

REFERENCE TITLE: state personnel system; repeal

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SB 1122

Introduced by
Senator Gallardo

AN ACT

AMENDING SECTIONS 3-1003, 4-111, 5-101.01, 5-112, 6-111 AND 15-543, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 11, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1331; AMENDING SECTIONS 15-1626, 17-211, 17-231, 20-141, 23-108, 23-108.02, 23-391, 23-406, 23-1501, 26-101, 31-401, 32-1103, 32-1509, 32-3504, 35-196.01, 36-102, 36-450.02, 38-448, 38-532, 38-610.01, 38-610.02, 38-611.01, 38-611.02, 38-715, 38-848, 40-108, 41-511.02 AND 41-701, ARIZONA REVISED STATUTES; REPEALING TITLE 41, CHAPTER 4, ARTICLES 4 AND 5, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING NEW ARTICLES 4 AND 5; AMENDING SECTIONS 41-781 AND 41-782, ARIZONA REVISED STATUTES; RENUMBERING SECTION 41-783, ARIZONA REVISED STATUTES, AS SECTION 41-785; AMENDING TITLE 41, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 41-783; AMENDING TITLE 41, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-784; AMENDING SECTION 41-785, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; AMENDING SECTIONS 41-903, 41-1711, 41-1830.11, 41-1830.12 AND 41-1830.13, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1830.14; AMENDING SECTION 41-1830.15, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1830.16, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-1952, 41-2061, 41-2831, 41-3505, 41-3952 AND 42-1002, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO THE STATE PERSONNEL SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 3-1003, Arizona Revised Statutes, is amended to
3 read:

4 3-1003. