

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2571

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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.

1 8. Sign all vouchers to expend money under this title, which shall be
2 paid as other claims against this state out of the appropriations to the
3 department.

4 9. Coordinate agricultural education efforts to foster an
5 understanding of Arizona agriculture and to promote a more efficient
6 cooperation and understanding among agricultural educators, producers,
7 dealers, buyers, mass media and the consuming public to stimulate the
8 production, consumption and marketing of Arizona agricultural products.

9 10. Employ staff **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4** and
10 terminate employment for cause as provided by title 41, chapter 4, article 5.

11 11. Conduct hearings on appeals of the portion of plow-up refunds
12 withheld as a penalty pursuant to criteria adopted pursuant to section
13 3-1087, subsection B. The director may adopt rules to implement this
14 paragraph.

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

22 B. The director may:

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

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

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

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

37 5. Enter into compliance agreements with any person, state or
38 regulatory agency. For the purposes of this paragraph, "compliance

1 agreement" means any written agreement or permit between a person and the
2 department for the purpose of enforcing the department's requirements.

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

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

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

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

18 3-1003. Arizona exposition and state fair board; powers and
19 duties; compensation of employees

20 A. The Arizona exposition and state fair board shall:

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

24 2. Direct and conduct state fairs, exhibits, contests and
25 entertainments for the purposes of promoting and advancing the pursuits and
26 interests of the several counties and of the state, and of producing
27 sufficient revenue to defray the expenses incurred by the board in conducting
28 such events.

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

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

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

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

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

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

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

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

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

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

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

23 Sec. 3. Section 3-1003.02, Arizona Revised Statutes, is amended to
24 read:

25 3-1003.02. Duties of the executive director and comptroller

26 A. The executive director shall be:

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

29 2. Responsible for organizing and prescribing the duties of all
30 positions and departmental units in the Arizona coliseum and exposition
31 center, including the coliseum manager and comptroller. The executive
32 director shall:

33 (a) With the advice and consent of the board, appoint either the
34 coliseum manager or the comptroller as deputy director to perform the
35 functions, powers and duties of the executive director if the executive
36 director is unable to act.

37 (b) **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,**
38 **ARTICLE 5,** appoint or remove in the manner prescribed by law such personnel

1 considered necessary for the efficient work of the Arizona coliseum and
2 exposition center.

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

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

7 1. Act as the fiscal agent with complete authority to process all cash
8 receipts.

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

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

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

16 Sec. 4. Section 3-1084, Arizona Revised Statutes, is amended to read:

17 3-1084. Council staff; administrative services; reimbursement

18 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the council may employ
19 staff, ~~at a rate of compensation determined by the council, to serve at the~~
20 ~~pleasure of the council~~ and shall prescribe the ~~terms and conditions of~~
21 ~~employment~~ DUTIES of employees as necessary to perform the functions
22 prescribed by this article.

23 B. COMPENSATION OF all employees of the council ~~are exempt from title~~
24 ~~38, chapter 4, article 1 and title 41, chapter 4, articles 5 and 6 and are~~
25 ~~not under the jurisdiction of the department of administration~~ IS DETERMINED
26 PURSUANT TO SECTION 38-611.

27 C. The council may also enter into an interagency agreement with the
28 department to provide necessary administrative services to the council,
29 including:

30 1. Providing secretarial and other services necessary for the council
31 to carry out its activities.

32 2. Establishing separate operating accounts for the council.

33 3. Providing necessary financial and accounting services to the
34 council, including the issuance of checks, payment of bills approved by the
35 council, annual audits, expenditure and receipt reports whether monthly or
36 annually, preparation of an annual budget and any other activities requested
37 by the council.

38 4. Receiving mail and other communications for the council.

1 5. Receiving monies authorized under this article for deposit,
2 pursuant to sections 35-146 and 35-147, in the appropriate funds.

3 6. Accepting donated monies on behalf of the council to be credited to
4 the account of the council.

5 7. Providing space for the meetings of the council.

6 8. Providing any other administrative services which the council
7 requests or finds necessary.

8 D. If the department performs any function under this article, it acts
9 as the agent of the council and has no authority or control over the council
10 or the council's employees or assets. The council shall reimburse the
11 department for any administrative services the department provides from the
12 monies received under this article in an amount agreed on by the council and
13 director. Monies received by the department shall be deposited, pursuant to
14 sections 35-146 and 35-147, in the administrative support fund established by
15 section 3-108.

16 Sec. 5. Section 3-1211, Arizona Revised Statutes, is amended to read:

17 3-1211. State veterinarian; qualifications

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

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

24 Sec. 6. Section 4-111, Arizona Revised Statutes, is amended to read:

25 4-111. State liquor board; department of liquor licenses and
26 control; members; director; appointment and removal

27 A. There is created the department of liquor licenses and control
28 which consists of the state liquor board and the office of director of the
29 department.

30 B. From and after January 31, 2003, the board consists of seven
31 members to be appointed by the governor pursuant to section 38-211. Five of
32 the members of the board shall not be financially interested directly or
33 indirectly in business licensed to deal with spirituous liquors. Two members
34 shall currently be engaged in business in the spirituous liquor industry or
35 have been engaged in the past in business in the spirituous liquor industry,
36 at least one of whom shall currently be a retail licensee or employee of a
37 retail licensee. One member shall be a member of a neighborhood association
38 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.~~

1 ~~6. Dishonesty.~~

2 ~~7. Drunkenness on duty.~~

3 ~~8. Addiction to the use of narcotics or habit-forming drugs.~~

4 ~~9. Inexcusable absence without leave.~~

5 ~~10. Final conviction of a felony or a misdemeanor involving moral~~
6 ~~turpitude.~~

7 ~~11. Discourteous treatment of the public.~~

8 ~~12. Improper political activity.~~

9 ~~13. Wilful disobedience.~~

10 ~~14. Misuse of state property.~~

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

13 Sec. 7. Section 4-112, Arizona Revised Statutes, is amended to read:

14 4-112. Powers and duties of board and director of department of
15 liquor licenses and control; investigations; county and
16 municipal regulation

17 A. The board shall:

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

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

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

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

24 1. Adopting rules:

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

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

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

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

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

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

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

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

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

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

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

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

26 D. All employees of the department of liquor licenses and control,
27 except members of the state liquor board and the director of the department,
28 shall be employed by the department in the manner prescribed by the
29 department of administration.

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

33 F. The board or the director may take evidence, administer oaths or
34 affirmations, issue subpoenas requiring attendance and testimony of
35 witnesses, cause depositions to be taken and require by subpoena duces tecum
36 the production of books, papers and other documents which are necessary for
37 the enforcement of this title. Proceedings held during the course of a
38 confidential investigation are exempt from title 38, chapter 3, article 3.1.

1 If a person refuses to obey a subpoena or fails to answer questions as
2 provided by this subsection, the board or the director may apply to the
3 superior court in the manner provided in section 12-2212. The board or
4 director may serve subpoenas by personal service or certified mail, return
5 receipt requested.

6 G. The director may:

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

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

13 3. Delegate to employees of the department authority to exercise
14 powers of the director in order to administer the department.

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

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

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

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

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

28 9. Accept and expend private grants of monies, gifts and devises for
29 conducting educational programs for parents and students on the repercussions
30 of underage alcohol consumption. State general fund monies shall not be
31 expended for the purposes of this paragraph. If the director does not
32 receive sufficient monies from private sources to carry out the purposes of
33 this paragraph, the director shall not provide the educational programs
34 prescribed in this paragraph. Grant monies received pursuant to this
35 paragraph are nonlapsing and do not revert to the state general fund at the
36 close of the fiscal year.

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

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

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

11 Sec. 8. Section 5-101.01, Arizona Revised Statutes, is amended to
12 read:

13 5-101.01. Arizona department of racing; director;
14 qualifications; term; deputy director; conflict of
15 interest

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

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

25 ~~C. Within sixty days after a vacancy occurs in the position of~~
26 ~~director, the commission shall forward a list of three candidates for~~
27 ~~appointment as director to the governor. The governor may request one~~
28 ~~additional list to be submitted by the commission. In the event the governor~~
29 ~~does not appoint the director within thirty days following receipt of the~~
30 ~~list submitted by the commission, the commission shall select a director for~~
31 ~~the department. In the event that the commission fails to submit the lists~~
32 ~~requested by the governor, the governor may appoint any qualified person to~~
33 ~~the position of director.~~

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

36 ~~E.~~ D. The positions of director and deputy director, if applicable,
37 are exempt from title 41, chapter 4, articles 5 and 6. Persons holding the

1 positions of director and deputy director, if applicable, are eligible to
2 receive compensation pursuant to section 38-611.

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

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

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

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

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

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

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

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

25 Sec. 9. Section 5-105, Arizona Revised Statutes, is amended to read:

26 5-105. Appointment of personnel; tests; reports; detention of
27 animals; testing facilities

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

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

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

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

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

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

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

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

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

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

31 D. A permittee shall, in accordance with regulations prescribed by the
32 commission, provide the testing personnel with adequate space and facilities
33 so that the inspections, tests and other procedures described in subsection A
34 may be performed. Access to such space and facilities shall be restricted in
35 accordance with regulations prescribed by the commission.

36 E. Testing personnel may detain for a period of not to exceed
37 twenty-four hours for examination, testing or the taking of evidence any
38 horse or dog at a race which is drugged or desensitized or which such person,

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

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

10 Sec. 10. Section 5-112, Arizona Revised Statutes, is amended to read:

11 5-112. Wagering legalized; simulcasting of races; unauthorized
12 wagering prohibited; classification; report

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

19 B. The department, upon request by a permittee, may grant permission
20 for electronically televised simulcasts of horse, harness or dog races to be
21 received by the permittee. In counties having a population of one million
22 five hundred thousand persons or more according to the most recent United
23 States decennial census, the simulcasts shall be received at the racetrack
24 enclosure where a horse, harness or dog racing meeting is being conducted,
25 provided that the simulcast may only be received during, immediately before
26 or immediately after a minimum of nine posted races for that racing day. In
27 counties having a population of five hundred thousand persons or more but
28 less than one million five hundred thousand persons according to the most
29 recent United States decennial census, the simulcasts shall be received at
30 the racetrack enclosure where a horse, harness or dog racing meeting is being
31 conducted provided that the simulcast may only be received during,
32 immediately before or immediately after a minimum of four posted races for
33 that racing day. In all other counties, the simulcasts shall be received at
34 a racetrack enclosure at which authorized racing has been conducted whether
35 or not posted races have been offered for the day the simulcast is received.
36 The simulcasts shall be limited to horse, harness or dog races. The
37 simulcasts shall be limited to the same type of racing as authorized in the
38 permit for live racing conducted by the permittee. The department, upon

1 request by a permittee, may grant permission for the permittee to transmit
2 the live race from the racetrack enclosure where a horse, harness or dog
3 racing meeting is being conducted to a facility or facilities in another
4 state. All simulcasts of horse or harness races shall comply with the
5 interstate ~~horse-racing~~ HORSERACING act of 1978 (P.L. 95-515; 92 Stat. 1811;
6 15 United States Code chapter 57). All forms of pari-mutuel wagering shall
7 be allowed on horse, harness or dog races televised by simulcasting. All
8 monies wagered by patrons on these horse, harness or dog races shall be
9 computed in the amount of money wagered each racing day for purposes of
10 section 5-111.

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

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

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

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

36 1. For horse and harness racing, the permittee may conduct wagering on
37 dark day simulcasts for twenty days, provided the permittee conducts a
38 minimum of seven posted races on each of the racing days mandated in the

1 permittee's commercial racing permit. In order to conduct wagering on dark
2 day simulcasts for more than twenty days, the permittee is required to
3 conduct a minimum of seven posted races on one hundred forty racing days at
4 the permittee's racetrack enclosure.

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

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

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

17 G. Notwithstanding subsection B of this section and subject to
18 subsections C and D of this section, during the period of the permit for
19 horse racing, wagering on dark day simulcasts of horse races at a permittee's
20 additional wagering facilities shall only be allowed for a maximum number of
21 days equal to the number of days of live horse racing scheduled to be
22 conducted at that permittee's racetrack enclosure during the permittee's
23 racing meeting, and during the period of a permit for dog racing, wagering on
24 dark day simulcasts of dog races at a permittee's additional wagering
25 facilities shall only be allowed for a maximum number of days equal to the
26 number of days of live dog racing scheduled to be conducted at that
27 permittee's racetrack enclosure during the permittee's racing meeting. The
28 number of days allowed for dark day simulcasting under this subsection shall
29 be computed by adding all racing days, including any county fair racing days
30 operated in accordance with section 5-110, subsection F, allotted to the
31 permittee's racetrack enclosure in one or more racing permits and all racing
32 days allocated to the permittee's racetrack enclosure pursuant to section
33 5-110, subsection H.

34 H. Simulcast signals or teletracking of simulcast signals does not
35 prohibit live racing or teletracking of that live racing in any county at any
36 time.

37 I. Except as provided in subsection L of this section, section
38 5-101.01, subsection ~~G~~ F and title 13, chapter 33, any person within a

1 racetrack enclosure or an additional facility authorized for wagering
2 pursuant to section 5-111, subsection A may wager on the results of a race
3 televised to the facility pursuant to section 5-111, subsection A by
4 contributing to a pari-mutuel pool operated as provided by this article.

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

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

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

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

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

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

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

33 Q. The department and the attorney general shall enforce subsections O
34 and P of this section and shall submit an annual report that summarizes these
35 enforcement activities to the governor, the speaker of the house of
36 representatives and the president of the senate. The department and the
37 attorney general shall provide a copy of this report to the secretary of

1 state and the director of the Arizona state library, archives and public
2 records.

3 Sec. 11. Section 5-224, Arizona Revised Statutes, is amended to read:

4 5-224. Division of boxing and mixed martial arts regulation;
5 powers and duties

6 A. A division of boxing and mixed martial arts regulation is
7 established in the Arizona department of racing to provide staff support for
8 the Arizona state boxing and mixed martial arts commission. **SUBJECT TO TITLE**
9 **41, CHAPTER 4, ARTICLE 4**, the director of the department shall appoint an
10 executive director to perform the duties prescribed in this article. The
11 resources for the Arizona state boxing and mixed martial arts commission
12 shall come from monies appropriated to the department of racing.

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

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

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

24 E. The commission shall:

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

27 2. Keep records of the commission open to public inspection at all
28 reasonable times.

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

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

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

1 Sec. 12. Section 5-556, Arizona Revised Statutes, is amended to read:

2 5-556. Powers and duties of director

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

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

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

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

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

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

22 6. Confer regularly as necessary or desirable and not less than once
23 every quarter with the commission on the operation and administration of the
24 lottery.

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

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

29 9. Suspend or revoke any license issued pursuant to this chapter or
30 the rules adopted pursuant to this chapter, subject to appeal to the
31 commission.

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

1 Sec. 13. Section 5-604, Arizona Revised Statutes, is amended to read:

2 5-604. Department of gaming; director; qualifications; term;
3 conflict of interest; grounds for dismissal

4 A. The department of gaming is established.

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

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

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

18 Sec. 14. Section 6-111, Arizona Revised Statutes, is amended to read:

19 6-111. Superintendent; appointment; qualifications; salary

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

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

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

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

1 Sec. 15. Section 6-112, Arizona Revised Statutes, is amended to read:

2 6-112. Deputy superintendent; examiners; personnel

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

4 1. Shall appoint a deputy superintendent who shall have the power and
5 perform the duties of the superintendent. The deputy superintendent shall
6 hold such appointment at the will and pleasure of the superintendent.

7 ~~B. The superintendent~~

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

11 ~~C. The superintendent~~

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

13 Sec. 16. Section 15-182, Arizona Revised Statutes, is amended to read:

14 15-182. State board for charter schools; membership; terms;
15 compensation; duties

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

18 1. The superintendent of public instruction or the superintendent's
19 designee.

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

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

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

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

33 6. Three members of the legislature who shall serve as advisory
34 members and who are appointed jointly by the president of the senate and the
35 speaker of the house of representatives.

36 B. The superintendent of public instruction shall serve a term on the
37 state board for charter schools that runs concurrently with the
38 superintendent's term of office. The members appointed pursuant to

1 subsection A, paragraph 6 of this section shall serve two year terms on the
2 state board for charter schools that begin and end on the third Monday in
3 January and that run concurrently with their respective terms of office.
4 Members appointed pursuant to subsection A, paragraphs 2, 3, 4 and 5 of this
5 section shall serve staggered four year terms that begin and end on the third
6 Monday in January.

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

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

13 E. The state board for charter schools shall:

14 1. Exercise general supervision over charter schools sponsored by the
15 board and recommend legislation pertaining to charter schools to the
16 legislature.

17 2. Grant charter status to qualifying applicants for charter schools
18 pursuant to section 15-183.

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

20 4. Keep a record of its proceedings.

21 5. Adopt rules for its own government.

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

23 7. Delegate to the superintendent of public instruction the execution
24 of board policies.

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

27 F. The state board for charter schools may:

28 1. Contract.

29 2. Sue and be sued.

30 3. Use the services of the auditor general.

31 4. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND LEGISLATIVE
32 APPROPRIATION, EMPLOY STAFF.

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

1 Sec. 17. Section 15-203, Arizona Revised Statutes, is amended to read:

2 15-203. Powers and duties

3 A. The state board of education shall:

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

7 2. Keep a record of its proceedings.

8 3. Make rules for its own government.

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

10 5. ~~Appoint its employees,~~ SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,
11 EMPLOY STAFF on the recommendation of the superintendent of public
12 instruction.

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

14 7. Delegate to the superintendent of public instruction the execution
15 of board policies and rules.

16 8. Recommend to the legislature changes or additions to the statutes
17 pertaining to schools.

18 9. Prepare, publish and distribute reports concerning the educational
19 welfare of this state.

20 10. Prepare a budget for expenditures necessary for proper maintenance
21 of the board and accomplishment of its purposes and present the budget to the
22 legislature.

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

24 12. Prescribe a minimum course of study in the common schools, minimum
25 competency requirements for the promotion of pupils from the third grade and
26 minimum course of study and competency requirements for the promotion of
27 pupils from the eighth grade. The state board of education shall prepare a
28 fiscal impact statement of any proposed changes to the minimum course of
29 study or competency requirements and, on completion, shall send a copy to the
30 director of the joint legislative budget committee and the executive director
31 of the school facilities board. The state board of education shall not adopt
32 any changes in the minimum course of study or competency requirements in
33 effect on July 1, 1998 that will have a fiscal impact on school capital
34 costs.

35 13. Prescribe minimum course of study and competency requirements for
36 the graduation of pupils from high school. The state board of education
37 shall prepare a fiscal impact statement of any proposed changes to the
38 minimum course of study or competency requirements and, on completion, shall

1 send a copy to the director of the joint legislative budget committee and the
2 executive director of the school facilities board. The state board of
3 education shall not adopt any changes in the minimum course of study or
4 competency requirements in effect on July 1, 1998 that will have a fiscal
5 impact on school capital costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 16. Adopt rules governing the methods for the administration of all
23 proficiency examinations.

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

26 18. Include within its budget the cost of contracting for the purchase,
27 distribution and scoring of the examinations as provided in paragraphs 16 and
28 17 of this subsection.

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

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

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

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

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

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

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

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

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

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

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

4 (a) Currently resides in this state.

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

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

16 30. Adopt rules to define and provide guidance to schools as to the
17 activities that would constitute immoral or unprofessional conduct of
18 certificated persons.

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

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

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

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

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

1 principal of the pupil's school in writing that the parent or guardian does
2 not wish the pupil to participate in community service.

3 (e) Procedures for a pupil in grade nine to prepare a written proposal
4 that outlines the type of community service that the pupil would like to
5 perform and the goals that the pupil hopes to achieve as a result of
6 community service. The pupil's written proposal shall be reviewed by a
7 faculty advisor, a guidance counselor or any other school employee who is
8 designated as the community service program coordinator for that school. The
9 pupil may alter the written proposal at any time before performing community
10 service.

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

15 32. To facilitate the transfer of military personnel and their
16 dependents to and from the public schools of this state, pursue, in
17 cooperation with the Arizona board of regents, reciprocity agreements with
18 other states concerning the transfer credits for military personnel and their
19 dependents. A reciprocity agreement entered into pursuant to this paragraph
20 shall:

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

22 (i) The transfer of student records.

23 (ii) Awarding credit for completed course work.

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

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

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

34 34. For each of the alternative textbook formats of human-voiced audio,
35 large-print and braille, designate alternative media producers to adapt
36 existing standard print textbooks or to provide specialized textbooks, or
37 both, for pupils with disabilities in this state. Each alternative media
38 producer shall be capable of producing alternative textbooks in all relevant

1 subjects in at least one of the alternative textbook formats. The board
2 shall post the designated list of alternative media producers on its website.

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

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

19 37. Adopt rules for the alternative certification of teachers of
20 nontraditional foreign languages that allow for the passing of a nationally
21 accredited test to substitute for the education coursework required for
22 certification.

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

31 B. The state board of education may:

32 1. Contract.

33 2. Sue and be sued.

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

36 4. Provide for an advisory committee to conduct hearings and
37 screenings to determine whether grounds exist to impose disciplinary action
38 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. 18. 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. 19. Repeal

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

29 Sec. 20. 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

1 administration and governance of such institutions, including those powers
2 enumerated in section 15-1625, subsection B, paragraphs 2 and 4, paragraphs
3 3, 4, 8, 9, 11 and 12 of this subsection and subsection B of this section.
4 Any delegation of authority may be rescinded by the board at any time in
5 whole or in part.

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

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

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

17 5. Fix tuitions and fees to be charged and differentiate the tuitions
18 and fees between institutions and between residents, nonresidents,
19 undergraduate students, graduate students, students from foreign countries
20 and students who have earned credit hours in excess of the credit hour
21 threshold. For the purposes of this paragraph, the undergraduate credit hour
22 threshold is one hundred forty-five hours for students who attend a
23 university under the jurisdiction of the board. The undergraduate credit
24 hour threshold shall be based on the actual full-time equivalent student
25 enrollment counted on the forty-fifth day of every fall and spring semester,
26 divided by two, and any budget adjustment based on student enrollment shall
27 occur in the fiscal year following the actual full-time equivalent student
28 enrollment count. The undergraduate credit hour threshold shall not apply to
29 degree programs that require credit hours above the credit hour threshold,
30 credits earned in the pursuit of up to two baccalaureate degrees, credits
31 earned in the pursuit of up to two state regulated licensures or
32 certificates, credits earned in the pursuit of teaching certification,
33 credits transferred from a private institution of higher education, credits
34 transferred from an institution of higher education in another state, credits
35 earned at another institution of higher education but that are not accepted
36 as transfer credits at the university where the student is currently enrolled
37 and credits earned by students who enroll at a university under the
38 jurisdiction of the board more than twenty-four months after the end of that

1 student's previous enrollment at a public institution of higher education in
2 this state. On or before October 15 of each year, the board shall report to
3 the joint legislative budget committee the number of students who were
4 enrolled at universities under the jurisdiction of the board during the
5 previous fiscal year who met or exceeded the undergraduate credit hour
6 threshold prescribed in this paragraph. The amount of tuition, registration
7 fees and other revenues included in the operating budget for the university
8 adopted by the board as prescribed in paragraph 13 of this subsection shall
9 be deposited, pursuant to sections 35-146 and 35-147. All other tuition and
10 fee revenue shall be retained by each university for expenditure as approved
11 by the board, except that the universities shall not use any tuition or fee
12 revenue to fund or support an alumni association.

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

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

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

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

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

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

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

36 8. Establish curriculums and designate courses at the several
37 institutions that in its judgment will best serve the interests of this
38 state.

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

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

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

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

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

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

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

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

4 17. Acquire United States flags for each classroom that are
5 manufactured in the United States and that are at least two feet by three
6 feet and hardware to appropriately display the United States flags, acquire a
7 legible copy of the Constitution of the United States and the Bill of Rights,
8 display the flags in each classroom in accordance with title 4 of the United
9 States Code and display a legible copy of the Constitution of the United
10 States and the Bill of Rights adjacent to the flag.

11 18. To facilitate the transfer of military personnel and their
12 dependents to and from the public schools of this state, pursue, in
13 cooperation with the state board of education, reciprocity agreements with
14 other states concerning the transfer credits for military personnel and their
15 dependents. A reciprocity agreement entered into pursuant to this paragraph
16 shall:

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

18 (i) The transfer of student records.

19 (ii) Awarding credit for completed course work.

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

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

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

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

33 21. On or before August 1 of each year, report to the joint legislative
34 budget committee the graduation rate by university campus during the previous
35 fiscal year. The board shall also report the retention rate by university
36 campus and by class, as determined by date of entry during the previous
37 fiscal year.

1 B. The board shall adopt personnel rules. All nonacademic employees
2 of the universities are subject to these rules except for university
3 presidents, university vice-presidents, university deans, legal counsel and
4 administrative officers. ~~The personnel rules shall be similar to the~~
5 ~~personnel rules under section 41-783.~~ The rules shall include provisions for
6 listing available positions with the department of economic security,
7 competitive employment processes for applicants, probationary status for new
8 nonacademic employees, nonprobationary status on successful completion of
9 probation and due process protections of nonprobationary employees after
10 discharge. The board shall provide notice of proposed rule adoption and an
11 opportunity for public comment on all personnel rules proposed for adoption.

12 C. In conjunction with the auditor general, the board shall develop a
13 uniform accounting and reporting system, which shall be reviewed by the joint
14 legislative budget committee before final adoption by the board. The board
15 shall require each university to comply with the uniform accounting and
16 reporting system.

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

21 E. The board shall approve or disapprove any contract or agreement
22 entered into by the university of Arizona hospital with the Arizona health
23 facilities authority.

24 F. The board may adopt policies that authorize the institutions under
25 its jurisdiction to enter into employment contracts with nontenured employees
26 for periods of more than one year but not more than five years. The policies
27 shall prescribe limitations on the authority of the institutions to enter
28 into employment contracts for periods of more than one year but not more than
29 five years, including the requirement that the board approve the contracts.

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

33 H. The board may establish a program for the exchange of students
34 between the universities under the jurisdiction of the board and colleges and
35 universities located in the state of Sonora, Mexico. Notwithstanding
36 subsection A, paragraph 5 of this section, the program may provide for
37 in-state tuition at the universities under the jurisdiction of the board for
38 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. 21. 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.

1 elementary and high school designs. The board shall develop separate school
2 designs for elementary, middle and high schools with varying pupil
3 capacities.

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

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

8 9. Submit electronically an annual report by December 15 to the
9 speaker of the house of representatives, the president of the senate, the
10 superintendent of public instruction, the director of the Arizona state
11 library, archives and public records and the governor that includes the
12 following information:

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

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

19 (c) A summary of the findings and conclusions of the building
20 maintenance inspections conducted pursuant to this article during the
21 previous fiscal year.

22 (d) A summary of the findings of common design elements and
23 characteristics of the highest performing schools and the lowest performing
24 schools based on academic productivity, including the results of the parent
25 quality rating survey. For the purposes of this subdivision, "academic
26 productivity" means academic year advancement per calendar year as measured
27 with student-level data using the statewide nationally standardized
28 norm-referenced achievement test.

29 10. By December 1 of each year, report electronically to the joint
30 committee on capital review the amounts necessary to fulfill the requirements
31 of sections 15-2022, 15-2031 and 15-2041 for the following fiscal year and
32 the estimated amounts necessary to fulfill the requirements of sections
33 15-2022, 15-2031 and 15-2041 for the fiscal year following the next fiscal
34 year. The board shall provide copies of the report to the president of the
35 senate, the speaker of the house of representatives and the governor.

36 11. Adopt minimum school facility adequacy guidelines to provide the
37 minimum quality and quantity of school buildings and the facilities and
38 equipment necessary and appropriate to enable pupils to achieve the

1 educational goals of the Arizona state schools for the deaf and the blind.
2 The school facilities board shall establish minimum school facility adequacy
3 guidelines applicable to the Arizona state schools for the deaf and the
4 blind.

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

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

23 14. Every two years, provide school districts with information on
24 improving and maintaining the indoor environmental quality in school
25 buildings.

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

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

35 C. The governor shall appoint an executive director of the school
36 facilities board pursuant to section 38-211. The executive director is
37 eligible to receive compensation as determined pursuant to section 38-611 and
38 may hire and fire necessary staff [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#)

1 AND as approved by the legislature in the budget. The executive director
2 shall have demonstrated competency in school finance, facilities design or
3 facilities management, either in private business or government service. The
4 executive director serves at the pleasure of the governor. The staff of the
5 school facilities board is exempt from title 41, chapter 4, articles 5 and 6.
6 The executive director:

7 1. Shall analyze applications for monies submitted to the board by
8 school districts.

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

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

15 4. Shall assist the board in the preparation of the board's annual
16 report.

17 5. Shall research and provide reports on issues of general interest to
18 the board.

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

22 7. May assist school districts in facilitating the development of
23 multijurisdictional facilities.

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

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

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

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

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

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

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

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

26 F. The school facilities board may consider appropriate combinations
27 of facilities or uses in making assessments of and curing deficiencies
28 pursuant to subsection A, paragraph 1 of this section and in certifying plans
29 for new school facilities pursuant to subsection A, paragraph 5 of this
30 section.

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

33 H. The board shall not distribute monies to a school district for
34 replacement or repair of facilities if the costs associated with the
35 replacement or repair are covered by insurance or a performance or payment
36 bond.

37 I. The board may contract for construction services and materials that
38 are necessary to correct existing deficiencies in school district facilities.

1 The board may procure the construction services necessary pursuant to this
2 subsection by any method, including construction-manager-at-risk,
3 design-build, design-bid-build or job-order-contracting as provided by title
4 41, chapter 23. The construction planning and services performed pursuant to
5 this subsection are exempt from section 41-791.01.

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

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

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

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

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

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

37 M. After notifying each school district, and if a written objection
38 from the school district is not received by the school facilities board

1 within thirty days of the notification, the school facilities board may
2 access public utility company records of power, water, natural gas, telephone
3 and broadband usage to assemble consistent and accurate data on utility
4 consumption at school facilities to determine the effectiveness of facility
5 design, operation and maintenance measures intended to reduce energy and
6 water consumption and costs. Any public utility that provides service to a
7 school district in this state shall provide the data requested by the school
8 facilities board pursuant to this subsection.

9 N. The school facilities board shall not require a common school
10 district that provides instruction to pupils in grade nine to obtain approval
11 from the school facilities board to reconfigure its school facilities. A
12 common school district that provides instruction to pupils in grade nine is
13 not entitled to additional monies from the school facilities board for
14 facilities to educate pupils in grade nine.

15 Sec. 23. Section 17-211, Arizona Revised Statutes, is amended to read:

16 17-211. Director; selection; removal; powers and duties;
17 employees

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

30 B. The commission shall prepare an examination for the post of
31 director to comply with the requirements of this title. The examination
32 shall be conducted at the offices of the commission at the capital to
33 establish an active list of eligible applicants. The director shall be
34 selected from those scoring satisfactory grades and having other qualities
35 deemed advisable by the commission. The commission may call for additional
36 examinations from time to time for selection of a new list of eligible
37 applicants to fill a vacancy.

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

16 D. The director shall:

- 17 1. Have general supervision and control of all activities, functions
18 and employees of the department.
19 2. Enforce all provisions of this title, including all commission
20 rules.
21 3. Collaborate with the state forester in presentations to legislative
22 committees on issues associated with forest management and wildfire
23 prevention and suppression as provided by section 37-622, subsection B.

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

- 26 1. Execute all warrants issued for a violation of this title.
27 2. Execute subpoenas issued in any matter arising under this title.
28 3. Search without warrant any aircraft, boat, vehicle, box, game bag
29 or other package where there is sufficient cause to believe that wildlife or
30 parts of wildlife are possessed in violation of law.
31 4. Inspect all wildlife taken or transported and seize all wildlife
32 taken or possessed in violation of law, or showing evidence of illegal
33 taking.
34 5. Seize as evidence devices used illegally in taking wildlife and
35 hold them subject to the provisions of section 17-240.
36 6. Generally exercise the powers of peace officers with primary duties
37 the enforcement of this title.

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

4 Sec. 24. Section 17-231, Arizona Revised Statutes, is amended to read:

5 17-231. General powers and duties of the commission

6 A. The commission shall:

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

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

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

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

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

17 ~~6.~~ 5. Provide for the assembling and distribution of information to
18 the public relating to wildlife and activities of the department.

19 ~~7.~~ 6. Prescribe rules for the expenditure, by or under the control of
20 the director, of all funds arising from appropriation, licenses, gifts or
21 other sources.

22 ~~8.~~ 7. Exercise such powers and duties necessary to carry out fully
23 the provisions of this title and in general exercise powers and duties which
24 relate to adopting and carrying out policies of the department and control of
25 its financial affairs.

26 ~~9.~~ 8. Prescribe procedures for use of department personnel,
27 facilities, equipment, supplies and other resources in assisting search or
28 rescue operations on request of the director of the division of emergency
29 management.

30 ~~10.~~ 9. Cooperate with the Arizona-Mexico commission in the governor's
31 office and with researchers at universities in this state to collect data and
32 conduct projects in the United States and Mexico on issues that are within
33 the scope of the department's duties and that relate to quality of life,
34 trade and economic development in this state in a manner that will help the
35 Arizona-Mexico commission to assess and enhance the economic competitiveness
36 of this state and of the Arizona-Mexico region.

37 B. The commission may:

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

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

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

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

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

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

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

23 8. Prescribe rules for the sale, trade, importation, exportation or
24 possession of wildlife.

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

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

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

35 12. Consider the adverse and beneficial short-term and long-term
36 economic impacts on resource dependent communities, small businesses and the
37 state of Arizona, of policies and programs for the management, preservation

1 and harvest of wildlife by holding a public hearing to receive and consider
2 written comments and public testimony from interested persons.

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

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

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

28 Sec. 25. Section 20-141, Arizona Revised Statutes, is amended to read:

29 20-141. Director of insurance; appointment; qualifications;
30 compensation

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

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

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

1 D. The director shall receive compensation as determined pursuant to
2 section 38-611.

3 Sec. 26. Section 20-148, Arizona Revised Statutes, is amended to read:
4 20-148. Deputies and other employees; special services

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

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

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

13 Sec. 27. Section 23-108, Arizona Revised Statutes, is amended to read:
14 23-108. Director; employees; compensation and expenses

15 A. The ~~commission shall employ a director~~ GOVERNOR SHALL APPOINT A
16 DIRECTOR OF THE INDUSTRIAL COMMISSION PURSUANT TO SECTION 38-211. SUBJECT TO
17 TITLE 41, CHAPTER 4, ARTICLE 4, the director may employ such personnel as
18 deemed necessary by the provisions of chapters 1, 2 and 6 and article 2 of
19 chapter 3 of this title.

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

25 C. The compensation of the director and commission employees and
26 payment of subsistence and travel expenses allowed by law shall be paid from
27 the administrative fund.

28 Sec. 28. Section 23-108.02, Arizona Revised Statutes, is amended to
29 read:

30 23-108.02. Administrative law judges

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

34 B. The annual compensation of the chief administrative law judge and
35 of the administrative law judges shall be as determined pursuant to section
36 38-611.

37 Sec. 29. Section 23-391, Arizona Revised Statutes, is amended to read:
38 23-391. Overtime pay; work week

1 A. Subject to availability of appropriated funds, an employee of ~~the~~
2 THIS state or any political subdivision, ~~—~~ serving in a position determined by
3 ~~the law enforcement merit system council,~~ the director of the department of
4 administration, the Arizona board of regents, the board of directors for the
5 Arizona state schools for the deaf and the blind or the governing body of a
6 political subdivision, in the discretion of ~~such~~ THE board or body, to be
7 eligible for overtime compensation who is required to work in excess of ~~such~~
8 THE person's normal work week, ~~—~~ shall be compensated for ~~such~~ THE excess time
9 at the ~~following rates:~~

10 ~~1.~~ RATE OF one and one-half times the regular rate at which ~~such~~ THE
11 person is employed or one and one-half hours of compensatory time off for
12 each hour worked if overtime compensation is mandated by federal law.

13 ~~2. If federal law does not mandate overtime compensation, the person~~
14 ~~shall receive~~

15 B. SUBJECT TO THE AVAILABILITY OF APPROPRIATED FUNDS, AN EMPLOYEE OF
16 THIS STATE SERVING IN A POSITION ENGAGED IN LAW ENFORCEMENT OR PROBATION
17 OFFICER ACTIVITIES AND DETERMINED NOT TO BE ELIGIBLE FOR OVERTIME
18 COMPENSATION PURSUANT TO FEDERAL LAW, OR AN EMPLOYEE OF ANY POLITICAL
19 SUBDIVISION SERVING IN A POSITION DETERMINED BY THE GOVERNING BODY OF THE
20 POLITICAL SUBDIVISION NOT TO BE ELIGIBLE FOR OVERTIME COMPENSATION PURSUANT
21 TO FEDERAL LAW, WHO IS REQUIRED TO WORK IN EXCESS OF THE PERSON'S NORMAL WORK
22 WEEK SHALL BE COMPENSATED FOR THE EXCESS TIME AT the regular rate of pay or
23 compensatory leave on an hour for hour basis at the discretion of the board
24 or governing body.

25 ~~B.~~ C. Notwithstanding subsection A OR B OF THIS SECTION, the state or
26 a political subdivision may provide, by action of ~~the law enforcement merit~~
27 ~~system council,~~ the ARIZONA board of regents, the board of directors for the
28 Arizona state schools for the deaf and the blind or the director of the
29 department of administration in the case of the state or of the governing
30 body of the political subdivision, for a work week of forty hours in less
31 than five days for certain classes of employees employed by the state or the
32 political subdivision.

33 D. FOR STATE AGENCIES OF THE STATE PERSONNEL SYSTEM, UNLESS OTHERWISE
34 PROVIDED BY LAW, THE STATE WORK WEEK IS THE PERIOD OF SEVEN CONSECUTIVE DAYS
35 STARTING SATURDAY AT 12:00 A.M. AND ENDING FRIDAY AT 11:59 P.M.
36 NOTWITHSTANDING ANY OTHER LAW, THE DIRECTOR OF THE DEPARTMENT OF
37 ADMINISTRATION MAY AUTHORIZE A WORKDAY, FOR THE METHOD AND PURPOSE OF
38 RECORDING TIME ENTRIES TO BE INCLUDED IN A WORK WEEK AND A PAY PERIOD FOR

1 EMPLOYEES OF THIS STATE WHO ARE IN THE CORRECTIONAL OFFICER CLASS SERIES OF
2 THE STATE DEPARTMENT OF CORRECTIONS WHO ARE REGULARLY SCHEDULED TO WORK A
3 SHIFT THAT SPANS TWO CALENDAR DAYS, DEFINED AS THE DAY A MAJORITY OF THE
4 HOURS ARE REGULARLY SCHEDULED TO BE WORKED. IF THE REGULARLY SCHEDULED HOURS
5 ARE EQUALLY SPLIT BETWEEN TWO CALENDAR DAYS, THE WORKDAY IS DEFINED AS THE
6 DAY THE SHIFT ENDS. SCHEDULED SHIFT START AND END TIMES SHALL NOT BE
7 ADJUSTED TO AVOID THE PAYMENT OF OVERTIME.

8 Sec. 30. Section 23-406, Arizona Revised Statutes, is amended to read:

9 23-406. Division of occupational safety and health; director;
10 appointment; qualifications; compensation

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

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

18 C. The director shall be:

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

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

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

1 Sec. 31. Section 23-1070, Arizona Revised Statutes, as amended by Laws
2 2011, chapter 93, section 1, is amended to read:

3 23-1070. Medical, surgical and hospital benefits provided by
4 employer; pilot program

5 A. An employer, other than ~~this state or~~ a political subdivision of
6 this state, who secures compensation to his employees in the manner provided
7 in section 23-961, subsection A, paragraph 1 or 2 **OR SECTION 23-962,**
8 **SUBSECTION A**, alone or jointly with other employers, in lieu of making
9 premium payments for medical, surgical and hospital benefits, may provide
10 such benefits to injured employees and may collect one-half of the cost
11 thereof from his employees, not to exceed one dollar per month from any
12 employee, which may be deducted from the wages of the employee.

13 B. An employer electing to provide such benefits shall notify his
14 insurance carrier and the commission of the election and render a detailed
15 statement of the arrangements made therefor to the commission.

16 C. An employer who maintains a hospital for his employees or who
17 contracts with a physician for the hospital care of injured employees shall,
18 on or before January 30 each year, make a verified written report to the
19 commission for the preceding year showing the total amount of hospital fees
20 collected and showing separately the amount contributed by the employees and
21 the amount contributed by the employers. The report shall also contain an
22 itemized account of the expenditures, investments or other disposition of the
23 fees, and a statement showing the balance remaining.

24 D. An employer who fails to notify his insurance carrier and the
25 commission of his election to provide such benefits, or who maintains a
26 hospital or contracts for hospital service as provided in subsection C of
27 this section, and fails to make the financial report required therein, is
28 liable for such benefits as provided in section 23-1062.

29 E. If the medical, surgical or hospital aid or treatment being
30 furnished by an employer is such that there is reasonable ground to believe
31 that the health, life or recovery of any employee is endangered or impaired
32 thereby, the commission may, upon application of the employee or upon its own
33 motion, order a change of physicians or other conditions. If the employer
34 fails to comply with the order promptly, the injured employee may elect to
35 have medical, surgical or hospital aid or treatment provided by or through
36 the state compensation fund. In that event the claim of the injured employee
37 against the employer shall be assigned to the state compensation fund for the
38 benefit thereof, and the state compensation fund shall furnish to the insured

1 employee medical, surgical or hospital aid or treatment as provided in this
2 chapter.

3 F. Notwithstanding subsection A of this section, a pilot program is
4 established to allow a city with a population of more than one hundred fifty
5 thousand persons and a self-insured county insurance pool to provide medical,
6 surgical and hospital benefits pursuant to this section. The purpose of the
7 pilot program is to determine whether public sector entities that are
8 self-insured can, through a directed care and medical management program,
9 contain costs and improve health care and return to work results for injured
10 employees. The industrial commission shall select the qualified city. The
11 entities participating in the pilot program shall consult with the industrial
12 commission on the protocol for assessment and reporting and shall submit all
13 baseline data to the commission before the pilot program can begin. No
14 earlier than January 1, 2012 and not later than January 1, 2013, the pilot
15 program participants may begin providing medical, surgical and hospital
16 benefits pursuant to this section on approval by the industrial commission.
17 This subsection does not exempt pilot program participants from any other
18 requirements for procurement of a medical network to direct care. The pilot
19 program participants shall report in accordance with the protocol for
20 assessment and reporting, with a final report two years after the start of
21 the pilot program. The pilot program ends and pilot program participants may
22 not provide medical, surgical and hospital benefits pursuant to this section
23 from and after December 31, 2014.

24 Sec. 32. Section 23-1070, Arizona Revised Statutes, as amended by Laws
25 2011, chapter 93, section 1 and chapter 157, section 15, is amended to read:

26 23-1070. Medical, surgical and hospital benefits provided by
27 employer: pilot program

28 A. An employer, other than ~~this state or~~ a political subdivision of
29 this state, who secures compensation to his employees in the manner provided
30 in section 23-961, subsection A, paragraph 1 or 2 **OR SECTION 23-962,**
31 **SUBSECTION A**, alone or jointly with other employers, in lieu of making
32 premium payments for medical, surgical and hospital benefits, may provide
33 such benefits to injured employees and may collect one-half of the cost
34 thereof from his employees, not to exceed one dollar per month from any
35 employee, which may be deducted from the wages of the employee.

36 B. An employer electing to provide such benefits shall notify his
37 insurance carrier and the commission of the election and render a detailed
38 statement of the arrangements made therefor to the commission.

1 C. An employer who maintains a hospital for his employees or who
2 contracts with a physician for the hospital care of injured employees, on or
3 before January 30 each year, shall make a verified written report to the
4 commission for the preceding year showing the total amount of hospital fees
5 collected and showing separately the amount contributed by the employees and
6 the amount contributed by the employers. The report shall also contain an
7 itemized account of the expenditures, investments or other disposition of the
8 fees, and a statement showing the balance remaining.

9 D. An employer who fails to notify his insurance carrier and the
10 commission of his election to provide such benefits, or who maintains a
11 hospital or contracts for hospital service as provided in subsection C of
12 this section, and fails to make the financial report required therein, is
13 liable for such benefits as provided in section 23-1062.

14 E. If the medical, surgical or hospital aid or treatment being
15 furnished by an employer is such that there is reasonable ground to believe
16 that the health, life or recovery of any employee is endangered or impaired
17 thereby, the commission, upon application of the employee or upon its own
18 motion, may order a change of physicians or other conditions. If the
19 employer fails to comply with the order promptly, the injured employee may
20 elect to have medical, surgical or hospital aid or treatment provided by or
21 through the special fund established by section 23-1065. In that event the
22 claim of the injured employee against the employer shall be assigned to the
23 special fund for the benefit thereof, and the special fund shall furnish to
24 the insured employee medical, surgical or hospital aid or treatment as
25 provided in this chapter.

26 F. Notwithstanding subsection A of this section, a pilot program is
27 established to allow a city with a population of more than one hundred fifty
28 thousand persons and a self-insured county insurance pool to provide medical,
29 surgical and hospital benefits pursuant to this section. The purpose of the
30 pilot program is to determine whether public sector entities that are
31 self-insured can, through a directed care and medical management program,
32 contain costs and improve health care and return to work results for injured
33 employees. The industrial commission shall select the qualified city. The
34 entities participating in the pilot program shall consult with the industrial
35 commission on the protocol for assessment and reporting and shall submit all
36 baseline data to the commission before the pilot program can begin. No
37 earlier than January 1, 2012 and not later than January 1, 2013, the pilot
38 program participants may begin providing medical, surgical and hospital

1 benefits pursuant to this section on approval by the industrial commission.
2 This subsection does not exempt pilot program participants from any other
3 requirements for procurement of a medical network to direct care. The pilot
4 program participants shall report in accordance with the protocol for
5 assessment and reporting, with a final report two years after the start of
6 the pilot program. The pilot program ends and pilot program participants may
7 not provide medical, surgical and hospital benefits pursuant to this section
8 from and after December 31, 2014.

9 Sec. 33. Section 26-101, Arizona Revised Statutes, is amended to read:

10 26-101. Department of emergency and military affairs;
11 organization; adjutant general; qualifications

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

16 B. The department shall consist of the adjutant general and such other
17 officers, warrant officers, enlisted personnel and employees as deemed
18 necessary.

19 C. The department shall be administered and controlled by the governor
20 as commander-in-chief. The adjutant general shall be the director of the
21 department.

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

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

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

4 Sec. 34. Section 26-102, Arizona Revised Statutes, is amended to read:

5 26-102. Powers and duties of the adjutant general

6 A. The adjutant general shall serve as head of the department. The
7 governor as commander in chief shall administer and control the national
8 guard, and the adjutant general is responsible to the governor for execution
9 of all orders relating to the militia, organization, activation,
10 reactivation, inactivation and allocation of units, recruiting of personnel,
11 public relations and discipline and training of the national guard and those
12 members of the militia inducted into the service of this state as provided in
13 this chapter. The adjutant general shall act as military chief of staff to
14 the governor and chief of all branches of the militia. The adjutant general
15 may belong to the national association and other organizations for the
16 betterment of the national guard, subscribe to and obtain periodicals,
17 literature and magazines of such other organizations and pay dues and charges
18 from monies of this state appropriated for that purpose. Except for the
19 authority expressly reserved for the governor, the adjutant general is
20 responsible for emergency management, and all emergency activities are
21 subject to the approval of the adjutant general.

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

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

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

28 3. Supervise and direct the organization, regulation, instruction and
29 other activities of the national guard.

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

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

35 6. Superintend the preparation of returns, plans and estimates
36 required by this state, by the department of the army, air force or navy and
37 by the secretary of defense.

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

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

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

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

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

16 1. Be the administrator of the department.

17 2. Coordinate the functions of the divisions and offices of the
18 department.

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

24 4. Appoint an auditor for the department to conduct periodic financial
25 and compliance audits of each division and office in the department and
26 perform such other duties as prescribed by law. At least annually the
27 auditor shall audit accounts that are open for more than twelve months. The
28 auditor shall determine within the department compliance with purchase and
29 bidding procedures prescribed by law.

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

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

34 7. As deemed necessary, appoint to peace officer status members of the
35 Arizona national guard who have been awarded a United States army military
36 occupational specialty as military policeman or a United States air force
37 specialty code as security policeman. Before appointment as peace officers,
38 such individuals must successfully complete a course of study to be

1 prescribed by the Arizona peace officer standards and training board.
2 Individuals appointed as peace officers pursuant to this section, when
3 performing duties at facilities or on land operated or controlled by or under
4 the jurisdiction of the adjutant general, have all the powers, privileges and
5 immunities of peace officers provided by law. Individuals appointed as peace
6 officers pursuant to this section are not eligible to participate in funding
7 provided by the peace officers' training fund established by section 41-1825
8 or in the public safety personnel retirement system.

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

13 9. Establish an educational program for persons who have previously
14 dropped out of high school and who are under twenty years of age but who are
15 not adjudicated delinquent. The educational program shall be designated
16 "project challenge", and the program shall be conducted by the national guard
17 of Arizona in a paramilitary environment. The goal of the educational
18 program is to provide persons enrolled in the program with the knowledge and
19 skills necessary to become productive citizens and to obtain a general
20 equivalency diploma. In addition to monies appropriated for the program, the
21 adjutant general may accept and spend monies from any other lawful public or
22 private source.

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

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

27 (b) The business transactions of the department.

28 (c) A detailed statement of expenditures for all military and civilian
29 purposes.

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

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

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

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

37 1. Enter into contracts with individuals, this state, political
38 subdivisions of this state or the federal government and its agencies for the

1 purchase, acquisition, rental or lease of lands, buildings or military
2 materiel and take title in the name of this state for the establishment and
3 maintenance of armories, subject to legislative appropriation for these
4 purposes.

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

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

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

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

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

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

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

22 Sec. 35. Section 26-305, Arizona Revised Statutes, is amended to read:

23 26-305. Division of emergency management; duties; director;
24 term; qualifications; compensation; emergency
25 management training fund

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

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

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

37 D. The adjutant general shall appoint the director who serves at the
38 pleasure of the adjutant general. The adjutant general shall select the

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

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

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

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

16 Sec. 36. Section 27-122, Arizona Revised Statutes, is amended to read:

17 27-122. Deputy inspectors

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

22 Sec. 37. Section 27-151, Arizona Revised Statutes, is amended to read:

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

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

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

1 C. The state geologist may:

2 1. Retain the services of faculty members or students, and shall have
3 reasonable access to the data and other resources, of the university of
4 Arizona or any other state university in this state to conduct or supervise
5 research, experimentation or other related work of the Arizona geological
6 survey.

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

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

14 4. EMPLOY VOLUNTEER STAFF AS NECESSARY.

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

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

21 Sec. 38. Section 28-363, Arizona Revised Statutes, is amended to read:

22 28-363. Duties of the director; administration

23 A. The director shall:

24 1. Supervise and administer the overall activities of the department
25 and its divisions and employees.

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

27 3. Provide for the assembly and distribution of information to the
28 public concerning department activities.

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

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

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

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

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

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

14 10. Designate the necessary agencies for enforcing the provisions of
15 the laws the director administers or enforces.

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

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

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

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

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

36 1. Spend monies and require the use of the metric system with respect
37 to designing or preparing plans, specifications, estimates or other documents

1 for a highway project that is awarded before October 1, 1997 and that is
2 exclusively metric from its inception.

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

5 Sec. 39. Section 30-103, Arizona Revised Statutes, is amended to read:

6 30-103. Administrative powers of authority; compensation of
7 assistants

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

12 B. The authority shall provide necessary records, including order,
13 resolution and minute books. It may act, effectuate, manifest and record its
14 actions by motion, resolution, order or other appropriate method. Minute,
15 order and resolution records shall be orderly arranged and conveniently
16 indexed. Records of the authority shall be public and open for inspection
17 during business hours.

18 C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the authority may employ
19 engineering, accounting, skilled and other assistants, define their duties
20 and provide the conditions of employment. All positions shall be filled by
21 persons selected and appointed on a nonpartisan, fitness and qualification
22 basis.

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

25 Sec. 40. Section 30-108, Arizona Revised Statutes, is amended to read:

26 30-108. Powers and duties of commission; annual report

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

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

34 C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the commission may
35 employ a person in the capacity of director, manager or chief engineer who
36 shall be a duly licensed engineer, but who need not be a resident or licensed
37 in this state. Such person shall be actively engaged in the practice of his
38 profession and trained and experienced in the performance of his duties.

1 Such person shall not hold any other public office or have any interest in a
2 business that may be adversely affected by the operation of the authority in
3 the exercise of its powers and discharge of its duties.

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

8 Sec. 41. Section 30-652, Arizona Revised Statutes, is amended to read:

9 30-652. Radiation regulatory agency; director; duties

10 A. There is established a radiation regulatory agency.

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

14 C. The director shall:

15 1. Administer and enforce this chapter and the rules and regulations
16 promulgated under this chapter.

