encounter
7 data for dates of service November 1, 1990 through October 31, 1991 and
8 processed through May of 1992.

9 2. For rates effective on October 1, 1994, and annually thereafter,
10 the administration shall adjust tiered per diem payments for inpatient
11 hospital care by the data resources incorporated market basket index for
12 prospective payment system hospitals. For rates effective beginning on
13 October 1, 1999, the administration shall adjust payments to reflect changes
14 in length of stay for the maternity and nursery tiers.

15 3. Through June 30, 2004, for outpatient hospital services, the
16 administration shall reimburse a hospital by applying a hospital specific
17 outpatient cost-to-charge ratio to the covered charges. Beginning on July 1,
18 2004 through June 30, 2005, the administration shall reimburse a hospital by
19 applying a hospital specific outpatient cost-to-charge ratio to covered
20 charges. If the hospital increases its charges for outpatient services filed
21 with the Arizona department of health services pursuant to chapter 4, article
22 3 of this title, by more than 4.7 per cent for dates of service effective on
23 or after July 1, 2004, the hospital specific cost-to-charge ratio will be
24 reduced by the amount that it exceeds 4.7 per cent. If charges exceed 4.7
25 per cent, the effective date of the increased charges will be the effective
26 date of the adjusted Arizona health care cost containment system
27 cost-to-charge ratio. The administration shall develop the methodology for a
28 capped fee-for-service schedule and a statewide cost-to-charge ratio. Any
29 covered outpatient service not included in the capped fee-for-service
30 schedule shall be reimbursed by applying the statewide cost-to-charge ratio
31 that is based on the services not included in the capped fee-for-service
32 schedule. Beginning on July 1, 2005, the administration shall reimburse
33 clean claims with dates of service on or after July 1, 2005, based on the
34 capped fee-for-service schedule or the statewide cost-to-charge ratio
35 established pursuant to this paragraph. The administration may make
36 additional adjustments to the outpatient hospital rates established pursuant
37 to this section based on other factors, including the number of beds in the
38 hospital, specialty services available to patients and the geographic
39 location of the hospital.

40 4. Except if submitted under an electronic claims submission system, a
41 hospital bill is considered received for purposes of this paragraph on
42 initial receipt of the legible, error-free claim form by the administration
43 if the claim includes the following error-free documentation in legible form:

- 44 (a) An admission face sheet.
- 45 (b) An itemized statement.
- 46 (c) An admission history and physical.

1 (d) A discharge summary or an interim summary if the claim is split.

2 (e) An emergency record, if admission was through the emergency room.

3 (f) Operative reports, if applicable.

4 (g) A labor and delivery room report, if applicable.

5 Payment received by a hospital from the administration pursuant to this
6 subsection or from a contractor either by contract or pursuant to section
7 36-2904, subsection I is considered payment by the administration or the
8 contractor of the administration's or contractor's liability for the hospital
9 bill. A hospital may collect any unpaid portion of its bill from other third
10 party payors or in situations covered by title 33, chapter 7, article 3.

11 5. For services rendered on and after October 1, 1997, the
12 administration shall pay a hospital's rate established according to this
13 section subject to the following:

14 (a) If the hospital's bill is paid within thirty days of the date the
15 bill was received, the administration shall pay ninety-nine per cent of the
16 rate.

17 (b) If the hospital's bill is paid after thirty days but within sixty
18 days of the date the bill was received, the administration shall pay one
19 hundred per cent of the rate.

20 (c) If the hospital's bill is paid any time after sixty days of the
21 date the bill was received, the administration shall pay one hundred per cent
22 of the rate plus a fee of one per cent per month for each month or portion of
23 a month following the sixtieth day of receipt of the bill until the date of
24 payment.

25 6. In developing the reimbursement methodology, if a review of the
26 reports filed by a hospital pursuant to section 36-125.04 indicates that
27 further investigation is considered necessary to verify the accuracy of the
28 information in the reports, the administration may examine the hospital's
29 records and accounts related to the reporting requirements of section
30 36-125.04. The administration shall bear the cost incurred in connection
31 with this examination unless the administration finds that the records
32 examined are significantly deficient or incorrect, in which case the
33 administration may charge the cost of the investigation to the hospital
34 examined.

35 7. Except for privileged medical information, the administration shall
36 make available for public inspection the cost and charge data and the
37 calculations used by the administration to determine payments under the
38 tiered per diem system, provided that individual hospitals are not identified
39 by name. The administration shall make the data and calculations available
40 for public inspection during regular business hours and shall provide copies
41 of the data and calculations to individuals requesting such copies within
42 thirty days of receipt of a written request. The administration may charge a
43 reasonable fee for the provision of the data or information.

44 8. The prospective tiered per diem payment methodology for inpatient
45 hospital services shall include a mechanism for the prospective payment of
46 inpatient hospital capital related costs. The capital payment shall include

1 hospital specific and statewide average amounts. For tiered per diem rates
2 beginning on October 1, 1999, the capital related cost component is frozen at
3 the blended rate of forty per cent of the hospital specific capital cost and
4 sixty per cent of the statewide average capital cost in effect as of
5 January 1, 1999 and as further adjusted by the calculation of tier rates for
6 maternity and nursery as prescribed by law. The administration shall adjust
7 the capital related cost component by the data resources incorporated market
8 basket index for prospective payment system hospitals.

9 9. For graduate medical education programs:

10 (a) Beginning September 30, 1997, the administration shall establish a
11 separate graduate medical education program to reimburse hospitals that had
12 graduate medical education programs that were approved by the administration
13 as of October 1, 1999. The administration shall separately account for
14 monies for the graduate medical education program based on the total
15 reimbursement for graduate medical education reimbursed to hospitals by the
16 system in federal fiscal year 1995-1996 pursuant to the tiered per diem
17 methodology specified in this section. The graduate medical education
18 program reimbursement shall be adjusted annually by the increase or decrease
19 in the index published by the global insight hospital market basket index for
20 prospective hospital reimbursement. Subject to legislative appropriation, on
21 an annual basis, each qualified hospital shall receive a single payment from
22 the graduate medical education program that is equal to the same percentage
23 of graduate medical education reimbursement that was paid by the system in
24 federal fiscal year 1995-1996. Any reimbursement for graduate medical
25 education made by the administration shall not be subject to future
26 settlements or appeals by the hospitals to the administration. The monies
27 available under this subdivision shall not exceed the fiscal year 2005-2006
28 appropriation adjusted annually by the increase or decrease in the index
29 published by the global insight hospital market basket index for prospective
30 hospital reimbursement, except for monies distributed for expansions pursuant
31 to subdivision (b) of this paragraph.

32 (b) The monies available for graduate medical education programs
33 pursuant to this subdivision shall not exceed the fiscal year 2006-2007
34 appropriation adjusted annually by the increase or decrease in the index
35 published by the global insight hospital market basket index for prospective
36 hospital reimbursement. Graduate medical education programs eligible for
37 such reimbursement are not precluded from receiving reimbursement for funding
38 under subdivision (c) of this paragraph. Beginning July 1, 2006, the
39 administration shall distribute any monies appropriated for graduate medical
40 education above the amount prescribed in subdivision (a) of this paragraph in
41 the following order or priority:

42 (i) For the direct costs to support the expansion of graduate medical
43 education programs established before July 1, 2006 at hospitals that do not
44 receive payments pursuant to subdivision (a) of this paragraph. These
45 programs must be approved by the administration.

1 (ii) For the direct costs to support the expansion of graduate medical
2 education programs established on or before October 1, 1999. These programs
3 must be approved by the administration.

4 (c) The administration shall distribute to hospitals any monies
5 appropriated for graduate medical education above the amount prescribed in
6 subdivisions (a) and (b) of this paragraph for the following purposes:

7 (i) For the direct costs of graduate medical education programs
8 established or expanded on or after July 1, 2006. These programs must be
9 approved by the administration.

10 (ii) For a portion of additional indirect graduate medical education
11 costs for programs that are located in a county with a population of less
12 than five hundred thousand persons at the time the residency position was
13 created or for a residency position that includes a rotation in a county with
14 a population of less than five hundred thousand persons at the time the
15 residency position was established. These programs must be approved by the
16 administration.

17 (d) The administration shall develop, by rule, the formula by which
18 the monies are distributed.

19 (e) Each graduate medical education program that receives funding
20 pursuant to subdivision (b) or (c) of this paragraph shall identify and
21 report to the administration the number of new residency positions created by
22 the funding provided in this paragraph, including positions in rural areas.
23 The program shall also report information related to the number of funded
24 residency positions that resulted in physicians locating their practice in
25 this state. The administration shall report to the joint legislative budget
26 committee by February 1 of each year on the number of new residency positions
27 as reported by the graduate medical education programs.

28 (f) Local, county and tribal governments and any university under the
29 jurisdiction of the Arizona board of regents may provide monies in addition
30 to any state general fund monies appropriated for graduate medical education
31 in order to qualify for additional matching federal monies for providers,
32 programs or positions in a specific locality and costs incurred pursuant to a
33 specific contract between the administration and providers or other entities
34 to provide graduate medical education services as an administrative activity.
35 Payments by the administration pursuant to this subdivision may be limited to
36 those providers designated by the funding entity and may be based on any
37 methodology deemed appropriate by the administration, including replacing any
38 payments that might otherwise have been paid pursuant to subdivision (a), (b)
39 or (c) of this paragraph had sufficient state general fund monies or other
40 monies been appropriated to fully fund those payments. These programs,
41 positions, payment methodologies and administrative graduate medical
42 education services must be approved by the administration and the centers for
43 medicare and medicaid services. The administration shall report to the
44 president of the senate, the speaker of the house of representatives and the
45 director of the joint legislative budget committee on or before July 1 of
46 each year on the amount of money contributed and number of residency

1 positions funded by local, county and tribal governments, including the
2 amount of federal matching monies used.

3 (g) Any funds appropriated but not allocated by the administration for
4 subdivision (b) or (c) of this paragraph may be reallocated if funding for
5 either subdivision is insufficient to cover appropriate graduate medical
6 education costs.

7 10. Notwithstanding section 41-1005, subsection A, paragraph 9, the
8 administration shall adopt rules pursuant to title 41, chapter 6 establishing
9 the methodology for determining the prospective tiered per diem payments.

10 11. For inpatient hospital services rendered on or after October 1,
11 2011, the prospective tiered per diem payment rates are permanently reset to
12 the amounts payable for those services as of September 30, 2011 pursuant to
13 this subsection.

14 I. The director may adopt rules that specify enrollment procedures,
15 including notice to contractors of enrollment. The rules may provide for
16 varying time limits for enrollment in different situations. The
17 administration shall specify in contract when a person who has been
18 determined eligible will be enrolled with that contractor and the date on
19 which the contractor will be financially responsible for health and medical
20 services to the person.

21 J. The administration may make direct payments to hospitals for
22 hospitalization and medical care provided to a member in accordance with this
23 article and rules. The director may adopt rules to establish the procedures
24 by which the administration shall pay hospitals pursuant to this subsection
25 if a contractor fails to make timely payment to a hospital. Such payment
26 shall be at a level determined pursuant to section 36-2904, subsection H
27 or I. The director may withhold payment due to a contractor in the amount of
28 any payment made directly to a hospital by the administration on behalf of a
29 contractor pursuant to this subsection.

30 K. The director shall establish a special unit within the
31 administration for the purpose of monitoring the third party payment
32 collections required by contractors and noncontracting providers pursuant to
33 section 36-2903, subsection B, paragraph 10 and subsection F and section
34 36-2915, subsection E. The director shall determine by rule:

35 1. The type of third party payments to be monitored pursuant to this
36 subsection.

37 2. The percentage of third party payments that is collected by a
38 contractor or noncontracting provider and that the contractor or
39 noncontracting provider may keep and the percentage of such payments that the
40 contractor or noncontracting provider may be required to pay to the
41 administration. Contractors and noncontracting providers must pay to the
42 administration one hundred per cent of all third party payments that are
43 collected and that duplicate administration fee-for-service payments. A
44 contractor that contracts with the administration pursuant to section
45 36-2904, subsection A may be entitled to retain a percentage of third party
46 payments if the payments collected and retained by a contractor are reflected

1 in reduced capitation rates. A contractor may be required to pay the
2 administration a percentage of third party payments that are collected by a
3 contractor and that are not reflected in reduced capitation rates.

4 L. The administration shall establish procedures to apply to the
5 following if a provider that has a contract with a contractor or
6 noncontracting provider seeks to collect from an individual or financially
7 responsible relative or representative a claim that exceeds the amount that
8 is reimbursed or should be reimbursed by the system:

9 1. On written notice from the administration or oral or written notice
10 from a member that a claim for covered services may be in violation of this
11 section, the provider that has a contract with a contractor or noncontracting
12 provider shall investigate the inquiry and verify whether the person was
13 eligible for services at the time that covered services were provided. If
14 the claim was paid or should have been paid by the system, the provider that
15 has a contract with a contractor or noncontracting provider shall not
16 continue billing the member.

17 2. If the claim was paid or should have been paid by the system and
18 the disputed claim has been referred for collection to a collection agency or
19 referred to a credit reporting bureau, the provider that has a contract with
20 a contractor or noncontracting provider shall:

21 (a) Notify the collection agency and request that all attempts to
22 collect this specific charge be terminated immediately.

23 (b) Advise all credit reporting bureaus that the reported delinquency
24 was in error and request that the affected credit report be corrected to
25 remove any notation about this specific delinquency.

26 (c) Notify the administration and the member that the request for
27 payment was in error and that the collection agency and credit reporting
28 bureaus have been notified.

29 3. If the administration determines that a provider that has a
30 contract with a contractor or noncontracting provider has billed a member for
31 charges that were paid or should have been paid by the administration, the
32 administration shall send written notification by certified mail or other
33 service with proof of delivery to the provider that has a contract with a
34 contractor or noncontracting provider stating that this billing is in
35 violation of federal and state law. If, twenty-one days or more after
36 receiving the notification, a provider that has a contract with a contractor
37 or noncontracting provider knowingly continues billing a member for charges
38 that were paid or should have been paid by the system, the administration may
39 assess a civil penalty in an amount equal to three times the amount of the
40 billing and reduce payment to the provider that has a contract with a
41 contractor or noncontracting provider accordingly. Receipt of delivery
42 signed by the addressee or the addressee's employee is prima facie evidence
43 of knowledge. Civil penalties collected pursuant to this subsection shall be
44 deposited in the state general fund. Section 36-2918, subsections C, D and
45 F, relating to the imposition, collection and enforcement of civil penalties,
46 apply to civil penalties imposed pursuant to this paragraph.

1 M. The administration may conduct postpayment review of all claims
2 paid by the administration and may recoup any monies erroneously paid. The
3 director may adopt rules that specify procedures for conducting postpayment
4 review. A contractor may conduct a postpayment review of all claims paid by
5 the contractor and may recoup monies that are erroneously paid.

6 N. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, the director or the
7 director's designee may employ and supervise personnel necessary to assist
8 the director in performing the functions of the administration.

9 O. The administration may contract with contractors for obstetrical
10 care who are eligible to provide services under title XIX of the social
11 security act.

12 P. Notwithstanding any other law, on federal approval the
13 administration may make disproportionate share payments to private hospitals,
14 county operated hospitals, including hospitals owned or leased by a special
15 health care district, and state operated institutions for mental disease
16 beginning October 1, 1991 in accordance with federal law and subject to
17 legislative appropriation. If at any time the administration receives
18 written notification from federal authorities of any change or difference in
19 the actual or estimated amount of federal funds available for
20 disproportionate share payments from the amount reflected in the legislative
21 appropriation for such purposes, the administration shall provide written
22 notification of such change or difference to the president and the minority
23 leader of the senate, the speaker and the minority leader of the house of
24 representatives, the director of the joint legislative budget committee, the
25 legislative committee of reference and any hospital trade association within
26 this state, within three working days not including weekends after receipt of
27 the notice of the change or difference. In calculating disproportionate
28 share payments as prescribed in this section, the administration may use
29 either a methodology based on claims and encounter data that is submitted to
30 the administration from contractors or a methodology based on data that is
31 reported to the administration by private hospitals and state operated
32 institutions for mental disease. The selected methodology applies to all
33 private hospitals and state operated institutions for mental disease
34 qualifying for disproportionate share payments. For the purposes of this
35 subsection, "disproportionate share payment" means a payment to a hospital
36 that serves a disproportionate share of low-income patients as described by
37 42 United States Code section 1396r-4.

38 Q. Notwithstanding any law to the contrary, the administration may
39 receive confidential adoption information to determine whether an adopted
40 child should be terminated from the system.

41 R. The adoption agency or the adoption attorney shall notify the
42 administration within thirty days after an eligible person receiving services
43 has placed that person's child for adoption.

44 S. If the administration implements an electronic claims submission
45 system, it may adopt procedures pursuant to subsection H of this section

1 requiring documentation different than prescribed under subsection H,
2 paragraph 4 of this section.

3 T. In addition to any requirements adopted pursuant to subsection D,
4 paragraph 4 of this section, notwithstanding any other law, subject to
5 approval by the centers for medicare and medicaid services, beginning July 1,
6 2011, members eligible pursuant to section 36-2901, paragraph 6, subdivision
7 (a), section 36-2931 and section 36-2981, paragraph 6 shall pay the
8 following:

9 1. A monthly premium of fifteen dollars, except that the total monthly
10 premium for an entire household shall not exceed sixty dollars.

11 2. A copayment of five dollars for each physician office visit.

12 3. A copayment of ten dollars for each urgent care visit.

13 4. A copayment of thirty dollars for each emergency department visit.

14 Sec. 85. Section 36-2926, Arizona Revised Statutes, is amended to
15 read:

16 36-2926. Use of cost savings; preparation of budget
17 recommendations; cooperation of other agencies

18 A. The administration shall use the cost savings generated from
19 agreements entered into pursuant to section 36-2925 to supplement monies that
20 are appropriated by the legislature. The administration shall use the cost
21 savings to:

22 1. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, develop and operate
23 employee recruitment and retention programs that may include creating
24 positions ~~not covered by state service~~, special salary plans and pay
25 practices and performance compensation programs approved by the director AND
26 THE DEPARTMENT OF ADMINISTRATION.

27 2. Implement technology projects to upgrade hardware or software used
28 by the administration in the operation of the system.

29 B. The governor's office of strategic planning and budgeting and the
30 joint legislative budget committee shall not recommend using the cost savings
31 generated by section 36-2925 to supplant state or federal monies used for the
32 operation or administration of the programs operated by the administration.

33 C. The department of administration shall assist the administration in
34 developing and operating employee recruitment and retention programs
35 specified in subsection A of this section.

36 Sec. 86. Section 37-132, Arizona Revised Statutes, is amended to read:

37 37-132. Powers and duties

38 A. The commissioner shall:

39 1. Exercise and perform all powers and duties vested in or imposed
40 upon the department, and prescribe such rules as are necessary to discharge
41 those duties.

42 2. Exercise the powers of surveyor-general except for the powers of
43 the surveyor-general exercised by the treasurer as a member of the selection
44 board pursuant to section 37-202.

1 3. Make long-range plans for the future use of state lands in
2 cooperation with other state agencies, local planning authorities and
3 political subdivisions.

4 4. Promote the infill and orderly development of state lands in areas
5 beneficial to the trust and prevent urban sprawl or leapfrog development on
6 state lands.

7 5. Classify and appraise all state lands, together with the
8 improvements on state lands, for the purpose of sale, lease or grant of
9 rights-of-way. The commissioner may impose such conditions and covenants and
10 make such reservations in the sale of state lands as the commissioner deems
11 to be in the best interest of the state trust. The provisions of this
12 paragraph are subject to hearing procedures pursuant to title 41, chapter 6,
13 article 10 and, except as provided in section 41-1092.08, subsection H, are
14 subject to judicial review pursuant to title 12, chapter 7, article 6.

15 6. Have authority to lease for grazing, agricultural, homesite or
16 other purposes, except commercial, all land owned or held in trust by the
17 state.

18 7. Have authority to lease for commercial purposes and sell all land
19 owned or held in trust by the state, but any such lease for commercial
20 purposes or any such sale shall first be approved by the board of appeals.

21 8. Except as otherwise provided, determine all disputes, grievances or
22 other questions pertaining to the administration of state lands.

23 9. Appoint deputies and other assistants and employees necessary to
24 perform the duties of the department, ~~AND~~ assign their duties **SUBJECT TO**
25 **TITLE 41, CHAPTER 4, ARTICLE 4** and require of them such surety bonds as the
26 commissioner deems proper. The compensation of the deputy, assistants or
27 employees shall be as determined pursuant to section 38-611.

28 10. Make a written report to the governor annually, not later than
29 September 1, disclosing in detail the activities of the department for the
30 preceding fiscal year, and publish it for distribution. The report shall
31 include an evaluation of auctions of state land leases held during the
32 preceding fiscal year considering the advantages and disadvantages to the
33 state trust of the existence and exercise of preferred rights to lease
34 reclassified state land.

35 11. Withdraw state land from surface or subsurface sales or lease
36 applications if the commissioner deems it to be in the best interest of the
37 trust. This closure of state lands to new applications for sale or lease
38 does not affect the rights that existing lessees have under law for renewal
39 of their leases and reimbursement for improvements.

40 B. The commissioner may:

41 1. Take evidence relating to, and may require of the various county
42 officers information on, any matter that the commissioner has the power to
43 investigate or determine.

44 2. Under such rules as the commissioner adopts, use private real
45 estate brokers to assist in any sale or long-term lease of state land and
46 pay, from fees collected under section 37-107, subsection B, paragraph 1, a

1 commission to a broker that is licensed pursuant to title 32, chapter 20 and
2 that provides the purchaser or lessee at auction. The purchaser or lessee at
3 auction is not eligible to receive a commission pursuant to this subsection.
4 A commission shall not be paid on a sale or a long-term lease if the
5 purchaser or lessee is a political subdivision of this state.

6 3. Require a permittee, lessee or grantee to post a surety bond or any
7 form of collateral deemed sufficient by the commissioner for performance or
8 restoration purposes. The commissioner shall use the proceeds of a bond or
9 collateral only for the purposes determined at the time the bond or
10 collateral is posted. For agricultural lessees, the commissioner may require
11 collateral as follows:

12 (a) As security for payment of the annual assessments levied by the
13 irrigation district in which the state land is located if the lessee has a
14 history of late payments or defaults. The amount of the collateral required
15 shall not exceed the annual assessment levied by the irrigation district.

16 (b) As security for payment of rent, if an extension of time for
17 payment is requested or if the lessee has a history of late payments of rent.
18 The collateral shall be submitted at the time any extension of time for
19 payment is requested. The amount of the collateral required shall not exceed
20 the annual amount of rent for the land.

21 (c) A surety bond shall be required only if the commissioner
22 determines that other forms of collateral are insufficient.

23 4. Withhold market and economic analyses, preliminary engineering,
24 site and area studies and appraisals that are collected during the urban
25 planning process from public viewing before they are submitted to local
26 planning and zoning authorities.

27 5. Withhold from public inspection proprietary information received
28 during lease negotiations. The proprietary information shall be released to
29 public inspection unless the release may harm the competitive position of the
30 applicant and the information could not have been obtained by other
31 legitimate means.

32 6. Issue permits for short-term use of state land for specific
33 purposes as prescribed by rule.

34 7. Contract with a third party to sell recreational permits. A third
35 party under contract pursuant to this paragraph may assess a surcharge for
36 its services as provided in the contract, in addition to the fees prescribed
37 pursuant to section 37-107.

38 8. Close urban lands to specific uses as prescribed by rule if
39 necessary for dust abatement, to reduce a risk from hazardous environmental
40 conditions that pose a risk to human health or safety or for remediation
41 purposes.

42 9. Notwithstanding subsection A, paragraph 4 of this section,
43 authorize, in the best interest of the trust, the extension of public
44 services and facilities either:

45 (a) That are necessary to implement plans of the local governing body,
46 including plans adopted or amended pursuant to section 9-461.06 or 11-805.

1 (b) Across state lands that are either:
2 (i) Classified as suitable for conservation pursuant to section
3 37-312.

4 (ii) Sold or leased at auction for conservation purposes.

5 C. The commissioner or any deputy or employee of the department shall
6 not have, own or acquire, directly or indirectly, any state lands or the
7 products on any state lands, any interest in or to such lands or products, or
8 improvements on leased state lands, or be interested in any state irrigation
9 project affecting state lands.

10 Sec. 87. Section 37-623.01, Arizona Revised Statutes, is amended to
11 read:

12 37-623.01. Forestry administrative districts; equipment and
13 personnel

14 A. The state forester may establish state forestry administrative
15 districts in all eligible areas of this state.

16 B. The state forester shall establish an equipment program in order to
17 supply the forestry administrative districts. Equipment shall be supplied
18 through both the federal excess property program and purchases of new
19 equipment when warranted.

20 C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the state forester may
21 hire ~~both permanent and part-time~~ personnel in each such district or other
22 most practical area based upon need and workload.

23 D. The state forester may:

24 1. Hire personnel and rent equipment on a temporary basis in order to
25 monitor and suppress wild land fires occurring on state and private lands
26 within any of the forestry administrative districts.

27 2. Cooperate with other federal, state and local government agencies
28 and any person to establish a reserve of personnel and equipment which may be
29 utilized when needed to suppress wild land fires.

30 3. Adopt rules necessary to carry out the provisions of this
31 subsection which shall be exempt from existing advertising and certification
32 procedures.

33 Sec. 88. Section 37-1122, Arizona Revised Statutes, is amended to
34 read:

35 37-1122. General powers and duties of the commission

36 A. The commission shall:

37 1. Adopt administrative rules that in its discretion it considers to
38 be necessary and proper to carry out the provisions and purposes of this
39 chapter.

40 2. Assemble and distribute information to the public relating to the
41 commission's determination of navigability or nonnavigability of any
42 watercourse and the commission's other activities.

43 3. Conduct inquiries or hearings in performing the commission's powers
44 and duties. The commission shall conduct its proceedings informally without
45 adherence to judicial rules of procedure or evidence. The commission shall
46 facilitate participation by persons who are not represented by legal counsel

1 and shall not require a person to file documents or notices in order to be
2 heard and participate in proceedings before the commission.

3 4. Exercise such other powers as may be necessary to fully carry out
4 its responsibilities imposed by this chapter.

5 B. The commission may employ SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4
6 or contract for legal counsel, independent from the attorney general, and
7 other professional and administrative services. Legal counsel retained by the
8 commission may advise and represent the commission in connection with legal
9 matters before other departments and agencies of this state and represent the
10 commission in litigation concerning the affairs of the commission. Contracts
11 for legal and professional services are exempt from section 41-192 and title
12 41, chapter 23.

13 Sec. 89. Section 38-401, Arizona Revised Statutes, is amended to read:
14 38-401. Office hours for state offices
15 ~~Unless otherwise provided by law, and except on holidays,~~ State offices
16 shall be kept open for transaction of business from eight o'clock a.m. until
17 five o'clock p.m. each day from Monday through Friday **EXCEPT:**

18 1. **ON HOLIDAYS.**

19 2. **IN IMPLEMENTING AN AGENCY FURLOUGH IF THE DEPARTMENT OF**
20 **ADMINISTRATION HAS AUTHORIZED THE STATE OFFICE TO BE CLOSED IN ORDER TO MEET**
21 **THE FURLOUGH REQUIREMENTS. AN AGENCY THAT RECEIVES THIS AUTHORIZATION SHALL**
22 **ENSURE THAT APPROPRIATE NOTICE IS GIVEN TO NOTIFY THE PUBLIC OF THE OFFICE**
23 **CLOSURE.**

24 3. **AS OTHERWISE PROVIDED BY LAW.**

25 Sec. 90. Section 38-448, Arizona Revised Statutes, is amended to read:
26 38-448. State employees: access to internet pornography
27 prohibited: cause for dismissal: definitions

28 A. Except to the extent required in conjunction with a bona fide,
29 agency approved research project or other agency approved undertaking, an
30 employee of an agency shall not knowingly use agency owned or agency leased
31 computer equipment to access, download, print or store any information
32 infrastructure files or services that depict nudity, sexual activity, sexual
33 excitement or ultimate sexual acts as defined in section 13-3501. Agency
34 heads shall give, in writing, any agency approvals. Agency approvals are
35 available for public inspection pursuant to section 39-121.

36 B. An employee who violates this section ~~performs an act that is cause~~
37 ~~for~~ **MAY BE SUBJECT TO** discipline or dismissal ~~of the employee and for an~~
38 ~~employee in state service is considered misuse or unauthorized use of state~~
39 ~~property pursuant to section 41-770.~~

40 C. All agencies shall immediately furnish their current employees with
41 copies of this section. All agencies shall furnish all new employees with
42 copies of this section at the time of authorizing an employee to use an
43 agency computer.

1 D. For the purposes of this section:

2 1. "Agency" means:

3 (a) All offices, agencies, departments, boards, councils or
4 commissions of this state.

5 (b) All state universities.

6 (c) All community college districts.

7 (d) All legislative agencies.

8 (e) All departments or agencies of the state supreme court or the
9 court of appeals.

10 2. "Information infrastructure" means telecommunications, cable and
11 computer networks and includes the internet, the world wide web, usenet,
12 bulletin board systems, on-line systems and telephone networks.

13 Sec. 91. Section 38-532, Arizona Revised Statutes, is amended to read:

14 38-532. Prohibited personnel practice; violation;
15 reinstatement; exceptions; civil penalty

16 A. It is a prohibited personnel practice for an employee who has
17 control over personnel actions to take reprisal against an employee for a
18 disclosure of information of a matter of public concern by the employee to a
19 public body that the employee reasonably believes evidences:

20 1. A violation of any law.

21 2. Mismanagement, a gross waste of monies or an abuse of authority.

22 B. The disclosure by an employee to a public body alleging a violation
23 of law, mismanagement, gross waste of monies or abuse of authority shall be
24 in writing and shall contain the following information:

25 1. The date of the disclosure.

26 2. The name of the employee making the disclosure.

27 3. The nature of the alleged violation of law, mismanagement, gross
28 waste of monies or abuse of authority.

29 4. If possible, the date or range of dates on which the alleged
30 violation of law, mismanagement, gross waste of monies or abuse of authority
31 occurred.

32 C. An employee who knowingly commits a prohibited personnel practice
33 shall be ordered by the state personnel board, a community college district
34 governing board, a school district governing board, a city or town personnel
35 board or any other appropriate independent personnel board established or
36 authorized pursuant to section 38-534 to pay a civil penalty of up to five
37 thousand dollars to the state general fund, a county general fund, a
38 community college district unrestricted general fund, a school district
39 maintenance and operation fund or a city or town general fund, whichever is
40 appropriate. The employee who committed the prohibited personnel practice,
41 not the governmental entity, shall pay the civil penalty. On a finding that
42 an employee committed a prohibited personnel practice, the employer shall
43 take appropriate disciplinary action including dismissal, **EXCEPT THAT ON A**
44 **FINDING THAT AN EMPLOYEE COMMITTED A PROHIBITED PERSONNEL PRACTICE AGAINST AN**
45 **EMPLOYEE WHO DISCLOSED INFORMATION THAT THE EMPLOYEE REASONABLY BELIEVED**
46 **EVIDENCED A VIOLATION OF ANY LAW, THE EMPLOYEE WHO KNOWINGLY COMMITTED THE**

1 PROHIBITED PERSONNEL PRACTICE IS SUBJECT TO A CIVIL PENALTY OF UP TO TEN
2 THOUSAND DOLLARS, THE EMPLOYER SHALL DISMISS THE EMPLOYEE AND THE EMPLOYEE IS
3 BARRED FROM ANY FUTURE EMPLOYMENT BY THE GOVERNMENT ENTITY.

4 D. An employee or former employee against whom a prohibited personnel
5 practice is committed may recover attorney fees, costs, back pay, general and
6 special damages and full reinstatement for any reprisal resulting from the
7 prohibited personnel practice as determined by the court.

8 E. An employee does not commit a prohibited personnel practice if he
9 takes reprisal against an employee if that employee discloses information in
10 a manner prohibited by law or the materials or information are prescribed as
11 confidential by law.

12 F. This section may not be used as a defense in a disciplinary action
13 where the employee is being disciplined for cause pursuant to section ~~41-770~~
14 ~~41-773~~, except in a hearing on a complaint brought pursuant to this section
15 by an employee or former employee who believes he has been the subject of a
16 prohibited personnel practice as prescribed in this section as the result of
17 a disclosure of information.

18 G. On request or at any time an employee alleges reprisal, an employer
19 shall provide an employee who is subject to disciplinary or corrective
20 action, suspension, demotion or dismissal with a copy of this section.

21 H. If an employee or former employee believes that a personnel action
22 taken against him is the result of his disclosure of information under this
23 section, he may make a complaint to an appropriate independent personnel
24 board, if one is established or authorized pursuant to section 38-534, or to
25 a community college district governing board, school district governing board
26 or city or town council. If an independent personnel board has not been
27 established or authorized, or if a school district governing board, a
28 community college district governing board or A city or town council does not
29 hear and decide personnel matters brought pursuant to this section, the
30 employee or former employee may make a complaint to the state personnel
31 board. A complaint made pursuant to this subsection shall be made within ten
32 days of the effective date of the action taken against him. The state
33 personnel board, a school district governing board, a community college
34 district governing board, a city or town council or any other appropriate
35 independent personnel board shall, pursuant to the rules governing appeals
36 under section ~~41-785~~ 41-783, make a determination concerning:

37 1. The validity of the complaint.

38 2. Whether a prohibited personnel practice was committed against the
39 employee or former employee as a result of disclosure of information by the
40 employee or former employee.

41 I. If the state personnel board, a community college district
42 governing board, a school district governing board, a city or town council or
43 any other appropriate independent personnel board established or authorized
44 pursuant to section 38-534 determines that a prohibited personnel practice
45 was committed as a result of disclosure of information by the employee or
46 former employee, it shall rescind the personnel action and order that all

1 lost pay and benefits be returned to the employee or former employee. The
2 employee, former employee, employee alleged to have committed a prohibited
3 personnel practice pursuant to subsection A of this section or employer may
4 appeal the decision of the state personnel board, a community college
5 district governing board, a school district governing board, a city or town
6 council or any other appropriate independent personnel board established or
7 authorized pursuant to section 38-534 to the superior court as provided in
8 title 12, chapter 7, article 6. ~~Notwithstanding section 12-910, an appeal to~~
9 ~~the superior court under this subsection shall be tried de novo.~~

10 J. For purposes of a hearing by the state personnel board, a school
11 district governing board, a community college district governing board, a
12 city or town council or any other appropriate independent personnel board
13 conducted under this section, the employee, former employee, employee alleged
14 to have committed the prohibited personnel practice pursuant to subsection A
15 of this section and employer may be represented by counsel. In addition,
16 representation by counsel in such hearings shall meet any other requirements
17 stipulated by the state personnel board, a school district governing board, a
18 community college district governing board, a city or town council or any
19 other appropriate independent personnel board or as required by law.

20 K. An employee or former employee may also seek injunctive relief as
21 is otherwise available in civil actions. **A COURT MAY AWARD REASONABLE**
22 **ATTORNEY FEES TO AN EMPLOYEE OR FORMER EMPLOYEE WHO PREVAILS IN AN ACTION**
23 **PURSUANT TO THIS SECTION, BUT THE AWARD OF ATTORNEY FEES SHALL NOT EXCEED TEN**
24 **THOUSAND DOLLARS.**

25 L. This section shall not be construed to limit or extend the civil or
26 criminal liability of an employee or former employee for any disclosure of
27 information or to limit an employee's right to a separate pretermination
28 hearing with the employee's employer, as provided by law.

29 M. An employee who knowingly makes a false accusation that a public
30 officer or employee who has control over personnel actions has engaged in a
31 violation of any law, mismanagement, a gross waste of monies or an abuse of
32 authority is personally subject to a civil penalty of up to twenty-five
33 thousand dollars and dismissal from employment by the employer.

34 Sec. 92. Section 38-610.01, Arizona Revised Statutes, is amended to
35 read:

36 **38-610.01. Leave of absence and compensation for officers and**
37 **employees during active military service**

38 A. If the president of the United States or the governor of this state
39 declares that a state of emergency exists, an officer or employee of this
40 state who is ordered to active military service of the United States or this
41 state as a member of the national guard, air national guard, army reserve,
42 naval reserve, marine corps reserve, air force reserve or coast guard reserve
43 and whose state employment is ~~covered by~~ **SUBJECT TO** title 41, chapter 4,
44 ~~articles 5 and 6~~ **ARTICLE 4** or who is exempt pursuant to section ~~41-771~~
45 ~~41-742~~, subsection ~~A~~ D, paragraph 1, 2, 3, ~~4~~, **OR** 5, ~~7, 8, 9, 10, 11, 12 or~~
46 ~~13 or subsection B, paragraph 1, 2, 3, 4, 5, 7 or 8~~ is eligible for an

1 additional leave of absence until released from active duty by competent
2 authority. During the additional leave of absence, the officer or employee
3 shall continue to receive the officer's or employee's salary or compensation,
4 less the amount of all pay and allowances for military activities while on
5 active duty.

6 B. An officer or employee who receives salary or compensation pursuant
7 to subsection A of this section is not entitled to accrue annual leave or
8 sick leave during the period of active duty. Before qualifying for the
9 compensation pursuant to subsection A of this section, the officer or
10 employee must exhaust all military leave balances by the time of activation
11 or at any time during the active duty period.

12 C. An officer or employee may receive compensation pursuant to
13 subsection A of this section for the continuous duration of the officer's or
14 employee's order.

15 D. Within sixty days after an officer or employee who receives pay
16 differential pursuant to this section completes the period of active duty,
17 the officer or employee shall provide proof that the officer or employee
18 rendered honorable service while on active duty during any period for which
19 the officer or employee received the pay differential pursuant to this
20 section. The state may seek recovery of the pay differential from any person
21 who fails to provide proof of honorable service.

22 E. The director of the department of administration shall establish
23 procedures to be used by an eligible officer or employee to receive
24 compensation pursuant to subsection A of this section.

25 Sec. 93. Section 38-610.02, Arizona Revised Statutes, is amended to
26 read:

27 38-610.02. Leave of absence and compensation for national
28 disaster medical system employment

29 A. An officer or employee of this state who is called into employment
30 to the national disaster medical system under the United States department of
31 health and human services and whose state employment is ~~covered by~~ SUBJECT TO
32 title 41, chapter 4, ~~articles 5 and 6~~ ARTICLE 4 or who is exempt pursuant to
33 section ~~41-771~~ 41-742, subsection ~~A~~ D, paragraph 1, 2, 3, ~~4, OR 5, 7, 8, 9,~~
34 ~~10, 11, 12 or 13 or subsection B, paragraph 1, 2, 3, 4, 5, 7 or 8~~ is eligible
35 for an additional leave of absence until released from active duty by
36 competent authority. During the additional leave of absence, the officer or
37 employee shall continue to receive the officer's or employee's salary or
38 compensation, less the amount of all pay and allowances for activities while
39 on active duty with the national disaster medical system.