17 2. Subject to title 41, chapter 4, ARTICLE 4 AND, AS APPLICABLE,
18 articles 5 and 6, employ, determine the conditions of employment and specify
19 the duties of inspectors, technical assistants and other employees of the
20 agency.

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

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

28 Sec. 42. Section 31-402, Arizona Revised Statutes, is amended to read:

29 31-402. Powers of board; powers and duties of governor; powers
30 and duties of executive director

31 A. For all persons who committed felony offenses before January 1,
32 1994, the board of executive clemency shall have exclusive power to pass upon
33 and recommend reprieves, commutations, paroles and pardons. No reprieve,
34 commutation or pardon may be granted by the governor unless it has first been
35 recommended by the board.

36 B. For all persons who committed felony offenses before January 1,
37 1994, all applications for reprieves, commutations and pardons made to the
38 governor shall be at once transmitted to the chairman of the board, and the

1 board shall return the applications with its recommendation to the governor.
2 All applications for reprieves, commutations and pardons made to the governor
3 shall include documentation that the victim or the victim's family was
4 notified pursuant to section 31-411, subsection H.

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

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

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

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

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

24 5. Shall receive petitions from the state department of corrections
25 alleging that an offender has violated the offender's terms and conditions of
26 community supervision and has lapsed or is probably about to lapse into
27 criminal ways or company. If the board determines that an offender on
28 community supervision has violated the terms and conditions of community
29 supervision the board may do any of the following:

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

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

35 (c) Impose additional terms and conditions on the offender while
36 keeping the offender on community supervision. If there is reasonable cause
37 to believe that an offender who has been kept on community supervision has
38 violated any term or condition of community supervision, any member of the

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

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

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

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

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

25 Sec. 43. Section 32-106, Arizona Revised Statutes, is amended to read:
26 [32-106. Powers and duties](#)

27 A. The board shall:

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

30 2. Adopt an official seal for attestation of certificates of
31 registration and other official papers and documents.

32 3. Consider and pass upon applications for registration or
33 certification.

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

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

37 6. Compel attendance of witnesses, administer oaths and take testimony
38 concerning all matters coming within its jurisdiction. In exercising these

1 powers, the board may issue subpoenas for the attendance of witnesses and the
2 production of books, records, documents and other evidence it deems relevant
3 to an investigation or hearing.

4 7. Keep a record of its proceedings.

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

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

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

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

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

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

1 F. The board may adopt rules establishing rules of professional
2 conduct for registrants.

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

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

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

9 Sec. 44. Section 32-304, Arizona Revised Statutes, is amended to read:

10 **32-304. Powers and duties**

11 A. The board shall:

12 1. Make and adopt rules which are necessary or proper for the
13 administration of this chapter, including sanitary and safety requirements
14 for schools and shops or salons, sanitary and safety standards for the
15 practice of barbering and mobile unit requirements.

16 2. Administer and enforce the provisions of this chapter and rules
17 adopted pursuant to this chapter.

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

21 4. Keep the records of the board open to public inspection at all
22 reasonable times.

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

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

27 7. Prescribe minimum school curriculum requirements.

28 B. The board may:

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

34 2. Inspect the premises of any school, shop or salon during business
35 hours.

1 Sec. 45. Section 32-503, Arizona Revised Statutes, is amended to read:

2 32-503. Organization; meetings; personnel; compensation

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

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

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

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

12 2. A supervisor of examinations who is an instructor licensed pursuant
13 to this chapter and has worked at least two of the five years immediately
14 preceding employment as an instructor in a school licensed pursuant to this
15 chapter.

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

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

19 D. Members of the board are eligible to receive compensation as
20 determined pursuant to section 38-611 for each day of actual service in the
21 business of the board. The board shall compensate its executive director and
22 other ~~permanent and temporary~~ personnel as determined pursuant to section
23 38-611.

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

25 32-703. Powers and duties; rules; executive director; advisory
26 committees and individuals

27 A. The primary duty of the board is to protect the public from
28 unlawful, incompetent, unqualified or unprofessional certified public
29 accountants or public accountants through certification, regulation and
30 rehabilitation.

31 B. The board may:

32 1. Investigate complaints filed with the board or on its own motion to
33 determine whether a certified public accountant or public accountant has
34 engaged in conduct in violation of this chapter or rules adopted pursuant to
35 this chapter.

36 2. Establish and maintain high standards of competence, independence
37 and integrity in the practice of accounting by a certified public accountant
38 or by a public accountant as required by generally accepted auditing

1 standards and generally accepted accounting principles and, in the case of
2 publicly held corporations or enterprises offering securities for sale, in
3 accordance with state or federal securities agency accounting requirements.

4 3. Establish reporting requirements that require registrants to
5 report:

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

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

14 4. Establish basic requirements for continuing professional education
15 of certified public accountants and public accountants, except that the
16 requirements shall not exceed eighty classroom hours in any registration
17 renewal period.

18 5. Adopt procedures concerning disciplinary actions, administrative
19 hearings and consent decisions.

20 6. Issue to qualified applicants certificates executed for and on
21 behalf of the board by the signatures of the president and secretary of the
22 board.

23 7. Adopt procedures and rules concerning examination and grading the
24 examinations of individuals applying for a certificate as required by this
25 chapter.

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

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

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

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

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

2 13. Adopt and amend rules concerning the definition of terms, the
3 orderly conduct of the board's affairs and the effective administration of
4 this chapter.

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

6 1. Issue subpoenas to compel the attendance of witnesses or the
7 production of documents. If a subpoena is disobeyed, the board may invoke
8 the aid of any court in requiring the attendance and testimony of witnesses
9 and the production of documents.

10 2. Administer oaths and take testimony.

11 3. Cooperate with the appropriate authorities in other jurisdictions
12 in investigation and enforcement concerning violations of this chapter and
13 comparable statutes of other jurisdictions.

14 4. Receive evidence concerning all matters within the scope of this
15 chapter.

16 Sec. 47. Section 32-802, Arizona Revised Statutes, is amended to read:

17 32-802. Board of podiatry examiners; compensation

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

21 B. Three members of the board shall have practiced podiatry
22 continuously in this state for not less than two years immediately preceding
23 appointment and shall have valid licenses to practice podiatry. Two members
24 of the board shall be lay persons. All members of the board shall be
25 citizens of the United States.

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

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

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

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

36 G. The state board of podiatry examiners may hire practicing
37 podiatrists or other medical specialists, or both, as needed, in order to

1 assist the board in giving examinations. Such examiners shall receive the
2 same compensation as board members.

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

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

10 Sec. 48. Section 32-905, Arizona Revised Statutes, is amended to read:

11 32-905. Executive director of board; duties; other personnel;
12 immunity

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

16 B. The executive director shall:

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

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

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

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

24 5. Administer oaths.

25 6. Act as custodian of the seal, books, minutes, records and
26 proceedings of the board.

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

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

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

1 Sec. 49. Section 32-1103, Arizona Revised Statutes, is amended to
2 read:

3 32-1103. Registrar of contractors: salary

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

10 Sec. 50. Section 32-1104, Arizona Revised Statutes, is amended to
11 read:

12 32-1104. Powers and duties

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

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

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

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

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

1 history record information from the department of public safety and other law
2 enforcement agencies.

3 5. Make rules the registrar deems necessary to effectually carry out
4 the provisions and intent of this chapter. Such rules shall include the
5 adoption of minimum standards for good and workmanlike construction. In the
6 adoption of such rules of minimum standards, the registrar shall be guided by
7 established usage and procedure as found in the construction business in this
8 state. If the rules of minimum standards adopted by the registrar are in any
9 manner inconsistent with a building or other code of the state, a county,
10 city or other political subdivision or local authority of the state,
11 compliance with such code shall constitute good and workmanlike construction
12 for the purposes of this chapter.

13 6. Apply the following to proposed rule changes:

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

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

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

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

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

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

3 2. Assist in the resolution of disputes in an informal process before
4 a reportable written complaint is filed. The registrar shall notify the
5 licensed contractor in an alleged dispute before a written complaint is filed
6 and allow the contractor the opportunity to be present at any inspection
7 regarding the alleged dispute. The registrar shall give the contractor at
8 least five days' notice before the inspection. Issues in the alleged dispute
9 under this section shall not be limited in number and shall not be considered
10 formal written complaints. The homeowner reserves the right to deny access
11 to the contractor under this informal complaint process. The registrar shall
12 notify the contractor and the homeowner in writing of the registrar's
13 findings within five days after the date of the inspection. The registrar
14 shall not post any information regarding the informal complaint process as
15 part of a licensee's record on the registrar's web site.

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

19 C. The registrar may adopt rules for the posting of names of
20 applicants and personnel of applicants for contractors' licenses and furnish
21 copies of such posting lists upon written request. The name and address of
22 the applicant, together with the names and addresses and official capacity of
23 all persons associated with the applicant who have signed the application,
24 shall be publicly posted in the place and manner to be prescribed by the
25 registrar for a period of not less than twenty days, except as otherwise
26 provided in this subsection, commencing on the day designated by the
27 registrar of contractors. The registrar may waive a part of the posting
28 period when the records reflect that the applicant or qualifying party has
29 previously undergone the twenty day posting for a previous license. A
30 reasonable charge of not to exceed two dollars per month may be made for
31 compilation, printing and postage for such posting lists.

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

1 Sec. 51. Section 32-1205, Arizona Revised Statutes, is amended to
2 read:

3 32-1205. Organization; meetings; quorum; staff

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

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

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

10 D. The board or the executive director may employ personnel, as
11 necessary, subject to **TITLE 41, CHAPTER 4, ARTICLE 4 AND** legislative
12 appropriation.

13 Sec. 52. Section 32-1305, Arizona Revised Statutes, is amended to
14 read:

15 32-1305. Executive director; compensation; duties

16 A. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,** the board shall appoint
17 an executive director who serves at the pleasure of the board. The executive
18 director shall not be a board member and shall not have a pecuniary or
19 proprietary interest in a funeral establishment or crematory or in the sale
20 of funeral goods and services.

21 B. The executive director is eligible to receive compensation pursuant
22 to section 38-611.

23 C. The executive director shall perform duties as directed by the
24 board.

25 Sec. 53. Section 32-1307, Arizona Revised Statutes, is amended to
26 read:

27 32-1307. Powers and duties of board

28 A. The board shall:

29 1. Administer and enforce this chapter and the rules adopted pursuant
30 to this chapter.

31 2. Adopt a seal.

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

34 4. Investigate alleged violations of this chapter and the rules
35 adopted pursuant to this chapter.

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

1 (a) The keeping and disposition of records by licensees and
2 registrants.

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

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

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

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

16 (f) Administrative and investigative procedures.

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

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

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

23 B. The board may:

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

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

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

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

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

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

8 Sec. 54. Section 32-1405, Arizona Revised Statutes, is amended to
9 read:

10 32-1405. Executive director; compensation; duties; appeal to
11 the board

12 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
13 an executive director who shall serve at the pleasure of the board. The
14 executive director shall not be a board member, except that the board may
15 authorize the executive director to represent the board and to vote on behalf
16 of the board at meetings of the federation of state medical boards of the
17 United States.

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

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

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

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

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

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

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

35 6. Manage the board's offices.

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

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

1 9. Pay all bills for authorized expenditures of the board and its
2 staff.

3 10. Prepare an annual budget.

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

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

9 13. Issue subpoenas if necessary to compel the attendance and testimony
10 of witnesses and the production of books, records, documents and other
11 evidence.

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

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

17 16. Execute board directives.

18 17. Manage and supervise the operation of the Arizona regulatory board
19 of physician assistants.

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

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

25 20. On behalf of the Arizona medical board, enter into stipulated
26 agreements with persons under the jurisdiction of either the Arizona medical
27 board or the Arizona regulatory board of physician assistants for the
28 treatment, rehabilitation and monitoring of chemical substance abuse or
29 misuse.

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

37 22. If delegated by the board, directly refer cases to a formal
38 hearing.

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

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

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

5 26. If delegated by the board, grant uncontested requests for inactive
6 status and cancellation of a license pursuant to sections 32-1431 and
7 32-1433.

8 27. If delegated by the board, refer cases to the board for a formal
9 interview.

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

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

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

26 Sec. 55. Section 32-1509, Arizona Revised Statutes, is amended to
27 read:

28 32-1509. Executive director; compensation; duties

29 A. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,** the board shall appoint
30 an executive director who serves at the pleasure of the board. The executive
31 director shall not be a board member and shall not have any financial
32 interests in the practice of naturopathic medicine or the training of
33 naturopathic physicians. The board may authorize the executive director to
34 represent the board and to vote on behalf of the board at meetings of
35 national organizations of which the board is a dues paying member.

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

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

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

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

8 ~~3.~~ 2. As directed by the board, prepare and submit recommendations to
9 the board for amendments to this chapter for consideration by the
10 legislature.

11 ~~4.~~ 3. ~~Appoint and~~ SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ
12 medical consultants and agents necessary to conduct investigations, gather
13 information and perform those duties the executive director determines are
14 necessary and appropriate to enforce this chapter.

15 ~~5.~~ 4. Issue licenses and certificates pursuant to section 32-1526 to
16 applicants who meet the requirements of this chapter.

17 ~~6.~~ 5. Maintain a record of board actions and proceedings, including
18 the issuance, denial, renewal, suspension or revocation of licenses and
19 certificates.

20 ~~7.~~ 6. Manage the board's offices.

21 ~~8.~~ 7. Prepare minutes, records, reports, registries, directories,
22 books and newsletters and record all board transactions and orders.

23 ~~9.~~ 8. Collect all monies due and payable to the board.

24 ~~10.~~ 9. Pay all bills for authorized expenditures of the board and its
25 staff.

26 ~~11.~~ 10. Prepare an annual budget.

27 ~~12.~~ 11. Submit a copy of the budget each year to the governor, the
28 speaker of the house of representatives and the president of the senate.

29 ~~13.~~ 12. Initiate an investigation if evidence appears to demonstrate
30 that a person licensed or certified by the board may be engaged in
31 unprofessional conduct or may be medically incompetent or mentally or
32 physically unable to safely practice medicine.

33 ~~14.~~ 13. Issue subpoenas if necessary to compel the attendance and
34 testimony of witnesses and the production of books, records, documents and
35 other evidence.

36 ~~15.~~ 14. Sign and execute and provide assistance to the attorney
37 general in preparing disciplinary orders, rehabilitative orders and notices
38 of hearings as directed by the board.

1 ~~16.~~ 15. Enter into contracts for goods and services pursuant to title
2 41, chapter 23 that are necessary to carry out board policies and directives.

3 ~~17.~~ 16. Execute board directives.

4 ~~18.~~ 17. Represent the board with the federal government, other states
5 or jurisdictions of the United States, this state, political subdivisions of
6 this state, the news media and the public.

7 ~~19.~~ 18. Maintain a roster of all persons who are licensed or certified
8 under this chapter that indicates:

9 (a) The person's name.

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

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

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

14 ~~20.~~ 19. Maintain an accurate account of all receipts, expenditures and
15 refunds granted pursuant to this chapter.

16 ~~21.~~ 20. Conduct periodic inspection of the dispensing practices and
17 the prescribing practices of doctors of naturopathic medicine and report
18 dispensing and prescribing restrictions imposed by the board against doctors
19 of naturopathic medicine to other state and federal regulatory agencies.

20 ~~22.~~ 21. Affix the seal of the board to necessary documents. The
21 imprint of the seal with the signature of the executive director is evidence
22 of official board action.

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

26 ~~24.~~ 23. Review all complaints filed pursuant to section 32-1551. If
27 delegated by the board, the executive director may dismiss complaints.

28 ~~25.~~ 24. If delegated by the board, refer cases directly to a formal
29 interview or a formal hearing.

30 ~~26.~~ 25. If delegated by the board, enter into a consent agreement if
31 there is evidence of danger to the public health and safety.

32 ~~27.~~ 26. If delegated by the board, grant uncontested requests for
33 retired status or cancellation of a license.

34 ~~28.~~ 27. Perform all other duties required by the board.

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

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

8 Sec. 56. Section 32-1605.01, Arizona Revised Statutes, is amended to
9 read:

10 32-1605.01. Executive director; compensation; powers; 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 is eligible to receive compensation set by the board within the
14 range determined under section 38-611.

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

16 1. Perform the administrative duties of the board.

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

19 3. Issue and renew temporary and permanent licenses, certificates and
20 prescribing or dispensing authority.

21 4. Issue single state and multistate licenses pursuant to this chapter
22 and nursing assistant certificates to applicants who are not under
23 investigation and who meet the qualifications for licensure or nursing
24 assistant certification prescribed in this chapter.

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

26 6. On behalf of the board, enter into stipulated agreements with a
27 licensee for the confidential treatment, rehabilitation and monitoring of
28 chemical dependency. A licensee who materially fails to comply with a
29 program requirement shall be reported to the board and terminated from the
30 confidential program. Any records of a licensee who is terminated from a
31 confidential program are no longer confidential or exempt from the public
32 records law. Notwithstanding any law to the contrary, stipulated agreements
33 are not public records if the following conditions are met:

34 (a) The licensee voluntarily agrees to participate in the confidential
35 program.

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

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

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

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

9 7. Approve nursing assistant training programs that meet the
10 requirements of this chapter.

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

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

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

23 3. Close complaints resolved through settlement.

24 4. Issue letters of concern.

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

28 D. The executive director may accept the voluntary surrender of a
29 license, certificate or approval to resolve a pending complaint that is
30 subject to disciplinary action. The voluntary surrender or revocation of a
31 license, certificate or approval is a disciplinary action, and the board
32 shall report this action if required by federal law.

33 Sec. 57. Section 32-1673, Arizona Revised Statutes, is amended to
34 read:

35 32-1673. Powers and duties of the board

36 A. The board shall adopt rules to administer and enforce this
37 chapter. Rules adopted pursuant to this section shall include rules to
38 specify the lawful scope of the practice of dispensing opticians and

1 necessary evidence that may support a charge of substandard care rendered by
2 a dispensing optician or an optical establishment.

3 B. The board may:

4 1. Hire [INVESTIGATORS SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#) or
5 contract with investigators to assist in the investigation of violations of
6 this chapter.

7 2. Hire employees [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#) and
8 contract with other state agencies as necessary to carry out this chapter.

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

12 Sec. 58. Section 32-1704, Arizona Revised Statutes, is amended to
13 read:

14 [32-1704. Powers and duties of the board](#)

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

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

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

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

23 3. Prescribes the manner or method of accounting, billing or
24 collection of fees.

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

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

29 D. The board shall adopt rules for criteria it must use to approve
30 continuing education programs for licensees. Programs shall be designed to
31 assist licensees to maintain competency, to become aware of new developments
32 in the practice of the profession of optometry and to increase management
33 skills and administrative efficiency. The board shall approve programs that
34 meet these criteria.

35 E. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board may hire an
36 executive director as an employee of the board. The executive director is
37 responsible for the performance of the regular administrative functions of
38 the board and such other administrative duties as the board may direct. The

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

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

8 G. The board may:

9 1. Appoint advisory committees.

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

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

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

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

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

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

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

1 Sec. 59. Section 32-1804, Arizona Revised Statutes, is amended to
2 read:

3 32-1804. Executive director; compensation; duties

4 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
5 an executive director who is not a member of the board. The executive
6 director shall serve at the pleasure of the board and shall receive
7 compensation as determined pursuant to section 38-611 to be paid from the
8 board fund.

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

10 1. Serve as administrative assistant to the board and manage the
11 board's offices.

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

13 3. Deposit, pursuant to sections 35-146 and 35-147, all monies
14 received by the board in the appropriate fund.

15 4. Pay all bills for authorized board expenditures.

16 5. Administer oaths.

17 6. Act as custodian of the board's seal and books.

18 7. Employ special consultants or other agents SUBJECT TO TITLE 41,
19 CHAPTER 4, ARTICLE 4 to make investigations, gather information, review
20 complaints, review malpractice claims, suits and settlements, prepare reports
21 and perform other duties the executive director determines are necessary to
22 enforce this chapter.

23 8. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,
24 ARTICLES 5 AND 6, employ, evaluate, dismiss, discipline and direct
25 professional, clerical, technical, investigative and administrative ~~permanent~~
26 ~~or temporary~~ personnel necessary to carry out the purposes of this chapter.
27 The personnel are eligible to receive compensation pursuant to section
28 38-611.

29 9. Issue licenses, limited licenses, registrations, permits, license
30 renewal extensions and waivers to applicants who meet the requirements of
31 this chapter.

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

34 11. Prepare minutes, reports and records of all board transactions and
35 orders.

36 12. Prepare a biannual budget.

37 13. As directed by the board, prepare and submit recommendations for
38 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.

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

4 ~~28.~~ 27. Perform any other duty required by the board.

5 Sec. 60. Section 32-1903, Arizona Revised Statutes, is amended to
6 read:

7 32-1903. Organization; meetings; quorum; compensation of board;
8 executive director; compensation; powers and duties

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

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

16 C. The executive director is the executive officer in charge of the
17 board's office and shall administer this chapter under the direction of the
18 board. The executive director shall make, keep and be in charge of all
19 records and record books required to be kept by the board, including a
20 register of all licensees and registered businesses under this chapter. The
21 executive director shall attend to the correspondence of the board and
22 perform other duties the board requires. The executive director is eligible
23 to receive compensation as determined pursuant to section 38-611.

24 D. Any member of the board or the executive director may administer
25 oaths in connection with the duties of the board. The books, registers and
26 records of the board as made and kept by the executive director or under the
27 executive director's supervision are prima facie evidence of the matter
28 therein recorded in any court of law. Members of the board are eligible to
29 receive compensation in the amount of two hundred dollars for each day of
30 actual service in the business of the board and reimbursement for all
31 expenses necessarily and properly incurred in attending meetings of or for
32 the board.

33 E. The executive director may designate the deputy director to sign
34 claims and other documents in the executive director's absence. If the
35 executive director dies, becomes incapacitated or resigns, the deputy
36 director shall serve as the executive director until the board selects a new
37 executive director.

1 F. The executive director may cause to be published reports
2 summarizing judgments, decrees, court orders and board action that may have
3 been rendered under this chapter, including the nature of charges and the
4 disposition of the charges. The executive director may disseminate
5 information regarding drugs, devices, poisons or hazardous substances in
6 situations the executive director believes involve imminent danger to health
7 or gross deception of the consumer and report the results of investigations
8 carried out under this chapter.

9 Sec. 61. Section 32-1904, Arizona Revised Statutes, is amended to
10 read:

11 32-1904. Powers and duties of board; immunity

12 A. The board shall:

13 1. Make bylaws and adopt rules that are necessary for the protection
14 of the public and that pertain to the practice of pharmacy, the
15 manufacturing, wholesaling or supplying of drugs, devices, poisons or
16 hazardous substances, the use of pharmacy technicians and support personnel
17 and the lawful performance of its duties.

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

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

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

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

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

34 (c) Of detaining or embargoing a drug, device, poison or hazardous
35 substance in accordance with section 32-1994.

36 5. Examine and license as pharmacists and pharmacy interns all
37 qualified applicants as provided by this chapter.

1 6. Issue duplicates of lost or destroyed permits on the payment of a
2 fee as prescribed by the board.

3 7. Adopt rules for the rehabilitation of pharmacists and pharmacy
4 interns as provided by this chapter.

5 8. At least once every three months, notify pharmacies regulated
6 pursuant to this chapter of any modifications on prescription writing
7 privileges of podiatrists, dentists, doctors of medicine, registered nurse
8 practitioners, osteopathic physicians, veterinarians, physician assistants,
9 optometrists and homeopathic physicians of which it receives notification
10 from the board of podiatry examiners, board of dental examiners, Arizona
11 medical board, board of nursing, board of osteopathic examiners in medicine
12 and surgery, veterinary medical examining board, Arizona regulatory board of
13 physician assistants, board of optometry or board of homeopathic and
14 integrated medicine examiners.

15 B. The board may:

16 1. Employ chemists, compliance officers, clerical help and other
17 employees [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#) and provide laboratory
18 facilities for the proper conduct of its business.

19 2. Provide, by education of and information to the licensees and to
20 the public, assistance in the curtailment of abuse in the use of drugs,
21 devices, poisons and hazardous substances.

22 3. Approve or reject the manner of storage and security of drugs,
23 devices, poisons and hazardous substances.

24 4. Accept monies and services to assist in the enforcement of this
25 chapter from other than licensees:

26 (a) For performing inspections and other board functions.

27 (b) For the cost of copies of the pharmacy and controlled substances
28 laws, the annual report of the board and other information from the board.

29 5. Adopt rules for professional conduct appropriate to the
30 establishment and maintenance of a high standard of integrity and dignity in
31 the profession of pharmacy.

32 6. Grant permission to deviate from a state requirement for
33 experimentation and technological advances.

34 7. Adopt rules for the training and practice of pharmacy interns,
35 pharmacy technicians and support personnel.

36 8. Investigate alleged violations of this chapter, conduct hearings in
37 respect to violations, subpoena witnesses and take such action as it deems
38 necessary to revoke or suspend a license or a permit, place a licensee or

1 permittee on probation or warn a licensee or permittee under this chapter or
2 to bring notice of violations to the county attorney of the county in which a
3 violation took place or to the attorney general.

4 9. By rule, approve colleges or schools of pharmacy.

5 10. By rule, approve programs of practical experience, clinical
6 programs, internship training programs, programs of remedial academic work
7 and preliminary equivalency examinations as provided by this chapter.

8 11. Assist in the continuing education of pharmacists and pharmacy
9 interns.

10 12. Issue inactive status licenses as provided by this chapter.

11 13. Accept monies and services from the federal government or others
12 for educational, research or other purposes pertaining to the enforcement of
13 this chapter.

14 14. By rule, except from the application of all or any part of this
15 chapter any material, compound, mixture or preparation containing any
16 stimulant or depressant substance included in section 13-3401, paragraph 6,
17 subdivision (b) or (c) from the definition of dangerous drug if the material,
18 compound, mixture or preparation contains one or more active medicinal
19 ingredients not having a stimulant or depressant effect on the central
20 nervous system, provided that such admixtures are included in such
21 combinations, quantity, proportion or concentration as to vitiate the
22 potential for abuse of the substances that do have a stimulant or depressant
23 effect on the central nervous system.

24 15. Adopt rules for the revocation, suspension or reinstatement of
25 licenses or permits or the probation of licensees or permittees as provided
26 by this chapter.

27 C. The executive director and other ~~permanent or temporary~~ personnel
28 or agents of the board are not subject to civil liability for any act done or
29 proceeding undertaken or performed in good faith and in furtherance of the
30 purposes of this chapter.

31 Sec. 62. Section 32-2003, Arizona Revised Statutes, is amended to
32 read:

33 32-2003. Board; powers and duties

34 A. The board shall:

35 1. Evaluate the qualifications of applicants for licensure and
36 certification.

1 2. Provide for national examinations for physical therapists and
2 physical therapist assistants and adopt passing scores for these
3 examinations.

4 3. Issue licenses, permits and certificates to persons who meet the
5 requirements of this chapter.

6 4. Regulate the practice of physical therapy by interpreting and
7 enforcing this chapter.

8 5. Adopt and revise rules to enforce this chapter.

9 6. Meet at least once each quarter in compliance with the open meeting
10 requirements of title 38, chapter 3, article 3.1 and keep an official record
11 of these meetings.

12 7. Establish the mechanisms for assessing continuing professional
13 competence of physical therapists to engage in the practice of physical
14 therapy and the competence of physical therapist assistants to work in the
15 field of physical therapy.

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

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

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

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

28 12. Enter into contracts for services necessary for adequate
29 enforcement of this chapter.

30 13. Report final disciplinary action taken against a licensee or a
31 certificate holder to a national disciplinary database recognized by the
32 board.

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

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

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

3 17. Establish and collect fees.

4 18. Provide information to the public regarding the board, its
5 processes and consumer rights.

6 B. The board may establish a committee or committees to assist it in
7 carrying out its duties for a time prescribed by the board. The board may
8 require a committee appointed pursuant to this subsection to make regular
9 reports to the board.

10 Sec. 63. Section 32-2063, Arizona Revised Statutes, is amended to
11 read:

12 32-2063. Powers and duties

13 A. The board shall:

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

15 2. Regulate disciplinary actions, the granting, denial, revocation,
16 renewal and suspension of licenses and the rehabilitation of licensees
17 pursuant to this chapter and board rules.

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

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

23 5. Adopt an official seal for attestation of licenses and other
24 official papers and documents.

25 6. Investigate charges of violations of this chapter and board rules
26 and orders.

27 7. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ an executive
28 director who serves at the pleasure of the board.

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

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

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

36 11. By rule, adopt a code of ethics relating to the practice of
37 psychology. The board shall base this code on the code of ethics adopted and
38 published by the American psychological association. The board shall apply

1 the code to all board enforcement policies and disciplinary case evaluations
2 and development of licensing examinations.

3 B. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, the board may employ
4 ~~permanent or temporary~~ personnel it deems necessary to carry out this
5 chapter. The board, in investigating violations of this chapter, may employ
6 investigators who may be psychologists. The board or its executive director
7 may take and hear evidence, administer oaths and affirmations and compel by
8 subpoena the attendance of witnesses and the production of books, papers,
9 records, documents and other information relating to the investigation or
10 hearing.

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

18 D. Compensation for all personnel shall be determined pursuant to
19 section 38-611.

20 Sec. 64. Section 32-2109, Arizona Revised Statutes, is amended to
21 read:

22 **32-2109. Employment; compensation**

23 **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, the commissioner shall
24 appoint a secretary and such deputies, assistants, and clerks as are
25 necessary. The compensation of all such employees shall be as determined
26 pursuant to section 38-611.

27 Sec. 65. Section 32-2206, Arizona Revised Statutes, is amended to
28 read:

29 **32-2206. Board personnel**

30 **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, the board may employ
31 personnel as it deems necessary to provide investigative, professional and
32 clerical assistance as required to perform its duties under this article.
33 Personnel are eligible to receive compensation in an amount as determined
34 pursuant to section 38-611. The board may contract with other state or
35 federal agencies as required to carry out this article.

1 Sec. 66. Section 32-2207, Arizona Revised Statutes, is amended to
2 read:

3 32-2207. Veterinary board: powers and duties

4 The primary duty of the board is to protect the public from unlawful,
5 incompetent, unqualified, impaired or unprofessional practitioners of
6 veterinary medicine through licensure and regulation of the profession in
7 this state. The powers and duties of the board include:

8 1. Administering and enforcing this chapter and board rules.

9 2. Regulating disciplinary actions, the granting, denial, revocation,
10 renewal and suspension of licenses and certificates and the rehabilitation of
11 licensees and certificate holders pursuant to this chapter and board rules.

12 3. Prescribing the forms, content and manner of application for
13 licensure and certification and renewal of licensure and certification and
14 setting deadlines for the receipt of materials required by the board.

15 4. Keeping a record of all licensees and certificate holders, board
16 actions taken concerning all applicants, licensees and certificate holders
17 and the receipt and disbursal of monies.

18 5. Adopting an official seal for attestation of licenses, certificates
19 and other official papers and documents.

20 6. Investigating charges of violations of this chapter and board rules
21 and orders.

22 7. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, employing an executive
23 director who serves at the pleasure of the board.

24 8. Adopting rules pursuant to title 41, chapter 6 that relate to the
25 qualifications and regulation of doctors of veterinary medicine, certified
26 veterinary technicians, veterinary premises, mobile veterinary clinics and
27 crematories and other rules that the board deems necessary for the
28 administration of this chapter. The rules may include continuing education
29 requirements for licensees and certificate holders and shall include:

30 (a) Minimum standards of veterinary practice.

31 (b) Provisions to ensure that the public has reasonable access to
32 nonconfidential information about the licensing or certification status of
33 persons regulated under this chapter and about resolved complaints against
34 licensees and certificate holders.

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

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

1 (a) Reproduction of documents.

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

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

6 (d) Provision of a list of the names of veterinarians, certified
7 veterinary technicians or veterinary premises licensed or certified by the
8 board.

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

12 Sec. 67. Section 32-2304, Arizona Revised Statutes, is amended to
13 read:

14 32-2304. Powers and duties

15 A. The acting director is responsible for administering this chapter
16 and shall:

17 1. Adopt rules that are necessary or proper for the administration of
18 this chapter, including administrative provisions, education requirements,
19 health and safety provisions and provisions for the use, storage and
20 application of pesticides and devices used in structural pest control.

21 2. Administer and enforce this chapter and rules adopted pursuant to
22 this chapter.

23 3. Notify the business licensee, applicator and qualifying party in
24 writing of any complaint against the business licensee, qualifying party or
25 employee of the business licensee by the close of business on the tenth
26 business day after the day on which the acting director initiated the
27 complaint.

28 4. Issue subpoenas for the taking of depositions, the production of
29 documents and things and the entry on land for inspection and measuring,
30 surveying, photographing, testing or sampling the property or any designated
31 object or operation on the property relevant to the complaint.

32 5. Conduct or contract to conduct applicator license and qualifying
33 party license tests at locations throughout this state. If the acting
34 director contracts for these tests, the contracts may provide for specific
35 examination fees or a reasonable range of fees determined by the acting
36 director to be paid directly to the contractor by the applicant. The acting
37 director shall make all efforts to contract with private parties to
38 electronically administer the applicator and qualifying party license tests.

1 6. Maintain a computer system for the benefit and protection of the
2 public that includes the following information on termite treatments that are
3 done before or during construction, initial termite corrective projects,
4 preventative termite treatments and wood-destroying insect inspection
5 reports:

6 (a) The name of the individual who performed the work.

7 (b) The address or location of the work or project.

8 (c) The name of the pest management company.

9 (d) The name of the qualifying party.

10 (e) The applicator license numbers.

11 (f) The nature and date of the work performed.

12 (g) Any other information that is required by rule.

13 7. Establish offices ~~it~~ THE ACTING DIRECTOR deems necessary to carry
14 out the purposes of this chapter.

15 8. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ ~~permanent or~~
16 ~~temporary~~ personnel ~~it~~ THE ACTING DIRECTOR deems necessary to carry out the
17 purposes of this chapter and designate their duties.

18 9. Investigate violations of this chapter and rules adopted pursuant
19 to this chapter.

20 10. Oversee the approval, content and method of delivery of continuing
21 education courses.

22 11. Deny a license to any person who has had a license revoked for a
23 period of five years from the time of revocation.

24 12. License applicators, qualifying parties and businesses in
25 accordance with this chapter and rules adopted pursuant to this chapter.

26 13. Require the payment of a penalty for any late license renewal.

27 14. Require either completion of the continuing education requirement
28 or successful completion of the license examination for failure to renew a
29 license on time.

30 15. Suspend a license if a licensee fails to renew the license within
31 thirty calendar days after the renewal date.

32 16. Refuse to issue a business license in a name that is not registered
33 with the secretary of state or filed with the Arizona corporation commission.

34 17. Adopt a wood-destroying insect inspection report form for use by
35 business licensees.

36 B. The acting director may charge to the holder of a business license
37 the actual cost of providing mailed copies of rules, forms or policies that
38 are proposed for adoption and for educational materials.

1 C. The acting director shall administer and enforce this chapter and
2 the rules adopted pursuant to this chapter.

3 D. The acting director may:

4 1. Compel attendance of witnesses, administer oaths or affirmations
5 and take testimony concerning all matters coming within the acting director's
6 jurisdiction.

7 2. Require a person who seeks a license pursuant to this chapter to
8 submit to the office a full set of fingerprints and the fees required by
9 section 41-1750. The acting director shall submit the fingerprints and fees
10 to the department of public safety for the purpose of obtaining a state and
11 federal criminal records check pursuant to section 41-1750 and Public Law
12 92-544. The department of public safety may exchange this fingerprint data
13 with the federal bureau of investigation.

14 3. Enter into intergovernmental agreements.

15 4. With at least twenty-four hours' notice, request specific records
16 from a business licensee, qualifying party or applicator at the person's
17 place of business during normal business hours.

18 5. Deny or revoke a license based on the information in the
19 application or information that the acting director receives from the
20 criminal background check.

21 6. On a showing of good cause by the business licensee, excuse a
22 failure to timely comply with a records request.

23 7. Issue advisory notices for de minimis violations.

24 8. Require inspectors to be licensed applicators in all categories
25 within their scope of work during their probationary period. Inspectors
26 shall attend and complete an investigative training class that is prescribed
27 by the acting director.

28 9. Investigate alleged violations of all applicable federal and state
29 statutes, rules or orders or alleged violations of any condition imposed in
30 connection with a license.

31 10. Pursuant to section 32-2329, summarily suspend a license issued
32 under this chapter to protect the health, safety and welfare of the public.

33 11. Issue a corrective work order requiring a licensee to remedy
34 deficiencies in treatment or to comply with this chapter or any rules adopted
35 pursuant to this chapter before or after a formal hearing.

36 12. Do at least one of the following in relation to unlicensed pest
37 management business operations:

1 (a) Issue a cease and desist order requiring an unlicensed pest
2 management business to immediately cease operations.

3 (b) Except as provided in section 32-2311, subsection D, impose on an
4 unlicensed pest management business a civil penalty of not more than one
5 thousand dollars for the first occurrence and not more than two thousand
6 dollars for the second or subsequent occurrence.

7 13. Refer all cases for formal hearing to the office of administrative
8 hearings.

9 14. Refuse to issue a business license in a name that is likely to be
10 misleading or to imply any distorted representation about the business.

11 15. Issue a renewable and revocable temporary qualifying party license
12 to a licensed applicator who is a representative of a business licensee if
13 the qualifying party becomes disassociated with the business licensee.

14 16. Provide and conduct classes to train applicators and qualifying
15 parties in preparation for license tests. The acting director may assess a
16 fee for each class. The acting director may contract with a commercial
17 enterprise or an accredited institution to conduct the class.

18 17. Provide and conduct continuing education classes quarterly. The
19 acting director may assess a fee for each credit hour. The acting director
20 may contract with a commercial enterprise or an accredited institution to
21 conduct the class under the supervision of office staff.

22 18. Appoint an employee of the office to conduct an informal settlement
23 conference with a licensee against whom an inquiry is received or a complaint
24 is filed.

25 19. Prepare a consent order only after either an informal settlement
26 conference is conducted pursuant to section 32-2321 or a formal hearing is
27 conducted pursuant to title 41, chapter 6, article 10.

28 20. Apply to the appropriate court, through the attorney general or
29 county attorney, for an order enjoining any act or practice that constitutes
30 a violation of this chapter or any rule adopted pursuant to this chapter.

31 21. Approve proposed consent orders.

32 E. Each completed form for a termite treatment that is done before or
33 during construction, initial termite corrective treatment project or
34 wood-destroying insect inspection report shall be accompanied by a fee. The
35 initial fee is eight dollars. The acting director may:

36 1. Adjust the fee upward or downward to a level that is calculated to
37 produce sufficient revenue to carry out the functions prescribed under this
38 section.

1 2. Establish tiered fees according to the means of submission to
2 encourage electronic submission of the termite action registration form.

3 3. Assess a penalty of not to exceed one hundred dollars per form for
4 failing to submit the required form or fee, or both, within thirty calendar
5 days.

6 F. Subject to the limitations of section 41-2544, the acting director
7 may enter into agreements for the purpose of enabling the office to accept
8 payment for fees imposed under this chapter by alternative payment methods,
9 including credit cards, charge cards, debit cards and electronic funds
10 transfers. Before the monies are transferred to the acting director pursuant
11 to section 32-2305, the person collecting the fees shall deduct any amount
12 charged or withheld by a company providing the alternative payment method
13 under an agreement with the office.

14 G. In the enforcement of this article, the acting director or any duly
15 authorized agents may enter with the authority of a warrant issued by a court
16 of competent jurisdiction at reasonable times on any private or public
17 property on which pesticides are located or are reasonably believed to be
18 located to be used for purposes related to pest management. The owner,
19 managing agent or occupant of the property shall permit entry for the purpose
20 of inspecting and investigating conditions relating to the use, storage,
21 application and disposal of pesticides.

22 Sec. 68. Section 32-2904, Arizona Revised Statutes, is amended to
23 read:

24 32-2904. Powers and duties

25 A. The board shall:

26 1. Conduct all examinations for applicants for a license under this
27 chapter, issue licenses, conduct hearings, regulate the conduct of licensees
28 and administer and enforce this chapter.

29 2. Enforce the standards of practice prescribed by this chapter and
30 board rules.

31 3. Collect and account for all fees under this chapter and deposit,
32 pursuant to sections 35-146 and 35-147, the monies in the appropriate fund.

33 4. Maintain a record of its acts and proceedings, including the
34 issuance, refusal to issue, renewal, suspension or revocation of licenses to
35 practice according to this chapter.

36 5. Maintain a roster of all persons who are licensed pursuant to this
37 chapter that includes:

38 (a) The licensee's name.

1 (b) The current professional office address.

2 (c) The date and number of the license issued under this chapter.

3 (d) Whether the licensee is in good standing.

4 6. Adopt and use a seal, the imprint of which, together with the
5 signatures of the president or vice-president of the board and the
6 secretary-treasurer, shall evidence its official acts.

7 7. Contract with the department of administration for administrative
8 and record keeping services.

9 8. Charge additional fees that do not exceed the cost of the services
10 for services the board deems necessary to carry out its intent and purposes.

11 9. Adopt rules regarding the regulation and the qualifications of
12 medical assistants.

13 10. Keep board records open to public inspection during normal business
14 hours.

15 B. The board may:

16 1. Adopt rules necessary or proper for the administration of this
17 chapter.

18 2. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, hire ~~permanent or~~
19 ~~temporary~~ personnel to carry out the purposes of this chapter.

20 3. Hire INVESTIGATORS SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 or
21 contract with investigators to assist in the investigation of violations of
22 this chapter and contract with other state agencies if required to carry out
23 this chapter.

24 4. Appoint one of its members to the jurisdiction arbitration panel
25 pursuant to section 32-2907, subsection B.

26 5. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ consultants to
27 perform duties the board determines are necessary to implement this chapter.

28 6. Appoint from its membership a temporary secretary to perform the
29 duties of the executive director if that office is vacant. The temporary
30 secretary is eligible to receive compensation pursuant to section 38-611.

31 7. Compile and publish an annual directory.

32 8. Adopt rules to establish competency or professional review
33 standards for any minor surgical procedure.

34 9. Appoint two or more board members to a subcommittee that reviews
35 and approves applications and issues permits pertaining to homeopathic
36 medical assistants and associated practical educational programs, pursuant to
37 board rules.

1 10. Appoint two or more board members to a subcommittee that reviews
2 and approves applications and issues permits pertaining to drugs and device
3 dispensing practices, pursuant to board rules.

4 Sec. 69. Section 32-2905, Arizona Revised Statutes, is amended to
5 read:

6 32-2905. Executive director; compensation; duties

7 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
8 an executive director from outside its membership. The executive director
9 serves at the pleasure of the board and is eligible to receive compensation
10 determined pursuant to section 38-611.

11 B. The executive director shall:

12 1. Collect all monies due and payable to the board.

13 2. Deposit, pursuant to sections 35-146 and 35-147, all monies
14 received by the board in the appropriate fund.

15 3. Prepare bills for authorized expenditures of the board and obtain
16 warrants from the department of administration for payment of bills certified
17 by the president or vice-president and secretary-treasurer of the board.

18 4. Act as custodian of the seal, books, records, minutes and
19 proceedings.

20 5. Perform all duties prescribed by the board.

21 Sec. 70. Section 32-3003, Arizona Revised Statutes, is amended to
22 read:

23 32-3003. Powers and duties

24 A. The board shall:

25 1. Annually select a chairman from among its members.

26 2. Meet at least four times a year.

27 3. Adopt rules which are necessary or proper for the administration of
28 this chapter.

29 4. Administer and enforce this chapter and rules adopted pursuant to
30 this chapter.

31 5. Establish minimum standards for private vocational program
32 licensure requirements.

33 6. Adopt an official seal for attestation of licenses or other
34 official papers and documents.

35 7. Consider and pass upon applications for private vocational program
36 licenses and licenses to grant degrees.

37 8. Hear and pass upon complaints or charges.

1 9. Compel attendance of witnesses, administer oaths and take testimony
2 concerning all matters coming within its jurisdiction.

3 10. Keep a record of its proceedings.

4 11. Keep a register which shows the date of each application for a
5 private vocational program license, qualifications and place of business of
6 the applicant and disposition of the application.

7 12. Keep a register which shows the date of each application for a
8 license to grant degrees, qualifications and place of business of the
9 applicant and disposition of the application.

10 13. Maintain a list of institutions licensed pursuant to this chapter
11 which is open to public inspection at all reasonable times. The board shall
12 give a copy of the list to any person who requests it.

13 14. Engage in a full exchange of information with other regulatory
14 boards, governmental agencies, accrediting agencies and the United States
15 department of education.

16 15. Do other things necessary to carry out the purposes of this
17 chapter.

18 B. The board may:

19 1. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ ~~temporary or~~
20 ~~permanent~~ personnel it deems necessary to carry out the purposes of this
21 chapter and designate their duties. These duties may include considering and
22 passing on license applications, considering and passing on complaints or
23 charges, making investigations, compelling attendance of witnesses and
24 issuing official papers and documents.

25 2. Make investigations, hold hearings and make decisions to enforce
26 this chapter.

27 3. Issue subpoenas to compel the attendance of witnesses and the
28 production of documents and administer oaths, take testimony, hear proof and
29 receive exhibits in evidence.

30 4. Accept and spend federal monies and private grants, gifts,
31 contributions and devises to assist in carrying out the purposes of this
32 chapter. These monies do not revert to the state general fund at the end of
33 a fiscal year.

34 Sec. 71. Section 32-3253, Arizona Revised Statutes, is amended to
35 read:

36 32-3253. Powers and duties

37 A. The board shall:

1 1. Adopt rules consistent with and necessary or proper to carry out
2 the purposes of this chapter.

3 2. Administer and enforce this chapter, rules adopted pursuant to this
4 chapter and orders of the board.

5 3. Issue a license by examination, reciprocity or temporary
6 recognition to, and renew the license of, each person who is qualified to be
7 licensed pursuant to this chapter. The board must issue or deny a license
8 within one hundred eighty days after the applicant submits a completed
9 application.

10 4. Establish a licensure fee schedule annually, by a formal vote at a
11 regular board meeting.

12 5. Collect fees and spend monies.

13 6. Keep a record of all persons licensed pursuant to this chapter,
14 actions taken on all applications for licensure, actions involving renewal,
15 suspension, revocation or denial of a license or probation of licensees and
16 the receipt and disbursal of monies.

17 7. Adopt an official seal for attestation of licensure and other
18 official papers and documents.

19 8. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4,** employ ~~temporary or~~
20 ~~permanent~~ personnel as it deems necessary.

21 9. Conduct investigations and determine on its own motion if a
22 licensee or an applicant has engaged in unprofessional conduct, is
23 incompetent or is mentally or physically unable to engage in the practice of
24 behavioral health.

25 10. Conduct disciplinary actions pursuant to this chapter and board
26 rules.

27 11. Establish and enforce standards or criteria of programs or other
28 mechanisms to ensure the continuing competence of licensees.

29 12. Establish and enforce compliance with professional standards and
30 rules of conduct for licensees.

31 13. Engage in a full exchange of information with the licensing and
32 disciplinary boards and professional associations for behavioral health
33 professionals in this state and other jurisdictions.

34 14. Subject to section 35-149, accept, expend and account for gifts,
35 grants, devises and other contributions, money or property from any public or
36 private source, including the federal government. Monies received under this
37 paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in

1 special funds for the purpose specified, which are exempt from **THE PROVISIONS**
2 **OF** section 35-190 relating to lapsing of appropriations.

3 B. The board may join professional organizations and associations
4 organized exclusively to promote the improvement of the standards of the
5 practice of behavioral health, protect the health and welfare of the public
6 or assist and facilitate the work of the board.

7 C. The board may establish a confidential program for the monitoring
8 of licensees who are chemically dependent and who enroll in a rehabilitation
9 program that meets the criteria prescribed by the board. The board may take
10 further action if a licensee refuses to enter into a stipulated agreement or
11 fails to comply with the terms of a stipulated agreement. In order to
12 protect the public health and safety, the confidentiality requirements of
13 this subsection do not apply if a licensee does not comply with the
14 stipulated agreement.

15 Sec. 72. Section 32-3403, Arizona Revised Statutes, is amended to
16 read:

17 **32-3403. Executive director; personnel; duties; compensation**

18 A. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, the board may employ and
19 discharge an executive director and other officers and employees as it deems
20 necessary and designate their duties. Board personnel are eligible to receive
21 compensation as determined pursuant to section 38-611.

22 B. The executive director shall:

- 23 1. Issue and document licenses approved by the board.
- 24 2. Keep a record of the status of licenses and licensees.
- 25 3. Keep a record of the status of applicants, including those whose
26 applications are denied.
- 27 4. Perform tasks and duties assigned by the board.
- 28 5. Collect fees and maintain accounting records according to generally
29 accepted accounting principles.

30 Sec. 73. Section 32-3504, Arizona Revised Statutes, is amended to
31 read:

32 **32-3504. Powers and duties; inspection of records; personnel**
33 **examinations; immunity**

34 A. The board shall:

- 35 1. Enforce and administer the provisions of this chapter.
- 36 2. Adopt rules necessary to administer this chapter.
- 37 3. Examine applicants for licensure pursuant to this chapter at times
38 and places it designates.

1 4. Investigate each applicant for licensure, before a license is
2 issued, in order to determine if the applicant is qualified pursuant to this
3 chapter.

4 5. Keep a record of all its acts and proceedings pursuant to this
5 chapter, including the issuance, refusal, renewal, suspension or revocation
6 of licenses.

7 6. Beginning on January 1, 1999, require each applicant for initial
8 licensure to submit a full set of fingerprints to the board for a state and
9 federal criminal history records check pursuant to section 41-1750 and Public
10 Law 92-544.

11 7. Maintain a register which contains the name, the last known place
12 of residence and the date and number of the license of all persons licensed
13 pursuant to this chapter.

14 8. Compile, once every two years, a list of licensed respiratory care
15 practitioners who are authorized to practice in this state.

16 9. Establish minimum annual continuing education requirements for
17 persons licensed under this chapter.

18 B. The board, in approving training programs for respiratory
19 therapists and training programs for respiratory therapy technicians shall
20 consider the requirements and standards set by the American medical
21 association's committee on allied health education and accreditation in
22 collaboration with the joint review committee for respiratory therapy
23 education. The board may recognize examinations administered by a national
24 board for respiratory care approved by the board.

25 ~~C. The board may employ an executive officer and other temporary and
26 permanent personnel it deems necessary. The executive officer and other
27 personnel are eligible to receive compensation pursuant to section 38-611.~~

28 ~~D.~~ C. The board may conduct examinations under a uniform examination
29 system and may make arrangements with the national board of respiratory care
30 or other organizations regarding examination materials it determines
31 necessary and desirable.

32 ~~E.~~ D. The board and its members, ~~temporary and permanent~~ personnel
33 and board examiners are personally immune from suit with respect to all acts
34 done and actions taken in good faith and in furtherance of the purposes of
35 this chapter.

1 Sec. 74. Section 32-3506, Arizona Revised Statutes, is amended to
2 read:

3 32-3506. Executive director; duties; compensation

4 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint
5 an 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~~ AND OTHER BOARD EMPLOYEES ARE eligible to
8 receive compensation AS DETERMINED pursuant to section 38-611.

9 C. The executive director shall:

10 1. Perform the board's administrative duties.

11 2. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,
12 ARTICLES 5 AND 6, employ, evaluate, dismiss, discipline and direct personnel
13 as necessary to carry out board functions.

14 ~~3. Set compensation for board employees pursuant to section 38-611.~~

15 ~~4.~~ 3. Issue temporary license certificates and temporary license
16 renewal certificates pursuant to section 32-3521 and board rules.

17 ~~5.~~ 4. Initiate an investigation if there is reason to believe that a
18 licensee is incompetent, mentally or physically unable to safely practice
19 respiratory care or engaged in unprofessional conduct.

20 ~~6.~~ 5. Issue subpoenas if necessary to compel the attendance and
21 testimony of witnesses and the production of books, records, documents and
22 evidence.

23 ~~7.~~ 6. As directed by the board, sign and execute disciplinary orders,
24 rehabilitative orders and notices of hearings.

25 ~~8.~~ 7. On behalf of the board, enter into stipulated agreements with
26 licensees for the treatment, rehabilitation and monitoring of chemical
27 substance abuse or misuse.

28 ~~9.~~ 8. Perform all other duties required by the board.

29 Sec. 75. Section 32-3605, Arizona Revised Statutes, is amended to
30 read:

31 32-3605. State board of appraisal; duties

32 A. The board shall adopt rules in aid or in furtherance of this
33 chapter.

34 B. The state board of appraisal shall:

35 1. In prescribing standards of professional appraisal practice, adopt
36 standards that at a minimum are equal to the standards prescribed by the
37 appraisal standards board.