40 B. An officer or employee who receives salary or compensation pursuant
41 to subsection A of this section is not entitled to accrue annual leave or
42 sick leave during the period of active duty.

43 C. An officer or employee may receive compensation pursuant to
44 subsection A of this section for the continuous duration of the officer's or
45 employee's order.

1 D. Within sixty days after an officer or employee who receives pay
2 differential pursuant to this section completes the period of active duty,
3 the officer or employee shall provide proof that the officer or employee
4 rendered honorable service while on active duty during any period for which
5 the officer or employee received the pay differential pursuant to this
6 section. This state may seek recovery of the pay differential from any
7 person who fails to provide proof of honorable service.

8 E. The rights and duties of an officer or employee who is subject to
9 this section is subject to the uniformed services employment and reemployment
10 rights act (38 United States Code chapter 43).

11 F. The director of the department of administration shall establish
12 procedures to be used by an eligible officer or employee to receive
13 compensation pursuant to subsection A of this section.

14 Sec. 94. Section 38-611, Arizona Revised Statutes, is amended to read:

15 38-611. Compensation of certain state officers and employees

16 A. Except as otherwise provided in subsections ~~C~~ B and ~~D~~ C OF THIS
17 SECTION, any officer or employee of the state, or any of its agencies, ~~who is~~
18 ~~exempt from the state personnel system shall~~ IS ENTITLED TO receive a salary
19 within the range as ~~recommended~~ DETERMINED by the department of
20 administration ~~in its annual recommendation to the legislature and the joint~~
21 ~~legislative budget committee~~ unless modified by the legislature.

22 ~~B. Any officer or employee of the state, or any of its agencies, who~~
23 ~~is subject to the provisions of the state personnel system shall receive a~~
24 ~~salary within the range of the department of administration salary plan as~~
25 ~~adopted or modified by the legislature.~~

26 ~~C.~~ B. Elected state officers, employees of the supreme court,
27 employees of the court of appeals, employees of the legislature, employees of
28 the governor's office, employees of the Arizona state ~~school~~ SCHOOLS for the
29 deaf and the blind except the superintendent and the medical officer and all
30 employees of THE ARIZONA BOARD OF REGENTS AND the state universities are
31 exempt from the provisions of this section.

32 ~~D.~~ C. Except as otherwise provided by statute or specific legislative
33 appropriation, members of boards, commissions, councils or advisory
34 committees who are authorized by law to receive compensation may receive
35 compensation at the rate of not to exceed thirty dollars for each day engaged
36 in the service of such board, commission, council or advisory committee.

37 Sec. 95. Title 38, chapter 4, article 1, Arizona Revised Statutes, is
38 amended by adding sections 38-611.01 and 38-611.02, to read:

39 38-611.01. Arizona state retirement system; special pay plan

40 THE ARIZONA STATE RETIREMENT SYSTEM ESTABLISHED BY CHAPTER 5, ARTICLE 2
41 OF THIS TITLE:

42 1. MAY ADMINISTER AN INCENTIVE COMPENSATION PLAN FOR INVESTMENT
43 RELATED PERSONNEL ESTABLISHED IN CONSULTATION WITH THE DIRECTOR OF THE
44 DEPARTMENT OF ADMINISTRATION. THE ARIZONA STATE RETIREMENT SYSTEM SHALL FILE
45 A COPY OF ANY INCENTIVE COMPENSATION PLAN FOR INVESTMENT RELATED PERSONNEL
46 WITH THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF

1 REPRESENTATIVES, THE OFFICE OF STRATEGIC PLANNING AND BUDGETING, THE JOINT
2 LEGISLATIVE BUDGET COMMITTEE AND THE DEPARTMENT OF ADMINISTRATION WITHIN TEN
3 BUSINESS DAYS OF ITS ADOPTION OR READOPTION.

4 2. EXCEPT FOR THE INCENTIVE COMPENSATION PLAN FOR INVESTMENT RELATED
5 PERSONNEL, SHALL NOT ESTABLISH ANY OTHER COMPENSATION PLANS WITHOUT THE
6 APPROVAL OF THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION.

7 3. MAY REQUEST THAT THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION
8 ESTABLISH A SPECIAL PAY PLAN FOR THE ARIZONA STATE RETIREMENT SYSTEM
9 DIRECTOR, DEPUTY DIRECTOR, CHIEF INVESTMENT OFFICER, INVESTMENT RELATED
10 PERSONNEL AND FIDUCIARY OR INVESTMENT COUNSEL. THE DIRECTOR OF THE
11 DEPARTMENT OF ADMINISTRATION, PURSUANT TO SECTION 41-742, SUBSECTION C,
12 PARAGRAPH 4, SHALL ESTABLISH THE SPECIAL PAY PLAN AFTER CONSIDERING THE
13 RECOMMENDATIONS OF THE ARIZONA STATE RETIREMENT SYSTEM BOARD AND USING
14 RELEVANT MARKET DATA. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION MAY
15 ADOPT OTHER SPECIAL PAY PLANS DETERMINED NECESSARY FOR CERTAIN CLASSES OR
16 GROUPS OF ARIZONA STATE RETIREMENT SYSTEM EMPLOYEES, TAKING INTO
17 CONSIDERATION SUCH FACTORS AS OCCUPATIONAL PATTERNS, ECONOMIC CONDITIONS AND
18 PAY RANGES COMMON TO GOVERNMENT, BUSINESS AND INDUSTRY, AND SHALL WORK WITH
19 THE ARIZONA STATE RETIREMENT SYSTEM IN ESTABLISHING THE PLANS.

20 38-611.02. Public safety personnel retirement system; special
21 pay practices

22 THE BOARD OF TRUSTEES OF THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
23 ESTABLISHED BY CHAPTER 5, ARTICLE 4 OF THIS TITLE:

24 1. MAY ADMINISTER AN INCENTIVE COMPENSATION PLAN FOR INVESTMENT
25 RELATED PERSONNEL ESTABLISHED IN CONSULTATION WITH THE DIRECTOR OF THE
26 DEPARTMENT OF ADMINISTRATION. THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
27 SHALL FILE A COPY OF ANY INCENTIVE COMPENSATION PLAN FOR INVESTMENT RELATED
28 PERSONNEL WITH THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE
29 HOUSE OF REPRESENTATIVES, THE OFFICE OF STRATEGIC PLANNING AND BUDGETING, THE
30 JOINT LEGISLATIVE BUDGET COMMITTEE AND THE DEPARTMENT OF ADMINISTRATION
31 WITHIN TEN BUSINESS DAYS OF ITS ADOPTION OR READOPTION.

32 2. EXCEPT FOR THE INCENTIVE COMPENSATION PLAN FOR INVESTMENT RELATED
33 PERSONNEL, SHALL NOT ESTABLISH ANY OTHER COMPENSATION PLANS WITHOUT THE
34 APPROVAL OF THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION.

35 3. MAY REQUEST THAT THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION
36 ESTABLISH A SPECIAL PAY PLAN FOR THE PUBLIC SAFETY PERSONNEL RETIREMENT
37 SYSTEM ADMINISTRATOR, DEPUTY OR ASSISTANT ADMINISTRATOR, CHIEF INVESTMENT
38 OFFICER, INVESTMENT RELATED PERSONNEL AND FIDUCIARY OR INVESTMENT COUNSEL.
39 THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION, PURSUANT TO SECTION 41-742,
40 SUBSECTION C, PARAGRAPH 4, SHALL ESTABLISH THE SPECIAL PAY PLAN AFTER
41 CONSIDERING THE RECOMMENDATIONS OF THE PUBLIC SAFETY PERSONNEL RETIREMENT
42 SYSTEM BOARD OF TRUSTEES, INCLUDING CONSIDERATION OF THE SALARY RANGES
43 RECOMMENDED BY AN INDEPENDENT COMPENSATION CONSULTANT AND USING RELEVANT
44 MARKET DATA. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION MAY ADOPT
45 OTHER SPECIAL PAY PLANS DETERMINED NECESSARY FOR CERTAIN CLASSES OR GROUPS OF
46 PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM EMPLOYEES, TAKING INTO

1 CONSIDERATION SUCH FACTORS AS OCCUPATIONAL PATTERNS, ECONOMIC CONDITIONS AND
2 PAY RANGES COMMON TO GOVERNMENT, BUSINESS AND INDUSTRY, AND SHALL WORK WITH
3 THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM IN ESTABLISHING THE PLANS.

4 Sec. 96. Section 38-612, Arizona Revised Statutes, is amended to read:

5 38-612. Administration of payroll salary deductions

6 A. There shall be no payroll salary deductions from the compensation
7 of state officers or employees except as specifically authorized by federal
8 law or regulation or by a statute of this state. No administrative agency of
9 this state may authorize any other deduction.

10 B. In addition to those payroll salary deductions required by federal
11 law or regulation or by statute, state officers or employees may authorize
12 deductions to be made from their salaries or wages for the payment of:

13 1. Premiums on any health benefits, disability plans or group life
14 plans provided for by statute and any existing insurance programs already
15 provided by payroll deduction.

16 2. Shares or obligations to any state or federally chartered credit
17 union established primarily for the purpose of serving state officers and
18 employees and their families.

19 3. Dues in a recognized association comprised principally of employees
20 and former employees of agencies of this state, subject to the following
21 criteria:

22 (a) When comprised of at least one thousand state employees other than
23 employees of the state universities, the department of public safety and
24 academic personnel of the Arizona state schools for the deaf and the blind.

25 (b) When comprised of at least twenty-five per cent of the academic
26 personnel or of the nonacademic employees of any state university.

27 (c) When comprised of at least twenty-five per cent of the academic
28 personnel of the Arizona state schools for the deaf and the blind.

29 (d) When comprised of at least five hundred state employees who are
30 certified as peace officers by the Arizona peace officer standards and
31 training board established by section 41-1821.

32 4. Deferred compensation or tax sheltered annuity salary reductions
33 when made under approved plans.

34 5. Federal savings bond plans.

35 6. Recurrent fees, charges or other payments payable to a state agency
36 under a collection plan approved by the director of the department of
37 administration.

38 7. Contributions made to a charitable organization:

39 (a) Organized and operated exclusively for charitable purposes and
40 selected by the presidents of the state universities. Employees of the state
41 universities shall be advised by form of the charitable organizations to
42 which they may contribute through payroll salary deductions. The advisory
43 provided under this subdivision shall be substantially similar to the
44 following and prominently printed:

1 "You may contribute to any charitable organization registered under
2 internal revenue code section 501(c)(3), tax exempt status.

3
4 Charitable organization name"

5 This subdivision applies only to academic personnel and nonacademic
6 employees of the state universities.

7 (b) Organized and operated exclusively for charitable purposes,
8 provided a fund drive by such an organization shall be applicable to all
9 state agencies except the state universities covered under subdivision (a) of
10 this paragraph and no state officer or employee of state agencies subject to
11 this subdivision may authorize more than one deduction for charitable
12 purposes to be in effect at the same time. This subdivision applies to all
13 state agencies except the universities covered under subdivision (a) of this
14 paragraph.

15 8. Contributions made for the purpose of contributing to a fund
16 raising campaign for a university or a club for faculty or staff, or both,
17 which is recognized by the university president and authorized by the Arizona
18 board of regents. This paragraph applies only to academic personnel and
19 nonacademic employees of the state universities.

20 9. Charges payable for transportation expenses pursuant to section
21 ~~41-786~~ 41-711.

22 10. Payments ordered by courts of competent jurisdiction within this
23 state.

24 11. Automobile or homeowner's insurance premiums.

25 12. Premiums for the following state sponsored group benefits that are
26 established primarily for the purpose of serving state officers and employees
27 and their families:

28 (a) Long-term care insurance.

29 (b) Critical care insurance.

30 (c) Prepaid legal services.

31 (d) Identity theft protection services.

32 13. A computer system as defined in section 13-2301 for personal use.

33 C. In order for the department of administration to establish and
34 maintain a dues deduction pursuant to subsection B, paragraph 3 of this
35 section, the department of administration may establish and maintain the
36 deduction without the appropriation of any additional monies or technological
37 improvements. The department of administration shall track all personnel
38 hours dedicated to dues deduction. The department of administration may
39 charge a fee to a recognized association that qualifies under subsection B,
40 paragraph 3 of this section for establishing the automatic dues deduction and
41 anytime changes are needed in the automatic dues deduction system as a result
42 of an increase or decrease in association dues. If the membership criteria
43 of a recognized association falls below the criteria set forth in subsection
44 B, paragraph 3 of this section, the recognized association shall be on
45 probation for one year. If the membership of a recognized association falls
46 below the criteria set forth in subsection B, paragraph 3 of this section for

1 more than one year, or if the members of the association engage in a work
2 slowdown or work stoppage, the dues deduction authorized by this section
3 shall immediately be discontinued.

4 D. For those state officers and employees under payroll systems which
5 are under the direction of the director of the department of administration,
6 the director shall provide for the administration of payroll deductions for
7 the purposes set forth in this section. For all other state officers and
8 employees and for persons receiving allowances or benefits under other state
9 payroll and retirement systems, the appropriate state officer shall provide
10 for such administration of payroll deductions. Such administration shall
11 operate without cost or contribution from the state other than the incidental
12 expense of making the deductions and remittances to the payees. If any payee
13 requests additional services, the director of the department of
14 administration or any other appropriate state officer may require payment for
15 the additional cost of providing such services.

16 E. As a means of readily identifying the employee from whom payroll
17 deductions are to be made, the state officer administering payroll deductions
18 may request an employee to enter such employee's social security
19 identification number on the payroll deduction authorization. Such number
20 shall not be used for any other purpose.

21 F. The state, the director of the department of administration or any
22 other appropriate state officer shall be relieved of any liability to
23 employees authorizing deductions or organizations receiving deductions that
24 may result from authorizations pursuant to this section.

25 Sec. 97. Section 38-654, Arizona Revised Statutes, is amended to read:

26 38-654. Special employee health insurance trust fund; purpose;
27 investment of monies; use of monies; exemption from
28 lapsing; annual report

29 A. There is established a special employee health insurance trust fund
30 for the purpose of administering the state employee health insurance benefit
31 plans. The fund shall consist of legislative appropriations, monies
32 collected from the employer and employees for the health insurance benefit
33 plans and investment earnings on monies collected from employees. The fund
34 shall be administered by the director of the department of administration.
35 Monies in the fund that are determined by the legislature to be for
36 administrative expenses of the department of administration, including monies
37 authorized by subsection C, paragraph 4 of this section, are subject to
38 legislative appropriation.

39 B. On notice from the department of administration, the state
40 treasurer shall invest and divest monies in the fund as provided by section
41 35-313, and monies earned from investment shall be credited to the fund.
42 There shall be a separate accounting of monies contributed by the employer,
43 monies collected from state employees and investment earnings on monies
44 collected from employees. Monies collected from state employees for health
45 insurance benefit plans shall be expended before expenditure of monies
46 contributed by the employer.

1 C. Monies in the fund shall be used by the department of
2 administration for the following purposes for the benefit of officers and
3 employees who participate in a health insurance benefit plan pursuant to this
4 article:

5 1. To administer a health insurance benefit program for state officers
6 and employees.

7 2. To pay health insurance premiums, claims costs and related
8 administrative expenses.

9 3. To apply against future premiums, claims costs and related
10 administrative expenses.

11 4. To apply the equivalent of not more than one dollar fifty cents for
12 each employee for each month to administer applicable federal and state laws
13 relating to health insurance benefit programs and to design, implement and
14 administer improvements to the employee health insurance or benefit program.

15 D. Subsection C of this section shall not be construed to require that
16 all monies in the special employee health insurance trust fund shall be used
17 within any one or more fiscal years. Any person who is no longer a state
18 employee or an employee who is no longer a participant in a health insurance
19 plan under contract with the department of administration shall have no claim
20 on monies in the fund.

21 E. Monies deposited in or credited to the fund are exempt from the
22 provisions of section 35-190 relating to lapsing of appropriations.

23 F. Claims for services rendered before July 1, 1989 shall not be paid
24 from the special employee health insurance trust fund.

25 G. The department of administration shall submit an annual report on
26 the financial status of the special employee insurance trust fund to the
27 governor, the president of the senate, the speaker of the house of
28 representatives, the chairpersons of the house and senate appropriations
29 committees and the joint legislative budget committee staff by ~~March~~
30 ~~JULY~~ 1. The report shall include:

31 1. The actuarial assumptions and a description of the methodology used
32 to set premiums and reserve balance targets for the health insurance benefit
33 program for the current plan year.

34 2. An analysis of the actuarial soundness of the health insurance
35 benefit program for the previous plan year.

36 3. An analysis of the actuarial soundness of the health insurance
37 benefit program for the current plan year, based on both year-to-date
38 experience and total expected experience.

39 4. A preliminary estimate of the premiums and reserve balance targets
40 for the next plan year, including the actuarial assumptions and a description
41 of the methodology used.

42 H. The department shall submit a report to the joint legislative
43 budget committee detailing any changes to the type of benefits offered under
44 the plan and associated costs at least forty-five days before making the
45 change. The report shall include:

46 1. An estimate of the cost or saving associated with the change.

2. An explanation of why the change was implemented before the next plan year.

Sec. 98. Section 38-715, Arizona Revised Statutes, is amended to read:

38-715. Director: powers and duties

A. The board shall appoint a director. The ~~term of the director is one year and expires on June 30. On expiration of a director's term, the board may reappoint the director for another term. The board may remove the director at any time for cause~~ SHALL SERVE AT THE PLEASURE OF THE BOARD.

B. The director shall appoint a deputy director and assistant directors with the approval of the board.

C. The director, under the supervision of the board, shall:

1. Administer this article, except the investment powers and duties of investment management.

~~2. Hire employees and services the director deems necessary and prescribe their duties.~~

2. BE RESPONSIBLE FOR THE RECRUITMENT, HIRING AND DAY-TO-DAY MANAGEMENT OF EMPLOYEES.

3. Prescribe procedures to be followed by members and their beneficiaries in filing applications for benefits.

4. Be responsible for:

(a) Income and the collection of income and the accuracy of all expenditures.

(b) Maintaining books and maintaining and processing records of ASRS.

(c) The investment of temporary surplus monies only in obligations of the United States government or agencies whose obligations are guaranteed by the United States government, commercial paper or banker's acceptances for a term of not more than fifteen days.

(d) Providing continuing education programs for the board to keep the board members informed of current issues and information needed to carry out their duties.

5. Perform additional powers and duties as may be prescribed by the board and delegated to the director.

D. The director, under the supervision and approval of the board, may:

1. Delegate duties and responsibilities to such state departments as the director deems feasible and desirable to administer this article.

2. Appoint a custodian for the safekeeping of all investments owned by ASRS and register stocks, bonds and other investments in the name of a nominee.

3. Invest marketable securities owned by ASRS by entering into security loan agreements with one or more security lending entities. For the purpose of this paragraph:

(a) "Marketable securities" means securities that are freely and regularly traded on recognized exchanges or marketplaces.

(b) "Security loan agreement" means a written contract under which ASRS, as lender, agrees to lend specific marketable securities for a period of not more than one year. ASRS, under a security loan agreement, shall

1 retain the right to collect from the borrower all dividends, interest,
2 premiums and rights and any other distributions to which ASRS otherwise would
3 have been entitled. During the term of a security loan agreement ASRS shall
4 waive the right to vote the securities that are the subject of the agreement.
5 A security loan agreement shall provide for termination by either party on
6 terms mutually acceptable to the parties. The borrower shall deliver
7 collateral to ASRS or its designated representative. At all times during the
8 term of any security loan agreement the collateral shall be in an amount
9 equal to at least one hundred per cent of the market value of the loaned
10 securities. A security loan agreement shall provide for payment of
11 additional collateral on a daily basis, or at such other less frequent
12 intervals as the value of the loaned securities increases. A security loan
13 agreement with a security lending entity shall contain the terms and
14 conditions of the fees to be paid to a security lending entity for servicing
15 the security loan agreement. ASRS shall pay the fees approved by the board
16 to the security lending entity for servicing a security loan agreement from
17 the revenues of the security lending program.

18 4. Establish one or more reserve holding accounts, into which the
19 board shall close periodically the account balances of inactive accounts. If
20 any person files a claim and furnishes proof of ownership of any amounts in
21 any inactive account the claim shall be paid from the reserve holding account
22 on the same basis as if no action had been taken under this paragraph.
23 Interest and supplemental credits shall be allocated to each reserve holding
24 account on June 30 of each year, as determined by the board. For the
25 purposes of this paragraph, "inactive account" means an account to which
26 contributions have not been paid for six months or more.

27 5. Make retirement under this article effective retroactively to on or
28 after the day following the date employment is terminated if the member was
29 unable to apply before the retroactive effective date through no fault of the
30 member.

31 E. The director, under supervision of the governing committee for tax
32 deferred annuity and deferred compensation plans, may hire and supervise
33 employees and obtain services the director deems necessary to administer
34 article 5 of this chapter. The tax deferred annuity and deferred
35 compensation programs established pursuant to article 5 of this chapter shall
36 bear the costs for these employees and services.

37 F. The director and all persons employed by the director are ~~not~~
38 subject to section 38-611 ~~or~~ AND title 41, chapter 4, article ~~5 or 6~~ 4.

39 G. IN CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF
40 ADMINISTRATION, THE BOARD MAY ENTER INTO EMPLOYMENT AGREEMENTS AND ESTABLISH
41 THE TERMS OF THOSE AGREEMENTS WITH PERSONS HOLDING ANY OF THE FOLLOWING ASRS
42 POSITIONS:

- 43 1. DIRECTOR.
- 44 2. DEPUTY DIRECTOR.
- 45 3. CHIEF INVESTMENT OFFICER.
- 46 4. FIDUCIARY OR INVESTMENT COUNSEL.

1 Sec. 99. Section 38-848, Arizona Revised Statutes, is amended to read:

2 38-848. Board of trustees; powers and duties; independent trust
3 fund; administrator; agents and employees

4 A. The board of trustees shall consist of seven members and shall have
5 the rights, powers and duties that are set forth in this section. The term
6 of office of members shall be five years to expire on the third Monday in
7 January of the appropriate year. Members are eligible to receive
8 compensation in an amount of fifty dollars a day, but not to exceed one
9 thousand dollars in any one fiscal year, and are eligible for reimbursement
10 of expenses pursuant to chapter 4, article 2 of this title. The board
11 consists of the following members appointed by the governor pursuant to
12 section 38-211:

13 1. Two elected members from a local board to represent the employees.

14 2. One member to represent this state as an employer of public safety
15 personnel. This member shall have the qualifications prescribed in
16 subsection ~~R~~ T of this section.

17 3. One member to represent the cities as employers of public safety
18 personnel.

19 4. An elected county or state official or a judge of the superior
20 court, court of appeals or supreme court.

21 5. Two public members. These members shall have the qualifications
22 prescribed in subsection ~~R~~ T of this section.

23 B. All monies in the fund shall be deposited and held in a public
24 safety personnel retirement system depository. Monies in the fund shall be
25 disbursed from the depository separate and apart from all monies or funds of
26 this state and the agencies, instrumentalities and subdivisions of this
27 state, except that the board may commingle the assets of the fund and the
28 assets of all other plans entrusted to its management in one or more group
29 trusts, subject to the crediting of receipts and earnings and charging of
30 payments to the appropriate employer, system or plan. The monies shall be
31 secured by the depository in which they are deposited and held to the same
32 extent and in the same manner as required by the general depository law of
33 this state. For purposes of making the decision to invest in securities
34 owned by the fund or any plan administered by the board, the fund and assets
35 of the plans are subject to the sole management of the board for the purpose
36 of this article except that, on the board's election to invest in a
37 particular security or make a particular investment, the assets comprising
38 the security or investment may be chosen and managed by third parties
39 approved by the board. The board may invest in portfolios of securities
40 chosen and managed by a third party. The board's decision to invest in
41 securities such as mutual funds, commingled investment funds, exchange traded
42 funds, private equity or venture capital limited partnerships, real estate
43 limited partnerships or limited liability companies and real estate
44 investment trusts whose assets are chosen and managed by third parties does
45 not constitute an improper delegation of the board's investment authority.

1 C. All contributions under this system and other retirement plans that
2 the board administers shall be forwarded to the board and shall be held,
3 invested and reinvested by the board as provided in this article. All
4 property and monies of the fund and other retirement plans that the board
5 administers, including income from investments and from all other sources,
6 shall be retained for the exclusive benefit of members, as provided in the
7 system and other retirement plans that the board administers, and shall be
8 used to pay benefits to members or their beneficiaries or to pay expenses of
9 operation and administration of the system and fund and other retirement
10 plans that the board administers.

11 D. The board shall have the full power in its sole discretion to
12 invest and reinvest, alter and change the monies accumulated under the system
13 and other retirement plans that the board administers as provided in this
14 article. In addition to its power to make investments managed by others, the
15 board may delegate the authority the board deems necessary and prudent to
16 investment management pursuant to section 38-848.03, as well as to the
17 administrator, employed by the board pursuant to subsection K, paragraph 6 of
18 this section, and any assistant administrators to invest the monies of the
19 system and other retirement plans that the board administers if the
20 administrator, investment management and any assistant administrators follow
21 the investment policies that are promulgated by the board. The board may
22 commingle securities and monies of the fund, the elected officials'
23 retirement plan, the corrections officer retirement plan and other plans or
24 monies entrusted to its care, subject to the crediting of receipts and
25 earnings and charging of payments to the account of the appropriate employer,
26 system or plan. In making every investment, the board shall exercise the
27 judgment and care under the circumstances then prevailing which persons of
28 ordinary prudence, discretion and intelligence exercise in the management of
29 their own affairs, not in regard to speculation but in regard to the
30 permanent disposition of their funds, considering the probable income from
31 their funds as well as the probable safety of their capital, provided:

32 1. That not more than eighty per cent of the combined assets of the
33 system or other plans that the board manages shall be invested at any given
34 time in corporate stocks, based on cost value of such stocks irrespective of
35 capital appreciation.

36 2. That no more than five per cent of the combined assets of the
37 system or other plans that the board manages shall be invested in corporate
38 stock issued by any one corporation, other than corporate stock issued by
39 corporations chartered by the United States government or corporate stock
40 issued by a bank or insurance company.

41 3. That not more than five per cent of the voting stock of any one
42 corporation shall be owned by the system and other plans that the board
43 administers, except that this limitation does not apply to membership
44 interests in limited liability companies.

45 4. That corporate stocks and exchange traded funds eligible for
46 purchase shall be restricted to stocks and exchange traded funds that, except

1 for bank stocks, insurance stocks and membership interests in limited
2 liability companies, are either:

3 (a) Listed or approved on issuance for listing on an exchange
4 registered under the securities exchange act of 1934, as amended (15 United
5 States Code sections 78a through 7811).

6 (b) Designated or approved on notice of issuance for designation on
7 the national market system of a national securities association registered
8 under the securities exchange act of 1934, as amended (15 United States Code
9 sections 78a through 7811).

10 (c) Listed or approved on issuance for listing on an exchange
11 registered under the laws of this state or any other state.

12 (d) Listed or approved on issuance for listing on an exchange of a
13 foreign country with which the United States is maintaining diplomatic
14 relations at the time of purchase, except that no more than twenty per cent
15 of the combined assets of the system and other plans that the board manages
16 shall be invested in foreign securities, based on the cost value of the
17 stocks irrespective of capital appreciation.

18 (e) An exchange traded fund that is recommended by the chief
19 investment officer of the system, that is registered under the investment
20 company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and
21 that is both traded on a public exchange and based on a publicly recognized
22 index.

23 E. Notwithstanding any other law, the board shall not be required to
24 invest in any type of investment that is dictated or required by any entity
25 of the federal government and that is intended to fund economic development
26 projects, public works or social programs, but may consider such economically
27 targeted investments pursuant to its fiduciary responsibility. The board, on
28 behalf of the system and all other plans or trusts the ~~fund-manager~~ BOARD
29 administers, may invest in, lend monies to or guarantee the repayment of
30 monies by a limited liability company, limited partnership, joint venture,
31 partnership, limited liability partnership or trust in which the system and
32 plans or trusts have a financial interest, whether the entity is closely held
33 or publicly traded and that, in turn, may be engaged in any lawful activity,
34 including venture capital, private equity, the ownership, development,
35 management, improvement or operation of real property and any improvements or
36 businesses on real property or the lending of monies.

37 F. Conference call meetings of the board that are held for investment
38 purposes only are not subject to chapter 3, article 3.1 of this title, except
39 that the board shall maintain minutes of these conference call meetings and
40 make them available for public inspection within twenty-four hours after the
41 meeting. The board shall review the minutes of each conference call meeting
42 and shall ratify all legal actions taken during each conference call meeting
43 at the next scheduled meeting of the board.

44 G. The board shall not be held liable for the exercise of more than
45 ordinary care and prudence in the selection of investments and performance of
46 its duties under the system and shall not be limited to so-called "legal

1 investments for trustees", but all monies of the system and other plans that
2 the board administers shall be invested subject to all of the conditions,
3 limitations and restrictions imposed by law.

4 H. Except as provided in subsection D of this section, the board may:

5 1. Invest and reinvest the principal and income of all assets that the
6 board manages without distinction between principal and income.

7 2. Sell, exchange, convey, transfer or otherwise dispose of any
8 investments made on behalf of the system or other plans the board administers
9 in the name of the system or plans by private contract or at public auction.

10 3. Also:

11 (a) Vote on any stocks, bonds or other securities.

12 (b) Give general or special proxies or powers of attorney with or
13 without power of substitution.

14 (c) Exercise any conversion privileges, subscription rights or other
15 options and make any payments incidental to the exercise of the conversion
16 privileges, subscription rights or other options.

17 (d) Consent to or otherwise participate in corporate reorganizations
18 or other changes affecting corporate securities, delegate discretionary
19 powers and pay any assessments or charges in connection therewith.

20 (e) Generally exercise any of the powers of an owner with respect to
21 stocks, bonds, securities or other investments held in or owned by the system
22 or other plans whose assets the board administers.

23 4. Make, execute, acknowledge and deliver any other instruments that
24 may be necessary or appropriate to carry out the powers granted in this
25 section.

26 5. Register any investment held by the system or other plans whose
27 assets the board administers in the name of the system or plan or in the name
28 of a nominee or trust.

29 6. At the expense of the system or other plans that the board
30 administers, enter into an agreement with any bank or banks for the
31 safekeeping and handling of securities and other investments coming into the
32 possession of the board. The agreement shall be entered into under terms and
33 conditions that secure the proper safeguarding, inventory, withdrawal and
34 handling of the securities and other investments. No access to and no
35 deposit or withdrawal of the securities from any place of deposit selected by
36 the board shall be permitted or made except as the terms of the agreement may
37 provide.

38 7. Appear before local boards and the courts of this state and
39 political subdivisions of this state through counsel or appointed
40 representative to protect the fund or the assets of other plans that the
41 board administers. The board is not responsible for the actions or omissions
42 of the local boards under this system but may seek review or rehearing of
43 actions or omissions of local boards. The board does not have a duty to
44 review actions of the local boards but may do so in its discretion in order
45 to protect the fund. No limitations period precludes the ~~fund-manager~~ BOARD
46 or administrator from contesting, or requires the ~~fund-manager~~ BOARD or

1 administrator to implement or comply with, a local board decision that
2 violates the internal revenue code or that threatens to impair the tax
3 qualified status of the system or any plan administered by the ~~fund-manager~~
4 ~~BOARD~~ or administrator.

5 8. Empower the fund administrator to take actions on behalf of the
6 board that are necessary for the protection and administration of the fund or
7 the assets of other plans that the board administers pursuant to the
8 guidelines of the board.

9 9. Do all acts, whether or not expressly authorized, that may be
10 deemed necessary or proper for the protection of the investments held in the
11 fund or owned by other plans or trusts that the board administers.

12 10. Settle threatened or actual litigation against any system or plan
13 that the ~~fund-manager~~ ~~BOARD~~ administers.

14 I. Investment expenses and operation and administrative expenses of
15 the board shall be accounted for separately and allocated against investment
16 income.

17 J. The board, as soon as possible within a period of six months
18 following the close of any fiscal year, shall transmit to the governor and
19 the legislature a comprehensive annual financial report on the operation of
20 the system and other plans that the board administers containing, among other
21 things:

22 1. A balance sheet.

23 2. A statement of income and expenditures for the year.

24 3. A report on an actuarial valuation of its assets and liabilities.

25 4. A list of investments owned.

26 5. The total rate of return, yield on cost, and per cent of cost to
27 market value of the fund and the assets of other plans that the board
28 administers.

29 6. Any other statistical and financial data that may be necessary for
30 the proper understanding of the financial condition of the system and other
31 plans that the board administers and the results of their operations. A
32 synopsis of the annual report shall be published for the information of
33 members of the system, the elected officials' retirement plan or the
34 corrections officer retirement plan.

35 K. The board shall:

36 1. Maintain the accounts of the system and other plans that the board
37 administers and issue statements to each employer annually and to each member
38 who may request it.

39 2. Report the results of the actuarial valuations to the local boards
40 and employers.

41 3. Contract on a fee basis with an independent investment counsel to
42 advise the board in the investment management of the fund and assets of other
43 plans that the board administers and with an independent auditing firm to
44 audit the board's accounting.

45 4. Permit the auditor general to make an annual audit and the results
46 shall be transmitted to the governor and the legislature.

1 5. Contract on a fee basis with an actuary who shall make actuarial
2 valuations of the system and other plans that the board administers, be the
3 technical adviser of the board on matters regarding the operation of the
4 funds created by the provisions of the system, the elected officials'
5 retirement plan, the corrections officer retirement plan and the fire fighter
6 and peace officer cancer insurance policy program and perform other duties
7 required in connection therewith. The actuary must be a member of a
8 nationally recognized association or society of actuaries.

9 6. Employ, as administrator, a person, state department or other body
10 to serve at the pleasure of the board.

11 7. Establish procedures and guidelines for contracts with actuaries,
12 auditors, investment counsel and legal counsel and for safeguarding of
13 securities.

14 L. The administrator, under the direction of the board, shall:

15 1. Administer this article.

16 2. BE RESPONSIBLE FOR THE RECRUITMENT, HIRING AND DAY-TO-DAY
17 MANAGEMENT OF EMPLOYEES.

18 ~~2.~~ 3. Invest the funds of the system and other plans that the board
19 administers as the board deems necessary and prudent as provided in
20 subsections D and H of this section and subject to the investment policies
21 and fund objectives promulgated by the board.

22 ~~3.~~ 4. Establish and maintain an adequate system of accounts and
23 records for the system and other plans that the board administers, which
24 shall be integrated with the accounts, records and procedures of the
25 employers so that the system and other plans that the board administers
26 operates most effectively and at minimum expense and that duplication of
27 records and accounts is avoided.

28 ~~4.~~ 5. In accordance with the board's governance policy ~~and personnel~~
29 ~~rules~~ and procedures and the budget adopted by the board, hire such employees
30 and services the administrator deems necessary and prescribe their duties,
31 including the hiring of one or more assistant administrators to manage the
32 system's operations, investments and legal affairs.

33 ~~5.~~ 6. Be responsible for income, the collection of the income and the
34 accuracy of all expenditures.

35 ~~6.~~ 7. Recommend to the board annual contracts for the system's
36 actuary, auditor, investment counsel, legal counsel and safeguarding of
37 securities.

38 ~~7.~~ 8. Perform additional duties and powers prescribed by the board
39 and delegated to the administrator.

40 M. The system is an independent trust fund and the board, ~~the~~
41 ~~administrator, the assistant administrators and all persons employed by them~~
42 ~~are not under the jurisdiction of the department of administration or any~~
43 ~~other agency, department or instrumentality of this state or subject to~~
44 ~~section 38-611 or title 41, chapter 4 or 6. The salaries of the~~
45 ~~administrator, assistant administrators and other employees of the board are~~
46 ~~the sole determination of the board~~ IS NOT SUBJECT TO TITLE 41, CHAPTER 6.

1 Contracts for goods and services approved by the board are not subject to
2 title 41, chapter 23. As an independent trust fund whose assets are separate
3 and apart from all other funds of this state, the system and the board are
4 not subject to the restrictions prescribed in section 35-154 or article IX,
5 sections 5 and 8, Constitution of Arizona.

6 N. THE BOARD, THE ADMINISTRATOR, THE ASSISTANT ADMINISTRATORS AND ALL
7 PERSONS EMPLOYED BY THEM ARE SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4. THE
8 ADMINISTRATOR, ASSISTANT ADMINISTRATORS AND OTHER EMPLOYEES OF THE BOARD ARE
9 ENTITLED TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611.

10 O. IN CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF
11 ADMINISTRATION, THE BOARD MAY ENTER INTO EMPLOYMENT AGREEMENTS AND ESTABLISH
12 THE TERMS OF THOSE AGREEMENTS WITH PERSONS HOLDING ANY OF THE FOLLOWING
13 SYSTEM POSITIONS:

- 14 1. ADMINISTRATOR.
- 15 2. DEPUTY OR ASSISTANT ADMINISTRATOR.
- 16 3. CHIEF INVESTMENT OFFICER.
- 17 4. DEPUTY CHIEF INVESTMENT OFFICER.
- 18 5. FIDUCIARY OR INVESTMENT COUNSEL.

19 ~~N.~~ P. The attorney general or an attorney approved by the attorney
20 general and paid by the fund shall be the attorney for the board and shall
21 represent the board in any legal proceeding or forum that the board deems
22 appropriate. The board, administrator, assistant administrators and
23 employees of the board are not personally liable for any acts done in their
24 official capacity in good faith reliance on the written opinions of the
25 board's attorney.

26 ~~Q.~~ Q. At least once in each five-year period after the effective
27 date, the actuary shall make an actuarial investigation into the mortality,
28 service and compensation experience of the members and beneficiaries of the
29 system and other plans that the board administers and shall make a special
30 valuation of the assets and liabilities of the monies of the system and
31 plans. Taking into account the results of the investigation and special
32 valuation, the board shall adopt for the system and other plans that the
33 board administers those mortality, service and other tables deemed necessary.