1 2. In prescribing criteria for certification, adopt criteria that at a
2 minimum are equal to the minimum criteria for certification adopted by the
3 appraiser qualifications board.

4 3. In prescribing criteria for licensing, adopt criteria that at a
5 minimum are equal to the minimum criteria for licensing adopted by the
6 appraiser qualifications board.

7 4. Further define by rule with respect to state licensed or state
8 certified appraisers appropriate and reasonable educational experience,
9 appraisal experience and equivalent experience that meets the statutory
10 requirement of this chapter.

11 5. Establish the examination specifications for state certified
12 appraisers, provide or procure appropriate examination questions and answers,
13 administer examinations and establish procedures for grading examinations
14 consistent with and equivalent to the criteria adopted by the appraiser
15 qualifications board.

16 6. Establish the examination specifications for state licensed
17 appraisers, provide or procure appropriate examination questions and answers,
18 administer examinations and establish procedures for grading examinations
19 consistent with and equivalent to the criteria adopted by the appraiser
20 qualifications board.

21 7. Establish administrative procedures for approving or disapproving
22 applications for licensure and certification and issuing licenses and
23 certificates.

24 8. Define by rule, with respect to state licensed and certified
25 appraisers, the continuing education requirements for the renewal of licenses
26 or certificates that satisfy the statutory requirements provided in this
27 chapter.

28 9. Periodically review the requirements for the development and
29 communication of appraisals provided in this chapter and adopt rules
30 explaining and interpreting the requirements.

31 10. Define and explain by rule each stage and step associated with the
32 administrative procedures for the disciplinary process pursuant to this
33 chapter including:

34 (a) Prescribing minimum criteria for accepting a complaint against a
35 licensed or certified appraiser.

36 (b) Defining the process and procedures used in investigating the
37 allegations of the complaint.

1 (c) Defining the process and procedures used in hearings on the
2 complaint, including a description of the rights of the board and any person
3 who is alleged to have committed the violation.

4 (d) Establishing criteria to be used in determining the appropriate
5 actions for violations.

6 11. Communicate information that is useful to the public and appraisers
7 relating to actions for violations.

8 12. Censure, suspend and revoke licenses and certificates pursuant to
9 the disciplinary proceedings provided for in section 32-3631.

10 13. At least monthly transmit to the appraisal subcommittee a roster
11 listing individuals who have received a state certificate or license in
12 accordance with this chapter.

13 14. Report on the disposition of any matter referred by the appraisal
14 subcommittee or any other federal agency or instrumentality or federally
15 recognized entity reporting any action of a state licensed or state certified
16 appraiser that is contrary to this chapter.

17 15. Make a determination and finding if there exists a scarcity of
18 state certified or state licensed appraisers to perform appraisals in
19 connection with federally related transactions in this state and issue
20 resident temporary licenses and certificates pursuant to section 32-3626.

21 16. Transmit the national registry fee collected pursuant to section
22 32-3607 to the appraisal subcommittee.

23 17. Establish the fees in accordance with the limits established in
24 section 32-3607.

25 18. Perform such other functions and duties as may be necessary to
26 carry out this chapter.

27 C. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board may employ an
28 executive director and other personnel and designate their duties. The
29 executive director shall serve at the pleasure of the board.

30 D. The executive director shall not change or amend actions of the
31 board.

32 Sec. 76. Section 32-3903, Arizona Revised Statutes, is amended to
33 read:

34 [32-3903. Powers and duties of the board](#)

35 A. The board shall:

36 1. Adopt rules necessary to enforce this chapter.

37 2. Initiate investigations and take disciplinary actions to enforce
38 this chapter.

1 Sec. 80. Section 36-103, Arizona Revised Statutes, is amended to read:

2 36-103. Department organization: deputy director: assistant
3 directors

4 A. The director may establish, abolish or reorganize the positions or
5 organizational units within the department to carry out the functions
6 provided by this section and section 36-104, subject to legislative
7 appropriation, if in his judgment such modification of organization would
8 make the operation of the department more efficient, effective or economical.
9 The director or his deputy shall enforce cooperation among the divisions in
10 the provision and integration of all functions.

11 B. There shall be a deputy director of the department who is appointed
12 by the director with the approval of the governor. The deputy director shall
13 be ~~exempt from the state personnel system~~ SUBJECT TO TITLE 41, CHAPTER 4,
14 ARTICLE 4, shall serve at the pleasure of the director and shall receive
15 compensation as determined pursuant to section 38-611. The deputy director
16 shall assist the director in administering the department and its services.

17 C. The director may appoint an assistant director to each
18 organizational unit that ~~he may establish~~ THE DIRECTOR ESTABLISHES. Each
19 such assistant director shall be ~~exempt from the state personnel system~~
20 SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, shall serve at the pleasure of the
21 director and shall receive compensation as determined pursuant to section
22 38-611.

23 Sec. 81. Section 36-273, Arizona Revised Statutes, is amended to read:

24 36-273. Powers and duties

25 A. The department may:

26 1. Use monies in the disease control research fund established
27 pursuant to section 36-274 to contract with individuals, organizations,
28 corporations and institutions, public or private, in this state for any
29 projects or services that the department determines may advance research into
30 the causes, the epidemiology and diagnosis, the formulation of cures, the
31 medically accepted treatment or the prevention of diseases, including new
32 drug discovery and development. Public monies in the disease control
33 research fund shall not be used for capital construction projects.

34 2. Enter into research and development agreements, royalty agreements,
35 development agreements, licensing agreements and profit sharing agreements
36 concerning the research, development and production of new products developed
37 or to be developed through department funded research.

1 3. Accept or receive monies from any source, including restricted or
2 unrestricted gifts and contributions from individuals, foundations,
3 corporations and other organizations and institutions.

4 4. Obtain expert services to assist in the evaluation of requests and
5 proposals.

6 5. Request cooperation from any state agency for the purposes of this
7 article.

8 6. Provide information and technical assistance to other jurisdictions
9 and agencies.

10 7. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, EMPLOY PERSONNEL NEEDED**
11 **TO CARRY OUT THE DUTIES OF THIS ARTICLE.**

12 B. The department shall:

13 1. Review and evaluate proposals or requests for projects or services.

14 2. Establish a mechanism to review the contracts awarded to ensure
15 that the monies are used in accordance with the proposals approved by the
16 department.

17 3. Prepare and submit a report on or before January 15 of each year to
18 the governor, the president of the senate and the speaker of the house of
19 representatives that describes the projects or services proposed to the
20 department pursuant to this article, the projects or services for which the
21 department has awarded a contract and the amount of monies necessary for each
22 proposal, the cost of each proposal for which a contract was awarded, the
23 names and addresses of the recipients of each contract and the purpose for
24 which each contract was made. The department shall provide a copy of this
25 report to the secretary of state.

26 Sec. 82. Section 36-446.03, Arizona Revised Statutes, is amended to
27 read:

28 36-446.03. Powers and duties of the board; fees

29 A. The board may adopt, amend or repeal reasonable and necessary rules
30 and standards for the administration of this article in compliance with title
31 XIX of the social security act, as amended.

32 B. The board by rule may adopt nonrefundable fees for the following:

33 1. Initial application for certification as an assisted living
34 facility manager.

35 2. Examination for certification as an assisted living facility
36 manager.

37 3. Issuance of a certificate as an assisted living facility manager,
38 prorated monthly.

1 4. Biennial renewal of a certificate as an assisted living facility
2 manager.

3 5. Issuance of a temporary certificate as an assisted living facility
4 manager.

5 6. Readministering an examination for certification as an assisted
6 living facility manager.

7 7. Issuance of a duplicate certificate as an assisted living facility
8 manager.

9 8. Reviewing the sponsorship of continuing education programs, for
10 each credit hour.

11 9. Late renewal of an assisted living facility manager certificate.

12 10. Reviewing an individual's request for continuing education credit
13 hours, for each credit hour.

14 11. Reviewing initial applications for assisted living facility
15 training programs.

16 12. Annual renewal of approved assisted living facility training
17 programs.

18 C. The board may elect officers it deems necessary.

19 D. The board shall apply appropriate techniques, including
20 examinations and investigations, to determine if a person meets the
21 qualifications prescribed in section 36-446.04.

22 E. On its own motion or in response to any complaint against or report
23 of a violation by an administrator of a nursing care institution, or a
24 manager of an assisted living facility, the board may conduct investigations,
25 hearings and other proceedings concerning any violation of this article or of
26 rules adopted by the board or by the department.

27 F. In connection with an investigation or administrative hearing, the
28 board may administer oaths and affirmations, subpoena witnesses, take
29 evidence and require by subpoena the production of documents, records or
30 other information in any form concerning matters the board deems relevant to
31 the investigation or hearing. If any subpoena issued by the board is
32 disobeyed, the board may invoke the aid of any court in this state in
33 requiring the attendance and testimony of witnesses and the production of
34 evidence.

35 G. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the board may employ
36 persons to provide investigative, professional and clerical assistance as
37 required to perform its powers and duties under this article. Compensation
38 for board employees shall be as determined pursuant to section 38-611. The

1 board may contract with other state or federal agencies as required to carry
2 out this article.

3 H. The board may appoint review committees to make recommendations
4 concerning enforcement matters and the administration of this article.

5 I. The board by rule may establish a program to monitor licensees and
6 certificate holders who are chemically dependent and who enroll in
7 rehabilitation programs that meet board requirements. The board may take
8 disciplinary action if a licensee or a certificate holder refuses to enter
9 into an agreement to enroll in and complete a board approved rehabilitation
10 program or fails to abide by that agreement.

11 J. The board shall adopt and use an official seal.

12 K. The board shall adopt rules for the examination and licensure of
13 nursing care institution administrators and the examination and certification
14 of assisted living facility managers.

15 L. The board shall adopt rules governing payment to a person for the
16 direct or indirect solicitation or procurement of assisted living facility
17 patronage.

18 M. The board must provide the senate and the house of representatives
19 health committee chairmen with copies of all board minutes and executive
20 decisions.

21 N. The board by rule shall limit by percentage the amount it may
22 increase a fee above the amount of a fee previously prescribed by the board
23 pursuant to this section.

24 O. The board by rule shall prescribe standards for assisted living
25 facility training programs.

26 P. The board may:

27 1. Grant, deny, suspend or revoke approval of, or place on probation,
28 an assisted living facility training program.

29 2. Impose a civil penalty on an assisted living facility training
30 program that violates this chapter or rules adopted pursuant to this chapter.

31 Sec. 83. Section 36-1943, Arizona Revised Statutes, is amended to
32 read:

33 36-1943. Executive director; duties

34 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the commission shall
35 appoint an executive director who serves at the pleasure of the commission.
36 SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the commission may ~~appoint~~ EMPLOY
37 other employees as necessary ~~and shall fix~~, DETERMINE their compensation
38 PURSUANT TO SECTION 38-611 and prescribe their powers and duties. With the

1 approval of the commission, the executive director may contract for
2 professional, technical and clerical services necessary to carry out
3 functions of the commission.

4 B. The executive director shall be a trained professional experienced
5 in problems of the deaf and the hard of hearing and skilled in the use of
6 manual communication, commonly referred to as sign language, and may be
7 either a deaf person, a person who is hard of hearing or a person with normal
8 hearing. The executive director shall assist the commission to implement its
9 programs and activities and to implement this chapter. The executive
10 director shall not be a commission member. The executive director is
11 eligible to receive compensation set by the commission within the range
12 determined pursuant to section 38-611.

13 Sec. 84. Section 36-2903.01, Arizona Revised Statutes, is amended to
14 read:

15 36-2903.01. Additional powers and duties; report

16 A. The director of the Arizona health care cost containment system
17 administration may adopt rules that provide that the system may withhold or
18 forfeit payments to be made to a noncontracting provider by the system if the
19 noncontracting provider fails to comply with this article, the provider
20 agreement or rules that are adopted pursuant to this article and that relate
21 to the specific services rendered for which a claim for payment is made.

22 B. The director shall:

23 1. Prescribe uniform forms to be used by all contractors. The rules
24 shall require a written and signed application by the applicant or an
25 applicant's authorized representative, or, if the person is incompetent or
26 incapacitated, a family member or a person acting responsibly for the
27 applicant may obtain a signature or a reasonable facsimile and file the
28 application as prescribed by the administration.

29 2. Enter into an interagency agreement with the department to
30 establish a streamlined eligibility process to determine the eligibility of
31 all persons defined pursuant to section 36-2901, paragraph 6,
32 subdivision (a). At the administration's option, the interagency agreement
33 may allow the administration to determine the eligibility of certain persons,
34 including those defined pursuant to section 36-2901, paragraph 6,
35 subdivision (a).

36 3. Enter into an intergovernmental agreement with the department to:

37 (a) Establish an expedited eligibility and enrollment process for all
38 persons who are hospitalized at the time of application.

1 (b) Establish performance measures and incentives for the department.

2 (c) Establish the process for management evaluation reviews that the
3 administration shall perform to evaluate the eligibility determination
4 functions performed by the department.

5 (d) Establish eligibility quality control reviews by the
6 administration.

7 (e) Require the department to adopt rules, consistent with the rules
8 adopted by the administration for a hearing process, that applicants or
9 members may use for appeals of eligibility determinations or
10 redeterminations.

11 (f) Establish the department's responsibility to place sufficient
12 eligibility workers at federally qualified health centers to screen for
13 eligibility and at hospital sites and level one trauma centers to ensure that
14 persons seeking hospital services are screened on a timely basis for
15 eligibility for the system, including a process to ensure that applications
16 for the system can be accepted on a twenty-four hour basis, seven days a
17 week.

18 (g) Withhold payments based on the allowable sanctions for errors in
19 eligibility determinations or redeterminations or failure to meet performance
20 measures required by the intergovernmental agreement.

21 (h) Recoup from the department all federal fiscal sanctions that
22 result from the department's inaccurate eligibility determinations. The
23 director may offset all or part of a sanction if the department submits a
24 corrective action plan and a strategy to remedy the error.

25 4. By rule establish a procedure and time frames for the intake of
26 grievances and requests for hearings, for the continuation of benefits and
27 services during the appeal process and for a grievance process at the
28 contractor level. Notwithstanding sections 41-1092.02, 41-1092.03 and
29 41-1092.05, the administration shall develop rules to establish the procedure
30 and time frame for the informal resolution of grievances and appeals. A
31 grievance that is not related to a claim for payment of system covered
32 services shall be filed in writing with and received by the administration or
33 the prepaid capitated provider or program contractor not later than sixty
34 days after the date of the adverse action, decision or policy implementation
35 being grieved. A grievance that is related to a claim for payment of system
36 covered services must be filed in writing and received by the administration
37 or the prepaid capitated provider or program contractor within twelve months
38 after the date of service, within twelve months after the date that

1 eligibility is posted or within sixty days after the date of the denial of a
2 timely claim submission, whichever is later. A grievance for the denial of a
3 claim for reimbursement of services may contest the validity of any adverse
4 action, decision, policy implementation or rule that related to or resulted
5 in the full or partial denial of the claim. A policy implementation may be
6 subject to a grievance procedure, but it may not be appealed for a hearing.
7 The administration is not required to participate in a mandatory settlement
8 conference if it is not a real party in interest. In any proceeding before
9 the administration, including a grievance or hearing, persons may represent
10 themselves or be represented by a duly authorized agent who is not charging a
11 fee. A legal entity may be represented by an officer, partner or employee
12 who is specifically authorized by the legal entity to represent it in the
13 particular proceeding.

14 5. Apply for and accept federal funds available under title XIX of the
15 social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section
16 1396 (1980)) in support of the system. The application made by the director
17 pursuant to this paragraph shall be designed to qualify for federal funding
18 primarily on a prepaid capitated basis. Such funds may be used only for the
19 support of persons defined as eligible pursuant to title XIX of the social
20 security act or the approved section 1115 waiver.

21 6. At least thirty days before the implementation of a policy or a
22 change to an existing policy relating to reimbursement, provide notice to
23 interested parties. Parties interested in receiving notification of policy
24 changes shall submit a written request for notification to the
25 administration.

26 7. In addition to the cost sharing requirements specified in
27 subsection D, paragraph 4 of this section:

28 (a) Charge monthly premiums up to the maximum amount allowed by
29 federal law to all populations of eligible persons who may be charged.

30 (b) Implement this paragraph to the extent permitted under the federal
31 deficit reduction act of 2005 and other federal laws, subject to the approval
32 of federal waiver authority and to the extent that any changes in the cost
33 sharing requirements under this paragraph would permit this state to receive
34 any enhanced federal matching rate.

35 C. The director is authorized to apply for any federal funds available
36 for the support of programs to investigate and prosecute violations arising
37 from the administration and operation of the system. Available state funds

1 appropriated for the administration and operation of the system may be used
2 as matching funds to secure federal funds pursuant to this subsection.

3 D. The director may adopt rules or procedures to do the following:

4 1. Authorize advance payments based on estimated liability to a
5 contractor or a noncontracting provider after the contractor or
6 noncontracting provider has submitted a claim for services and before the
7 claim is ultimately resolved. The rules shall specify that any advance
8 payment shall be conditioned on the execution before payment of a contract
9 with the contractor or noncontracting provider that requires the
10 administration to retain a specified percentage, which shall be at least
11 twenty per cent, of the claimed amount as security and that requires
12 repayment to the administration if the administration makes any overpayment.

13 2. Defer liability, in whole or in part, of contractors for care
14 provided to members who are hospitalized on the date of enrollment or under
15 other circumstances. Payment shall be on a capped fee-for-service basis for
16 services other than hospital services and at the rate established pursuant to
17 subsection G or H of this section for hospital services or at the rate paid
18 by the health plan, whichever is less.

19 3. Deputize, in writing, any qualified officer or employee in the
20 administration to perform any act that the director by law is empowered to do
21 or charged with the responsibility of doing, including the authority to issue
22 final administrative decisions pursuant to section 41-1092.08.

23 4. Notwithstanding any other law, require persons eligible pursuant to
24 section 36-2901, paragraph 6, subdivision (a), section 36-2931 and section
25 36-2981, paragraph 6 to be financially responsible for any cost sharing
26 requirements established in a state plan or a section 1115 waiver and
27 approved by the centers for medicare and medicaid services. Cost sharing
28 requirements may include copayments, coinsurance, deductibles, enrollment
29 fees and monthly premiums for enrolled members, including households with
30 children enrolled in the Arizona long-term care system.

31 E. The director shall adopt rules that further specify the medical
32 care and hospital services that are covered by the system pursuant to section
33 36-2907.

34 F. In addition to the rules otherwise specified in this article, the
35 director may adopt necessary rules pursuant to title 41, chapter 6 to carry
36 out this article. Rules adopted by the director pursuant to this subsection
37 shall consider the differences between rural and urban conditions on the
38 delivery of hospitalization and medical care.

1 G. For inpatient hospital admissions and all outpatient hospital
2 services before March 1, 1993, the administration shall reimburse a
3 hospital's adjusted billed charges according to the following procedures:

4 1. The director shall adopt rules that, for services rendered from and
5 after September 30, 1985 until October 1, 1986, define "adjusted billed
6 charges" as that reimbursement level that has the effect of holding constant
7 whichever of the following is applicable:

8 (a) The schedule of rates and charges for a hospital in effect on
9 April 1, 1984 as filed pursuant to chapter 4, article 3 of this title.

10 (b) The schedule of rates and charges for a hospital that became
11 effective after May 31, 1984 but before July 2, 1984, if the hospital's
12 previous rate schedule became effective before April 30, 1983.

13 (c) The schedule of rates and charges for a hospital that became
14 effective after May 31, 1984 but before July 2, 1984, limited to five per
15 cent over the hospital's previous rate schedule, and if the hospital's
16 previous rate schedule became effective on or after April 30, 1983 but before
17 October 1, 1983.

18 For the purposes of this paragraph, "constant" means equal to or lower than.

19 2. The director shall adopt rules that, for services rendered from and
20 after September 30, 1986, define "adjusted billed charges" as that
21 reimbursement level that has the effect of increasing by four per cent a
22 hospital's reimbursement level in effect on October 1, 1985 as prescribed in
23 paragraph 1 of this subsection. Beginning January 1, 1991, the Arizona
24 health care cost containment system administration shall define "adjusted
25 billed charges" as the reimbursement level determined pursuant to this
26 section, increased by two and one-half per cent.

27 3. In no event shall a hospital's adjusted billed charges exceed the
28 hospital's schedule of rates and charges filed with the department of health
29 services and in effect pursuant to chapter 4, article 3 of this title.

30 4. For services rendered the administration shall not pay a hospital's
31 adjusted billed charges in excess of the following:

32 (a) If the hospital's bill is paid within thirty days of the date the
33 bill was received, eighty-five per cent of the adjusted billed charges.

34 (b) If the hospital's bill is paid any time after thirty days but
35 within sixty days of the date the bill was received, ninety-five per cent of
36 the adjusted billed charges.

1 (c) If the hospital's bill is paid any time after sixty days of the
2 date the bill was received, one hundred per cent of the adjusted billed
3 charges.

4 5. The director shall define by rule the method of determining when a
5 hospital bill will be considered received and when a hospital's billed
6 charges will be considered paid. Payment received by a hospital from the
7 administration pursuant to this subsection or from a contractor either by
8 contract or pursuant to section 36-2904, subsection I shall be considered
9 payment of the hospital bill in full, except that a hospital may collect any
10 unpaid portion of its bill from other third party payors or in situations
11 covered by title 33, chapter 7, article 3.

12 H. For inpatient hospital admissions and outpatient hospital services
13 on and after March 1, 1993 the administration shall adopt rules for the
14 reimbursement of hospitals according to the following procedures:

15 1. For inpatient hospital stays, the administration shall use a
16 prospective tiered per diem methodology, using hospital peer groups if
17 analysis shows that cost differences can be attributed to independently
18 definable features that hospitals within a peer group share. In peer
19 grouping the administration may consider such factors as length of stay
20 differences and labor market variations. If there are no cost differences,
21 the administration shall implement a stop loss-stop gain or similar
22 mechanism. Any stop loss-stop gain or similar mechanism shall ensure that
23 the tiered per diem rates assigned to a hospital do not represent less than
24 ninety per cent of its 1990 base year costs or more than one hundred ten per
25 cent of its 1990 base year costs, adjusted by an audit factor, during the
26 period of March 1, 1993 through September 30, 1994. The tiered per diem
27 rates set for hospitals shall represent no less than eighty-seven and
28 one-half per cent or more than one hundred twelve and one-half per cent of
29 its 1990 base year costs, adjusted by an audit factor, from October 1, 1994
30 through September 30, 1995 and no less than eighty-five per cent or more than
31 one hundred fifteen per cent of its 1990 base year costs, adjusted by an
32 audit factor, from October 1, 1995 through September 30, 1996. For the
33 periods after September 30, 1996 no stop loss-stop gain or similar mechanisms
34 shall be in effect. An adjustment in the stop loss-stop gain percentage may
35 be made to ensure that total payments do not increase as a result of this
36 provision. If peer groups are used the administration shall establish
37 initial peer group designations for each hospital before implementation of
38 the per diem system. The administration may also use a negotiated rate

1 methodology. The tiered per diem methodology may include separate
2 consideration for specialty hospitals that limit their provision of services
3 to specific patient populations, such as rehabilitative patients or children.
4 The initial per diem rates shall be based on hospital claims and encounter
5 data for dates of service November 1, 1990 through October 31, 1991 and
6 processed through May of 1992.

7 2. For rates effective on October 1, 1994, and annually thereafter,
8 the administration shall adjust tiered per diem payments for inpatient
9 hospital care by the data resources incorporated market basket index for
10 prospective payment system hospitals. For rates effective beginning on
11 October 1, 1999, the administration shall adjust payments to reflect changes
12 in length of stay for the maternity and nursery tiers.

13 3. Through June 30, 2004, for outpatient hospital services, the
14 administration shall reimburse a hospital by applying a hospital specific
15 outpatient cost-to-charge ratio to the covered charges. Beginning on July 1,
16 2004 through June 30, 2005, the administration shall reimburse a hospital by
17 applying a hospital specific outpatient cost-to-charge ratio to covered
18 charges. If the hospital increases its charges for outpatient services filed
19 with the Arizona department of health services pursuant to chapter 4, article
20 3 of this title, by more than 4.7 per cent for dates of service effective on
21 or after July 1, 2004, the hospital specific cost-to-charge ratio will be
22 reduced by the amount that it exceeds 4.7 per cent. If charges exceed 4.7
23 per cent, the effective date of the increased charges will be the effective
24 date of the adjusted Arizona health care cost containment system
25 cost-to-charge ratio. The administration shall develop the methodology for a
26 capped fee-for-service schedule and a statewide cost-to-charge ratio. Any
27 covered outpatient service not included in the capped fee-for-service
28 schedule shall be reimbursed by applying the statewide cost-to-charge ratio
29 that is based on the services not included in the capped fee-for-service
30 schedule. Beginning on July 1, 2005, the administration shall reimburse
31 clean claims with dates of service on or after July 1, 2005, based on the
32 capped fee-for-service schedule or the statewide cost-to-charge ratio
33 established pursuant to this paragraph. The administration may make
34 additional adjustments to the outpatient hospital rates established pursuant
35 to this section based on other factors, including the number of beds in the
36 hospital, specialty services available to patients and the geographic
37 location of the hospital.

1 4. Except if submitted under an electronic claims submission system, a
2 hospital bill is considered received for purposes of this paragraph on
3 initial receipt of the legible, error-free claim form by the administration
4 if the claim includes the following error-free documentation in legible form:

- 5 (a) An admission face sheet.
- 6 (b) An itemized statement.
- 7 (c) An admission history and physical.
- 8 (d) A discharge summary or an interim summary if the claim is split.
- 9 (e) An emergency record, if admission was through the emergency room.
- 10 (f) Operative reports, if applicable.
- 11 (g) A labor and delivery room report, if applicable.

12 Payment received by a hospital from the administration pursuant to this
13 subsection or from a contractor either by contract or pursuant to section
14 36-2904, subsection I is considered payment by the administration or the
15 contractor of the administration's or contractor's liability for the hospital
16 bill. A hospital may collect any unpaid portion of its bill from other third
17 party payors or in situations covered by title 33, chapter 7, article 3.

18 5. For services rendered on and after October 1, 1997, the
19 administration shall pay a hospital's rate established according to this
20 section subject to the following:

21 (a) If the hospital's bill is paid within thirty days of the date the
22 bill was received, the administration shall pay ninety-nine per cent of the
23 rate.

24 (b) If the hospital's bill is paid after thirty days but within sixty
25 days of the date the bill was received, the administration shall pay one
26 hundred per cent of the rate.

27 (c) If the hospital's bill is paid any time after sixty days of the
28 date the bill was received, the administration shall pay one hundred per cent
29 of the rate plus a fee of one per cent per month for each month or portion of
30 a month following the sixtieth day of receipt of the bill until the date of
31 payment.

32 6. In developing the reimbursement methodology, if a review of the
33 reports filed by a hospital pursuant to section 36-125.04 indicates that
34 further investigation is considered necessary to verify the accuracy of the
35 information in the reports, the administration may examine the hospital's
36 records and accounts related to the reporting requirements of section
37 36-125.04. The administration shall bear the cost incurred in connection
38 with this examination unless the administration finds that the records

1 examined are significantly deficient or incorrect, in which case the
2 administration may charge the cost of the investigation to the hospital
3 examined.

4 7. Except for privileged medical information, the administration shall
5 make available for public inspection the cost and charge data and the
6 calculations used by the administration to determine payments under the
7 tiered per diem system, provided that individual hospitals are not identified
8 by name. The administration shall make the data and calculations available
9 for public inspection during regular business hours and shall provide copies
10 of the data and calculations to individuals requesting such copies within
11 thirty days of receipt of a written request. The administration may charge a
12 reasonable fee for the provision of the data or information.

13 8. The prospective tiered per diem payment methodology for inpatient
14 hospital services shall include a mechanism for the prospective payment of
15 inpatient hospital capital related costs. The capital payment shall include
16 hospital specific and statewide average amounts. For tiered per diem rates
17 beginning on October 1, 1999, the capital related cost component is frozen at
18 the blended rate of forty per cent of the hospital specific capital cost and
19 sixty per cent of the statewide average capital cost in effect as of
20 January 1, 1999 and as further adjusted by the calculation of tier rates for
21 maternity and nursery as prescribed by law. The administration shall adjust
22 the capital related cost component by the data resources incorporated market
23 basket index for prospective payment system hospitals.

24 9. For graduate medical education programs:

25 (a) Beginning September 30, 1997, the administration shall establish a
26 separate graduate medical education program to reimburse hospitals that had
27 graduate medical education programs that were approved by the administration
28 as of October 1, 1999. The administration shall separately account for
29 monies for the graduate medical education program based on the total
30 reimbursement for graduate medical education reimbursed to hospitals by the
31 system in federal fiscal year 1995-1996 pursuant to the tiered per diem
32 methodology specified in this section. The graduate medical education
33 program reimbursement shall be adjusted annually by the increase or decrease
34 in the index published by the global insight hospital market basket index for
35 prospective hospital reimbursement. Subject to legislative appropriation, on
36 an annual basis, each qualified hospital shall receive a single payment from
37 the graduate medical education program that is equal to the same percentage
38 of graduate medical education reimbursement that was paid by the system in

1 federal fiscal year 1995-1996. Any reimbursement for graduate medical
2 education made by the administration shall not be subject to future
3 settlements or appeals by the hospitals to the administration. The monies
4 available under this subdivision shall not exceed the fiscal year 2005-2006
5 appropriation adjusted annually by the increase or decrease in the index
6 published by the global insight hospital market basket index for prospective
7 hospital reimbursement, except for monies distributed for expansions pursuant
8 to subdivision (b) of this paragraph.

9 (b) The monies available for graduate medical education programs
10 pursuant to this subdivision shall not exceed the fiscal year 2006-2007
11 appropriation adjusted annually by the increase or decrease in the index
12 published by the global insight hospital market basket index for prospective
13 hospital reimbursement. Graduate medical education programs eligible for
14 such reimbursement are not precluded from receiving reimbursement for funding
15 under subdivision (c) of this paragraph. Beginning July 1, 2006, the
16 administration shall distribute any monies appropriated for graduate medical
17 education above the amount prescribed in subdivision (a) of this paragraph in
18 the following order or priority:

19 (i) For the direct costs to support the expansion of graduate medical
20 education programs established before July 1, 2006 at hospitals that do not
21 receive payments pursuant to subdivision (a) of this paragraph. These
22 programs must be approved by the administration.

23 (ii) For the direct costs to support the expansion of graduate medical
24 education programs established on or before October 1, 1999. These programs
25 must be approved by the administration.

26 (c) The administration shall distribute to hospitals any monies
27 appropriated for graduate medical education above the amount prescribed in
28 subdivisions (a) and (b) of this paragraph for the following purposes:

29 (i) For the direct costs of graduate medical education programs
30 established or expanded on or after July 1, 2006. These programs must be
31 approved by the administration.

32 (ii) For a portion of additional indirect graduate medical education
33 costs for programs that are located in a county with a population of less
34 than five hundred thousand persons at the time the residency position was
35 created or for a residency position that includes a rotation in a county with
36 a population of less than five hundred thousand persons at the time the
37 residency position was established. These programs must be approved by the
38 administration.

1 (d) The administration shall develop, by rule, the formula by which
2 the monies are distributed.

3 (e) Each graduate medical education program that receives funding
4 pursuant to subdivision (b) or (c) of this paragraph shall identify and
5 report to the administration the number of new residency positions created by
6 the funding provided in this paragraph, including positions in rural areas.
7 The program shall also report information related to the number of funded
8 residency positions that resulted in physicians locating their practice in
9 this state. The administration shall report to the joint legislative budget
10 committee by February 1 of each year on the number of new residency positions
11 as reported by the graduate medical education programs.

12 (f) Local, county and tribal governments and any university under the
13 jurisdiction of the Arizona board of regents may provide monies in addition
14 to any state general fund monies appropriated for graduate medical education
15 in order to qualify for additional matching federal monies for providers,
16 programs or positions in a specific locality and costs incurred pursuant to a
17 specific contract between the administration and providers or other entities
18 to provide graduate medical education services as an administrative activity.
19 Payments by the administration pursuant to this subdivision may be limited to
20 those providers designated by the funding entity and may be based on any
21 methodology deemed appropriate by the administration, including replacing any
22 payments that might otherwise have been paid pursuant to subdivision (a), (b)
23 or (c) of this paragraph had sufficient state general fund monies or other
24 monies been appropriated to fully fund those payments. These programs,
25 positions, payment methodologies and administrative graduate medical
26 education services must be approved by the administration and the centers for
27 medicare and medicaid services. The administration shall report to the
28 president of the senate, the speaker of the house of representatives and the
29 director of the joint legislative budget committee on or before July 1 of
30 each year on the amount of money contributed and number of residency
31 positions funded by local, county and tribal governments, including the
32 amount of federal matching monies used.

33 (g) Any funds appropriated but not allocated by the administration for
34 subdivision (b) or (c) of this paragraph may be reallocated if funding for
35 either subdivision is insufficient to cover appropriate graduate medical
36 education costs.

1 10. Notwithstanding section 41-1005, subsection A, paragraph 9, the
2 administration shall adopt rules pursuant to title 41, chapter 6 establishing
3 the methodology for determining the prospective tiered per diem payments.

4 11. For inpatient hospital services rendered on or after October 1,
5 2011, the prospective tiered per diem payment rates are permanently reset to
6 the amounts payable for those services as of September 30, 2011 pursuant to
7 this subsection.

8 I. The director may adopt rules that specify enrollment procedures,
9 including notice to contractors of enrollment. The rules may provide for
10 varying time limits for enrollment in different situations. The
11 administration shall specify in contract when a person who has been
12 determined eligible will be enrolled with that contractor and the date on
13 which the contractor will be financially responsible for health and medical
14 services to the person.

15 J. The administration may make direct payments to hospitals for
16 hospitalization and medical care provided to a member in accordance with this
17 article and rules. The director may adopt rules to establish the procedures
18 by which the administration shall pay hospitals pursuant to this subsection
19 if a contractor fails to make timely payment to a hospital. Such payment
20 shall be at a level determined pursuant to section 36-2904, subsection H
21 or I. The director may withhold payment due to a contractor in the amount of
22 any payment made directly to a hospital by the administration on behalf of a
23 contractor pursuant to this subsection.

24 K. The director shall establish a special unit within the
25 administration for the purpose of monitoring the third party payment
26 collections required by contractors and noncontracting providers pursuant to
27 section 36-2903, subsection B, paragraph 10 and subsection F and section
28 36-2915, subsection E. The director shall determine by rule:

29 1. The type of third party payments to be monitored pursuant to this
30 subsection.

31 2. The percentage of third party payments that is collected by a
32 contractor or noncontracting provider and that the contractor or
33 noncontracting provider may keep and the percentage of such payments that the
34 contractor or noncontracting provider may be required to pay to the
35 administration. Contractors and noncontracting providers must pay to the
36 administration one hundred per cent of all third party payments that are
37 collected and that duplicate administration fee-for-service payments. A
38 contractor that contracts with the administration pursuant to section

1 36-2904, subsection A may be entitled to retain a percentage of third party
2 payments if the payments collected and retained by a contractor are reflected
3 in reduced capitation rates. A contractor may be required to pay the
4 administration a percentage of third party payments that are collected by a
5 contractor and that are not reflected in reduced capitation rates.

6 L. The administration shall establish procedures to apply to the
7 following if a provider that has a contract with a contractor or
8 noncontracting provider seeks to collect from an individual or financially
9 responsible relative or representative a claim that exceeds the amount that
10 is reimbursed or should be reimbursed by the system:

11 1. On written notice from the administration or oral or written notice
12 from a member that a claim for covered services may be in violation of this
13 section, the provider that has a contract with a contractor or noncontracting
14 provider shall investigate the inquiry and verify whether the person was
15 eligible for services at the time that covered services were provided. If
16 the claim was paid or should have been paid by the system, the provider that
17 has a contract with a contractor or noncontracting provider shall not
18 continue billing the member.

19 2. If the claim was paid or should have been paid by the system and
20 the disputed claim has been referred for collection to a collection agency or
21 referred to a credit reporting bureau, the provider that has a contract with
22 a contractor or noncontracting provider shall:

23 (a) Notify the collection agency and request that all attempts to
24 collect this specific charge be terminated immediately.

25 (b) Advise all credit reporting bureaus that the reported delinquency
26 was in error and request that the affected credit report be corrected to
27 remove any notation about this specific delinquency.

28 (c) Notify the administration and the member that the request for
29 payment was in error and that the collection agency and credit reporting
30 bureaus have been notified.

31 3. If the administration determines that a provider that has a
32 contract with a contractor or noncontracting provider has billed a member for
33 charges that were paid or should have been paid by the administration, the
34 administration shall send written notification by certified mail or other
35 service with proof of delivery to the provider that has a contract with a
36 contractor or noncontracting provider stating that this billing is in
37 violation of federal and state law. If, twenty-one days or more after
38 receiving the notification, a provider that has a contract with a contractor

1 or noncontracting provider knowingly continues billing a member for charges
2 that were paid or should have been paid by the system, the administration may
3 assess a civil penalty in an amount equal to three times the amount of the
4 billing and reduce payment to the provider that has a contract with a
5 contractor or noncontracting provider accordingly. Receipt of delivery
6 signed by the addressee or the addressee's employee is prima facie evidence
7 of knowledge. Civil penalties collected pursuant to this subsection shall be
8 deposited in the state general fund. Section 36-2918, subsections C, D and
9 F, relating to the imposition, collection and enforcement of civil penalties,
10 apply to civil penalties imposed pursuant to this paragraph.

11 M. The administration may conduct postpayment review of all claims
12 paid by the administration and may recoup any monies erroneously paid. The
13 director may adopt rules that specify procedures for conducting postpayment
14 review. A contractor may conduct a postpayment review of all claims paid by
15 the contractor and may recoup monies that are erroneously paid.

16 N. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), the director or the
17 director's designee may employ and supervise personnel necessary to assist
18 the director in performing the functions of the administration.

19 O. The administration may contract with contractors for obstetrical
20 care who are eligible to provide services under title XIX of the social
21 security act.

22 P. Notwithstanding any other law, on federal approval the
23 administration may make disproportionate share payments to private hospitals,
24 county operated hospitals, including hospitals owned or leased by a special
25 health care district, and state operated institutions for mental disease
26 beginning October 1, 1991 in accordance with federal law and subject to
27 legislative appropriation. If at any time the administration receives
28 written notification from federal authorities of any change or difference in
29 the actual or estimated amount of federal funds available for
30 disproportionate share payments from the amount reflected in the legislative
31 appropriation for such purposes, the administration shall provide written
32 notification of such change or difference to the president and the minority
33 leader of the senate, the speaker and the minority leader of the house of
34 representatives, the director of the joint legislative budget committee, the
35 legislative committee of reference and any hospital trade association within
36 this state, within three working days not including weekends after receipt of
37 the notice of the change or difference. In calculating disproportionate
38 share payments as prescribed in this section, the administration may use

1 either a methodology based on claims and encounter data that is submitted to
2 the administration from contractors or a methodology based on data that is
3 reported to the administration by private hospitals and state operated
4 institutions for mental disease. The selected methodology applies to all
5 private hospitals and state operated institutions for mental disease
6 qualifying for disproportionate share payments. For the purposes of this
7 subsection, "disproportionate share payment" means a payment to a hospital
8 that serves a disproportionate share of low-income patients as described by
9 42 United States Code section 1396r-4.

10 Q. Notwithstanding any law to the contrary, the administration may
11 receive confidential adoption information to determine whether an adopted
12 child should be terminated from the system.

13 R. The adoption agency or the adoption attorney shall notify the
14 administration within thirty days after an eligible person receiving services
15 has placed that person's child for adoption.

16 S. If the administration implements an electronic claims submission
17 system, it may adopt procedures pursuant to subsection H of this section
18 requiring documentation different than prescribed under subsection H,
19 paragraph 4 of this section.

20 T. In addition to any requirements adopted pursuant to subsection D,
21 paragraph 4 of this section, notwithstanding any other law, subject to
22 approval by the centers for medicare and medicaid services, beginning July 1,
23 2011, members eligible pursuant to section 36-2901, paragraph 6, subdivision
24 (a), section 36-2931 and section 36-2981, paragraph 6 shall pay the
25 following:

- 26 1. A monthly premium of fifteen dollars, except that the total monthly
27 premium for an entire household shall not exceed sixty dollars.
- 28 2. A copayment of five dollars for each physician office visit.
- 29 3. A copayment of ten dollars for each urgent care visit.
- 30 4. A copayment of thirty dollars for each emergency department visit.

31 Sec. 85. Section 36-2926, Arizona Revised Statutes, is amended to
32 read:

33 36-2926. Use of cost savings; preparation of budget
34 recommendations; cooperation of other agencies

35 A. The administration shall use the cost savings generated from
36 agreements entered into pursuant to section 36-2925 to supplement monies that
37 are appropriated by the legislature. The administration shall use the cost
38 savings to:

1 1. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, develop and operate
2 employee recruitment and retention programs that may include creating
3 positions ~~not covered by state service~~, special salary plans and pay
4 practices and performance compensation programs approved by the director **AND**
5 **THE DEPARTMENT OF ADMINISTRATION**.

6 2. Implement technology projects to upgrade hardware or software used
7 by the administration in the operation of the system.

8 B. The governor's office of strategic planning and budgeting and the
9 joint legislative budget committee shall not recommend using the cost savings
10 generated by section 36-2925 to supplant state or federal monies used for the
11 operation or administration of the programs operated by the administration.

12 C. The department of administration shall assist the administration in
13 developing and operating employee recruitment and retention programs
14 specified in subsection A of this section.

15 Sec. 86. Section 37-132, Arizona Revised Statutes, is amended to read:

16 **37-132. Powers and duties**

17 A. The commissioner shall:

18 1. Exercise and perform all powers and duties vested in or imposed
19 upon the department, and prescribe such rules as are necessary to discharge
20 those duties.

21 2. Exercise the powers of surveyor-general except for the powers of
22 the surveyor-general exercised by the treasurer as a member of the selection
23 board pursuant to section 37-202.

24 3. Make long-range plans for the future use of state lands in
25 cooperation with other state agencies, local planning authorities and
26 political subdivisions.

27 4. Promote the infill and orderly development of state lands in areas
28 beneficial to the trust and prevent urban sprawl or leapfrog development on
29 state lands.

30 5. Classify and appraise all state lands, together with the
31 improvements on state lands, for the purpose of sale, lease or grant of
32 rights-of-way. The commissioner may impose such conditions and covenants and
33 make such reservations in the sale of state lands as the commissioner deems
34 to be in the best interest of the state trust. The provisions of this
35 paragraph are subject to hearing procedures pursuant to title 41, chapter 6,
36 article 10 and, except as provided in section 41-1092.08, subsection H, are
37 subject to judicial review pursuant to title 12, chapter 7, article 6.

1 6. Have authority to lease for grazing, agricultural, homesite or
2 other purposes, except commercial, all land owned or held in trust by the
3 state.

4 7. Have authority to lease for commercial purposes and sell all land
5 owned or held in trust by the state, but any such lease for commercial
6 purposes or any such sale shall first be approved by the board of appeals.

7 8. Except as otherwise provided, determine all disputes, grievances or
8 other questions pertaining to the administration of state lands.

9 9. Appoint deputies and other assistants and employees necessary to
10 perform the duties of the department, ~~AND~~ AND assign their duties SUBJECT TO
11 TITLE 41, CHAPTER 4, ARTICLE 4 and require of them such surety bonds as the
12 commissioner deems proper. The compensation of the deputy, assistants or
13 employees shall be as determined pursuant to section 38-611.

14 10. Make a written report to the governor annually, not later than
15 September 1, disclosing in detail the activities of the department for the
16 preceding fiscal year, and publish it for distribution. The report shall
17 include an evaluation of auctions of state land leases held during the
18 preceding fiscal year considering the advantages and disadvantages to the
19 state trust of the existence and exercise of preferred rights to lease
20 reclassified state land.

21 11. Withdraw state land from surface or subsurface sales or lease
22 applications if the commissioner deems it to be in the best interest of the
23 trust. This closure of state lands to new applications for sale or lease
24 does not affect the rights that existing lessees have under law for renewal
25 of their leases and reimbursement for improvements.

26 B. The commissioner may:

27 1. Take evidence relating to, and may require of the various county
28 officers information on, any matter that the commissioner has the power to
29 investigate or determine.

30 2. Under such rules as the commissioner adopts, use private real
31 estate brokers to assist in any sale or long-term lease of state land and
32 pay, from fees collected under section 37-107, subsection B, paragraph 1, a
33 commission to a broker that is licensed pursuant to title 32, chapter 20 and
34 that provides the purchaser or lessee at auction. The purchaser or lessee at
35 auction is not eligible to receive a commission pursuant to this subsection.
36 A commission shall not be paid on a sale or a long-term lease if the
37 purchaser or lessee is a political subdivision of this state.

1 3. Require a permittee, lessee or grantee to post a surety bond or any
2 form of collateral deemed sufficient by the commissioner for performance or
3 restoration purposes. The commissioner shall use the proceeds of a bond or
4 collateral only for the purposes determined at the time the bond or
5 collateral is posted. For agricultural lessees, the commissioner may require
6 collateral as follows:

7 (a) As security for payment of the annual assessments levied by the
8 irrigation district in which the state land is located if the lessee has a
9 history of late payments or defaults. The amount of the collateral required
10 shall not exceed the annual assessment levied by the irrigation district.

11 (b) As security for payment of rent, if an extension of time for
12 payment is requested or if the lessee has a history of late payments of rent.
13 The collateral shall be submitted at the time any extension of time for
14 payment is requested. The amount of the collateral required shall not exceed
15 the annual amount of rent for the land.

16 (c) A surety bond shall be required only if the commissioner
17 determines that other forms of collateral are insufficient.

18 4. Withhold market and economic analyses, preliminary engineering,
19 site and area studies and appraisals that are collected during the urban
20 planning process from public viewing before they are submitted to local
21 planning and zoning authorities.

22 5. Withhold from public inspection proprietary information received
23 during lease negotiations. The proprietary information shall be released to
24 public inspection unless the release may harm the competitive position of the
25 applicant and the information could not have been obtained by other
26 legitimate means.

27 6. Issue permits for short-term use of state land for specific
28 purposes as prescribed by rule.

29 7. Contract with a third party to sell recreational permits. A third
30 party under contract pursuant to this paragraph may assess a surcharge for
31 its services as provided in the contract, in addition to the fees prescribed
32 pursuant to section 37-107.

33 8. Close urban lands to specific uses as prescribed by rule if
34 necessary for dust abatement, to reduce a risk from hazardous environmental
35 conditions that pose a risk to human health or safety or for remediation
36 purposes.

1 9. Notwithstanding subsection A, paragraph 4 of this section,
2 authorize, in the best interest of the trust, the extension of public
3 services and facilities either:

4 (a) That are necessary to implement plans of the local governing body,
5 including plans adopted or amended pursuant to section 9-461.06 or 11-805.

6 (b) Across state lands that are either:

7 (i) Classified as suitable for conservation pursuant to section
8 37-312.

9 (ii) Sold or leased at auction for conservation purposes.

10 C. The commissioner or any deputy or employee of the department shall
11 not have, own or acquire, directly or indirectly, any state lands or the
12 products on any state lands, any interest in or to such lands or products, or
13 improvements on leased state lands, or be interested in any state irrigation
14 project affecting state lands.

15 Sec. 87. Section 37-623.01, Arizona Revised Statutes, is amended to
16 read:

17 37-623.01. Forestry administrative districts; equipment and
18 personnel

19 A. The state forester may establish state forestry administrative
20 districts in all eligible areas of this state.

21 B. The state forester shall establish an equipment program in order to
22 supply the forestry administrative districts. Equipment shall be supplied
23 through both the federal excess property program and purchases of new
24 equipment when warranted.

25 C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the state forester may
26 hire ~~both permanent and part-time~~ personnel in each such district or other
27 most practical area based upon need and workload.

28 D. The state forester may:

29 1. Hire personnel and rent equipment on a temporary basis in order to
30 monitor and suppress wild land fires occurring on state and private lands
31 within any of the forestry administrative districts.

32 2. Cooperate with other federal, state and local government agencies
33 and any person to establish a reserve of personnel and equipment which may be
34 utilized when needed to suppress wild land fires.

35 3. Adopt rules necessary to carry out the provisions of this
36 subsection which shall be exempt from existing advertising and certification
37 procedures.

1 Sec. 88. Section 37-1122, Arizona Revised Statutes, is amended to
2 read:

3 37-1122. General powers and duties of the commission

4 A. The commission shall:

5 1. Adopt administrative rules that in its discretion it considers to
6 be necessary and proper to carry out the provisions and purposes of this
7 chapter.

8 2. Assemble and distribute information to the public relating to the
9 commission's determination of navigability or nonnavigability of any
10 watercourse and the commission's other activities.

11 3. Conduct inquiries or hearings in performing the commission's powers
12 and duties. The commission shall conduct its proceedings informally without
13 adherence to judicial rules of procedure or evidence. The commission shall
14 facilitate participation by persons who are not represented by legal counsel
15 and shall not require a person to file documents or notices in order to be
16 heard and participate in proceedings before the commission.

17 4. Exercise such other powers as may be necessary to fully carry out
18 its responsibilities imposed by this chapter.

19 B. The commission may employ SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4
20 or contract for legal counsel, independent from the attorney general, and
21 other professional and administrative services. Legal counsel retained by the
22 commission may advise and represent the commission in connection with legal
23 matters before other departments and agencies of this state and represent the
24 commission in litigation concerning the affairs of the commission. Contracts
25 for legal and professional services are exempt from section 41-192 and title
26 41, chapter 23.

27 Sec. 89. Section 38-401, Arizona Revised Statutes, is amended to read:

28 38-401. Office hours for state offices

29 ~~Unless otherwise provided by law, and except on holidays,~~ State offices
30 shall be kept open for transaction of business from eight o'clock a.m. until
31 five o'clock p.m. each day from Monday through Friday **EXCEPT:**

32 1. **ON HOLIDAYS.**

33 2. **IN IMPLEMENTING AN AGENCY FURLOUGH IF THE DEPARTMENT OF**
34 **ADMINISTRATION HAS AUTHORIZED THE STATE OFFICE TO BE CLOSED IN ORDER TO MEET**
35 **THE FURLOUGH REQUIREMENTS. AN AGENCY THAT RECEIVES THIS AUTHORIZATION SHALL**
36 **ENSURE THAT APPROPRIATE NOTICE IS GIVEN TO NOTIFY THE PUBLIC OF THE OFFICE**
37 **CLOSURE.**

38 3. **AS OTHERWISE PROVIDED BY LAW.**

1 Sec. 90. Section 38-448, Arizona Revised Statutes, is amended to read:

2 38-448. State employees; access to internet pornography
3 prohibited; cause for dismissal; definitions

4 A. Except to the extent required in conjunction with a bona fide,
5 agency approved research project or other agency approved undertaking, an
6 employee of an agency shall not knowingly use agency owned or agency leased
7 computer equipment to access, download, print or store any information
8 infrastructure files or services that depict nudity, sexual activity, sexual
9 excitement or ultimate sexual acts as defined in section 13-3501. Agency
10 heads shall give, in writing, any agency approvals. Agency approvals are
11 available for public inspection pursuant to section 39-121.

12 B. An employee who violates this section ~~performs an act that is cause~~
13 ~~for~~ MAY BE SUBJECT TO discipline or dismissal ~~of the employee and for an~~
14 ~~employee in state service is considered misuse or unauthorized use of state~~
15 ~~property pursuant to section 41-770.~~

16 C. All agencies shall immediately furnish their current employees with
17 copies of this section. All agencies shall furnish all new employees with
18 copies of this section at the time of authorizing an employee to use an
19 agency computer.

20 D. For the purposes of this section:

21 1. "Agency" means:

22 (a) All offices, agencies, departments, boards, councils or
23 commissions of this state.

24 (b) All state universities.

25 (c) All community college districts.

26 (d) All legislative agencies.

27 (e) All departments or agencies of the state supreme court or the
28 court of appeals.

29 2. "Information infrastructure" means telecommunications, cable and
30 computer networks and includes the internet, the world wide web, usenet,
31 bulletin board systems, on-line systems and telephone networks.

32 Sec. 91. Section 38-532, Arizona Revised Statutes, is amended to read:

33 38-532. Prohibited personnel practice; violation; reinstatement;
34 exceptions; civil penalty

35 A. It is a prohibited personnel practice for an employee who has
36 control over personnel actions to take reprisal against an employee for a
37 disclosure of information of a matter of public concern by the employee to a
38 public body that the employee reasonably believes evidences:

- 1 1. A violation of any law.
- 2 2. Mismanagement, a gross waste of monies or an abuse of authority.
- 3 B. The disclosure by an employee to a public body alleging a violation
- 4 of law, mismanagement, gross waste of monies or abuse of authority shall be
- 5 in writing and shall contain the following information:
- 6 1. The date of the disclosure.
- 7 2. The name of the employee making the disclosure.
- 8 3. The nature of the alleged violation of law, mismanagement, gross
- 9 waste of monies or abuse of authority.
- 10 4. If possible, the date or range of dates on which the alleged
- 11 violation of law, mismanagement, gross waste of monies or abuse of authority
- 12 occurred.
- 13 C. An employee who knowingly commits a prohibited personnel practice
- 14 shall be ordered by the state personnel board, a community college district
- 15 governing board, a school district governing board, a city or town personnel
- 16 board or any other appropriate independent personnel board established or
- 17 authorized pursuant to section 38-534 to pay a civil penalty of up to five
- 18 thousand dollars to the state general fund, a county general fund, a
- 19 community college district unrestricted general fund, a school district
- 20 maintenance and operation fund or a city or town general fund, whichever is
- 21 appropriate. The employee who committed the prohibited personnel practice,
- 22 not the governmental entity, shall pay the civil penalty. On a finding that
- 23 an employee committed a prohibited personnel practice, the employer shall
- 24 take appropriate disciplinary action including dismissal.
- 25 D. An employee or former employee against whom a prohibited personnel
- 26 practice is committed may recover attorney fees, costs, back pay, general and
- 27 special damages and full reinstatement for any reprisal resulting from the
- 28 prohibited personnel practice as determined by the court.
- 29 E. An employee does not commit a prohibited personnel practice if he
- 30 takes reprisal against an employee if that employee discloses information in
- 31 a manner prohibited by law or the materials or information are prescribed as
- 32 confidential by law.
- 33 F. This section may not be used as a defense in a disciplinary action
- 34 where the employee is being disciplined for cause pursuant to section ~~41-770~~
- 35 [41-773](#), except in a hearing on a complaint brought pursuant to this section
- 36 by an employee or former employee who believes he has been the subject of a
- 37 prohibited personnel practice as prescribed in this section as the result of
- 38 a disclosure of information.

1 G. On request or at any time an employee alleges reprisal, an employer
2 shall provide an employee who is subject to disciplinary or corrective
3 action, suspension, demotion or dismissal with a copy of this section.

4 H. If an employee or former employee believes that a personnel action
5 taken against him is the result of his disclosure of information under this
6 section, he may make a complaint to an appropriate independent personnel
7 board, if one is established or authorized pursuant to section 38-534, or to
8 a community college district governing board, school district governing board
9 or city or town council. If an independent personnel board has not been
10 established or authorized, or if a school district governing board, a
11 community college district governing board or A city or town council does not
12 hear and decide personnel matters brought pursuant to this section, the
13 employee or former employee may make a complaint to the state personnel
14 board. A complaint made pursuant to this subsection shall be made within ten
15 days of the effective date of the action taken against him. The state
16 personnel board, a school district governing board, a community college
17 district governing board, a city or town council or any other appropriate
18 independent personnel board shall, pursuant to the rules governing appeals
19 under section ~~41-785~~ 41-783, make a determination concerning:

20 1. The validity of the complaint.

21 2. Whether a prohibited personnel practice was committed against the
22 employee or former employee as a result of disclosure of information by the
23 employee or former employee.

24 I. If the state personnel board, a community college district
25 governing board, a school district governing board, a city or town council or
26 any other appropriate independent personnel board established or authorized
27 pursuant to section 38-534 determines that a prohibited personnel practice
28 was committed as a result of disclosure of information by the employee or
29 former employee, it shall rescind the personnel action and order that all
30 lost pay and benefits be returned to the employee or former employee. The
31 employee, former employee, employee alleged to have committed a prohibited
32 personnel practice pursuant to subsection A of this section or employer may
33 appeal the decision of the state personnel board, a community college
34 district governing board, a school district governing board, a city or town
35 council or any other appropriate independent personnel board established or
36 authorized pursuant to section 38-534 to the superior court as provided in
37 title 12, chapter 7, article 6. Notwithstanding section 12-910, an appeal to
38 the superior court under this subsection shall be tried de novo.

1 J. For purposes of a hearing by the state personnel board, a school
2 district governing board, a community college district governing board, a
3 city or town council or any other appropriate independent personnel board
4 conducted under this section, the employee, former employee, employee alleged
5 to have committed the prohibited personnel practice pursuant to subsection A
6 of this section and employer may be represented by counsel. In addition,
7 representation by counsel in such hearings shall meet any other requirements
8 stipulated by the state personnel board, a school district governing board, a
9 community college district governing board, a city or town council or any
10 other appropriate independent personnel board or as required by law.

11 K. An employee or former employee may also seek injunctive relief as
12 is otherwise available in civil actions.

13 L. This section shall not be construed to limit or extend the civil or
14 criminal liability of an employee or former employee for any disclosure of
15 information or to limit an employee's right to a separate pretermination
16 hearing with the employee's employer, as provided by law.

17 M. An employee who knowingly makes a false accusation that a public
18 officer or employee who has control over personnel actions has engaged in a
19 violation of any law, mismanagement, a gross waste of monies or an abuse of
20 authority is personally subject to a civil penalty of up to twenty-five
21 thousand dollars and dismissal from employment by the employer.

22 Sec. 92. Section 38-610.01, Arizona Revised Statutes, is amended to
23 read:

24 38-610.01. Leave of absence and compensation for officers and
25 employees during active military service

26 A. If the president of the United States or the governor of this state
27 declares that a state of emergency exists, an officer or employee of this
28 state who is ordered to active military service of the United States or this
29 state as a member of the national guard, air national guard, army reserve,
30 naval reserve, marine corps reserve, air force reserve or coast guard reserve
31 and whose state employment is ~~covered by~~ SUBJECT TO title 41, chapter 4,
32 ~~articles 5 and 6~~ ARTICLE 4 or who is exempt pursuant to section ~~41-771~~
33 ~~41-742~~, subsection ~~A~~ D, paragraph 1, 2, 3, ~~4~~, OR ~~5, 7, 8, 9, 10, 11, 12 or~~
34 ~~13 or subsection B, paragraph 1, 2, 3, 4, 5, 7 or 8~~ is eligible for an
35 additional leave of absence until released from active duty by competent
36 authority. During the additional leave of absence, the officer or employee
37 shall continue to receive the officer's or employee's salary or compensation,

1 less the amount of all pay and allowances for military activities while on
2 active duty.

3 B. An officer or employee who receives salary or compensation pursuant
4 to subsection A of this section is not entitled to accrue annual leave or
5 sick leave during the period of active duty. Before qualifying for the
6 compensation pursuant to subsection A of this section, the officer or
7 employee must exhaust all military leave balances by the time of activation
8 or at any time during the active duty period.

9 C. An officer or employee may receive compensation pursuant to
10 subsection A of this section for the continuous duration of the officer's or
11 employee's order.

12 D. Within sixty days after an officer or employee who receives pay
13 differential pursuant to this section completes the period of active duty,
14 the officer or employee shall provide proof that the officer or employee
15 rendered honorable service while on active duty during any period for which
16 the officer or employee received the pay differential pursuant to this
17 section. The state may seek recovery of the pay differential from any person
18 who fails to provide proof of honorable service.

19 E. The director of the department of administration shall establish
20 procedures to be used by an eligible officer or employee to receive
21 compensation pursuant to subsection A of this section.

22 Sec. 93. Section 38-610.02, Arizona Revised Statutes, is amended to
23 read:

24 38-610.02. Leave of absence and compensation for national
25 disaster medical system employment

26 A. An officer or employee of this state who is called into employment
27 to the national disaster medical system under the United States department of
28 health and human services and whose state employment is ~~covered by~~ SUBJECT TO
29 title 41, chapter 4, ~~articles 5 and 6~~ ARTICLE 4 or who is exempt pursuant to
30 section ~~41-771~~ 41-742, subsection ~~A- D~~, paragraph 1, 2, 3, ~~4, OR 5, 7, 8, 9,~~
31 ~~10, 11, 12 or 13 or subsection B, paragraph 1, 2, 3, 4, 5, 7 or 8~~ is eligible
32 for an additional leave of absence until released from active duty by
33 competent authority. During the additional leave of absence, the officer or
34 employee shall continue to receive the officer's or employee's salary or
35 compensation, less the amount of all pay and allowances for activities while
36 on active duty with the national disaster medical system.

1 B. An officer or employee who receives salary or compensation pursuant
2 to subsection A of this section is not entitled to accrue annual leave or
3 sick leave during the period of active duty.

4 C. An officer or employee may receive compensation pursuant to
5 subsection A of this section for the continuous duration of the officer's or
6 employee's order.

7 D. Within sixty days after an officer or employee who receives pay
8 differential pursuant to this section completes the period of active duty,
9 the officer or employee shall provide proof that the officer or employee
10 rendered honorable service while on active duty during any period for which
11 the officer or employee received the pay differential pursuant to this
12 section. This state may seek recovery of the pay differential from any
13 person who fails to provide proof of honorable service.

14 E. The rights and duties of an officer or employee who is subject to
15 this section is subject to the uniformed services employment and reemployment
16 rights act (38 United States Code chapter 43).

17 F. The director of the department of administration shall establish
18 procedures to be used by an eligible officer or employee to receive
19 compensation pursuant to subsection A of this section.

20 Sec. 94. Section 38-611, Arizona Revised Statutes, is amended to read:

21 38-611. Compensation of certain state officers and employees

22 A. Except as otherwise provided in subsections ~~C~~ B and ~~D~~ C OF THIS
23 SECTION, any officer or employee of the state, or any of its agencies, ~~who is~~
24 ~~exempt from the state personnel system shall~~ IS ENTITLED TO receive a salary
25 within the range as ~~recommended~~ DETERMINED by the department of
26 administration ~~in its annual recommendation to the legislature and the joint~~
27 ~~legislative budget committee~~ unless modified by the legislature.

28 ~~B. Any officer or employee of the state, or any of its agencies, who~~
29 ~~is subject to the provisions of the state personnel system shall receive a~~
30 ~~salary within the range of the department of administration salary plan as~~
31 ~~adopted or modified by the legislature.~~

32 ~~C~~ B. Elected state officers, employees of the supreme court,
33 employees of the court of appeals, employees of the legislature, employees of
34 the governor's office, employees of the Arizona state ~~school~~ SCHOOLS for the
35 deaf and the blind except the superintendent and the medical officer and all
36 employees of THE ARIZONA BOARD OF REGENTS AND the state universities are
37 exempt from the provisions of this section.

1 ~~D.~~ C. Except as otherwise provided by statute or specific legislative
2 appropriation, members of boards, commissions, councils or advisory
3 committees who are authorized by law to receive compensation may receive
4 compensation at the rate of not to exceed thirty dollars for each day engaged
5 in the service of such board, commission, council or advisory committee.

6 Sec. 95. Section 38-612, Arizona Revised Statutes, is amended to read:

7 38-612. Administration of payroll salary deductions

8 A. There shall be no payroll salary deductions from the compensation
9 of state officers or employees except as specifically authorized by federal
10 law or regulation or by a statute of this state. No administrative agency of
11 this state may authorize any other deduction.

12 B. In addition to those payroll salary deductions required by federal
13 law or regulation or by statute, state officers or employees may authorize
14 deductions to be made from their salaries or wages for the payment of:

15 1. Premiums on any health benefits, disability plans or group life
16 plans provided for by statute and any existing insurance programs already
17 provided by payroll deduction.

18 2. Shares or obligations to any state or federally chartered credit
19 union established primarily for the purpose of serving state officers and
20 employees and their families.

21 3. Dues in a recognized association comprised principally of employees
22 and former employees of agencies of this state, subject to the following
23 criteria:

24 (a) When comprised of at least one thousand state employees other than
25 employees of the state universities, the department of public safety and
26 academic personnel of the Arizona state schools for the deaf and the blind.

27 (b) When comprised of at least twenty-five per cent of the academic
28 personnel or of the nonacademic employees of any state university.

29 (c) When comprised of at least twenty-five per cent of the academic
30 personnel of the Arizona state schools for the deaf and the blind.

31 (d) When comprised of at least five hundred state employees who are
32 certified as peace officers by the Arizona peace officer standards and
33 training board established by section 41-1821.

34 4. Deferred compensation or tax sheltered annuity salary reductions
35 when made under approved plans.

36 5. Federal savings bond plans.

1 6. Recurrent fees, charges or other payments payable to a state agency
2 under a collection plan approved by the director of the department of
3 administration.

4 7. Contributions made to a charitable organization:

5 (a) Organized and operated exclusively for charitable purposes and
6 selected by the presidents of the state universities. Employees of the state
7 universities shall be advised by form of the charitable organizations to
8 which they may contribute through payroll salary deductions. The advisory
9 provided under this subdivision shall be substantially similar to the
10 following and prominently printed:

11 "You may contribute to any charitable organization registered under
12 internal revenue code section 501(c)(3), tax exempt status.

13
14 _____
 Charitable organization name"

15 This subdivision applies only to academic personnel and nonacademic
16 employees of the state universities.

17 (b) Organized and operated exclusively for charitable purposes,
18 provided a fund drive by such an organization shall be applicable to all
19 state agencies except the state universities covered under subdivision (a) of
20 this paragraph and no state officer or employee of state agencies subject to
21 this subdivision may authorize more than one deduction for charitable
22 purposes to be in effect at the same time. This subdivision applies to all
23 state agencies except the universities covered under subdivision (a) of this
24 paragraph.

25 8. Contributions made for the purpose of contributing to a fund
26 raising campaign for a university or a club for faculty or staff, or both,
27 which is recognized by the university president and authorized by the Arizona
28 board of regents. This paragraph applies only to academic personnel and
29 nonacademic employees of the state universities.

30 9. Charges payable for transportation expenses pursuant to section
31 ~~41-786~~ 41-711.

32 10. Payments ordered by courts of competent jurisdiction within this
33 state.

34 11. Automobile or homeowner's insurance premiums.

35 12. Premiums for the following state sponsored group benefits that are
36 established primarily for the purpose of serving state officers and employees
37 and their families:

38 (a) Long-term care insurance.

1 (b) Critical care insurance.

2 (c) Prepaid legal services.

3 (d) Identity theft protection services.

4 13. A computer system as defined in section 13-2301 for personal use.

5 C. In order for the department of administration to establish and
6 maintain a dues deduction pursuant to subsection B, paragraph 3 of this
7 section, the department of administration may establish and maintain the
8 deduction without the appropriation of any additional monies or technological
9 improvements. The department of administration shall track all personnel
10 hours dedicated to dues deduction. The department of administration may
11 charge a fee to a recognized association that qualifies under subsection B,
12 paragraph 3 of this section for establishing the automatic dues deduction and
13 anytime changes are needed in the automatic dues deduction system as a result
14 of an increase or decrease in association dues. If the membership criteria
15 of a recognized association falls below the criteria set forth in subsection
16 B, paragraph 3 of this section, the recognized association shall be on
17 probation for one year. If the membership of a recognized association falls
18 below the criteria set forth in subsection B, paragraph 3 of this section for
19 more than one year, or if the members of the association engage in a work
20 slowdown or work stoppage, the dues deduction authorized by this section
21 shall immediately be discontinued.

22 D. For those state officers and employees under payroll systems which
23 are under the direction of the director of the department of administration,
24 the director shall provide for the administration of payroll deductions for
25 the purposes set forth in this section. For all other state officers and
26 employees and for persons receiving allowances or benefits under other state
27 payroll and retirement systems, the appropriate state officer shall provide
28 for such administration of payroll deductions. Such administration shall
29 operate without cost or contribution from the state other than the incidental
30 expense of making the deductions and remittances to the payees. If any payee
31 requests additional services, the director of the department of
32 administration or any other appropriate state officer may require payment for
33 the additional cost of providing such services.

34 E. As a means of readily identifying the employee from whom payroll
35 deductions are to be made, the state officer administering payroll deductions
36 may request an employee to enter such employee's social security
37 identification number on the payroll deduction authorization. Such number
38 shall not be used for any other purpose.

1 F. The state, the director of the department of administration or any
2 other appropriate state officer shall be relieved of any liability to
3 employees authorizing deductions or organizations receiving deductions that
4 may result from authorizations pursuant to this section.

5 Sec. 96. Section 38-715, Arizona Revised Statutes, is amended to read:

6 38-715. Director: powers and duties

7 A. The board shall appoint a director. The ~~term of the~~ director ~~is~~
8 ~~one year and expires on June 30. On expiration of a director's term, the~~
9 ~~board may reappoint the director for another term. The board may remove the~~
10 ~~director at any time for cause~~ SHALL SERVE AT THE PLEASURE OF THE BOARD.

11 B. The director shall appoint a deputy director and assistant
12 directors with the approval of the board.

13 C. The director, under the supervision of the board, shall:

14 1. Administer this article, except the investment powers and duties of
15 investment management.

16 2. Hire employees and services the director deems necessary and
17 prescribe their duties.

18 3. Prescribe procedures to be followed by members and their
19 beneficiaries in filing applications for benefits.

20 4. Be responsible for:

21 (a) Income and the collection of income and the accuracy of all
22 expenditures.

23 (b) Maintaining books and maintaining and processing records of ASRS.

24 (c) The investment of temporary surplus monies only in obligations of
25 the United States government or agencies whose obligations are guaranteed by
26 the United States government, commercial paper or banker's acceptances for a
27 term of not more than fifteen days.

28 (d) Providing continuing education programs for the board to keep the
29 board members informed of current issues and information needed to carry out
30 their duties.

31 5. Perform additional powers and duties as may be prescribed by the
32 board and delegated to the director.

33 D. The director, under the supervision and approval of the board, may:

34 1. Delegate duties and responsibilities to such state departments as
35 the director deems feasible and desirable to administer this article.

36 2. Appoint a custodian for the safekeeping of all investments owned by
37 ASRS and register stocks, bonds and other investments in the name of a
38 nominee.

1 3. Invest marketable securities owned by ASRS by entering into
2 security loan agreements with one or more security lending entities. For the
3 purpose of this paragraph:

4 (a) "Marketable securities" means securities that are freely and
5 regularly traded on recognized exchanges or marketplaces.

6 (b) "Security loan agreement" means a written contract under which
7 ASRS, as lender, agrees to lend specific marketable securities for a period
8 of not more than one year. ASRS, under a security loan agreement, shall
9 retain the right to collect from the borrower all dividends, interest,
10 premiums and rights and any other distributions to which ASRS otherwise would
11 have been entitled. During the term of a security loan agreement ASRS shall
12 waive the right to vote the securities that are the subject of the agreement.
13 A security loan agreement shall provide for termination by either party on
14 terms mutually acceptable to the parties. The borrower shall deliver
15 collateral to ASRS or its designated representative. At all times during the
16 term of any security loan agreement the collateral shall be in an amount
17 equal to at least one hundred per cent of the market value of the loaned
18 securities. A security loan agreement shall provide for payment of
19 additional collateral on a daily basis, or at such other less frequent
20 intervals as the value of the loaned securities increases. A security loan
21 agreement with a security lending entity shall contain the terms and
22 conditions of the fees to be paid to a security lending entity for servicing
23 the security loan agreement. ASRS shall pay the fees approved by the board
24 to the security lending entity for servicing a security loan agreement from
25 the revenues of the security lending program.

26 4. Establish one or more reserve holding accounts, into which the
27 board shall close periodically the account balances of inactive accounts. If
28 any person files a claim and furnishes proof of ownership of any amounts in
29 any inactive account the claim shall be paid from the reserve holding account
30 on the same basis as if no action had been taken under this paragraph.
31 Interest and supplemental credits shall be allocated to each reserve holding
32 account on June 30 of each year, as determined by the board. For the
33 purposes of this paragraph, "inactive account" means an account to which
34 contributions have not been paid for six months or more.

35 5. Make retirement under this article effective retroactively to on or
36 after the day following the date employment is terminated if the member was
37 unable to apply before the retroactive effective date through no fault of the
38 member.

1 E. The director, under supervision of the governing committee for tax
2 deferred annuity and deferred compensation plans, may hire and supervise
3 employees and obtain services the director deems necessary to administer
4 article 5 of this chapter. The tax deferred annuity and deferred
5 compensation programs established pursuant to article 5 of this chapter shall
6 bear the costs for these employees and services.

7 F. The director and all persons employed by the director are ~~not~~
8 subject to section 38-611 ~~or~~ AND title 41, chapter 4, article ~~5 or 6~~ 4.

9 Sec. 97. Section 38-848, Arizona Revised Statutes, is amended to read:
10 38-848. Board of trustees; powers and duties; independent trust
11 fund; administrator; agents and employees

12 A. The board of trustees shall consist of seven members and shall have
13 the rights, powers and duties that are set forth in this section. The term
14 of office of members shall be five years to expire on the third Monday in
15 January of the appropriate year. Members are eligible to receive
16 compensation in an amount of fifty dollars a day, but not to exceed one
17 thousand dollars in any one fiscal year, and are eligible for reimbursement
18 of expenses pursuant to chapter 4, article 2 of this title. The board
19 consists of the following members appointed by the governor pursuant to
20 section 38-211:

21 1. Two elected members from a local board to represent the employees.

22 2. One member to represent this state as an employer of public safety
23 personnel. This member shall have the qualifications prescribed in
24 subsection ~~R~~ S of this section.

25 3. One member to represent the cities as employers of public safety
26 personnel.

27 4. An elected county or state official or a judge of the superior
28 court, court of appeals or supreme court.

29 5. Two public members. These members shall have the qualifications
30 prescribed in subsection ~~R~~ S of this section.

31 B. All monies in the fund shall be deposited and held in a public
32 safety personnel retirement system depository. Monies in the fund shall be
33 disbursed from the depository separate and apart from all monies or funds of
34 this state and the agencies, instrumentalities and subdivisions of this
35 state, except that the board may commingle the assets of the fund and the
36 assets of all other plans entrusted to its management in one or more group
37 trusts, subject to the crediting of receipts and earnings and charging of
38 payments to the appropriate employer, system or plan. The monies shall be

1 secured by the depository in which they are deposited and held to the same
2 extent and in the same manner as required by the general depository law of
3 this state. For purposes of making the decision to invest in securities
4 owned by the fund or any plan administered by the board, the fund and assets
5 of the plans are subject to the sole management of the board for the purpose
6 of this article except that, on the board's election to invest in a
7 particular security or make a particular investment, the assets comprising
8 the security or investment may be chosen and managed by third parties
9 approved by the board. The board may invest in portfolios of securities
10 chosen and managed by a third party. The board's decision to invest in
11 securities such as mutual funds, commingled investment funds, exchange traded
12 funds, private equity or venture capital limited partnerships, real estate
13 limited partnerships or limited liability companies and real estate
14 investment trusts whose assets are chosen and managed by third parties does
15 not constitute an improper delegation of the board's investment authority.

16 C. All contributions under this system and other retirement plans that
17 the board administers shall be forwarded to the board and shall be held,
18 invested and reinvested by the board as provided in this article. All
19 property and monies of the fund and other retirement plans that the board
20 administers, including income from investments and from all other sources,
21 shall be retained for the exclusive benefit of members, as provided in the
22 system and other retirement plans that the board administers, and shall be
23 used to pay benefits to members or their beneficiaries or to pay expenses of
24 operation and administration of the system and fund and other retirement
25 plans that the board administers.

26 D. The board shall have the full power in its sole discretion to
27 invest and reinvest, alter and change the monies accumulated under the system
28 and other retirement plans that the board administers as provided in this
29 article. In addition to its power to make investments managed by others, the
30 board may delegate the authority the board deems necessary and prudent to
31 investment management pursuant to section 38-848.03, as well as to the
32 administrator, employed by the board pursuant to subsection K, paragraph 6 of
33 this section, and any assistant administrators to invest the monies of the
34 system and other retirement plans that the board administers if the
35 administrator, investment management and any assistant administrators follow
36 the investment policies that are promulgated by the board. The board may
37 commingle securities and monies of the fund, the elected officials'
38 retirement plan, the corrections officer retirement plan and other plans or

1 monies entrusted to its care, subject to the crediting of receipts and
2 earnings and charging of payments to the account of the appropriate employer,
3 system or plan. In making every investment, the board shall exercise the
4 judgment and care under the circumstances then prevailing which persons of
5 ordinary prudence, discretion and intelligence exercise in the management of
6 their own affairs, not in regard to speculation but in regard to the
7 permanent disposition of their funds, considering the probable income from
8 their funds as well as the probable safety of their capital, provided:

9 1. That not more than eighty per cent of the combined assets of the
10 system or other plans that the board manages shall be invested at any given
11 time in corporate stocks, based on cost value of such stocks irrespective of
12 capital appreciation.

13 2. That no more than five per cent of the combined assets of the
14 system or other plans that the board manages shall be invested in corporate
15 stock issued by any one corporation, other than corporate stock issued by
16 corporations chartered by the United States government or corporate stock
17 issued by a bank or insurance company.

18 3. That not more than five per cent of the voting stock of any one
19 corporation shall be owned by the system and other plans that the board
20 administers, except that this limitation does not apply to membership
21 interests in limited liability companies.

22 4. That corporate stocks and exchange traded funds eligible for
23 purchase shall be restricted to stocks and exchange traded funds that, except
24 for bank stocks, insurance stocks and membership interests in limited
25 liability companies, are either:

26 (a) Listed or approved on issuance for listing on an exchange
27 registered under the securities exchange act of 1934, as amended (15 United
28 States Code sections 78a through 7811).

29 (b) Designated or approved on notice of issuance for designation on
30 the national market system of a national securities association registered
31 under the securities exchange act of 1934, as amended (15 United States Code
32 sections 78a through 7811).

33 (c) Listed or approved on issuance for listing on an exchange
34 registered under the laws of this state or any other state.

35 (d) Listed or approved on issuance for listing on an exchange of a
36 foreign country with which the United States is maintaining diplomatic
37 relations at the time of purchase, except that no more than twenty per cent
38 of the combined assets of the system and other plans that the board manages

1 shall be invested in foreign securities, based on the cost value of the
2 stocks irrespective of capital appreciation.

3 (e) An exchange traded fund that is recommended by the chief
4 investment officer of the system, that is registered under the investment
5 company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and
6 that is both traded on a public exchange and based on a publicly recognized
7 index.

8 E. Notwithstanding any other law, the board shall not be required to
9 invest in any type of investment that is dictated or required by any entity
10 of the federal government and that is intended to fund economic development
11 projects, public works or social programs, but may consider such economically
12 targeted investments pursuant to its fiduciary responsibility. The board, on
13 behalf of the system and all other plans or trusts the ~~fund-manager~~ BOARD
14 administers, may invest in, lend monies to or guarantee the repayment of
15 monies by a limited liability company, limited partnership, joint venture,
16 partnership, limited liability partnership or trust in which the system and
17 plans or trusts have a financial interest, whether the entity is closely held
18 or publicly traded and that, in turn, may be engaged in any lawful activity,
19 including venture capital, private equity, the ownership, development,
20 management, improvement or operation of real property and any improvements or
21 businesses on real property or the lending of monies.

22 F. Conference call meetings of the board that are held for investment
23 purposes only are not subject to chapter 3, article 3.1 of this title, except
24 that the board shall maintain minutes of these conference call meetings and
25 make them available for public inspection within twenty-four hours after the
26 meeting. The board shall review the minutes of each conference call meeting
27 and shall ratify all legal actions taken during each conference call meeting
28 at the next scheduled meeting of the board.

29 G. The board shall not be held liable for the exercise of more than
30 ordinary care and prudence in the selection of investments and performance of
31 its duties under the system and shall not be limited to so-called "legal
32 investments for trustees", but all monies of the system and other plans that
33 the board administers shall be invested subject to all of the conditions,
34 limitations and restrictions imposed by law.

35 H. Except as provided in subsection D of this section, the board may:

36 1. Invest and reinvest the principal and income of all assets that the
37 board manages without distinction between principal and income.

1 2. Sell, exchange, convey, transfer or otherwise dispose of any
2 investments made on behalf of the system or other plans the board administers
3 in the name of the system or plans by private contract or at public auction.

4 3. Also:

5 (a) Vote on any stocks, bonds or other securities.

6 (b) Give general or special proxies or powers of attorney with or
7 without power of substitution.

8 (c) Exercise any conversion privileges, subscription rights or other
9 options and make any payments incidental to the exercise of the conversion
10 privileges, subscription rights or other options.

11 (d) Consent to or otherwise participate in corporate reorganizations
12 or other changes affecting corporate securities, delegate discretionary
13 powers and pay any assessments or charges in connection therewith.

14 (e) Generally exercise any of the powers of an owner with respect to
15 stocks, bonds, securities or other investments held in or owned by the system
16 or other plans whose assets the board administers.

17 4. Make, execute, acknowledge and deliver any other instruments that
18 may be necessary or appropriate to carry out the powers granted in this
19 section.

20 5. Register any investment held by the system or other plans whose
21 assets the board administers in the name of the system or plan or in the name
22 of a nominee or trust.

23 6. At the expense of the system or other plans that the board
24 administers, enter into an agreement with any bank or banks for the
25 safekeeping and handling of securities and other investments coming into the
26 possession of the board. The agreement shall be entered into under terms and
27 conditions that secure the proper safeguarding, inventory, withdrawal and
28 handling of the securities and other investments. No access to and no
29 deposit or withdrawal of the securities from any place of deposit selected by
30 the board shall be permitted or made except as the terms of the agreement may
31 provide.

32 7. Appear before local boards and the courts of this state and
33 political subdivisions of this state through counsel or appointed
34 representative to protect the fund or the assets of other plans that the
35 board administers. The board is not responsible for the actions or omissions
36 of the local boards under this system but may seek review or rehearing of
37 actions or omissions of local boards. The board does not have a duty to
38 review actions of the local boards but may do so in its discretion in order

1 to protect the fund. No limitations period precludes the ~~fund-manager~~ BOARD
2 or administrator from contesting, or requires the ~~fund-manager~~ BOARD or
3 administrator to implement or comply with, a local board decision that
4 violates the internal revenue code or that threatens to impair the tax
5 qualified status of the system or any plan administered by the ~~fund-manager~~
6 BOARD or administrator.

7 8. Empower the fund administrator to take actions on behalf of the
8 board that are necessary for the protection and administration of the fund or
9 the assets of other plans that the board administers pursuant to the
10 guidelines of the board.

11 9. Do all acts, whether or not expressly authorized, that may be
12 deemed necessary or proper for the protection of the investments held in the
13 fund or owned by other plans or trusts that the board administers.

14 10. Settle threatened or actual litigation against any system or plan
15 that the ~~fund-manager~~ BOARD administers.

16 I. Investment expenses and operation and administrative expenses of
17 the board shall be accounted for separately and allocated against investment
18 income.

19 J. The board, as soon as possible within a period of six months
20 following the close of any fiscal year, shall transmit to the governor and
21 the legislature a comprehensive annual financial report on the operation of
22 the system and other plans that the board administers containing, among other
23 things:

- 24 1. A balance sheet.
- 25 2. A statement of income and expenditures for the year.
- 26 3. A report on an actuarial valuation of its assets and liabilities.
- 27 4. A list of investments owned.
- 28 5. The total rate of return, yield on cost, and per cent of cost to
29 market value of the fund and the assets of other plans that the board
30 administers.

31 6. Any other statistical and financial data that may be necessary for
32 the proper understanding of the financial condition of the system and other
33 plans that the board administers and the results of their operations. A
34 synopsis of the annual report shall be published for the information of
35 members of the system, the elected officials' retirement plan or the
36 corrections officer retirement plan.

37 K. The board shall:

1 1. Maintain the accounts of the system and other plans that the board
2 administers and issue statements to each employer annually and to each member
3 who may request it.

4 2. Report the results of the actuarial valuations to the local boards
5 and employers.

6 3. Contract on a fee basis with an independent investment counsel to
7 advise the board in the investment management of the fund and assets of other
8 plans that the board administers and with an independent auditing firm to
9 audit the board's accounting.

10 4. Permit the auditor general to make an annual audit and the results
11 shall be transmitted to the governor and the legislature.

12 5. Contract on a fee basis with an actuary who shall make actuarial
13 valuations of the system and other plans that the board administers, be the
14 technical adviser of the board on matters regarding the operation of the
15 funds created by the provisions of the system, the elected officials'
16 retirement plan, the corrections officer retirement plan and the fire fighter
17 and peace officer cancer insurance policy program and perform other duties
18 required in connection therewith. The actuary must be a member of a
19 nationally recognized association or society of actuaries.

20 6. Employ, as administrator, a person, state department or other body
21 to serve at the pleasure of the board.

22 7. Establish procedures and guidelines for contracts with actuaries,
23 auditors, investment counsel and legal counsel and for safeguarding of
24 securities.

25 L. The administrator, under the direction of the board, shall:

26 1. Administer this article.

27 2. Invest the funds of the system and other plans that the board
28 administers as the board deems necessary and prudent as provided in
29 subsections D and H of this section and subject to the investment policies
30 and fund objectives promulgated by the board.

31 3. Establish and maintain an adequate system of accounts and records
32 for the system and other plans that the board administers, which shall be
33 integrated with the accounts, records and procedures of the employers so that
34 the system and other plans that the board administers operates most
35 effectively and at minimum expense and that duplication of records and
36 accounts is avoided.

37 4. In accordance with the board's governance policy ~~and personnel~~
38 ~~rules~~ and procedures and the budget adopted by the board, hire such employees

1 and services the administrator deems necessary and prescribe their duties,
2 including the hiring of one or more assistant administrators to manage the
3 system's operations, investments and legal affairs.

4 5. Be responsible for income, the collection of the income and the
5 accuracy of all expenditures.

6 6. Recommend to the board annual contracts for the system's actuary,
7 auditor, investment counsel, legal counsel and safeguarding of securities.

8 7. Perform additional duties and powers prescribed by the board and
9 delegated to the administrator.

10 M. The system is an independent trust fund and the board, ~~the~~
11 ~~administrator, the assistant administrators and all persons employed by them~~
12 ~~are not under the jurisdiction of the department of administration or any~~
13 ~~other agency, department or instrumentality of this state or subject to~~
14 ~~section 38-611 or title 41, chapter 4 or 6. The salaries of the~~
15 ~~administrator, assistant administrators and other employees of the board are~~
16 ~~the sole determination of the board~~ IS NOT SUBJECT TO TITLE 41, CHAPTER 6.
17 Contracts for goods and services approved by the board are not subject to
18 title 41, chapter 23. As an independent trust fund whose assets are separate
19 and apart from all other funds of this state, the system and the board are
20 not subject to the restrictions prescribed in section 35-154 or article IX,
21 sections 5 and 8, Constitution of Arizona.

22 N. THE BOARD, THE ADMINISTRATOR, THE ASSISTANT ADMINISTRATORS AND ALL
23 PERSONS EMPLOYED BY THEM ARE SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4. THE
24 ADMINISTRATOR, ASSISTANT ADMINISTRATORS AND OTHER EMPLOYEES OF THE BOARD ARE
25 ENTITLED TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611.

26 ~~N.~~ O. The attorney general or an attorney approved by the attorney
27 general and paid by the fund shall be the attorney for the board and shall
28 represent the board in any legal proceeding or forum that the board deems
29 appropriate. The board, administrator, assistant administrators and
30 employees of the board are not personally liable for any acts done in their
31 official capacity in good faith reliance on the written opinions of the
32 board's attorney.

33 ~~O.~~ P. At least once in each five-year period after the effective
34 date, the actuary shall make an actuarial investigation into the mortality,
35 service and compensation experience of the members and beneficiaries of the
36 system and other plans that the board administers and shall make a special
37 valuation of the assets and liabilities of the monies of the system and
38 plans. Taking into account the results of the investigation and special

1 valuation, the board shall adopt for the system and other plans that the
2 board administers those mortality, service and other tables deemed necessary.

3 ~~P.~~ Q. On the basis of the tables the board adopts, the actuary shall
4 make a valuation of the assets and liabilities of the funds of the system and
5 other plans that the board administers not less frequently than every year.
6 By November 1 of each year the board shall provide a preliminary report and
7 by December 15 of each year provide a final report to the governor, the
8 speaker of the house of representatives and the president of the senate on
9 the contribution rate for the ensuing fiscal year.

10 ~~Q.~~ R. Neither the board nor any member or employee of the board shall
11 directly or indirectly, for himself or as an agent, in any manner use the
12 monies or deposits of the fund except to make current and necessary payments,
13 nor shall the board or any member or employee become an endorser or surety or
14 in any manner an obligor for monies loaned by or borrowed from the fund or
15 the assets of any other plans that the board administers.

16 ~~R.~~ S. The members of the board who are appointed pursuant to
17 subsection A, paragraphs 2 and 5 of this section shall have at least ten
18 years' substantial experience as any one or a combination of the following:

- 19 1. A portfolio manager acting in a fiduciary capacity.
- 20 2. A securities analyst.
- 21 3. An employee or principal of a trust institution, investment
22 organization or endowment fund acting either in a management or an investment
23 related capacity.
- 24 4. A chartered financial analyst in good standing as determined by the
25 association for investment management and research.
- 26 5. A professor at the university level teaching economics or
27 investment related subjects.
- 28 6. An economist.
- 29 7. Any other professional engaged in the field of public or private
30 finances.

31 ~~S.~~ T. Financial or commercial information that is provided to the
32 board, employees of the board and attorneys of the board in connection with
33 investments in which the board has invested or investments the board has
34 considered for investment is confidential, proprietary and not a public
35 record if the information is information that would customarily not be
36 released to the public by the person or entity from whom the information was
37 obtained.

1 Sec. 98. Section 38-1101, Arizona Revised Statutes, is amended to
2 read:

3 38-1101. Law enforcement officers; probation officers; right to
4 representation; right to evidence on appeal; change
5 of hearing officer or administrative law judge;
6 burden of proof; polygraph examinations; exception;
7 definitions

8 A. If an employer interviews a law enforcement officer or probation
9 officer and the employer reasonably believes that the interview could result
10 in dismissal, demotion or suspension or if the law enforcement officer or
11 probation officer reasonably believes the investigation could result in a
12 dismissal, demotion or suspension:

13 1. The law enforcement officer or probation officer may request to
14 have a representative of the officer present at no cost to the employer
15 during the interview. The law enforcement officer or probation officer shall
16 select a representative who is available on reasonable notice so that the
17 interview is not unreasonably delayed. The representative shall participate
18 in the interview only as an observer. Unless agreed to by the employer, the
19 representative shall be from the same agency and shall not be an attorney
20 except that if a representative from the same agency is not reasonably
21 available, with the employer's permission, the law enforcement officer's or
22 probation officer's representative may be from the law enforcement officer's
23 or probation officer's professional membership organization. The law
24 enforcement officer or probation officer shall be permitted reasonable breaks
25 of limited duration during any interview for telephonic or in person
26 consultation with others, including an attorney, who are immediately
27 available. An employer shall not discipline, retaliate against or threaten
28 to retaliate against a law enforcement officer or probation officer for
29 requesting that a representative be present or for acting as the
30 representative of a law enforcement officer or probation officer pursuant to
31 this paragraph.

32 2. Before the commencement of any interview described in this section,
33 the employer shall provide the law enforcement officer or probation officer
34 with a written notice informing the officer of the alleged facts that are the
35 basis of the investigation, the specific nature of the investigation, the
36 officer's status in the investigation, all known allegations of misconduct
37 that are the reason for the interview and the officer's right to have a
38 representative present at the interview. The notice shall include copies of

1 all complaints that contain the alleged facts that are reasonably available,
2 except for copies of complaints that involve matters pursuant to federal laws
3 under the jurisdiction of the equal employment opportunity commission.

4 3. After an employer completes an investigation of a law enforcement
5 officer or probation officer if the employer seeks disciplinary action at the
6 request of the law enforcement officer or probation officer, the employer
7 shall provide a basic summary of any discipline ordered against any other law
8 enforcement officer or probation officer of generally similar rank and
9 experience employed by the employer within the previous two years for the
10 same or a similar violation. As an alternative, the employer may provide
11 file copies of the relevant disciplinary cases. The employer shall not take
12 final action and the employer shall not schedule the hearing until the basic
13 summary or file copies are provided to the law enforcement officer or
14 probation officer. This paragraph does not apply if court rule prohibits the
15 release of file copies of disciplinary cases.

16 4. The employer may require the law enforcement officer or probation
17 officer to submit to a polygraph examination if the officer makes a statement
18 to the employer during the investigation that differs from other information
19 relating to the investigation that is known to the employer and reconciling
20 that difference is necessary to complete the investigation. If a polygraph
21 examination is administered pursuant to this paragraph, the employer or the
22 person administering the polygraph examination shall make an audio recording
23 of the complete polygraph procedure and provide a copy of the recording to
24 the law enforcement officer or probation officer.

25 5. The law enforcement officer or probation officer, at the conclusion
26 of the interview, is entitled to a period of time to consult with the
27 officer's representative and may make a statement not to exceed five minutes
28 addressing specific facts or policies that are related to the interview.

29 B. The results of a polygraph examination in an investigation shall
30 not be the basis for disciplinary action unless other evidence or information
31 exists.

32 C. Subsection A of this section does not require the employer to
33 either:

34 1. Stop an interview to issue another notice for allegations based on
35 information provided by the law enforcement officer or probation officer
36 during the interview.

1 2. Disclose any fact to the law enforcement officer or probation
2 officer or the law enforcement officer's or probation officer's
3 representative that would impede the investigation.

4 D. Subsection A, paragraphs 1 and 2 of this section do not apply to an
5 interview of a law enforcement officer or probation officer that is:

6 1. In the normal course of duty, counseling or instruction or an
7 informal verbal admonishment by, or other routine or unplanned contact with,
8 a supervisor or any other law enforcement officer or probation officer.

9 2. Preliminary questioning to determine the scope of the allegations
10 or if an investigation is necessary.

11 3. Conducted in the course of a criminal investigation.

12 4. Conducted in the course of a polygraph examination.

13 E. In any appeal of a disciplinary action by a law enforcement officer
14 or probation officer, the parties shall exchange copies of all relevant
15 documents and a list of all witnesses pursuant to the following time periods
16 and requirements:

17 1. Within three business days after the employer's receipt of a
18 written request from the law enforcement officer or probation officer for a
19 copy of the investigative file that is accompanied by a copy of the filed
20 notice of appeal, the employer shall provide a complete copy of the
21 investigative file as well as the names and home or work mailing addresses of
22 all persons interviewed during the course of the investigation.

23 2. No later than five business days before the appeal hearing, or, if
24 the appeal hearing is scheduled more than twenty days after the notice of
25 appeal, no later than ten business days before the appeal hearing, the
26 employer and the law enforcement officer or probation officer shall exchange
27 copies of any documents that may be introduced at the hearing and that have
28 not previously been disclosed.

29 3. No later than five business days before the appeal hearing, or, if
30 the appeal hearing is scheduled more than twenty days after the notice of
31 appeal, no later than ten business days before the appeal hearing, the
32 employer and the law enforcement officer or probation officer shall exchange
33 the names of all witnesses who may be called to testify. A witness may be
34 interviewed at the discretion of the witness. The parties shall not
35 interfere with any decision of a witness regarding whether to be interviewed.
36 An employer shall not discipline, retaliate against or threaten to retaliate
37 against any witness for agreeing to be interviewed or for testifying or
38 providing evidence in the appeal.

1 F. It is unlawful for a person to disseminate information that is
2 disclosed pursuant to subsection E of this section to any person other than
3 the parties to the appeal and their lawful representatives for purposes of
4 the appeal of the disciplinary action. This subsection does not prohibit the
5 use of the information in the hearing or disclosure pursuant to title 39,
6 chapter 1, article 2.

7 G. The employer or the law enforcement officer or probation officer
8 may seek a determination by the hearing officer, administrative law judge or
9 appeals board hearing the appeal regarding any evidence that the employer or
10 the law enforcement officer or probation officer believes should not be
11 disclosed pursuant to subsection E of this section because the risk of harm
12 involved in disclosure outweighs any usefulness of the disclosure in the
13 hearing. In determining whether evidence will be disclosed, the hearing
14 officer, administrative law judge or appeals board may perform an in camera
15 review of the evidence and may disclose the material subject to any
16 restriction on the disclosure, including the closing of the hearing or the
17 sealing of the records, that the hearing officer, administrative law judge or
18 appeals board finds necessary under the circumstances.

19 H. In any appeal of a disciplinary action by a law enforcement officer
20 or probation officer in which a single hearing officer or administrative law
21 judge has been appointed to conduct the appeal hearing, the law enforcement
22 officer or probation officer or the employer may request a change of hearing
23 officer or administrative law judge. In cases before the office of
24 administrative hearings or if the employer is a county, city or town on the
25 first request of a party, the request shall be granted. A city or town with
26 a population of less than sixty-five thousand persons or a county with a
27 population of less than two hundred fifty thousand persons must provide for
28 an alternate hearing officer by means of an interagency agreement with
29 another city, town or county. If the law enforcement officer or probation
30 officer is the party that requested the alternate hearing officer, the law
31 enforcement officer or probation officer shall reimburse the city, town or
32 county for one-half of any additional expenses incurred by the city, town or
33 county in procuring the alternate hearing officer under the interagency
34 agreement. If an alternate hearing officer is requested by means of an
35 interagency agreement, the hearing officer shall provide to the law
36 enforcement officer or probation officer or employer the option of continuing
37 the hearing for an additional ten days. Any subsequent requests may be
38 granted only on a showing that a fair and impartial hearing cannot be

1 obtained due to the prejudice of the assigned hearing officer or
2 administrative law judge. The supervisor or supervising body of the hearing
3 officer or administrative law judge shall decide whether a showing of
4 prejudice has been made.

5 I. A party who violates subsection A, paragraph 1 of this section, or
6 subsection E or F of this section, unless the violation is harmless, shall
7 not be permitted to use that evidence at the hearing, except on a showing of
8 good cause. The hearing officer or administrative law judge, on a showing of
9 good cause, may grant the opposing party a continuance, otherwise limit the
10 use of the evidence or make such other order as may be appropriate.

11 J. The burden of proof in an appeal of a disciplinary action by a law
12 enforcement officer or probation officer shall be on the employer.

13 K. Except where a statute or ordinance makes the administrative
14 evidentiary hearing the final administrative determination, an employer or a
15 person acting on behalf of an employer may amend, modify, reject or reverse a
16 decision made by a hearing officer, administrative law judge or appeals board
17 after a hearing where the law enforcement officer or probation officer and
18 the employer have been equally allowed to call and examine witnesses,
19 cross-examine witnesses, provide documentary evidence and otherwise fully
20 participate in the hearing if the decision was arbitrary or without
21 reasonable justification and the employer or person acting on behalf of the
22 employer states the reason for the amendment, modification, rejection or
23 reversal.

24 L. An employer shall not include in that portion of the personnel file
25 of a law enforcement officer or probation officer that is available for
26 public inspection and copying any information about an investigation until
27 the investigation is complete or the employer has discontinued the
28 investigation. If the law enforcement officer or probation officer has
29 timely appealed a disciplinary action, the investigation is not complete
30 until the conclusion of the appeal process.

31 M. This section does not preempt agreements that supplant, revise or
32 otherwise alter the provisions of this section, including preexisting
33 agreements between the employer and the law enforcement officer or probation
34 officer or the law enforcement officer's or probation officer's lawful
35 representative association.

36 N. Notwithstanding section 39-123, all data and reports from a
37 polygraph examination of a law enforcement officer or probation officer are
38 confidential and may only be used for employment, certification or

1 reactivation of certification purposes or the administrative matter for which
2 a polygraph was administered, including other ancillary matters. All other
3 uses are prohibited.

4 0. Except for a preemployment polygraph in which an applicant was not
5 hired or in the case of an active investigation or an appeal, the data and
6 reports from a polygraph examination of a law enforcement officer or
7 probation officer shall be destroyed as soon as practicable three years after
8 the date of appointment or employment but not more than ninety days after
9 that date.

10 P. THIS SECTION DOES NOT APPLY TO A LAW ENFORCEMENT OFFICER WHO IS
11 EMPLOYED BY THIS STATE AS AN AT WILL EMPLOYEE.

12 ~~P.~~ Q. For the purposes of this section:

13 1. "Appeal" means a hearing before a state or local merit board, a
14 civil service board, an administrative law judge or a hearing officer.

15 2. "AT WILL EMPLOYEE" HAS THE SAME MEANING PRESCRIBED IN SECTION 38-
16 1104.

17 ~~2.~~ 3. "Disciplinary action" means the dismissal, demotion or
18 suspension for more than eight hours of a law enforcement officer or
19 probation officer that is authorized by statute, charter or ordinance and
20 that is subject to a hearing or other procedure by a local merit board, a
21 civil service board, an administrative law judge or a hearing officer.

22 ~~3.~~ 4. "Investigative file" means the law enforcement agency's
23 complete report and any attachments detailing the incidents leading to the
24 disciplinary action.

25 ~~4.~~ 5. "Law enforcement officer" means:

26 (a) An individual, other than a probationary employee, who is
27 certified by the Arizona peace officer standards and training board, other
28 than a person employed by a multi-county water conservation district.

29 (b) A detention officer or correction officer, other than a
30 probationary employee, who is employed by this state or a political
31 subdivision of this state.

32 ~~5.~~ 6. "Probation officer" means a probation officer or surveillance
33 officer, other than a probationary employee, who is employed by this state or
34 a political subdivision of this state.

1 Sec. 99. Section 38-1104, Arizona Revised Statutes, is amended to
2 read:

3 38-1104. Discipline of law enforcement officers: exceptions:
4 definitions

5 A. A law enforcement officer shall not be subject to disciplinary
6 action except for just cause.

7 B. Subsection A of this section does not apply to any law enforcement
8 officer who has not completed an initial probationary period if a
9 probationary period is required by the employer or to a dismissal that is for
10 administrative purposes, including a reduction in force.

11 C. This section does not preempt agreements that supplant, revise or
12 otherwise alter the provisions of this section, including preexisting
13 agreements, between the employer and the law enforcement officer's lawful
14 representative association.

15 D. If a law enforcement officer is terminated as the result of a chief
16 of the law enforcement agency or the chief executive officer of a city or
17 town reversing the decision or recommendation of a civil service board or
18 merit commission, the law enforcement officer who believes the termination
19 was without just cause may bring an action in superior court for a new
20 hearing on the termination.

21 E. If a law enforcement officer is terminated by the chief of the law
22 enforcement agency or chief executive officer of a city or town where there
23 is not a civil service board or merit commission to review the termination,
24 the law enforcement officer may bring an action in superior court to review
25 the agency's file. If the court finds from a review of the file that just
26 cause for the termination did not exist, the officer is entitled to a hearing
27 on the termination.

28 F. If the superior court finds that just cause for the termination did
29 not exist, the court shall order the officer reinstated to the officer's
30 previous position with the law enforcement agency and may award to the law
31 enforcement officer monetary damages that shall not exceed the officer's
32 combined total of wages and benefits lost as a result of the termination.

33 G. In an action pursuant to subsection D or E of this section the
34 court may award the successful party reasonable attorney fees as set forth in
35 section 12-341.01, subsection B and shall award the successful party all
36 costs pursuant to section 12-341.

37 H. This section does not apply to a law enforcement officer who is
38 employed as an at will employee as a police chief or an assistant police

1 chief in a law enforcement agency OR A LAW ENFORCEMENT OFFICER WHO IS
2 EMPLOYED BY THIS STATE AS AN AT WILL EMPLOYEE.

3 I. For the purposes of this section:

4 1. "At will employee" means a person who is employed as an employee
5 who may be terminated at the will of either the employee or employer, at any
6 time, with or without cause.

7 2. "Disciplinary action" has the same meaning prescribed in section
8 38-1101.

9 3. "Just cause" means:

10 (a) The employer informed the officer of the possible disciplinary
11 action resulting from the officer's conduct through agency manuals, employee
12 handbooks, the employer's rules and regulations or other communications to
13 the officer or the conduct was such that the officer should have reasonably
14 known disciplinary action could occur.

15 (b) The disciplinary action is reasonably related to the standards of
16 conduct for a professional law enforcement officer, the mission of the
17 agency, the orderly, efficient or safe operation of the agency or the
18 officer's fitness for duty.

19 (c) The discipline is supported by a preponderance of evidence that
20 the conduct occurred.

21 (d) The discipline is not excessive and is reasonably related to the
22 seriousness of the offense and the officer's service record.

23 4. "Law enforcement officer" means:

24 (a) An individual who is certified by the Arizona peace officer
25 standards and training board, other than a person employed by a multi-county
26 water conservation district, a reserve police officer, a volunteer or a
27 person who is otherwise exempted by an existing merit system.

28 (b) A correction officer or detention officer, excluding a juvenile
29 detention officer, who is employed by this state AS A COVERED EMPLOYEE
30 PURSUANT TO SECTION 41-742 or a political subdivision of this state.

31 (c) A regularly appointed and paid deputy sheriff of a county.

32 (d) A regularly employed police officer in a city or town.

33 Sec. 100. Section 40-105, Arizona Revised Statutes, is amended to
34 read:

35 40-105. Executive director; appointment; powers and duties

36 A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the corporation
37 commission shall appoint an executive director, who shall have the power to
38 serve warrants and other process in any county of the state.