34 ~~P.~~ R. On the basis of the tables the board adopts, the actuary shall
35 make a valuation of the assets and liabilities of the funds of the system and
36 other plans that the board administers not less frequently than every year.
37 By November 1 of each year the board shall provide a preliminary report and
38 by December 15 of each year provide a final report to the governor, the
39 speaker of the house of representatives and the president of the senate on
40 the contribution rate for the ensuing fiscal year.

41 ~~S.~~ S. Neither the board nor any member or employee of the board shall
42 directly or indirectly, for himself or as an agent, in any manner use the
43 monies or deposits of the fund except to make current and necessary payments,
44 nor shall the board or any member or employee become an endorser or surety or
45 in any manner an obligor for monies loaned by or borrowed from the fund or
46 the assets of any other plans that the board administers.

1 ~~R.~~ T. 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.~~ U. 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. 100. Section 40-105, Arizona Revised Statutes, is amended to
24 read:

25 40-105. Executive director; appointment; powers and duties

26 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the corporation
27 commission shall appoint an executive director, who shall have the power to
28 serve warrants and other process in any county of the state.

29 B. The executive director shall if directed by the commission:

30 1. Keep a record of all proceedings of the commission, issue necessary
31 writs, warrants and notices, and perform other duties the commission
32 prescribes.

33 2. Supervise and administer the overall activities of the commission
34 divisions and employees.

35 3. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ experts,
36 engineers, statisticians, accountants, inspectors and employees necessary to
37 perform the duties and exercise the powers of the commission.

38 4. Make and submit to the governor and legislature an annual report
39 containing a complete account of the commission's transactions and
40 proceedings for the preceding fiscal year, together with other facts,
41 suggestions and recommendations of value to the people of this state.

42 C. The executive director may if directed by the commission:

43 1. Act as the authorized officer of the commission when performing
44 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. 101. Section 40-108, Arizona Revised Statutes, is amended to
16 read:

17 40-108. Compensation of appointees and employees

18 A. The compensation of corporation commission appointees and employees
19 except as provided in section 40-408 shall be determined pursuant to section
20 38-611 and shall be paid from the state general fund and the appropriation
21 made to the commission in the general appropriations act.

22 B. ~~Notwithstanding subsection A of this section, if the commission is~~
23 ~~unable to employ utilities division professional staff under the provisions~~
24 ~~of section 38-611, the commission may request an exemption from the~~
25 ~~provisions of section 38-611 from the joint legislative budget committee for~~
26 ~~each such employee.~~ Employee compensation of the utilities division and a
27 part of the administration, hearing and legal divisions **SHALL BE DETERMINED**
28 **PURSUANT TO SECTION 38-611 AND** is payable from the utility regulation
29 revolving fund established pursuant to section 40-408.

30 Sec. 102. Section 40-464, Arizona Revised Statutes, is amended to
31 read:

32 40-464. Powers and duties

33 A. The director may:

34 1. Research, study and analyze residential utility consumer interests.

35 2. Prepare and present briefs, arguments, proposed rates or orders and
36 intervene or appear on behalf of residential utility consumers before hearing
37 officers and the corporation commission as a party in interest and also
38 participate as a party in interest pursuant to sections 40-254 and 40-254.01
39 in proceedings relating to rate making or rate design and involving public
40 service corporations, except that the director shall not participate in any
41 proceedings pursuant to this paragraph involving a member-owned nonprofit
42 cooperative corporation.

43 3. Make and execute contracts and other instruments as necessary to
44 perform his duties.

1 4. Hire employees **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4** as
2 necessary to carry out this article and contract for special services as
3 needed.

4 5. Employ such attorneys as are required to represent the interests of
5 residential utility consumers.

6 B. The director shall adopt administrative rules necessary to carry
7 out the purposes of this article.

8 C. All contacts by residential utility consumers with regard to
9 quality or quantity of service provided by a public service corporation shall
10 be recorded by the office for the purpose of determining general concerns of
11 consumers. The office may advise the consumer of other agencies that may be
12 of further assistance and shall refer the consumer to the corporation
13 commission utilities division consumer services section established in
14 section 40-110.

15 Sec. 103. Section 41-121.02, Arizona Revised Statutes, is amended to
16 read:

17 41-121.02. Department of state

18 A. There is established the department of state, which shall be
19 composed of the office of the secretary of state.

20 B. The secretary of state shall have charge of and direct the
21 department of state.

22 C. Except as otherwise provided by law, employees of the department
23 are ~~exempt from~~ **SUBJECT TO** chapter 4, **ARTICLE 4 AND, AS APPLICABLE**, articles
24 5 and 6 of this title.

25 D. Purchases and contracts for goods and services entered into by the
26 Arizona state library, archives and public records are exempt from chapter 23
27 of this title.

28 E. The Arizona state library, archives and public records is exempt
29 from chapter 6 of this title.

30 Sec. 104. Section 41-151.04, Arizona Revised Statutes, is amended to
31 read:

32 41-151.04. Compensation of director

33 The compensation of the director shall be as determined by the
34 secretary of state **PURSUANT TO SECTION 38-611**.

35 Sec. 105. Section 41-151.05, Arizona Revised Statutes, is amended to
36 read:

37 41-151.05. Powers and duties of director

38 A. The director shall:

39 1. Adopt rules for the use of books or other materials in the custody
40 of the state library and for the removal of books from the library, including
41 assessment of reasonable penalties for failure to return books or other
42 materials when due. The proceeds from the assessment of reasonable penalties
43 shall be deposited, pursuant to sections 35-146 and 35-147, in the state
44 library fund established by section 41-151.06. The monies shall be used only
45 for the purchase of other books or materials.

1 2. Sell or exchange undesired duplicate copies of books or other
2 materials, or books or other materials not of value for the purposes of the
3 library, or photographic reproductions of state library holdings, and
4 deposit, pursuant to sections 35-146 and 35-147, the proceeds in the state
5 library fund established by section 41-151.06. The monies shall be used for
6 the purchase of other books or materials.

7 3. Bring actions for the recovery of books or other materials, or for
8 three times the value of the books or other materials, against any person who
9 has them in the person's possession or who is responsible for the books or
10 other materials, and who has failed or refused to return them on demand. If
11 a book or other material is one of a set the value of the book or other
12 material may be deemed the value of the entire set. Monies recovered
13 pursuant to this paragraph shall be transmitted to the state treasurer for
14 credit to the state library fund established by section 41-151.06.

15 4. Certify copies from books, documents or other archival or public
16 records which have been deposited in the custody of the state library. The
17 fee for certification shall be the same as prescribed for the certification
18 of records by the secretary of state. These fees shall be transmitted to the
19 state treasurer for credit to the state library fund established by section
20 41-151.06. These certificates have the same force and effect as if made by
21 the officer originally in charge of the record.

22 5. As the director deems necessary:

23 (a) Arrange with the federal government, other states and foreign
24 countries for a system of exchange of official state reports and
25 publications, session laws, statutes, legislative journals and supreme court
26 reports.

27 (b) Enter into agreements to establish a depository system and an
28 exchange program with any municipal, county or regional public library, state
29 college or state university library and out-of-state research libraries.

30 (c) Enter into agreements with libraries in this state for the state
31 documents program described in section 41-151.08, subsection A, paragraph
32 2. Any library that enters into an agreement pursuant to this subdivision
33 shall continue to contribute at least the same level of support to the state
34 documents program and shall not use any monies received pursuant to the
35 agreement to supplant other monies available to the library.

36 6. Adopt rules for the acquisition, maintenance, access and
37 preservation of state publications.

38 7. After consultation with other agencies, adopt rules as provided by
39 statute, including rules for the:

40 (a) Description of state publications in all formats.

41 (b) Supervision of county free libraries pursuant to section 11-910.

42 (c) Certification of signs, plaques and markings pursuant to sections
43 28-7051 and 41-151.10.

44 (d) Enforcement of section 34-502.

45 8. Provide access to an official compilation or revision of the laws
46 of this state to each public or court library in this state that applies for

1 access. The director may provide the access electronically. On request, the
2 director may provide a certified copy of a law pursuant to paragraph 4 of
3 this subsection.

4 9. As part of the secretary of state's annual report to the governor,
5 report on the condition of the state library, its activities and the
6 disposition of monies spent for its maintenance.

7 10. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, appoint personnel,
8 including security personnel, necessary to perform the duties of the state
9 library and assign their duties.

10 11. Cooperate with the legislative council in carrying out section
11 41-1304, subsection B.

12 B. The governor, the secretary of state, the president of the senate,
13 the speaker of the house of representatives, the heads of departments and all
14 officers and agents of this state shall supply at no cost the number of
15 copies of official reports, public documents and publications required for
16 the state library or its agents to satisfy the requirements of the state
17 documents program or arrangements or agreements entered into pursuant to
18 subsection A, paragraph 5 of this section.

19 C. The governmental units described in subsection B of this section
20 shall:

21 1. Notify the state library if the reports, documents and publications
22 subject to this section are posted on an internet website.

23 2. Pay the state library the fee charged pursuant to section
24 41-151.12 if the governmental unit refuses the state library's request to
25 supply, and the state library incurs any expenses in obtaining, the copies
26 that are required to be supplied pursuant to this section.

27 Sec. 106. Section 41-172, Arizona Revised Statutes, is amended to
28 read:

29 41-172. Powers and duties; administering oaths; appointment of
30 deputy state treasurer

31 A. The state treasurer shall:

32 1. Authenticate writings and documents certified by him with the seal
33 of his office.

34 2. Receive and keep in secure custody all monies that belong to the
35 state and that are not required to be received and kept by some other person.

36 3. File and keep the documentation delivered to the treasurer when
37 monies are deposited into the treasury.

38 4. Deliver to each person depositing money into the treasury a
39 confirmation showing the date, amount and depositing agency and shall provide
40 a unique identifying number for each confirmation.

41 5. Pay warrants drawn by the department of administration in the order
42 in which they are presented.

43 6. Keep an account of all monies received and disbursed, and keep
44 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. 107. 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:

45 1. Be the legal advisor of the departments of this state and render
46 such legal services as the departments require.

1 2. Establish administrative and operational policies and procedures
2 within his department.

3 3. Approve long-range plans for developing departmental programs
4 therein, and coordinate the legal services required by other departments of
5 this state or other state agencies.

6 4. Represent school districts and governing boards of school districts
7 in any lawsuit involving a conflict of interest with other county offices.

8 5. Represent political subdivisions, school districts and
9 municipalities in suits to enforce state or federal statutes pertaining to
10 antitrust, restraint of trade or price-fixing activities or conspiracies, if
11 the attorney general notifies in writing the political subdivisions, school
12 districts and municipalities of the attorney general's intention to bring any
13 such action on its behalf. At any time within thirty days after the
14 notification, the political subdivisions, school districts and
15 municipalities, by formal resolution of its governing body, may withdraw the
16 authority of the attorney general to bring the intended action on its behalf.

17 6. In any action brought by the attorney general pursuant to state or
18 federal statutes pertaining to antitrust, restraint of trade, or price-fixing
19 activities or conspiracies for the recovery of damages by this state or any
20 of its political subdivisions, school districts or municipalities, in
21 addition to the attorney general's other powers and authority, the attorney
22 general on behalf of this state may enter into contracts relating to the
23 investigation and prosecution of such action with any other party plaintiff
24 who has brought a similar action for the recovery of damages and with whom
25 the attorney general finds it advantageous to act jointly or to share common
26 expenses or to cooperate in any manner relative to such action. In any such
27 action, notwithstanding any other laws to the contrary, the attorney general
28 may undertake, among other things, to render legal services as special
29 counsel or to obtain the legal services of special counsel from any
30 department or agency of the United States, of this state or any other state
31 or any department or agency thereof or any county, city, public corporation
32 or public district in this state or in any other state that has brought or
33 intends to bring a similar action for the recovery of damages or their duly
34 authorized legal representatives in such action.

35 7. Organize the civil rights division within the department of law and
36 administer such division pursuant to the powers and duties provided in
37 chapter 9 of this title.

38 8. Compile, publish and distribute to all state agencies, departments,
39 boards, commissions and councils, and to other persons and government
40 entities on request, at least every ten years, the Arizona agency handbook
41 that sets forth and explains the major state laws that govern state agencies,
42 including information on the laws relating to bribery, conflicts of interest,
43 contracting with the government, disclosure of public information,
44 discrimination, nepotism, financial disclosure, gifts and extra compensation,
45 incompatible employment, political activity by employees, public access and
46 misuse of public resources for personal gain. A supplement to the handbook

1 reflecting revisions to the information contained in the handbook shall be
2 compiled and distributed by the attorney general as deemed necessary.

3 B. Except as otherwise provided by law, the attorney general may:

4 1. Organize the department into such bureaus, subdivisions or units as
5 he deems most efficient and economical, and consolidate or abolish them.

6 2. Adopt rules for the orderly conduct of the business of the
7 department.

8 3. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, employ and assign
9 assistant attorneys general and other employees necessary to perform the
10 functions of the department.

11 4. Compromise or settle any action or claim by or against this state
12 or any department, board or agency of this state. If the compromise or
13 settlement involves a particular department, board or agency of this state,
14 the compromise or settlement shall be first approved by the department, board
15 or agency. If no department or agency is named or otherwise materially
16 involved, the approval of the governor shall be first obtained.

17 5. Charge reasonable fees for distributing official publications,
18 including attorney general legal opinions and the Arizona agency handbook.
19 The fees received shall be transmitted to the state treasurer for deposit in
20 the state general fund.

21 ~~C. Assistants and employees in any legal division subject to a merit~~
22 ~~system prior to March 6, 1953 shall remain subject thereto.~~

23 ~~D.~~ C. The powers and duties of a bureau, subdivision or unit shall be
24 limited to those assigned by law to the department.

25 ~~E.~~ D. Notwithstanding any law to the contrary, except as provided in
26 subsections ~~F~~ E and ~~G~~ F of this section, no state agency other than the
27 attorney general shall employ legal counsel or make an expenditure or incur
28 an indebtedness for legal services, but the following are exempt from this
29 section:

- 30 1. The director of water resources.
- 31 2. The residential utility consumer office.
- 32 3. The industrial commission.
- 33 4. The Arizona board of regents.
- 34 5. The auditor general.
- 35 6. The corporation commissioners and the corporation commission other
36 than the securities division.
- 37 7. The office of the governor.
- 38 8. The constitutional defense council.
- 39 9. The office of the state treasurer.
- 40 10. The Arizona commerce authority.

41 ~~F.~~ E. If the attorney general determines that he is disqualified from
42 providing judicial or quasi-judicial legal representation or legal services
43 on behalf of any state agency in relation to any matter, the attorney general
44 shall give written notification to the state agency affected. If the agency
45 has received written notification from the attorney general that the attorney
46 general is disqualified from providing judicial or quasi-judicial legal

1 representation or legal services in relation to any particular matter, the
2 state agency is authorized to make expenditures and incur indebtedness to
3 employ attorneys to provide the representation or services.

4 ~~G.~~ F. If the attorney general and the director of the department of
5 agriculture cannot agree on the final disposition of a pesticide complaint
6 under section 3-368, if the attorney general and the director determine that
7 a conflict of interest exists as to any matter or if the attorney general and
8 the director determine that the attorney general does not have the expertise
9 or attorneys available to handle a matter, the director is authorized to make
10 expenditures and incur indebtedness to employ attorneys to provide
11 representation or services to the department with regard to that matter.

12 ~~H.~~ G. Any department or agency of this state authorized by law to
13 maintain a legal division or incur expenses for legal services from funds
14 derived from sources other than the general revenue of the state, or from any
15 special or trust fund, shall pay from such source of revenue or special or
16 trust fund into the general fund of the state, to the extent such funds are
17 available and upon a reimbursable basis for warrants drawn, the amount
18 actually expended by the department of law within legislative appropriations
19 for such legal division or legal services.

20 ~~I.~~ H. Appropriations made pursuant to subsection ~~H.~~ G of this section
21 shall not be subject to lapsing provisions otherwise provided by law.
22 Services for departments or agencies to which this subsection and subsection
23 ~~G.~~ F of this section are applicable shall be performed by special or regular
24 assistants to the attorney general.

25 ~~J.~~ I. Notwithstanding section 35-148, monies received by the attorney
26 general from charges to state agencies and political subdivisions for legal
27 services relating to interagency service agreements shall be deposited,
28 pursuant to sections 35-146 and 35-147, in an attorney general agency
29 services fund. Monies in the fund are subject to legislative appropriation
30 and are exempt from the provisions of section 35-190 relating to lapsing of
31 appropriations.

32 Sec. 108. Section 41-511.02, Arizona Revised Statutes, is amended to
33 read:

34 41-511.02. Director; qualifications; state historic
35 preservation officer

36 A. The ~~board~~ GOVERNOR shall ~~employ~~ APPOINT a full-time director
37 PURSUANT TO SECTION 38-211 who shall:

38 1. Not be ~~one of its members~~ A MEMBER OF THE ARIZONA STATE PARKS
39 BOARD.

40 2. Serve at the pleasure of the ~~board~~ GOVERNOR.

41 3. Be qualified by successful experience in administration in business
42 or in government.

43 4. Have a knowledge of or training in the multiple use of lands and
44 the conservation of natural resources.

45 B. The governor shall designate a full-time employee of the board with
46 professional competence and expertise in the field of historic preservation

1 as the "state historic preservation officer" to administer the state historic
2 preservation program.

3 Sec. 109. Section 41-511.05, Arizona Revised Statutes, is amended to
4 read:

5 41-511.05. Powers; compensation

6 The board may, subject to legislative budgetary control within the
7 limitations of this article:

8 1. SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF
9 THIS TITLE, employ, determine conditions of employment and specify the duties
10 of such administrative, secretarial and clerical workers and technical
11 employees such as naturalists, archaeologists, landscape architects, rangers,
12 park supervisors, caretakers, guides, skilled tradesmen, laborers, historians
13 and engineers, and contract to have the services of such advisors or
14 consultants as are reasonably necessary or desirable to enable it to perform
15 adequately its duties. The compensation of the director and of all workers
16 and employees shall be as determined pursuant to section 38-611.

17 2. Make such contracts, leases and agreements and incur such
18 obligations as are reasonably necessary or desirable within the general scope
19 of its activities and operations to enable it to perform adequately its
20 duties.

21 3. Acquire through purchase, lease, agreement, donation, grant,
22 bequest or otherwise real and personal property and acquire real property
23 through eminent domain for state park or monument purposes. No property may
24 be acquired in the manner provided in this paragraph which will require an
25 expenditure in excess of funds budgeted or received for such purposes. No
26 state park or monument, or additions to a state park or monument, shall be
27 created containing in excess of one hundred sixty acres of land unless
28 created by an act of the legislature. This acreage limitation shall not
29 apply in the case of lands given or donated for state park or monument
30 purposes nor to state owned lands that are selected by the board and that are
31 not subject to outstanding leases, permits or other rights for the use of the
32 lands including preferential rights to renew such leases and permits.

33 4. Sell, lease, exchange or otherwise dispose of real and personal
34 property. Any disposition of real property shall be submitted for approval
35 of the joint committee on capital review. The disposition of office
36 equipment, furnishings, vehicles and other materials is subject to chapter
37 23, article 8 of this title. The disposition of artifacts and other property
38 of scientific, archaeological, historical or sociological interest is exempt
39 from chapter 23, article 8 of this title, but the board shall consult with
40 the Arizona historical society in disposing of property of historical
41 interest.

42 5. Construct at state parks and monuments necessary sanitary and other
43 facilities including picnic tables, fireplaces, campsites, service buildings
44 and maintenance shops, and contract with private persons for the construction
45 and operation of cabins, hotels and restaurants, and like establishments.

1 6. Erect suitable signs and markers at parks and monuments and write,
2 prepare and publish written material describing the historical significance
3 of monuments and other places of historical or other significance.

4 7. Solicit and work in cooperation with the department of
5 transportation and the highway departments of various counties and the United
6 States federal highway administration for necessary roads and trails within
7 the state parks and monuments and access roads to state parks and monuments.
8 For the purposes of this paragraph, the board may designate roads, spurs and
9 other traffic related appurtenances within state park boundaries as public
10 highways. Designation of roads, spurs or other traffic related appurtenances
11 as public highways shall not prohibit the board from closing such public
12 highways when the park is closed, charging for admission to the park to
13 persons using the public highway within the park or otherwise managing such
14 public highways in the same manner as other lands within the park.

15 8. Levy and collect reasonable fees or other charges for the use of
16 such privileges and conveniences as may be provided under the jurisdiction of
17 the board. The board may enter into agreements for the purpose of accepting
18 payment for fees or other charges imposed pursuant to this article by
19 alternative payment methods, including credit cards, charge cards, debit
20 cards and electronic funds transfers. The collecting officer shall deduct
21 any fee charged or withheld by a company providing the alternative payment
22 method under an agreement with the board before the revenues are transferred
23 to the board.

24 9. Make reasonable rules for the protection of, and maintain and keep
25 the peace in, state parks and monuments. Such rules adopted by the parks
26 board are subject to review and approval by the legislature. After a board
27 rule has been finally adopted pursuant to chapter 6 of this title, the board
28 shall immediately forward a certified copy of the rule to the legislature.
29 The legislature may review and, by concurrent resolution, approve, disapprove
30 or modify such rule. However, such rule shall be given full force and effect
31 pending legislative review. If no concurrent resolution is passed by the
32 legislature with respect to the rule within one year following receipt of a
33 certified copy of the rule, the rule shall be deemed to have been approved by
34 the legislature. If the legislature disapproves a rule or a section of a
35 rule, the board shall immediately discontinue the use of any procedure,
36 action or proceeding authorized or required by the rule or section of the
37 rule. If the legislature modifies a rule or section of a rule, the board
38 shall immediately suspend the use of any procedure, action or proceeding
39 authorized or required by the rule or section of the rule until the modified
40 rule has been adopted in accordance with chapter 6 of this title, after which
41 all proceedings pursuant to the rule shall be conducted in accordance with
42 the modified version of the rule.

43 10. Furnish advisory services to city and county park or recreation
44 boards and organizations.

45 11. Delegate to the director, the deputy director or the director's
46 designee any of its powers and duties, whether ministerial or discretionary,

1 which are prescribed by law, except that the board may not delegate its power
2 or duty to make rules.

3 12. Reimburse board volunteers for travel and lodging expenses and per
4 diem subsistence allowances incurred while on public business for the
5 board. Reimbursement amounts shall not exceed those allowed under title 38,
6 chapter 4, article 2.

7 13. In consultation with the conservation acquisition board, develop a
8 grant program and adopt guidelines for allocating and obligating monies in
9 the land conservation fund pursuant to section 41-511.23. The guidelines
10 shall include consideration of both qualification issues relating to
11 applicants for grants and issues relating to the proposed use of the grant
12 money in a manner consistent with existing municipal, county and regional
13 land use plans.

14 Sec. 110. Section 41-531, Arizona Revised Statutes, is amended to
15 read:

16 41-531. Arizona commission of African-American affairs

17 A. The Arizona commission of African-American affairs is established
18 and consists of the governor, the superintendent of public instruction, the
19 director of the department of health services, the director of the department
20 of transportation, the attorney general, the director of the department of
21 economic security, the director of the office of tourism and the director of
22 the department of commerce, or their representatives, who shall be ex officio
23 members, and nine members who are appointed by the governor, seven of whom
24 are African-American and two of whom are not African-American.

25 B. The term of office of each appointed member is three years. Each
26 member shall hold office until the member's successor is appointed and
27 qualifies. Appointment to fill a vacancy caused other than by expiration of
28 a term shall be for the unexpired portion of the term.

29 C. Members of the commission shall serve without compensation.

30 D. The commission shall elect a chairperson and a vice-chairperson
31 from among its appointed members and adopt rules for the conduct of meetings.
32 A record shall be kept of all proceedings and transactions.

33 E. Section 41-2955, subsection D does not apply to the commission.

34 F. The commission shall meet at least quarterly on the second Thursday
35 of the first month of each quarter and may hold additional meetings on the
36 call of the chairperson. A majority of the appointed members of the
37 commission constitute a quorum for the transaction of business, but ex
38 officio members may vote. Members who fail to attend three consecutive
39 meetings are deemed to have resigned.

40 G. The appointed members of the commission shall ~~appoint~~ EMPLOY,
41 SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, an executive director of the
42 commission who shall not be a member of the commission. The director is
43 eligible to receive compensation as determined by the commission from monies
44 available in the Arizona commission of African-American affairs fund
45 established by section 41-533. The commission may employ clerical,
46 professional and technical personnel subject to CHAPTER 4, ARTICLE 4 OF THIS

1 TITLE AND monies available in the Arizona commission of African-American
2 affairs fund and shall prescribe their duties and determine their
3 compensation.

4 Sec. 111. Section 41-542, Arizona Revised Statutes, is amended to
5 read:

6 41-542. Powers and duties; information; report; director;
7 appointment; personnel; limitation; fees; directory

8 A. The commission shall assist and support state and federal agencies
9 in assisting Indians and tribal councils in this state to develop mutual
10 goals, to design projects for achieving goals and to implement their plans.
11 The commission shall also:

12 1. Assemble and make available facts needed by tribal, state and
13 federal agencies to work together effectively.

14 2. Assist this state in its responsibilities to Indians and tribes of
15 this state by making recommendations to the governor and the legislature.

16 3. Confer and coordinate with officials and agencies of other
17 governmental units and legislative committees regarding Indian needs and
18 goals.

19 4. Work for greater understanding and improved relationships between
20 Indians and non-Indians by creating an awareness of the legal, social and
21 economic needs of Indians in this state.

22 5. Promote increased participation by Indians in local and state
23 affairs.

24 6. Assist tribal groups in developing increasingly effective methods
25 of self-government.

26 7. Assist urban Indians. For the purposes of this paragraph, "urban
27 Indian" means an Indian who:

28 (a) Is a resident of this state.

29 (b) Resides in a county of this state with a population of more than
30 two hundred thousand persons.

31 (c) Does not reside on an Indian reservation in such a county.

32 B. State and local public officers and employees, on request, shall
33 furnish the commission with information that it may require for its purposes
34 except information which is not subject to disclosure pursuant to a provision
35 of law.

36 C. The commission shall make a written annual report, giving an
37 account of its proceedings, transactions, findings and recommendations, to
38 the governor and the legislature and may submit such recommendations to the
39 legislature in the form of proposed legislation.

40 D. The governor shall appoint an executive director of the commission
41 pursuant to section 38-211 who shall not be a member of the commission. The
42 director is eligible to receive compensation pursuant to section 38-611. The
43 commission may employ clerical, professional and technical personnel subject
44 to CHAPTER 4, ARTICLE 4 OF THIS TITLE AND appropriated funds and shall
45 prescribe their duties and determine their compensation PURSUANT TO SECTION
46 38-611.

1 E. The commission may initiate or assist programs on a reservation
2 only upon the request or with the approval of the tribal council for such
3 reservation.

4 F. The commission may publish an annual directory of tribal
5 governments in this state and other tribal and Indian related organizations
6 and entities. The commission shall charge a fee for nongovernmental
7 distribution of the directory and other commission publications based on the
8 costs of compiling, publishing and distributing the directory and other
9 commission publications.

10 Sec. 112. Section 41-619.53, Arizona Revised Statutes, is amended to
11 read:

12 41-619.53. Board of fingerprinting; powers and duties;
13 personnel; liability

14 A. The board of fingerprinting shall:

15 1. Determine good cause exceptions pursuant to section 41-619.55. The
16 board may appoint a hearing officer to recommend that an applicant be granted
17 or denied a good cause exception after the hearing officer conducts an
18 expedited review or a good cause exception hearing.

19 2. Adopt rules to implement this article, including rules to establish
20 good cause exceptions for the issuance of fingerprint clearance cards
21 pursuant to sections 41-1758.03 and 41-1758.07. This rule making is exempt
22 from the requirements of chapter 6 of this title.

23 3. Administer and enforce this article and rules adopted pursuant to
24 this article.

25 4. Furnish a copy of its rules, on request, to all applicants who
26 petition the board for a good cause exception pursuant to sections 41-1758.03
27 and 41-1758.07 and, on request, to licensees, contract providers and state
28 agencies.

29 5. Establish fees.

30 B. In order to grant a good cause exception, a majority plus an
31 additional member, of the members present, must vote to approve the
32 application. If the board grants a good cause exception, the board shall
33 request in writing that the department of public safety issue a card to the
34 applicant.

35 C. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the board may employ
36 clerical, professional and technical personnel subject to fee monies that are
37 collected and to the budget that is approved by the board members and shall
38 prescribe personnel duties and determine personnel compensation. Personnel
39 employed by the board must have a valid fingerprint clearance card issued
40 pursuant to section 41-1758.07. If the applicant is denied a fingerprint
41 clearance card, in order to be employed by the board, the board must grant a
42 good cause exception pursuant to this article by a unanimous vote.

43 D. In making any recommendation to the board to grant or deny a good
44 cause exception, the hearing officer shall consider all of the reasons and
45 criteria prescribed in section 41-619.55, subsection E.

1 E. Members and employees of the board are not liable for acts done or
2 actions taken by any board member or employee if the members or employees act
3 in good faith following the requirements of this article.

4 Sec. 113. Section 41-701, Arizona Revised Statutes, is amended to
5 read:

6 41-701. Department of administration: director: appointment

7 A. A department of administration is established.

8 B. The direction, operation and control of the department is the
9 responsibility of the director.

10 C. The director shall be appointed by the governor, ~~from a list of~~
11 ~~qualified candidates submitted by the committee as provided in subsection D,~~
12 with the advice and consent of the senate and shall serve at the pleasure of
13 the governor.

14 ~~D. The department's human resources division shall assist the governor~~
15 ~~in preparing a job description for the position of director and recruiting~~
16 ~~candidates for the position. The qualifications of the candidates shall be~~
17 ~~reviewed by a committee of seven persons selected by the governor. The names~~
18 ~~of all those candidates determined by the committee to be qualified for the~~
19 ~~position shall be submitted to the governor for the governor's consideration.~~
20 ~~The governor may request additional names from the committee if the governor~~
21 ~~deems necessary. For each subsequent vacancy in the position of director, a~~
22 ~~new committee shall be appointed by the governor.~~ END_STATUTE

23 Sec. 114. Title 41, chapter 4, article 1, Arizona Revised Statutes, is
24 amended by adding sections 41-709, 41-710 and 41-711, to read:

25 41-709. Gifts and donations for employee recognition

26 A STATE DEPARTMENT OR AGENCY MAY ACCEPT GIFTS AND DONATIONS FROM A
27 PUBLIC ENTITY, A PRIVATE ENTITY OR ANY PERSON FOR THE CONDUCT OF EMPLOYEE
28 RECOGNITION PROGRAMS. GIFTS AND DONATIONS FOR EMPLOYEE RECOGNITION PROGRAMS
29 ARE SUBJECT TO THE REQUIREMENTS OF TITLE 35, CHAPTER 1, ARTICLE 3 AND CHAPTER
30 23 OF THIS TITLE.

31 41-710. Information technology personnel: criminal history
32 records; definitions

33 A. BEFORE ACCEPTING AN OFFER OF EMPLOYMENT, AN APPLICANT FOR AN
34 INFORMATION TECHNOLOGY POSITION IN THE DEPARTMENT OF ADMINISTRATION SHALL
35 SUBMIT A FULL SET OF FINGERPRINTS TO THE DEPARTMENT OF ADMINISTRATION FOR THE
36 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO
37 SECTION 41-1750 AND PUBLIC LAW 92-544. THE DIRECTOR OF THE DEPARTMENT OF
38 ADMINISTRATION SHALL REQUEST PERSONNEL WHO WERE EMPLOYED IN INFORMATION
39 TECHNOLOGY POSITIONS ON OR BEFORE JULY 18, 2000 TO SUBMIT A FULL SET OF
40 FINGERPRINTS IF THE DIRECTOR DETERMINES THAT IT IS NECESSARY TO ENSURE THE
41 PRIVACY, CONFIDENTIALITY OR INTEGRITY OF DATA WITHIN THE DEPARTMENT'S
42 CONTROL. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA
43 WITH THE FEDERAL BUREAU OF INVESTIGATION.

44 B. THE DEPARTMENT OF ADMINISTRATION SHALL NOT DISCLOSE INFORMATION
45 OBTAINED PURSUANT TO SUBSECTION A OF THIS SECTION EXCEPT TO MEMBERS OF THE

1 DEPARTMENT'S STAFF SOLELY FOR THE PURPOSE OF EMPLOYMENT OF INFORMATION
2 TECHNOLOGY PERSONNEL BY THE DEPARTMENT.

3 C. FOR THE PURPOSES OF THIS SECTION:

4 1. "APPLICANT" MEANS ANY PERSON WHO SEEKS EMPLOYMENT AS A NEW HIRE OR
5 ANY EMPLOYEE OF THE DEPARTMENT OF ADMINISTRATION WHO SEEKS A TRANSFER, A
6 RECLASSIFICATION OR A REASSIGNMENT TO AN INFORMATION TECHNOLOGY POSITION.

7 2. "INFORMATION TECHNOLOGY POSITION" MEANS ANY POSITION THAT IS IN THE
8 DEPARTMENT OF ADMINISTRATION, THAT REQUIRES THE OPERATION OF COMPUTER SYSTEMS
9 THAT CONTAIN OR TRANSMIT DATA TO WHICH ACCESS IS RESTRICTED BY VIRTUE OF
10 APPLICABLE FEDERAL OR STATE LAWS, RULES OR REGULATIONS AND THAT REQUIRES
11 ACCESS TO THE RESTRICTED DATA IN ORDER TO FULFILL THE REQUIREMENTS OF THE
12 POSITION.

13 41-711. Reimbursement of transportation and telecommuting
14 costs; definition

15 A. THE DIRECTOR SHALL ADOPT RULES TO PROVIDE FOR THE REIMBURSEMENT OF
16 UP TO ONE HUNDRED PER CENT OF THE COST TO STATE EMPLOYEES OF EITHER:

17 1. PUBLIC TRANSPORTATION, VANPOOL OR PRIVATE BUS SERVICE TO AND FROM
18 THEIR PLACE OF EMPLOYMENT.

19 2. TELECOMMUTING CONNECTIVITY.

20 B. FOR THE PURPOSES OF THIS SECTION, "PUBLIC TRANSPORTATION" MEANS
21 LOCAL TRANSPORTATION OF PASSENGERS BY MEANS OF A PUBLIC CONVEYANCE OPERATED
22 OR LICENSED BY AN INCORPORATED CITY OR TOWN OR A REGIONAL PUBLIC
23 TRANSPORTATION AUTHORITY.

24 Sec. 115. Title 41, chapter 4, Arizona Revised Statutes, is amended by
25 adding article 4, to read:

26 ARTICLE 4. STATE PERSONNEL SYSTEM

27 41-741. Definitions

28 IN THIS ARTICLE AND ARTICLES 5 AND 6, UNLESS THE CONTEXT OTHERWISE
29 REQUIRES:

30 1. "APPOINTING AUTHORITY" MEANS THE PERSON OR GROUP OF PERSONS
31 AUTHORIZED BY LAW OR DELEGATED AUTHORITY TO MAKE APPOINTMENTS TO FILL
32 POSITIONS.

33 2. "AT WILL" MEANS AN EMPLOYMENT RELATIONSHIP WHERE EITHER PARTY TO
34 THE RELATIONSHIP MAY SEVER THE RELATIONSHIP AT ANY TIME FOR ANY REASON OTHER
35 THAN AN UNLAWFUL REASON.

36 3. "BREAK IN SERVICE" MEANS A SEPARATION FROM STATE EMPLOYMENT,
37 REGARDLESS OF THE REASON FOR SEPARATION.

38 4. "CHANGE IN ASSIGNMENT" MEANS MOVEMENT OF AN EMPLOYEE TO A DIFFERENT
39 POSITION IN THE SAME STATE AGENCY OR ANOTHER STATE AGENCY.

40 5. "COVERED EMPLOYEE" MEANS AN EMPLOYEE WHO:

41 (a) BEFORE SEPTEMBER 29, 2012, IS IN THE STATE SERVICE, IS NOT
42 UNCOVERED PURSUANT TO SECTION 41-742, SUBSECTION A AND HAS REMAINED IN
43 COVERED STATUS WITHOUT A BREAK IN SERVICE SINCE THAT DATE.

44 (b) BEFORE SEPTEMBER 29, 2012, IS IN THE STATE SERVICE, IS EMPLOYED AS
45 A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER III

1 OR COMMUNITY CORRECTIONS OFFICER AND HAS REMAINED IN COVERED STATUS WITHOUT A
2 BREAK IN SERVICE SINCE THAT DATE.

3 (c) BEFORE SEPTEMBER 29, 2012, IS IN THE STATE SERVICE, IS A FULL
4 AUTHORITY PEACE OFFICER AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS
5 AND TRAINING BOARD AND HAS REMAINED IN THAT STATUS WITHOUT A BREAK IN SERVICE
6 SINCE THAT DATE.

7 (d) ON OR AFTER SEPTEMBER 29, 2012, IS A CORRECTIONAL OFFICER I,
8 CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER III OR COMMUNITY CORRECTIONS
9 OFFICER AND IS APPOINTED TO A POSITION IN THE COVERED SERVICE, BUT DOES NOT
10 INCLUDE A POSITION IN ANY OTHER CLASS IN THE CORRECTIONAL OFFICER CLASS
11 SERIES OR THE COMMUNITY CORRECTIONAL OFFICER CLASS SERIES OR IN ANY OTHER
12 CORRECTIONAL CLASS SERIES.

13 (e) ON OR AFTER SEPTEMBER 29, 2012, IS A FULL AUTHORITY PEACE OFFICER
14 AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD AND IS
15 APPOINTED TO A POSITION THAT REQUIRES SUCH A CERTIFICATION IN THE COVERED
16 SERVICE.

17 6. "COVERED SERVICE" MEANS THAT EMPLOYMENT STATUS CONFERRING RIGHTS OF
18 APPEAL AS PRESCRIBED IN SECTIONS 41-782 AND 41-783 OR 41-1830.16, AS
19 APPLICABLE.

20 7. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION,
21 OR THE DIRECTOR'S DESIGNEE, WHO IS RESPONSIBLE FOR ADMINISTERING THE STATE
22 PERSONNEL SYSTEM PURSUANT TO APPLICABLE STATE AND FEDERAL LAWS.

23 8. "EMPLOYEE" MEANS ALL OFFICERS AND EMPLOYEES OF THIS STATE, WHETHER
24 IN COVERED SERVICE OR UNCOVERED SERVICE, UNLESS OTHERWISE PRESCRIBED.

25 9. "FULL AUTHORITY PEACE OFFICER" MEANS A PEACE OFFICER WHOSE
26 AUTHORITY TO ENFORCE THE LAWS OF THIS STATE IS NOT LIMITED BY THE RULES
27 ADOPTED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD.

28 10. "ORIGINAL PROBATIONARY PERIOD" MEANS THE SPECIFIED PERIOD FOLLOWING
29 INITIAL APPOINTMENT TO COVERED SERVICE.

30 11. "PROBATIONARY PERIOD" MEANS A WORKING TEST PERIOD OF EMPLOYMENT IN
31 A COVERED SERVICE POSITION FOR EVALUATION OF THE EMPLOYEE'S WORK.

32 12. "PROMOTIONAL PROBATION" MEANS THE SPECIFIED PERIOD OF EMPLOYMENT
33 FOLLOWING PROMOTION OF A PERMANENT STATUS EMPLOYEE TO ANOTHER COVERED SERVICE
34 POSITION THAT HAS A HIGHER PAY GRADE.

35 13. "RULES" MEANS RULES ADOPTED BY THE DEPARTMENT OF ADMINISTRATION,
36 HUMAN RESOURCES DIVISION.

37 14. "STATE AGENCY" MEANS A DEPARTMENT, BOARD, OFFICE, AUTHORITY,
38 COMMISSION OR OTHER GOVERNMENTAL BUDGET UNIT OF THIS STATE AND INCLUDES AN
39 AGENCY ASSIGNED TO A DEPARTMENT FOR ADMINISTRATIVE PURPOSES. STATE AGENCY
40 DOES NOT INCLUDE THE LEGISLATIVE AND JUDICIAL BRANCHES, THE ARIZONA BOARD OF
41 REGENTS, STATE UNIVERSITIES, THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE
42 BLIND, THE DEPARTMENT OF PUBLIC SAFETY, THE ARIZONA PEACE OFFICER STANDARDS
43 AND TRAINING BOARD, THE COTTON RESEARCH AND PROTECTION COUNCIL OR PUBLIC
44 CORPORATIONS.

45 15. "STATE PERSONNEL BOARD" MEANS THE BOARD ESTABLISHED BY SECTION
46 41-781.

1 16. "STATE PERSONNEL SYSTEM" MEANS ALL STATE AGENCIES AND EMPLOYEES OF
2 THOSE AGENCIES THAT ARE NOT EXEMPTED BY THIS ARTICLE.

3 17. "STATE SERVICE" MEANS ALL OFFICES AND POSITIONS OF EMPLOYMENT IN
4 STATE GOVERNMENT THAT, BEFORE SEPTEMBER 29, 2012, WERE SUBJECT TO THE
5 PROVISIONS OF ARTICLES 5 AND 6 OF THIS CHAPTER THAT WERE IN EFFECT BEFORE
6 SEPTEMBER 29, 2012.

7 18. "SUPERVISOR" MEANS A STATE EMPLOYEE WHO HAS ONE OR MORE OTHER STATE
8 EMPLOYEES REPORTING DIRECTLY TO THE PERSON AND, FOR THOSE STATE EMPLOYEES,
9 TYPICALLY HAS THE AUTHORITY TO:

- 10 (a) APPROVE SICK OR ANNUAL LEAVE.
11 (b) RECOMMEND HIRING, DISCIPLINE OR DISMISSAL.
12 (c) ASSIGN OR SCHEDULE DAILY WORK.
13 (d) COMPLETE A PERFORMANCE EVALUATION.

14 19. "UNCOVERED EMPLOYEE" MEANS AN EMPLOYEE IN UNCOVERED SERVICE.

15 20. "UNCOVERED SERVICE" MEANS EMPLOYMENT AT WILL AND INCLUDES ALL STATE
16 EMPLOYEES EXCEPT THOSE IN COVERED SERVICE.

17 41-742. State personnel system; covered and uncovered
18 employees; application; exemptions

19 A. BEGINNING SEPTEMBER 29, 2012, UNLESS OTHERWISE PRESCRIBED IN THIS
20 ARTICLE:

21 1. ALL NEW HIRES ARE AT WILL UNCOVERED EMPLOYEES.

22 2. ANY EMPLOYEE WHO MEETS ANY OF THE FOLLOWING CRITERIA IS AN AT WILL
23 UNCOVERED EMPLOYEE:

24 (a) IS EMPLOYED AS AN ATTORNEY IN A POSITION ASSIGNED TO THE ATTORNEY
25 SALARY SCHEDULE.

26 (b) A SUPERVISOR.

27 (c) IS AT A PAY GRADE OF NINETEEN OR ABOVE OR, IF A SUCCESSOR
28 COMPENSATION SYSTEM IS ESTABLISHED, IN AN EQUIVALENT PAY RANGE AS DETERMINED
29 BY THE DIRECTOR.

30 (d) IS IN A POSITION ASSIGNED TO THE INFORMATION TECHNOLOGY SALARY
31 SCHEDULE, IN A POSITION ASSIGNED TO AN INFORMATION TECHNOLOGY CLASSIFICATION
32 OR, IF A SUCCESSOR COMPENSATION SYSTEM IS ESTABLISHED, IN AN EQUIVALENT PAY
33 RANGE AS DETERMINED BY THE DIRECTOR.

34 3. ANY COVERED EMPLOYEE WHO VOLUNTARILY ACCEPTS A CHANGE IN ASSIGNMENT
35 TO A POSITION IN THE UNCOVERED SERVICE, REGARDLESS OF WHETHER THE VOLUNTARY
36 CHANGE IN ASSIGNMENT IS A PROMOTION, DEMOTION OR LATERAL TRANSFER, IS AN AT
37 WILL UNCOVERED EMPLOYEE ON THE START DATE OF THE VOLUNTARY CHANGE IN
38 ASSIGNMENT.

39 4. A COVERED EMPLOYEE MAY VOLUNTARILY ELECT TO BECOME AN AT WILL
40 UNCOVERED EMPLOYEE WITHOUT A CHANGE IN ASSIGNMENT ON APPROVAL BY THE STATE
41 AGENCY HEAD AND THE DIRECTOR. IF APPROVED, THE CHANGE FROM COVERED TO
42 UNCOVERED STATUS IS IMMEDIATE.

43 5. ONCE A COVERED EMPLOYEE BECOMES AN AT WILL UNCOVERED EMPLOYEE, THE
44 CHANGE IS IRREVOCABLE.

1 B. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, THE PURPOSE OF
2 THIS ARTICLE IS FOR ALL STATE AGENCIES IN THE STATE PERSONNEL SYSTEM TO TREAT
3 EMPLOYEES PURSUANT TO THE FOLLOWING PRINCIPLES:

4 1. RECRUITING, SELECTING AND ADVANCING EMPLOYEES ON THE BASIS OF THE
5 EMPLOYEE'S RELATIVE ABILITY, KNOWLEDGE AND SKILLS AFTER OPEN COMPETITION.

6 2. PROVIDING COMPENSATION BASED ON MERIT, PERFORMANCE, JOB VALUE AND
7 COMPETITIVENESS WITHIN APPLICABLE LABOR MARKETS.

8 3. TRAINING EMPLOYEES IF THE TRAINING WILL RESULT IN BETTER
9 ORGANIZATIONAL AND INDIVIDUAL PERFORMANCE.

10 4. RETAINING EMPLOYEES ON THE BASIS OF THE ADEQUACY OF THEIR
11 PERFORMANCE, CORRECT INADEQUATE PERFORMANCE WHERE POSSIBLE AND APPROPRIATE
12 AND SEPARATE EMPLOYEES WHOSE PERFORMANCE IS INADEQUATE.

13 5. MANAGING APPLICANTS AND EMPLOYEES IN ALL ASPECTS OF PERSONNEL
14 ADMINISTRATION WITHOUT REGARD TO POLITICAL AFFILIATION, RACE, COLOR, NATIONAL
15 ORIGIN, SEX, AGE, DISABILITY OR RELIGIOUS CREED AND WITH PROPER REGARD FOR
16 THEIR PRIVACY AND CONSTITUTIONAL RIGHTS AS CITIZENS.

17 6. ENSURING THAT EMPLOYEES ARE PROTECTED AGAINST COERCION FOR PARTISAN
18 POLITICAL PURPOSES AND ARE PROHIBITED FROM USING THEIR OFFICIAL AUTHORITY FOR
19 THE PURPOSE OF INTERFERING WITH OR AFFECTING THE RESULT OF AN ELECTION OR
20 NOMINATION FOR OFFICE.

21 C. THE DIRECTOR SHALL ESTABLISH AND ADMINISTER THE STATE PERSONNEL
22 SYSTEM, INCLUDING:

23 1. A CLASSIFICATION SYSTEM AND JOB CLASSES AND ASSOCIATED KNOWLEDGE,
24 SKILLS AND ABILITIES FOR THOSE CLASSES.

25 2. A CENTRALIZED JOB ANNOUNCEMENT SYSTEM TO STREAMLINE STATEWIDE
26 RECRUITING FOR APPLICANTS.

27 3. A CENTRALIZED EMPLOYMENT SYSTEM TO BE USED BY ALL SUCCESSFUL
28 APPLICANTS, INCLUDING A COMMON APPLICATION FORM TO BE USED BY ALL STATE
29 AGENCIES.

30 4. A COMPENSATION SYSTEM, INCLUDING ASSIGNING PAY RANGES FOR ALL JOB
31 CLASSES AND SPECIAL PAY PLANS FOR CERTAIN CLASSES OR GROUPS OF EMPLOYEES
32 CONSIDERING SUCH FACTORS AS OCCUPATIONAL PATTERNS, ECONOMIC CONDITIONS AND
33 PAY PLANS COMMON TO GOVERNMENT, BUSINESS AND INDUSTRY.

34 5. A STATEWIDE TRAINING PROGRAM.

35 6. A STATEWIDE PERFORMANCE MANAGEMENT SYSTEM.

36 7. AN AUDIT FUNCTION TO REVIEW STATE AGENCIES' PROCESSES AND
37 COMPLIANCE WITH APPLICABLE STATUTES, PERSONNEL RULES AND POLICIES.

38 8. AN INTEGRATED SYSTEM TO PROCESS PERSONNEL, PAYROLL AND BENEFITS
39 TRANSACTIONS AND SERVE AS THE SYSTEM OF RECORD FOR STATE EMPLOYEES.

40 D. THIS ARTICLE AND ARTICLES 5 AND 6 DO NOT APPLY TO:

41 1. AN ELECTED STATE OFFICER. AN ELECTED STATE OFFICER MEANS ONLY
42 ELECTED OFFICIALS AND DOES NOT INCLUDE THE EMPLOYEES OF ELECTED STATE
43 OFFICERS UNLESS EXPRESSLY PROVIDED.

44 2. MEMBERS OF BOARDS AND COMMISSIONS WHO ARE APPOINTED BY THE
45 LEGISLATURE OR THE GOVERNOR, BOARD MEMBERS APPOINTED PURSUANT TO SECTION
46 41-619.52 UNLESS OTHERWISE PRESCRIBED BY LAW, EMPLOYEES OF THE ARIZONA

1 LEGISLATIVE COUNCIL, EMPLOYEES APPOINTED OR EMPLOYED BY THE LEGISLATURE, ANY
2 LEGISLATIVE AGENCY OR EITHER HOUSE OF THE LEGISLATURE AND EMPLOYEES OF THE
3 SUPREME COURT AND THE COURT OF APPEALS.

4 3. THE ARIZONA BOARD OF REGENTS, OFFICERS OR EMPLOYEES OF STATE
5 UNIVERSITIES AND PERSONNEL OF THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE
6 BLIND.

7 4. PATIENTS OR INMATES EMPLOYED IN STATE INSTITUTIONS.

8 5. OFFICERS AND ENLISTED PERSONNEL OF THE NATIONAL GUARD OF ARIZONA
9 AND EMPLOYEES OF THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS WHO OCCUPY
10 ARIZONA NATIONAL GUARD POSITIONS IDENTIFIED AS MOBILIZATION ASSETS.

11 6. THE COTTON RESEARCH AND PROTECTION COUNCIL.

12 7. THE DEPARTMENT OF PUBLIC SAFETY.

13 8. THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD.

14 E. UNLESS OTHERWISE PRESCRIBED IN THIS ARTICLE, SUBSECTION A,
15 PARAGRAPHS 1, 2 AND 3 OF THIS SECTION DO NOT APPLY TO EITHER AN INITIAL
16 APPOINTMENT TO OR CHANGES IN ASSIGNMENT TO:

17 1. AN EMPLOYEE OF ANY STATE AGENCY WHO IS A FULL AUTHORITY PEACE
18 OFFICER AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING
19 BOARD.

20 2. AN EMPLOYEE OF THE STATE DEPARTMENT OF CORRECTIONS WHO IS EMPLOYED
21 AS A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER
22 III, COMMUNITY CORRECTIONS OFFICER OR, IF A SUCCESSOR CLASSIFICATION SYSTEM
23 IS ESTABLISHED, IN AN EQUIVALENT JOB CLASS AS DETERMINED BY THE DIRECTOR.

24 F. SUBSECTION B, PARAGRAPH 1 OF THIS SECTION, RELATING TO OPEN
25 COMPETITION AND SUBSECTION B, PARAGRAPH 4 OF THIS SECTION AND SUBSECTION B,
26 PARAGRAPH 5 OF THIS SECTION, RELATING TO POLITICAL AFFILIATION, DO NOT APPLY
27 TO:

28 1. EMPLOYEES OF THE GOVERNOR'S OFFICE.

29 2. EMPLOYEES OF OFFICES OF ELECTED OFFICIALS WHO EITHER:

30 (a) REPORT DIRECTLY TO THE ELECTED OFFICIAL.

31 (b) HEAD A PRIMARY COMPONENT OR REPORT DIRECTLY TO THE HEAD OF A
32 PRIMARY COMPONENT OF THE OFFICE OF THE ELECTED OFFICIAL.

33 (c) AS A PRIMARY DUTY, DETERMINE OR PUBLICLY ADVOCATE SUBSTANTIVE
34 PROGRAM POLICY FOR THE OFFICE OF THE ELECTED OFFICIAL.

35 3. THE STATE AGENCY HEAD AND EACH DEPUTY DIRECTOR, OR EQUIVALENT, OF
36 EACH STATE AGENCY AND EMPLOYEES OF THE STATE AGENCY WHO REPORT DIRECTLY TO
37 EITHER THE STATE AGENCY HEAD OR DEPUTY DIRECTOR.

38 4. EACH ASSISTANT DIRECTOR, OR EQUIVALENT, OF EACH STATE AGENCY AND
39 EMPLOYEES IN THE STATE AGENCY WHO REPORT DIRECTLY TO AN ASSISTANT DIRECTOR.

40 5. ATTORNEYS IN THE OFFICE OF THE ATTORNEY GENERAL.

41 6. EMPLOYEES IN INVESTMENT RELATED POSITIONS IN THE STATE RETIREMENT
42 SYSTEM OR PLANS ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 2, 3, 4 OR 6.

43 G. THIS ARTICLE AND ARTICLES 5 AND 6 OF THIS CHAPTER DO NOT CONFER ANY
44 RIGHTS IN EXCESS OF, OR IN ADDITION TO, THOSE PREVIOUSLY AUTHORIZED TO ANY
45 STATE EMPLOYEE.

1 H. THIS ARTICLE DOES NOT CREATE OR CONFER ANY CONTRACTUAL EMPLOYMENT
2 RIGHT FOR ANY EMPLOYEE AND, UNLESS OTHERWISE PROVIDED BY LAW, STATE AGENCIES
3 ARE PROHIBITED FROM EXECUTING EMPLOYMENT CONTRACTS WITH ANY STATE EMPLOYEE.

4 I. ANY COMMUNICATIONS, INCLUDING POLICY MANUALS, EMPLOYEE HANDBOOKS,
5 JOB OFFERS AND PERFORMANCE APPRAISALS AND OTHER COMMUNICATIONS AS DETERMINED
6 BY THE DIRECTOR, WHETHER IN WRITING OR ORAL, THAT CONFLICT WITH ARTICLE 1, 5
7 OR 6 OF THIS CHAPTER OR THIS ARTICLE ARE VOID AND DO NOT ALTER OR SUPERSEDE
8 ARTICLE 1, 5 OR 6 OF THIS CHAPTER OR THIS ARTICLE.

9 41-743. Powers and duties of the director

10 A. THE DIRECTOR IS RESPONSIBLE FOR THE DIRECTION AND CONTROL OF
11 PERSONNEL ADMINISTRATION.

12 B. THE DIRECTOR SHALL:

13 1. EMPLOY STAFF AS NECESSARY TO PERFORM THE DUTIES PRESCRIBED BY THIS
14 ARTICLE.

15 2. ESTABLISH THOSE OFFICES AS THE DIRECTOR DETERMINES NECESSARY TO
16 MAINTAIN AN EFFECTIVE AND EFFICIENT PROGRAM OF PERSONNEL ADMINISTRATION.

17 3. ADOPT RULES AND PROCEDURES RELATING TO PERSONNEL AND PERSONNEL
18 ADMINISTRATION FOR BOTH COVERED AND UNCOVERED EMPLOYEES. THE RULES SHALL
19 INCLUDE:

20 (a) THE ESTABLISHMENT AND MAINTENANCE OF CLASSIFICATION AND
21 COMPENSATION PLANS.

22 (b) THE RECRUITMENT, SELECTION AND APPOINTMENT PROCESS OF ELIGIBLE
23 APPLICANTS.

24 (c) LEAVE BENEFITS AND ADMINISTRATION.

25 (d) PROCEDURES FOR THE PERIODIC AND REGULAR REVIEW AND EVALUATION OF
26 THE QUALITY AND QUANTITY OF WORK PERFORMED BY EMPLOYEES.

27 (e) CHANGES TO EMPLOYMENT STATUS.

28 (f) PROCEDURES FOR THE REVIEW OF COMPLAINTS IF THE COMPLAINT CONTAINS
29 AN ALLEGATION OF DISCRIMINATION OR HARASSMENT.

30 (g) PROCEDURES REQUIRING REVIEW BY THE DIRECTOR OF DISMISSALS,
31 SUSPENSIONS FOR MORE THAN EIGHTY WORKING HOURS OR INVOLUNTARY DEMOTIONS
32 BEFORE ADMINISTERING THE ACTION.

33 (h) GRIEVANCE RIGHTS SPECIFIC TO COVERED EMPLOYEES.

34 (i) APPEAL RIGHTS AND OTHER RULES SPECIFIC TO COVERED EMPLOYEES.

35 (j) ANY OTHER ASPECTS OF PERSONNEL ADMINISTRATION AS DETERMINED BY THE
36 DIRECTOR.

37 4. PROVIDE AN ANNUAL REPORT AND RECOMMENDATION TO THE LEGISLATURE AND
38 THE JOINT LEGISLATIVE BUDGET COMMITTEE AS PROVIDED IN SECTION 41-751.

39 5. ESTABLISH A MANDATORY PROGRAM OF PERSONNEL MANAGEMENT TRAINING FOR
40 ALL EMPLOYEES WITH SUPERVISORY RESPONSIBILITY THAT IS APPROPRIATE TO THE
41 NATURE AND SCOPE OF THE EMPLOYEES' RESPONSIBILITIES. THE DIRECTOR MAY WAIVE
42 THE MANDATORY TRAINING ON A CASE BY CASE BASIS. THE TRAINING SHALL INCLUDE
43 AT LEAST THE FOLLOWING SUBJECTS:

44 (a) BASIC EMPLOYEE SUPERVISION.

45 (b) EMPLOYEE PERFORMANCE EVALUATIONS.

46 (c) EMPLOYEE DISCIPLINE.

1 (d) OTHER SUBJECTS AS THE DIRECTOR DETERMINES.

2 6. PROVIDE CONSULTATION TO STATE AGENCY MANAGEMENT IN ALL ASPECTS OF
3 PERSONNEL MANAGEMENT TO INCREASE EFFICIENCY AND ECONOMY IN STATE AGENCIES BY
4 IMPROVING THE METHODS OF PERSONNEL ADMINISTRATION WITH FULL RECOGNITION OF
5 THE REQUIREMENTS AND NEEDS OF MANAGEMENT.

6 C. THE DIRECTOR MAY:

7 1. DELEGATE SPECIFIC PERSONNEL FUNCTIONS TO A STATE AGENCY HEAD
8 CONSISTENT WITH LEGAL REQUIREMENTS.

9 2. ENTER INTO AGREEMENTS WITH ANY STATE AGENCY OR POLITICAL
10 SUBDIVISION OF THIS STATE OR ANY AGENCY OF A POLITICAL SUBDIVISION OF THIS
11 STATE TO FURNISH PERSONNEL ADMINISTRATION SERVICES AND FACILITIES OF THE
12 DEPARTMENT. UNLESS MONIES HAVE BEEN APPROPRIATED BY THE LEGISLATURE FOR THIS
13 PURPOSE, ANY AGREEMENT SHALL PROVIDE FOR REIMBURSEMENT TO THIS STATE OF THE
14 ACTUAL COST OF THE SERVICES AND FACILITIES FURNISHED, AS DETERMINED BY THE
15 DEPARTMENT.

16 3. SUBJECT TO LEGISLATIVE APPROPRIATION, CONTRACT FOR THE SERVICES OF
17 CONSULTANTS NECESSARY TO PERFORM THE ANNUAL SALARY PLAN AND SALARY PLAN
18 ADJUSTMENT RECOMMENDATIONS.

19 D. SUBSECTION B, PARAGRAPH 3, SUBDIVISION (g) OF THIS SECTION RELATING
20 TO REVIEW BY THE DIRECTOR FOR CERTAIN DISCIPLINARY ACTIONS DOES NOT APPLY TO
21 THOSE EMPLOYEES LISTED IN SECTION 41-742, SUBSECTION F.

22 41-744. Nonconformity with federal regulations granting federal
23 monies

24 ANY PROVISION OF THIS ARTICLE THAT CONFLICTS OR IS INCONSISTENT WITH
25 FEDERAL RULES, REGULATIONS OR STANDARDS GOVERNING THE GRANT OF FEDERAL MONIES
26 TO ANY AGENCY OR DEPARTMENT OF THIS STATE DOES NOT APPLY TO THE AGENCY OR
27 DEPARTMENT. THE DIRECTOR MAY VARY OR WAIVE THE TERMS OF THE RULES AND
28 PROCEDURES AS APPLICABLE TO THESE AGENCIES AND DEPARTMENTS TO COMPLY WITH THE
29 CONDITIONS FOR FEDERAL GRANTS.

30 41-745. Covered and uncovered service

31 A. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION OR SECTION
32 41-742, SUBSECTION A, AN EMPLOYEE UNDER COVERED SERVICE IS ENTITLED TO
33 CONTINUE TO BE A COVERED EMPLOYEE AS LONG AS THE EMPLOYEE REMAINS IN COVERED
34 STATUS WITHOUT A BREAK IN SERVICE OR AS OTHERWISE PROVIDED BY LAW.
35 PROBATIONARY STATUS EMPLOYEES ARE REQUIRED TO COMPLETE THEIR PROBATIONARY
36 PERIOD BEFORE OBTAINING RIGHTS OF APPEAL. ON SUCCESSFULLY COMPLETING A
37 PROBATIONARY PERIOD, AN EMPLOYEE IN COVERED SERVICE IS ENTITLED TO HAVE
38 APPEAL RIGHTS AS PROVIDED IN ARTICLE 6 OF THIS CHAPTER OR SECTION 41-1830.16,
39 AS APPLICABLE.

40 B. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, UNCOVERED
41 SERVICE CONSISTS OF ALL EMPLOYEES IN THE STATE AGENCIES NOT INCLUDED IN THE
42 COVERED SERVICE. EMPLOYEES IN UNCOVERED SERVICE ARE EMPLOYEES AT WILL AND
43 ARE NOT ENTITLED TO APPEAL RIGHTS.

44 C. A POSITION THAT REQUIRES CERTIFICATION AS A FULL AUTHORITY PEACE
45 OFFICER BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD OR A
46 POSITION DESIGNATED AS A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II,

1 CORRECTIONAL OFFICER III OR COMMUNITY CORRECTIONS OFFICER SHALL BE IN THE
2 COVERED AND UNCOVERED SERVICE AS FOLLOWS:

3 1. IF, ON SEPTEMBER 29, 2012, THE POSITION IS FILLED WITH AN UNCOVERED
4 EMPLOYEE, THE POSITION SHALL REMAIN IN THE UNCOVERED SERVICE FOR ALL FUTURE
5 APPOINTMENTS TO THAT POSITION.

6 2. IF, ON SEPTEMBER 29, 2012, THE POSITION IS FILLED WITH A COVERED
7 EMPLOYEE WHO WAS IN THE STATE SERVICE AND THE EMPLOYEE DOES NOT VOLUNTARILY
8 ELECT TO BECOME AN AT WILL UNCOVERED EMPLOYEE, THE POSITION SHALL REMAIN IN
9 THE COVERED SERVICE FOR THE CURRENT INCUMBENT AND FOR ALL FUTURE APPOINTMENTS
10 TO THAT POSITION.

11 3. IF, ON OR AFTER SEPTEMBER 29, 2012, AN EMPLOYEE IN THE COVERED
12 SERVICE VOLUNTARILY ELECTS TO BECOME AN AT WILL UNCOVERED EMPLOYEE, THE
13 POSITION SHALL REMAIN IN THE UNCOVERED SERVICE FOR ALL FUTURE APPOINTMENTS TO
14 THAT POSITION.

15 41-746. Refusal of consideration for employment; verification
16 of education and work history

17 A. THE DIRECTOR MAY REFUSE TO CONSIDER FOR EMPLOYMENT OR REMOVE FROM
18 CONSIDERATION FOR EMPLOYMENT ANY APPLICANT WHO:

19 1. HAS PRACTICED ANY DECEPTION OR FRAUD IN THE APPLICANT'S
20 APPLICATION.

21 2. HAS FAILED TO REPLY WITHIN A REASONABLE TIME TO COMMUNICATIONS
22 CONCERNING THE APPLICANT'S AVAILABILITY FOR EMPLOYMENT.

23 3. IS FOUND TO BE UNSUITED OR NOT QUALIFIED FOR EMPLOYMENT.

24 4. LACKS ANY OF THE REQUIREMENTS ESTABLISHED BY THE DIRECTOR FOR THE
25 POSITION FOR WHICH THE APPLICANT APPLIES.

26 B. THE DIRECTOR SHALL DEVELOP PROCEDURES AND STANDARD FORMS TO BE USED
27 BY ALL STATE AGENCIES TO VERIFY A CANDIDATE'S EDUCATION AND WORK HISTORY.
28 THE PROCEDURES SHALL INCLUDE A REQUIREMENT THAT A STATE AGENCY HEAD SHALL
29 MAKE DOCUMENTED, GOOD FAITH EFFORTS TO CONTACT CURRENT AND PREVIOUS EMPLOYERS
30 OF A CANDIDATE TO OBTAIN INFORMATION AND RECOMMENDATIONS THAT MAY BE RELEVANT
31 TO THE CANDIDATE'S FITNESS FOR EMPLOYMENT.

32 41-747. Employment procedures; violation; classification

33 A. AN APPOINTING AUTHORITY SHALL COMPLY WITH THE PROCEDURES PRESCRIBED
34 IN THIS ARTICLE AND THE RULES ADOPTED BY THE DIRECTOR FOR THE RECRUITMENT,
35 SELECTION, HIRING AND SEPARATION OF EMPLOYEES IN THE STATE PERSONNEL SYSTEM.
36 THE APPOINTING AUTHORITY SHALL PRESCRIBE THE COMPENSATION OF AN EMPLOYEE AT
37 ALL TIMES PURSUANT TO SECTION 38-611.

38 B. AN APPOINTING AUTHORITY THAT VIOLATES SUBSECTION A OF THIS SECTION
39 AND INCURS AN OBLIGATION IS SUBJECT TO THE CIVIL AND CRIMINAL PENALTIES
40 PRESCRIBED IN TITLE 35, CHAPTER 1.

41 41-748. Transfer of accumulated annual leave; definitions

42 A. THE DIRECTOR SHALL ADOPT PROCEDURES FOR THE TRANSFER OF ACCUMULATED
43 ANNUAL LEAVE FROM ONE EMPLOYEE TO ANOTHER EMPLOYEE IN THE SAME STATE AGENCY
44 AND FOR TRANSFER OF ACCUMULATED ANNUAL LEAVE FROM ONE EMPLOYEE TO ANOTHER
45 STATE EMPLOYEE IN ANOTHER STATE AGENCY IF THE EMPLOYEES ARE MEMBERS OF THE
46 SAME FAMILY. THE TRANSFERS MAY OCCUR IF THE EMPLOYEE TO WHOM THE LEAVE IS

1 TRANSFERRED HAS A SERIOUSLY INCAPACITATING AND EXTENDED ILLNESS OR INJURY OR
2 A SERIOUSLY INCAPACITATING AND EXTENDED DISABILITY THAT IS CAUSED BY
3 PREGNANCY OR CHILDBIRTH OR A MEMBER OF THE EMPLOYEE'S IMMEDIATE FAMILY HAS A
4 SERIOUSLY INCAPACITATING AND EXTENDED ILLNESS OR INJURY OR A SERIOUSLY
5 INCAPACITATING AND EXTENDED DISABILITY THAT IS CAUSED BY PREGNANCY OR
6 CHILDBIRTH AND THE EMPLOYEE HAS EXHAUSTED ALL AVAILABLE LEAVE BALANCES.
7 TRANSFERRED ANNUAL LEAVE SHALL BE INCREASED OR REDUCED PROPORTIONALLY BY THE
8 DIFFERENCE IN THE SALARIES OF THE EMPLOYEES AS DETERMINED BY DEPARTMENT RULE.
9 AN EMPLOYEE WHO RECEIVES TRANSFERRED ANNUAL LEAVE IS LIMITED TO USING SIX
10 CONSECUTIVE MONTHS OF LEAVE PER OCCURRENCE UNLESS THE EMPLOYEE HAS APPLIED
11 FOR LONG-TERM DISABILITY INSURANCE AS PROVIDED BY RULE.

12 B. FOR THE PURPOSES OF THIS SECTION:

13 1. "IMMEDIATE FAMILY" MEANS AN EMPLOYEE'S PARENT, SPOUSE, OR CHILD,
14 WHETHER NATURAL, ADOPTED, FOSTER OR STEP.

15 2. "SAME FAMILY" MEANS AN EMPLOYEE'S SPOUSE, NATURAL CHILD, ADOPTED
16 CHILD, FOSTER CHILD, STEPCHILD, NATURAL PARENT, STEPPARENT, ADOPTIVE PARENT,
17 GRANDPARENT, GRANDCHILD, BROTHER, SISTER, SISTER-IN-LAW, BROTHER-IN-LAW,
18 SON-IN-LAW, DAUGHTER-IN-LAW, MOTHER-IN-LAW, FATHER-IN-LAW, AUNT, UNCLE,
19 NEPHEW OR NIECE.

20 41-749. Administrative leave; reporting

21 A. A STATE AGENCY HEAD SHALL REPORT TO THE DIRECTOR IF AN EMPLOYEE IS
22 PLACED ON ADMINISTRATIVE LEAVE WITH PAY DURING THE INVESTIGATION OF ALLEGED
23 WRONGDOING BY THE EMPLOYEE WHEN THE EMPLOYEE'S ADMINISTRATIVE LEAVE TOTALS
24 EIGHTY CONSECUTIVE HOURS AND, THEREAFTER, SHALL REPORT TO THE DIRECTOR ON A
25 WEEKLY BASIS UNTIL THE ADMINISTRATIVE LEAVE IS TERMINATED.

26 B. A STATE AGENCY HEAD SHALL OBTAIN APPROVAL FROM THE DIRECTOR IF AN
27 EMPLOYEE'S ADMINISTRATIVE LEAVE WITH PAY EXCEEDS THIRTY WORKING DAYS.

28 41-750. Contribution of pro rata share for personnel division
29 fund

30 A. ALL STATE AGENCIES SHALL CONTRIBUTE A PRO RATA SHARE OF THE OVERALL
31 COST OF PERSONNEL ADMINISTRATION SERVICES PROVIDED BY THE DEPARTMENT. THE
32 PRO RATA SHARE SHALL BE PAYABLE BY PAYROLL FUND SOURCE, AND THE RESULTANT
33 AMOUNT SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN A
34 PERSONNEL DIVISION FUND FOR APPROPRIATION BY THE LEGISLATURE FOR THE STATE
35 PERSONNEL BOARD AND THE PERSONNEL DIVISION OF THE DEPARTMENT. THE PRO RATA
36 SHARE SHALL BE 1.10 PER CENT OF THE TOTAL PAYROLL OF THE STATE AGENCY. OF
37 THE 1.10 PER CENT PRO RATA SHARE, 0.03 PER CENT OF TOTAL PAYROLL SHALL BE
38 DEPOSITED IN A SEPARATE SUBACCOUNT OF THE PERSONNEL DIVISION FUND FOR USE BY
39 THE STATE PERSONNEL BOARD AND SHALL BE SUBJECT TO LEGISLATIVE APPROPRIATION.
40 TOTAL PAYROLL SHALL INCLUDE ALL FUND SOURCES, INCLUDING THE STATE GENERAL
41 FUND, FEDERAL MONIES, SPECIAL REVENUE FUNDS, INTERGOVERNMENTAL REVENUE
42 MONIES, TRUST FUNDS AND OTHER PAYROLL FUND SOURCES.

43 B. A CLAIM FOR THE PRO RATA SHARE PERCENTAGE PAYMENT SHALL BE
44 SUBMITTED ACCORDING TO THE FUND SOURCE, WITH THE ACCOMPANYING PAYROLL TO THE
45 DEPARTMENT FOR DEPOSIT IN THE PERSONNEL DIVISION FUND.

1 C. NOTWITHSTANDING SECTION 35-190, ONLY MONIES IN EXCESS OF FIVE
2 HUNDRED THOUSAND DOLLARS REVERT TO THE STATE GENERAL FUND AT THE END OF EACH
3 FISCAL YEAR. THE STATE COMPTROLLER SHALL PAY ANY MONIES DETERMINED TO BE
4 OWED TO THE FEDERAL GOVERNMENT FROM THE PERSONNEL DIVISION FUND BEFORE
5 CALCULATING THE REVERSION.

6 D. MONIES CONTRIBUTED BASED ON THE PERSONNEL SERVICES FOR INDIVIDUALS
7 EMPLOYED BY THE ARIZONA STATE RETIREMENT SYSTEM AND MONIES CONTRIBUTED BASED
8 ON THE PERSONNEL SERVICES FOR INDIVIDUALS EMPLOYED BY THE PUBLIC SAFETY
9 PERSONNEL RETIREMENT SYSTEM AS THE PRO RATA SHARE SHALL NOT REVERT TO THE
10 STATE GENERAL FUND AND SHALL BE SEPARATELY ACCOUNTED FOR AND REVERTED TO THE
11 ARIZONA STATE RETIREMENT SYSTEM, THE PUBLIC SAFETY PERSONNEL RETIREMENT
12 SYSTEM, THE ELECTED OFFICIALS RETIREMENT PLAN OR THE CORRECTIONS OFFICER
13 RETIREMENT PLAN, AS APPLICABLE.

14 41-751. Annual report and recommendations

15 A. THE DIRECTOR SHALL PREPARE A REPORT ON STATE PERSONNEL AND THE
16 OPERATION OF THE STATE PERSONNEL SYSTEM.

17 B. THE REPORT SHALL INCLUDE:

18 1. INFORMATION CONCERNING ALL STATE EMPLOYEES, INCLUDING EMPLOYEES OF
19 ALL EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCH AGENCIES. ALL STATE AGENCIES
20 SHALL PROVIDE ANY INFORMATION REQUESTED BY THE DIRECTOR TO PREPARE THE ANNUAL
21 REPORT.

22 2. INFORMATION CONCERNING TURNOVER, INCLUDING THE NUMBER OF EMPLOYEES
23 SEPARATING FROM STATE EMPLOYMENT AND THE REASONS FOR SEPARATION.

24 3. INFORMATION CONCERNING THE COMPENSATION DURING THE PRECEDING YEAR
25 AND THE COMING YEAR OF STATE EMPLOYEES AND THE COMPENSATION OF OTHER PUBLIC
26 EMPLOYEES AND PRIVATE EMPLOYEES.

27 4. AN ADVISORY RECOMMENDATION ON STATE EMPLOYEES' SALARIES. IN
28 ESTABLISHING THE RECOMMENDATION, THE DIRECTOR SHALL CONSIDER THE RELATIVE
29 LEVELS OF DUTIES AND RESPONSIBILITIES OF THE VARIOUS CLASSES OF POSITIONS,
30 RATES PAID FOR COMPARABLE POSITIONS ELSEWHERE AND OTHER RELEVANT FACTORS.
31 SALARY RECOMMENDATIONS ARE NOT REQUIRED FOR ELECTED OFFICIALS. THE DIRECTOR
32 SHALL MAKE ADVISORY SALARY RECOMMENDATIONS FOR SPECIFIC POSITIONS IN THE
33 GOVERNOR'S OFFICE, THE LEGISLATURE AND THE COURTS IF REQUESTED BY THE
34 RESPECTIVE ADMINISTRATIVE HEADS OF THESE UNITS OF STATE GOVERNMENT.

35 5. THE OVERTIME PAY OF ALL STATE AGENCIES.

36 6. OTHER INFORMATION AS DETERMINED BY THE DIRECTOR.

37 C. THE ANNUAL REPORT AND RECOMMENDATIONS SHALL BE PRESENTED TO THE
38 GOVERNOR AND THE LEGISLATURE ON OR BEFORE SEPTEMBER 1 OF EACH YEAR. THE
39 DIRECTOR SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE.

40 D. THE ARIZONA BOARD OF REGENTS, THE DEPARTMENT OF PUBLIC SAFETY, THE
41 JUDICIAL DEPARTMENT AND THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND
42 SHALL EACH PREPARE AND SUBMIT AN ANNUAL REPORT ON THEIR PERSONNEL AS
43 PRESCRIBED IN THIS SECTION. THE REPORT SHALL INCLUDE:

44 1. INFORMATION CONCERNING THE NUMBER OF EMPLOYEES AFFECTED BY AND
45 REASONS FOR TURNOVER OF THEIR EMPLOYEES.

1 2. INFORMATION CONCERNING THE COMPENSATION DURING THE PRECEDING YEAR
2 AND THE COMING YEAR OF THEIR EMPLOYEES AND THE COMPENSATION OF OTHER PUBLIC
3 EMPLOYEES AND PRIVATE EMPLOYEES.