1 B. The executive director shall if directed by the commission:

2 1. Keep a record of all proceedings of the commission, issue necessary
3 writs, warrants and notices, and perform other duties the commission
4 prescribes.

5 2. Supervise and administer the overall activities of the commission
6 divisions and employees.

7 3. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ experts,
8 engineers, statisticians, accountants, inspectors and employees necessary to
9 perform the duties and exercise the powers of the commission.

10 4. Make and submit to the governor and legislature an annual report
11 containing a complete account of the commission's transactions and
12 proceedings for the preceding fiscal year, together with other facts,
13 suggestions and recommendations of value to the people of this state.

14 C. The executive director may if directed by the commission:

15 1. Act as the authorized officer of the commission when performing
16 duties necessary for processing rules adopted by the commission.

17 2. Contract for the services of outside advisers, consultants and
18 aides reasonably necessary or desirable to enable the commission to
19 adequately perform its duties.

20 3. Contract and incur obligations reasonably necessary or desirable
21 within the scope of commission activities and operations to enable the
22 commission to adequately perform its duties.

23 4. Use monies, facilities or services to provide matching
24 contributions for other governmental programs which further the objectives
25 and programs of the commission.

26 5. Employ attorneys to represent the commission and each commissioner
27 as provided in section 40-106.

28 6. Establish accounts for the purpose of receiving and expending
29 monies for educational and safety programs within the scope of the duties of
30 the commission.

31 Sec. 101. Section 40-108, Arizona Revised Statutes, is amended to
32 read:

33 40-108. Compensation of appointees and employees

34 A. The compensation of corporation commission appointees and employees
35 except as provided in section 40-408 shall be determined pursuant to section
36 38-611 and shall be paid from the state general fund and the appropriation
37 made to the commission in the general appropriations act.

1 B. ~~Notwithstanding subsection A of this section, if the commission is~~
2 ~~unable to employ utilities division professional staff under the provisions~~
3 ~~of section 38-611, the commission may request an exemption from the~~
4 ~~provisions of section 38-611 from the joint legislative budget committee for~~
5 ~~each such employee.~~ Employee compensation of the utilities division and a
6 part of the administration, hearing and legal divisions SHALL BE DETERMINED
7 PURSUANT TO SECTION 38-611 AND is payable from the utility regulation
8 revolving fund established pursuant to section 40-408.

9 Sec. 102. Section 40-464, Arizona Revised Statutes, is amended to
10 read:

11 40-464. Powers and duties

12 A. The director may:

- 13 1. Research, study and analyze residential utility consumer interests.
14 2. Prepare and present briefs, arguments, proposed rates or orders and
15 intervene or appear on behalf of residential utility consumers before hearing
16 officers and the corporation commission as a party in interest and also
17 participate as a party in interest pursuant to sections 40-254 and 40-254.01
18 in proceedings relating to rate making or rate design and involving public
19 service corporations, except that the director shall not participate in any
20 proceedings pursuant to this paragraph involving a member-owned nonprofit
21 cooperative corporation.

22 3. Make and execute contracts and other instruments as necessary to
23 perform his duties.

24 4. Hire employees SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 as
25 necessary to carry out this article and contract for special services as
26 needed.

27 5. Employ such attorneys as are required to represent the interests of
28 residential utility consumers.

29 B. The director shall adopt administrative rules necessary to carry
30 out the purposes of this article.

31 C. All contacts by residential utility consumers with regard to
32 quality or quantity of service provided by a public service corporation shall
33 be recorded by the office for the purpose of determining general concerns of
34 consumers. The office may advise the consumer of other agencies that may be
35 of further assistance and shall refer the consumer to the corporation
36 commission utilities division consumer services section established in
37 section 40-110.

1 Sec. 103. Section 41-121.02, Arizona Revised Statutes, is amended to
2 read:

3 41-121.02. Department of state

4 A. There is established the department of state, which shall be
5 composed of the office of the secretary of state.

6 B. The secretary of state shall have charge of and direct the
7 department of state.

8 C. Except as otherwise provided by law, employees of the department
9 are ~~exempt from~~ SUBJECT TO chapter 4, ARTICLE 4 AND, AS APPLICABLE, articles
10 5 and 6 of this title.

11 D. Purchases and contracts for goods and services entered into by the
12 Arizona state library, archives and public records are exempt from chapter 23
13 of this title.

14 E. The Arizona state library, archives and public records is exempt
15 from chapter 6 of this title.

16 Sec. 104. Section 41-151.04, Arizona Revised Statutes, is amended to
17 read:

18 41-151.04. Compensation of director

19 The compensation of the director shall be as determined by the
20 secretary of state PURSUANT TO SECTION 38-611.

21 Sec. 105. Section 41-151.05, Arizona Revised Statutes, is amended to
22 read:

23 41-151.05. Powers and duties of director

24 A. The director shall:

25 1. Adopt rules for the use of books or other materials in the custody
26 of the state library and for the removal of books from the library, including
27 assessment of reasonable penalties for failure to return books or other
28 materials when due. The proceeds from the assessment of reasonable penalties
29 shall be deposited, pursuant to sections 35-146 and 35-147, in the state
30 library fund established by section 41-151.06. The monies shall be used only
31 for the purchase of other books or materials.

32 2. Sell or exchange undesired duplicate copies of books or other
33 materials, or books or other materials not of value for the purposes of the
34 library, or photographic reproductions of state library holdings, and
35 deposit, pursuant to sections 35-146 and 35-147, the proceeds in the state
36 library fund established by section 41-151.06. The monies shall be used for
37 the purchase of other books or materials.

1 3. Bring actions for the recovery of books or other materials, or for
2 three times the value of the books or other materials, against any person who
3 has them in the person's possession or who is responsible for the books or
4 other materials, and who has failed or refused to return them on demand. If
5 a book or other material is one of a set the value of the book or other
6 material may be deemed the value of the entire set. Monies recovered
7 pursuant to this paragraph shall be transmitted to the state treasurer for
8 credit to the state library fund established by section 41-151.06.

9 4. Certify copies from books, documents or other archival or public
10 records which have been deposited in the custody of the state library. The
11 fee for certification shall be the same as prescribed for the certification
12 of records by the secretary of state. These fees shall be transmitted to the
13 state treasurer for credit to the state library fund established by section
14 41-151.06. These certificates have the same force and effect as if made by
15 the officer originally in charge of the record.

16 5. As the director deems necessary:

17 (a) Arrange with the federal government, other states and foreign
18 countries for a system of exchange of official state reports and
19 publications, session laws, statutes, legislative journals and supreme court
20 reports.

21 (b) Enter into agreements to establish a depository system and an
22 exchange program with any municipal, county or regional public library, state
23 college or state university library and out-of-state research libraries.

24 (c) Enter into agreements with libraries in this state for the state
25 documents program described in section 41-151.08, subsection A, paragraph
26 2. Any library that enters into an agreement pursuant to this subdivision
27 shall continue to contribute at least the same level of support to the state
28 documents program and shall not use any monies received pursuant to the
29 agreement to supplant other monies available to the library.

30 6. Adopt rules for the acquisition, maintenance, access and
31 preservation of state publications.

32 7. After consultation with other agencies, adopt rules as provided by
33 statute, including rules for the:

34 (a) Description of state publications in all formats.

35 (b) Supervision of county free libraries pursuant to section 11-910.

1 (c) Certification of signs, plaques and markings pursuant to sections
2 28-7051 and 41-151.10.

3 (d) Enforcement of section 34-502.

4 8. Provide access to an official compilation or revision of the laws
5 of this state to each public or court library in this state that applies for
6 access. The director may provide the access electronically. On request, the
7 director may provide a certified copy of a law pursuant to paragraph 4 of
8 this subsection.

9 9. As part of the secretary of state's annual report to the governor,
10 report on the condition of the state library, its activities and the
11 disposition of monies spent for its maintenance.

12 10. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, appoint personnel,
13 including security personnel, necessary to perform the duties of the state
14 library and assign their duties.

15 11. Cooperate with the legislative council in carrying out section
16 41-1304, subsection B.

17 B. The governor, the secretary of state, the president of the senate,
18 the speaker of the house of representatives, the heads of departments and all
19 officers and agents of this state shall supply at no cost the number of
20 copies of official reports, public documents and publications required for
21 the state library or its agents to satisfy the requirements of the state
22 documents program or arrangements or agreements entered into pursuant to
23 subsection A, paragraph 5 of this section.

24 C. The governmental units described in subsection B of this section
25 shall:

26 1. Notify the state library if the reports, documents and publications
27 subject to this section are posted on an internet website.

28 2. Pay the state library the fee charged pursuant to section
29 41-151.12 if the governmental unit refuses the state library's request to
30 supply, and the state library incurs any expenses in obtaining, the copies
31 that are required to be supplied pursuant to this section.

32 Sec. 106. Section 41-172, Arizona Revised Statutes, is amended to
33 read:

34 41-172. Powers and duties; administering oaths; appointment of
35 deputy state treasurer

36 A. The state treasurer shall:

37 1. Authenticate writings and documents certified by him with the seal
38 of his office.

1 2. Receive and keep in secure custody all monies that belong to the
2 state and that are not required to be received and kept by some other person.

3 3. File and keep the documentation delivered to the treasurer when
4 monies are deposited into the treasury.

5 4. Deliver to each person depositing money into the treasury a
6 confirmation showing the date, amount and depositing agency and shall provide
7 a unique identifying number for each confirmation.

8 5. Pay warrants drawn by the department of administration in the order
9 in which they are presented.

10 6. Keep an account of all monies received and disbursed, and keep
11 separate accounts of the different funds and appropriations of money.

12 7. Give information in writing as to the condition of the state
13 treasury, or on any subject relating to the duties of the treasurer, at the
14 request of a member of the legislature.

15 8. Deliver to the governor and the department of administration,
16 monthly, an accurate statement of receipts and expenditures of public monies
17 for the preceding month, containing a complete exhibit of all the public
18 monies received and paid from the state treasury, showing, under separate
19 heads, on what accounts and from what sources received, and for what
20 particular object or service the monies have been paid. The treasurer shall
21 deliver to the governor a similar statement on or before November 1 each year
22 for the preceding fiscal year. The statement shall also include an estimate
23 of the invested balance including the general fund share of that balance as
24 of June 30 of the preceding fiscal year. The statements are public records
25 available for inspection at the office of the state treasurer.

26 9. On or before February 1 of each year, in coordination with the
27 director of the department of administration, submit to the joint legislative
28 budget committee a report explaining any differences between the department
29 of administration's estimate of the previous fiscal year's state general fund
30 ending balance submitted pursuant to section 35-131 and the state treasurer's
31 estimate of the invested balance including the general fund share of that
32 balance as of June 30 of the previous fiscal year submitted pursuant to
33 paragraph 8.

34 10. Exercise those specific powers of the surveyor-general as a member
35 of the selection board established under section 37-202.

1 B. The state treasurer may administer all oaths prescribed by law in
2 matters touching the duties of the office of the state treasurer, **SUBJECT TO**
3 **CHAPTER 4, ARTICLE 4 OF THIS TITLE**, may appoint a deputy state treasurer, may
4 qualify and select investment managers or advisors pursuant to section 35-318
5 and shall perform other duties required by other laws of this state.

6 C. **EMPLOYEES OF THE STATE TREASURER'S OFFICE ARE SUBJECT TO CHAPTER 4,**
7 **ARTICLE 4 OF THIS TITLE.** For prospective or current employees of the state
8 treasurer's office, the state treasurer may:

9 1. Require the submission of a full set of fingerprints for the
10 purpose of obtaining a state and federal criminal records check pursuant to
11 section 41-1750 and Public Law 92-544. The department of public safety may
12 exchange this fingerprint data with the federal bureau of investigation.

13 2. Conduct a periodic review of credit standing.

14 Sec. 107. Section 41-192, Arizona Revised Statutes, is amended to
15 read:

16 **41-192. Powers and duties of attorney general; restrictions on**
17 **state agencies as to legal counsel; exceptions**

18 A. The attorney general shall have charge of and direct the department
19 of law and shall serve as chief legal officer of the state. The attorney
20 general shall:

21 1. Be the legal advisor of the departments of this state and render
22 such legal services as the departments require.

23 2. Establish administrative and operational policies and procedures
24 within his department.

25 3. Approve long-range plans for developing departmental programs
26 therein, and coordinate the legal services required by other departments of
27 this state or other state agencies.

28 4. Represent school districts and governing boards of school districts
29 in any lawsuit involving a conflict of interest with other county offices.

30 5. Represent political subdivisions, school districts and
31 municipalities in suits to enforce state or federal statutes pertaining to
32 antitrust, restraint of trade or price-fixing activities or conspiracies, if
33 the attorney general notifies in writing the political subdivisions, school
34 districts and municipalities of the attorney general's intention to bring any
35 such action on its behalf. At any time within thirty days after the
36 notification, the political subdivisions, school districts and
37 municipalities, by formal resolution of its governing body, may withdraw the
38 authority of the attorney general to bring the intended action on its behalf.

1 6. In any action brought by the attorney general pursuant to state or
2 federal statutes pertaining to antitrust, restraint of trade, or price-fixing
3 activities or conspiracies for the recovery of damages by this state or any
4 of its political subdivisions, school districts or municipalities, in
5 addition to the attorney general's other powers and authority, the attorney
6 general on behalf of this state may enter into contracts relating to the
7 investigation and prosecution of such action with any other party plaintiff
8 who has brought a similar action for the recovery of damages and with whom
9 the attorney general finds it advantageous to act jointly or to share common
10 expenses or to cooperate in any manner relative to such action. In any such
11 action, notwithstanding any other laws to the contrary, the attorney general
12 may undertake, among other things, to render legal services as special
13 counsel or to obtain the legal services of special counsel from any
14 department or agency of the United States, of this state or any other state
15 or any department or agency thereof or any county, city, public corporation
16 or public district in this state or in any other state that has brought or
17 intends to bring a similar action for the recovery of damages or their duly
18 authorized legal representatives in such action.

19 7. Organize the civil rights division within the department of law and
20 administer such division pursuant to the powers and duties provided in
21 chapter 9 of this title.

22 8. Compile, publish and distribute to all state agencies, departments,
23 boards, commissions and councils, and to other persons and government
24 entities on request, at least every ten years, the Arizona agency handbook
25 that sets forth and explains the major state laws that govern state agencies,
26 including information on the laws relating to bribery, conflicts of interest,
27 contracting with the government, disclosure of public information,
28 discrimination, nepotism, financial disclosure, gifts and extra compensation,
29 incompatible employment, political activity by employees, public access and
30 misuse of public resources for personal gain. A supplement to the handbook
31 reflecting revisions to the information contained in the handbook shall be
32 compiled and distributed by the attorney general as deemed necessary.

33 B. Except as otherwise provided by law, the attorney general may:

34 1. Organize the department into such bureaus, subdivisions or units as
35 he deems most efficient and economical, and consolidate or abolish them.

36 2. Adopt rules for the orderly conduct of the business of the
37 department.

1 3. ~~SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE~~, employ and assign
2 assistant attorneys general and other employees necessary to perform the
3 functions of the department.

4 4. Compromise or settle any action or claim by or against this state
5 or any department, board or agency of this state. If the compromise or
6 settlement involves a particular department, board or agency of this state,
7 the compromise or settlement shall be first approved by the department, board
8 or agency. If no department or agency is named or otherwise materially
9 involved, the approval of the governor shall be first obtained.

10 5. Charge reasonable fees for distributing official publications,
11 including attorney general legal opinions and the Arizona agency handbook.
12 The fees received shall be transmitted to the state treasurer for deposit in
13 the state general fund.

14 ~~C. Assistants and employees in any legal division subject to a merit
15 system prior to March 6, 1953 shall remain subject thereto.~~

16 ~~D.~~ C. The powers and duties of a bureau, subdivision or unit shall be
17 limited to those assigned by law to the department.

18 ~~E.~~ D. Notwithstanding any law to the contrary, except as provided in
19 subsections ~~F~~ E and ~~G~~ F of this section, no state agency other than the
20 attorney general shall employ legal counsel or make an expenditure or incur
21 an indebtedness for legal services, but the following are exempt from this
22 section:

- 23 1. The director of water resources.
- 24 2. The residential utility consumer office.
- 25 3. The industrial commission.
- 26 4. The Arizona board of regents.
- 27 5. The auditor general.
- 28 6. The corporation commissioners and the corporation commission other
29 than the securities division.
- 30 7. The office of the governor.
- 31 8. The constitutional defense council.
- 32 9. The office of the state treasurer.
- 33 10. The Arizona commerce authority.

34 ~~F.~~ E. If the attorney general determines that he is disqualified from
35 providing judicial or quasi-judicial legal representation or legal services
36 on behalf of any state agency in relation to any matter, the attorney general
37 shall give written notification to the state agency affected. If the agency
38 has received written notification from the attorney general that the attorney

1 general is disqualified from providing judicial or quasi-judicial legal
2 representation or legal services in relation to any particular matter, the
3 state agency is authorized to make expenditures and incur indebtedness to
4 employ attorneys to provide the representation or services.

5 ~~F.~~ F. If the attorney general and the director of the department of
6 agriculture cannot agree on the final disposition of a pesticide complaint
7 under section 3-368, if the attorney general and the director determine that
8 a conflict of interest exists as to any matter or if the attorney general and
9 the director determine that the attorney general does not have the expertise
10 or attorneys available to handle a matter, the director is authorized to make
11 expenditures and incur indebtedness to employ attorneys to provide
12 representation or services to the department with regard to that matter.

13 ~~H.~~ G. Any department or agency of this state authorized by law to
14 maintain a legal division or incur expenses for legal services from funds
15 derived from sources other than the general revenue of the state, or from any
16 special or trust fund, shall pay from such source of revenue or special or
17 trust fund into the general fund of the state, to the extent such funds are
18 available and upon a reimbursable basis for warrants drawn, the amount
19 actually expended by the department of law within legislative appropriations
20 for such legal division or legal services.

21 ~~I.~~ H. Appropriations made pursuant to subsection ~~H.~~ G of this section
22 shall not be subject to lapsing provisions otherwise provided by law.
23 Services for departments or agencies to which this subsection and subsection
24 ~~F.~~ F of this section are applicable shall be performed by special or regular
25 assistants to the attorney general.

26 ~~J.~~ I. Notwithstanding section 35-148, monies received by the attorney
27 general from charges to state agencies and political subdivisions for legal
28 services relating to interagency service agreements shall be deposited,
29 pursuant to sections 35-146 and 35-147, in an attorney general agency
30 services fund. Monies in the fund are subject to legislative appropriation
31 and are exempt from the provisions of section 35-190 relating to lapsing of
32 appropriations.

33 Sec. 108. Section 41-511.02, Arizona Revised Statutes, is amended to
34 read:

35 41-511.02. Director; qualifications; state historic
36 preservation officer

37 A. The ~~board~~ GOVERNOR shall ~~employ~~ APPOINT a full-time director
38 PURSUANT TO SECTION 38-211 who shall:

1 1. Not be ~~one of its members~~ A MEMBER OF THE ARIZONA STATE PARKS
2 BOARD.

3 2. Serve at the pleasure of the ~~board~~ GOVERNOR.

4 3. Be qualified by successful experience in administration in business
5 or in government.

6 4. Have a knowledge of or training in the multiple use of lands and
7 the conservation of natural resources.

8 B. The governor shall designate a full-time employee of the board with
9 professional competence and expertise in the field of historic preservation
10 as the "state historic preservation officer" to administer the state historic
11 preservation program.

12 Sec. 109. Section 41-511.05, Arizona Revised Statutes, is amended to
13 read:

14 41-511.05. Powers; compensation

15 The board may, subject to legislative budgetary control within the
16 limitations of this article:

17 1. SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF
18 THIS TITLE, employ, determine conditions of employment and specify the duties
19 of such administrative, secretarial and clerical workers and technical
20 employees such as naturalists, archaeologists, landscape architects, rangers,
21 park supervisors, caretakers, guides, skilled tradesmen, laborers, historians
22 and engineers, and contract to have the services of such advisors or
23 consultants as are reasonably necessary or desirable to enable it to perform
24 adequately its duties. The compensation of the director and of all workers
25 and employees shall be as determined pursuant to section 38-611.

26 2. Make such contracts, leases and agreements and incur such
27 obligations as are reasonably necessary or desirable within the general scope
28 of its activities and operations to enable it to perform adequately its
29 duties.

30 3. Acquire through purchase, lease, agreement, donation, grant,
31 bequest or otherwise real and personal property and acquire real property
32 through eminent domain for state park or monument purposes. No property may
33 be acquired in the manner provided in this paragraph which will require an
34 expenditure in excess of funds budgeted or received for such purposes. No
35 state park or monument, or additions to a state park or monument, shall be
36 created containing in excess of one hundred sixty acres of land unless
37 created by an act of the legislature. This acreage limitation shall not
38 apply in the case of lands given or donated for state park or monument

1 purposes nor to state owned lands that are selected by the board and that are
2 not subject to outstanding leases, permits or other rights for the use of the
3 lands including preferential rights to renew such leases and permits.

4 4. Sell, lease, exchange or otherwise dispose of real and personal
5 property. Any disposition of real property shall be submitted for approval
6 of the joint committee on capital review. The disposition of office
7 equipment, furnishings, vehicles and other materials is subject to chapter
8 23, article 8 of this title. The disposition of artifacts and other property
9 of scientific, archaeological, historical or sociological interest is exempt
10 from chapter 23, article 8 of this title, but the board shall consult with
11 the Arizona historical society in disposing of property of historical
12 interest.

13 5. Construct at state parks and monuments necessary sanitary and other
14 facilities including picnic tables, fireplaces, campsites, service buildings
15 and maintenance shops, and contract with private persons for the construction
16 and operation of cabins, hotels and restaurants, and like establishments.

17 6. Erect suitable signs and markers at parks and monuments and write,
18 prepare and publish written material describing the historical significance
19 of monuments and other places of historical or other significance.

20 7. Solicit and work in cooperation with the department of
21 transportation and the highway departments of various counties and the United
22 States federal highway administration for necessary roads and trails within
23 the state parks and monuments and access roads to state parks and monuments.
24 For the purposes of this paragraph, the board may designate roads, spurs and
25 other traffic related appurtenances within state park boundaries as public
26 highways. Designation of roads, spurs or other traffic related appurtenances
27 as public highways shall not prohibit the board from closing such public
28 highways when the park is closed, charging for admission to the park to
29 persons using the public highway within the park or otherwise managing such
30 public highways in the same manner as other lands within the park.

31 8. Levy and collect reasonable fees or other charges for the use of
32 such privileges and conveniences as may be provided under the jurisdiction of
33 the board. The board may enter into agreements for the purpose of accepting
34 payment for fees or other charges imposed pursuant to this article by
35 alternative payment methods, including credit cards, charge cards, debit
36 cards and electronic funds transfers. The collecting officer shall deduct
37 any fee charged or withheld by a company providing the alternative payment

1 method under an agreement with the board before the revenues are transferred
2 to the board.

3 9. Make reasonable rules for the protection of, and maintain and keep
4 the peace in, state parks and monuments. Such rules adopted by the parks
5 board are subject to review and approval by the legislature. After a board
6 rule has been finally adopted pursuant to chapter 6 of this title, the board
7 shall immediately forward a certified copy of the rule to the legislature.
8 The legislature may review and, by concurrent resolution, approve, disapprove
9 or modify such rule. However, such rule shall be given full force and effect
10 pending legislative review. If no concurrent resolution is passed by the
11 legislature with respect to the rule within one year following receipt of a
12 certified copy of the rule, the rule shall be deemed to have been approved by
13 the legislature. If the legislature disapproves a rule or a section of a
14 rule, the board shall immediately discontinue the use of any procedure,
15 action or proceeding authorized or required by the rule or section of the
16 rule. If the legislature modifies a rule or section of a rule, the board
17 shall immediately suspend the use of any procedure, action or proceeding
18 authorized or required by the rule or section of the rule until the modified
19 rule has been adopted in accordance with chapter 6 of this title, after which
20 all proceedings pursuant to the rule shall be conducted in accordance with
21 the modified version of the rule.

22 10. Furnish advisory services to city and county park or recreation
23 boards and organizations.

24 11. Delegate to the director, the deputy director or the director's
25 designee any of its powers and duties, whether ministerial or discretionary,
26 which are prescribed by law, except that the board may not delegate its power
27 or duty to make rules.

28 12. Reimburse board volunteers for travel and lodging expenses and per
29 diem subsistence allowances incurred while on public business for the
30 board. Reimbursement amounts shall not exceed those allowed under title 38,
31 chapter 4, article 2.

32 13. In consultation with the conservation acquisition board, develop a
33 grant program and adopt guidelines for allocating and obligating monies in
34 the land conservation fund pursuant to section 41-511.23. The guidelines
35 shall include consideration of both qualification issues relating to
36 applicants for grants and issues relating to the proposed use of the grant
37 money in a manner consistent with existing municipal, county and regional
38 land use plans.

1 Sec. 110. Section 41-531, Arizona Revised Statutes, is amended to
2 read:

3 41-531. Arizona commission of African-American affairs

4 A. The Arizona commission of African-American affairs is established
5 and consists of the governor, the superintendent of public instruction, the
6 director of the department of health services, the director of the department
7 of transportation, the attorney general, the director of the department of
8 economic security, the director of the office of tourism and the director of
9 the department of commerce, or their representatives, who shall be ex officio
10 members, and nine members who are appointed by the governor, seven of whom
11 are African-American and two of whom are not African-American.

12 B. The term of office of each appointed member is three years. Each
13 member shall hold office until the member's successor is appointed and
14 qualifies. Appointment to fill a vacancy caused other than by expiration of
15 a term shall be for the unexpired portion of the term.

16 C. Members of the commission shall serve without compensation.

17 D. The commission shall elect a chairperson and a vice-chairperson
18 from among its appointed members and adopt rules for the conduct of meetings.
19 A record shall be kept of all proceedings and transactions.

20 E. Section 41-2955, subsection D does not apply to the commission.

21 F. The commission shall meet at least quarterly on the second Thursday
22 of the first month of each quarter and may hold additional meetings on the
23 call of the chairperson. A majority of the appointed members of the
24 commission constitute a quorum for the transaction of business, but ex
25 officio members may vote. Members who fail to attend three consecutive
26 meetings are deemed to have resigned.

27 G. The appointed members of the commission shall ~~appoint~~ EMPLOY,
28 SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, an executive director of the
29 commission who shall not be a member of the commission. The director is
30 eligible to receive compensation as determined by the commission from monies
31 available in the Arizona commission of African-American affairs fund
32 established by section 41-533. The commission may employ clerical,
33 professional and technical personnel subject to CHAPTER 4, ARTICLE 4 OF THIS
34 TITLE AND monies available in the Arizona commission of African-American
35 affairs fund and shall prescribe their duties and determine their
36 compensation.

1 Sec. 111. Section 41-542, Arizona Revised Statutes, is amended to
2 read:

3 41-542. Powers and duties; information; report; director;
4 appointment; personnel; limitation; fees; directory

5 A. The commission shall assist and support state and federal agencies
6 in assisting Indians and tribal councils in this state to develop mutual
7 goals, to design projects for achieving goals and to implement their plans.
8 The commission shall also:

9 1. Assemble and make available facts needed by tribal, state and
10 federal agencies to work together effectively.

11 2. Assist this state in its responsibilities to Indians and tribes of
12 this state by making recommendations to the governor and the legislature.

13 3. Confer and coordinate with officials and agencies of other
14 governmental units and legislative committees regarding Indian needs and
15 goals.

16 4. Work for greater understanding and improved relationships between
17 Indians and non-Indians by creating an awareness of the legal, social and
18 economic needs of Indians in this state.

19 5. Promote increased participation by Indians in local and state
20 affairs.

21 6. Assist tribal groups in developing increasingly effective methods
22 of self-government.

23 7. Assist urban Indians. For the purposes of this paragraph, "urban
24 Indian" means an Indian who:

25 (a) Is a resident of this state.

26 (b) Resides in a county of this state with a population of more than
27 two hundred thousand persons.

28 (c) Does not reside on an Indian reservation in such a county.

29 B. State and local public officers and employees, on request, shall
30 furnish the commission with information that it may require for its purposes
31 except information which is not subject to disclosure pursuant to a provision
32 of law.

33 C. The commission shall make a written annual report, giving an
34 account of its proceedings, transactions, findings and recommendations, to
35 the governor and the legislature and may submit such recommendations to the
36 legislature in the form of proposed legislation.

37 D. The governor shall appoint an executive director of the commission
38 pursuant to section 38-211 who shall not be a member of the commission. The

1 director is eligible to receive compensation pursuant to section 38-611. The
2 commission may employ clerical, professional and technical personnel subject
3 to CHAPTER 4, ARTICLE 4 OF THIS TITLE AND appropriated funds and shall
4 prescribe their duties and determine their compensation PURSUANT TO SECTION
5 38-611.

6 E. The commission may initiate or assist programs on a reservation
7 only upon the request or with the approval of the tribal council for such
8 reservation.

9 F. The commission may publish an annual directory of tribal
10 governments in this state and other tribal and Indian related organizations
11 and entities. The commission shall charge a fee for nongovernmental
12 distribution of the directory and other commission publications based on the
13 costs of compiling, publishing and distributing the directory and other
14 commission publications.

15 Sec. 112. Section 41-619.53, Arizona Revised Statutes, is amended to
16 read:

17 41-619.53. Board of fingerprinting: powers and duties:
18 personnel; liability

19 A. The board of fingerprinting shall:

20 1. Determine good cause exceptions pursuant to section 41-619.55. The
21 board may appoint a hearing officer to recommend that an applicant be granted
22 or denied a good cause exception after the hearing officer conducts an
23 expedited review or a good cause exception hearing.

24 2. Adopt rules to implement this article, including rules to establish
25 good cause exceptions for the issuance of fingerprint clearance cards
26 pursuant to sections 41-1758.03 and 41-1758.07. This rule making is exempt
27 from the requirements of chapter 6 of this title.

28 3. Administer and enforce this article and rules adopted pursuant to
29 this article.

30 4. Furnish a copy of its rules, on request, to all applicants who
31 petition the board for a good cause exception pursuant to sections 41-1758.03
32 and 41-1758.07 and, on request, to licensees, contract providers and state
33 agencies.

34 5. Establish fees.

35 B. In order to grant a good cause exception, a majority plus an
36 additional member, of the members present, must vote to approve the
37 application. If the board grants a good cause exception, the board shall

1 request in writing that the department of public safety issue a card to the
2 applicant.

3 C. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the board may employ
4 clerical, professional and technical personnel subject to fee monies that are
5 collected and to the budget that is approved by the board members and shall
6 prescribe personnel duties and determine personnel compensation. Personnel
7 employed by the board must have a valid fingerprint clearance card issued
8 pursuant to section 41-1758.07. If the applicant is denied a fingerprint
9 clearance card, in order to be employed by the board, the board must grant a
10 good cause exception pursuant to this article by a unanimous vote.

11 D. In making any recommendation to the board to grant or deny a good
12 cause exception, the hearing officer shall consider all of the reasons and
13 criteria prescribed in section 41-619.55, subsection E.

14 E. Members and employees of the board are not liable for acts done or
15 actions taken by any board member or employee if the members or employees act
16 in good faith following the requirements of this article.

17 Sec. 113. Section 41-701, Arizona Revised Statutes, is amended to
18 read:

19 41-701. Department of administration; director; appointment

20 A. A department of administration is established.

21 B. The direction, operation and control of the department is the
22 responsibility of the director.

23 C. The director shall be appointed by the governor, ~~from a list of~~
24 ~~qualified candidates submitted by the committee as provided in subsection D,~~
25 with the advice and consent of the senate and shall serve at the pleasure of
26 the governor.

27 ~~D. The department's human resources division shall assist the governor~~
28 ~~in preparing a job description for the position of director and recruiting~~
29 ~~candidates for the position. The qualifications of the candidates shall be~~
30 ~~reviewed by a committee of seven persons selected by the governor. The names~~
31 ~~of all those candidates determined by the committee to be qualified for the~~
32 ~~position shall be submitted to the governor for the governor's consideration.~~
33 ~~The governor may request additional names from the committee if the governor~~
34 ~~deems necessary. For each subsequent vacancy in the position of director, a~~
35 ~~new committee shall be appointed by the governor.~~

1 Sec. 114. Title 41, chapter 4, article 1, Arizona Revised Statutes, is
2 amended by adding sections 41-709, 41-710 and 41-711, to read:

3 41-709. Gifts and donations for employee recognition

4 A STATE DEPARTMENT OR AGENCY MAY ACCEPT GIFTS AND DONATIONS FROM A
5 PUBLIC ENTITY, A PRIVATE ENTITY OR ANY PERSON FOR THE CONDUCT OF EMPLOYEE
6 RECOGNITION PROGRAMS. GIFTS AND DONATIONS FOR EMPLOYEE RECOGNITION PROGRAMS
7 ARE SUBJECT TO THE REQUIREMENTS OF TITLE 35, CHAPTER 1, ARTICLE 3 AND CHAPTER
8 23 OF THIS TITLE.

9 41-710. Information technology personnel: criminal history
10 records: definitions

11 A. BEFORE ACCEPTING AN OFFER OF EMPLOYMENT, AN APPLICANT FOR AN
12 INFORMATION TECHNOLOGY POSITION IN THE DEPARTMENT OF ADMINISTRATION SHALL
13 SUBMIT A FULL SET OF FINGERPRINTS TO THE DEPARTMENT OF ADMINISTRATION FOR THE
14 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO
15 SECTION 41-1750 AND PUBLIC LAW 92-544. THE DIRECTOR OF THE DEPARTMENT OF
16 ADMINISTRATION SHALL REQUEST PERSONNEL WHO WERE EMPLOYED IN INFORMATION
17 TECHNOLOGY POSITIONS ON OR BEFORE JULY 18, 2000 TO SUBMIT A FULL SET OF
18 FINGERPRINTS IF THE DIRECTOR DETERMINES THAT IT IS NECESSARY TO ENSURE THE
19 PRIVACY, CONFIDENTIALITY OR INTEGRITY OF DATA WITHIN THE DEPARTMENT'S
20 CONTROL. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA
21 WITH THE FEDERAL BUREAU OF INVESTIGATION.

22 B. THE DEPARTMENT OF ADMINISTRATION SHALL NOT DISCLOSE INFORMATION
23 OBTAINED PURSUANT TO SUBSECTION A OF THIS SECTION EXCEPT TO MEMBERS OF THE
24 DEPARTMENT'S STAFF SOLELY FOR THE PURPOSE OF EMPLOYMENT OF INFORMATION
25 TECHNOLOGY PERSONNEL BY THE DEPARTMENT.

26 C. FOR THE PURPOSES OF THIS SECTION:

27 1. "APPLICANT" MEANS ANY PERSON WHO SEEKS EMPLOYMENT AS A NEW HIRE OR
28 ANY EMPLOYEE OF THE DEPARTMENT OF ADMINISTRATION WHO SEEKS A TRANSFER, A
29 RECLASSIFICATION OR A REASSIGNMENT TO AN INFORMATION TECHNOLOGY POSITION.

30 2. "INFORMATION TECHNOLOGY POSITION" MEANS ANY POSITION THAT IS IN THE
31 DEPARTMENT OF ADMINISTRATION, THAT REQUIRES THE OPERATION OF COMPUTER SYSTEMS
32 THAT CONTAIN OR TRANSMIT DATA TO WHICH ACCESS IS RESTRICTED BY VIRTUE OF
33 APPLICABLE FEDERAL OR STATE LAWS, RULES OR REGULATIONS AND THAT REQUIRES
34 ACCESS TO THE RESTRICTED DATA IN ORDER TO FULFILL THE REQUIREMENTS OF THE
35 POSITION.

1 41-711. Reimbursement of transportation and telecommuting costs;
2 definition

3 A. THE DIRECTOR SHALL ADOPT RULES TO PROVIDE FOR THE REIMBURSEMENT OF
4 UP TO ONE HUNDRED PER CENT OF THE COST TO STATE EMPLOYEES OF EITHER:

5 1. PUBLIC TRANSPORTATION, VANPOOL OR PRIVATE BUS SERVICE TO AND FROM
6 THEIR PLACE OF EMPLOYMENT.

7 2. TELECOMMUTING CONNECTIVITY.

8 B. FOR THE PURPOSES OF THIS SECTION, "PUBLIC TRANSPORTATION" MEANS
9 LOCAL TRANSPORTATION OF PASSENGERS BY MEANS OF A PUBLIC CONVEYANCE OPERATED
10 OR LICENSED BY AN INCORPORATED CITY OR TOWN OR A REGIONAL PUBLIC
11 TRANSPORTATION AUTHORITY.

12 Sec. 115. Title 41, chapter 4, Arizona Revised Statutes, is amended by
13 adding article 4, to read:

14 ARTICLE 4. STATE PERSONNEL SYSTEM

15 41-741. Definitions

16 IN THIS ARTICLE AND ARTICLES 5 AND 6, UNLESS THE CONTEXT OTHERWISE
17 REQUIRES:

18 1. "APPOINTING AUTHORITY" MEANS THE PERSON OR GROUP OF PERSONS
19 AUTHORIZED BY LAW OR DELEGATED AUTHORITY TO MAKE APPOINTMENTS TO FILL
20 POSITIONS.

21 2. "AT WILL" MEANS AN EMPLOYMENT RELATIONSHIP WHERE EITHER PARTY TO
22 THE RELATIONSHIP MAY SEVER THE RELATIONSHIP AT ANY TIME FOR ANY REASON OTHER
23 THAN AN UNLAWFUL REASON.

24 3. "BREAK IN SERVICE" MEANS A SEPARATION FROM STATE EMPLOYMENT,
25 REGARDLESS OF THE REASON FOR SEPARATION.

26 4. "CHANGE IN ASSIGNMENT" MEANS MOVEMENT OF AN EMPLOYEE TO A DIFFERENT
27 POSITION IN THE SAME STATE AGENCY OR ANOTHER STATE AGENCY.

28 5. "COVERED EMPLOYEE" MEANS AN EMPLOYEE WHO:

29 (a) BEFORE SEPTEMBER 29, 2012, IS IN THE STATE SERVICE, IS NOT
30 UNCOVERED PURSUANT TO SECTION 41-742, SUBSECTION A AND HAS REMAINED IN
31 COVERED STATUS WITHOUT A BREAK IN SERVICE SINCE THAT DATE.

32 (b) BEFORE SEPTEMBER 29, 2012, IS IN THE STATE SERVICE, IS EMPLOYED AS
33 A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II OR CORRECTIONAL OFFICER III
34 AND HAS REMAINED IN COVERED STATUS WITHOUT A BREAK IN SERVICE SINCE THAT
35 DATE.

36 (c) BEFORE SEPTEMBER 29, 2012, IS A CIVILIAN EMPLOYEE IN THE LAW
37 ENFORCEMENT MERIT SYSTEM, IS NOT A SUPERVISOR AND HAS REMAINED IN THAT STATUS
38 WITHOUT A BREAK IN SERVICE SINCE THAT DATE.

1 (d) BEFORE SEPTEMBER 29, 2012, IS A FULL AUTHORITY PEACE OFFICER AS
2 CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD, EITHER
3 WAS A COVERED EMPLOYEE IN THE STATE SERVICE OR EMPLOYED UNDER THE LAW
4 ENFORCEMENT MERIT SYSTEM COUNCIL AND HAS REMAINED IN THAT STATUS WITHOUT A
5 BREAK IN SERVICE SINCE THAT DATE.

6 (e) ON OR AFTER SEPTEMBER 29, 2012, IS A CORRECTIONAL OFFICER I,
7 CORRECTIONAL OFFICER II OR CORRECTIONAL OFFICER III AND IS APPOINTED TO A
8 POSITION IN THE COVERED SERVICE, BUT DOES NOT INCLUDE A POSITION IN ANY OTHER
9 CLASS IN THE CORRECTIONAL OFFICER CLASS SERIES, THE COMMUNITY CORRECTIONAL
10 OFFICER CLASS SERIES OR ANY OTHER CORRECTIONAL CLASS SERIES.

11 (f) ON OR AFTER SEPTEMBER 29, 2012, IS A FULL AUTHORITY PEACE OFFICER
12 AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD AND IS
13 APPOINTED TO A POSITION THAT REQUIRES SUCH A CERTIFICATION IN THE COVERED
14 SERVICE.

15 6. "COVERED SERVICE" MEANS THAT EMPLOYMENT STATUS CONFERRING RIGHTS OF
16 APPEAL AS PRESCRIBED IN SECTIONS 41-782 AND 41-783 OR CHAPTER 12, ARTICLE 10
17 OF THIS TITLE.

18 7. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION,
19 OR THE DIRECTOR'S DESIGNEE, WHO IS RESPONSIBLE FOR ADMINISTERING THE STATE
20 PERSONNEL SYSTEM PURSUANT TO APPLICABLE STATE AND FEDERAL LAWS.

21 8. "EMPLOYEE" MEANS ALL OFFICERS AND EMPLOYEES OF THIS STATE, WHETHER
22 IN COVERED SERVICE OR UNCOVERED SERVICE, UNLESS OTHERWISE PRESCRIBED.

23 9. "ORIGINAL PROBATIONARY PERIOD" MEANS THE SPECIFIED PERIOD FOLLOWING
24 INITIAL APPOINTMENT TO COVERED SERVICE.

25 10. "PROBATIONARY PERIOD" MEANS A WORKING TEST PERIOD OF EMPLOYMENT IN
26 A COVERED SERVICE POSITION FOR EVALUATION OF THE EMPLOYEE'S WORK.

27 11. "PROMOTIONAL PROBATION" MEANS THE SPECIFIED PERIOD OF EMPLOYMENT
28 FOLLOWING PROMOTION OF A PERMANENT STATUS EMPLOYEE TO ANOTHER COVERED SERVICE
29 POSITION THAT HAS A HIGHER PAY GRADE.

30 12. "RULES" MEAN RULES ADOPTED BY THE DEPARTMENT OF ADMINISTRATION,
31 HUMAN RESOURCES DIVISION.

32 13. "STATE AGENCY" MEANS A DEPARTMENT, BOARD, OFFICE, AUTHORITY,
33 COMMISSION OR OTHER GOVERNMENTAL BUDGET UNIT OF THIS STATE AND INCLUDES AN
34 AGENCY ASSIGNED TO A DEPARTMENT FOR ADMINISTRATIVE PURPOSES. STATE AGENCY
35 DOES NOT INCLUDE THE LEGISLATIVE AND JUDICIAL BRANCHES, THE ARIZONA BOARD OF
36 REGENTS, STATE UNIVERSITIES, THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE
37 BLIND, OR PUBLIC CORPORATIONS.

1 14. "STATE PERSONNEL BOARD" MEANS THE BOARD ESTABLISHED BY SECTION
2 41-781.

3 15. "STATE PERSONNEL SYSTEM" MEANS ALL STATE AGENCIES AND EMPLOYEES OF
4 THOSE AGENCIES THAT ARE NOT EXEMPTED BY THIS ARTICLE.

5 16. "STATE SERVICE" MEANS ALL OFFICES AND POSITIONS OF EMPLOYMENT IN
6 STATE GOVERNMENT THAT, BEFORE SEPTEMBER 29, 2012, WERE SUBJECT TO THE
7 PROVISIONS OF ARTICLES 5 AND 6 OF THIS CHAPTER THAT WERE IN EFFECT BEFORE
8 SEPTEMBER 29, 2012.

9 17. "SUPERVISOR" MEANS A STATE EMPLOYEE WHO HAS ONE OR MORE OTHER STATE
10 EMPLOYEES REPORTING DIRECTLY TO THE PERSON AND, FOR THOSE STATE EMPLOYEES,
11 TYPICALLY HAS THE AUTHORITY TO:

- 12 (a) APPROVE SICK OR ANNUAL LEAVE.
- 13 (b) RECOMMEND HIRING, DISCIPLINE OR DISMISSAL.
- 14 (c) ASSIGN OR SCHEDULE DAILY WORK.
- 15 (d) COMPLETE A PERFORMANCE EVALUATION.

16 18. "UNCOVERED EMPLOYEE" MEANS AN EMPLOYEE IN UNCOVERED SERVICE.

17 19. "UNCOVERED SERVICE" MEANS EMPLOYMENT AT WILL AND INCLUDES ALL STATE
18 EMPLOYEES EXCEPT THOSE IN COVERED SERVICE.

19 41-742. State personnel system; covered and uncovered employees;
20 application; exemptions

21 A. BEGINNING SEPTEMBER 29, 2012, UNLESS OTHERWISE PRESCRIBED IN THIS
22 ARTICLE:

23 1. ALL NEW HIRES ARE AT WILL UNCOVERED EMPLOYEES.

24 2. ANY EMPLOYEE WHO MEETS ANY OF THE FOLLOWING CRITERIA IS AN AT WILL
25 UNCOVERED EMPLOYEE:

26 (a) IS EMPLOYED AS AN ATTORNEY IN A POSITION ASSIGNED TO THE ATTORNEY
27 SALARY SCHEDULE.

28 (b) A SUPERVISOR.

29 (c) IS AT A PAY GRADE OF NINETEEN OR ABOVE OR, IF A SUCCESSOR
30 COMPENSATION SYSTEM IS ESTABLISHED, IN AN EQUIVALENT PAY RANGE AS DETERMINED
31 BY THE DIRECTOR.

32 (d) IS IN A POSITION ASSIGNED TO THE INFORMATION TECHNOLOGY SALARY
33 SCHEDULE, IN A POSITION ASSIGNED TO AN INFORMATION TECHNOLOGY CLASSIFICATION
34 OR, IF A SUCCESSOR COMPENSATION SYSTEM IS ESTABLISHED, IN AN EQUIVALENT PAY
35 RANGE AS DETERMINED BY THE DIRECTOR.

36 3. ANY COVERED EMPLOYEE WHO VOLUNTARILY ACCEPTS A CHANGE IN
37 ASSIGNMENT, REGARDLESS OF WHETHER THE VOLUNTARY CHANGE IN ASSIGNMENT IS A

1 PROMOTION, DEMOTION OR LATERAL TRANSFER, IS AN AT WILL UNCOVERED EMPLOYEE ON
2 THE START DATE OF THE VOLUNTARY CHANGE IN ASSIGNMENT.

3 4. A COVERED EMPLOYEE MAY VOLUNTARILY ELECT TO BECOME AN AT WILL
4 UNCOVERED EMPLOYEE WITHOUT A CHANGE IN ASSIGNMENT ON APPROVAL BY THE STATE
5 AGENCY HEAD AND THE DIRECTOR. IF APPROVED, THE CHANGE FROM COVERED TO
6 UNCOVERED STATUS IS IMMEDIATE.

7 5. ONCE A COVERED EMPLOYEE BECOMES AN AT WILL UNCOVERED EMPLOYEE, THE
8 CHANGE IS IRREVOCABLE.

9 B. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, THE PURPOSE OF
10 THIS ARTICLE IS FOR ALL STATE AGENCIES IN THE STATE PERSONNEL SYSTEM TO TREAT
11 EMPLOYEES PURSUANT TO THE FOLLOWING PRINCIPLES:

12 1. RECRUITING, SELECTING AND ADVANCING EMPLOYEES ON THE BASIS OF THE
13 EMPLOYEE'S RELATIVE ABILITY, KNOWLEDGE AND SKILLS AFTER OPEN COMPETITION.

14 2. PROVIDING COMPENSATION BASED ON MERIT, PERFORMANCE, JOB VALUE AND
15 COMPETITIVENESS WITHIN APPLICABLE LABOR MARKETS.

16 3. TRAINING EMPLOYEES IF THE TRAINING WILL RESULT IN BETTER
17 ORGANIZATIONAL AND INDIVIDUAL PERFORMANCE.

18 4. RETAINING EMPLOYEES ON THE BASIS OF THE ADEQUACY OF THEIR
19 PERFORMANCE, CORRECT INADEQUATE PERFORMANCE WHERE POSSIBLE AND APPROPRIATE
20 AND SEPARATE EMPLOYEES WHOSE PERFORMANCE IS INADEQUATE.

21 5. MANAGING APPLICANTS AND EMPLOYEES IN ALL ASPECTS OF PERSONNEL
22 ADMINISTRATION WITHOUT REGARD TO POLITICAL AFFILIATION, RACE, COLOR, NATIONAL
23 ORIGIN, SEX, AGE, DISABILITY OR RELIGIOUS CREED AND WITH PROPER REGARD FOR
24 THEIR PRIVACY AND CONSTITUTIONAL RIGHTS AS CITIZENS.

25 6. ENSURING THAT EMPLOYEES ARE PROTECTED AGAINST COERCION FOR PARTISAN
26 POLITICAL PURPOSES AND ARE PROHIBITED FROM USING THEIR OFFICIAL AUTHORITY FOR
27 THE PURPOSE OF INTERFERING WITH OR AFFECTING THE RESULT OF AN ELECTION OR
28 NOMINATION FOR OFFICE.

29 C. THE DIRECTOR SHALL ESTABLISH AND ADMINISTER THE STATE PERSONNEL
30 SYSTEM, INCLUDING:

31 1. A CLASSIFICATION SYSTEM AND JOB CLASSES AND ASSOCIATED KNOWLEDGE,
32 SKILLS AND ABILITIES FOR THOSE CLASSES.

33 2. A CENTRALIZED JOB ANNOUNCEMENT SYSTEM TO STREAMLINE STATEWIDE
34 RECRUITING FOR APPLICANTS.

35 3. A CENTRALIZED EMPLOYMENT SYSTEM TO BE USED BY ALL SUCCESSFUL
36 APPLICANTS, INCLUDING A COMMON APPLICATION FORM TO BE USED BY ALL STATE
37 AGENCIES.

1 4. A COMPENSATION SYSTEM, INCLUDING ASSIGNING PAY RANGES FOR ALL JOB
2 CLASSES AND SPECIAL PAY PLANS FOR CERTAIN CLASSES OR GROUPS OF EMPLOYEES
3 CONSIDERING SUCH FACTORS AS OCCUPATIONAL PATTERNS, ECONOMIC CONDITIONS AND
4 PAY PLANS COMMON TO GOVERNMENT, BUSINESS AND INDUSTRY.

5 5. A STATEWIDE TRAINING PROGRAM.

6 6. A STATEWIDE PERFORMANCE MANAGEMENT SYSTEM.

7 7. AN AUDIT FUNCTION TO REVIEW STATE AGENCIES' PROCESSES AND
8 COMPLIANCE WITH APPLICABLE STATUTES, PERSONNEL RULES AND POLICIES.

9 8. AN INTEGRATED SYSTEM TO PROCESS PERSONNEL, PAYROLL AND BENEFITS
10 TRANSACTIONS AND SERVE AS THE SYSTEM OF RECORD FOR STATE EMPLOYEES.

11 D. THIS ARTICLE DOES NOT APPLY TO:

12 1. AN ELECTED STATE OFFICER. AN ELECTED STATE OFFICER MEANS ONLY
13 ELECTED OFFICIALS AND DOES NOT INCLUDE THE EMPLOYEES OF ELECTED STATE
14 OFFICERS UNLESS EXPRESSLY PROVIDED.

15 2. MEMBERS OF BOARDS AND COMMISSIONS WHO ARE APPOINTED BY THE
16 LEGISLATURE OR THE GOVERNOR, EMPLOYEES OF THE ARIZONA LEGISLATIVE COUNCIL,
17 EMPLOYEES APPOINTED OR EMPLOYED BY THE LEGISLATURE OR EITHER HOUSE OF THE
18 LEGISLATURE AND EMPLOYEES OF THE SUPREME COURT AND THE COURT OF APPEALS.

19 3. THE ARIZONA BOARD OF REGENTS, OFFICERS OR EMPLOYEES OF STATE
20 UNIVERSITIES AND PERSONNEL OF THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE
21 BLIND.

22 4. PATIENTS OR INMATES EMPLOYED IN STATE INSTITUTIONS.

23 5. OFFICERS AND ENLISTED PERSONNEL OF THE NATIONAL GUARD OF ARIZONA
24 AND EMPLOYEES OF THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS WHO OCCUPY
25 ARIZONA NATIONAL GUARD POSITIONS IDENTIFIED AS MOBILIZATION ASSETS.

26 E. UNLESS OTHERWISE PRESCRIBED IN THIS ARTICLE, SUBSECTION A,
27 PARAGRAPHS 1, 2 AND 3 OF THIS SECTION DO NOT APPLY TO:

28 1. AN EMPLOYEE OF ANY STATE AGENCY WHO IS A FULL AUTHORITY PEACE
29 OFFICER AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING
30 BOARD.

31 2. AN EMPLOYEE OF STATE THE DEPARTMENT OF CORRECTIONS WHO IS EMPLOYED
32 AS A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER
33 III OR, IF A SUCCESSOR CLASSIFICATION SYSTEM IS ESTABLISHED, IN AN EQUIVALENT
34 JOB CLASS AS DETERMINED BY THE DIRECTOR.