4 3. AN ADVISORY RECOMMENDATION ON THE SALARY PLAN AND ADJUSTMENTS FOR
5 THEIR EMPLOYEES. IN ESTABLISHING THE SALARY PLAN, THEY SHALL CONSIDER THE
6 RELATIVE LEVELS OF DUTIES AND RESPONSIBILITIES OF THE VARIOUS CLASSES OF
7 POSITIONS, RATES PAID FOR COMPARABLE POSITIONS ELSEWHERE AND OTHER RELEVANT
8 FACTORS.

9 4. THE OVERTIME PAY FOR THEIR EMPLOYEES.

10 41-752. Protections of civil or political liberties;
11 prohibitions; civil penalty; violation;
12 classification

13 A. EXCEPT FOR EXPRESSING AN OPINION OR PURSUANT TO SECTION 16-402, AN
14 EMPLOYEE SHALL NOT ENGAGE IN ANY ACTIVITIES PERMITTED BY THIS SECTION WHILE
15 ON DUTY, WHILE IN UNIFORM OR AT PUBLIC EXPENSE.

16 B. AN EMPLOYEE SHALL NOT:

17 1. USE ANY POLITICAL ENDORSEMENT IN CONNECTION WITH ANY APPOINTMENT TO
18 A POSITION IN THE STATE PERSONNEL SYSTEM.

19 2. USE OR PROMISE TO USE ANY OFFICIAL AUTHORITY OR INFLUENCE FOR THE
20 PURPOSE OF INFLUENCING THE VOTE OR POLITICAL ACTION OF ANY PERSON OR FOR ANY
21 CONSIDERATION.

22 C. AN EMPLOYEE, A MEMBER OF THE STATE PERSONNEL BOARD OR A MEMBER OF
23 THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL SHALL NOT BE A MEMBER OF ANY
24 NATIONAL, STATE OR LOCAL COMMITTEE OF A POLITICAL PARTY, AN OFFICER OR
25 CHAIRPERSON OF A COMMITTEE OF A PARTISAN POLITICAL CLUB OR A CANDIDATE FOR
26 NOMINATION OR ELECTION TO ANY PAID PUBLIC OFFICE, SHALL NOT HOLD ANY PAID,
27 ELECTIVE PUBLIC OFFICE OR SHALL NOT TAKE ANY PART IN THE MANAGEMENT OR
28 AFFAIRS OF ANY POLITICAL PARTY OR IN THE MANAGEMENT OF ANY PARTISAN OR
29 NONPARTISAN CAMPAIGN OR RECALL EFFORT, EXCEPT THAT ANY EMPLOYEE MAY:

30 1. EXPRESS AN OPINION.

31 2. ATTEND MEETINGS FOR THE PURPOSE OF BECOMING INFORMED CONCERNING THE
32 CANDIDATES FOR PUBLIC OFFICE AND THE POLITICAL ISSUES.

33 3. CAST A VOTE AND SIGN NOMINATION OR RECALL PETITIONS.

34 4. MAKE CONTRIBUTIONS TO CANDIDATES, POLITICAL PARTIES OR CAMPAIGN
35 COMMITTEES CONTRIBUTING TO CANDIDATES OR ADVOCATING THE ELECTION OR DEFEAT OF
36 CANDIDATES.

37 5. CIRCULATE CANDIDATE NOMINATION PETITIONS OR RECALL PETITIONS.

38 6. ENGAGE IN ACTIVITIES TO ADVOCATE THE ELECTION OR DEFEAT OF ANY
39 CANDIDATE.

40 7. SOLICIT OR ENCOURAGE CONTRIBUTIONS TO BE MADE DIRECTLY TO
41 CANDIDATES OR CAMPAIGN COMMITTEES CONTRIBUTING TO CANDIDATES OR ADVOCATING
42 THE ELECTION OR DEFEAT OF CANDIDATES.

1 D. A PERSON SHALL NOT:

2 1. SOLICIT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
3 OF THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL TO ENGAGE OR NOT ENGAGE IN
4 ACTIVITIES PERMITTED BY THIS SECTION WITH THE DIRECT OR INDIRECT USE OF ANY
5 THREAT, INTIMIDATION OR COERCION, INCLUDING THREATS OF DISCRIMINATION,
6 REPRISAL, FORCE OR ANY OTHER ADVERSE CONSEQUENCE, INCLUDING THE LOSS OF ANY
7 BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR COMPENSATION.

8 2. SUBJECT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
9 OF THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL ENGAGING IN ACTIVITY PERMITTED BY
10 THIS SECTION TO ANY DIRECT OR INDIRECT DISCRIMINATION, REPRISAL, FORCE,
11 COERCION OR INTIMIDATION OR ANY OTHER ADVERSE CONSEQUENCE, INCLUDING THE LOSS
12 OF ANY BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR COMPENSATION.

13 3. SUBJECT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
14 OF THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL WHO CHOOSES NOT TO ENGAGE IN ANY
15 ACTIVITY PERMITTED BY THIS SECTION TO ANY DIRECT OR INDIRECT DISCRIMINATION,
16 REPRISAL, FORCE, COERCION OR INTIMIDATION OR ANY OTHER ADVERSE CONSEQUENCE,
17 INCLUDING THE LOSS OF ANY BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR
18 COMPENSATION.

19 E. SUBSECTIONS B AND C OF THIS SECTION DO NOT APPLY TO THOSE EMPLOYEES
20 LISTED IN SECTION 41-742, SUBSECTION F.

21 F. THIS SECTION DOES NOT APPLY TO SCHOOL BOARD ELECTIONS OR COMMUNITY
22 COLLEGE DISTRICT GOVERNING BOARD ELECTIONS, AND AN EMPLOYEE MAY SERVE AS A
23 MEMBER OF THE GOVERNING BOARD OF A COMMON OR HIGH SCHOOL DISTRICT OR AS A
24 MEMBER OF A COMMUNITY COLLEGE DISTRICT GOVERNING BOARD.

25 G. AN EMPLOYEE WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION IS
26 SUBJECT TO SUSPENSION OF NOT LESS THAN THIRTY DAYS OR DISMISSAL.

27 H. A PERSON WHO VIOLATES:

28 1. SUBSECTION D OF THIS SECTION IS GUILTY OF A CLASS 6 FELONY.

29 2. ANY OTHER PROVISION OF THIS SECTION IS GUILTY OF A CLASS 1
30 MISDEMEANOR.

31 I. IN ADDITION TO ANY OTHER PENALTY, ANY PERSON SOLICITING OR
32 ENCOURAGING A CONTRIBUTION IN A MANNER PROHIBITED BY THIS SECTION IS SUBJECT
33 TO A CIVIL PENALTY OF UP TO THREE TIMES THE AMOUNT OF THE CONTRIBUTION
34 SOLICITED OR ENCOURAGED PLUS COSTS, EXPENSES AND REASONABLE ATTORNEY FEES.

35 J. THIS SECTION DOES NOT DENY ANY EMPLOYEE OR BOARD MEMBER ANY CIVIL
36 OR POLITICAL LIBERTIES AS GUARANTEED BY THE UNITED STATES AND ARIZONA
37 CONSTITUTIONS.

38 K. IT IS THE PUBLIC POLICY OF THIS STATE, REFLECTED IN THIS SECTION,
39 THAT GOVERNMENT PROGRAMS BE ADMINISTERED IN AN UNBIASED MANNER AND WITHOUT
40 FAVORITISM FOR OR AGAINST ANY POLITICAL PARTY OR GROUP OR ANY MEMBER IN ORDER
41 TO PROMOTE PUBLIC CONFIDENCE IN GOVERNMENT, GOVERNMENTAL INTEGRITY AND THE
42 EFFICIENT DELIVERY OF GOVERNMENTAL SERVICES AND TO ENSURE THAT ALL EMPLOYEES
43 ARE FREE FROM ANY EXPRESS OR IMPLIED REQUIREMENT OR ANY POLITICAL OR OTHER
44 PRESSURE OF ANY KIND TO ENGAGE OR NOT ENGAGE IN ANY ACTIVITY PERMITTED BY
45 THIS SECTION. TOWARD THIS END, ANY PERSON OR ENTITY CHARGED WITH THE

1 INTERPRETATION OF THIS SECTION SHALL TAKE INTO ACCOUNT THE POLICY OF THIS
2 SECTION AND SHALL CONSTRUCE ANY OF ITS PROVISIONS ACCORDINGLY.

3 41-753. Unlawful acts; violation; classification

4 A. A PERSON SHALL NOT MAKE ANY FALSE STATEMENT, CERTIFICATE, MARK,
5 RATING OR REPORT WITH REGARD TO ANY TEST, CERTIFICATION OR APPOINTMENT MADE
6 UNDER THIS ARTICLE OR IN ANY MANNER COMMIT ANY FRAUD PREVENTING THE IMPARTIAL
7 EXECUTION OF THIS ARTICLE OR RULES ADOPTED UNDER THIS ARTICLE.

8 B. A PERSON SHALL NOT, DIRECTLY OR INDIRECTLY, GIVE, RENDER, PAY,
9 OFFER, SOLICIT OR ACCEPT ANY MONEY, SERVICE OR OTHER VALUABLE CONSIDERATION
10 FOR OR ON ACCOUNT OF ANY APPOINTMENT, PROPOSED APPOINTMENT, PROMOTION OR
11 PROPOSED PROMOTION TO, OR ANY ADVANTAGE IN, A POSITION IN THE STATE PERSONNEL
12 SYSTEM.

13 C. AN EMPLOYEE OF ANY STATE AGENCY, EXAMINER OR OTHER PERSON SHALL NOT
14 OBSTRUCT ANY PERSON IN THE PERSON'S RIGHT TO EXAMINATION, ELIGIBILITY,
15 CERTIFICATION OR APPOINTMENT UNDER THIS ARTICLE, OR FURNISH TO ANY PERSON ANY
16 SPECIAL OR SECRET INFORMATION FOR THE PURPOSE OF AFFECTING THE RIGHTS OR
17 PROSPECTS OF ANY PERSON WITH RESPECT TO EMPLOYMENT IN THE STATE PERSONNEL
18 SYSTEM.

19 D. ANY PERSON WHO KNOWINGLY VIOLATES SUBSECTION A, B, OR C OF THIS
20 SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.

21 E. AN ELECTED OR APPOINTED OFFICIAL SHALL NOT WITH CORRUPT INTENT USE
22 THE OFFICIAL'S POLITICAL INFLUENCE OR POSITION TO CAUSE THE FIRING, PROMOTION
23 OR DEMOTION OF ANY PUBLIC EMPLOYEE OR THE HIRING OF OR FAILURE TO HIRE ANY
24 APPLICANT FOR PUBLIC EMPLOYMENT.

25 F. AN ELECTED OR APPOINTED OFFICIAL WHO KNOWINGLY AND WITH CORRUPT
26 INTENT VIOLATES SUBSECTION E OF THIS SECTION IS GUILTY OF A CLASS 2
27 MISDEMEANOR.

28 G. ANY PERSON WHO IS CONVICTED OF A CLASS 2 MISDEMEANOR UNDER THIS
29 ARTICLE, FOR A PERIOD OF FIVE YEARS, IS INELIGIBLE FOR APPOINTMENT TO OR
30 EMPLOYMENT IN A POSITION IN THE STATE PERSONNEL SYSTEM AND, IF THE PERSON IS
31 AN EMPLOYEE OF THIS STATE AT THE TIME OF CONVICTION, IS SUBJECT TO SUSPENSION
32 FOR NOT LESS THAN NINETY DAYS OR DISMISSAL.

33 H. A CONTACT BY AN ELECTED OR APPOINTED OFFICIAL WITH A PUBLIC AGENCY
34 REGARDING THE QUALIFICATIONS OF AN APPLICANT SHALL NOT BE CONSTRUED AS
35 ILLEGALLY USING POLITICAL INFLUENCE OR POSITION.

36 41-754. Required reduction in hours

37 AN AGENCY DIRECTOR MAY REQUIRE AN AGENCY EMPLOYEE TO WORK REDUCED HOURS
38 IN ORDER TO COMPLY WITH ANY REDUCTION IN APPROPRIATIONS. THE DIRECTOR SHALL
39 PRESCRIBE PROCEDURES TO IMPLEMENT THESE REDUCTIONS.

40 Sec. 116. Repeal

41 Title 41, chapter 4, article 5, Arizona Revised Statutes, is repealed.

1 Sec. 117. Title 41, chapter 4, Arizona Revised Statutes, is amended by
2 adding a new article 5, to read:

3 ARTICLE 5. COVERED SERVICE

4 41-771. Powers and duties of director relating to employees in
5 covered service

6 THE DIRECTOR SHALL ADOPT RULES AND PROCEDURES THAT ARE APPLICABLE ONLY
7 TO EMPLOYEES IN COVERED SERVICE. THE RULES AND PROCEDURES SHALL PROVIDE FOR:

8 1. THE CONTINUATION OF A PROBATIONARY PERIOD FOR PROBATIONARY
9 EMPLOYEES.

10 2. A MINIMUM PERIOD OF ORIGINAL PROBATIONARY SERVICE FOLLOWING THE
11 INITIAL APPOINTMENT OF A FULL AUTHORITY PEACE OFFICER AS CERTIFIED BY THE
12 ARIZONA PEACE OFFICERS STANDARDS AND TRAINING BOARD OR THE INITIAL
13 APPOINTMENT OF A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II,
14 CORRECTIONAL OFFICER III OR COMMUNITY CORRECTIONS OFFICER. DURING AN
15 ORIGINAL PROBATIONARY PERIOD, THE PROBATIONARY EMPLOYEE SHALL PERFORM THE
16 ACTUAL DUTIES OF THE POSITION AND MAY BE DISCHARGED WITHOUT CAUSE. THE
17 DIRECTOR SHALL ESTABLISH A PERIOD OF PROMOTIONAL PROBATION SERVICE.

18 3. DISCIPLINARY ACTION TO BE TAKEN AGAINST AN EMPLOYEE ONLY IF CAUSE
19 EXISTS.

20 4. REDUCTION IN FORCE BY REASON OF LACK OF MONIES OR WORK, ABOLITION
21 OF A POSITION OR A MATERIAL CHANGE IN DUTIES OR ORGANIZATION AS PROVIDED IN
22 SECTION 41-772.

23 41-772. Reduction in force procedure in covered service

24 A. THE DIRECTOR SHALL ESTABLISH REDUCTION IN FORCE PROCEDURES TO BE
25 USED BY ALL STATE AGENCIES IF REDUCTIONS ARE REQUIRED IN COVERED SERVICE BY
26 REASON OF LACK OF MONIES OR WORK, ABOLITION OF A POSITION, A MATERIAL CHANGE
27 IN DUTY OR ORGANIZATION OR THE INTRODUCTION OF OTHER COST REDUCTION
28 INITIATIVES.

29 B. THE PROCEDURES SHALL USE THE PERSON'S PERFORMANCE RECORD AS THE
30 SOLE BASIS FOR DETERMINING RETENTION. CONSIDERATION OF THE PERSON'S
31 PERFORMANCE IS LIMITED TO PERFORMANCE, AS MEASURED BY UP TO THE THREE MOST
32 RECENT PERFORMANCE EVALUATIONS CONDUCTED USING A PERFORMANCE MEASUREMENT
33 SYSTEM APPROVED BY THE DIRECTOR, DURING A PERIOD OF NOT MORE THAN THE TWO
34 YEARS IMMEDIATELY PRECEDING THE REDUCTION IN FORCE. NOTWITHSTANDING ANY
35 OTHER STATUTE, A STATE AGENCY SHALL NOT ADOPT POLICIES THAT PROVIDE
36 EMPLOYMENT RETENTION PRIORITY FOR EMPLOYEES BASED ON TENURE OR SENIORITY.

37 C. THE PROCEDURES SHALL PROVIDE FOR A REDUCTION IN FORCE TO BE LIMITED
38 TO A SINGLE AGENCY OR ORGANIZATIONAL UNIT OF AN AGENCY OR AN ORGANIZATIONAL
39 UNIT OF AGENCY OPERATIONS WITHIN A GEOGRAPHIC AREA.

40 D. THE PROCEDURES SHALL PROVIDE FOR AN EXPEDITED REVIEW OF ANY
41 DETERMINATIONS MADE DURING A REDUCTION IN FORCE.

42 41-773. Causes for dismissal or discipline for employee in
43 covered service

44 A. EACH OF THE FOLLOWING CONSTITUTES CAUSE FOR DISCIPLINE OR DISMISSAL
45 OF AN EMPLOYEE IN COVERED SERVICE:

46 1. FRAUD OR MISREPRESENTATION IN SECURING APPOINTMENT.

2. INCOMPETENCY.
3. INEFFICIENCY.
4. NEGLECT OF DUTY.
5. INSUBORDINATION.
6. DISHONESTY.
7. BEING IMPAIRED BY ALCOHOL OR DRUGS WHILE ON DUTY.
8. ILLEGAL USE OR ILLEGAL POSSESSION OF A NARCOTIC OR HABIT-FORMING
8 DRUG.
9. UNAUTHORIZED ABSENCE OR ABSENCE WITHOUT LEAVE.
10. COMMISSION OF ANY CRIME CLASSIFIED AS A FELONY OR INVOLVING MORAL
11 TURPITUDE.
12. DISCOURTEOUS TREATMENT OF THE PUBLIC OR OTHER EMPLOYEES.
13. IMPROPER POLITICAL ACTIVITY.
14. WILFUL DISOBEDIENCE.
15. MISUSE OR UNAUTHORIZED USE OF STATE PROPERTY.

16 B. IN ADDITION TO THE CAUSES PRESCRIBED BY SUBSECTION A OF THIS
17 SECTION, THE DIRECTOR MAY ESTABLISH OTHER CAUSES DEEMED NECESSARY.

18 C. THE DIRECTOR SHALL PRESCRIBE DEFINITIONS FOR EACH OF THE CAUSES FOR
19 DISMISSAL OR DISCIPLINE PRESCRIBED OR ESTABLISHED UNDER THIS SECTION THAT
20 SHALL BE USED BY COVERED EMPLOYEES AND, AS APPLICABLE, THE STATE PERSONNEL
21 BOARD OR THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL IN EVALUATING DISMISSALS
22 AND DISCIPLINARY ACTIONS.

23 Sec. 118. Heading change

24 The article heading of title 41, chapter 4, article 6, Arizona Revised
25 Statutes, is changed from "PERSONNEL BOARD" to "STATE PERSONNEL BOARD".

26 Sec. 119. Section 41-781, Arizona Revised Statutes, is amended to
27 read:

28 41-781. State personnel board; members; appointment; term;
29 meetings; compensation

30 A. The state personnel board ~~shall consist~~ CONSISTS of five members
31 appointed by the governor pursuant to section 38-211. No more than three
32 members shall belong to the same political party. Persons eligible for
33 appointment shall have had a continuous recorded registration pursuant to
34 title 16, chapter 1 with either the same political party or as an independent
35 for at least two years immediately preceding appointment. Of the members
36 appointed one shall be a person who for more than five years has managed a
37 component or unit of government or industry with more than twenty employees,
38 one shall be a professional personnel administrator, one a state employee,
39 one a person active in business management and one a member of the public.
40 Members may be removed by the governor for cause. The chairperson of the
41 STATE personnel board shall serve as an ex officio member of the law
42 enforcement merit system council established by section 41-1830.11 without
43 voting privileges.

44 B. The term of office for each member is three years, each term to
45 expire three years from the date of appointment. ~~Upon~~ ON the expiration of

1 the term of a member a successor shall be appointed for a full term of three
2 years.

3 C. The STATE personnel board may hold regular monthly meetings and, in
4 addition, may hold special meetings the board deems necessary. A chairperson
5 and vice chairperson shall be elected by the members at the first meeting of
6 each year and the chairperson shall not serve successive terms as
7 chairperson. Meetings of the STATE personnel board shall be open to the
8 public, and executive sessions may be held as provided by law.

9 D. Any one of the following ~~shall constitute~~ CONSTITUTES the
10 resignation of a board member and ~~authorize~~ AUTHORIZES the governor to
11 appoint a new member to fill the unexpired term so vacated:

12 1. Becoming a candidate for any elective public office.

13 2. Accepting any appointive office or employment in the state ~~service~~
14 PERSONNEL SYSTEM, except the state employee who is designated to serve on the
15 board.

16 E. Members of the STATE personnel board, except the person designated
17 as the state employee, are eligible to receive compensation ~~as determined~~
18 ~~pursuant to section 38-611 for each day actually spent for meetings of the~~
19 ~~personnel board~~ OF ONE HUNDRED DOLLARS FOR EACH MEETING ATTENDED, PRORATED
20 FOR PARTIAL DAYS FOR EACH MEETING ATTENDED. The member of the STATE
21 personnel board designated as the state employee shall be paid the state
22 employee's regular compensation for meetings of the board.

23 Sec. 120. Section 41-782, Arizona Revised Statutes, is amended to
24 read:

25 41-782. Powers and duties of the state personnel board

26 A. EXCEPT AS PROVIDED BY SECTION 41-1830.16, the STATE personnel board
27 shall hear and review appeals as provided in this article relating to
28 dismissal OF A COVERED EMPLOYEE from ~~state~~ COVERED service, suspension for
29 more than ~~forty~~ EIGHTY working hours or INVOLUNTARY demotion resulting from
30 disciplinary action as defined in the personnel rules FOR AN EMPLOYEE IN
31 COVERED SERVICE.

32 B. THE STATE personnel board shall hear and review complaints as
33 provided in title 38, chapter 3, article 9, relating to any personnel action
34 taken against an employee or former employee of this state, except an
35 employee or former employee of a state university or the board of regents,
36 which the employee or former employee believes was taken in reprisal for the
37 employee's or former employee's disclosure of information to a public body.
38 The state personnel board shall recommend the dismissal of a supervisor or
39 other responsible person, other than an elected official, who it determines
40 committed a prohibited personnel practice.

41 C. The STATE personnel board may adopt rules it deems necessary for
42 the administration of hearings and the review of appeals and complaints as
43 prescribed in this section.

44 D. THE STATE PERSONNEL BOARD SHALL ONLY EXERCISE AUTHORITY THAT IS
45 SPECIFICALLY GRANTED TO THE BOARD PURSUANT TO THIS ARTICLE.

46 Sec. 121. Repeal

1 Sections 41-783 and 41-784, Arizona Revised Statutes, are repealed.
2 Sec. 122. Section 41-785, Arizona Revised Statutes, is transferred and
3 renumbered for placement in title 41, chapter 4, article 6, Arizona Revised
4 Statutes, as section 41-783 and, as so renumbered, is amended to read:
5 41-783. Appeals to the state personnel board for covered
6 employees; notice of charges; hearings
7 A. ~~Any~~ EXCEPT AS PROVIDED BY SECTION 41-1830.16, A COVERED employee
8 who has completed the COVERED employee's original probationary period of
9 service as provided by the personnel rules may appeal to the STATE personnel
10 board ~~seeking relief from~~ THE COVERED EMPLOYEE'S dismissal from ~~state~~ COVERED
11 service, suspension for more than ~~forty~~ EIGHTY working hours or INVOLUNTARY
12 demotion resulting from disciplinary action. The appeal shall be filed not
13 later than ten working days after the effective date of such action. The
14 COVERED employee shall be furnished with specified charges in writing when
15 the action is taken. Such appeal shall be in writing and must state specific
16 facts relating directly to the charges on which the appeal is based and shall
17 be heard by the STATE personnel board within thirty days after its
18 receipt. The STATE personnel board shall provide the employing agency with a
19 copy of the appeal not less than twenty days in advance of the hearing.
20 B. Hearings on such appeals shall be open to the public, except in
21 cases where the COVERED employee requests a confidential hearing, and shall
22 be informal with technical rules of evidence not applying to the proceedings
23 except the rule of privilege recognized by law. Both the COVERED employee
24 and the employing agency shall be notified of any hearing or meeting date not
25 less than twenty days in advance of the hearing or not less than ten days in
26 advance of a meeting and may select representatives of their choosing,
27 present and cross-examine witnesses and give evidence before the STATE
28 personnel board. The STATE personnel board may appoint a hearing officer to
29 conduct the hearing and take evidence on behalf of the board and exercise the
30 rights prescribed by section 12-2212. The STATE personnel board shall
31 prepare an official record of the hearing, including all testimony recorded
32 manually or by mechanical device, and exhibits. Either party may request
33 that the record be transcribed. If a party requests that the record be
34 transcribed, an entity, other than the STATE personnel board, selected by the
35 requesting party shall transcribe the record at the cost of the requesting
36 party. If the disciplinary hearing would involve evidence the state is
37 prevented by law from disclosing, then a confidential hearing upon the
38 state's request shall be granted.
39 C. The STATE PERSONNEL board: ~~may reverse an agency's action on~~
40 ~~appeal only if the board finds the action to be arbitrary, capricious or~~
41 ~~otherwise contrary to law.~~
42 D. ~~The board may modify the disciplinary penalty chosen by an agency~~
43 ~~only if the board finds the penalty to be disproportionate to the proven~~
44 ~~offense in light of mitigating circumstances or made for reasons that are~~
45 ~~arbitrary, capricious or otherwise contrary to law.~~

1 1. SHALL DETERMINE WHETHER THE STATE AGENCY HAS PROVEN BY A
2 PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS
3 BASED. ON SUCH A FINDING, THE BOARD SHALL AFFIRM THE DECISION OF THE STATE
4 AGENCY HEAD, UNLESS THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS.

5 2. MAY RECOMMEND MODIFICATION OF A DISCIPLINARY ACTION IF THE AGENCY
6 HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH
7 THE DISCIPLINE WAS BASED OR IF A DISCIPLINARY DECISION IS FOUND TO BE
8 ARBITRARY AND CAPRICIOUS.

9 3. SHALL REVERSE THE DECISION OF THE STATE AGENCY HEAD IF THE BOARD
10 FINDS THAT CAUSE DID NOT EXIST FOR ANY DISCIPLINE TO BE IMPOSED AND, IN THE
11 CASE OF DISMISSAL OR DEMOTION, RETURN THE COVERED EMPLOYEE TO THE SAME
12 POSITION THE EMPLOYEE HELD BEFORE THE DISMISSAL OR DEMOTION WITH OR WITHOUT
13 BACK PAY.

14 D. ON A FINDING THAT THE AGENCY HAS NOT PROVEN BY A PREPONDERANCE OF
15 THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED, THE BOARD
16 SHALL IDENTIFY THE MATERIAL FACTS THAT THE BOARD FOUND WERE NOT SUPPORTED BY
17 A PREPONDERANCE OF THE EVIDENCE AND MAY RECOMMEND A PROPOSED DISCIPLINARY
18 ACTION IN LIGHT OF THE FACTS PROVEN. ON A FINDING THAT THE DISCIPLINARY
19 DECISION WAS ARBITRARY AND CAPRICIOUS, THE BOARD SHALL INCLUDE THE BOARD'S
20 REASONS FOR THE BOARD'S FINDING AND MAY RECOMMEND A PROPOSED DISCIPLINARY
21 ACTION IN LIGHT OF THE FACTS PROVEN.

22 E. Within forty-five days after the conclusion of the hearing, the
23 STATE PERSONNEL board shall enter its decision OR RECOMMENDATION and shall at
24 the same time send a copy of the decision OR RECOMMENDATION by certified mail
25 to the employing agency and to the COVERED employee at the employee's address
26 as given at the hearing or to a representative designated by the COVERED
27 employee to receive a copy of the decision OR RECOMMENDATION. THE AGENCY
28 DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL ACCEPT, MODIFY OR REVERSE THE
29 BOARD'S DECISION OR ACCEPT, MODIFY OR REJECT THE BOARD'S RECOMMENDATION
30 WITHIN FOURTEEN DAYS OF RECEIPT OF THE FINDINGS OR RECOMMENDATION FROM THE
31 STATE PERSONNEL BOARD. THE DECISION OF THE AGENCY DIRECTOR OR DIRECTOR'S
32 DESIGNEE IS FINAL AND BINDING. THE AGENCY DIRECTOR SHALL SEND A COPY OF THE
33 AGENCY'S FINAL DETERMINATION TO THE COVERED EMPLOYEE PURSUANT TO THIS
34 SECTION.

35 F. Any party may appeal the decision of the STATE PERSONNEL board OR
36 THE FINAL DECISION OF THE AGENCY pursuant to title 12, chapter 7, article 6
37 to the superior court in the COVERED employee's county of residence on one or
38 more of the following grounds that the order was:

- 39 1. Founded on or contained error of law ~~which~~ THAT shall specifically
40 include error of construction or application of any pertinent rules.
41 2. Unsupported by any evidence as disclosed by the entire record.
42 3. Materially affected by unlawful procedure.
43 4. Based on a violation of any constitutional provision.
44 5. Arbitrary or capricious.

1 G. An appeal shall be available to the court of appeals from the order
2 of the superior court pursuant to title 12, chapter 7, article 6 as in other
3 civil cases.

4 H. ~~Am~~ A COVERED employee may represent himself or designate a
5 representative, not necessarily an attorney, before any board hearing or any
6 quasi-judicial hearing held pursuant to this section providing that no fee
7 may be charged for any services rendered in connection with such hearing by
8 any such designated representative who is not an attorney admitted to
9 practice.

10 Sec. 123. Repeal

11 Section 41-786, Arizona Revised Statutes, is repealed.

12 Sec. 124. Section 41-821, Arizona Revised Statutes, is amended to
13 read:

14 41-821. Arizona historical society; powers; officers; duties of
15 board of directors

16 A. An Arizona historical society is established.

17 B. Subject to limitations imposed by law, the society may purchase,
18 receive, hold, lease and sell property, real and personal, for the benefit of
19 this state and use of the society. The society may solicit private monetary
20 donations for program activities.

21 C. The society shall have a president, a treasurer, a board of
22 directors and other officers who shall be elected by the members of the
23 society at times and by methods the bylaws of the society prescribe. The
24 board of directors may designate from among its members an executive
25 committee with authority to act in place of the board of directors and in
26 accordance with directions the board of directors may give when the board of
27 directors is not in session.

28 D. The president shall preside at meetings of the society and of the
29 board of directors.

30 E. The treasurer shall have custody of the monies of the society,
31 other than legislative appropriations. The treasurer shall hold the monies
32 of the society deposited in trust for the society's use and for the benefit
33 of this state and shall disburse them only as prescribed by law and the
34 bylaws of the society.

35 F. The board of directors shall hold in trust for this state and
36 administer for the benefit of this state and use of the society all property
37 acquired by the society.

38 G. All expenditures of legislative appropriations to the society shall
39 be made on claims duly itemized, verified and approved by the executive
40 director. The executive director shall present and file claims for payment
41 with the director of the department of administration. The director of the
42 department of administration shall draw the warrant on the state treasurer.
43 The society may expend nonappropriated private funds related to program
44 activities.

45 H. The board of directors shall annually designate one or more
46 historical organizations within each county of this state that are

1 incorporated as nonprofit organizations and that are deemed to have a
2 functioning program of historical value based on criteria established by the
3 board of directors. The board of directors may organize chapters made up of
4 groups of its members who have a common interest in a geographical area of
5 this state or a common interest in a field of history, may provide for the
6 governance of these chapters and may grant to any chapter the power to
7 exercise authority of the society as the board of directors may determine.

8 I. The board of directors, subject to legislative appropriation, may
9 contract with certified historical organizations for services to be performed
10 for the benefit of this state. The contracts shall be prepared by the
11 Arizona historical society. The board of directors shall annually review the
12 contracts to ensure fulfillment of their provisions.

13 J. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the board of
14 directors may employ an executive director and may employ or authorize the
15 employment of other employees it considers appropriate to carry out the
16 functions of the society. The executive director and all other employees
17 shall have duties and exercise authority as may be prescribed by the board of
18 directors or by the executive director acting under the direction of the
19 board of directors.

20 K. The board may operate a program for the establishment and
21 maintenance of historical markers at various locations in this state.

22 L. In cooperation with the advisory council established by section
23 41-827.01, the board shall operate and maintain the centennial museum that
24 houses the mining and mineral museum and may engage in other activities
25 related to the museum as determined by the board or the executive director.
26 Monies received pursuant to this subsection shall be credited to an account
27 to be used for the maintenance and operations of the centennial museum that
28 houses the mining and mineral museum.

29 Sec. 125. Section 41-832, Arizona Revised Statutes, is amended to
30 read:

31 41-832. Meetings of society; nominations; bylaws of society;
32 election of officers; meetings; rules and
33 regulations; employment of director and other
34 personnel

35 A. The society shall meet annually on the first Monday of June at the
36 call of the president for the purpose of nominating new members of the board
37 of trustees and to conduct such other business as may properly come before
38 it. The nominations shall be made by a nominating committee chosen by the
39 members of the society. Members of the board of trustees shall serve for a
40 term of three years.

41 B. The society may adopt bylaws for its government.

42 C. The board of trustees shall elect annually from its membership a
43 president, vice president, secretary and a treasurer.

44 D. Regular meetings of the board of trustees shall be held at least
45 once during each calendar quarter. Special meetings may be held at the call
46 of the president or upon petition of any three of its members. Members of

1 the board of trustees shall receive no compensation but shall be reimbursed
2 for subsistence and travel expenses incurred in the performance of their
3 duties as provided for other state officers.

4 E. The board of trustees shall adopt rules and regulations for the
5 administration of the work of the society and for carrying out the provisions
6 of this article. The rules and regulations may divide membership of the
7 society in four classes named life, one year, associate and honorary and may
8 define each class. The fees for each class shall be fixed by the board of
9 trustees, provided that the fee for any class may not exceed twenty-five
10 dollars per annum.

11 F. The board of trustees may employ, SUBJECT TO CHAPTER 4, ARTICLE 4
12 OF THIS TITLE, a director, assistant director, custodians, archivists,
13 librarians, researchers, maintenance personnel, gardeners or other necessary
14 personnel, define their duties and fix their compensation PURSUANT TO SECTION
15 38-611 AND within the limits of legislative appropriation ~~therefor~~. The
16 board may also employ the services of professional consultants on a fee basis
17 within the limits of legislative appropriation ~~therefor~~.

18 Sec. 126. Section 41-902, Arizona Revised Statutes, is amended to
19 read:

20 41-902. Fiscal controls on institutions

21 A. ~~Salary-schedules~~ COMPENSATION FOR OFFICERS AND EMPLOYEES of state
22 institutions under the control of the governor shall be fixed by the governor
23 PURSUANT TO SECTION 38-611 unless otherwise provided by law. ~~Salary~~
24 ~~schedules~~ EMPLOYEE COMPENSATION shall be included in the estimate of expenses
25 submitted by the chief executive officer of the institution.

26 B. Each chief executive officer shall furnish a semi-monthly payroll
27 for the institution under his charge, showing the name, monthly salary and
28 length of service of each officer and employee. The payroll shall be audited
29 by the governor and a statement of the amount found due each employee shall
30 be filed with the director of the department of administration who shall
31 issue a separate warrant to each employee.

32 C. A bond in an amount to be fixed by the governor shall be required
33 from each official and employee having custody of funds or property belonging
34 to the state.

35 D. The remittance of money and other things of value received by the
36 institution shall be governed by ~~the provisions of~~ TITLE 35, chapter 1, ~~title~~
37 ~~35~~ so far as applicable, and the proper executive officer of each institution
38 shall in addition make a detailed statement showing the sources of such
39 receipts to the governor.

40 Sec. 127. Section 41-903, Arizona Revised Statutes, is amended to
41 read:

42 41-903. Officers and employees; employment

43 SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the chief executive
44 officer of each institution under the control of the governor shall appoint
45 assistants, clerks, guards and employees required to operate the institution,
46 the number to be determined by the governor, except as otherwise provided by

1 law. ~~The chief executive officer of the institution may discharge an~~
2 ~~employee for cause. An officer or employee may be removed by the governor~~
3 ~~for misconduct, incompetency or neglect of duty.~~

4 Sec. 128. Section 41-941, Arizona Revised Statutes, is amended to
5 read:

6 41-941. Location; superintendent; claims

7 A. There shall be a state hospital for disabled miners as a separate
8 facility for the benefit of disabled miners at the Arizona pioneers' home at
9 Prescott which shall be managed by the governor.

10 B. The superintendent of the Arizona pioneers' home shall serve as
11 superintendent of the miner's hospital and, SUBJECT TO CHAPTER 4, ARTICLE 4
12 OF THIS TITLE, may appoint assistants and employees and prescribe their
13 duties, subject to approval of the governor.

14 C. Claims for salaries and expenses authorized by this article shall
15 be presented and paid as other state claims.

16 Sec. 129. Section 41-982, Arizona Revised Statutes, is amended to
17 read:

18 41-982. Powers and duties

19 A. The commission may:

20 1. With the consent of a majority of the commission, employ, SUBJECT
21 TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, such personnel as may be required
22 within the limits of funds available in the arts fund. The compensation for
23 such personnel shall be as determined pursuant to section 38-611.

24 2. Hold hearings.

25 3. Enter into contracts, within the limits of funds available, with
26 local and regional associations, individuals, organizations and institutions
27 for any services which further the broad objectives of the commission's
28 program.

29 4. Accept gifts, contributions and bequests of unrestricted funds for
30 deposit in the arts fund or the arts trust fund from individuals,
31 foundations, corporations, and other organizations or institutions for the
32 purpose of furthering the broad objectives of the commission's program.

33 5. Make agreements to carry out the purposes of this article.

34 6. Request cooperation from any state agency for the purposes of this
35 article.

36 B. The commission shall:

37 1. Stimulate and encourage throughout the state the study and
38 presentation of the performing arts, fine arts, and public interest and
39 participation therein.

40 2. Make such surveys of public and private institutions engaged within
41 the state in artistic and cultural activities, as may be deemed advisable,
42 and make recommendations concerning appropriate methods to encourage
43 participation in and appreciation of the arts to meet the legitimate needs
44 and aspirations of persons in all parts of the state.

1 3. Take such steps as may be necessary and appropriate to encourage
2 public interest in the cultural heritage of our state and to expand the
3 state's cultural resources.

4 4. Encourage and assist freedom of artistic and scholarly expression
5 essential for the well-being of the arts.

6 5. Formulate policies and adopt rules and regulations which are
7 consistent with the purposes of this article.

8 Sec. 130. Section 41-1009, Arizona Revised Statutes, is amended to
9 read:

10 41-1009. Inspections; applicability

11 A. An agency inspector or regulator who enters any premises of a
12 regulated person for the purpose of conducting an inspection shall:

13 1. Present photo identification on entry of the premises.

14 2. On initiation of the inspection, state the purpose of the
15 inspection and the legal authority for conducting the inspection.

16 3. Disclose any applicable inspection fees.

17 4. Afford an opportunity to have an authorized on-site representative
18 of the regulated person accompany the agency inspector or regulator on the
19 premises, except during confidential interviews.

20 5. Provide notice of the right to have on request:

21 (a) Copies of any original documents taken by the agency during the
22 inspection if the agency is permitted by law to take original documents.

23 (b) A split of any samples taken during the inspection if the split of
24 any samples would not prohibit an analysis from being conducted or render an
25 analysis inconclusive.

26 (c) Copies of any analysis performed on samples taken during the
27 inspection.

28 (d) Copies of any documents to be relied on to determine compliance
29 with licensure or regulatory requirements if the agency is otherwise
30 permitted by law to do so.

31 6. Inform each person whose conversation with the agency inspector or
32 regulator during the inspection is tape recorded that the conversation is
33 being tape recorded.

34 7. Inform each person interviewed during the inspection that
35 statements made by the person may be included in the inspection report.

36 B. On initiation of an inspection of any premises of a regulated
37 person, an agency inspector or regulator shall provide the following in
38 writing:

39 1. The rights described in subsection A of this section.

40 2. The name and telephone number of a contact person available to
41 answer questions regarding the inspection.

42 3. The due process rights relating to an appeal of a final decision of
43 an agency based on the results of the inspection, including the name and
44 telephone number of a person to contact within the agency and any appropriate
45 state government ombudsman.

1 C. An agency inspector or regulator shall obtain the signature of the
2 regulated person or on-site representative of the regulated person on the
3 writing prescribed in subsection B of this section indicating that the
4 regulated person or on-site representative of the regulated person has read
5 the writing prescribed in subsection B of this section and is notified of the
6 regulated person's or on-site representative of the regulated person's
7 inspection and due process rights. The agency shall maintain a copy of this
8 signature with the inspection report and shall leave a copy with the
9 regulated person or on-site representative of the regulated person. If a
10 regulated person or on-site representative of the regulated person is not at
11 the site or refuses to sign the writing prescribed in subsection B of this
12 section, the agency inspector or regulator shall note that fact on the
13 writing prescribed in subsection B of this section.

14 D. An agency that conducts an inspection shall give a copy of the
15 inspection report to the regulated person or on-site representative of the
16 regulated person either:

- 17 1. At the time of the inspection.
- 18 2. Notwithstanding any other state law, within thirty working days
19 after the inspection.
- 20 3. As otherwise required by federal law.

21 E. The inspection report shall contain deficiencies identified during
22 an inspection. Unless otherwise provided by law, the agency may provide the
23 regulated person an opportunity to correct the deficiencies unless the agency
24 determines that the deficiencies are:

- 25 1. Committed intentionally.
- 26 2. Not correctable within a reasonable period of time as determined by
27 the agency.
- 28 3. Evidence of a pattern of noncompliance.
- 29 4. A risk to any person, the public health, safety or welfare or the
30 environment.

31 F. If the agency allows the regulated person an opportunity to correct
32 the deficiencies pursuant to subsection E of this section, the regulated
33 person shall notify the agency when the deficiencies have been corrected.
34 Within thirty days of receipt of notification from the regulated person that
35 the deficiencies have been corrected, the agency shall determine if the
36 regulated person is in substantial compliance and notify the regulated person
37 whether or not the regulated person is in substantial compliance. If the
38 regulated person fails to correct the deficiencies or the agency determines
39 the deficiencies have not been corrected within a reasonable period of time,
40 the agency may take any enforcement action authorized by law for the
41 deficiencies.

42 G. For agencies with authority under title 49, if the agency does not
43 allow the regulated person an opportunity to correct deficiencies pursuant to
44 subsection E of this section, on the request of the regulated person, the
45 agency shall provide a written explanation of the reason that an opportunity
46 to correct was not allowed.

1 H. An agency decision pursuant to subsection E or F of this section is
2 not an appealable agency action.

3 I. At least once every month after the commencement of the inspection
4 an agency shall provide a regulated person with an update on the status of
5 any agency action resulting from an inspection of the regulated person. An
6 agency is not required to provide an update after the regulated person is
7 notified that no agency action will result from the agency inspection or
8 after the completion of agency action resulting from the agency inspection.

9 J. For agencies with authority under title 49, if, as a result of an
10 inspection or any other investigation, an agency alleges that a regulated
11 person is not in compliance with licensure or other applicable regulatory
12 requirements, the agency shall provide written notice of that allegation to
13 the regulated person. The notice shall contain the following information:

14 1. A citation to the statute, regulation, license or permit condition
15 on which the allegation of noncompliance is based, including the specific
16 provisions in the statute, regulation, license or permit condition that are
17 alleged to be violated.

18 2. Identification of any documents relied on as a basis for the
19 allegation of noncompliance.

20 3. An explanation stated with reasonable specificity of the regulatory
21 and factual basis for the allegation of noncompliance.

22 4. Instructions for obtaining a timely opportunity to discuss the
23 alleged violation with the agency.

24 K. Subsection J of this section applies only to inspections necessary
25 for the issuance of a license or to determine compliance with licensure or
26 other regulatory requirements. Subsection J of this section does not apply
27 to an action taken pursuant to section 11-871, 11-876, 11-877, 49-457.01,
28 49-457.03 or 49-474.01. Issuance of a notice under subsection J of this
29 section is not a prerequisite to otherwise lawful agency actions seeking an
30 injunction or issuing an order if the agency determines that the action is
31 necessary on an expedited basis to abate an imminent and substantial
32 endangerment to public health or the environment and documents the basis for
33 that determination in the documents initiating the action.

34 L. This section does not authorize an inspection or any other act that
35 is not otherwise authorized by law.

36 M. Except as otherwise provided in subsection K of this section, this
37 section applies only to inspections necessary for the issuance of a license
38 or to determine compliance with licensure or other regulatory requirements
39 applicable to a licensee. This section does not apply:

40 1. To criminal investigations, investigations under tribal state
41 gaming compacts and undercover investigations that are generally or
42 specifically authorized by law.

43 2. If the inspector or regulator has reasonable suspicion to believe
44 that the regulated person may be engaged in criminal activity.

45 3. To the Arizona peace officer standards and training board
46 established by section 41-1821.

1 N. If an inspector or regulator gathers evidence in violation of this
2 section, the violation may be a basis to exclude the evidence in a civil or
3 administrative proceeding.

4 O. Failure of an agency, board or commission employee to comply with
5 this section:

6 1. ~~Constitutes cause for~~ MAY SUBJECT THE EMPLOYEE TO disciplinary
7 action or dismissal ~~of an employee.~~

8 2. Shall be considered by the judge and administrative law judge as
9 grounds for reduction of any fine or civil penalty.

10 P. An agency may make rules to implement subsection A, paragraph 5 of
11 this section.

12 Q. Nothing in this section shall be used to exclude evidence in a
13 criminal proceeding.

14 Sec. 131. Section 41-1051, Arizona Revised Statutes, is amended to
15 read:

16 41-1051. Governor's regulatory review council; membership;
17 terms; compensation; powers

18 A. A governor's regulatory review council is established that consists
19 of six members who are appointed by the governor pursuant to section 38-211,
20 and the director of the department of administration or the assistant
21 director of the department of administration who is responsible for
22 administering the council. The director or assistant director is an ex
23 officio member and chairperson of the council. The council shall elect a
24 vice-chairperson to serve as chairperson in the chairperson's absence. The
25 governor shall appoint at least one member who represents the public
26 interest, at least one member who represents the business community, one
27 member from a list of three persons who are not legislators submitted by the
28 president of the senate and one member from a list of three persons who are
29 not legislators submitted by the speaker of the house of representatives. At
30 least one member of the council shall be an attorney licensed to practice law
31 in this state. The governor shall appoint the members of the council for
32 staggered terms of three years. A vacancy occurring during the term of
33 office of any member shall be filled by appointment by the governor for the
34 unexpired portion of the term in the same manner as provided in this section.

35 B. The council shall meet at least once a month at a time and place
36 set by the chairperson and at other times and places as the chairperson deems
37 necessary.

38 C. Members of the council are eligible to receive compensation in an
39 amount of two hundred dollars for each day on which the council meets and
40 reimbursement of expenses pursuant to title 38, chapter 4, article 2.

41 D. The chairperson, subject to chapter 4, ARTICLE 4 AND, AS
42 APPLICABLE, articles 5 and 6 of this title, shall employ, determine the
43 conditions of employment of and specify the duties of administrative,
44 secretarial and clerical employees as the chairperson deems necessary.

45 E. The council may make rules pursuant to this chapter to carry out
46 the purposes of this chapter.

1 F. The council shall make the following information available to the
2 public on request and on the council's website:

3 1. A list of agency rules approved or returned pursuant to section
4 41-1052.

5 2. A list of agencies not certifying compliance as provided in section
6 41-1091.

7 3. A list of agencies that report a lack of progress pursuant to
8 section 41-1056, subsection H.

9 Sec. 132. Section 41-1092.01, Arizona Revised Statutes, is amended to
10 read:

11 41-1092.01. Office of administrative hearings; director; powers
12 and duties; fund

13 A. An office of administrative hearings is established.

14 B. The governor shall appoint the director pursuant to section 38-211.
15 At a minimum, the director shall have the experience necessary for
16 appointment as an administrative law judge. The director also shall possess
17 supervisory, management and administrative skills, as well as knowledge and
18 experience relating to administrative law.

19 C. The director shall:

20 1. Serve as the chief administrative law judge of the office.

21 2. Make and execute the contracts and other instruments that are
22 necessary to perform the director's duties.

23 3. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, hire employees,
24 including full-time administrative law judges, and contract for special
25 services, including temporary administrative law judges, that are necessary
26 to carry out this article. An administrative law judge employed or
27 contracted by the office shall have graduated from an accredited college of
28 law or shall have at least two years of administrative or managerial
29 experience in the subject matter or agency section the administrative law
30 judge is assigned to in the office.

31 4. Make rules that are necessary to carry out this article, including
32 rules governing ex parte communications in contested cases.

33 5. Submit a report to the governor, speaker of the house of
34 representatives and president of the senate by November 1 of each year
35 describing the activities and accomplishments of the office. The director's
36 annual report shall include a summary of the extent and effect of agencies'
37 utilization of administrative law judges, court reporters and other personnel
38 in proceedings under this article and recommendations for changes or
39 improvements in the administrative procedure act or any agency's practice or
40 policy with respect to the administrative procedure act.

41 6. Secure, compile and maintain all decisions, opinions or reports of
42 administrative law judges issued pursuant to this article and the reference
43 materials and supporting information that may be appropriate.

44 7. Develop, implement and maintain a program for the continuing
45 training and education of administrative law judges and agencies in regard to
46 their responsibilities under this article. The program shall require that an

1 administrative law judge receive training in the technical and subject matter
2 areas of the sections to which the administrative law judge is assigned.

3 8. Develop, implement and maintain a program of evaluation to aid the
4 director in the evaluation of administrative law judges appointed pursuant to
5 this article that includes comments received from the public.

6 9. Annually report the following to the governor, the president of the
7 senate and the speaker of the house of representatives by December 1 for the
8 prior fiscal year:

9 (a) The number of administrative law judge decisions rejected or
10 modified by agency heads.

11 (b) By category, the number and disposition of motions filed pursuant
12 to section 41-1092.07, subsection A to disqualify office administrative law
13 judges for bias, prejudice, personal interest or lack of expertise.

14 (c) By agency, the number and type of violations of section 41-1009.

15 10. Schedule hearings pursuant to section 41-1092.05 upon the request
16 of an agency or the filing of a notice of appeal pursuant to section
17 41-1092.03.

18 D. The director shall not require legal representation to appear
19 before an administrative law judge.

20 E. Except as provided in subsection F of this section, all state
21 agencies supported by state general fund sources, unless exempted by this
22 article, and the registrar of contractors shall use the services and
23 personnel of the office to conduct administrative hearings. All other
24 agencies shall contract for services and personnel of the office to conduct
25 administrative hearings.

26 F. An agency head, board or commission that directly conducts an
27 administrative hearing as an administrative law judge is not required to use
28 the services and personnel of the office for that hearing.

29 G. Each state agency, and each political subdivision contracting for
30 office services pursuant to subsection I of this section, shall make its
31 facilities available, as necessary, for use by the office in conducting
32 proceedings pursuant to this article.

33 H. The office shall employ full-time administrative law judges to
34 conduct hearings required by this article or other laws as follows:

35 1. The director shall assign administrative law judges from the office
36 to an agency, on either a temporary or a permanent basis, at supervisory or
37 other levels, to preside over contested cases and appealable agency actions
38 in accordance with the special expertise of the administrative law judge in
39 the subject matter of the agency.

40 2. The director shall establish the subject matter and agency sections
41 within the office that are necessary to carry out this article. Each subject
42 matter and agency section shall provide training in the technical and subject
43 matter areas of the section as prescribed in subsection C, paragraph 7 of
44 this section.

45 I. If the office cannot furnish an office administrative law judge
46 promptly in response to an agency request, the director may contract with

1 qualified individuals to serve as temporary administrative law judges. These
2 temporary administrative law judges are not employees of this state.

3 J. The office may provide administrative law judges on a contract
4 basis to any governmental entity to conduct any hearing not covered by this
5 article. The director may enter into contracts with political subdivisions
6 of this state, and these political subdivisions may contract with the
7 director for the purpose of providing administrative law judges and reporters
8 for administrative proceedings or informal dispute resolution. The contract
9 may define the scope of the administrative law judge's duties. Those duties
10 may include the preparation of findings, conclusions, decisions or
11 recommended decisions or a recommendation for action by the political
12 subdivision. For these services, the director shall request payment for
13 services directly from the political subdivision for which the services are
14 performed, and the director may accept payment on either an advance or
15 reimbursable basis.

16 K. The office shall apply monies received pursuant to subsections E
17 and J of this section to offset its actual costs for providing personnel and
18 services.

19 Sec. 133. Section 41-1604, Arizona Revised Statutes, is amended to
20 read:

21 41-1604. Duties and powers of director

22 A. The director shall:

23 1. Be responsible for the overall operations and policies of the
24 department.

25 2. Maintain and administer all institutions and programs within the
26 department, including prisons, reception and diagnostic centers, conservation
27 camps, community correctional centers and such other facilities and programs
28 as may be required and established for the custody, control, correction,
29 treatment and rehabilitation of all adult offenders who are committed to the
30 department.

31 3. Be responsible for the administration and execution of all
32 community supervision services, including those for adult offenders who are
33 released in accordance with law.

34 4. Develop a program to provide uniform statewide community
35 supervision field services in this state and employ parole or community
36 supervision officers based on qualifications prescribed by the director,
37 including physical, psychological and educational qualifications and
38 practical experience.

39 5. Be responsible for the development of policies and programs that
40 shall be recommended to the governor and the legislature for the purpose of
41 improving the various adult correctional programs of this state.

42 6. Develop and establish a uniform statewide method of reporting
43 statistics as related to this chapter.

44 7. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, employ deputy
45 directors and other key personnel based on qualifications prescribed by the
46 director that require education and practical experience.

1 8. Adopt rules pursuant to chapter 6 of this title for the development
2 of incentives to encourage good behavior and the faithful performance of work
3 by prisoners.

4 9. Adopt rules pursuant to chapter 6 of this title to limit inmate
5 access to the internet through the use of a computer, computer system,
6 network, computer service provider or remote computing service.

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

14 B. The director may:

15 1. Adopt rules to implement the purposes of the department and the
16 duties and powers of the director.

17 2. Take any administrative action to improve the efficiency of the
18 department, including the following:

19 (a) Create new divisions or units or consolidate divisions or units.

20 (b) [SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE](#), transfer employees
21 between the various divisions and units of the department.

22 (c) Shift duties between divisions or units.

23 (d) Delegate to appropriate personnel the administrative functions,
24 powers or duties that the director believes can be competently, efficiently
25 and properly performed. The director shall not delegate the responsibilities
26 in subsection A, paragraphs 1 and 5 of this section.

27 (e) Transfer adult inmates between adult institutions or adult
28 facilities.

29 (f) Authorize work crews to perform acceptable tasks in any part of
30 the state.

31 (g) Accept unconvicted persons pursuant to a court order for purposes
32 of examination and treatment regarding competency to understand any stage of
33 a criminal proceeding after indictment or information or their ability to
34 assist in their own defense.

35 (h) Accept convicted yet unsentenced persons pursuant to a court order
36 for purposes of conducting a mental health examination or a diagnostic
37 evaluation.

38 (i) [SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF](#)
39 [THIS TITLE](#), appoint certain employees of the department to peace officer
40 status for purposes of guarding, transporting or pursuing persons who are
41 under the jurisdiction of the department and appoint certain employees of the
42 department to peace officer status for purposes of investigating or arresting
43 persons who commit or attempt to commit offenses directly relating to the
44 operations of the department. Peace officers of the department shall not
45 preempt the authority and jurisdiction of established agencies of this state
46 and political subdivisions of this state. Such officers shall notify

1 agencies of this state and political subdivisions of this state before
2 conducting an investigation within the jurisdiction of the agency and before
3 making an arrest within the jurisdiction of the agency and shall ask, except
4 in an emergency, if the agency wishes to participate, perform the
5 investigation or arrest the person to be arrested before proceeding.
6 Personnel who are appointed as peace officers by the director shall have the
7 minimum qualifications established for peace officers pursuant to section
8 41-1822. Personnel who are appointed by the director pursuant to this
9 subdivision are not eligible to participate in the public safety personnel
10 retirement system except as otherwise provided in title 38, chapter 5,
11 article 4.

12 (j) Operate travel reduction programs that are subsidized by the
13 department for employees who commute between work and home by vanpools,
14 carpools and buses or in vehicles that are purchased or leased by the
15 department.

16 3. Establish by rule a one-time fee for conducting background checks
17 on any person who enters a department facility to visit a prisoner. A fee
18 shall not be charged for a person who is under eighteen years of age. The
19 director may adopt rules that waive all or part of the fee. The director
20 shall deposit, pursuant to sections 35-146 and 35-147, any monies collected
21 pursuant to this paragraph in the department of corrections building renewal
22 fund established by section 41-797.

23 Sec. 134. Section 41-1711, Arizona Revised Statutes, is amended to
24 read:

25 41-1711. Department of public safety: purpose: location:
26 qualifications of director: responsibilities

27 A. There shall be a department of public safety which is responsible
28 for creating and coordinating services for use by local law enforcement
29 agencies in protecting the public safety. The principal office and
30 headquarters of the department shall be in Phoenix.

31 B. The department shall formulate plans with a view to establishing
32 modern services for prevention of crime, apprehension of violators, training
33 of law enforcement personnel, and the promotion of public safety. The
34 department shall in no way preempt the authority and jurisdiction of
35 established agencies of political subdivisions of the state.

36 C. The director shall be selected on the basis of training and
37 experience with a minimum of five years' experience in the administration of
38 law enforcement.

39 D. The director shall be appointed by the governor pursuant to
40 section 38-211 to serve ~~for a term of five years~~ **CONCURRENTLY WITH THE**
41 **APPOINTING GOVERNOR** and shall be subject to removal for cause, including but
42 not limited to malfeasance, misfeasance and nonfeasance in office. ~~The term~~
43 ~~shall expire on the third Monday in January of the appropriate year.~~ The
44 director shall receive annual compensation as determined pursuant to section
45 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.

45 Sec. 135. Section 41-1830.11, Arizona Revised Statutes, is amended to
46 read:

1 41-1830.11. Law enforcement merit system council: composition

2 A. The governor shall appoint a law enforcement merit system council
3 PURSUANT TO SECTION 38-211. The council consists of ~~three~~ FIVE persons
4 ~~chosen on the basis of experience in and sympathy with merit principles of~~
5 ~~public employment.~~ NO MORE THAN THREE MEMBERS SHALL BELONG TO THE SAME
6 POLITICAL PARTY. PERSONS ELIGIBLE FOR APPOINTMENT SHALL HAVE HAD A
7 CONTINUOUS RECORDED REGISTRATION PURSUANT TO TITLE 16, CHAPTER 1 WITH EITHER
8 THE SAME POLITICAL PARTY OR AS AN INDEPENDENT FOR AT LEAST TWO YEARS
9 IMMEDIATELY PRECEDING APPOINTMENT. MEMBERS APPOINTED SHALL BE PERSONS WHO
10 ARE COMMITTED TO ENFORCING THIS ARTICLE IN AN HONEST, INDEPENDENT AND
11 IMPARTIAL FASHION AND TO SEEKING TO UPHOLD PUBLIC CONFIDENCE IN THE INTEGRITY
12 OF PUBLIC SAFETY PEACE OFFICERS. The members of the council shall not have
13 held elective public office within one year before appointment and shall not
14 hold any other political office while serving on the council.

15 B. The governor shall fill a vacancy on the same basis as the original
16 appointment.

17 C. Members of the council are ~~not~~ eligible to receive compensation for
18 their services ~~but are eligible to receive reimbursement of expenses pursuant~~
19 ~~to title 38, chapter 4, article 2~~ IN THE AMOUNT OF ONE HUNDRED DOLLARS FOR
20 EACH MEETING ATTENDED, PRORATED FOR PARTIAL DAYS FOR EACH MEETING ATTENDED.

21 D. A member serves for a term of ~~six~~ THREE years. The governor may
22 remove a member only for cause.

23 E. The chairman of the council serves as an ex officio member of the
24 state personnel board without voting privileges.

25 Sec. 136. Section 41-1830.12, Arizona Revised Statutes, is amended to
26 read:

27 41-1830.12. Law enforcement merit system council: duties:
28 authority; rules; business manager; definition

29 A. The law enforcement merit system council shall:

30 1. Select a chairman and vice-chairman.

31 2. Hold meetings that are necessary to perform its duties on the call
32 of the chairman.

33 3. ADOPT RULES pursuant to recognized merit principles of public
34 employment ~~adopt rules~~ it deems necessary for establishing the following for
35 department of public safety and Arizona peace officer standards and training
36 board personnel:

37 (a) A classification and compensation plan for all covered positions
38 and for establishing standards and qualifications for all classified
39 positions from a list of necessary employees that is prepared by the director
40 of the employing agency.

41 (b) A plan for fair and impartial selection, appointment, probation,
42 promotion, retention and separation or removal from service by resignation,
43 retirement, reduction in force or dismissal of all classified employees.

44 (c) A performance appraisal system for evaluating the work performance
45 of employees of the agencies.

1 (d) Procedures for the conduct of hearings of employee grievances that
2 are brought before the council relating to classification, compensation and
3 the employee appraisal system.

4 (e) Procedures for the conduct of hearings on appeals from an order of
5 the director of the employing agency in connection with suspension, demotion,
6 reduction in pay, loss of accrued leave time or dismissal of a classified
7 employee.

8 ~~4.~~ (f) ~~Adopt rules~~ For hours of employment, annual and sick leave and
9 special leaves of absence, with or without pay or with reduced pay.

10 ~~5.~~ 4. Pursuant to recognized merit principles, hear and review
11 appeals from any order of the director of the employing agency in connection
12 with suspension, demotion, reduction in pay, loss of accrued leave time or
13 dismissal of a classified employee. The council's determination is ~~final,~~
14 ~~except on~~ SUBJECT TO REVIEW BY THE DIRECTOR AND appeal as provided in section
15 41-1830.13.

16 B. The council may meet with the state personnel board to discuss
17 matters of mutual concern.

18 C. The rules under subsection A, paragraph ~~4~~ 3, SUBDIVISION (f) of
19 this section shall provide for the transfer of accumulated annual leave from
20 one employee to another employee in the same agency and for the transfer of
21 accumulated annual leave from one employee to another employee of another
22 agency, department, board or commission if the employees are members of the
23 same family. The transfers may occur if the employee to whom the leave is
24 transferred has a seriously incapacitating and extended illness or injury or
25 a member of the employee's immediate family has a seriously incapacitating
26 and extended illness or injury and the employee has exhausted all available
27 leave balances. Transferred annual leave shall be increased or reduced
28 proportionally by the difference in the salaries of the employees as
29 determined by council rule. For the purposes of this subsection, "family"
30 means spouse, natural child, adopted child, foster child, stepchild, natural
31 parent, stepparent, adoptive parent, grandparent, grandchild, brother,
32 sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law,
33 mother-in-law or father-in-law.

34 D. IN HEARING AND REVIEWING AN APPEAL FROM ANY ORDER OF THE DIRECTOR
35 OF THE EMPLOYING AGENCY, THE COUNCIL:

36 1. SHALL DETERMINE WHETHER THE EMPLOYING AGENCY HAS PROVEN BY A
37 PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS
38 BASED. ON SUCH A FINDING, THE COUNCIL SHALL AFFIRM THE DECISION OF THE
39 DIRECTOR OF THE EMPLOYING AGENCY, UNLESS THE DISCIPLINARY DECISION WAS
40 ARBITRARY AND CAPRICIOUS.

41 2. MAY RECOMMEND MODIFICATION OF A DISCIPLINARY ACTION IF THE DIRECTOR
42 OF THE EMPLOYING AGENCY HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE
43 MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED OR IF A DISCIPLINARY
44 DECISION IS FOUND TO BE ARBITRARY AND CAPRICIOUS.

45 3. SHALL REVERSE THE DECISION OF THE DIRECTOR OF THE EMPLOYING AGENCY
46 IF THE COUNCIL FINDS THAT CAUSE DID NOT EXIST FOR ANY DISCIPLINE TO BE

1 IMPOSED AND, IN THE CASE OF DISMISSAL OR DEMOTION, RETURN THE EMPLOYEE TO THE
2 SAME POSITION THE EMPLOYEE HELD BEFORE THE DISMISSAL OR DEMOTION WITH OR
3 WITHOUT BACK PAY.

4 E. ON A FINDING THAT THE DIRECTOR OF THE EMPLOYING AGENCY HAS NOT
5 PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE
6 DISCIPLINE WAS BASED, THE COUNCIL SHALL IDENTIFY THE MATERIAL FACTS THAT THE
7 COUNCIL FOUND WERE NOT SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE AND MAY
8 RECOMMEND A PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN. ON A
9 FINDING THAT THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS, THE
10 COUNCIL SHALL INCLUDE THE COUNCIL'S REASONS FOR THE COUNCIL'S FINDING AND MAY
11 RECOMMEND A PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN.

12 F. WITHIN FORTY-FIVE DAYS AFTER THE CONCLUSION OF THE HEARING, THE
13 COUNCIL SHALL ENTER ITS DECISION OR RECOMMENDATION AND SHALL AT THE SAME TIME
14 SEND A COPY OF THE DECISION OR RECOMMENDATION BY CERTIFIED MAIL TO THE
15 EMPLOYING AGENCY AND TO THE EMPLOYEE AT THE EMPLOYEE'S ADDRESS AS GIVEN AT
16 THE HEARING OR TO A REPRESENTATIVE DESIGNATED BY THE EMPLOYEE TO RECEIVE A
17 COPY OF THE DECISION OR RECOMMENDATION.

18 ~~D.~~ G. The council shall select and the director of the department of
19 public safety shall appoint a business manager who is a certified peace
20 officer and an employee of the department of public safety but who is not a
21 member of the council. The business manager shall perform and discharge all
22 of the powers and duties that are vested in the council, except that adoption
23 of rules, creation and adjustment of classifications and grades, compensation
24 and hearing appeals for dismissal, demotion, reduction in pay, suspensions or
25 other punitive action remain the duty of the council. Any power or duty that
26 the council may lawfully delegate to the business manager is conclusively
27 presumed to have been delegated to the business manager unless it is shown
28 that the council by an affirmative vote recorded in its minutes has
29 specifically reserved the power or duty to itself. At the request of the
30 council, the business manager may make inquiries regarding or investigate
31 infractions of council rules within the department of public safety. The
32 business manager shall report the result of the inquiry or investigation to
33 the council for appropriate action. The business manager may delegate the
34 business manager's powers and duties to the business manager's subordinates
35 unless by council rule or express provision of law the business manager is
36 specifically required to act personally.

37 ~~E.~~ H. For the purposes of this section AND SECTION 41-1830.13,
38 "director of the employing agency" means the director of the department of
39 public safety with respect to employees of the department and the executive
40 director of the Arizona peace officer standards and training board with
41 respect to employees of the board.

42 Sec. 137. Section 41-1830.13, Arizona Revised Statutes, is amended to
43 read:

44 41-1830.13. Review of council decision by agency director;
45 appeal; reinstatement

1 A. WITHIN FOURTEEN DAYS OF RECEIPT OF THE FINDING OR RECOMMENDATION BY
2 THE COUNCIL PURSUANT TO SECTION 41-1830.12, THE DIRECTOR OF THE EMPLOYING
3 AGENCY SHALL ACCEPT, MODIFY OR REVERSE THE COUNCIL'S DECISION OR ACCEPT,
4 MODIFY OR REJECT THE COUNCIL'S RECOMMENDATION. THE DIRECTOR SHALL ACCEPT THE
5 COUNCIL'S RECOMMENDATION UNLESS THE RECOMMENDATION IS ARBITRARY OR WITHOUT
6 REASONABLE JUSTIFICATION. IF THE DIRECTOR DOES NOT ACCEPT THE COUNCIL'S
7 RECOMMENDATION, THE DIRECTOR SHALL STATE THE REASON OR REASONS FOR REJECTING
8 THE RECOMMENDATION. THE DECISION OF THE DIRECTOR OF THE EMPLOYING AGENCY IS
9 FINAL AND BINDING. THE DIRECTOR OF THE EMPLOYING AGENCY SHALL SEND A COPY OF
10 THE AGENCY'S FINAL DETERMINATION TO THE EMPLOYEE PURSUANT TO SECTION
11 41-1830.12.

12 ~~A.~~ B. Except as provided in section 41-1092.08, subsection H, a
13 classified employee who is suspended, is demoted, has pay reduced, loses
14 accrued leave time or is dismissed pursuant to this article, after a fair
15 hearing and review before the law enforcement merit system council and
16 ~~confirmation~~ REVIEW of the suspension, demotion, reduction in pay, loss of
17 accrued leave time or dismissal by the director of the ~~department of public~~
18 ~~safety~~ EMPLOYING AGENCY, may appeal the ~~final~~ determination of the council
19 AND THE FINAL DETERMINATION OF THE DIRECTOR OF THE EMPLOYING AGENCY pursuant
20 to title 12, chapter 7, article 6 ON ONE OR MORE OF THE FOLLOWING GROUNDS
21 THAT THE ORDER WAS:

- 22 1. FOUNDED ON OR CONTAINED ERROR OF LAW 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 ~~B.~~ C. In addition to the trial court's powers as prescribed in
29 section 12-911, if the court overrules the determination of the council OR
30 THE DIRECTOR OF THE EMPLOYING AGENCY, the employee shall be reinstated in the
31 employee's position and the employee shall receive full compensation for any
32 salary withheld pending the determination by the council, THE DIRECTOR OF THE
33 EMPLOYING AGENCY and court.

34 Sec. 138. Repeal

35 Section ~~41-1830.14~~, Arizona Revised Statutes, is repealed.

36 Sec. 139. Section 41-1830.15, Arizona Revised Statutes, is amended to
37 read:

38 ~~41-1830.15.~~ Causes for dismissal or discipline; definitions

39 A. The director of the department of public safety may dismiss or
40 discipline any classified employee based on any of the following causes:

- 41 1. Fraud or misrepresentation in securing employment.
- 42 2. Incompetency.
- 43 3. Inefficiency.
- 44 4. Inexcusable neglect of duty or unauthorized absence.
- 45 5. Insubordination.
- 46 6. Dishonesty.

1 7. Physical or mental disability subject to the provisions of the
2 Americans with disabilities act of 1990 (42 United States Code sections 12101
3 through 12213).

4 8. Unauthorized drinking on duty or drunkenness on duty.

5 9. Being impaired by alcohol or drugs, as provided in title 13,
6 chapter 34, while on duty.

7 10. Commission of any crime classified as a felony.

8 11. Discourteous treatment of the public or other employees.

9 12. Commission of any crime involving moral turpitude.

10 13. Improper political activity as proscribed in section ~~41-772~~ 41-752.

11 14. Misuse or unauthorized use of state property.

12 15. Addiction to the illegal use of a narcotic or dangerous drug.

13 16. Any other failure of good behavior or acts either during or outside
14 of duty hours that are incompatible with or inimical to the interest of the
15 department of public safety.

16 B. For the purposes of this section:

17 1. "Incompetency" means the lack of ability or judgment, legal
18 qualifications or fitness to discharge required duties.

19 2. "Inefficiency" means the failure to produce as required for reasons
20 other than incompetency.

21 Sec. 140. Title 41, chapter 12, article 10, Arizona Revised Statutes,
22 is amended by adding section 41-1830.16, to read:

23 41-1830.16. Law enforcement merit system council duties;
24 authority; appeals of covered full authority
25 peace officers employed by agencies in the state
26 personnel system; definitions

27 A. THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL SHALL ADOPT RULES THE
28 COUNCIL DEEMS NECESSARY FOR THE ADMINISTRATION OF HEARINGS AND THE REVIEW OF
29 APPEALS AS PRESCRIBED IN THIS SECTION.

30 B. A COVERED EMPLOYEE IN THE STATE PERSONNEL SYSTEM WHO IS A FULL
31 AUTHORITY PEACE OFFICER AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS
32 AND TRAINING BOARD, IS APPOINTED TO A POSITION THAT REQUIRES SUCH A
33 CERTIFICATION IN THE COVERED SERVICE AND WHO HAS COMPLETED THE EMPLOYEE'S
34 ORIGINAL PROBATIONARY PERIOD OF SERVICE AS PROVIDED BY THE PERSONNEL RULES
35 MAY APPEAL TO THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL THE COVERED EMPLOYEE'S
36 DISMISSAL FROM COVERED SERVICE, SUSPENSION FOR MORE THAN FORTY WORKING HOURS
37 OR INVOLUNTARY DEMOTION RESULTING FROM DISCIPLINARY ACTION. THE COVERED
38 EMPLOYEE SHALL FILE THE APPEAL NO LATER THAN TEN WORKING DAYS AFTER THE
39 EFFECTIVE DATE OF THE ACTION. THE COVERED EMPLOYEE SHALL BE FURNISHED WITH
40 SPECIFIED CHARGES IN WRITING WHEN THE ACTION IS TAKEN. THE APPEAL SHALL BE
41 IN WRITING AND MUST STATE SPECIFIC FACTS RELATING DIRECTLY TO THE CHARGES ON
42 WHICH THE APPEAL IS BASED. THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL SHALL
43 HEAR THE APPEAL WITHIN THIRTY DAYS AFTER THE COUNCIL'S RECEIPT. THE LAW
44 ENFORCEMENT MERIT SYSTEM COUNCIL SHALL PROVIDE THE EMPLOYING AGENCY WITH A
45 COPY OF THE APPEAL NOT LESS THAN TWENTY DAYS IN ADVANCE OF THE HEARING.

46 C. IN HEARING AND REVIEWING AN APPEAL, THE COUNCIL:

1 1. SHALL DETERMINE WHETHER THE EMPLOYING AGENCY HAS PROVEN BY A
2 PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS
3 BASED. ON SUCH A FINDING THE COUNCIL SHALL AFFIRM THE DECISION OF THE STATE
4 AGENCY HEAD UNLESS THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS.

5 2. MAY RECOMMEND MODIFICATION OF A DISCIPLINARY ACTION IF THE STATE
6 AGENCY HEAD HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL
7 FACTS ON WHICH THE DISCIPLINE WAS BASED OR IF A DISCIPLINARY DECISION IS
8 FOUND TO BE ARBITRARY AND CAPRICIOUS.

9 3. SHALL REVERSE THE DECISION OF THE STATE AGENCY HEAD IF THE COUNCIL
10 FINDS THAT CAUSE DID NOT EXIST FOR ANY DISCIPLINE TO BE IMPOSED AND, IN THE
11 CASE OF DISMISSAL OR DEMOTION, RETURN THE EMPLOYEE TO THE SAME POSITION THE
12 EMPLOYEE HELD BEFORE THE DISMISSAL OR DEMOTION WITH OR WITHOUT BACK PAY.

13 D. ON A FINDING THAT THE STATE AGENCY HEAD HAS NOT PROVEN BY A
14 PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS
15 BASED, THE COUNCIL SHALL IDENTIFY THE MATERIAL FACTS THAT THE COUNCIL FOUND
16 WERE NOT SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE AND MAY RECOMMEND A
17 PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN. ON A FINDING THAT
18 THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS, THE COUNCIL SHALL
19 INCLUDE THE COUNCIL'S REASONS FOR THE COUNCIL'S FINDING AND MAY RECOMMEND A
20 PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN.

21 E. WITHIN FORTY-FIVE DAYS AFTER THE CONCLUSION OF THE HEARING, THE
22 COUNCIL SHALL ENTER ITS DECISION OR RECOMMENDATION AND SHALL AT THE SAME TIME
23 SEND A COPY OF THE DECISION OR RECOMMENDATION BY CERTIFIED MAIL TO THE
24 EMPLOYING AGENCY AND TO THE EMPLOYEE AT THE EMPLOYEE'S ADDRESS AS GIVEN AT
25 THE HEARING OR TO A REPRESENTATIVE DESIGNATED BY THE EMPLOYEE TO RECEIVE A
26 COPY OF THE DECISION OR RECOMMENDATION. THE STATE AGENCY HEAD OR THE AGENCY
27 HEAD'S DESIGNEE SHALL ACCEPT, MODIFY OR REVERSE THE COUNCIL'S DECISION OR
28 ACCEPT, MODIFY OR REJECT THE COUNCIL'S RECOMMENDATION WITHIN FOURTEEN DAYS OF
29 RECEIPT OF THE FINDINGS OR RECOMMENDATION FROM THE LAW ENFORCEMENT MERIT
30 SYSTEM COUNCIL. THE DECISION OF THE AGENCY HEAD OR AGENCY HEAD'S DESIGNEE IS
31 FINAL AND BINDING. THE AGENCY HEAD SHALL SEND A COPY OF THE AGENCY'S FINAL
32 DETERMINATION TO THE COVERED EMPLOYEE PURSUANT TO THIS SECTION.

33 F. ANY PARTY MAY APPEAL THE DECISION OF THE LAW ENFORCEMENT MERIT
34 SYSTEM COUNCIL OR THE FINAL DECISION OF THE AGENCY PURSUANT TO TITLE 12,
35 CHAPTER 7, ARTICLE 6 TO THE SUPERIOR COURT IN THE COVERED EMPLOYEE'S COUNTY
36 OF RESIDENCE ON ONE OR MORE OF THE FOLLOWING GROUNDS THAT THE ORDER WAS:

37 1. FOUNDED ON OR CONTAINED ERROR OF LAW THAT SHALL SPECIFICALLY
38 INCLUDE ERROR OF CONSTRUCTION OR APPLICATION OF ANY PERTINENT RULES.