35 F. SUBSECTION B, PARAGRAPH 1 OF THIS SECTION, RELATING TO OPEN
36 COMPETITION AND SUBSECTION B, PARAGRAPHS 4 AND 5 OF THIS SECTION, RELATING TO
37 POLITICAL AFFILIATION, DO NOT APPLY TO:

38 1. EMPLOYEES OF THE GOVERNOR'S OFFICE.

1 2. EMPLOYEES OF OFFICES OF ELECTED OFFICIALS WHO EITHER:

2 (a) REPORT DIRECTLY TO THE ELECTED OFFICIAL.

3 (b) HEAD A PRIMARY COMPONENT OR REPORT DIRECTLY TO THE HEAD OF A
4 PRIMARY COMPONENT OF THE OFFICE OF THE ELECTED OFFICIAL.

5 (c) AS A PRIMARY DUTY, DETERMINE OR PUBLICLY ADVOCATE SUBSTANTIVE
6 PROGRAM POLICY FOR THE OFFICE OF THE ELECTED OFFICIAL.

7 3. THE STATE AGENCY HEAD AND EACH DEPUTY DIRECTOR, OR EQUIVALENT, OF
8 EACH STATE AGENCY AND EMPLOYEES OF THE STATE AGENCY WHO REPORT DIRECTLY TO
9 EITHER THE STATE AGENCY HEAD OR DEPUTY DIRECTOR.

10 4. EACH ASSISTANT DIRECTOR, OR EQUIVALENT, OF EACH STATE AGENCY AND
11 EMPLOYEES IN THE STATE AGENCY WHO REPORT DIRECTLY TO AN ASSISTANT DIRECTOR.

12 G. THIS ARTICLE AND ARTICLES 5 AND 6 OF THIS CHAPTER DO NOT CONFER ANY
13 RIGHTS IN EXCESS OF, OR IN ADDITION TO, THOSE PREVIOUSLY AUTHORIZED TO ANY
14 STATE EMPLOYEE.

15 H. THIS ARTICLE DOES NOT CREATE OR CONFER ANY CONTRACTUAL EMPLOYMENT
16 RIGHT FOR ANY EMPLOYEE AND, UNLESS OTHERWISE PROVIDED BY LAW, STATE AGENCIES
17 ARE PROHIBITED FROM EXECUTING EMPLOYMENT CONTRACTS WITH ANY STATE EMPLOYEE.

18 I. ANY COMMUNICATIONS, INCLUDING POLICY MANUALS, EMPLOYEE HANDBOOKS,
19 JOB OFFERS AND PERFORMANCE APPRAISALS AND OTHER COMMUNICATIONS AS DETERMINED
20 BY THE DIRECTOR, WHETHER IN WRITING OR ORAL, THAT CONFLICT WITH ARTICLE 1, 5
21 OR 6 OF THIS CHAPTER OR THIS ARTICLE ARE VOID AND DO NOT ALTER OR SUPERSEDE
22 ARTICLE 1, 5 OR 6 OF THIS CHAPTER OR THIS ARTICLE.

23 41-743. Powers and duties of the director

24 A. THE DIRECTOR IS RESPONSIBLE FOR THE DIRECTION AND CONTROL OF
25 PERSONNEL ADMINISTRATION.

26 B. THE DIRECTOR SHALL:

27 1. EMPLOY STAFF AS NECESSARY TO PERFORM THE DUTIES PRESCRIBED BY THIS
28 ARTICLE.

29 2. ESTABLISH THOSE OFFICES AS THE DIRECTOR DETERMINES NECESSARY TO
30 MAINTAIN AN EFFECTIVE AND EFFICIENT PROGRAM OF PERSONNEL ADMINISTRATION.

31 3. ADOPT RULES AND PROCEDURES RELATING TO PERSONNEL AND PERSONNEL
32 ADMINISTRATION FOR BOTH COVERED AND UNCOVERED EMPLOYEES. THE RULES SHALL
33 INCLUDE:

34 (a) THE ESTABLISHMENT AND MAINTENANCE OF CLASSIFICATION AND
35 COMPENSATION PLANS.

36 (b) THE RECRUITMENT, SELECTION AND APPOINTMENT PROCESS OF ELIGIBLE
37 APPLICANTS.

38 (c) LEAVE BENEFITS AND ADMINISTRATION.

1 (d) PROCEDURES FOR THE PERIODIC AND REGULAR REVIEW AND EVALUATION OF
2 THE QUALITY AND QUANTITY OF WORK PERFORMED BY EMPLOYEES.

3 (e) CHANGES TO EMPLOYMENT STATUS.

4 (f) GRIEVANCE RIGHTS SPECIFIC TO COVERED EMPLOYEES.

5 (g) APPEAL RIGHTS AND OTHER RULES SPECIFIC TO COVERED EMPLOYEES.

6 (h) ANY OTHER ASPECTS OF PERSONNEL ADMINISTRATION AS DETERMINED BY THE
7 DIRECTOR.

8 4. PROVIDE AN ANNUAL REPORT AND RECOMMENDATION TO THE LEGISLATURE AND
9 THE JOINT LEGISLATIVE BUDGET COMMITTEE AS PROVIDED IN SECTION 41-751.

10 5. ESTABLISH A MANDATORY PROGRAM OF PERSONNEL MANAGEMENT TRAINING FOR
11 ALL EMPLOYEES WITH SUPERVISORY RESPONSIBILITY THAT IS APPROPRIATE TO THE
12 NATURE AND SCOPE OF THE EMPLOYEES' RESPONSIBILITIES. THE DIRECTOR MAY WAIVE
13 THE MANDATORY TRAINING ON A CASE BY CASE BASIS. THE TRAINING SHALL INCLUDE
14 AT LEAST THE FOLLOWING SUBJECTS:

15 (a) BASIC EMPLOYEE SUPERVISION.

16 (b) EMPLOYEE PERFORMANCE EVALUATIONS.

17 (c) EMPLOYEE DISCIPLINE.

18 (d) OTHER SUBJECTS AS THE DIRECTOR DETERMINES.

19 6. PROVIDE CONSULTATION TO STATE AGENCY MANAGEMENT IN ALL ASPECTS OF
20 PERSONNEL MANAGEMENT TO INCREASE EFFICIENCY AND ECONOMY IN STATE AGENCIES BY
21 IMPROVING THE METHODS OF PERSONNEL ADMINISTRATION WITH FULL RECOGNITION OF
22 THE REQUIREMENTS AND NEEDS OF MANAGEMENT.

23 C. THE DIRECTOR MAY:

24 1. DELEGATE SPECIFIC PERSONNEL FUNCTIONS TO A STATE AGENCY HEAD
25 CONSISTENT WITH LEGAL REQUIREMENTS.

26 2. ENTER INTO AGREEMENTS WITH ANY STATE AGENCY OR POLITICAL
27 SUBDIVISION OF THIS STATE OR ANY AGENCY OF A POLITICAL SUBDIVISION OF THIS
28 STATE TO FURNISH PERSONNEL ADMINISTRATION SERVICES AND FACILITIES OF THE
29 DEPARTMENT. UNLESS MONIES HAVE BEEN APPROPRIATED BY THE LEGISLATURE FOR THIS
30 PURPOSE, ANY AGREEMENT SHALL PROVIDE FOR REIMBURSEMENT TO THIS STATE OF THE
31 ACTUAL COST OF THE SERVICES AND FACILITIES FURNISHED, AS DETERMINED BY THE
32 DEPARTMENT.

33 3. SUBJECT TO LEGISLATIVE APPROPRIATION, CONTRACT FOR THE SERVICES OF
34 CONSULTANTS NECESSARY TO PERFORM THE ANNUAL SALARY PLAN AND SALARY PLAN
35 ADJUSTMENT RECOMMENDATIONS.

1 TRANSFERRED ANNUAL LEAVE SHALL BE INCREASED OR REDUCED PROPORTIONALLY BY THE
2 DIFFERENCE IN THE SALARIES OF THE EMPLOYEES AS DETERMINED BY DEPARTMENT RULE.
3 AN EMPLOYEE WHO RECEIVES TRANSFERRED ANNUAL LEAVE IS LIMITED TO USING SIX
4 CONSECUTIVE MONTHS OF LEAVE PER OCCURRENCE UNLESS THE EMPLOYEE HAS APPLIED
5 FOR LONG-TERM DISABILITY INSURANCE AS PROVIDED BY RULE.

6 B. FOR THE PURPOSES OF THIS SECTION:

7 1. "IMMEDIATE FAMILY" MEANS AN EMPLOYEE'S PARENT, SPOUSE, OR CHILD,
8 WHETHER NATURAL, ADOPTED, FOSTER OR STEP.

9 2. "SAME FAMILY" MEANS AN EMPLOYEE'S SPOUSE, NATURAL CHILD, ADOPTED
10 CHILD, FOSTER CHILD, STEPCHILD, NATURAL PARENT, STEPPARENT, ADOPTIVE PARENT,
11 GRANDPARENT, GRANDCHILD, BROTHER, SISTER, SISTER-IN-LAW, BROTHER-IN-LAW,
12 SON-IN-LAW, DAUGHTER-IN-LAW, MOTHER-IN-LAW, FATHER-IN-LAW, AUNT, UNCLE,
13 NEPHEW OR NIECE.

14 41-749. Administrative leave; reporting

15 A. A STATE AGENCY HEAD SHALL REPORT TO THE DIRECTOR IF AN EMPLOYEE IS
16 PLACED ON ADMINISTRATIVE LEAVE WITH PAY DURING THE INVESTIGATION OF ALLEGED
17 WRONGDOING BY THE EMPLOYEE WHEN THE EMPLOYEE'S ADMINISTRATIVE LEAVE TOTALS
18 EIGHTY CONSECUTIVE HOURS AND, THEREAFTER, SHALL REPORT TO THE DIRECTOR ON A
19 WEEKLY BASIS UNTIL THE ADMINISTRATIVE LEAVE IS TERMINATED.

20 B. A STATE AGENCY HEAD SHALL OBTAIN APPROVAL FROM THE DIRECTOR IF AN
21 EMPLOYEE'S ADMINISTRATIVE LEAVE WITH PAY EXCEEDS THIRTY WORKING DAYS.

22 41-750. Contribution of pro rata share for personnel division
23 fund

24 A. ALL STATE AGENCIES SHALL CONTRIBUTE A PRO RATA SHARE OF THE OVERALL
25 COST OF PERSONNEL ADMINISTRATION SERVICES PROVIDED BY THE DEPARTMENT. THE
26 PRO RATA SHARE SHALL BE PAYABLE BY PAYROLL FUND SOURCE AND THE RESULTANT
27 AMOUNT SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN A
28 PERSONNEL DIVISION FUND FOR APPROPRIATION BY THE LEGISLATURE FOR THE STATE
29 PERSONNEL BOARD AND THE PERSONNEL DIVISION OF THE DEPARTMENT. THE PRO RATA
30 SHARE SHALL BE 1.10 PER CENT OF THE TOTAL PAYROLL OF THE STATE AGENCY. OF
31 THE 1.10 PER CENT PRO RATA SHARE, 0.03 PER CENT OF TOTAL PAYROLL SHALL BE
32 DEPOSITED IN A SEPARATE SUBACCOUNT OF THE PERSONNEL DIVISION FUND FOR USE BY
33 THE STATE PERSONNEL BOARD AND SHALL BE SUBJECT TO LEGISLATIVE APPROPRIATION.
34 TOTAL PAYROLL SHALL INCLUDE ALL FUND SOURCES, INCLUDING THE STATE GENERAL
35 FUND, FEDERAL MONIES, SPECIAL REVENUE FUNDS, INTERGOVERNMENTAL REVENUE
36 MONIES, TRUST FUNDS AND OTHER PAYROLL FUND SOURCES.

1 B. A CLAIM FOR THE PRO RATA SHARE PERCENTAGE PAYMENT SHALL BE
2 SUBMITTED ACCORDING TO THE FUND SOURCE, WITH THE ACCOMPANYING PAYROLL TO THE
3 DEPARTMENT FOR DEPOSIT IN THE PERSONNEL DIVISION FUND.

4 C. NOTWITHSTANDING SECTION 35-190, ONLY MONIES IN EXCESS OF FIVE
5 HUNDRED THOUSAND DOLLARS REVERT TO THE STATE GENERAL FUND AT THE END OF EACH
6 FISCAL YEAR. THE STATE COMPTROLLER SHALL PAY ANY MONIES DETERMINED TO BE
7 OWED TO THE FEDERAL GOVERNMENT FROM THE PERSONNEL DIVISION FUND BEFORE
8 CALCULATING THE REVERSION.

9 41-751. Annual report and recommendations

10 A. THE DIRECTOR SHALL PREPARE A REPORT ON STATE PERSONNEL AND THE
11 OPERATION OF THE STATE PERSONNEL SYSTEM.

12 B. THE REPORT SHALL INCLUDE:

13 1. INFORMATION CONCERNING ALL STATE EMPLOYEES, INCLUDING EMPLOYEES OF
14 ALL EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCH AGENCIES. ALL STATE AGENCIES
15 SHALL PROVIDE ANY INFORMATION REQUESTED BY THE DIRECTOR TO PREPARE THE ANNUAL
16 REPORT.

17 2. INFORMATION CONCERNING TURNOVER, INCLUDING THE NUMBER OF EMPLOYEES
18 SEPARATING FROM STATE EMPLOYMENT AND THE REASONS FOR SEPARATION.

19 3. INFORMATION CONCERNING THE COMPENSATION DURING THE PRECEDING YEAR
20 AND THE COMING YEAR OF STATE EMPLOYEES AND THE COMPENSATION OF OTHER PUBLIC
21 EMPLOYEES AND PRIVATE EMPLOYEES.

22 4. AN ADVISORY RECOMMENDATION ON STATE EMPLOYEES' SALARIES. IN
23 ESTABLISHING THE RECOMMENDATION, THE DIRECTOR SHALL CONSIDER THE RELATIVE
24 LEVELS OF DUTIES AND RESPONSIBILITIES OF THE VARIOUS CLASSES OF POSITIONS,
25 RATES PAID FOR COMPARABLE POSITIONS ELSEWHERE AND OTHER RELEVANT FACTORS.
26 SALARY RECOMMENDATIONS ARE NOT REQUIRED FOR ELECTED OFFICIALS. THE DIRECTOR
27 SHALL MAKE ADVISORY SALARY RECOMMENDATIONS FOR SPECIFIC POSITIONS IN THE
28 GOVERNOR'S OFFICE, THE LEGISLATURE AND THE COURTS IF REQUESTED BY THE
29 RESPECTIVE ADMINISTRATIVE HEADS OF THESE UNITS OF STATE GOVERNMENT.

30 5. THE OVERTIME PAY OF ALL STATE AGENCIES.

31 6. OTHER INFORMATION AS DETERMINED BY THE DIRECTOR.

32 C. THE ANNUAL REPORT AND RECOMMENDATIONS SHALL BE PRESENTED TO THE
33 GOVERNOR AND THE LEGISLATURE ON OR BEFORE SEPTEMBER 1 OF EACH YEAR. THE
34 DIRECTOR SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE.

35 D. THE ARIZONA BOARD OF REGENTS, THE JUDICIAL DEPARTMENT AND THE
36 ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND SHALL EACH PREPARE AND
37 SUBMIT AN ANNUAL REPORT ON THEIR PERSONNEL AS PRESCRIBED IN THIS SECTION.
38 THE REPORT SHALL INCLUDE:

1 6. ENGAGE IN ACTIVITIES TO ADVOCATE THE ELECTION OR DEFEAT OF ANY
2 CANDIDATE.

3 7. SOLICIT OR ENCOURAGE CONTRIBUTIONS TO BE MADE DIRECTLY TO
4 CANDIDATES OR CAMPAIGN COMMITTEES CONTRIBUTING TO CANDIDATES OR ADVOCATING
5 THE ELECTION OR DEFEAT OF CANDIDATES.

6 D. A PERSON SHALL NOT:

7 1. SOLICIT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
8 OF THE STATE LAW ENFORCEMENT PERSONNEL BOARD TO ENGAGE OR NOT ENGAGE IN
9 ACTIVITIES PERMITTED BY THIS SECTION WITH THE DIRECT OR INDIRECT USE OF ANY
10 THREAT, INTIMIDATION OR COERCION, INCLUDING THREATS OF DISCRIMINATION,
11 REPRISAL, FORCE OR ANY OTHER ADVERSE CONSEQUENCE, INCLUDING THE LOSS OF ANY
12 BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR COMPENSATION.

13 2. SUBJECT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
14 OF STATE LAW ENFORCEMENT PERSONNEL BOARD ENGAGING IN ACTIVITY PERMITTED BY
15 THIS SECTION TO ANY DIRECT OR INDIRECT DISCRIMINATION, REPRISAL, FORCE,
16 COERCION OR INTIMIDATION OR ANY OTHER ADVERSE CONSEQUENCE, INCLUDING THE LOSS
17 OF ANY BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR COMPENSATION.

18 3. SUBJECT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
19 OF THE STATE LAW ENFORCEMENT PERSONNEL BOARD WHO CHOOSES NOT TO ENGAGE IN ANY
20 ACTIVITY PERMITTED BY THIS SECTION TO ANY DIRECT OR INDIRECT DISCRIMINATION,
21 REPRISAL, FORCE, COERCION OR INTIMIDATION OR ANY OTHER ADVERSE CONSEQUENCE,
22 INCLUDING THE LOSS OF ANY BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR
23 COMPENSATION.

24 E. SUBSECTIONS B AND C OF THIS SECTION DO NOT APPLY TO THOSE EMPLOYEES
25 LISTED IN SECTION 41-742 SUBSECTION F.

26 F. THIS SECTION DOES NOT APPLY TO SCHOOL BOARD ELECTIONS OR COMMUNITY
27 COLLEGE DISTRICT GOVERNING BOARD ELECTIONS, AND AN EMPLOYEE MAY SERVE AS A
28 MEMBER OF THE GOVERNING BOARD OF A COMMON OR HIGH SCHOOL DISTRICT OR AS A
29 MEMBER OF A COMMUNITY COLLEGE DISTRICT GOVERNING BOARD.

30 G. AN EMPLOYEE WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION IS
31 SUBJECT TO SUSPENSION OF NOT LESS THAN THIRTY DAYS OR DISMISSAL.

32 H. A PERSON WHO VIOLATES:

33 1. SUBSECTION D OF THIS SECTION IS GUILTY OF A CLASS 6 FELONY.

34 2. ANY OTHER PROVISION OF THIS SECTION IS GUILTY OF A CLASS 1
35 MISDEMEANOR.

36 I. IN ADDITION TO ANY OTHER PENALTY, ANY PERSON SOLICITING OR
37 ENCOURAGING A CONTRIBUTION IN A MANNER PROHIBITED BY THIS SECTION IS SUBJECT

1 TO A CIVIL PENALTY OF UP TO THREE TIMES THE AMOUNT OF THE CONTRIBUTION
2 SOLICITED OR ENCOURAGED PLUS COSTS, EXPENSES AND REASONABLE ATTORNEY FEES.

3 J. THIS SECTION ANY EMPLOYEE OR BOARD MEMBER ANY CIVIL OR POLITICAL
4 LIBERTIES AS GUARANTEED BY THE UNITED STATES AND ARIZONA CONSTITUTIONS.

5 K. IT IS THE PUBLIC POLICY OF THIS STATE, REFLECTED IN THIS SECTION,
6 THAT GOVERNMENT PROGRAMS BE ADMINISTERED IN AN UNBIASED MANNER AND WITHOUT
7 FAVORITISM FOR OR AGAINST ANY POLITICAL PARTY OR GROUP OR ANY MEMBER IN ORDER
8 TO PROMOTE PUBLIC CONFIDENCE IN GOVERNMENT, GOVERNMENTAL INTEGRITY AND THE
9 EFFICIENT DELIVERY OF GOVERNMENTAL SERVICES AND TO ENSURE THAT ALL EMPLOYEES
10 ARE FREE FROM ANY EXPRESS OR IMPLIED REQUIREMENT OR ANY POLITICAL OR OTHER
11 PRESSURE OF ANY KIND TO ENGAGE OR NOT ENGAGE IN ANY ACTIVITY PERMITTED BY
12 THIS SECTION. TOWARD THIS END, ANY PERSON OR ENTITY CHARGED WITH THE
13 INTERPRETATION OF THIS SECTION SHALL TAKE INTO ACCOUNT THE POLICY OF THIS
14 SECTION AND SHALL CONSTRUE ANY OF ITS PROVISIONS ACCORDINGLY.

15 41-753. Unlawful acts; violation; classification

16 A. A PERSON SHALL NOT MAKE ANY FALSE STATEMENT, CERTIFICATE, MARK,
17 RATING OR REPORT WITH REGARD TO ANY TEST, CERTIFICATION OR APPOINTMENT MADE
18 UNDER THIS ARTICLE OR IN ANY MANNER COMMIT ANY FRAUD PREVENTING THE IMPARTIAL
19 EXECUTION OF THIS ARTICLE OR RULES ADOPTED UNDER THIS ARTICLE.

20 B. A PERSON SHALL NOT, DIRECTLY OR INDIRECTLY, GIVE, RENDER, PAY,
21 OFFER, SOLICIT OR ACCEPT ANY MONEY, SERVICE OR OTHER VALUABLE CONSIDERATION
22 FOR OR ON ACCOUNT OF ANY APPOINTMENT, PROPOSED APPOINTMENT, PROMOTION OR
23 PROPOSED PROMOTION TO, OR ANY ADVANTAGE IN, A POSITION IN THE STATE PERSONNEL
24 SYSTEM.

25 C. AN EMPLOYEE OF ANY STATE AGENCY, EXAMINER OR OTHER PERSON SHALL NOT
26 OBSTRUCT ANY PERSON IN THE PERSON'S RIGHT TO EXAMINATION, ELIGIBILITY,
27 CERTIFICATION OR APPOINTMENT UNDER THIS ARTICLE, OR FURNISH TO ANY PERSON ANY
28 SPECIAL OR SECRET INFORMATION FOR THE PURPOSE OF AFFECTING THE RIGHTS OR
29 PROSPECTS OF ANY PERSON WITH RESPECT TO EMPLOYMENT IN THE STATE PERSONNEL
30 SYSTEM.

31 D. ANY PERSON WHO KNOWINGLY VIOLATES SUBSECTION A, B, OR C OF THIS
32 SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.

33 E. AN ELECTED OR APPOINTED OFFICIAL SHALL NOT WITH CORRUPT INTENT USE
34 THE OFFICIAL'S POLITICAL INFLUENCE OR POSITION TO CAUSE THE FIRING, PROMOTION
35 OR DEMOTION OF ANY PUBLIC EMPLOYEE OR THE HIRING OF OR FAILURE TO HIRE ANY
36 APPLICANT FOR PUBLIC EMPLOYMENT.

1 F. AN ELECTED OR APPOINTED OFFICIAL WHO KNOWINGLY AND WITH CORRUPT
2 INTENT VIOLATES SUBSECTION E OF THIS SECTION IS GUILTY OF A CLASS 2
3 MISDEMEANOR.

4 G. ANY PERSON WHO IS CONVICTED OF A CLASS 2 MISDEMEANOR UNDER THIS
5 ARTICLE, FOR A PERIOD OF FIVE YEARS, IS INELIGIBLE FOR APPOINTMENT TO OR
6 EMPLOYMENT IN A POSITION IN THE STATE PERSONNEL SYSTEM AND, IF THE PERSON IS
7 AN EMPLOYEE OF THIS STATE AT THE TIME OF CONVICTION, IS SUBJECT TO SUSPENSION
8 FOR NOT LESS THAN NINETY DAYS OR DISMISSAL.

9 H. A CONTACT BY AN ELECTED OR APPOINTED OFFICIAL WITH A PUBLIC AGENCY
10 REGARDING THE QUALIFICATIONS OF AN APPLICANT SHALL NOT BE CONSTRUED AS
11 ILLEGALLY USING POLITICAL INFLUENCE OR POSITION.

12 41-754. Required reduction in hours

13 AN AGENCY DIRECTOR MAY REQUIRE AN AGENCY EMPLOYEE TO WORK REDUCED HOURS
14 IN ORDER TO COMPLY WITH ANY REDUCTION IN APPROPRIATIONS. THE DIRECTOR SHALL
15 PRESCRIBE PROCEDURES TO IMPLEMENT THESE REDUCTIONS.

16 Sec. 116. Repeal

17 Section Title 41, chapter 4, article 5, Arizona Revised Statutes, is
18 repealed.

19 Sec. 117. Title 41, chapter 4, Arizona Revised Statutes, is amended by
20 adding a new article 5, to read:

21 ARTICLE 5. COVERED SERVICE

22 41-771. Powers and duties of director relating to employees in
23 covered service

24 THE DIRECTOR SHALL ADOPT RULES AND PROCEDURES THAT ARE APPLICABLE ONLY
25 TO EMPLOYEES IN COVERED SERVICE. THE RULES AND PROCEDURES SHALL PROVIDE FOR:

26 1. THE CONTINUATION OF A PROBATIONARY PERIOD FOR PROBATIONARY
27 EMPLOYEES.

28 2. A MINIMUM PERIOD OF ORIGINAL PROBATIONARY SERVICE FOLLOWING THE
29 INITIAL APPOINTMENT OF A FULL AUTHORITY PEACE OFFICER AS CERTIFIED BY THE
30 ARIZONA PEACE OFFICERS STANDARDS AND TRAINING BOARD OR THE INITIAL
31 APPOINTMENT OF A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II OR
32 CORRECTIONAL OFFICER III. DURING AN ORIGINAL PROBATIONARY PERIOD, THE
33 PROBATIONARY EMPLOYEE SHALL PERFORM THE ACTUAL DUTIES OF THE POSITION AND MAY
34 BE DISCHARGED WITHOUT CAUSE. THE DIRECTOR SHALL ESTABLISH A PERIOD OF
35 PROMOTIONAL PROBATION SERVICE.

36 3. DISCIPLINARY ACTION TO BE TAKEN AGAINST AN EMPLOYEE ONLY IF CAUSE
37 EXISTS.

1 10. COMMISSION OF ANY CRIME CLASSIFIED AS A FELONY OR INVOLVING MORAL
2 TURPITUDE.

3 11. DISCOURTEOUS TREATMENT OF THE PUBLIC OR OTHER EMPLOYEES.

4 12. IMPROPER POLITICAL ACTIVITY.

5 13. WILFUL DISOBEDIENCE.

6 14. MISUSE OR UNAUTHORIZED USE OF STATE PROPERTY.

7 B. IN ADDITION TO THE CAUSES PRESCRIBED BY SUBSECTION A OF THIS
8 SECTION, THE DIRECTOR MAY ESTABLISH OTHER CAUSES DEEMED NECESSARY.

9 C. THE DIRECTOR SHALL PRESCRIBE DEFINITIONS FOR EACH OF THE CAUSES FOR
10 DISMISSAL OR DISCIPLINE PRESCRIBED OR ESTABLISHED UNDER THIS SECTION THAT
11 SHALL BE USED BY COVERED EMPLOYEES AND THE STATE PERSONNEL BOARD IN
12 EVALUATING DISMISSALS AND DISCIPLINARY ACTIONS.

13 Sec. 118. Heading change

14 The article heading of title 41, chapter 4, article 6, Arizona Revised
15 Statutes, is changed from "PERSONNEL BOARD" to "STATE PERSONNEL BOARD".

16 Sec. 119. Section 41-781, Arizona Revised Statutes, is amended to
17 read:

18 41-781. State personnel board; members; appointment; term;
19 meetings; compensation

20 A. The state personnel board ~~shall consist~~ CONSISTS of five members
21 appointed by the governor pursuant to section 38-211. No more than three
22 members shall belong to the same political party. Persons eligible for
23 appointment shall have had a continuous recorded registration pursuant to
24 title 16, chapter 1 with either the same political party or as an independent
25 for at least two years immediately preceding appointment. Of the members
26 appointed one shall be a person who for more than five years has managed a
27 component or unit of government or industry with more than twenty employees,
28 one shall be a professional personnel administrator, one a state employee,
29 one a person active in business management and one a member of the public.
30 Members may be removed by the governor for cause. The chairperson of the
31 STATE personnel board shall serve as an ex officio member of the STATE law
32 enforcement ~~merit system council~~ PERSONNEL BOARD established by section
33 41-1830.11 without voting privileges.

34 B. The term of office for each member is three years, each term to
35 expire three years from the date of appointment. ~~Upon~~ ON the expiration of
36 the term of a member a successor shall be appointed for a full term of three
37 years.

1 C. The STATE personnel board may hold regular monthly meetings and, in
2 addition, may hold special meetings the board deems necessary. A chairperson
3 and vice chairperson shall be elected by the members at the first meeting of
4 each year and the chairperson shall not serve successive terms as
5 chairperson. Meetings of the STATE personnel board shall be open to the
6 public, and executive sessions may be held as provided by law.

7 D. Any one of the following ~~shall constitute~~ CONSTITUTES the
8 resignation of a board member and ~~authorize~~ AUTHORIZES the governor to
9 appoint a new member to fill the unexpired term so vacated:

10 1. Becoming a candidate for any elective public office.

11 2. Accepting any appointive office or employment in the state service,
12 except the state employee who is designated to serve on the board.

13 E. Members of the STATE personnel board, except the person designated
14 as the state employee, are eligible to receive compensation ~~as determined~~
15 ~~pursuant to section 38-611 for each day actually spent for meetings of the~~
16 ~~personnel board~~ OF UP TO TWO HUNDRED DOLLARS FOR EACH MEETING ATTENDED,
17 PRORATED FOR PARTIAL DAYS FOR EACH MEETING ATTENDED, UNLESS MODIFIED BY THE
18 JOINT LEGISLATIVE BUDGET COMMITTEE. The member of the STATE personnel board
19 designated as the state employee shall be paid the state employee's regular
20 compensation for meetings of the board.

21 Sec. 120. Section 41-782, Arizona Revised Statutes, is amended to
22 read:

23 41-782. Powers and duties of the state personnel board

24 A. EXCEPT AS PROVIDED BY CHAPTER 12, ARTICLE 10 OF THIS TITLE, the
25 STATE personnel board shall hear and review appeals as provided in this
26 article relating to dismissal OF A COVERED EMPLOYEE from ~~state~~ COVERED
27 service, suspension for more than ~~forty~~ EIGHTY working hours or INVOLUNTARY
28 demotion resulting from disciplinary action as defined in the personnel rules
29 FOR AN EMPLOYEE IN COVERED SERVICE.

30 B. EXCEPT AS PROVIDED BY CHAPTER 12, ARTICLE 10 OF THIS TITLE, the
31 STATE personnel board shall hear and review complaints as provided in title
32 38, chapter 3, article 9, relating to any personnel action taken against an
33 employee or former employee of this state, except an employee or former
34 employee of a state university or the board of regents, which the employee or
35 former employee believes was taken in reprisal for the employee's or former
36 employee's disclosure of information to a public body. The state personnel
37 board shall recommend the dismissal of a supervisor or other responsible

1 person, other than an elected official, who it determines committed a
2 prohibited personnel practice.

3 C. The STATE personnel board may adopt rules it deems necessary for
4 the administration of hearings and the review of appeals and complaints as
5 prescribed in this section.

6 D. THE STATE PERSONNEL BOARD SHALL ONLY EXERCISE AUTHORITY THAT IS
7 SPECIFICALLY GRANTED TO THE BOARD PURSUANT TO THIS ARTICLE.

8 Sec. 121. Repeal

9 Sections 41-783 and 41-784, Arizona Revised Statutes, are repealed.

10 Sec. 122. Section 41-785, Arizona Revised Statutes, is transferred and
11 renumbered for placement in title 41, chapter 4, article 6, Arizona Revised
12 Statutes, as section 41-783 and, as so renumbered, is amended to read:

13 41-783. Appeals to the state personnel board for covered
14 employees; notice of charges; hearings

15 A. ~~Any~~ EXCEPT AS PROVIDED BY CHAPTER 12, ARTICLE 10 OF THIS TITLE, A
16 COVERED employee who has completed the COVERED employee's original
17 probationary period of service as provided by the personnel rules may appeal
18 to the STATE personnel board ~~seeking relief from~~ THE COVERED EMPLOYEE'S
19 dismissal from ~~state~~ COVERED service, suspension for more than ~~forty~~ EIGHTY
20 working hours or INVOLUNTARY demotion resulting from disciplinary action.
21 The appeal shall be filed not later than ten working days after the effective
22 date of such action. The COVERED employee shall be furnished with specified
23 charges in writing when the action is taken. Such appeal shall be in writing
24 and must state specific facts relating directly to the charges on which the
25 appeal is based and shall be heard by the STATE personnel board within thirty
26 days after its receipt. The STATE personnel board shall provide the
27 employing agency with a copy of the appeal not less than twenty days in
28 advance of the hearing.

29 B. Hearings on such appeals shall be open to the public, except in
30 cases where the COVERED employee requests a confidential hearing, and shall
31 be informal with technical rules of evidence not applying to the proceedings
32 except the rule of privilege recognized by law. Both the COVERED employee
33 and the employing agency shall be notified of any hearing or meeting date not
34 less than twenty days in advance of the hearing or not less than ten days in
35 advance of a meeting and may select representatives of their choosing,
36 present and cross-examine witnesses and give evidence before the STATE
37 personnel board. The STATE personnel board may appoint a hearing officer to
38 conduct the hearing and take evidence on behalf of the board and exercise the

1 rights prescribed by section 12-2212. The STATE personnel board shall
2 prepare an official record of the hearing, including all testimony recorded
3 manually or by mechanical device, and exhibits. Either party may request
4 that the record be transcribed. If a party requests that the record be
5 transcribed, an entity, other than the STATE personnel board, selected by the
6 requesting party shall transcribe the record at the cost of the requesting
7 party. If the disciplinary hearing would involve evidence the state is
8 prevented by law from disclosing, then a confidential hearing upon the
9 state's request shall be granted.

10 C. The STATE PERSONNEL board ~~may~~ SHALL:

11 1. AFFIRM THE DECISION OF THE STATE AGENCY HEAD IF THE BOARD FINDS
12 THAT CAUSE EXISTED FOR ANY DISCIPLINE TO BE IMPOSED.

13 2. Reverse ~~an agency's action on appeal only~~ THE DECISION OF THE STATE
14 AGENCY HEAD if the board finds ~~the action to be arbitrary, capricious or~~
15 ~~otherwise contrary to law~~ THAT CAUSE DID NOT EXIST FOR ANY DISCIPLINE TO BE
16 IMPOSED AND, IN THE CASE OF DISMISSAL OR DEMOTION, RETURN THE COVERED
17 EMPLOYEE TO THE SAME POSITION THE EMPLOYEE HELD BEFORE THE DISMISSAL OR
18 DEMOTION WITH OR WITHOUT BACK PAY.

19 D. The STATE PERSONNEL board ~~may~~ SHALL NOT modify the disciplinary
20 penalty chosen by ~~an A STATE~~ agency ~~only if the board finds the penalty to be~~
21 ~~disproportionate to the proven offense in light of mitigating circumstances~~
22 ~~or made for reasons that are arbitrary, capricious or otherwise contrary to~~
23 ~~law.~~

24 E. Within forty-five days after the conclusion of the hearing, the
25 STATE PERSONNEL board shall enter its decision and shall at the same time
26 send a copy of the decision by certified mail to the employing agency and to
27 the COVERED employee at the employee's address as given at the hearing or to
28 a representative designated by the COVERED employee to receive a copy of the
29 decision.

30 F. Any party may appeal the decision of the STATE PERSONNEL board
31 pursuant to title 12, chapter 7, article 6 to the superior court in the
32 COVERED employee's county of residence on one or more of the following
33 grounds that the order was:

34 1. Founded on or contained error of law ~~which~~ THAT shall specifically
35 include error of construction or application of any pertinent rules.

36 2. Unsupported by any evidence as disclosed by the entire record.

37 3. Materially affected by unlawful procedure.

38 4. Based on a violation of any constitutional provision.

1 ~~5. Arbitrary or capricious.~~

2 G. An appeal shall be available to the court of appeals from the order
3 of the superior court pursuant to title 12, chapter 7, article 6 as in other
4 civil cases.

5 H. ~~An~~ A COVERED employee may represent himself or designate a
6 representative, not necessarily an attorney, before any board hearing or any
7 quasi-judicial hearing held pursuant to this section providing that no fee
8 may be charged for any services rendered in connection with such hearing by
9 any such designated representative who is not an attorney admitted to
10 practice.

11 Sec. 123. Repeal

12 Section 41-786, Arizona Revised Statutes, is repealed.

13 Sec. 124. Section 41-821, Arizona Revised Statutes, is amended to
14 read:

15 41-821. Arizona historical society; powers; officers; duties of
16 board of directors

17 A. An Arizona historical society is established.

18 B. Subject to limitations imposed by law, the society may purchase,
19 receive, hold, lease and sell property, real and personal, for the benefit of
20 this state and use of the society. The society may solicit private monetary
21 donations for program activities.

22 C. The society shall have a president, a treasurer, a board of
23 directors and other officers who shall be elected by the members of the
24 society at times and by methods the bylaws of the society prescribe. The
25 board of directors may designate from among its members an executive
26 committee with authority to act in place of the board of directors and in
27 accordance with directions the board of directors may give when the board of
28 directors is not in session.

29 D. The president shall preside at meetings of the society and of the
30 board of directors.

31 E. The treasurer shall have custody of the monies of the society,
32 other than legislative appropriations. The treasurer shall hold the monies
33 of the society deposited in trust for the society's use and for the benefit
34 of this state and shall disburse them only as prescribed by law and the
35 bylaws of the society.

36 F. The board of directors shall hold in trust for this state and
37 administer for the benefit of this state and use of the society all property
38 acquired by the society.

1 G. All expenditures of legislative appropriations to the society shall
2 be made on claims duly itemized, verified and approved by the executive
3 director. The executive director shall present and file claims for payment
4 with the director of the department of administration. The director of the
5 department of administration shall draw the warrant on the state treasurer.
6 The society may expend nonappropriated private funds related to program
7 activities.

8 H. The board of directors shall annually designate one or more
9 historical organizations within each county of this state that are
10 incorporated as nonprofit organizations and that are deemed to have a
11 functioning program of historical value based on criteria established by the
12 board of directors. The board of directors may organize chapters made up of
13 groups of its members who have a common interest in a geographical area of
14 this state or a common interest in a field of history, may provide for the
15 governance of these chapters and may grant to any chapter the power to
16 exercise authority of the society as the board of directors may determine.

17 I. The board of directors, subject to legislative appropriation, may
18 contract with certified historical organizations for services to be performed
19 for the benefit of this state. The contracts shall be prepared by the
20 Arizona historical society. The board of directors shall annually review the
21 contracts to ensure fulfillment of their provisions.

22 J. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, the board of
23 directors may employ an executive director and may employ or authorize the
24 employment of other employees it considers appropriate to carry out the
25 functions of the society. The executive director and all other employees
26 shall have duties and exercise authority as may be prescribed by the board of
27 directors or by the executive director acting under the direction of the
28 board of directors.

29 K. The board may operate a program for the establishment and
30 maintenance of historical markers at various locations in this state.

31 L. In cooperation with the advisory council established by section
32 41-827.01, the board shall operate and maintain the centennial museum that
33 houses the mining and mineral museum and may engage in other activities
34 related to the museum as determined by the board or the executive director.
35 Monies received pursuant to this subsection shall be credited to an account
36 to be used for the maintenance and operations of the centennial museum that
37 houses the mining and mineral museum.

1 Sec. 125. Section 41-832, Arizona Revised Statutes, is amended to
2 read:

3 41-832. Meetings of society; nominations; bylaws of society;
4 election of officers; meetings; rules and regulations;
5 employment of director and other personnel

6 A. The society shall meet annually on the first Monday of June at the
7 call of the president for the purpose of nominating new members of the board
8 of trustees and to conduct such other business as may properly come before
9 it. The nominations shall be made by a nominating committee chosen by the
10 members of the society. Members of the board of trustees shall serve for a
11 term of three years.

12 B. The society may adopt bylaws for its government.

13 C. The board of trustees shall elect annually from its membership a
14 president, vice president, secretary and a treasurer.

15 D. Regular meetings of the board of trustees shall be held at least
16 once during each calendar quarter. Special meetings may be held at the call
17 of the president or upon petition of any three of its members. Members of
18 the board of trustees shall receive no compensation but shall be reimbursed
19 for subsistence and travel expenses incurred in the performance of their
20 duties as provided for other state officers.

21 E. The board of trustees shall adopt rules and regulations for the
22 administration of the work of the society and for carrying out the provisions
23 of this article. The rules and regulations may divide membership of the
24 society in four classes named life, one year, associate and honorary and may
25 define each class. The fees for each class shall be fixed by the board of
26 trustees, provided that the fee for any class may not exceed twenty-five
27 dollars per annum.

28 F. The board of trustees may employ, **SUBJECT TO CHAPTER 4, ARTICLE 4**
29 **OF THIS TITLE**, a director, assistant director, custodians, archivists,
30 librarians, researchers, maintenance personnel, gardeners or other necessary
31 personnel, define their duties and fix their compensation **PURSUANT TO SECTION**
32 **38-611 AND** within the limits of legislative appropriation ~~therefor~~. The
33 board may also employ the services of professional consultants on a fee basis
34 within the limits of legislative appropriation ~~therefor~~.

1 Sec. 126. Section 41-902, Arizona Revised Statutes, is amended to
2 read:

3 41-902. Fiscal controls on institutions

4 A. ~~Salary-schedules~~ COMPENSATION FOR OFFICERS AND EMPLOYEES of state
5 institutions under the control of the governor shall be fixed by the governor
6 PURSUANT TO SECTION 38-611 unless otherwise provided by law. ~~Salary~~
7 ~~schedules~~ EMPLOYEE COMPENSATION shall be included in the estimate of expenses
8 submitted by the chief executive officer of the institution.

9 B. Each chief executive officer shall furnish a semi-monthly payroll
10 for the institution under his charge, showing the name, monthly salary and
11 length of service of each officer and employee. The payroll shall be audited
12 by the governor and a statement of the amount found due each employee shall
13 be filed with the director of the department of administration who shall
14 issue a separate warrant to each employee.

15 C. A bond in an amount to be fixed by the governor shall be required
16 from each official and employee having custody of funds or property belonging
17 to the state.

18 D. The remittance of money and other things of value received by the
19 institution shall be governed by ~~the provisions of~~ TITLE 35, chapter 1, ~~title~~
20 ~~35~~ so far as applicable, and the proper executive officer of each institution
21 shall in addition make a detailed statement showing the sources of such
22 receipts to the governor.

23 Sec. 127. Section 41-903, Arizona Revised Statutes, is amended to
24 read:

25 41-903. Officers and employees; employment

26 SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the chief executive
27 officer of each institution under the control of the governor shall appoint
28 assistants, clerks, guards and employees required to operate the institution,
29 the number to be determined by the governor, except as otherwise provided by
30 law. ~~The chief executive officer of the institution may discharge an~~
31 ~~employee for cause. An officer or employee may be removed by the governor~~
32 ~~for misconduct, incompetency or neglect of duty.~~

33 Sec. 128. Section 41-941, Arizona Revised Statutes, is amended to
34 read:

35 41-941. Location; superintendent; claims

36 A. There shall be a state hospital for disabled miners as a separate
37 facility for the benefit of disabled miners at the Arizona pioneers' home at
38 Prescott which shall be managed by the governor.

1 B. The superintendent of the Arizona pioneers' home shall serve as
2 superintendent of the miner's hospital and, **SUBJECT TO CHAPTER 4, ARTICLE 4**
3 **OF THIS TITLE**, may appoint assistants and employees and prescribe their
4 duties, subject to approval of the governor.

5 C. Claims for salaries and expenses authorized by this article shall
6 be presented and paid as other state claims.

7 Sec. 129. Section 41-982, Arizona Revised Statutes, is amended to
8 read:

9 **41-982. Powers and duties**

10 A. The commission may:

11 1. With the consent of a majority of the commission, employ, **SUBJECT**
12 **TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, such personnel as may be required
13 within the limits of funds available in the arts fund. The compensation for
14 such personnel shall be as determined pursuant to section 38-611.

15 2. Hold hearings.

16 3. Enter into contracts, within the limits of funds available, with
17 local and regional associations, individuals, organizations and institutions
18 for any services which further the broad objectives of the commission's
19 program.

20 4. Accept gifts, contributions and bequests of unrestricted funds for
21 deposit in the arts fund or the arts trust fund from individuals,
22 foundations, corporations, and other organizations or institutions for the
23 purpose of furthering the broad objectives of the commission's program.

24 5. Make agreements to carry out the purposes of this article.

25 6. Request cooperation from any state agency for the purposes of this
26 article.

27 B. The commission shall:

28 1. Stimulate and encourage throughout the state the study and
29 presentation of the performing arts, fine arts, and public interest and
30 participation therein.

31 2. Make such surveys of public and private institutions engaged within
32 the state in artistic and cultural activities, as may be deemed advisable,
33 and make recommendations concerning appropriate methods to encourage
34 participation in and appreciation of the arts to meet the legitimate needs
35 and aspirations of persons in all parts of the state.

36 3. Take such steps as may be necessary and appropriate to encourage
37 public interest in the cultural heritage of our state and to expand the
38 state's cultural resources.

1 4. Encourage and assist freedom of artistic and scholarly expression
2 essential for the well-being of the arts.

3 5. Formulate policies and adopt rules and regulations which are
4 consistent with the purposes of this article.

5 Sec. 130. Section 41-1009, Arizona Revised Statutes, is amended to
6 read:

7 41-1009. Inspections; applicability

8 A. An agency inspector or regulator who enters any premises of a
9 regulated person for the purpose of conducting an inspection shall:

10 1. Present photo identification on entry of the premises.

11 2. On initiation of the inspection, state the purpose of the
12 inspection and the legal authority for conducting the inspection.

13 3. Disclose any applicable inspection fees.

14 4. Afford an opportunity to have an authorized on-site representative
15 of the regulated person accompany the agency inspector or regulator on the
16 premises, except during confidential interviews.

17 5. Provide notice of the right to have on request:

18 (a) Copies of any original documents taken by the agency during the
19 inspection if the agency is permitted by law to take original documents.

20 (b) A split of any samples taken during the inspection if the split of
21 any samples would not prohibit an analysis from being conducted or render an
22 analysis inconclusive.

23 (c) Copies of any analysis performed on samples taken during the
24 inspection.

25 (d) Copies of any documents to be relied on to determine compliance
26 with licensure or regulatory requirements if the agency is otherwise
27 permitted by law to do so.

28 6. Inform each person whose conversation with the agency inspector or
29 regulator during the inspection is tape recorded that the conversation is
30 being tape recorded.

31 7. Inform each person interviewed during the inspection that
32 statements made by the person may be included in the inspection report.

33 B. On initiation of an inspection of any premises of a regulated
34 person, an agency inspector or regulator shall provide the following in
35 writing:

36 1. The rights described in subsection A of this section.

37 2. The name and telephone number of a contact person available to
38 answer questions regarding the inspection.

1 3. The due process rights relating to an appeal of a final decision of
2 an agency based on the results of the inspection, including the name and
3 telephone number of a person to contact within the agency and any appropriate
4 state government ombudsman.

5 C. An agency inspector or regulator shall obtain the signature of the
6 regulated person or on-site representative of the regulated person on the
7 writing prescribed in subsection B of this section indicating that the
8 regulated person or on-site representative of the regulated person has read
9 the writing prescribed in subsection B of this section and is notified of the
10 regulated person's or on-site representative of the regulated person's
11 inspection and due process rights. The agency shall maintain a copy of this
12 signature with the inspection report and shall leave a copy with the
13 regulated person or on-site representative of the regulated person. If a
14 regulated person or on-site representative of the regulated person is not at
15 the site or refuses to sign the writing prescribed in subsection B of this
16 section, the agency inspector or regulator shall note that fact on the
17 writing prescribed in subsection B of this section.

18 D. An agency that conducts an inspection shall give a copy of the
19 inspection report to the regulated person or on-site representative of the
20 regulated person either:

21 1. At the time of the inspection.

22 2. Notwithstanding any other state law, within thirty working days
23 after the inspection.

24 3. As otherwise required by federal law.

25 E. The inspection report shall contain deficiencies identified during
26 an inspection. Unless otherwise provided by law, the agency may provide the
27 regulated person an opportunity to correct the deficiencies unless the agency
28 determines that the deficiencies are:

29 1. Committed intentionally.

30 2. Not correctable within a reasonable period of time as determined by
31 the agency.

32 3. Evidence of a pattern of noncompliance.

33 4. A risk to any person, the public health, safety or welfare or the
34 environment.

35 F. If the agency allows the regulated person an opportunity to correct
36 the deficiencies pursuant to subsection E of this section, the regulated
37 person shall notify the agency when the deficiencies have been corrected.
38 Within thirty days of receipt of notification from the regulated person that

1 the deficiencies have been corrected, the agency shall determine if the
2 regulated person is in substantial compliance and notify the regulated person
3 whether or not the regulated person is in substantial compliance. If the
4 regulated person fails to correct the deficiencies or the agency determines
5 the deficiencies have not been corrected within a reasonable period of time,
6 the agency may take any enforcement action authorized by law for the
7 deficiencies.

8 G. For agencies with authority under title 49, if the agency does not
9 allow the regulated person an opportunity to correct deficiencies pursuant to
10 subsection E of this section, on the request of the regulated person, the
11 agency shall provide a written explanation of the reason that an opportunity
12 to correct was not allowed.

13 H. An agency decision pursuant to subsection E or F of this section is
14 not an appealable agency action.

15 I. At least once every month after the commencement of the inspection
16 an agency shall provide a regulated person with an update on the status of
17 any agency action resulting from an inspection of the regulated person. An
18 agency is not required to provide an update after the regulated person is
19 notified that no agency action will result from the agency inspection or
20 after the completion of agency action resulting from the agency inspection.

21 J. For agencies with authority under title 49, if, as a result of an
22 inspection or any other investigation, an agency alleges that a regulated
23 person is not in compliance with licensure or other applicable regulatory
24 requirements, the agency shall provide written notice of that allegation to
25 the regulated person. The notice shall contain the following information:

26 1. A citation to the statute, regulation, license or permit condition
27 on which the allegation of noncompliance is based, including the specific
28 provisions in the statute, regulation, license or permit condition that are
29 alleged to be violated.

30 2. Identification of any documents relied on as a basis for the
31 allegation of noncompliance.

32 3. An explanation stated with reasonable specificity of the regulatory
33 and factual basis for the allegation of noncompliance.

34 4. Instructions for obtaining a timely opportunity to discuss the
35 alleged violation with the agency.

36 K. Subsection J of this section applies only to inspections necessary
37 for the issuance of a license or to determine compliance with licensure or
38 other regulatory requirements. Subsection J of this section does not apply

1 to an action taken pursuant to section 11-871, 11-876, 11-877, 49-457.01,
2 49-457.03 or 49-474.01. Issuance of a notice under subsection J of this
3 section is not a prerequisite to otherwise lawful agency actions seeking an
4 injunction or issuing an order if the agency determines that the action is
5 necessary on an expedited basis to abate an imminent and substantial
6 endangerment to public health or the environment and documents the basis for
7 that determination in the documents initiating the action.

8 L. This section does not authorize an inspection or any other act that
9 is not otherwise authorized by law.

10 M. Except as otherwise provided in subsection K of this section, this
11 section applies only to inspections necessary for the issuance of a license
12 or to determine compliance with licensure or other regulatory requirements
13 applicable to a licensee. This section does not apply:

14 1. To criminal investigations, investigations under tribal state
15 gaming compacts and undercover investigations that are generally or
16 specifically authorized by law.

17 2. If the inspector or regulator has reasonable suspicion to believe
18 that the regulated person may be engaged in criminal activity.

19 3. To the Arizona peace officer standards and training board
20 established by section 41-1821.

21 N. If an inspector or regulator gathers evidence in violation of this
22 section, the violation may be a basis to exclude the evidence in a civil or
23 administrative proceeding.

24 O. Failure of an agency, board or commission employee to comply with
25 this section:

26 1. ~~Constitutes cause for~~ MAY SUBJECT THE EMPLOYEE TO disciplinary
27 action or dismissal ~~of an employee~~.

28 2. Shall be considered by the judge and administrative law judge as
29 grounds for reduction of any fine or civil penalty.

30 P. An agency may make rules to implement subsection A, paragraph 5 of
31 this section.

32 Q. Nothing in this section shall be used to exclude evidence in a
33 criminal proceeding.

1 Sec. 131. Section 41-1051, Arizona Revised Statutes, is amended to
2 read:

3 41-1051. Governor's regulatory review council; membership;
4 terms; compensation; powers

5 A. A governor's regulatory review council is established that consists
6 of six members who are appointed by the governor pursuant to section 38-211,
7 and the director of the department of administration or the assistant
8 director of the department of administration who is responsible for
9 administering the council. The director or assistant director is an ex
10 officio member and chairperson of the council. The council shall elect a
11 vice-chairperson to serve as chairperson in the chairperson's absence. The
12 governor shall appoint at least one member who represents the public
13 interest, at least one member who represents the business community, one
14 member from a list of three persons who are not legislators submitted by the
15 president of the senate and one member from a list of three persons who are
16 not legislators submitted by the speaker of the house of representatives. At
17 least one member of the council shall be an attorney licensed to practice law
18 in this state. The governor shall appoint the members of the council for
19 staggered terms of three years. A vacancy occurring during the term of
20 office of any member shall be filled by appointment by the governor for the
21 unexpired portion of the term in the same manner as provided in this section.