39 2. UNSUPPORTED BY ANY EVIDENCE AS DISCLOSED BY THE ENTIRE RECORD.

40 3. MATERIALLY AFFECTED BY UNLAWFUL PROCEDURE.

41 4. BASED ON A VIOLATION OF ANY CONSTITUTIONAL PROVISION.

42 5. ARBITRARY OR CAPRICIOUS.

43 G. AN APPEAL SHALL BE AVAILABLE TO THE COURT OF APPEALS FROM THE ORDER
44 OF THE SUPERIOR COURT PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6 AS IN OTHER
45 CIVIL CASES.

46 H. FOR THE PURPOSES OF THIS SECTION:

1 1. "COVERED EMPLOYEE" HAS THE SAME MEANING PRESCRIBED IN SECTION
2 41-741.

3 2. "COVERED SERVICE" HAS THE SAME MEANING PRESCRIBED IN SECTION
4 41-741.

5 3. "EMPLOYING AGENCY" MEANS THE AGENCY IN THE STATE PERSONNEL SYSTEM
6 WHERE THE COVERED EMPLOYEE IS OR, IN THE CASE OF DISMISSAL, WAS EMPLOYED.

7 4. "FULL AUTHORITY PEACE OFFICER" MEANS A PEACE OFFICER WHOSE
8 AUTHORITY TO ENFORCE THE LAWS OF THIS STATE IS NOT LIMITED BY THE RULES
9 ADOPTED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD.

10 5. "ORIGINAL PROBATIONARY PERIOD" HAS THE SAME MEANING PRESCRIBED IN
11 SECTION 41-741.

12 6. "PERSONNEL RULES" MEANS THE RULES ADOPTED BY THE DEPARTMENT OF
13 ADMINISTRATION, HUMAN RESOURCES DIVISION.

14 7. "STATE AGENCY HEAD" MEANS THE CHIEF EXECUTIVE OFFICER OF THE
15 EMPLOYING AGENCY.

16 8. "STATE PERSONNEL SYSTEM" HAS THE SAME MEANING PRESCRIBED IN SECTION
17 41-741.

18 Sec. 141. Section 41-1952, Arizona Revised Statutes, is amended to
19 read:

20 41-1952. Department of economic security; director;
21 appointment; compensation

22 A. A department of economic security is established.

23 B. The direction, operation and control of the department are the
24 responsibility of the director.

25 C. The director shall be appointed by the governor ~~with the advice and~~
26 ~~consent of the senate~~ PURSUANT TO SECTION 38-211 and shall serve at the
27 pleasure of the governor.

28 ~~D. The department of administration shall assist the governor in~~
29 ~~preparing a job description for the position of director and recruiting~~
30 ~~candidates for the position. The qualifications of the candidates shall be~~
31 ~~reviewed by a committee of seven persons selected by the governor. The names~~
32 ~~of all those candidates determined by the committee to be qualified for the~~
33 ~~position shall be submitted to the governor for the governor's consideration.~~
34 ~~The governor may request additional names from the committee if the governor~~
35 ~~deems necessary. For each subsequent vacancy in the position of director, a~~
36 ~~new committee shall be appointed by the governor.~~

37 ~~E.~~ D. Compensation for the director shall be established pursuant to
38 section 38-611.

39 Sec. 142. Section 41-1954, Arizona Revised Statutes, is amended to
40 read:

41 41-1954. Powers and duties

42 A. In addition to the powers and duties of the agencies listed in
43 section 41-1953, subsection E, the department shall:

44 1. Administer the following services:

45 (a) Employment services, which shall include manpower programs and
46 work training, field operations, technical services, unemployment

1 compensation, community work and training and other related functions in
2 furtherance of programs under the social security act, as amended, the
3 Wagner-Peyser act, as amended, the federal unemployment tax act, as amended,
4 33 United States Code, the family support act of 1988 (P.L. 100-485) and
5 other related federal acts and titles.

6 (b) Individual and family services, which shall include a section on
7 aging, services to children, youth and adults and other related functions in
8 furtherance of social service programs under the social security act, as
9 amended, title IV, grants to states for aid and services to needy families
10 with children and for child-welfare services, title XX, grants to states for
11 services, the older Americans act, as amended, the family support act of 1988
12 (P.L. 100-485) and other related federal acts and titles.

13 (c) Income maintenance services, which shall include categorical
14 assistance programs, special services unit, child support collection
15 services, establishment of paternity services, maintenance and operation of a
16 state case registry of child support orders, a state directory of new hires,
17 a support payment clearinghouse and other related functions in furtherance of
18 programs under the social security act, title IV, grants to states for aid
19 and services to needy families with children and for child-welfare services,
20 title XX, grants to states for services, as amended, and other related
21 federal acts and titles.

22 (d) Rehabilitation services, which shall include vocational
23 rehabilitation services and sections for the blind and visually impaired,
24 communication disorders, correctional rehabilitation and other related
25 functions in furtherance of programs under the vocational rehabilitation act,
26 as amended, the Randolph-Sheppard act, as amended, and other related federal
27 acts and titles.

28 (e) Administrative services, which shall include the coordination of
29 program evaluation and research, interagency program coordination and
30 in-service training, planning, grants, development and management,
31 information, legislative liaison, budget, licensing and other related
32 functions.

33 (f) Manpower planning, which shall include a state manpower planning
34 council for the purposes of the federal-state-local cooperative manpower
35 planning system and other related functions in furtherance of programs under
36 the comprehensive employment and training act of 1973, as amended, and other
37 related federal acts and titles.

38 (g) Economic opportunity services, which shall include the furtherance
39 of programs prescribed under the economic opportunity act of 1967, as
40 amended, and other related federal acts and titles.

41 (h) Intellectual disability and other developmental disability
42 programs, with emphasis on referral and purchase of services. The program
43 shall include educational, rehabilitation, treatment and training services
44 and other related functions in furtherance of programs under the
45 developmental disabilities services and facilities construction act, Public
46 Law 91-517, and other related federal acts and titles.

1 (i) Nonmedical home and community based services and functions,
2 including department designated case management, housekeeping services, chore
3 services, home health aid, personal care, visiting nurse services, adult day
4 care or adult day health, respite sitter care, attendant care, home delivered
5 meals and other related services and functions.

6 2. Provide a coordinated system of initial intake, screening,
7 evaluation and referral of persons served by the department.

8 3. Adopt rules it deems necessary or desirable to further the
9 objectives and programs of the department.

10 4. Formulate policies, plans and programs to effectuate the missions
11 and purposes of the department.

12 5. Employ, determine the conditions of employment and prescribe the
13 duties and powers of administrative, professional, technical, secretarial,
14 clerical and other persons **SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS**
15 **APPLICABLE, ARTICLE 5 OF THIS TITLE** as may be necessary in the performance of
16 its duties, contract for the services of outside advisors, consultants and
17 aides as may be reasonably necessary and reimburse department volunteers,
18 designated by the director, for expenses in transporting clients of the
19 department on official business.

20 6. Make contracts and incur obligations within the general scope of
21 its activities and operations subject to the availability of funds.

22 7. Contract with or assist other departments, agencies and
23 institutions of the state, local and federal governments in the furtherance
24 of its purposes, objectives and programs.

25 8. Be designated as the single state agency for the purposes of
26 administering and in furtherance of each federally supported state plan.

27 9. Accept and disburse grants, matching funds and direct payments from
28 public or private agencies for the conduct of programs that are consistent
29 with the overall purposes and objectives of the department.

30 10. Provide information and advice on request by local, state and
31 federal agencies and by private citizens, business enterprises and community
32 organizations on matters within the scope of its duties subject to the
33 departmental rules on the confidentiality of information.

34 11. Establish and maintain separate financial accounts as required by
35 federal law or regulations.

36 12. Advise and make recommendations to the governor and the legislature
37 on all matters concerning its objectives.

38 13. Have an official seal that shall be judicially noticed.

39 14. Annually estimate the current year's population of each county,
40 city and town in this state, using the periodic census conducted by the
41 United States department of commerce, or its successor agency, as the basis
42 for such estimates and deliver such estimates to the economic estimates
43 commission before December 15.

44 15. Estimate the population of any newly annexed areas of a political
45 subdivision as of July 1 of the fiscal year in which the annexation occurs

1 and deliver such estimates as promptly as is feasible after the annexation
2 occurs to the economic estimates commission.

3 16. Establish and maintain a statewide program of services for persons
4 who are both hearing impaired and visually impaired and coordinate
5 appropriate services with other agencies and organizations to avoid
6 duplication of these services and to increase efficiency. The department of
7 economic security shall enter into agreements for the utilization of the
8 personnel and facilities of the department of economic security, the
9 department of health services and other appropriate agencies and
10 organizations in providing these services.

11 17. Establish and charge fees for deposit in the department of economic
12 security prelayoff assistance services fund to employers who voluntarily
13 participate in the services of the department that provide job service and
14 retraining for persons who have been or are about to be laid off from
15 employment. The department shall charge only those fees necessary to cover
16 the costs of administering the job service and retraining services.

17 18. Establish a focal point for addressing the issue of hunger in
18 Arizona and provide coordination and assistance to public and private
19 nonprofit organizations that aid hungry persons and families throughout this
20 state. Specifically such activities shall include:

21 (a) Collecting and disseminating information regarding the location
22 and availability of surplus food for distribution to needy persons, the
23 availability of surplus food for donation to charity food bank organizations,
24 and the needs of charity food bank organizations for surplus food.

25 (b) Coordinating the activities of federal, state, local and private
26 nonprofit organizations that provide food assistance to the hungry.

27 (c) Accepting and disbursing federal monies, and any state monies
28 appropriated by the legislature, to private nonprofit organizations in
29 support of the collection, receipt, handling, storage and distribution of
30 donated or surplus food items.

31 (d) Providing technical assistance to private nonprofit organizations
32 that provide or intend to provide services to the hungry.

33 (e) Developing a state plan on hunger that, at a minimum, identifies
34 the magnitude of the hunger problem in this state, the characteristics of the
35 population in need, the availability and location of charity food banks and
36 the potential sources of surplus food, assesses the effectiveness of the
37 donated food collection and distribution network and other efforts to
38 alleviate the hunger problem, and recommends goals and strategies to improve
39 the status of the hungry. The state plan on hunger shall be incorporated
40 into the department's state comprehensive plan prepared pursuant to section
41 41-1956.

42 (f) Establishing a special purpose advisory council on hunger pursuant
43 to section 41-1981.

44 19. Establish an office to address the issue of homelessness and to
45 provide coordination and assistance to public and private nonprofit

1 organizations that prevent homelessness or aid homeless individuals and
2 families throughout this state. These activities shall include:

3 (a) Promoting and participating in planning for the prevention of
4 homelessness and the development of services to homeless persons.

5 (b) Identifying and developing strategies for resolving barriers in
6 state agency service delivery systems that inhibit the provision and
7 coordination of appropriate services to homeless persons and persons in
8 danger of being homeless.

9 (c) Assisting in the coordination of the activities of federal, state
10 and local governments and the private sector that prevent homelessness or
11 provide assistance to homeless people.

12 (d) Assisting in obtaining and increasing funding from all appropriate
13 sources to prevent homelessness or assist in alleviating homelessness.

14 (e) Serving as a clearinghouse on information regarding funding and
15 services available to assist homeless persons and persons in danger of being
16 homeless.

17 (f) Developing an annual state comprehensive homeless assistance plan
18 to prevent and alleviate homelessness.

19 (g) Submitting an annual report to the governor, the president of the
20 senate and the speaker of the house of representatives on the status of
21 homelessness and efforts to prevent and alleviate homelessness.

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

29 B. If the department OF ECONOMIC SECURITY has responsibility for the
30 care, custody or control of a child or is paying the cost of care for a
31 child, it may serve as representative payee to receive and administer social
32 security and ~~veterans-administration~~ UNITED STATES DEPARTMENT OF VETERANS
33 AFFAIRS benefits and other benefits payable to such child. Notwithstanding
34 any law to the contrary, the department OF ECONOMIC SECURITY:

35 1. Shall deposit, pursuant to sections 35-146 and 35-147, such monies
36 as it receives to be retained separate and apart from the state general fund
37 on the books of the department of administration.

38 2. May use such monies to defray the cost of care and services
39 expended by the department OF ECONOMIC SECURITY for the benefit, welfare and
40 best interests of the child and invest any of the monies that the director
41 determines are not necessary for immediate use.

42 3. Shall maintain separate records to account for the receipt,
43 investment and disposition of funds received for each child.

44 4. On termination of the ~~department's~~ DEPARTMENT OF ECONOMIC
45 SECURITY'S responsibility for the child, shall release any funds remaining to

1 the child's credit in accordance with the requirements of the funding source
2 or in the absence of such requirements shall release the remaining funds to:

3 (a) The child, if the child is at least eighteen years of age or is
4 emancipated.

5 (b) The person responsible for the child if the child is a minor and
6 not emancipated.

7 C. Subsection B of this section does not pertain to benefits payable
8 to or for the benefit of a child receiving services under title 36.

9 D. Volunteers reimbursed for expenses pursuant to subsection A,
10 paragraph 5 of this section are not eligible for workers' compensation under
11 title 23, chapter 6.

12 E. In implementing the temporary assistance for needy families program
13 pursuant to Public Law 104-193, the department shall provide for cash
14 assistance to two parent families if both parents are able to work only on
15 documented participation by both parents in work activities described in
16 title 46, chapter 2, article 5, except that payments may be made to families
17 who do not meet the participation requirements if:

18 1. It is determined on an individual case basis that they have
19 emergency needs.

20 2. The family is determined to be eligible for diversion from
21 long-term cash assistance pursuant to title 46, chapter 2, article 5.

22 F. The department shall provide for cash assistance under temporary
23 assistance for needy families pursuant to Public Law 104-193 to two parent
24 families for no longer than six months if both parents are able to work,
25 except that additional assistance may be provided on an individual case basis
26 to families with extraordinary circumstances. The department shall establish
27 by rule the criteria to be used to determine eligibility for additional cash
28 assistance.

29 G. The department shall adopt the following discount medical payment
30 system for persons who the department determines are eligible and who are
31 receiving rehabilitation services pursuant to subsection A, paragraph 1,
32 subdivision (d) of this section:

33 1. For inpatient hospital admissions and outpatient hospital services
34 the department shall reimburse a hospital according to the tiered per diem
35 rates and outpatient cost-to-charge ratios established by the Arizona health
36 care cost containment system administration pursuant to section 36-2903.01,
37 subsection H.

38 2. The department's liability for a hospital claim under this
39 subsection is subject to availability of funds.

40 3. A hospital bill is considered received for purposes of paragraph 5
41 of this subsection on initial receipt of the legible, error-free claim form
42 by the department if the claim includes the following error-free
43 documentation in legible form:

44 (a) An admission face sheet.

45 (b) An itemized statement.

46 (c) An admission history and physical.

1 (d) A discharge summary or an interim summary if the claim is split.

2 (e) An emergency record, if admission was through the emergency room.

3 (f) Operative reports, if applicable.

4 (g) A labor and delivery room report, if applicable.

5 4. The department shall require that the hospital pursue other
6 third-party payors before submitting a claim to the department. Payment
7 received by a hospital from the department pursuant to this subsection is
8 considered payment by the department of the department's liability for the
9 hospital bill. A hospital may collect any unpaid portion of its bill from
10 other third party payors or in situations covered by title 33, chapter 7,
11 article 3.

12 5. For inpatient hospital admissions and outpatient hospital services
13 rendered on and after October 1, 1997, if the department receives the claim
14 directly from the hospital, the department shall pay a hospital's rate
15 established according to this section subject to the following:

16 (a) If the hospital's bill is paid within thirty days of the date the
17 bill was received, the department shall pay ninety-nine per cent of the rate.

18 (b) If the hospital's bill is paid after thirty days but within sixty
19 days of the date the bill was received, the department shall pay one hundred
20 per cent of the rate.

21 (c) If the hospital's bill is paid any time after sixty days of the
22 date the bill was received, the department shall pay one hundred per cent of
23 the rate plus a fee of one per cent per month for each month or portion of a
24 month following the sixtieth day of receipt of the bill until the date of
25 payment.

26 6. For medical services other than those for which a rate has been
27 established pursuant to section 36-2903.01, subsection H, the department
28 shall pay according to the Arizona health care cost containment system capped
29 fee-for-service schedule adopted pursuant to section 36-2904, subsection K or
30 any other established fee schedule the department determines reasonable.

31 H. The department shall not pay claims for services pursuant to this
32 section that are submitted more than nine months after the date of service
33 for which the payment is claimed.

34 I. To assist in the location of persons or assets for the purpose of
35 establishing paternity, establishing, modifying or enforcing child support
36 obligations and other related functions, the department has access, including
37 automated access if the records are maintained in an automated database, to
38 records of state and local government agencies, including:

39 1. Vital statistics, including records of marriage, birth and divorce.

40 2. State and local tax and revenue records, including information on
41 residence address, employer, income and assets.

42 3. Records concerning real and titled personal property.

43 4. Records of occupational and professional licenses.

44 5. Records concerning the ownership and control of corporations,
45 partnerships and other business entities.

46 6. Employment security records.

1 7. Records of agencies administering public assistance programs.

2 8. Records of the motor vehicle division of the department of
3 transportation.

4 9. Records of the state department of corrections.

5 10. Any system used by a state agency to locate a person for motor
6 vehicle or law enforcement purposes, including access to information
7 contained in the Arizona criminal justice information system.

8 J. Notwithstanding subsection I of this section, the department or its
9 agents shall not seek or obtain information on the assets of an individual
10 unless paternity is presumed pursuant to section 25-814 or established.

11 K. Access to records of the department of revenue pursuant to
12 subsection I of this section shall be provided in accordance with section
13 42-2003.

14 L. The department also has access to certain records held by private
15 entities with respect to child support obligors or obligees, or individuals
16 against whom such an obligation is sought. The information shall be obtained
17 as follows:

18 1. In response to a child support subpoena issued by the department
19 pursuant to section 25-520, the names and addresses of these persons and the
20 names and addresses of the employers of these persons, as appearing in
21 customer records of public utilities and cable television companies.

22 2. Information on these persons held by financial institutions.

23 M. Pursuant to department rules, the department may compromise or
24 settle any support debt owed to the department if the director or an
25 authorized agent determines that it is in the best interest of the state and
26 after considering each of the following factors:

27 1. The obligor's financial resources.

28 2. The cost of further enforcement action.

29 3. The likelihood of recovering the full amount of the debt.

30 N. Notwithstanding any law to the contrary, a state or local
31 governmental agency or private entity is not subject to civil liability for
32 the disclosure of information made in good faith to the department pursuant
33 to this section.

34 Sec. 143. Section 41-2061, Arizona Revised Statutes, is amended to
35 read:

36 41-2061. Administration of chapter; director; appointment;
37 compensation; advisory committee

38 A. The director shall administer the provisions of this chapter.

39 B. The director shall be appointed by the governor pursuant to section
40 38-211 ~~from the names submitted by the search committee in accordance with~~
41 ~~subsection C of this section~~ and is eligible to receive compensation pursuant
42 to section 38-611.

43 ~~C. A search committee is established for the purpose of soliciting and~~
44 ~~screening applicants and submitting up to three names to the governor for the~~
45 ~~position of director of the department when a vacancy in the office of~~
46 ~~director exists. The governor may reject the names submitted by the search~~

~~committee and direct the search committee to submit additional names for consideration. The committee shall consist of nine members appointed by the governor from the following groups:~~

- ~~1. One member representing retail trade.~~
- ~~2. One member representing wholesale trade.~~
- ~~3. One member representing the liquid petroleum industry.~~
- ~~4. One member representing agriculture.~~
- ~~5. One member representing the weight and measure manufacturing industry.~~
- ~~6. Four members representing consumers.~~

~~D. The names for director shall be chosen based on practical experience, training and knowledge in weights and measures practices, procedures, laws and administrative functions. Members of the search committee shall select a chairman from the membership, and members of the search committee are not eligible to receive compensation or reimbursement of expenses.~~

~~E.~~ C. The director may appoint an advisory committee consisting of five members to review, advise and make recommendations to the director in the administration of the provisions of this chapter and regarding proposed rules provided for in this chapter.

Sec. 144. Section 41-2065, Arizona Revised Statutes, is amended to read:

41-2065. Powers and duties; definition

A. The department shall:

1. Maintain custody of the state reference standards of weights and measures that are traceable to the United States prototype standards and that are supplied to the states by the federal government or that are otherwise approved as being satisfactory by the national institute of standards and technology.

2. Keep the state reference standards in a safe and suitable place in the metrology laboratory of the department and ensure that they shall not be removed from the laboratory except for repairs or for calibration as may be prescribed by the national institute of standards and technology.

3. Keep accurate records of all standards and equipment.

4. Adopt any rules necessary to carry out this chapter and adopt reasonable rules for the enforcement of this chapter. These rules have the force and effect of law and shall be adopted pursuant to chapter 6 of this title. In adopting these rules, the director shall consider, as far as is practicable, the requirements established by other states and by authority of the United States, except that rules shall not be made in conflict with this chapter.

5. Publish rules adopted pursuant to this chapter and issue appropriate copies at no cost to all new applicants for licensure and certification. Updated copies of the rules shall be distributed, on request, at no cost to the public.

1 6. Investigate complaints made to the department concerning violations
2 of this chapter and, on its own initiative, conduct investigations it deems
3 appropriate to develop information relating to prevailing procedures in
4 commercial quantity determination and relating to possible violations of this
5 chapter, and in order to promote the general objective of accuracy in the
6 determination and representation of quantity in commercial transactions.

7 7. Establish labeling standards, establish standards of weight,
8 measure or count and establish reasonable standards of fill for any packaged
9 commodity, and may establish standards for open dating information.

10 8. Grant, pursuant to this chapter, exemptions from the licensing
11 provisions of this chapter for weighing and measuring instruments, standards
12 or devices when the ownership or use of the instrument or device is limited
13 to federal, state or local government agencies in the performance of official
14 functions. On request, the department may conduct inspections of the
15 instruments, standards or devices and shall charge a fee pursuant to section
16 41-2092, subsection B.

17 9. Delegate to appropriate personnel any of the responsibilities of
18 the director for the proper administration of this chapter.

19 10. Inspect and test weights and measures kept, offered or exposed for
20 sale.

21 11. Inspect and test, to ascertain if they are correct, weights and
22 measures commercially used either:

23 (a) In determining the weight, measure or count of commodities or
24 things sold, or offered or exposed for sale, on the basis of weight, measure
25 or count.

26 (b) In computing the basic charge or payment for services rendered on
27 the basis of weight, measure or count.

28 12. Test, at random, commodities, weights and measures used in public
29 institutions for which monies are appropriated by the legislature. The
30 testing of commodities, weights and measures in public institutions shall
31 include, but not be limited to, items:

32 (a) That have historically been of short weight, measure or count.

33 (b) Found to be of short weight, measure or count by other
34 jurisdictions.

35 (c) To be tested as part of a regional or national survey.

36 13. Test, approve for use and affix a seal of approval for use of all
37 weights, measures and commercial devices manufactured in or brought into this
38 state as it finds to be correct and shall reject and mark as rejected
39 weights, measures and devices it finds to be incorrect. Weights, measures
40 and devices that have been rejected may be seized by the department if not
41 corrected within the time specified or if used or disposed of in a manner not
42 specifically authorized. The department shall condemn and may seize weights,
43 measures and devices that are found to be incorrect and that are not capable
44 of being made correct.

45 14. Sample and test motor fuel that is stored, sold or exposed or
46 offered for sale or that is stored for use by a fleet owner to determine

1 whether the motor fuel meets the standards for motor fuel set forth in
2 section 41-2083 and article 6 of this chapter and in any rule adopted by the
3 director pursuant to this chapter. For the purposes of this paragraph,
4 "fleet owner" has the same meaning prescribed in section 41-2121.

5 15. Randomly witness tests on all mandated stage I and stage II vapor
6 recovery systems that are installed or operated in this state not less than
7 annually and if the systems are determined to be in compliance with the law
8 approve those systems for use and reject, mark as rejected and stop the use
9 of those systems determined not to be in compliance with the law.

10 16. Inspect facilities at which motor fuel is stored, sold or exposed
11 or offered for sale to determine whether dispensing devices are properly
12 labeled.

13 17. Publish and distribute to consumers weighing and measuring
14 information.

15 18. Weigh, measure or inspect commodities kept, offered or exposed for
16 sale, sold or in the process of delivery to determine whether they contain
17 the amounts represented and whether they are kept, offered or exposed for
18 sale in accordance with this chapter or rules adopted pursuant to this
19 chapter. In carrying out the provisions of this section, the director shall
20 employ recognized sampling procedures, such as are designated in appropriate
21 national institute of standards and technology handbooks and supplements to
22 those handbooks, except as modified or rejected by rule.

23 19. Allow reasonable variations from the stated quantity of contents
24 only after a commodity has entered intrastate commerce. These variations
25 shall include those caused by loss or gain of moisture during the course of
26 good distribution practice or by unavoidable deviations in good manufacturing
27 practice.

28 20. Prescribe the standards of weight and measure and additional
29 equipment methods of test and inspection to be employed in the enforcement of
30 this chapter. The director may prescribe or provide the official test and
31 inspection forms to be used in the enforcement of this chapter.

32 21. Apply to any court of competent jurisdiction for a temporary or
33 permanent injunction restraining any person from violating this chapter.

34 22. Report to the governor on August 1 each year and at such other
35 times as may be required on the work accomplished under this chapter.

36 23. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE,** employ such
37 personnel as needed to assist in administering this chapter.

38 24. Ensure that any information that is required to be filed with the
39 department, that relates to the contents of motor fuels that are sold in this
40 state and that is a trade secret as defined in section 49-201 is not
41 disclosed.

42 25. Establish by rule labeling standards for tanks and containers of
43 motor fuels.

44 B. The director may provide for the periodic examination and
45 inspection of metering devices, including but not limited to devices utilized
46 to measure usage of electricity, natural gas or water by a consumer.

1 Examination and inspection authority shall not apply to metering devices
2 owned by federal, state or local government agencies unless requested by the
3 government agency that owns the metering devices.

4 C. The director may establish standards for the presentation of
5 cost-per-unit information. Nothing in this subsection shall be construed to
6 mandate the use of cost-per-unit information in connection with the sale of
7 any standard packed commodity.

8 D. The director, when necessary to carry out this chapter, may adopt
9 and enforce rules relating to quality standards for motor fuel, kerosene,
10 oil, except used oil fuel, and hazardous waste fuel, lubricating oils,
11 lubricants, antifreeze and other liquid or gaseous fuels. The director shall
12 adopt rules to assure that oxygenated fuels, as described in article 6 of
13 this chapter, stored, used, sold or exposed or offered for use or sale are
14 blended and stored, sold, exposed or offered in such a manner as to assure
15 that the oxygenated fuels are properly blended, that they meet the standards
16 set forth in section 41-2083 and article 6 of this chapter, and in rules
17 adopted pursuant to this chapter, and that dispensers at which the oxygenated
18 fuels are dispensed are labeled as defined by rule of the department in such
19 a manner as to notify persons of the type of oxygenated fuel being dispensed
20 and the maximum percentage of oxygenate by volume contained in the oxygenated
21 fuel. The director of the department of weights and measures shall consult
22 with the director of the department of environmental quality in adopting
23 rules pursuant to this subsection.

24 E. Testing and inspection conducted pursuant to this chapter shall be
25 done, to the extent practicable, without prior notice, by a random systematic
26 method determined by the director or in response to a complaint by the
27 public. The testing and inspection may be done by private persons and firms
28 pursuant to contracts entered into by the director in accordance with chapter
29 23 of this title or by a registered service agency or registered service
30 representative licensed pursuant to section 41-2094. The director shall
31 establish qualifications of persons and firms for selection for purposes of
32 this subsection. The persons or firms conducting the testing and inspection
33 shall immediately report to the department any violations of this chapter and
34 incorrect weights, measures, devices, vapor recovery systems or vapor
35 recovery components for investigation and enforcement by the department. A
36 person or firm that tests or inspects a weight, measure, device, vapor
37 recovery system or vapor recovery component that is rejected shall not
38 correct the defect causing the rejection without the permission of the
39 department.

40 F. During the course of an investigation or an enforcement action by
41 the department, information regarding the complainant is confidential and is
42 exempt from title 39, chapter 1, unless the complainant authorizes the
43 information to be public.

44 G. For the purposes of the labeling requirements prescribed in this
45 section, "oxygenated fuel" means a motor fuel blend containing 1.5 per cent
46 or more by weight of oxygen.

1 Sec. 145. Section 41-2147, Arizona Revised Statutes, is amended to
2 read:

3 41-2147. Director; qualifications; appointment; salary; powers
4 and duties

5 A. The governor shall appoint a director of the department pursuant to
6 section 38-211. The director shall serve at the pleasure of the governor.

7 B. The director shall be experienced in administration and the
8 technical knowledge necessary to administer this chapter.

9 C. The compensation of the director shall be as determined pursuant to
10 section 38-611.

11 D. The director with the approval of the governor shall appoint a
12 deputy director, a deputy director of the office of manufactured housing, the
13 state fire marshal of the office of fire marshal, the state fire training
14 officer and the fire resource coordinator, all of whom serve at the pleasure
15 of the director and are ~~exempt from~~ SUBJECT TO chapter 4, article 5- 4 of
16 this title. Compensation for the deputy directors and the fire marshal shall
17 be as determined pursuant to section 38-611.

18 E. The director shall establish and have authority over the functions
19 of the office of manufactured housing, the office of state fire marshal and
20 the office of administration and, SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS
21 TITLE, shall appoint employees necessary to perform the duties of articles 2,
22 3 and 4 of this chapter.

23 F. The director shall employ any deputies, investigators and
24 assistants SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE and shall procure
25 all equipment and records that are necessary to enforce this chapter. With
26 respect to the enforcement of section 41-2194, the director or the director's
27 designees are vested with the authority to issue a citation in accordance
28 with section 13-3903 or to issue a cease and desist order to any violators of
29 this chapter. When the director or the director's designees conduct
30 investigations they may receive criminal history record information from the
31 department of public safety and other law enforcement entities.

32 G. In order to protect public health, safety and welfare, the director
33 may revoke or suspend a license.

34 H. The director may issue citations to licensees for alleged
35 violations of this chapter or rules adopted pursuant to this chapter.

36 I. The director, on the director's motion or on the written request of
37 the licensee, may reduce, at the director's discretion, the amount of any
38 administrative penalty imposed.

39 Sec. 146. Section 41-2305, Arizona Revised Statutes, is amended to
40 read:

41 41-2305. Powers and duties

42 A. In addition to other duties prescribed by law, the office of
43 tourism shall:

44 1. Stimulate and encourage all local, state, regional and federal
45 governmental agencies and all private persons and enterprises to participate

1 and cooperate in the promotion of tourism and tourism development in this
2 state.

3 2. Undertake a comprehensive research program designed to establish
4 the office as the central repository and clearinghouse for all data which
5 relates to tourism.

6 3. Perform research necessary to determine a long-range tourism
7 development plan for this state.

8 4. Conduct research at the request of the governor, the legislature or
9 state or local agencies, pertaining to any of its objectives.

10 5. Formulate policies, plans and programs designed to promote tourism
11 in this state.

12 6. Provide information and advice on request by local, state and
13 federal agencies and by private citizens and business enterprises on all
14 matters concerning its objectives. The office may provide information and
15 literature in the same manner as described in section 11-259, subsection A.

16 7. Advise with and make recommendations to the governor and the
17 legislature on all matters concerning tourism.

18 8. Make an annual report to the governor and the legislature on its
19 activities, finances and the scope of its operations.

20 9. Conduct an annual statewide tourism symposium to discuss tourism
21 promotion efforts, problems and matters of interest to the tourism industry.

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

29 B. The office may:

30 1. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, employ, determine
31 the conditions of employment and specify the duties of administrative,
32 secretarial and clerical assistants and contract for the services of outside
33 advisors, consultants and aides reasonably necessary or desirable to enable
34 it adequately to perform its duties. The compensation of such assistants
35 shall be as determined pursuant to section 38-611. The positions of the
36 director, the assistant director and all employees of the office of tourism
37 shall be exempt positions of chapter 4, articles 5 and 6 of this title.

38 2. Make contracts and incur obligations reasonably necessary or
39 desirable within the general scope of its activities and operations to enable
40 it adequately to perform its duties.

41 3. Utilize any and all media of communication, publication and
42 exhibition in the dissemination of information, advertising and publicity in
43 any field relating to its purposes, objectives or duties.

44 4. Use its funds, facilities and services to provide matching
45 contributions under federal or other programs which further the objectives
46 and programs of the office.

1 5. Adopt rules ~~and regulations~~ it deems necessary or desirable to
2 ~~govern its procedures and business~~ IMPLEMENT THE PURPOSES OF THE DEPARTMENT
3 AND THE DUTIES AND POWERS OF THE DIRECTOR.

4 6. Accept gifts, grants, matching funds and direct payments from
5 public or private agencies or persons for the conduct of programs which are
6 consistent with the general purposes and objectives of this chapter.

7 7. Conduct tourism education and discussion seminars and workshops to
8 discuss tourism promotion efforts, problems and matters of interest to the
9 tourism industry.

10 8. Designate, establish and operate state visitor or tourist
11 information centers in the state which furnish tourist information and
12 literature, subject to legislative appropriation.

13 9. Conduct research pertaining to any of its objectives.

14 10. Establish a reporting system for public agencies and private
15 persons or enterprises in order to monitor state tourism.

16 11. Charge reasonable fees for services and publications. The director
17 shall establish the fees.

18 12. Exercise its statutory powers and duties by engaging in joint
19 venture activities with private corporations which are specifically designed
20 to further the goals of the office of tourism. Joint ventures entered into
21 by the office of tourism shall conform to the constitution and the laws of
22 this state.

23 Sec. 147. Section 41-2405, Arizona Revised Statutes, is amended to
24 read:

25 41-2405. Arizona criminal justice commission: powers and
26 duties: staff

27 A. The Arizona criminal justice commission shall:

28 1. Monitor the progress and implementation of new and continuing
29 criminal justice legislation.

30 2. Facilitate research among criminal justice agencies and maintain
31 criminal justice system information.

32 3. Facilitate coordinated statewide efforts to improve criminal
33 justice information and data sharing.

34 4. Prepare for the governor a biennial criminal justice system review
35 report. The report shall contain:

36 (a) An analysis of all criminal justice programs created by the
37 legislature in the preceding two years.

38 (b) An analysis of the effectiveness of the criminal code, with a
39 discussion of any problems and recommendations for revisions if deemed
40 necessary.

41 (c) A study of the level of activity in the several areas of the
42 criminal justice system, with recommendations for redistribution of criminal
43 justice revenues if deemed necessary.

44 (d) An overall review of the entire criminal justice system including
45 crime prevention, criminal apprehension, prosecution, court administration

1 and incarceration at the state and local levels as well as funding needs for
2 the system.

3 (e) Recommendations for constitutional, statutory and administrative
4 revisions that are necessary to develop and maintain a cohesive and effective
5 criminal justice system.

6 5. Provide supplemental reports on criminal justice issues of special
7 timeliness.

8 6. In coordination with other governmental agencies, gather
9 information on programs that are designed to effectuate community crime
10 prevention and education using citizen participation and on programs for
11 alcohol and drug abuse prevention, education and treatment and disseminate
12 that information to the public, political subdivisions, law enforcement
13 agencies and the legislature.

14 7. Make recommendations to the legislature and the governor regarding
15 the purposes and formula for allocation of fund monies as provided in section
16 41-2401, subsection D and section 41-2402 through the biennial agency budget
17 request.

18 8. Adopt rules for the purpose of allocating fund monies as provided
19 in sections 41-2401, 41-2402 and 41-2407 that are consistent with the
20 purposes set forth in those sections and that promote effective and efficient
21 use of the monies.

22 9. Make reports to the governor and the legislature as they require.

23 10. Oversee the research, analysis, studies, reports and publication of
24 crime and criminal justice statistics prepared by the Arizona statistical
25 analysis center, which is an operating section of the Arizona criminal
26 justice commission.

27 11. Prepare an annual report on law enforcement activities in this
28 state funded by the drug enforcement account or the criminal justice
29 enhancement fund and relating to illicit drugs and drug related gang
30 activity. The report shall be submitted by October 31 of each year to the
31 governor, the president of the senate and the speaker of the house of
32 representatives. The report shall include:

33 (a) The name and a description of each law enforcement program dealing
34 with illegal drug activity or street gang activity, or both.

35 (b) The objective and goals of each program.

36 (c) The source and amount of monies received by each program.

37 (d) The name of the agency or entity that administers each program.

38 (e) The effectiveness of each program.

39 12. Compile and disseminate information on best practices for cold case
40 investigations, including effective victim communication procedures. For the
41 purposes of this paragraph, "cold case" means a homicide or a felony sexual
42 offense that remains unsolved for one year or more after being reported to a
43 law enforcement agency and that has no viable and unexplored investigatory
44 leads.

45 B. The Arizona criminal justice commission may, as necessary to
46 perform its functions:

1 1. Request any state or local criminal justice agency to submit any
2 necessary information.

3 2. Form subcommittees, make studies, conduct inquiries and hold
4 hearings.

5 3. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, employ consultants
6 for special projects and such staff as deemed necessary or advisable to carry
7 out this section.

8 4. Delegate its duties to carry out this section, including:

9 (a) The authority to enter into contracts and agreements on behalf of
10 the commission.

11 (b) SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLES 5 AND
12 6 OF THIS TITLE, the authority to appoint, hire, terminate and discipline all
13 personnel of the commission including consultants.

14 5. Establish joint research and information facilities with
15 governmental and private agencies.

16 6. Accept and expend public and private grants of monies, gifts and
17 contributions and expend, distribute or allocate monies appropriated to it
18 for the purpose of enhancing efforts to investigate or prosecute and
19 adjudicate any crime and to implement this chapter.

20 Sec. 148. Section 41-2513, Arizona Revised Statutes, is amended to
21 read:

22 41-2513. Authority to contract for certain services

23 A. For the purpose of procuring the services of clergy, certified
24 public accountants, legal counsel pursuant to section 41-192, subsection
25 ~~F~~ D, physicians or dentists as defined by the laws of this state, any state
26 governmental unit may act as a purchasing agency and contract on its own
27 behalf for such services, subject to this chapter and rules adopted by the
28 director.

29 B. In accordance with the provisions of section 41-192, subsection
30 ~~F~~ D and notwithstanding any contrary statute, no contract for the services
31 of legal counsel may be awarded without the approval of the attorney general.

32 C. The auditor general shall approve state agency contracting for
33 financial and compliance auditing services except if specific statutory
34 authority is otherwise provided. The auditor general shall ensure that such
35 contract audits are conducted in accordance with generally accepted
36 governmental auditing standards. An audit shall not be accepted until it has
37 been approved by the auditor general.

38 D. The department may approve all information technology purchases
39 exceeding twenty-five thousand dollars for a budget unit as defined in
40 section 41-3501. Purchases shall not be artificially divided to avoid review.

41 E. Payment for any services, including those services described in
42 subsections A, B and C of this section, procured under this chapter shall not
43 be made unless pursuant to a fully approved written contract.

1 Sec. 149. Section 41-2804, Arizona Revised Statutes, is amended to
2 read:

3 41-2804. Duties and powers of director

4 A. The director shall:

5 1. Be responsible for the overall operations and policies of the
6 department.

7 2. Maintain and administer all secure care facilities and programs
8 within the department required and established for the custody, control,
9 treatment, education and rehabilitation of all youths committed to the
10 department.

11 3. Be responsible for the administration and execution of all
12 conditional liberty services for youths released pursuant to rules adopted by
13 the director in accordance with law.

14 4. Be responsible for the development of policies and programs which
15 shall be recommended to the governor and the legislature for the purpose of
16 improving the youth rehabilitative and treatment programs of this state.

17 5. Develop and establish a uniform statewide method of reporting
18 statistics as related to this chapter.

19 6. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, employ deputy
20 directors and other key personnel based on qualifications prescribed by the
21 director which require education and practical experience.

22 B. The director may:

23 1. Adopt rules to implement the purposes of the department and the
24 duties and powers of the director.

25 2. Take any administrative action to improve the efficiency of the
26 department, including the following:

27 (a) Create new divisions or units or consolidate divisions or units.

28 (b) SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, transfer employees
29 between the various divisions and units of the department.

30 (c) Shift duties between divisions or units.

31 (d) Delegate authority to appoint, hire, terminate and discipline all
32 personnel of the department, including specialists and consultants SUBJECT TO
33 CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF THIS TITLE.

34 (e) Transfer committed youths between secure care facilities.

35 (f) Transfer youths who have been committed to the department or to
36 any facility under its jurisdiction between the various secure care
37 facilities for youths, foster homes and public and private agencies on
38 notification to the committing court.

39 (g) SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF
40 THIS TITLE, appoint certain employees of the department to peace officer
41 status for purposes of guarding, transporting or pursuing persons under the
42 jurisdiction of the department and appoint certain employees of the
43 department to peace officer status for purposes of investigating or arresting
44 persons who commit or attempt to commit offenses directly relating to the
45 operations of the department.

1 3. Contract with other agencies or institutions in furtherance of any
2 department program.

3 4. Authorize the temporary escort of a youth for compassionate leave
4 or for the purposes of treatment, education or rehabilitation. The director
5 shall consider the public safety and any other relevant factors before
6 approving the temporary escort of a youth. Department staff shall escort and
7 maintain custody of a youth authorized for temporary escort.

8 5. Adopt guidelines to dispose of property that is no longer needed or
9 necessary for use in a department educational, vocational, treatment,
10 training or work program. The disposition of property is exempt from chapter
11 23, article 8 of this title. Any monies derived from the disposition of the
12 property shall be deposited, pursuant to sections 35-146 and 35-147, in the
13 department of juvenile corrections career technical education fund
14 established by section 41-2828.

15 6. Accept and spend private grants of monies to effectuate the
16 purposes of section 41-2827. Monies collected pursuant to this paragraph
17 shall be deposited and administered pursuant to section 41-2828.

18 C. Peace officers of the department shall not preempt the authority
19 and jurisdiction of established agencies of this state and political
20 subdivisions of this state. Such officers shall notify agencies of this
21 state and political subdivisions of this state before conducting an
22 investigation within the jurisdiction of the agency and before making an
23 arrest within the jurisdiction of the agency and shall ask, except in an
24 emergency, if the agency wishes to participate, perform the investigation or
25 arrest the person to be arrested before proceeding. Personnel appointed as
26 peace officers by the director shall have the minimum qualifications
27 established for peace officers pursuant to section 41-1822. Personnel
28 appointed by the director pursuant to subsection B, paragraph 2, subdivision
29 (g) of this section are not eligible to participate in the public safety
30 personnel retirement system except as otherwise provided in title 38, chapter
31 5, article 4.

32 Sec. 150. Section 41-2831, Arizona Revised Statutes, is amended to
33 read:

34 41-2831. State educational system for committed youth; report

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

37 B. The director shall identify three persons who are qualified to
38 serve as superintendent of the state educational system for committed youth.
39 The director and the superintendent of public instruction shall agree on one
40 of the three persons whom the director shall employ as superintendent to
41 manage the educational system. The superintendent of the educational system
42 shall employ teachers and other personnel as needed in accordance with
43 chapter 4, article ~~5~~ 4 of this title, subject to the approval of the
44 director. All persons who are employed to work in the educational system
45 including the superintendent shall hold the appropriate certificate

1 prescribed by the state board of education in section 15-203, subsection A,
2 paragraph 14.

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

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

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

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

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

22 H. The superintendent shall:

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

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

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

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

45 Sec. 151. Section 41-3016.06, Arizona Revised Statutes, is amended to
46 read:

41-3016.06. Department of administration; termination July 1, 2016

A. The department of administration terminates on July 1, 2016.

B. Title 41, chapter 4, articles 1, 2, 3, 4, 5 and 7 and chapter 32 are repealed on January 1, 2017.

Sec. 152. Section 41-3451, Arizona Revised Statutes, is amended to read:

41-3451. Automobile theft authority; powers and duties; fund; audit

A. An automobile theft authority is established consisting of the following members:

1. Two police chiefs who are appointed by the Arizona chiefs' of police association, one of whom represents a city or town with a population of one hundred thousand or more persons and one of whom represents a city or town with a population of less than one hundred thousand persons, or their designees.

2. Two sheriffs who are appointed by the Arizona sheriffs' association, one of whom represents a county with a population of five hundred thousand or more persons and one of whom represents a county with a population of less than five hundred thousand persons, or their designees.

3. Two county attorneys who are appointed by the governor, one of whom represents a county with a population of two million or more persons and one of whom represents a county with a population of less than two million persons, or their designees.

4. Two employees of insurers who are licensed to write motor vehicle liability insurance in this state and who are appointed by the governor.

5. Two members of the general public who are appointed by the governor.

6. The assistant director for the motor vehicle division in the department of transportation or the assistant director's designee.

7. The director of the department of public safety or the director's designee.

B. Members serve staggered four year terms beginning and ending on the third Monday in January. At the first meeting each year, the members shall select a chairman from among the members. The authority shall meet at the call of the chairman or seven members.

C. The authority may:

1. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, hire staff members as necessary, including an executive director. The executive director's annual compensation shall not be more than seventy-five thousand dollars.

2. Provide work facilities and equipment as necessary.

3. Determine the scope of the problem of motor vehicle theft, including particular areas of the state where the problem is greatest.

4. Analyze the various methods of combating the problem of motor vehicle theft.

5. Develop and implement a plan of operation.

1 6. Develop and implement a financial plan.

2 7. Solicit and accept gifts and grants.

3 8. Report by December 31 of each year to the governor, the president
4 of the senate, the speaker of the house of representatives, the secretary of
5 state and the director of the Arizona state library, archives and public
6 records on its activities during the preceding fiscal year.

7 D. If the chairman of the authority knows that a potential ground for
8 the removal of a member of the authority exists under this subsection, the
9 chairman shall notify the governor. The governor shall remove the member if
10 the governor finds that any of the following applies:

11 1. The member was not qualified to serve at the time the member was
12 appointed.

13 2. The member does not maintain the member's qualifications to serve.

14 3. The member cannot discharge the member's duties for a substantial
15 part of the term due to illness or other disability.

16 4. The member is absent from more than one-half of the regularly
17 scheduled meetings during a calendar year unless the member's absence is
18 excused by a majority vote of the authority.

19 E. The automobile theft authority fund is established consisting of
20 any public or private monies that the authority may receive. The automobile
21 theft authority shall administer the fund. Subject to legislative
22 appropriation, monies in the fund shall only be used to pay the expenses of
23 the authority and to carry out the purposes of this section. Monies in the
24 fund are exempt from the provisions of sections 35-143.01 and 35-190 relating
25 to lapsing of appropriations. On notice from the authority, the state
26 treasurer shall invest and divest monies in the fund as provided by section
27 35-313, and monies earned from investment shall be credited to the fund.

28 F. The authority may accept nonmonetary contributions, including the
29 services of individuals, office and secretarial assistance, mailings,
30 printing, office equipment, facilities and supplies, that are necessary to
31 carry out its functions. The nonmonetary contributions shall not be included
32 in the costs of administration limitation prescribed by subsection H of this
33 section.

34 G. The automobile theft authority shall allocate monies in the fund to
35 public agencies for the purpose of establishing, maintaining and supporting
36 programs that are designed to prevent motor vehicle theft, including:

37 1. Financial support to law enforcement and prosecution agencies for
38 programs that are designed to increase the effectiveness of motor vehicle
39 theft prosecution.

40 2. Financial support for programs that are designed to educate and
41 assist the public in the prevention of motor vehicle theft.

42 H. The costs of administration shall not exceed ten per cent of the
43 monies in the fund in any one year so that the greatest possible portion of
44 the monies available to the authority is expended on combating motor vehicle
45 theft.

1 I. Monies expended from the automobile theft authority fund shall be
2 used to supplement, not supplant, other monies that are available for motor
3 vehicle theft prevention.

4 J. Each insurer issuing motor vehicle liability insurance policies in
5 this state shall pay a semiannual fee of fifty cents per vehicle insured
6 under a motor vehicle liability insurance policy issued by the insurer. The
7 fee shall be fully earned and nonrefundable at the time the insurer collects
8 the premium for the motor vehicle liability insurance policy. Each insurer
9 shall transmit the fee on or before January 31 and on or before July 31 of
10 each year to the automobile theft authority for deposit in the automobile
11 theft authority fund. The payment due on or before January 31 shall cover
12 vehicles insured under policies that are issued during the period from July 1
13 through December 31 of the previous year. The payment due on or before July
14 31 shall cover vehicles insured under policies that are issued during the
15 period from January 1 through June 30 of the same year.

16 K. The authority shall cause an audit to be made of the automobile
17 theft authority fund. The audit shall be conducted by a certified public
18 accountant every two years. The authority shall file a certified copy of the
19 audit with the auditor general immediately. The auditor general may make
20 further audits and examinations as the auditor general deems necessary and
21 may take appropriate action relating to the audit pursuant to chapter 7,
22 article 10.1 of this title.

23 L. Authority members are not eligible to receive compensation but are
24 eligible for reimbursement of expenses pursuant to title 38, chapter 4,
25 article 2.

26 M. This section does not apply to vehicles or vehicle combinations
27 with a declared gross weight of more than twenty-six thousand pounds. Motor
28 vehicle liability insurance policies issued in this state for vehicles or
29 vehicle combinations with a declared gross weight of more than twenty-six
30 thousand pounds are exempt from subsection J of this section.

31 Sec. 153. Section 41-3503, Arizona Revised Statutes, is amended to
32 read:

33 41-3503. Powers and duties of director

34 In regard to government information technology, the director shall:

35 1. Appoint a chief information officer for information technology.

36 2. Establish minimum qualifications for each position authorized for
37 the department for government information technology. The qualifications
38 shall be subject to the review of the information technology authorization
39 committee.

40 3. Employ, determine the conditions of employment and prescribe the
41 duties and powers of administrative, professional, technical, secretarial,
42 clerical and other persons SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE as
43 may be necessary in the performance of the department's duties and contract
44 for the services of outside advisors, consultants and aides as may be
45 reasonably necessary. Employees of the department ~~are exempt from chapter 4,~~

1 ~~article 5 of this title but~~ shall meet the minimum qualifications established
2 pursuant to this section.

3 Sec. 154. Section 41-3505, Arizona Revised Statutes, is amended to
4 read:

5 41-3505. Information technology fund

6 A. The information technology fund is established for use by the
7 department and the committee. Monies in the fund are subject to legislative
8 appropriation.

9 B. State ~~service~~ agencies subject to section ~~41-764~~ 41-750, all budget
10 units and the legislative and judicial branches of state government, shall
11 contribute a pro rata share of the overall cost of information technology
12 services provided by the department or committee. The pro rata share is
13 payable by payroll fund source, and the resultant amount shall be deposited
14 in the information technology fund. For all budget units and the legislative
15 and judicial branches of state government, the pro rata share shall be .20
16 per cent of the total payroll. Total payroll includes all fund sources
17 including the state general fund, federal monies, special revenue funds,
18 intergovernmental revenue monies, trust funds and other payroll fund sources.

19 C. A claim for the pro rata share percentage payment shall be
20 submitted according to the fund source, with the accompanying payroll, to the
21 department of administration for deposit in the information technology fund.

22 D. Notwithstanding section 35-190, monies in the information
23 technology fund do not revert to the state general fund at the end of each
24 fiscal year.

25 Sec. 155. Section 41-3952, Arizona Revised Statutes, is amended to
26 read:

27 41-3952. Arizona department of housing: director

28 A. The Arizona department of housing is established.

29 B. The governor shall appoint the director pursuant to section 38-211.
30 ~~The term of the director is five years and expires on the third Monday in~~
31 ~~January of the appropriate year, except that~~ SERVES AT THE PLEASURE OF the
32 governor. ~~may remove the director for cause. On expiration of the~~
33 ~~director's term, the governor may reappoint the director for another term.~~

34 C. The director shall administer the department.

35 D. The director and such other employees as the director determines
36 are entitled to receive compensation as determined under section 38-611.

37 E. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the director shall
38 appoint a deputy director and, subject to legislative appropriation, may
39 appoint assistant directors as the director deems appropriate.

40 F. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the director shall
41 employ, determine the conditions of employment and specify the duties of
42 administrative, secretarial and clerical employees the director deems
43 necessary.

44 G. The director may organize the department into divisions the
45 director deems appropriate.

1 Sec. 156. Section 41-4253, Arizona Revised Statutes, is amended to
2 read:

3 41-4253. Department employees

4 Subject to chapter 4, ARTICLE 4 AND, AS APPLICABLE, articles 5 and 6 of
5 this title, the director shall employ, determine the conditions of employment
6 of and specify the duties of administrative, secretarial and clerical
7 employees the director deems necessary.

8 Sec. 157. Section 41-4301, Arizona Revised Statutes, is amended to
9 read:

10 41-4301. State capital postconviction public defender; office;
11 appointment; qualifications; powers and duties

12 A. The state capital postconviction public defender office is
13 established.

14 B. The state is responsible for funding the state capital
15 postconviction public defender office, including start-up costs.

16 C. The governor shall appoint the state capital postconviction public
17 defender and fill any vacancy in the office on the basis of merit alone
18 without regard to political affiliation from the list of names that are
19 submitted pursuant to sections 41-4302 and 38-211. The state capital
20 postconviction public defender serves ~~a four year term and serves until the~~
21 ~~appointment and qualification of a successor in office. After appointment,~~
22 ~~the state capital postconviction public defender is subject to removal from~~
23 ~~office only for good cause as determined by a majority vote of the~~
24 ~~nomination, retention and standards commission on indigent defense. A~~
25 ~~vacancy shall be filled for the balance of the unexpired term~~ AT THE PLEASURE
26 OF THE GOVERNOR.

27 D. The state capital postconviction public defender shall meet all of
28 the following criteria:

29 1. Be a member in good standing of the state bar of Arizona or become
30 a member of the state bar of Arizona within one year after appointment.

31 2. Have been a member of the state bar of Arizona or admitted to
32 practice in any other state for the five years immediately preceding the
33 appointment.

34 3. Have had substantial experience in the representation of accused or
35 convicted persons in criminal or juvenile proceedings.

36 4. Meet or exceed the standards for appointment of counsel in capital
37 cases under rule 6.8, Arizona rules of criminal procedure, as determined by
38 the nomination, retention and standards commission on indigent defense.

39 E. The salary of the state capital postconviction public defender
40 shall equal the annual salary of the chief counsel of the capital litigation
41 section in the office of the attorney general.

42 F. The state capital postconviction public defender shall:

43 1. Represent any person who is not financially able to employ counsel
44 in postconviction relief proceedings in state court after a judgment of death
45 has been rendered. Notwithstanding section 11-584, subsection A, paragraph
46 7, after a judgment of death has been rendered, a county employed indigent

1 defense counsel shall not handle postconviction relief proceedings in state
2 court unless a conflict exists with the state capital postconviction public
3 defender and a county employed indigent defense counsel is appointed.

4 2. Supervise the operation, activities, policies and procedures of the
5 state capital postconviction public defender office.

6 3. Beginning in fiscal year 2007-2008, submit an annual budget for the
7 operation of the office to the legislature.

8 4. Not engage in the private practice of law or represent a person who
9 is not assigned by the supreme court.

10 5. Not provide trial or direct appeal assistance to attorneys outside
11 of the state capital postconviction public defender office. For the purposes
12 of this paragraph, trial or direct appeal assistance does not include general
13 training.

14 6. Not lobby, during working hours, the state legislature or the
15 Congress of the United States, except as provided by paragraph 3 of this
16 subsection.

17 7. Allocate personnel and resources to postconviction relief
18 proceedings so long as there are no conflicts of interest in representation
19 and all state capital postconviction public defender attorneys are appointed
20 to postconviction relief cases that are eligible for appointment of counsel
21 under section 13-4041.

22 G. The state capital postconviction public defender may:

23 1. Accept and spend public and private gifts and grants for use in
24 improving and enhancing the ability to perform the responsibilities of the
25 state capital postconviction public defender office pursuant to this chapter.

26 2. Employ not more than three deputies and not more than four other
27 employees and establish and operate any offices as needed for the proper
28 performance of the duties of the office.

29 H. For each person represented, the state capital postconviction
30 public defender office shall request reimbursement from the county in which
31 the person was convicted for fees it incurs pursuant to this section arising
32 out of its representation of that person. The county shall pay fifty per
33 cent of the fees incurred by the state capital postconviction public defender
34 office. The state treasurer shall deposit the reimbursement fees from the
35 county in the capital postconviction public defender office fund established
36 by section 41-4303.

37 Sec. 158. Section 41-4801, Arizona Revised Statutes, is amended to
38 read:

39 41-4801. Definitions

40 In this chapter, unless the context otherwise requires:

41 1. "Government attorney" means an attorney employed by this state as a
42 staff attorney in the attorney general's office.

43 2. "Private attorney" means any private attorney or law firm.

44 3. "State" means this state, including state officers, agencies,
45 departments, boards and commissions and units of organization, however
46 designated, of the executive branch of this state, and any of its agents, but

1 does not include those agencies as provided in section 41-192,
2 subsection ~~E~~ D.

3 Sec. 159. Section 42-1002, Arizona Revised Statutes, is amended to
4 read:

5 42-1002. Department of revenue: director: appointments:
6 compensation

7 A. There is established a department of revenue.

8 B. The direction, operation and control of the department ~~is~~ ARE the
9 responsibility of the director.

10 C. The director shall be appointed by the governor ~~from a list of~~
11 ~~names submitted by the search committee~~ pursuant to section 38-211 and shall
12 serve at the pleasure of the governor.

13 ~~D. The department of administration shall assist the governor in~~
14 ~~preparing a job description for the position of director and recruiting~~
15 ~~candidates for the position. The qualifications of the candidates shall be~~
16 ~~reviewed by a committee of five persons selected by the governor. The names~~
17 ~~of all those candidates determined by the committee to be qualified for the~~
18 ~~position shall be submitted to the governor for his consideration. The~~
19 ~~governor may request additional names from the committee if he deems~~
20 ~~necessary. For each subsequent vacancy in the position of director, a new~~
21 ~~committee shall be appointed by the governor pursuant to this section.~~

22 ~~E.~~ D. Compensation for the director and the personnel required by the
23 department shall be established pursuant to section 38-611 AND TITLE 41,
24 CHAPTER 4, ARTICLE 4.

25 Sec. 160. Section 42-1004, Arizona Revised Statutes, is amended to
26 read:

27 42-1004. General powers and duties of the department: res
28 judicata: remedies: enforcement: special collections
29 account

30 A. The department shall administer and enforce this title, title 43
31 and other laws assigned to it and has all the powers and duties prescribed by
32 law for such purposes. In all proceedings prescribed by law the department
33 may act on behalf of this state. In addition, the department shall:

34 1. Formulate policies, plans and programs to effectuate the missions
35 and purposes of the department.

36 2. Employ and remove personnel subject to title 41, chapter 4, ARTICLE
37 4 AND, AS APPLICABLE, articles 5 and 6, determine the conditions of
38 employment and prescribe the duties and powers of administrative,
39 professional, technical, secretarial, clerical and other personnel as may be
40 necessary in the performance of its duties, and contract for the services of
41 outside advisors, consultants and aides as may be reasonably necessary.

42 3. Make contracts and incur obligations within the general scope of
43 its activities and operations subject to the availability of its funds.

44 4. Contract with or assist other departments, agencies or institutions
45 of the state, local, Indian tribal and federal governments in the furtherance
46 of its purposes, objectives and programs.

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
46 may defend all actions brought against this state or an officer or agency of

1 this state arising under this title and title 43. The attorney general may
2 delegate the prosecuting authority to any county attorney for prosecution in
3 that county.

4 F. A special collections account is established in the state general
5 fund. All monies collected pursuant to contracts authorized by subsection B,
6 paragraph 3 of this section shall be deposited in the special collections
7 account. The department shall pay from the account all fees and court costs
8 provided for in the contracts authorized under subsection B, paragraph 3 of
9 this section. The department shall allocate the remainder of the amounts
10 collected under subsection B, paragraph 3 of this section to the state or the
11 political subdivision in the proportion that the monies would have been
12 distributed pursuant to chapter 5 of this title or section 43-206,
13 respectively.

14 Sec. 161. Section 42-1252, Arizona Revised Statutes, is amended to
15 read:

16 42-1252. State board of tax appeals

17 A. The state board of tax appeals is established as an independent
18 agency which shall not in any way be subject to the supervision or control of
19 the department of revenue. The board shall have full power to hear and
20 decide all appeals from decisions of the department of revenue.

21 B. The state board shall consist of three members appointed by the
22 governor pursuant to section 38-211. Members shall be residents of this
23 state.

24 C. Members shall be selected on the basis of their knowledge of and
25 experience in taxation. Not more than two members may be primarily engaged
26 in the same occupation or profession. The board shall handle all matters
27 entrusted by law to it dealing with income taxation, estate taxation,
28 transaction privilege, use and luxury taxation and any other taxation
29 assigned to it by law and shall hear and decide appeals from the department
30 of revenue on such matters.

31 D. Not more than two members of the board shall be members of the same
32 political party. No member of the board shall hold any other public office
33 under the laws of this state or any of its political subdivisions. No member
34 shall be a candidate for an elective office under the laws of this state, nor
35 of any other state. No member of the board shall hold any position of trust
36 nor provide or engage in any occupation or business which would corruptly
37 conflict with the duties of a member of the board, nor take part directly or
38 indirectly in any election campaign in the interest of any political party or
39 other organization or any candidate or measure to be voted on by the people.
40 This subsection does not prohibit a person from properly and lawfully
41 engaging in a business or profession.

42 E. The term of board members is six years. The member of the board
43 having the shortest term remaining shall act as chairperson if that member
44 has served on the board at least two years. If the member having the
45 shortest term remaining does not qualify to act as chairperson or if two or
46 more members have an equal right by virtue of their remaining terms to serve

1 as chairperson, the board shall elect a chairperson. A member may not be
2 appointed for more than two terms.

3 F. Each member of the board shall receive:

4 1. One hundred fifty dollars per day for time spent in the performance
5 of official duties.

6 2. Such travel and other expenses as provided by law for other state
7 officers.

8 G. The governor may remove any member for cause.

9 H. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
10 a clerk, hearing officers and such other employees as it deems necessary to
11 carry out its duties. The hearing officer qualifications shall be the same
12 as the selection criteria for the members as prescribed by this section.
13 Notwithstanding section 41-192, subsection ~~E~~ D, upon request of the board,
14 the attorney general shall designate, for such time and purposes as the board
15 requires, an attorney, acceptable to the board, whose compensation shall be
16 fixed and paid by the board.

17 I. The board shall hold hearings and meetings at the call of the
18 chairperson or a majority of the board and otherwise as may be prescribed by
19 the rules of the board as required to carry out its duties. The principal
20 office of the board shall be at the capitol, but the board may sit or hold
21 hearings at any other place within the state. A majority of the board
22 constitutes a quorum for making orders and decisions or transacting other
23 official business, and the board may act even though one position on the
24 board is vacant. The board shall keep a record of its proceedings.

25 J. In conducting the business of the board:

26 1. The board may not act if more than one position is vacant.

27 2. One or more members or a hearing officer of the board may hold
28 hearings and take testimony to be reported for action by the board when
29 authorized by rule or order of the board.

30 Sec. 162. Section 42-16155, Arizona Revised Statutes, is amended to
31 read:

32 42-16155. Hearing officers and employees

33 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the state board of
34 equalization may employ one or more hearing officers who must meet the same
35 qualifications prescribed for the members of the board by section 42-16153.

36 B. Any training activity for hearing officers shall be held in public
37 with notice as prescribed by title 38, chapter 3, article 3.1.

38 C. A hearing officer is eligible to receive up to three hundred
39 dollars per day for time spent in performing official duties.

40 D. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the state board may
41 appoint a chief clerk and any other employees that it considers to be
42 necessary to carry out its duties.

43 Sec. 163. Section 45-104, Arizona Revised Statutes, is amended to
44 read:

45 45-104. Department organization; deputy directors; employees;
46 legal counsel; branch offices; consultants

1 A. The director may establish and organize divisions within the
2 department and otherwise organize the department in the manner the director
3 deems necessary to make the operation of the department efficient and
4 effective.

5 B. The director may appoint a deputy director to each division or
6 organizational unit that the director may establish. ~~SUBJECT TO TITLE 41,~~
7 ~~CHAPTER 4, ARTICLE 4,~~ deputy directors ~~are exempt from the state personnel~~
8 ~~system,~~ shall serve at the pleasure of the director and are entitled to
9 receive compensation pursuant to section 38-611.

10 C. ~~SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,~~
11 ~~ARTICLES 5 AND 6,~~ the director, ~~within the classification and pay scales~~
12 ~~adopted by the state personnel board,~~ may employ, define the duties of and
13 prescribe the terms and conditions of employment of such clerical, technical,
14 professional and administrative personnel as necessary to efficiently perform
15 the responsibilities of the department. Compensation for all employees shall
16 be pursuant to section 38-611.

17 D. The director may employ on a contract basis geologists,
18 hydrologists, consulting engineers, other expert consultants and engineering
19 and other assistants as the director deems advisable, who are not subject to
20 the classification provided for in title 41, chapter 4, article 5.

21 E. The director may utilize the services of accounting, legal or
22 engineering personnel made available by any department or agency of this
23 state, who shall serve without additional compensation.

24 F. ~~SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,~~ the director may employ
25 legal counsel to advise and represent the department in connection with legal
26 matters before other departments and agencies of this state, and represent
27 the department and this state in litigation concerning affairs of the
28 department. Legal counsel is not subject to the classification provided for
29 in title 41, chapter 4, article 5.

30 G. The director shall maintain the director's office in Phoenix and
31 may establish a branch office of the department in each active management
32 area established pursuant to chapter 2, article 2 of this title.

33 H. The director on behalf of the department may contract with private
34 consultants for the purposes of assisting the department in reviewing
35 applications for licenses, permits or other authorizations to determine
36 whether an applicant meets the criteria for issuance of the license, permit
37 or other authorization. If the department contracts with a consultant under
38 this subsection, an applicant may request that the department expedite the
39 application review by requesting that the department use the services of the
40 consultant and by agreeing to pay the department the costs of the
41 consultant's services. Notwithstanding any other law, monies paid by
42 applicants for expedited reviews pursuant to this subsection are appropriated
43 to the department for use in paying consultants for services.

44 Sec. 164. Section 45-418, Arizona Revised Statutes, is amended to
45 read:

1 45-418. Area director: appointment: qualifications:
2 compensation

3 A. The director shall appoint an area director for each active
4 management area. For reasons of economy and efficiency in administration,
5 one person may be the area director for more than one active management area.
6 The area director shall serve at the pleasure of the director.

7 B. The area director is ~~exempt from the state personnel system~~ SUBJECT
8 TO TITLE 41, CHAPTER 4, ARTICLE 4 and is entitled to receive compensation as
9 determined pursuant to section 38-611.

10 Sec. 165. Section 49-103, Arizona Revised Statutes, is amended to
11 read:

12 49-103. Department employees; legal counsel

13 A. The director, subject to title 41, chapter 4, ARTICLE 4 AND, AS
14 APPLICABLE, articles 5 and 6, shall employ, determine the conditions of
15 employment and specify the duties of administrative, secretarial and clerical
16 employees as he deems necessary.

17 B. The attorney general shall be the legal advisor of the department
18 and shall give legal services as the department requires. Compensation for
19 personnel assigned by the attorney general to perform such services shall be
20 a charge against appropriations to the department. The attorney general
21 shall prosecute and defend in the name of this state all actions necessary to
22 carry out the provisions of this title.

23 Sec. 166. Section 49-1203, Arizona Revised Statutes, is amended to
24 read:

25 49-1203. Powers and duties of authority; definition

26 A. The authority is a corporate and politic body and shall have an
27 official seal that shall be judicially noticed. The authority may sue and be
28 sued, contract and acquire, hold, operate and dispose of property.

29 B. The authority, through its board, may:

30 1. Issue negotiable water quality bonds pursuant to section 49-1261
31 for the following purposes:

32 (a) To generate the state match required by the clean water act for
33 the clean water revolving fund and to generate the match required by the safe
34 drinking water act for the drinking water revolving fund.

35 (b) To provide financial assistance to political subdivisions, Indian
36 tribes and eligible drinking water facilities for constructing, acquiring or
37 improving wastewater treatment facilities, drinking water facilities,
38 nonpoint source projects and other related water quality facilities and
39 projects.

40 2. Issue water supply development bonds for the purpose of providing
41 financial assistance to water providers for water supply development purposes
42 pursuant to sections 49-1274 and 49-1275.

43 3. Provide financial assistance to political subdivisions and Indian
44 tribes from monies in the clean water revolving fund to finance wastewater
45 treatment projects.

1 4. Provide financial assistance to drinking water facilities from
2 monies in the drinking water revolving fund to finance these facilities.

3 5. Provide financial assistance to water providers from monies in the
4 water supply development revolving fund to finance water supply development.

5 6. Guarantee debt obligations of, and provide linked deposit
6 guarantees through third party lenders to:

7 (a) Political subdivisions that are issued to finance wastewater
8 treatment projects.

9 (b) Drinking water facilities that are issued to finance these
10 facilities.

11 (c) Water providers that are issued to finance water supply
12 development projects.

13 7. Provide linked deposit guarantees through third party lenders to
14 political subdivisions, drinking water facilities and water providers.

15 8. Apply for, accept and administer grants and other financial
16 assistance from the United States government and from other public and
17 private sources.

18 9. Enter into capitalization grant agreements with the United States
19 environmental protection agency.

20 10. Adopt rules pursuant to title 41, chapter 6 governing the
21 application for and awarding of wastewater treatment facility, drinking water
22 facility and nonpoint source project financial assistance under this chapter,
23 the administration of the clean water revolving fund and the drinking water
24 revolving fund and the issuance of water quality bonds.

25 11. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,** hire a director and
26 staff for the authority.

27 12. Contract for the services of outside advisors, attorneys,
28 consultants and aides reasonably necessary or desirable to allow the
29 authority to adequately perform its duties.

30 13. Contract and incur obligations as reasonably necessary or desirable
31 within the general scope of authority activities and operations to allow the
32 authority to adequately perform its duties.

33 14. Assess financial assistance origination fees and annual fees to
34 cover the reasonable costs of administering the authority and the monies
35 administered by the authority. Any fees collected pursuant to this paragraph
36 constitute governmental revenue and may be used for any purpose consistent
37 with the mission and objectives of the authority.

38 15. Perform any function of a fund manager under the CERCLA Brownfields
39 cleanup revolving loan fund program as requested by the department. The
40 board shall perform any action authorized under this article on behalf of the
41 Brownfields cleanup revolving loan fund program established pursuant to
42 chapter 2, article 1.1 of this title at the request of the department. In
43 order to perform these functions, the board shall enter into a written
44 agreement with the department.

45 16. Provide grants, staff assistance or technical assistance in the
46 form of loan repayment agreements and other professional assistance to

1 political subdivisions, any county with a population of less than five
2 hundred thousand persons, Indian tribes and community water systems in
3 connection with the development or financing of wastewater, drinking water,
4 water reclamation or related water infrastructure. Assistance provided under
5 a technical assistance loan repayment agreement shall be in a form and under
6 terms determined by the authority and shall be repaid not more than three
7 years after the date that the monies are advanced to the applicant. The
8 provision of technical assistance by the authority does not create any
9 liability for the authority or this state regarding the design, construction
10 or operation of any infrastructure project.

11 17. Provide grants, staff assistance or technical assistance in the
12 form of loan repayment agreements and other professional assistance to water
13 providers in connection with the planning or design of water supply
14 development projects as determined by the committee pursuant to section
15 49-1274. A single grant shall not exceed one hundred thousand dollars.
16 Assistance provided under a technical assistance loan repayment agreement
17 shall be in a form and under terms determined by the committee and shall be
18 repaid not more than three years after the date that the monies are advanced
19 to the applicant. The provision of technical assistance by the authority or
20 the committee does not create any liability for the authority, the committee
21 or this state regarding the design, construction or operation of any water
22 supply development project.

23 C. The authority, in consultation with the committee, may:

24 1. Adopt rules pursuant to title 41, chapter 6 governing the
25 application for and awarding of water supply development fund project
26 financial assistance under this chapter and the administration of the water
27 supply development revolving fund.

28 2. Appoint a technical advisory subcommittee of not more than five
29 persons with expertise in water resource planning and development to advise
30 the committee regarding the technical feasibility of water supply development
31 projects.

32 D. The board shall deposit, pursuant to sections 35-146 and 35-147,
33 any monies received pursuant to subsection B, paragraph 8 of this section in
34 the appropriate fund as prescribed by the grant or other financial assistance
35 agreement.

36 E. Disbursements of monies by the water infrastructure finance
37 authority pursuant to a financial assistance agreement are not subject to
38 title 41, chapter 23.

39 F. For the purposes of the safe drinking water act, the department of
40 environmental quality is the state agency with primary responsibility for
41 administration of this state's public water system supervision program and,
42 in consultation with other appropriate state agencies, is the lead agency in
43 establishing assistance priorities as prescribed by section 49-1243,
44 subsection A, paragraph 6 and section 49-1244, subsection B, paragraph 3.

45 G. For the purposes of this section, "CERCLA" has the same meaning
46 prescribed in section 49-201.

1 Sec. 167. Initial terms of additional members of the law
2 enforcement merit system council

3 A. Notwithstanding section 41-1830.11, Arizona Revised Statutes, as
4 amended by this act, the initial terms of additional members of the law
5 enforcement merit system council are:

- 6 1. One term ending July 1, 2016.
7 2. One term ending July 1, 2014.

8 B. Notwithstanding section 41-1830.11, Arizona Revised Statutes, as
9 amended by this act, members of the law enforcement merit system council who
10 are serving on the effective date of this act may continue to serve the
11 remainder of their terms.

12 C. The governor shall make all subsequent appointments as prescribed
13 by statute.

14 Sec. 168. Retention of agency heads appointed for term of
15 office

16 Notwithstanding sections 4-111, 5-101.01, 6-111, 17-211, 20-141,
17 26-101, 38-715, 41-1711, 41-3952 and 41-4301, Arizona Revised Statutes, as
18 amended by this act, all persons serving as agency heads for a specified term
19 of office on January 1, 2014 may continue to serve until the expiration of
20 their normal terms. The governor, board or commission shall make all
21 subsequent appointments as prescribed by statute.

22 Sec. 169. Purpose

23 In order to promote public confidence in government, governmental
24 integrity, increased accountability and the efficient delivery of services to
25 its citizens, this act intends to reform this state's outdated personnel
26 system. The current system consists of rules and regulations adopted many
27 years ago that served a valuable purpose at the time, but now actually makes
28 it difficult to manage the workforce effectively. The current emphasis on
29 job security rewards longevity over performance that often results in the
30 retention of lower performers and the separation of our best talent. The new
31 personnel system pursuant to this act is intended to support this state's
32 ability to attract, hire and retain high-performing employees.

33 Sec. 170. Exemption from rule making; department of
34 administration; state personnel board; law
35 enforcement merit system council; retroactivity

36 A. For the purpose of implementing the provisions of this act, until
37 April 30, 2013, the department of administration is exempt from the rule
38 making requirements of title 41, chapter 6, Arizona Revised Statutes, except
39 that the department shall provide, as appropriate under the circumstances,
40 for notice of and opportunity for comment on the rules proposed for adoption.
41 In order to implement or change any rule during the exemption period, the
42 department of administration shall provide at least two opportunities for
43 public comment.

44 B. For the purpose of amending rules pertaining to the administration
45 of hearings and the review of appeals pursuant to section 41-782, Arizona
46 Revised Statutes, as amended by this act, until October 31, 2012 the state

1 personnel board is exempt from the rule making requirements of title 41,
2 chapter 6, Arizona Revised Statutes. The board shall provide public notice
3 and an opportunity for public comment on proposed rules at least thirty days
4 before rules are adopted or amended pursuant to this section.

5 C. For the purpose of adopting rules pertaining to the administration
6 of hearings and the review of appeals pursuant to section 41-1830.12, Arizona
7 Revised Statutes, as amended by this act, and section 41-1830.16, Arizona
8 Revised Statutes, as added by this act, until October 31, 2012 the law
9 enforcement merit system council is exempt from the rule making requirements
10 of title 41, chapter 6, Arizona Revised Statutes. The council shall provide
11 public notice and an opportunity for public comment on proposed rules at
12 least thirty days before rules are adopted pursuant to this section.

13 D. This section is effective retroactively to from and after April
14 30, 2012.

15 Sec. 171. Severability

16 If a provision of this act or its application to any person or
17 circumstance is held invalid, the invalidity does not affect other provisions
18 or applications of the act that can be given effect without the invalid
19 provision or application, and to this end the provisions of this act are
20 severable.

21 Sec. 172. Effective date

22 This act becomes effective from and after September 28, 2012.

APPROVED BY THE GOVERNOR MAY 10, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2012.