22 B. The council shall meet at least once a month at a time and place
23 set by the chairperson and at other times and places as the chairperson deems
24 necessary.

25 C. Members of the council are eligible to receive compensation in an
26 amount of two hundred dollars for each day on which the council meets and
27 reimbursement of expenses pursuant to title 38, chapter 4, article 2.

28 D. The chairperson, subject to chapter 4, **ARTICLE 4 AND, AS**
29 **APPLICABLE**, articles 5 and 6 of this title, shall employ, determine the
30 conditions of employment of and specify the duties of administrative,
31 secretarial and clerical employees as the chairperson deems necessary.

32 E. The council may make rules pursuant to this chapter to carry out
33 the purposes of this chapter.

34 F. The council shall make the following information available to the
35 public on request and on the council's website:

- 36 1. A list of agency rules approved or returned pursuant to section
37 41-1052.

1 6. Secure, compile and maintain all decisions, opinions or reports of
2 administrative law judges issued pursuant to this article and the reference
3 materials and supporting information that may be appropriate.

4 7. Develop, implement and maintain a program for the continuing
5 training and education of administrative law judges and agencies in regard to
6 their responsibilities under this article. The program shall require that an
7 administrative law judge receive training in the technical and subject matter
8 areas of the sections to which the administrative law judge is assigned.

9 8. Develop, implement and maintain a program of evaluation to aid the
10 director in the evaluation of administrative law judges appointed pursuant to
11 this article that includes comments received from the public.

12 9. Annually report the following to the governor, the president of the
13 senate and the speaker of the house of representatives by December 1 for the
14 prior fiscal year:

15 (a) The number of administrative law judge decisions rejected or
16 modified by agency heads.

17 (b) By category, the number and disposition of motions filed pursuant
18 to section 41-1092.07, subsection A to disqualify office administrative law
19 judges for bias, prejudice, personal interest or lack of expertise.

20 (c) By agency, the number and type of violations of section 41-1009.

21 10. Schedule hearings pursuant to section 41-1092.05 upon the request
22 of an agency or the filing of a notice of appeal pursuant to section
23 41-1092.03.

24 D. The director shall not require legal representation to appear
25 before an administrative law judge.

26 E. Except as provided in subsection F of this section, all state
27 agencies supported by state general fund sources, unless exempted by this
28 article, and the registrar of contractors shall use the services and
29 personnel of the office to conduct administrative hearings. All other
30 agencies shall contract for services and personnel of the office to conduct
31 administrative hearings.

32 F. An agency head, board or commission that directly conducts an
33 administrative hearing as an administrative law judge is not required to use
34 the services and personnel of the office for that hearing.

35 G. Each state agency, and each political subdivision contracting for
36 office services pursuant to subsection I of this section, shall make its
37 facilities available, as necessary, for use by the office in conducting
38 proceedings pursuant to this article.

1 H. The office shall employ full-time administrative law judges to
2 conduct hearings required by this article or other laws as follows:

3 1. The director shall assign administrative law judges from the office
4 to an agency, on either a temporary or a permanent basis, at supervisory or
5 other levels, to preside over contested cases and appealable agency actions
6 in accordance with the special expertise of the administrative law judge in
7 the subject matter of the agency.

8 2. The director shall establish the subject matter and agency sections
9 within the office that are necessary to carry out this article. Each subject
10 matter and agency section shall provide training in the technical and subject
11 matter areas of the section as prescribed in subsection C, paragraph 7 of
12 this section.

13 I. If the office cannot furnish an office administrative law judge
14 promptly in response to an agency request, the director may contract with
15 qualified individuals to serve as temporary administrative law judges. These
16 temporary administrative law judges are not employees of this state.

17 J. The office may provide administrative law judges on a contract
18 basis to any governmental entity to conduct any hearing not covered by this
19 article. The director may enter into contracts with political subdivisions
20 of this state, and these political subdivisions may contract with the
21 director for the purpose of providing administrative law judges and reporters
22 for administrative proceedings or informal dispute resolution. The contract
23 may define the scope of the administrative law judge's duties. Those duties
24 may include the preparation of findings, conclusions, decisions or
25 recommended decisions or a recommendation for action by the political
26 subdivision. For these services, the director shall request payment for
27 services directly from the political subdivision for which the services are
28 performed, and the director may accept payment on either an advance or
29 reimbursable basis.

30 K. The office shall apply monies received pursuant to subsections E
31 and J of this section to offset its actual costs for providing personnel and
32 services.

33 Sec. 133. Section 41-1604, Arizona Revised Statutes, is amended to
34 read:

35 41-1604. Duties and powers of director

36 A. The director shall:

37 1. Be responsible for the overall operations and policies of the
38 department.

1 2. Maintain and administer all institutions and programs within the
2 department, including prisons, reception and diagnostic centers, conservation
3 camps, community correctional centers and such other facilities and programs
4 as may be required and established for the custody, control, correction,
5 treatment and rehabilitation of all adult offenders who are committed to the
6 department.

7 3. Be responsible for the administration and execution of all
8 community supervision services, including those for adult offenders who are
9 released in accordance with law.

10 4. Develop a program to provide uniform statewide community
11 supervision field services in this state and employ parole or community
12 supervision officers based on qualifications prescribed by the director,
13 including physical, psychological and educational qualifications and
14 practical experience.

15 5. Be responsible for the development of policies and programs that
16 shall be recommended to the governor and the legislature for the purpose of
17 improving the various adult correctional programs of this state.

18 6. Develop and establish a uniform statewide method of reporting
19 statistics as related to this chapter.

20 7. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, employ deputy
21 directors and other key personnel based on qualifications prescribed by the
22 director that require education and practical experience.

23 8. Adopt rules pursuant to chapter 6 of this title for the development
24 of incentives to encourage good behavior and the faithful performance of work
25 by prisoners.

26 9. Adopt rules pursuant to chapter 6 of this title to limit inmate
27 access to the internet through the use of a computer, computer system,
28 network, computer service provider or remote computing service.

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

36 B. The director may:

37 1. Adopt rules to implement the purposes of the department and the
38 duties and powers of the director.

1 2. Take any administrative action to improve the efficiency of the
2 department, including the following:

3 (a) Create new divisions or units or consolidate divisions or units.

4 (b) **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, transfer employees
5 between the various divisions and units of the department.

6 (c) Shift duties between divisions or units.

7 (d) Delegate to appropriate personnel the administrative functions,
8 powers or duties that the director believes can be competently, efficiently
9 and properly performed. The director shall not delegate the responsibilities
10 in subsection A, paragraphs 1 and 5 of this section.

11 (e) Transfer adult inmates between adult institutions or adult
12 facilities.

13 (f) Authorize work crews to perform acceptable tasks in any part of
14 the state.

15 (g) Accept unconvicted persons pursuant to a court order for purposes
16 of examination and treatment regarding competency to understand any stage of
17 a criminal proceeding after indictment or information or their ability to
18 assist in their own defense.

19 (h) Accept convicted yet unsentenced persons pursuant to a court order
20 for purposes of conducting a mental health examination or a diagnostic
21 evaluation.

22 (i) **SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF**
23 **THIS TITLE**, appoint certain employees of the department to peace officer
24 status for purposes of guarding, transporting or pursuing persons who are
25 under the jurisdiction of the department and appoint certain employees of the
26 department to peace officer status for purposes of investigating or arresting
27 persons who commit or attempt to commit offenses directly relating to the
28 operations of the department. Peace officers of the department shall not
29 preempt the authority and jurisdiction of established agencies of this state
30 and political subdivisions of this state. Such officers shall notify
31 agencies of this state and political subdivisions of this state before
32 conducting an investigation within the jurisdiction of the agency and before
33 making an arrest within the jurisdiction of the agency and shall ask, except
34 in an emergency, if the agency wishes to participate, perform the
35 investigation or arrest the person to be arrested before proceeding.
36 Personnel who are appointed as peace officers by the director shall have the
37 minimum qualifications established for peace officers pursuant to section
38 41-1822. Personnel who are appointed by the director pursuant to this

1 subdivision are not eligible to participate in the public safety personnel
2 retirement system except as otherwise provided in title 38, chapter 5,
3 article 4.

4 (j) Operate travel reduction programs that are subsidized by the
5 department for employees who commute between work and home by vanpools,
6 carpools and buses or in vehicles that are purchased or leased by the
7 department.

8 3. Establish by rule a one-time fee for conducting background checks
9 on any person who enters a department facility to visit a prisoner. A fee
10 shall not be charged for a person who is under eighteen years of age. The
11 director may adopt rules that waive all or part of the fee. The director
12 shall deposit, pursuant to sections 35-146 and 35-147, any monies collected
13 pursuant to this paragraph in the department of corrections building renewal
14 fund established by section 41-797.

15 Sec. 134. Section 41-1711, Arizona Revised Statutes, is amended to
16 read:

17 41-1711. Department of public safety; purpose; location;
18 qualifications of director; responsibilities

19 A. There shall be a department of public safety which is responsible
20 for creating and coordinating services for use by local law enforcement
21 agencies in protecting the public safety. The principal office and
22 headquarters of the department shall be in Phoenix.

23 B. The department shall formulate plans with a view to establishing
24 modern services for prevention of crime, apprehension of violators, training
25 of law enforcement personnel, and the promotion of public safety. The
26 department shall in no way preempt the authority and jurisdiction of
27 established agencies of political subdivisions of the state.

28 C. The director shall be selected on the basis of training and
29 experience with a minimum of five years' experience in the administration of
30 law enforcement.

31 D. The director shall be appointed by the governor pursuant to section
32 38-211 to serve ~~for a term of five years~~ CONCURRENTLY WITH THE APPOINTING
33 GOVERNOR and shall be subject to removal for cause, including but not limited
34 to malfeasance, misfeasance and nonfeasance in office. ~~The term shall expire~~
35 ~~on the third Monday in January of the appropriate year.~~ The director shall
36 receive annual compensation as determined pursuant to section 38-611.

37 E. The director shall be directly responsible to the governor for the
38 conduct and the administration of the department. If the director is unable

1 to act, the deputy director shall direct the activities of the department
2 during the period in which the director is unable to act. If the director
3 and deputy director are unable to act, the governor shall direct the
4 activities of the department during the period in which the director and
5 deputy director are unable to act.

6 F. The director shall prescribe procedures for use of department
7 personnel, facilities, equipment, supplies and other resources in assisting
8 search or rescue operations.

9 G. The director shall be responsible for the establishment, operation
10 and maintenance of the statewide emergency medical services communication
11 system prescribed by section 41-1835.

12 H. The director may purchase, lease, equip, staff and operate air
13 ambulances, including ambulance helicopters, pursuant to section 41-1834.

14 I. To limit the expenditures of monies derived from the state highway
15 fund established pursuant to article IX, section 14, Constitution of Arizona,
16 to traffic safety and traffic law enforcement purposes, the department of
17 public safety shall:

18 1. Maintain a strict account of all costs incurred by each function of
19 the department. Such costs shall be determined and allocated between traffic
20 safety or traffic law enforcement functions and all other departmental
21 functions and shall include such costs as wages or salaries, materials or
22 supplies and equipment or facility use.

23 2. Immediately following the determination of all such costs certify
24 to the office of strategic planning and budgeting the full amount of all such
25 costs relating to the various functions within the department.

26 J. The office of strategic planning and budgeting shall annually
27 submit a separate report to the legislature compiled from the department's
28 functional costs certification indicating the complete breakdown between
29 those costs which are related to traffic safety or traffic law enforcement
30 functions and the various other functions within the department. The
31 director of the department of administration shall include within the
32 director's annual report to the legislature a recommendation for a separate
33 appropriation to reimburse the state highway fund from the state general fund
34 for any expenditures from the state highway fund during the prior fiscal year
35 in excess of the total of all costs related to traffic safety or traffic law
36 enforcement functions of the department.

37 K. The director shall establish a special hazardous materials
38 emergency response organizational unit within the department to function as

1 the initial response element of the hazardous materials emergency management
2 program pursuant to section 26-305.02.

3 L. The department is designated as this state's recipient of federal
4 victims of crime act grants.

5 Sec. 135. Section 41-1713, Arizona Revised Statutes, is amended to
6 read:

7 41-1713. Powers and duties of director; authentication of
8 records

9 A. The director of the department shall:

10 1. Be the administrative head of the department.

11 2. Subject to ~~the merit system rules~~ CHAPTER 4, ARTICLE 4 AND, AS
12 APPLICABLE, ARTICLE 5 OF THIS TITLE AND SECTION 41-1830.15, appoint, suspend,
13 demote, promote or dismiss ~~all other classified~~ employees of the department
14 on the recommendation of their respective division superintendent. ~~The~~
15 ~~director shall determine and furnish the law enforcement merit system council~~
16 ~~established by section 41-1830.11 with a table of organization.~~ The
17 superintendent of each division shall serve at the concurrent pleasure of the
18 director and the governor. THE DIRECTOR SHALL DETERMINE COMPENSATION FOR ALL
19 EMPLOYEES OF THE DEPARTMENT PURSUANT TO SECTION 38-611.

20 3. Except as provided in sections 12-119, 41-1304 and 41-1304.05 AND
21 SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF THIS TITLE
22 AND SECTION 41-1830.15, employ officers and other personnel as the director
23 deems necessary for the protection and security of the state buildings and
24 grounds in the governmental mall described in section 41-1362, state office
25 buildings in Tucson and persons who are on any of those properties.
26 Department officers may make arrests and issue citations for crimes or
27 traffic offenses and for any violation of a rule adopted under section
28 41-796. For the purposes of this paragraph, security does not mean security
29 services related to building operation and maintenance functions provided by
30 the department of administration.

31 4. Make rules necessary for the operation of the department.

32 5. Annually submit a report of the work of the department to the
33 governor and the legislature, or more often if requested by the governor or
34 the legislature.

35 6. Appoint a deputy director with the approval of the governor.

36 7. Adopt an official seal that contains the words "department of
37 public safety" encircling the seal of this state as part of its design.

1 8. Investigate, on receipt, credible evidence that a licensee or
2 registrant has been arrested for, charged with or convicted of an offense
3 that would preclude the person from holding a license or registration
4 certificate issued pursuant to title 32, chapter 26.

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

12 10. Adopt and administer the breath, blood or other bodily substances
13 test rules pursuant to title 28, chapter 4.

14 11. Develop procedures to exchange information with the department of
15 transportation for any purpose related to sections 28-1324, 28-1325, 28-1326,
16 28-1462 and 28-3318.

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

20 B. The director may:

21 1. Issue commissions to officers of the department.

22 2. Request the cooperation of the utilities, communication media and
23 public and private agencies and any sheriff or other peace officer in any
24 county or municipality, within the limits of their respective jurisdictions
25 when necessary, to aid and assist in the performance of any duty imposed by
26 this chapter.

27 3. Cooperate with any public or private agency or person to receive or
28 give necessary assistance and may contract for such assistance subject to
29 legislative appropriation controls.

30 4. Utilize the advice of the board and cooperate with sheriffs, local
31 police and peace officers within the state for the prevention and discovery
32 of crimes, the apprehension of criminals and the promotion of public safety.

33 5. Acquire in the name of the state, either in fee or lesser estate or
34 interest, all real or any personal property that the director considers
35 necessary for the department's use, by purchase, donation, dedication,
36 exchange or other lawful means. All acquisitions of personal property
37 pursuant to this paragraph shall be made as prescribed in chapter 23 of this
38 title unless otherwise provided by law.

1 6. Dispose of any property, real or personal, or any right, title or
2 interest in the property, when the director determines that the property is
3 no longer needed or necessary for the department's use. Disposition of
4 personal property shall be as prescribed in chapter 23 of this title. The
5 real property shall be sold by public auction or competitive bidding after
6 notice published in a daily newspaper of general circulation, not less than
7 three times, two weeks before the sale and subject to the approval of the
8 director of the department of administration. When real property is sold, it
9 shall not be sold for less than the appraised value as established by a
10 competent real estate appraiser. Any monies derived from the disposal of
11 real or personal property shall be deposited, pursuant to sections 35-146 and
12 35-147, in the Arizona highway patrol fund as authorized by section 41-1752,
13 subsection B, paragraph 6.

14 7. Sell, lend or lease personal property directly to any state, county
15 or local law enforcement agency. Personal property may be sold or leased at
16 a predetermined price without competitive bidding. Any state, county or
17 local law enforcement agency receiving personal property may not resell or
18 lease the property to any person or organization except for educational
19 purposes.

20 8. Dispose of surplus property by transferring the property to the
21 department of administration for disposition to another state budget unit or
22 political subdivision if the state budget unit or political subdivision is
23 not a law enforcement agency.

24 9. Lease or rent personal property directly to any state law
25 enforcement officer for the purpose of traffic safety, traffic control or
26 other law enforcement related activity.

27 10. Sell for one dollar, without public bidding, the department issued
28 handgun or shotgun to a department officer on duty related retirement
29 pursuant to title 38, chapter 5, article 4. Any monies derived from the sale
30 of the handgun or shotgun to the retiring department officer shall be
31 deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway
32 patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

33 11. Conduct state criminal history records checks for the purpose of
34 updating and verifying the status of current licensees or registrants who
35 have a license or certificate issued pursuant to title 32, chapter 26. The
36 director shall investigate, on receipt, credible evidence that a licensee or
37 registrant has been arrested for, charged with or convicted of an offense

1 that would preclude the person from holding a registration certificate issued
2 pursuant to title 32, chapter 26.

3 12. Grant a maximum of two thousand eighty hours of industrial injury
4 leave to any sworn department employee who is injured in the course of the
5 employee's duty, any civilian department employee who is injured in the
6 course of performing or assisting in law enforcement or hazardous duties or
7 any civilian department employee who was injured as a sworn department
8 employee rehired after August 9, 2001 and would have been eligible pursuant
9 to this paragraph and whose work-related injury prevents the employee from
10 performing the normal duties of that employee's classification. This
11 industrial injury leave is in addition to any vacation or sick leave earned
12 or granted to the employee and does not affect the employee's eligibility for
13 any other benefits, including workers' compensation. The employee is not
14 eligible for payment pursuant to section 38-615 of industrial injury leave
15 that is granted pursuant to this paragraph. ~~Subject to approval by the law
16 enforcement merit system council, the director shall adopt rules and
17 procedures regarding industrial injury leave hours granted pursuant to this
18 paragraph.~~

19 13. Sell at current replacement cost, without public bidding, the
20 department issued badge of authority to an officer of the department on the
21 officer's promotion or separation from the department. Any monies derived
22 from the sale of the badge to an officer shall be deposited, pursuant to
23 sections 35-146 and 35-147, in the department of public safety administration
24 fund to offset replacement costs.

25 C. The director and any employees of the department that the director
26 designates in writing may use the seal adopted pursuant to subsection A,
27 paragraph 7 of this section to fully authenticate any department records and
28 copies of these records. These authenticated records or authenticated copies
29 of records shall be judicially noticed and shall be received in evidence by
30 the courts of this state without any further proof of their authenticity.

31 Sec. 136. Repeal

32 Section 41-1714, Arizona Revised Statutes, is repealed.

33 Sec. 137. Section 41-1741, Arizona Revised Statutes, is amended to
34 read:

35 41-1741. Arizona highway patrol; employees; authority;
36 compensation

37 A. The department shall maintain a division known as the Arizona
38 highway patrol.

1 B. The division shall be composed of a patrol superintendent,
2 patrolmen, and clerical and technical assistants as designated by the
3 director.

4 C. The patrol superintendent and patrolmen are vested with the
5 authority of peace officers, primarily for the purpose of enforcing laws
6 relating to the use of highways and operation of vehicles thereon.

7 D. The compensation of employees of the division ~~shall be determined~~
8 ~~by the director, and~~ shall, together with expenses of the division, be
9 budgeted and paid from the state highway fund.

10 E. This division shall also consist of the following sections:

11 1. Communications.

12 2. Criminal identification.

13 Sec. 138. Section 41-1761, Arizona Revised Statutes, is amended to
14 read:

15 41-1761. Division of narcotics enforcement and criminal
16 intelligence; agents; qualifications

17 A. There is established a division of narcotics enforcement and
18 criminal intelligence within the department which shall consist of a
19 superintendent who shall be experienced in criminal intelligence and have
20 recognized ability in the field of law enforcement, and shall hold the
21 minimum of a bachelor's degree.

22 B. Agents shall be appointed by the director **SUBJECT TO CHAPTER 4,**
23 **ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF THIS TITLE.**

24 C. The director may employ, **SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS**
25 **APPLICABLE, ARTICLE 5 OF THIS TITLE,** such special agents as he may from time
26 to time deem necessary or advisable.

27 D. Agents of the division shall be vested with the same powers as
28 other peace officers charged with the duty of law enforcement.

29 Sec. 139. Section 41-1822, Arizona Revised Statutes, is amended to
30 read:

31 41-1822. Powers and duties of board; definition

32 A. With respect to peace officer training and certification, the board
33 shall:

34 1. **Establish ADOPT** rules for the government and conduct of the board,
35 including meeting times, places and matters to be placed on the agenda of
36 each meeting.

1 2. Make recommendations, consistent with this article, to the
2 governor, the speaker of the house of representatives and the president of
3 the senate on all matters relating to law enforcement and public safety.

4 3. Prescribe reasonable minimum qualifications for officers to be
5 appointed to enforce the laws of this state and the political subdivisions of
6 this state and certify officers in compliance with these qualifications.
7 Notwithstanding any other law, the qualifications shall require United States
8 citizenship, shall relate to physical, mental and moral fitness and shall
9 govern the recruitment, appointment and retention of all agents, peace
10 officers and police officers of every political subdivision of this state.
11 The board shall constantly review the qualifications established by this
12 section and may amend the qualifications at any time, subject to the
13 requirements of section 41-1823.

14 4. Prescribe minimum courses of training and minimum standards for
15 training facilities for law enforcement officers. Only this state and
16 political subdivisions of this state may conduct basic peace officer
17 training. Basic peace officer academies may admit individuals who are not
18 peace officer cadets only if a cadet meets the minimum qualifications
19 established by paragraph 3 of this subsection. Training shall include:

20 (a) Courses in responding to and reporting all criminal offenses that
21 are motivated by race, color, religion, national origin, sexual orientation,
22 gender or disability.

23 (b) Training certified by the director of the department of health
24 services with assistance from a representative of the board on the nature of
25 unexplained infant death and the handling of cases involving the unexplained
26 death of an infant.

27 (c) Medical information on unexplained infant death for first
28 responders, including awareness and sensitivity in dealing with families and
29 child care providers, and the importance of forensically competent death
30 scene investigations.

31 (d) Information on the protocol of investigation in cases of an
32 unexplained infant death, including the importance of a consistent policy of
33 thorough death scene investigation.

34 (e) The use of the infant death investigation checklist pursuant to
35 section 36-2293.

36 (f) If an unexplained infant death occurs, the value of timely
37 communication between the medical examiner's office, the department of health
38 services and appropriate social service agencies that address the issue of

1 infant death and bereavement, to achieve a better understanding of these
2 deaths and to connect families to various community and public health support
3 systems to enhance recovery from grief.

4 5. Recommend curricula for advanced courses and seminars in law
5 enforcement and intelligence training in universities, colleges and community
6 colleges, in conjunction with the governing body of the educational
7 institution.

8 6. Make inquiries to determine whether this state or political
9 subdivisions of this state are adhering to the standards for recruitment,
10 appointment, retention and training established pursuant to this
11 article. The failure of this state or any political subdivision to adhere to
12 the standards shall be reported at the next regularly scheduled meeting of
13 the board for action deemed appropriate by that body.

14 7. **SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF**
15 **THIS TITLE**, employ an executive director and other staff as are necessary to
16 fulfill the powers and duties of the board ~~in accordance with the~~
17 ~~requirements of the law enforcement merit system council~~. **THE DIRECTOR AND**
18 **OTHER BOARD STAFF ARE ELIGIBLE TO RECEIVE COMPENSATION AS DETERMINED PURSUANT**
19 **TO SECTION 38-611.**

20 B. With respect to state department of corrections correctional
21 officers, the board shall:

22 1. Approve a basic training curriculum of at least two hundred forty
23 hours.

24 2. Establish uniform minimum standards. These standards shall include
25 high school graduation or the equivalent and a physical examination as
26 prescribed by the director of the state department of corrections.

27 3. Establish uniform standards for background investigations,
28 including criminal histories under section 41-1750, of all applicants before
29 enrolling in the academy. The board may adopt special procedures for
30 extended screening and investigations in extraordinary cases to ensure
31 suitability and adaptability to a career as a correctional officer.

32 4. Issue a certificate of completion to any state department of
33 corrections correctional officer who satisfactorily complies with the minimum
34 standards and completes the basic training program. The board may issue a
35 certificate of completion to a state department of corrections correctional
36 officer who has received comparable training in another state if the board
37 determines that the training was at least equivalent to that provided by the
38 academy and if the person complies with the minimum standards.

1 5. Establish continuing training requirements and approve curricula.

2 C. With respect to peace officer misconduct, the board may:

3 1. Receive complaints of peace officer misconduct from any person,
4 request law enforcement agencies to conduct investigations and conduct
5 independent investigations into whether an officer is in compliance with the
6 qualifications established pursuant to subsection A, paragraph 3 of this
7 section.

8 ~~2. Deny, suspend, revoke, or cancel the certification of an officer~~
9 ~~who is not in compliance with the qualifications established pursuant to~~
10 ~~subsection A, paragraph 3 of this section.~~

11 ~~3.~~ 2. Receive a complaint of peace officer misconduct from the
12 president or chief executive officer of a board recognized law enforcement
13 association that represents the interests of certified law enforcement
14 officers if the association believes that a law enforcement agency refused to
15 investigate or made findings that are contradictory to prima facie evidence
16 of a violation of the qualifications established pursuant to subsection A,
17 paragraph 3 of this section. If the board finds that the law enforcement
18 agency refused to investigate or made findings that contradicted prima facie
19 evidence of a violation of the qualifications established pursuant to
20 subsection A, paragraph 3 of this section, the board shall conduct an
21 independent investigation to determine whether the officer is in compliance
22 with the qualifications established pursuant to subsection A, paragraph 3 of
23 this section and provide a letter of the findings based on the investigation
24 conducted by the board to the president or chief executive officer of the
25 board recognized law enforcement association who made the complaint.

26 D. The board may:

27 1. Deny, suspend, revoke or cancel the certification of an officer who
28 is not in compliance with the qualifications established pursuant to
29 subsection A, paragraph 3 of this section.

30 2. Provide training and related services to assist state, tribal and
31 local law enforcement agencies to better serve the public.

32 3. Enter into contracts to carry out its powers and duties.

33 E. This section does not create a cause of action or a right to bring
34 an action, including an action based on discrimination due to sexual
35 orientation.

36 F. ~~As used in~~ FOR THE PURPOSES OF this section, "sexual orientation"
37 means consensual homosexuality or heterosexuality.

1 SHALL PROVIDE THE EMPLOYING AGENCY WITH A COPY OF THE APPEAL NOT LESS THAN
2 TWENTY DAYS IN ADVANCE OF THE HEARING.

3 B. HEARINGS ON THE APPEALS ARE OPEN TO THE PUBLIC, EXCEPT IN CASES
4 WHERE THE COVERED EMPLOYEE REQUESTS A CONFIDENTIAL HEARING, AND SHALL BE
5 INFORMAL WITH TECHNICAL RULES OF EVIDENCE NOT APPLYING TO THE PROCEEDINGS
6 EXCEPT THE RULE OF PRIVILEGE RECOGNIZED BY LAW. BOTH THE COVERED EMPLOYEE
7 AND THE EMPLOYING AGENCY SHALL BE NOTIFIED OF ANY HEARING OR MEETING DATE NOT
8 LESS THAN TWENTY DAYS IN ADVANCE OF THE HEARING OR NOT LESS THAN TEN DAYS IN
9 ADVANCE OF A MEETING AND MAY SELECT REPRESENTATIVES OF THEIR CHOOSING,
10 PRESENT AND CROSS-EXAMINE WITNESSES AND GIVE EVIDENCE BEFORE THE STATE LAW
11 ENFORCEMENT PERSONNEL BOARD. THE STATE LAW ENFORCEMENT PERSONNEL BOARD MAY
12 APPOINT A HEARING OFFICER TO CONDUCT THE HEARING AND TAKE EVIDENCE ON BEHALF
13 OF THE BOARD AND EXERCISE THE RIGHTS PRESCRIBED BY SECTION 12-2212. THE
14 STATE LAW ENFORCEMENT PERSONNEL BOARD SHALL PREPARE AN OFFICIAL RECORD OF THE
15 HEARING, INCLUDING ALL TESTIMONY RECORDED MANUALLY OR BY MECHANICAL DEVICE,
16 AND EXHIBITS. EITHER PARTY MAY REQUEST THAT THE RECORD BE TRANSCRIBED. IF A
17 PARTY REQUESTS THAT THE RECORD BE TRANSCRIBED, AN ENTITY, OTHER THAN THE
18 STATE LAW ENFORCEMENT PERSONNEL BOARD, SELECTED BY THE REQUESTING PARTY SHALL
19 TRANSCRIBE THE RECORD AT THE COST OF THE REQUESTING PARTY. IF THE
20 DISCIPLINARY HEARING WOULD INVOLVE EVIDENCE THE STATE IS PREVENTED BY LAW
21 FROM DISCLOSING, A CONFIDENTIAL HEARING ON THE STATE'S REQUEST SHALL BE
22 GRANTED.

23 C. THE STATE LAW ENFORCEMENT PERSONNEL BOARD SHALL:

24 1. AFFIRM THE DECISION OF THE DIRECTOR OF THE EMPLOYING AGENCY IF THE
25 BOARD FINDS THAT CAUSE EXISTED FOR ANY DISCIPLINE TO BE IMPOSED.

26 2. REVERSE THE DECISION OF THE DIRECTOR OF THE EMPLOYING AGENCY IF THE
27 BOARD FINDS THAT CAUSE DID NOT EXIST FOR ANY DISCIPLINE TO BE IMPOSED AND, IN
28 THE CASE OF DISMISSAL OR DEMOTION, RETURN THE COVERED EMPLOYEE TO THE SAME
29 POSITION THE EMPLOYEE HELD BEFORE THE DISMISSAL OR DEMOTION WITH OR WITHOUT
30 BACK PAY.

31 D. THE STATE LAW ENFORCEMENT PERSONNEL BOARD SHALL NOT MODIFY THE
32 DISCIPLINARY PENALTY CHOSEN BY THE DIRECTOR OF THE EMPLOYING AGENCY.

33 E. WITHIN FORTY-FIVE DAYS AFTER THE CONCLUSION OF THE HEARING, THE
34 STATE LAW ENFORCEMENT PERSONNEL BOARD SHALL ENTER ITS DECISION AND SHALL AT
35 THE SAME TIME SEND A COPY OF THE DECISION BY CERTIFIED MAIL TO THE EMPLOYING
36 AGENCY AND TO THE COVERED EMPLOYEE AT THE COVERED EMPLOYEE'S ADDRESS AS GIVEN
37 AT THE HEARING OR TO A REPRESENTATIVE DESIGNATED BY THE COVERED EMPLOYEE TO
38 RECEIVE A COPY OF THE DECISION.

1 F. A COVERED EMPLOYEE MAY REPRESENT HIMSELF OR DESIGNATE A
2 REPRESENTATIVE, NOT NECESSARILY AN ATTORNEY, BEFORE ANY BOARD HEARING OR ANY
3 QUASI-JUDICIAL HEARING HELD PURSUANT TO THIS SECTION, EXCEPT THAT NO FEE MAY
4 BE CHARGED FOR ANY SERVICES RENDERED IN CONNECTION WITH THE HEARING BY ANY
5 DESIGNATED REPRESENTATIVE WHO IS NOT AN ATTORNEY ADMITTED TO PRACTICE.

6 G. FOR THE PURPOSES OF THIS SECTION, "EMPLOYING AGENCY" HAS THE SAME
7 MEANING PRESCRIBED IN SECTION 41-1830.12.

8 Sec. 146. Section 41-1830.15, Arizona Revised Statutes, is amended to
9 read:

10 41-1830.15. Causes for dismissal or discipline: definitions

11 A. The director of the department of public safety may dismiss or
12 discipline any ~~classified employee~~ FULL AUTHORITY PEACE OFFICE IN THE COVERED
13 SERVICE EMPLOYED BY THE DEPARTMENT OF PUBLIC SAFETY based on any of the
14 following causes:

- 15 1. Fraud or misrepresentation in securing employment.
- 16 2. Incompetency.
- 17 3. Inefficiency.
- 18 4. Inexcusable neglect of duty or unauthorized absence.
- 19 5. Insubordination.
- 20 6. Dishonesty.
- 21 7. Physical or mental disability subject to the provisions of the
22 Americans with disabilities act of 1990 (42 United States Code sections 12101
23 through 12213).
- 24 8. Unauthorized drinking on duty or drunkenness on duty.
- 25 9. Being impaired by alcohol or drugs, as provided in title 13,
26 chapter 34, while on duty.
- 27 10. Commission of any crime classified as a felony.
- 28 11. Discourteous treatment of the public or other employees.
- 29 12. Commission of any crime involving moral turpitude.
- 30 13. Improper political activity as proscribed in section 41-772.
- 31 14. Misuse or unauthorized use of state property.
- 32 15. Addiction to the illegal use of a narcotic or dangerous drug.
- 33 16. Any other failure of good behavior or acts either during or outside
34 of duty hours that are incompatible with or inimical to the interest of the
35 department of public safety.

36 B. For the purposes of this section:

- 37 1. "Incompetency" means the lack of ability or judgment, legal
38 qualifications or fitness to discharge required duties.

1 2. "Inefficiency" means the failure to produce as required for reasons
2 other than incompetency.

3 Sec. 147. Section 41-1833, Arizona Revised Statutes, is amended to
4 read:

5 41-1833. Powers and duties of the director

6 A. The director shall:

7 1. Subject to ~~the law enforcement merit system council classifications~~
8 ~~and pay scales~~ CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF THIS
9 TITLE, appoint, define the duties and prescribe the terms and conditions of
10 employment of all employees necessary to carry out the purposes of this
11 chapter.

12 2. Adopt rules necessary for carrying out the purposes of this
13 chapter.

14 3. Cooperate with the state director of emergency management when a
15 state of emergency or a state of war emergency has been declared by the
16 governor.

17 B. The director may:

18 1. Request the cooperation of utilities, communications media and
19 public and private agencies to aid and assist in the implementation and
20 maintenance of departmental components of the statewide emergency medical
21 services system.

22 2. Cooperate with any agency or group which provides a similar program
23 of emergency medical services in a contiguous state.

24 3. Enter into contracts and agreements for the acquisition and
25 purchase of any equipment, tools, supplies and materials necessary in the
26 administration of this chapter.

27 4. Accept and expend federal funds and private grants, gifts,
28 contributions and devises to assist in carrying out the purposes of this
29 chapter. Such funds shall not revert to the state general fund at the close
30 of a fiscal year.

31 Sec. 148. Section 41-1952, Arizona Revised Statutes, is amended to
32 read:

33 41-1952. Department of economic security; director;
34 appointment; compensation

35 A. A department of economic security is established.

36 B. The direction, operation and control of the department are the
37 responsibility of the director.

1 C. The director shall be appointed by the governor ~~with the advice and~~
2 ~~consent of the senate~~ PURSUANT TO SECTION 38-211 and shall serve at the
3 pleasure of the governor.

4 ~~D. The department of administration shall assist the governor in~~
5 ~~preparing a job description for the position of director and recruiting~~
6 ~~candidates for the position. The qualifications of the candidates shall be~~
7 ~~reviewed by a committee of seven persons selected by the governor. The names~~
8 ~~of all those candidates determined by the committee to be qualified for the~~
9 ~~position shall be submitted to the governor for the governor's consideration.~~
10 ~~The governor may request additional names from the committee if the governor~~
11 ~~deems necessary. For each subsequent vacancy in the position of director, a~~
12 ~~new committee shall be appointed by the governor.~~

13 ~~E.~~ D. Compensation for the director shall be established pursuant to
14 section 38-611.

15 Sec. 149. Section 41-1954, Arizona Revised Statutes, is amended to
16 read:

17 41-1954. Powers and duties

18 A. In addition to the powers and duties of the agencies listed in
19 section 41-1953, subsection E, the department shall:

20 1. Administer the following services:

21 (a) Employment services, which shall include manpower programs and
22 work training, field operations, technical services, unemployment
23 compensation, community work and training and other related functions in
24 furtherance of programs under the social security act, as amended, the
25 Wagner-Peyser act, as amended, the federal unemployment tax act, as amended,
26 33 United States Code, the family support act of 1988 (P.L. 100-485) and
27 other related federal acts and titles.

28 (b) Individual and family services, which shall include a section on
29 aging, services to children, youth and adults and other related functions in
30 furtherance of social service programs under the social security act, as
31 amended, title IV, grants to states for aid and services to needy families
32 with children and for child-welfare services, title XX, grants to states for
33 services, the older Americans act, as amended, the family support act of 1988
34 (P.L. 100-485) and other related federal acts and titles.

35 (c) Income maintenance services, which shall include categorical
36 assistance programs, special services unit, child support collection
37 services, establishment of paternity services, maintenance and operation of a
38 state case registry of child support orders, a state directory of new hires,

1 a support payment clearinghouse and other related functions in furtherance of
2 programs under the social security act, title IV, grants to states for aid
3 and services to needy families with children and for child-welfare services,
4 title XX, grants to states for services, as amended, and other related
5 federal acts and titles.

6 (d) Rehabilitation services, which shall include vocational
7 rehabilitation services and sections for the blind and visually impaired,
8 communication disorders, correctional rehabilitation and other related
9 functions in furtherance of programs under the vocational rehabilitation act,
10 as amended, the Randolph-Sheppard act, as amended, and other related federal
11 acts and titles.

12 (e) Administrative services, which shall include the coordination of
13 program evaluation and research, interagency program coordination and
14 in-service training, planning, grants, development and management,
15 information, legislative liaison, budget, licensing and other related
16 functions.

17 (f) Manpower planning, which shall include a state manpower planning
18 council for the purposes of the federal-state-local cooperative manpower
19 planning system and other related functions in furtherance of programs under
20 the comprehensive employment and training act of 1973, as amended, and other
21 related federal acts and titles.

22 (g) Economic opportunity services, which shall include the furtherance
23 of programs prescribed under the economic opportunity act of 1967, as
24 amended, and other related federal acts and titles.

25 (h) Intellectual disability and other developmental disability
26 programs, with emphasis on referral and purchase of services. The program
27 shall include educational, rehabilitation, treatment and training services
28 and other related functions in furtherance of programs under the
29 developmental disabilities services and facilities construction act, Public
30 Law 91-517, and other related federal acts and titles.

31 (i) Nonmedical home and community based services and functions,
32 including department designated case management, housekeeping services, chore
33 services, home health aid, personal care, visiting nurse services, adult day
34 care or adult day health, respite sitter care, attendant care, home delivered
35 meals and other related services and functions.

36 2. Provide a coordinated system of initial intake, screening,
37 evaluation and referral of persons served by the department.

1 3. Adopt rules it deems necessary or desirable to further the
2 objectives and programs of the department.

3 4. Formulate policies, plans and programs to effectuate the missions
4 and purposes of the department.

5 5. Employ, determine the conditions of employment and prescribe the
6 duties and powers of administrative, professional, technical, secretarial,
7 clerical and other persons **SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS**
8 **APPLICABLE, ARTICLE 5 OF THIS TITLE** as may be necessary in the performance of
9 its duties, contract for the services of outside advisors, consultants and
10 aides as may be reasonably necessary and reimburse department volunteers,
11 designated by the director, for expenses in transporting clients of the
12 department on official business.

13 6. Make contracts and incur obligations within the general scope of
14 its activities and operations subject to the availability of funds.

15 7. Contract with or assist other departments, agencies and
16 institutions of the state, local and federal governments in the furtherance
17 of its purposes, objectives and programs.

18 8. Be designated as the single state agency for the purposes of
19 administering and in furtherance of each federally supported state plan.

20 9. Accept and disburse grants, matching funds and direct payments from
21 public or private agencies for the conduct of programs that are consistent
22 with the overall purposes and objectives of the department.

23 10. Provide information and advice on request by local, state and
24 federal agencies and by private citizens, business enterprises and community
25 organizations on matters within the scope of its duties subject to the
26 departmental rules on the confidentiality of information.

27 11. Establish and maintain separate financial accounts as required by
28 federal law or regulations.

29 12. Advise and make recommendations to the governor and the legislature
30 on all matters concerning its objectives.

31 13. Have an official seal that shall be judicially noticed.

32 14. Annually estimate the current year's population of each county,
33 city and town in this state, using the periodic census conducted by the
34 United States department of commerce, or its successor agency, as the basis
35 for such estimates and deliver such estimates to the economic estimates
36 commission before December 15.

37 15. Estimate the population of any newly annexed areas of a political
38 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

1 the status of the hungry. The state plan on hunger shall be incorporated
2 into the department's state comprehensive plan prepared pursuant to section
3 41-1956.

4 (f) Establishing a special purpose advisory council on hunger pursuant
5 to section 41-1981.

6 19. Establish an office to address the issue of homelessness and to
7 provide coordination and assistance to public and private nonprofit
8 organizations that prevent homelessness or aid homeless individuals and
9 families throughout this state. These activities shall include:

10 (a) Promoting and participating in planning for the prevention of
11 homelessness and the development of services to homeless persons.

12 (b) Identifying and developing strategies for resolving barriers in
13 state agency service delivery systems that inhibit the provision and
14 coordination of appropriate services to homeless persons and persons in
15 danger of being homeless.

16 (c) Assisting in the coordination of the activities of federal, state
17 and local governments and the private sector that prevent homelessness or
18 provide assistance to homeless people.

19 (d) Assisting in obtaining and increasing funding from all appropriate
20 sources to prevent homelessness or assist in alleviating homelessness.

21 (e) Serving as a clearinghouse on information regarding funding and
22 services available to assist homeless persons and persons in danger of being
23 homeless.

24 (f) Developing an annual state comprehensive homeless assistance plan
25 to prevent and alleviate homelessness.

26 (g) Submitting an annual report to the governor, the president of the
27 senate and the speaker of the house of representatives on the status of
28 homelessness and efforts to prevent and alleviate homelessness.

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

36 B. If the department OF ECONOMIC SECURITY has responsibility for the
37 care, custody or control of a child or is paying the cost of care for a
38 child, it may serve as representative payee to receive and administer social

1 security and ~~veterans-administration~~ UNITED STATES DEPARTMENT OF VETERANS
2 AFFAIRS benefits and other benefits payable to such child. Notwithstanding
3 any law to the contrary, the department OF ECONOMIC SECURITY:

4 1. Shall deposit, pursuant to sections 35-146 and 35-147, such monies
5 as it receives to be retained separate and apart from the state general fund
6 on the books of the department of administration.

7 2. May use such monies to defray the cost of care and services
8 expended by the department OF ECONOMIC SECURITY for the benefit, welfare and
9 best interests of the child and invest any of the monies that the director
10 determines are not necessary for immediate use.

11 3. Shall maintain separate records to account for the receipt,
12 investment and disposition of funds received for each child.

13 4. On termination of the ~~department's~~ DEPARTMENT OF ECONOMIC
14 SECURITY'S responsibility for the child, shall release any funds remaining to
15 the child's credit in accordance with the requirements of the funding source
16 or in the absence of such requirements shall release the remaining funds to:

17 (a) The child, if the child is at least eighteen years of age or is
18 emancipated.

19 (b) The person responsible for the child if the child is a minor and
20 not emancipated.

21 C. Subsection B of this section does not pertain to benefits payable
22 to or for the benefit of a child receiving services under title 36.

23 D. Volunteers reimbursed for expenses pursuant to subsection A,
24 paragraph 5 of this section are not eligible for workers' compensation under
25 title 23, chapter 6.

26 E. In implementing the temporary assistance for needy families program
27 pursuant to Public Law 104-193, the department shall provide for cash
28 assistance to two parent families if both parents are able to work only on
29 documented participation by both parents in work activities described in
30 title 46, chapter 2, article 5, except that payments may be made to families
31 who do not meet the participation requirements if:

32 1. It is determined on an individual case basis that they have
33 emergency needs.

34 2. The family is determined to be eligible for diversion from
35 long-term cash assistance pursuant to title 46, chapter 2, article 5.

36 F. The department shall provide for cash assistance under temporary
37 assistance for needy families pursuant to Public Law 104-193 to two parent
38 families for no longer than six months if both parents are able to work,

1 except that additional assistance may be provided on an individual case basis
2 to families with extraordinary circumstances. The department shall establish
3 by rule the criteria to be used to determine eligibility for additional cash
4 assistance.

5 G. The department shall adopt the following discount medical payment
6 system for persons who the department determines are eligible and who are
7 receiving rehabilitation services pursuant to subsection A, paragraph 1,
8 subdivision (d) of this section:

9 1. For inpatient hospital admissions and outpatient hospital services
10 the department shall reimburse a hospital according to the tiered per diem
11 rates and outpatient cost-to-charge ratios established by the Arizona health
12 care cost containment system administration pursuant to section 36-2903.01,
13 subsection H.

14 2. The department's liability for a hospital claim under this
15 subsection is subject to availability of funds.

16 3. A hospital bill is considered received for purposes of paragraph 5
17 of this subsection on initial receipt of the legible, error-free claim form
18 by the department if the claim includes the following error-free
19 documentation in legible form:

20 (a) An admission face sheet.

21 (b) An itemized statement.

22 (c) An admission history and physical.

23 (d) A discharge summary or an interim summary if the claim is split.

24 (e) An emergency record, if admission was through the emergency room.

25 (f) Operative reports, if applicable.

26 (g) A labor and delivery room report, if applicable.

27 4. The department shall require that the hospital pursue other
28 third-party payors before submitting a claim to the department. Payment
29 received by a hospital from the department pursuant to this subsection is
30 considered payment by the department of the department's liability for the
31 hospital bill. A hospital may collect any unpaid portion of its bill from
32 other third party payors or in situations covered by title 33, chapter 7,
33 article 3.

34 5. For inpatient hospital admissions and outpatient hospital services
35 rendered on and after October 1, 1997, if the department receives the claim
36 directly from the hospital, the department shall pay a hospital's rate
37 established according to this section subject to the following:

1 (a) If the hospital's bill is paid within thirty days of the date the
2 bill was received, the department shall pay ninety-nine per cent of the rate.

3 (b) If the hospital's bill is paid after thirty days but within sixty
4 days of the date the bill was received, the department shall pay one hundred
5 per cent of the rate.

6 (c) If the hospital's bill is paid any time after sixty days of the
7 date the bill was received, the department shall pay one hundred per cent of
8 the rate plus a fee of one per cent per month for each month or portion of a
9 month following the sixtieth day of receipt of the bill until the date of
10 payment.

11 6. For medical services other than those for which a rate has been
12 established pursuant to section 36-2903.01, subsection H, the department
13 shall pay according to the Arizona health care cost containment system capped
14 fee-for-service schedule adopted pursuant to section 36-2904, subsection K or
15 any other established fee schedule the department determines reasonable.

16 H. The department shall not pay claims for services pursuant to this
17 section that are submitted more than nine months after the date of service
18 for which the payment is claimed.

19 I. To assist in the location of persons or assets for the purpose of
20 establishing paternity, establishing, modifying or enforcing child support
21 obligations and other related functions, the department has access, including
22 automated access if the records are maintained in an automated database, to
23 records of state and local government agencies, including:

- 24 1. Vital statistics, including records of marriage, birth and divorce.
- 25 2. State and local tax and revenue records, including information on
26 residence address, employer, income and assets.
- 27 3. Records concerning real and titled personal property.
- 28 4. Records of occupational and professional licenses.
- 29 5. Records concerning the ownership and control of corporations,
30 partnerships and other business entities.
- 31 6. Employment security records.
- 32 7. Records of agencies administering public assistance programs.
- 33 8. Records of the motor vehicle division of the department of
34 transportation.
- 35 9. Records of the state department of corrections.
- 36 10. Any system used by a state agency to locate a person for motor
37 vehicle or law enforcement purposes, including access to information
38 contained in the Arizona criminal justice information system.

1 J. Notwithstanding subsection I of this section, the department or its
2 agents shall not seek or obtain information on the assets of an individual
3 unless paternity is presumed pursuant to section 25-814 or established.

4 K. Access to records of the department of revenue pursuant to
5 subsection I of this section shall be provided in accordance with section
6 42-2003.

7 L. The department also has access to certain records held by private
8 entities with respect to child support obligors or obligees, or individuals
9 against whom such an obligation is sought. The information shall be obtained
10 as follows:

11 1. In response to a child support subpoena issued by the department
12 pursuant to section 25-520, the names and addresses of these persons and the
13 names and addresses of the employers of these persons, as appearing in
14 customer records of public utilities and cable television companies.

15 2. Information on these persons held by financial institutions.

16 M. Pursuant to department rules, the department may compromise or
17 settle any support debt owed to the department if the director or an
18 authorized agent determines that it is in the best interest of the state and
19 after considering each of the following factors:

20 1. The obligor's financial resources.

21 2. The cost of further enforcement action.

22 3. The likelihood of recovering the full amount of the debt.

23 N. Notwithstanding any law to the contrary, a state or local
24 governmental agency or private entity is not subject to civil liability for
25 the disclosure of information made in good faith to the department pursuant
26 to this section.

27 Sec. 150. Section 41-2061, Arizona Revised Statutes, is amended to
28 read:

29 41-2061. Administration of chapter; director; appointment;
30 compensation; advisory committee

31 A. The director shall administer the provisions of this chapter.

32 B. The director shall be appointed by the governor pursuant to section
33 38-211 ~~from the names submitted by the search committee in accordance with~~
34 ~~subsection C of this section~~ and is eligible to receive compensation pursuant
35 to section 38-611.

36 ~~C. A search committee is established for the purpose of soliciting and~~
37 ~~screening applicants and submitting up to three names to the governor for the~~
38 ~~position of director of the department when a vacancy in the office of~~

1 ~~director exists. The governor may reject the names submitted by the search~~
2 ~~committee and direct the search committee to submit additional names for~~
3 ~~consideration. The committee shall consist of nine members appointed by the~~
4 ~~governor from the following groups:~~

- 5 ~~1. One member representing retail trade.~~
- 6 ~~2. One member representing wholesale trade.~~
- 7 ~~3. One member representing the liquid petroleum industry.~~
- 8 ~~4. One member representing agriculture.~~
- 9 ~~5. One member representing the weight and measure manufacturing~~
10 ~~industry.~~
- 11 ~~6. Four members representing consumers.~~

12 ~~D. The names for director shall be chosen based on practical~~
13 ~~experience, training and knowledge in weights and measures practices,~~
14 ~~procedures, laws and administrative functions. Members of the search~~
15 ~~committee shall select a chairman from the membership, and members of the~~
16 ~~search committee are not eligible to receive compensation or reimbursement of~~
17 ~~expenses.~~

18 ~~E. C.~~ C. The director may appoint an advisory committee consisting of
19 five members to review, advise and make recommendations to the director in
20 the administration of the provisions of this chapter and regarding proposed
21 rules provided for in this chapter.

22 Sec. 151. Section 41-2065, Arizona Revised Statutes, is amended to
23 read:

24 41-2065. Powers and duties; definition

25 A. The department shall:

26 1. Maintain custody of the state reference standards of weights and
27 measures that are traceable to the United States prototype standards and that
28 are supplied to the states by the federal government or that are otherwise
29 approved as being satisfactory by the national institute of standards and
30 technology.

31 2. Keep the state reference standards in a safe and suitable place in
32 the metrology laboratory of the department and ensure that they shall not be
33 removed from the laboratory except for repairs or for calibration as may be
34 prescribed by the national institute of standards and technology.

35 3. Keep accurate records of all standards and equipment.

36 4. Adopt any rules necessary to carry out this chapter and adopt
37 reasonable rules for the enforcement of this chapter. These rules have the
38 force and effect of law and shall be adopted pursuant to chapter 6 of this

1 title. In adopting these rules, the director shall consider, as far as is
2 practicable, the requirements established by other states and by authority of
3 the United States, except that rules shall not be made in conflict with this
4 chapter.

5 5. Publish rules adopted pursuant to this chapter and issue
6 appropriate copies at no cost to all new applicants for licensure and
7 certification. Updated copies of the rules shall be distributed, on request,
8 at no cost to the public.

9 6. Investigate complaints made to the department concerning violations
10 of this chapter and, on its own initiative, conduct investigations it deems
11 appropriate to develop information relating to prevailing procedures in
12 commercial quantity determination and relating to possible violations of this
13 chapter, and in order to promote the general objective of accuracy in the
14 determination and representation of quantity in commercial transactions.

15 7. Establish labeling standards, establish standards of weight,
16 measure or count and establish reasonable standards of fill for any packaged
17 commodity, and may establish standards for open dating information.

18 8. Grant, pursuant to this chapter, exemptions from the licensing
19 provisions of this chapter for weighing and measuring instruments, standards
20 or devices when the ownership or use of the instrument or device is limited
21 to federal, state or local government agencies in the performance of official
22 functions. On request, the department may conduct inspections of the
23 instruments, standards or devices and shall charge a fee pursuant to section
24 41-2092, subsection B.

25 9. Delegate to appropriate personnel any of the responsibilities of
26 the director for the proper administration of this chapter.

27 10. Inspect and test weights and measures kept, offered or exposed for
28 sale.

29 11. Inspect and test, to ascertain if they are correct, weights and
30 measures commercially used either:

31 (a) In determining the weight, measure or count of commodities or
32 things sold, or offered or exposed for sale, on the basis of weight, measure
33 or count.

34 (b) In computing the basic charge or payment for services rendered on
35 the basis of weight, measure or count.

36 12. Test, at random, commodities, weights and measures used in public
37 institutions for which monies are appropriated by the legislature. The

1 testing of commodities, weights and measures in public institutions shall
2 include, but not be limited to, items:

3 (a) That have historically been of short weight, measure or count.

4 (b) Found to be of short weight, measure or count by other
5 jurisdictions.

6 (c) To be tested as part of a regional or national survey.

7 13. Test, approve for use and affix a seal of approval for use of all
8 weights, measures and commercial devices manufactured in or brought into this
9 state as it finds to be correct and shall reject and mark as rejected
10 weights, measures and devices it finds to be incorrect. Weights, measures
11 and devices that have been rejected may be seized by the department if not
12 corrected within the time specified or if used or disposed of in a manner not
13 specifically authorized. The department shall condemn and may seize weights,
14 measures and devices that are found to be incorrect and that are not capable
15 of being made correct.

16 14. Sample and test motor fuel that is stored, sold or exposed or
17 offered for sale or that is stored for use by a fleet owner to determine
18 whether the motor fuel meets the standards for motor fuel set forth in
19 section 41-2083 and article 6 of this chapter and in any rule adopted by the
20 director pursuant to this chapter. For the purposes of this paragraph,
21 "fleet owner" has the same meaning prescribed in section 41-2121.

22 15. Randomly witness tests on all mandated stage I and stage II vapor
23 recovery systems that are installed or operated in this state not less than
24 annually and if the systems are determined to be in compliance with the law
25 approve those systems for use and reject, mark as rejected and stop the use
26 of those systems determined not to be in compliance with the law.

27 16. Inspect facilities at which motor fuel is stored, sold or exposed
28 or offered for sale to determine whether dispensing devices are properly
29 labeled.

30 17. Publish and distribute to consumers weighing and measuring
31 information.

32 18. Weigh, measure or inspect commodities kept, offered or exposed for
33 sale, sold or in the process of delivery to determine whether they contain
34 the amounts represented and whether they are kept, offered or exposed for
35 sale in accordance with this chapter or rules adopted pursuant to this
36 chapter. In carrying out the provisions of this section, the director shall
37 employ recognized sampling procedures, such as are designated in appropriate

1 national institute of standards and technology handbooks and supplements to
2 those handbooks, except as modified or rejected by rule.

3 19. Allow reasonable variations from the stated quantity of contents
4 only after a commodity has entered intrastate commerce. These variations
5 shall include those caused by loss or gain of moisture during the course of
6 good distribution practice or by unavoidable deviations in good manufacturing
7 practice.

8 20. Prescribe the standards of weight and measure and additional
9 equipment methods of test and inspection to be employed in the enforcement of
10 this chapter. The director may prescribe or provide the official test and
11 inspection forms to be used in the enforcement of this chapter.

12 21. Apply to any court of competent jurisdiction for a temporary or
13 permanent injunction restraining any person from violating this chapter.

14 22. Report to the governor on August 1 each year and at such other
15 times as may be required on the work accomplished under this chapter.

16 23. [SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE](#), employ such
17 personnel as needed to assist in administering this chapter.

18 24. Ensure that any information that is required to be filed with the
19 department, that relates to the contents of motor fuels that are sold in this
20 state and that is a trade secret as defined in section 49-201 is not
21 disclosed.

22 25. Establish by rule labeling standards for tanks and containers of
23 motor fuels.

24 B. The director may provide for the periodic examination and
25 inspection of metering devices, including but not limited to devices utilized
26 to measure usage of electricity, natural gas or water by a consumer.
27 Examination and inspection authority shall not apply to metering devices
28 owned by federal, state or local government agencies unless requested by the
29 government agency that owns the metering devices.

30 C. The director may establish standards for the presentation of
31 cost-per-unit information. Nothing in this subsection shall be construed to
32 mandate the use of cost-per-unit information in connection with the sale of
33 any standard packed commodity.

34 D. The director, when necessary to carry out this chapter, may adopt
35 and enforce rules relating to quality standards for motor fuel, kerosene,
36 oil, except used oil fuel, and hazardous waste fuel, lubricating oils,
37 lubricants, antifreeze and other liquid or gaseous fuels. The director shall
38 adopt rules to assure that oxygenated fuels, as described in article 6 of

1 this chapter, stored, used, sold or exposed or offered for use or sale are
2 blended and stored, sold, exposed or offered in such a manner as to assure
3 that the oxygenated fuels are properly blended, that they meet the standards
4 set forth in section 41-2083 and article 6 of this chapter, and in rules
5 adopted pursuant to this chapter, and that dispensers at which the oxygenated
6 fuels are dispensed are labeled as defined by rule of the department in such
7 a manner as to notify persons of the type of oxygenated fuel being dispensed
8 and the maximum percentage of oxygenate by volume contained in the oxygenated
9 fuel. The director of the department of weights and measures shall consult
10 with the director of the department of environmental quality in adopting
11 rules pursuant to this subsection.

12 E. Testing and inspection conducted pursuant to this chapter shall be
13 done, to the extent practicable, without prior notice, by a random systematic
14 method determined by the director or in response to a complaint by the
15 public. The testing and inspection may be done by private persons and firms
16 pursuant to contracts entered into by the director in accordance with chapter
17 23 of this title or by a registered service agency or registered service
18 representative licensed pursuant to section 41-2094. The director shall
19 establish qualifications of persons and firms for selection for purposes of
20 this subsection. The persons or firms conducting the testing and inspection
21 shall immediately report to the department any violations of this chapter and
22 incorrect weights, measures, devices, vapor recovery systems or vapor
23 recovery components for investigation and enforcement by the department. A
24 person or firm that tests or inspects a weight, measure, device, vapor
25 recovery system or vapor recovery component that is rejected shall not
26 correct the defect causing the rejection without the permission of the
27 department.

28 F. During the course of an investigation or an enforcement action by
29 the department, information regarding the complainant is confidential and is
30 exempt from title 39, chapter 1, unless the complainant authorizes the
31 information to be public.

32 G. For the purposes of the labeling requirements prescribed in this
33 section, "oxygenated fuel" means a motor fuel blend containing 1.5 per cent
34 or more by weight of oxygen.

1 Sec. 153. Section 41-2305, Arizona Revised Statutes, is amended to
2 read:

3 41-2305. Powers and duties

4 A. In addition to other duties prescribed by law, the office of
5 tourism shall:

6 1. Stimulate and encourage all local, state, regional and federal
7 governmental agencies and all private persons and enterprises to participate
8 and cooperate in the promotion of tourism and tourism development in this
9 state.

10 2. Undertake a comprehensive research program designed to establish
11 the office as the central repository and clearinghouse for all data which
12 relates to tourism.

13 3. Perform research necessary to determine a long-range tourism
14 development plan for this state.

15 4. Conduct research at the request of the governor, the legislature or
16 state or local agencies, pertaining to any of its objectives.

17 5. Formulate policies, plans and programs designed to promote tourism
18 in this state.

19 6. Provide information and advice on request by local, state and
20 federal agencies and by private citizens and business enterprises on all
21 matters concerning its objectives. The office may provide information and
22 literature in the same manner as described in section 11-259, subsection A.

23 7. Advise with and make recommendations to the governor and the
24 legislature on all matters concerning tourism.

25 8. Make an annual report to the governor and the legislature on its
26 activities, finances and the scope of its operations.

27 9. Conduct an annual statewide tourism symposium to discuss tourism
28 promotion efforts, problems and matters of interest to the tourism industry.

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

36 B. The office may:

37 1. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, employ, determine
38 the conditions of employment and specify the duties of administrative,

1 secretarial and clerical assistants and contract for the services of outside
2 advisors, consultants and aides reasonably necessary or desirable to enable
3 it adequately to perform its duties. The compensation of such assistants
4 shall be as determined pursuant to section 38-611. The positions of the
5 director, the assistant director and all employees of the office of tourism
6 shall be exempt positions of chapter 4, articles 5 and 6 of this title.

7 2. Make contracts and incur obligations reasonably necessary or
8 desirable within the general scope of its activities and operations to enable
9 it adequately to perform its duties.

10 3. Utilize any and all media of communication, publication and
11 exhibition in the dissemination of information, advertising and publicity in
12 any field relating to its purposes, objectives or duties.

13 4. Use its funds, facilities and services to provide matching
14 contributions under federal or other programs which further the objectives
15 and programs of the office.

16 5. Adopt rules ~~and regulations~~ it deems necessary or desirable to
17 ~~govern its procedures and business~~ IMPLEMENT THE PURPOSES OF THE DEPARTMENT
18 AND THE DUTIES AND POWERS OF THE DIRECTOR.

19 6. Accept gifts, grants, matching funds and direct payments from
20 public or private agencies or persons for the conduct of programs which are
21 consistent with the general purposes and objectives of this chapter.

22 7. Conduct tourism education and discussion seminars and workshops to
23 discuss tourism promotion efforts, problems and matters of interest to the
24 tourism industry.

25 8. Designate, establish and operate state visitor or tourist
26 information centers in the state which furnish tourist information and
27 literature, subject to legislative appropriation.

28 9. Conduct research pertaining to any of its objectives.

29 10. Establish a reporting system for public agencies and private
30 persons or enterprises in order to monitor state tourism.

31 11. Charge reasonable fees for services and publications. The director
32 shall establish the fees.

33 12. Exercise its statutory powers and duties by engaging in joint
34 venture activities with private corporations which are specifically designed
35 to further the goals of the office of tourism. Joint ventures entered into
36 by the office of tourism shall conform to the constitution and the laws of
37 this state.

1 Sec. 154. Section 41-2405, Arizona Revised Statutes, is amended to
2 read:

3 41-2405. Arizona criminal justice commission; powers and
4 duties; staff

5 A. The Arizona criminal justice commission shall:

6 1. Monitor the progress and implementation of new and continuing
7 criminal justice legislation.

8 2. Facilitate research among criminal justice agencies and maintain
9 criminal justice system information.

10 3. Facilitate coordinated statewide efforts to improve criminal
11 justice information and data sharing.

12 4. Prepare for the governor a biennial criminal justice system review
13 report. The report shall contain:

14 (a) An analysis of all criminal justice programs created by the
15 legislature in the preceding two years.

16 (b) An analysis of the effectiveness of the criminal code, with a
17 discussion of any problems and recommendations for revisions if deemed
18 necessary.

19 (c) A study of the level of activity in the several areas of the
20 criminal justice system, with recommendations for redistribution of criminal
21 justice revenues if deemed necessary.

22 (d) An overall review of the entire criminal justice system including
23 crime prevention, criminal apprehension, prosecution, court administration
24 and incarceration at the state and local levels as well as funding needs for
25 the system.

26 (e) Recommendations for constitutional, statutory and administrative
27 revisions that are necessary to develop and maintain a cohesive and effective
28 criminal justice system.

29 5. Provide supplemental reports on criminal justice issues of special
30 timeliness.

31 6. In coordination with other governmental agencies, gather
32 information on programs that are designed to effectuate community crime
33 prevention and education using citizen participation and on programs for
34 alcohol and drug abuse prevention, education and treatment and disseminate
35 that information to the public, political subdivisions, law enforcement
36 agencies and the legislature.

37 7. Make recommendations to the legislature and the governor regarding
38 the purposes and formula for allocation of fund monies as provided in section

1 41-2401, subsection D and section 41-2402 through the biennial agency budget
2 request.

3 8. Adopt rules for the purpose of allocating fund monies as provided
4 in sections 41-2401, 41-2402 and 41-2407 that are consistent with the
5 purposes set forth in those sections and that promote effective and efficient
6 use of the monies.

7 9. Make reports to the governor and the legislature as they require.

8 10. Oversee the research, analysis, studies, reports and publication of
9 crime and criminal justice statistics prepared by the Arizona statistical
10 analysis center, which is an operating section of the Arizona criminal
11 justice commission.

12 11. Prepare an annual report on law enforcement activities in this
13 state funded by the drug enforcement account or the criminal justice
14 enhancement fund and relating to illicit drugs and drug related gang
15 activity. The report shall be submitted by October 31 of each year to the
16 governor, the president of the senate and the speaker of the house of
17 representatives. The report shall include:

18 (a) The name and a description of each law enforcement program dealing
19 with illegal drug activity or street gang activity, or both.

20 (b) The objective and goals of each program.

21 (c) The source and amount of monies received by each program.

22 (d) The name of the agency or entity that administers each program.

23 (e) The effectiveness of each program.

24 12. Compile and disseminate information on best practices for cold case
25 investigations, including effective victim communication procedures. For the
26 purposes of this paragraph, "cold case" means a homicide or a felony sexual
27 offense that remains unsolved for one year or more after being reported to a
28 law enforcement agency and that has no viable and unexplored investigatory
29 leads.

30 B. The Arizona criminal justice commission may, as necessary to
31 perform its functions:

32 1. Request any state or local criminal justice agency to submit any
33 necessary information.

34 2. Form subcommittees, make studies, conduct inquiries and hold
35 hearings.

36 3. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, employ consultants
37 for special projects and such staff as deemed necessary or advisable to carry
38 out this section.

1 4. Delegate its duties to carry out this section, including:

2 (a) The authority to enter into contracts and agreements on behalf of
3 the commission.

4 (b) SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLES 5 AND
5 6 OF THIS TITLE, the authority to appoint, hire, terminate and discipline all
6 personnel of the commission including consultants.

7 5. Establish joint research and information facilities with
8 governmental and private agencies.

9 6. Accept and expend public and private grants of monies, gifts and
10 contributions and expend, distribute or allocate monies appropriated to it
11 for the purpose of enhancing efforts to investigate or prosecute and
12 adjudicate any crime and to implement this chapter.

13 Sec. 155. Section 41-2513, Arizona Revised Statutes, is amended to
14 read:

15 41-2513. Authority to contract for certain services

16 A. For the purpose of procuring the services of clergy, certified
17 public accountants, legal counsel pursuant to section 41-192, subsection
18 ~~E- D~~, physicians or dentists as defined by the laws of this state, any state
19 governmental unit may act as a purchasing agency and contract on its own
20 behalf for such services, subject to this chapter and rules adopted by the
21 director.

22 B. In accordance with the provisions of section 41-192, subsection
23 ~~E- D~~ and notwithstanding any contrary statute, no contract for the services
24 of legal counsel may be awarded without the approval of the attorney general.

25 C. The auditor general shall approve state agency contracting for
26 financial and compliance auditing services except if specific statutory
27 authority is otherwise provided. The auditor general shall ensure that such
28 contract audits are conducted in accordance with generally accepted
29 governmental auditing standards. An audit shall not be accepted until it has
30 been approved by the auditor general.

31 D. The department may approve all information technology purchases
32 exceeding twenty-five thousand dollars for a budget unit as defined in
33 section 41-3501. Purchases shall not be artificially divided to avoid review.

34 E. Payment for any services, including those services described in
35 subsections A, B and C of this section, procured under this chapter shall not
36 be made unless pursuant to a fully approved written contract.

1 Sec. 156. 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.

1 (g) SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF
2 THIS TITLE, appoint certain employees of the department to peace officer
3 status for purposes of guarding, transporting or pursuing persons under the
4 jurisdiction of the department and appoint certain employees of the
5 department to peace officer status for purposes of investigating or arresting
6 persons who commit or attempt to commit offenses directly relating to the
7 operations of the department.

8 3. Contract with other agencies or institutions in furtherance of any
9 department program.

10 4. Authorize the temporary escort of a youth for compassionate leave
11 or for the purposes of treatment, education or rehabilitation. The director
12 shall consider the public safety and any other relevant factors before
13 approving the temporary escort of a youth. Department staff shall escort and
14 maintain custody of a youth authorized for temporary escort.

15 5. Adopt guidelines to dispose of property that is no longer needed or
16 necessary for use in a department educational, vocational, treatment,
17 training or work program. The disposition of property is exempt from chapter
18 23, article 8 of this title. Any monies derived from the disposition of the
19 property shall be deposited, pursuant to sections 35-146 and 35-147, in the
20 department of juvenile corrections career technical education fund
21 established by section 41-2828.

22 6. Accept and spend private grants of monies to effectuate the
23 purposes of section 41-2827. Monies collected pursuant to this paragraph
24 shall be deposited and administered pursuant to section 41-2828.

25 C. Peace officers of the department shall not preempt the authority
26 and jurisdiction of established agencies of this state and political
27 subdivisions of this state. Such officers shall notify agencies of this
28 state and political subdivisions of this state before conducting an
29 investigation within the jurisdiction of the agency and before making an
30 arrest within the jurisdiction of the agency and shall ask, except in an
31 emergency, if the agency wishes to participate, perform the investigation or
32 arrest the person to be arrested before proceeding. Personnel appointed as
33 peace officers by the director shall have the minimum qualifications
34 established for peace officers pursuant to section 41-1822. Personnel
35 appointed by the director pursuant to subsection B, paragraph 2, subdivision
36 (g) of this section are not eligible to participate in the public safety
37 personnel retirement system except as otherwise provided in title 38, chapter
38 5, article 4.

1 Sec. 157. Section 41-2831, Arizona Revised Statutes, is amended to
2 read:

3 41-2831. State educational system for committed youth; report

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

6 B. The director shall identify three persons who are qualified to
7 serve as superintendent of the state educational system for committed youth.
8 The director and the superintendent of public instruction shall agree on one
9 of the three persons whom the director shall employ as superintendent to
10 manage the educational system. The superintendent of the educational system
11 shall employ teachers and other personnel as needed in accordance with
12 chapter 4, article ~~5~~ 4 of this title, subject to the approval of the
13 director. All persons who are employed to work in the educational system
14 including the superintendent shall hold the appropriate certificate
15 prescribed by the state board of education in section 15-203, subsection A,
16 paragraph 14.

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

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

22 E. The state educational system for committed youth shall provide
23 appropriate education to all committed youth as required by state and federal
24 law. If not otherwise required by law, the educational system shall provide
25 an appropriate education to all committed youth who have not received a high
26 school diploma or a high school certificate of equivalency.

27 F. On entrance of a youth to the state educational system for
28 committed youth, the educational system shall administer a basic skills
29 examination to the youth to determine the educational needs of the youth. A
30 similar examination shall be administered on the youth's exit from the
31 educational system to assess the youth's progress while enrolled in the
32 educational system.

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

36 H. The superintendent shall:

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

1 Sec. 160. Section 41-3451, Arizona Revised Statutes, is amended to
2 read:

3 41-3451. Automobile theft authority; powers and duties; fund;
4 audit

5 A. An automobile theft authority is established consisting of the
6 following members:

7 1. Two police chiefs who are appointed by the Arizona chiefs' of
8 police association, one of whom represents a city or town with a population
9 of one hundred thousand or more persons and one of whom represents a city or
10 town with a population of less than one hundred thousand persons, or their
11 designees.

12 2. Two sheriffs who are appointed by the Arizona sheriffs'
13 association, one of whom represents a county with a population of five
14 hundred thousand or more persons and one of whom represents a county with a
15 population of less than five hundred thousand persons, or their designees.

16 3. Two county attorneys who are appointed by the governor, one of whom
17 represents a county with a population of two million or more persons and one
18 of whom represents a county with a population of less than two million
19 persons, or their designees.

20 4. Two employees of insurers who are licensed to write motor vehicle
21 liability insurance in this state and who are appointed by the governor.

22 5. Two members of the general public who are appointed by the
23 governor.

24 6. The assistant director for the motor vehicle division in the
25 department of transportation or the assistant director's designee.

26 7. The director of the department of public safety or the director's
27 designee.

28 B. Members serve staggered four year terms beginning and ending on the
29 third Monday in January. At the first meeting each year, the members shall
30 select a chairman from among the members. The authority shall meet at the
31 call of the chairman or seven members.

32 C. The authority may:

33 1. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, hire staff members
34 as necessary, including an executive director. The executive director's
35 annual compensation shall not be more than seventy-five thousand dollars.

36 2. Provide work facilities and equipment as necessary.

37 3. Determine the scope of the problem of motor vehicle theft,
38 including particular areas of the state where the problem is greatest.

1 4. Analyze the various methods of combating the problem of motor
2 vehicle theft.

3 5. Develop and implement a plan of operation.

4 6. Develop and implement a financial plan.

5 7. Solicit and accept gifts and grants.

6 8. Report by December 31 of each year to the governor, the president
7 of the senate, the speaker of the house of representatives, the secretary of
8 state and the director of the Arizona state library, archives and public
9 records on its activities during the preceding fiscal year.

10 D. If the chairman of the authority knows that a potential ground for
11 the removal of a member of the authority exists under this subsection, the
12 chairman shall notify the governor. The governor shall remove the member if
13 the governor finds that any of the following applies:

14 1. The member was not qualified to serve at the time the member was
15 appointed.

16 2. The member does not maintain the member's qualifications to serve.

17 3. The member cannot discharge the member's duties for a substantial
18 part of the term due to illness or other disability.

19 4. The member is absent from more than one-half of the regularly
20 scheduled meetings during a calendar year unless the member's absence is
21 excused by a majority vote of the authority.

22 E. The automobile theft authority fund is established consisting of
23 any public or private monies that the authority may receive. The automobile
24 theft authority shall administer the fund. Subject to legislative
25 appropriation, monies in the fund shall only be used to pay the expenses of
26 the authority and to carry out the purposes of this section. Monies in the
27 fund are exempt from the provisions of sections 35-143.01 and 35-190 relating
28 to lapsing of appropriations. On notice from the authority, the state
29 treasurer shall invest and divest monies in the fund as provided by section
30 35-313, and monies earned from investment shall be credited to the fund.

31 F. The authority may accept nonmonetary contributions, including the
32 services of individuals, office and secretarial assistance, mailings,
33 printing, office equipment, facilities and supplies, that are necessary to
34 carry out its functions. The nonmonetary contributions shall not be included
35 in the costs of administration limitation prescribed by subsection H of this
36 section.

1 G. The automobile theft authority shall allocate monies in the fund to
2 public agencies for the purpose of establishing, maintaining and supporting
3 programs that are designed to prevent motor vehicle theft, including:

4 1. Financial support to law enforcement and prosecution agencies for
5 programs that are designed to increase the effectiveness of motor vehicle
6 theft prosecution.

7 2. Financial support for programs that are designed to educate and
8 assist the public in the prevention of motor vehicle theft.

9 H. The costs of administration shall not exceed ten per cent of the
10 monies in the fund in any one year so that the greatest possible portion of
11 the monies available to the authority is expended on combating motor vehicle
12 theft.

13 I. Monies expended from the automobile theft authority fund shall be
14 used to supplement, not supplant, other monies that are available for motor
15 vehicle theft prevention.

16 J. Each insurer issuing motor vehicle liability insurance policies in
17 this state shall pay a semiannual fee of fifty cents per vehicle insured
18 under a motor vehicle liability insurance policy issued by the insurer. The
19 fee shall be fully earned and nonrefundable at the time the insurer collects
20 the premium for the motor vehicle liability insurance policy. Each insurer
21 shall transmit the fee on or before January 31 and on or before July 31 of
22 each year to the automobile theft authority for deposit in the automobile
23 theft authority fund. The payment due on or before January 31 shall cover
24 vehicles insured under policies that are issued during the period from July 1
25 through December 31 of the previous year. The payment due on or before July
26 31 shall cover vehicles insured under policies that are issued during the
27 period from January 1 through June 30 of the same year.

28 K. The authority shall cause an audit to be made of the automobile
29 theft authority fund. The audit shall be conducted by a certified public
30 accountant every two years. The authority shall file a certified copy of the
31 audit with the auditor general immediately. The auditor general may make
32 further audits and examinations as the auditor general deems necessary and
33 may take appropriate action relating to the audit pursuant to chapter 7,
34 article 10.1 of this title.

35 L. Authority members are not eligible to receive compensation but are
36 eligible for reimbursement of expenses pursuant to title 38, chapter 4,
37 article 2.

1 M. This section does not apply to vehicles or vehicle combinations
2 with a declared gross weight of more than twenty-six thousand pounds. Motor
3 vehicle liability insurance policies issued in this state for vehicles or
4 vehicle combinations with a declared gross weight of more than twenty-six
5 thousand pounds are exempt from subsection J of this section.

6 Sec. 161. Section 41-3503, Arizona Revised Statutes, is amended to
7 read:

8 41-3503. Powers and duties of director

9 In regard to government information technology, the director shall:

10 1. Appoint a chief information officer for information technology.

11 2. Establish minimum qualifications for each position authorized for
12 the department for government information technology. The qualifications
13 shall be subject to the review of the information technology authorization
14 committee.

15 3. Employ, determine the conditions of employment and prescribe the
16 duties and powers of administrative, professional, technical, secretarial,
17 clerical and other persons SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE as
18 may be necessary in the performance of the department's duties and contract
19 for the services of outside advisors, consultants and aides as may be
20 reasonably necessary. Employees of the department ~~are exempt from chapter 4,~~
21 ~~article 5 of this title but~~ shall meet the minimum qualifications established
22 pursuant to this section.

23 Sec. 162. Section 41-3505, Arizona Revised Statutes, is amended to
24 read:

25 41-3505. Information technology fund

26 A. The information technology fund is established for use by the
27 department and the committee. Monies in the fund are subject to legislative
28 appropriation.

29 B. State ~~service~~ agencies subject to section ~~41-764~~ 41-750, all budget
30 units and the legislative and judicial branches of state government, ~~—~~ shall
31 contribute a pro rata share of the overall cost of information technology
32 services provided by the department or committee. The pro rata share is
33 payable by payroll fund source, and the resultant amount shall be deposited
34 in the information technology fund. For all budget units and the legislative
35 and judicial branches of state government, the pro rata share shall be .20
36 per cent of the total payroll. Total payroll includes all fund sources
37 including the state general fund, federal monies, special revenue funds,
38 intergovernmental revenue monies, trust funds and other payroll fund sources.

1 C. A claim for the pro rata share percentage payment shall be
2 submitted according to the fund source, with the accompanying payroll, to the
3 department of administration for deposit in the information technology fund.

4 D. Notwithstanding section 35-190, monies in the information
5 technology fund do not revert to the state general fund at the end of each
6 fiscal year.

7 Sec. 163. Section 41-3952, Arizona Revised Statutes, is amended to
8 read:

9 41-3952. Arizona department of housing; director

10 A. The Arizona department of housing is established.

11 B. The governor shall appoint the director pursuant to section 38-211.
12 ~~The term of the director is five years and expires on the third Monday in~~
13 ~~January of the appropriate year, except that~~ SERVES AT THE PLEASURE OF the
14 governor. ~~may remove the director for cause. On expiration of the~~
15 ~~director's term, the governor may reappoint the director for another term.~~

16 C. The director shall administer the department.

17 D. The director and such other employees as the director determines
18 are entitled to receive compensation as determined under section 38-611.

19 E. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, the director shall
20 appoint a deputy director and, subject to legislative appropriation, may
21 appoint assistant directors as the director deems appropriate.

22 F. **SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE**, the director shall
23 employ, determine the conditions of employment and specify the duties of
24 administrative, secretarial and clerical employees the director deems
25 necessary.

26 G. The director may organize the department into divisions the
27 director deems appropriate.

28 Sec. 164. Section 41-4253, Arizona Revised Statutes, is amended to
29 read:

30 41-4253. Department employees

31 Subject to chapter 4, **ARTICLE 4 AND, AS APPLICABLE**, articles 5 and 6 of
32 this title, the director shall employ, determine the conditions of employment
33 of and specify the duties of administrative, secretarial and clerical
34 employees the director deems necessary.

1 Sec. 165. Section 41-4301, Arizona Revised Statutes, is amended to
2 read:

3 41-4301. State capital postconviction public defender; office;
4 appointment; qualifications; powers and duties

5 A. The state capital postconviction public defender office is
6 established.

7 B. The state is responsible for funding the state capital
8 postconviction public defender office, including start-up costs.

9 C. The governor shall appoint the state capital postconviction public
10 defender and fill any vacancy in the office on the basis of merit alone
11 without regard to political affiliation from the list of names that are
12 submitted pursuant to sections 41-4302 and 38-211. The state capital
13 postconviction public defender serves ~~a four year term and serves until the~~
14 ~~appointment and qualification of a successor in office. After appointment,~~
15 ~~the state capital postconviction public defender is subject to removal from~~
16 ~~office only for good cause as determined by a majority vote of the~~
17 ~~nomination, retention and standards commission on indigent defense. A~~
18 ~~vacancy shall be filled for the balance of the unexpired term~~ AT THE PLEASURE
19 OF THE GOVERNOR.

20 D. The state capital postconviction public defender shall meet all of
21 the following criteria:

22 1. Be a member in good standing of the state bar of Arizona or become
23 a member of the state bar of Arizona within one year after appointment.

24 2. Have been a member of the state bar of Arizona or admitted to
25 practice in any other state for the five years immediately preceding the
26 appointment.

27 3. Have had substantial experience in the representation of accused or
28 convicted persons in criminal or juvenile proceedings.

29 4. Meet or exceed the standards for appointment of counsel in capital
30 cases under rule 6.8, Arizona rules of criminal procedure, as determined by
31 the nomination, retention and standards commission on indigent defense.

32 E. The salary of the state capital postconviction public defender
33 shall equal the annual salary of the chief counsel of the capital litigation
34 section in the office of the attorney general.

35 F. The state capital postconviction public defender shall:

36 1. Represent any person who is not financially able to employ counsel
37 in postconviction relief proceedings in state court after a judgment of death
38 has been rendered. Notwithstanding section 11-584, subsection A, paragraph

1 7, after a judgment of death has been rendered, a county employed indigent
2 defense counsel shall not handle postconviction relief proceedings in state
3 court unless a conflict exists with the state capital postconviction public
4 defender and a county employed indigent defense counsel is appointed.

5 2. Supervise the operation, activities, policies and procedures of the
6 state capital postconviction public defender office.

7 3. Beginning in fiscal year 2007-2008, submit an annual budget for the
8 operation of the office to the legislature.

9 4. Not engage in the private practice of law or represent a person who
10 is not assigned by the supreme court.

11 5. Not provide trial or direct appeal assistance to attorneys outside
12 of the state capital postconviction public defender office. For the purposes
13 of this paragraph, trial or direct appeal assistance does not include general
14 training.

15 6. Not lobby, during working hours, the state legislature or the
16 Congress of the United States, except as provided by paragraph 3 of this
17 subsection.

18 7. Allocate personnel and resources to postconviction relief
19 proceedings so long as there are no conflicts of interest in representation
20 and all state capital postconviction public defender attorneys are appointed
21 to postconviction relief cases that are eligible for appointment of counsel
22 under section 13-4041.

23 G. The state capital postconviction public defender may:

24 1. Accept and spend public and private gifts and grants for use in
25 improving and enhancing the ability to perform the responsibilities of the
26 state capital postconviction public defender office pursuant to this chapter.

27 2. Employ not more than three deputies and not more than four other
28 employees and establish and operate any offices as needed for the proper
29 performance of the duties of the office.

30 H. For each person represented, the state capital postconviction
31 public defender office shall request reimbursement from the county in which
32 the person was convicted for fees it incurs pursuant to this section arising
33 out of its representation of that person. The county shall pay fifty per
34 cent of the fees incurred by the state capital postconviction public defender
35 office. The state treasurer shall deposit the reimbursement fees from the
36 county in the capital postconviction public defender office fund established
37 by section 41-4303.

1 Sec. 168. Section 42-1004, Arizona Revised Statutes, is amended to
2 read:

3 42-1004. General powers and duties of the department; res
4 judicata; remedies; enforcement; special collections
5 account

6 A. The department shall administer and enforce this title, title 43
7 and other laws assigned to it and has all the powers and duties prescribed by
8 law for such purposes. In all proceedings prescribed by law the department
9 may act on behalf of this state. In addition, the department shall:

10 1. Formulate policies, plans and programs to effectuate the missions
11 and purposes of the department.

12 2. Employ and remove personnel subject to title 41, chapter 4, **ARTICLE**
13 **4 AND, AS APPLICABLE**, articles 5 and 6, determine the conditions of
14 employment and prescribe the duties and powers of administrative,
15 professional, technical, secretarial, clerical and other personnel as may be
16 necessary in the performance of its duties, and contract for the services of
17 outside advisors, consultants and aides as may be reasonably necessary.

18 3. Make contracts and incur obligations within the general scope of
19 its activities and operations subject to the availability of its funds.

20 4. Contract with or assist other departments, agencies or institutions
21 of the state, local, Indian tribal and federal governments in the furtherance
22 of its purposes, objectives and programs.

23 5. Accept grants, matching funds and direct payments from public or
24 private agencies for the conduct of programs which are consistent with the
25 overall purposes and objectives of the department.

26 6. Provide information and advice within the scope of its duties
27 subject to the laws on confidentiality of information and departmental rules
28 adopted pursuant to such laws.

29 7. Advise with and make recommendations to the governor and the
30 legislature on all matters concerning its objectives.

31 8. Have an official seal which shall be judicially noticed.

32 9. Provide an integrated, coordinated and uniform system of tax
33 administration and revenue collection for the state.

34 B. The department may:

35 1. With the approval of the attorney general:

36 (a) Abate any balance owed by a taxpayer if the balance is
37 uncollectible. Related liens, if any, are extinguished on abatement.

1 (b) Abate all or part of the unpaid portion of any tax if the director
2 determines that the administration and collection costs involved would exceed
3 the amount of the tax.

4 2. Offer publications relating to the administration of state taxes
5 for sale at a price equal to the pro rata cost of publication and
6 distribution. Monies received from the sale of publications shall be placed
7 in a revenue publications revolving fund. Monies in the fund:

8 (a) Shall be used to meet publication and distribution expenses.

9 (b) Are exempt from the provisions of section 35-190 relating to
10 lapsing of appropriations.

11 3. Enter into contingent fee contracts to collect delinquent state
12 taxes, penalties, interest and other amounts owed to the department under
13 title 43 and chapter 5, article 1 of this title, consistent with the
14 requirements of chapter 2, article 1 of this title. No contract may be
15 entered into for the hiring of auditors on a contingent fee basis except
16 auditors that are hired to enforce title 44, chapter 3.

17 C. In the determination of any issue of law or fact under this title
18 or title 43, neither the department, nor any officer or agency having any
19 administrative duties under this title or title 43, nor any court is bound by
20 the determination of any other executive officer or administrative agency of
21 this state. In the determination of any case arising under this title or
22 title 43, the rule of res judicata is applicable only if the liability
23 involved is for the same year or period as was involved in another case
24 previously determined under this title or title 43.

25 D. The remedies of this state provided for in this title and title 43
26 are cumulative, and no action taken by the department constitutes an election
27 by this state to pursue any remedy to the exclusion of any other remedy
28 provided by law.

29 E. The attorney general shall prosecute in the name of this state all
30 actions necessary to enforce this title and title 43. The attorney general
31 may defend all actions brought against this state or an officer or agency of
32 this state arising under this title and title 43. The attorney general may
33 delegate the prosecuting authority to any county attorney for prosecution in
34 that county.

35 F. A special collections account is established in the state general
36 fund. All monies collected pursuant to contracts authorized by subsection B,
37 paragraph 3 of this section shall be deposited in the special collections
38 account. The department shall pay from the account all fees and court costs

1 provided for in the contracts authorized under subsection B, paragraph 3 of
2 this section. The department shall allocate the remainder of the amounts
3 collected under subsection B, paragraph 3 of this section to the state or the
4 political subdivision in the proportion that the monies would have been
5 distributed pursuant to chapter 5 of this title or section 43-206,
6 respectively.

7 Sec. 169. Section 42-1252, Arizona Revised Statutes, is amended to
8 read:

9 42-1252. State board of tax appeals

10 A. The state board of tax appeals is established as an independent
11 agency which shall not in any way be subject to the supervision or control of
12 the department of revenue. The board shall have full power to hear and
13 decide all appeals from decisions of the department of revenue.

14 B. The state board shall consist of three members appointed by the
15 governor pursuant to section 38-211. Members shall be residents of this
16 state.

17 C. Members shall be selected on the basis of their knowledge of and
18 experience in taxation. Not more than two members may be primarily engaged
19 in the same occupation or profession. The board shall handle all matters
20 entrusted by law to it dealing with income taxation, estate taxation,
21 transaction privilege, use and luxury taxation and any other taxation
22 assigned to it by law and shall hear and decide appeals from the department
23 of revenue on such matters.

24 D. Not more than two members of the board shall be members of the same
25 political party. No member of the board shall hold any other public office
26 under the laws of this state or any of its political subdivisions. No member
27 shall be a candidate for an elective office under the laws of this state, nor
28 of any other state. No member of the board shall hold any position of trust
29 nor provide or engage in any occupation or business which would corruptly
30 conflict with the duties of a member of the board, nor take part directly or
31 indirectly in any election campaign in the interest of any political party or
32 other organization or any candidate or measure to be voted on by the people.
33 This subsection does not prohibit a person from properly and lawfully
34 engaging in a business or profession.

35 E. The term of board members is six years. The member of the board
36 having the shortest term remaining shall act as chairperson if that member
37 has served on the board at least two years. If the member having the
38 shortest term remaining does not qualify to act as chairperson or if two or

1 more members have an equal right by virtue of their remaining terms to serve
2 as chairperson, the board shall elect a chairperson. A member may not be
3 appointed for more than two terms.

4 F. Each member of the board shall receive:

5 1. One hundred fifty dollars per day for time spent in the performance
6 of official duties.

7 2. Such travel and other expenses as provided by law for other state
8 officers.

9 G. The governor may remove any member for cause.

10 H. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, the board shall appoint
11 a clerk, hearing officers and such other employees as it deems necessary to
12 carry out its duties. The hearing officer qualifications shall be the same
13 as the selection criteria for the members as prescribed by this section.
14 Notwithstanding section 41-192, subsection ~~E~~ D, upon request of the board,
15 the attorney general shall designate, for such time and purposes as the board
16 requires, an attorney, acceptable to the board, whose compensation shall be
17 fixed and paid by the board.

18 I. The board shall hold hearings and meetings at the call of the
19 chairperson or a majority of the board and otherwise as may be prescribed by
20 the rules of the board as required to carry out its duties. The principal
21 office of the board shall be at the capitol, but the board may sit or hold
22 hearings at any other place within the state. A majority of the board
23 constitutes a quorum for making orders and decisions or transacting other
24 official business, and the board may act even though one position on the
25 board is vacant. The board shall keep a record of its proceedings.

26 J. In conducting the business of the board:

27 1. The board may not act if more than one position is vacant.

28 2. One or more members or a hearing officer of the board may hold
29 hearings and take testimony to be reported for action by the board when
30 authorized by rule or order of the board.

31 Sec. 170. Section 42-16155, Arizona Revised Statutes, is amended to
32 read:

33 **42-16155. Hearing officers and employees**

34 A. **SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4**, the state board of
35 equalization may employ one or more hearing officers who must meet the same
36 qualifications prescribed for the members of the board by section 42-16153.

37 B. Any training activity for hearing officers shall be held in public
38 with notice as prescribed by title 38, chapter 3, article 3.1.

1 C. A hearing officer is eligible to receive up to three hundred
2 dollars per day for time spent in performing official duties.

3 D. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the state board may
4 appoint a chief clerk and any other employees that it considers to be
5 necessary to carry out its duties.

6 Sec. 171. Section 45-104, Arizona Revised Statutes, is amended to
7 read:

8 45-104. Department organization; deputy directors; employees;
9 legal counsel; branch offices; consultants

10 A. The director may establish and organize divisions within the
11 department and otherwise organize the department in the manner the director
12 deems necessary to make the operation of the department efficient and
13 effective.

14 B. The director may appoint a deputy director to each division or
15 organizational unit that the director may establish. SUBJECT TO TITLE 41,
16 CHAPTER 4, ARTICLE 4, deputy directors ~~are exempt from the state personnel~~
17 ~~system~~, shall serve at the pleasure of the director and are entitled to
18 receive compensation pursuant to section 38-611.

19 C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE,
20 ARTICLES 5 AND 6, the director, ~~within the classification and pay scales~~
21 ~~adopted by the state personnel board~~, may employ, define the duties of and
22 prescribe the terms and conditions of employment of such clerical, technical,
23 professional and administrative personnel as necessary to efficiently perform
24 the responsibilities of the department. Compensation for all employees shall
25 be pursuant to section 38-611.

26 D. The director may employ on a contract basis geologists,
27 hydrologists, consulting engineers, other expert consultants and engineering
28 and other assistants as the director deems advisable, who are not subject to
29 the classification provided for in title 41, chapter 4, article 5.

30 E. The director may utilize the services of accounting, legal or
31 engineering personnel made available by any department or agency of this
32 state, who shall serve without additional compensation.

33 F. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the director may employ
34 legal counsel to advise and represent the department in connection with legal
35 matters before other departments and agencies of this state, and represent
36 the department and this state in litigation concerning affairs of the
37 department. Legal counsel is not subject to the classification provided for
38 in title 41, chapter 4, article 5.

1 G. The director shall maintain the director's office in Phoenix and
2 may establish a branch office of the department in each active management
3 area established pursuant to chapter 2, article 2 of this title.

4 H. The director on behalf of the department may contract with private
5 consultants for the purposes of assisting the department in reviewing
6 applications for licenses, permits or other authorizations to determine
7 whether an applicant meets the criteria for issuance of the license, permit
8 or other authorization. If the department contracts with a consultant under
9 this subsection, an applicant may request that the department expedite the
10 application review by requesting that the department use the services of the
11 consultant and by agreeing to pay the department the costs of the
12 consultant's services. Notwithstanding any other law, monies paid by
13 applicants for expedited reviews pursuant to this subsection are appropriated
14 to the department for use in paying consultants for services.

15 Sec. 172. Section 45-418, Arizona Revised Statutes, is amended to
16 read:

17 45-418. Area director; appointment; qualifications; compensation

18 A. The director shall appoint an area director for each active
19 management area. For reasons of economy and efficiency in administration,
20 one person may be the area director for more than one active management area.
21 The area director shall serve at the pleasure of the director.

22 B. The area director is ~~exempt from the state personnel system~~ SUBJECT
23 TO TITLE 41, CHAPTER 4, ARTICLE 4 and is entitled to receive compensation as
24 determined pursuant to section 38-611.

25 Sec. 173. Section 49-103, Arizona Revised Statutes, is amended to
26 read:

27 49-103. Department employees; legal counsel

28 A. The director, subject to title 41, chapter 4, ARTICLE 4 AND, AS
29 APPLICABLE, articles 5 and 6, shall employ, determine the conditions of
30 employment and specify the duties of administrative, secretarial and clerical
31 employees as he deems necessary.

32 B. The attorney general shall be the legal advisor of the department
33 and shall give legal services as the department requires. Compensation for
34 personnel assigned by the attorney general to perform such services shall be
35 a charge against appropriations to the department. The attorney general
36 shall prosecute and defend in the name of this state all actions necessary to
37 carry out the provisions of this title.

1 Sec. 174. Section 49-1203, Arizona Revised Statutes, is amended to
2 read:

3 49-1203. Powers and duties of authority: definition

4 A. The authority is a corporate and politic body and shall have an
5 official seal that shall be judicially noticed. The authority may sue and be
6 sued, contract and acquire, hold, operate and dispose of property.

7 B. The authority, through its board, may:

8 1. Issue negotiable water quality bonds pursuant to section 49-1261
9 for the following purposes:

10 (a) To generate the state match required by the clean water act for
11 the clean water revolving fund and to generate the match required by the safe
12 drinking water act for the drinking water revolving fund.

13 (b) To provide financial assistance to political subdivisions, Indian
14 tribes and eligible drinking water facilities for constructing, acquiring or
15 improving wastewater treatment facilities, drinking water facilities,
16 nonpoint source projects and other related water quality facilities and
17 projects.

18 2. Issue water supply development bonds for the purpose of providing
19 financial assistance to water providers for water supply development purposes
20 pursuant to sections 49-1274 and 49-1275.

21 3. Provide financial assistance to political subdivisions and Indian
22 tribes from monies in the clean water revolving fund to finance wastewater
23 treatment projects.

24 4. Provide financial assistance to drinking water facilities from
25 monies in the drinking water revolving fund to finance these facilities.

26 5. Provide financial assistance to water providers from monies in the
27 water supply development revolving fund to finance water supply development.

28 6. Guarantee debt obligations of, and provide linked deposit
29 guarantees through third party lenders to:

30 (a) Political subdivisions that are issued to finance wastewater
31 treatment projects.

32 (b) Drinking water facilities that are issued to finance these
33 facilities.

34 (c) Water providers that are issued to finance water supply
35 development projects.

36 7. Provide linked deposit guarantees through third party lenders to
37 political subdivisions, drinking water facilities and water providers.

1 8. Apply for, accept and administer grants and other financial
2 assistance from the United States government and from other public and
3 private sources.

4 9. Enter into capitalization grant agreements with the United States
5 environmental protection agency.

6 10. Adopt rules pursuant to title 41, chapter 6 governing the
7 application for and awarding of wastewater treatment facility, drinking water
8 facility and nonpoint source project financial assistance under this chapter,
9 the administration of the clean water revolving fund and the drinking water
10 revolving fund and the issuance of water quality bonds.

11 11. [SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4](#), hire a director and
12 staff for the authority.

13 12. Contract for the services of outside advisors, attorneys,
14 consultants and aides reasonably necessary or desirable to allow the
15 authority to adequately perform its duties.

16 13. Contract and incur obligations as reasonably necessary or desirable
17 within the general scope of authority activities and operations to allow the
18 authority to adequately perform its duties.

19 14. Assess financial assistance origination fees and annual fees to
20 cover the reasonable costs of administering the authority and the monies
21 administered by the authority. Any fees collected pursuant to this paragraph
22 constitute governmental revenue and may be used for any purpose consistent
23 with the mission and objectives of the authority.

24 15. Perform any function of a fund manager under the CERCLA Brownfields
25 cleanup revolving loan fund program as requested by the department. The
26 board shall perform any action authorized under this article on behalf of the
27 Brownfields cleanup revolving loan fund program established pursuant to
28 chapter 2, article 1.1 of this title at the request of the department. In
29 order to perform these functions, the board shall enter into a written
30 agreement with the department.

31 16. Provide grants, staff assistance or technical assistance in the
32 form of loan repayment agreements and other professional assistance to
33 political subdivisions, any county with a population of less than five
34 hundred thousand persons, Indian tribes and community water systems in
35 connection with the development or financing of wastewater, drinking water,
36 water reclamation or related water infrastructure. Assistance provided under
37 a technical assistance loan repayment agreement shall be in a form and under
38 terms determined by the authority and shall be repaid not more than three

1 years after the date that the monies are advanced to the applicant. The
2 provision of technical assistance by the authority does not create any
3 liability for the authority or this state regarding the design, construction
4 or operation of any infrastructure project.

5 17. Provide grants, staff assistance or technical assistance in the
6 form of loan repayment agreements and other professional assistance to water
7 providers in connection with the planning or design of water supply
8 development projects as determined by the committee pursuant to section
9 49-1274. A single grant shall not exceed one hundred thousand dollars.
10 Assistance provided under a technical assistance loan repayment agreement
11 shall be in a form and under terms determined by the committee and shall be
12 repaid not more than three years after the date that the monies are advanced
13 to the applicant. The provision of technical assistance by the authority or
14 the committee does not create any liability for the authority, the committee
15 or this state regarding the design, construction or operation of any water
16 supply development project.

17 C. The authority, in consultation with the committee, may:

18 1. Adopt rules pursuant to title 41, chapter 6 governing the
19 application for and awarding of water supply development fund project
20 financial assistance under this chapter and the administration of the water
21 supply development revolving fund.

22 2. Appoint a technical advisory subcommittee of not more than five
23 persons with expertise in water resource planning and development to advise
24 the committee regarding the technical feasibility of water supply development
25 projects.

26 D. The board shall deposit, pursuant to sections 35-146 and 35-147,
27 any monies received pursuant to subsection B, paragraph 8 of this section in
28 the appropriate fund as prescribed by the grant or other financial assistance
29 agreement.

30 E. Disbursements of monies by the water infrastructure finance
31 authority pursuant to a financial assistance agreement are not subject to
32 title 41, chapter 23.

33 F. For the purposes of the safe drinking water act, the department of
34 environmental quality is the state agency with primary responsibility for
35 administration of this state's public water system supervision program and,
36 in consultation with other appropriate state agencies, is the lead agency in
37 establishing assistance priorities as prescribed by section 49-1243,
38 subsection A, paragraph 6 and section 49-1244, subsection B, paragraph 3.

1 G. For the purposes of this section, "CERCLA" has the same meaning
2 prescribed in section 49-201.

3 Sec. 175. Initial terms of members of the state law enforcement
4 personnel board

5 A. Notwithstanding section 41-1830.11, Arizona Revised Statutes, as
6 added by this act, the initial terms of the members of the state law
7 enforcement personnel board are:

- 8 1. Two terms ending on the third Monday in January, 2013.
- 9 2. Two terms ending on the third Monday in January, 2014.
- 10 3. One term ending on the third Monday in January, 2015.

11 B. The governor shall make all subsequent appointments as prescribed
12 by statute.

13 Sec. 176. Retention of agency heads appointed for term of
14 office

15 Notwithstanding sections 4-111, 5-101.01, 6-111, 17-211, 20-141,
16 26-101, 38-715, 41-1711, 41-3952 and 41-4301, Arizona Revised Statutes, as
17 amended by this act, all persons serving as agency heads for a specified term
18 of office on the effective date of this act may continue to serve until the
19 expiration of their normal terms. The governor shall make all subsequent
20 appointments as prescribed by statute.

21 Sec. 177. Purpose

22 In order to promote public confidence in government, governmental
23 integrity, increased accountability and the efficient delivery of services to
24 its citizens, this act intends to reform this state's outdated personnel
25 system. The current system consists of rules and regulations adopted many
26 years ago that served a valuable purpose at the time, but now actually makes
27 it difficult to manage the workforce effectively. The current emphasis on
28 job security rewards longevity over performance that often results in the
29 retention of lower performers and the separation of our best talent. The new
30 personnel system pursuant to this act is intended to support this state's
31 ability to attract, hire and retain high-performing employees.

32 Sec. 178. Exemption from rule making; department of
33 administration; state personnel board; state law
34 enforcement personnel board

35 A. For the purpose of implementing the provisions of this act, for six
36 months after the effective date of this act, the department of administration
37 is exempt from the rule making requirements of title 41, chapter 6, Arizona
38 Revised Statutes, except that the department shall provide, as appropriate

1 under the circumstances, for notice of and opportunity for comment on the
2 rules proposed for adoption. In order to implement or change any rule during
3 the exemption period, the department of administration shall provide at least
4 two opportunities for public comment.

5 B. For the purpose of amending rules pertaining to the administration
6 of hearings and the review of appeals pursuant to section 41-782, Arizona
7 Revised Statutes, as amended by this act, for six months after the effective
8 date of this act the state personnel board is exempt from the rule making
9 requirements of title 41, chapter 6, Arizona Revised Statutes. The board
10 shall provide public notice and an opportunity for public comment on proposed
11 rules at least thirty days before rules are adopted or amended pursuant to
12 this section.

13 C. For the purpose of adopting rules pertaining to the administration
14 of hearings and the review of appeals pursuant to section 41-1830.11, Arizona
15 Revised Statutes, as added by this act, for six months after the effective
16 date of this act the state law enforcement personnel board, as established by
17 section 41-1830.11, Arizona Revised Statutes, is exempt from the rule making
18 requirements of title 41, chapter 6, Arizona Revised Statutes, as added by
19 this act. The board shall provide public notice and an opportunity for
20 public comment on proposed rules at least thirty days before rules are
21 adopted pursuant to this section.

22 Sec. 179. Effective date

23 A. Except as provided in subsection B of this section, this act
24 becomes effective from and after September 28, 2012.

25 B. Section 23-1070, Arizona Revised Statutes, as amended by Laws 2011,
26 chapter 93, section 1 and chapter 157, section 15 becomes effective from and
27 after December 31, 2012."

28 Amend title to conform

JUSTIN OLSON

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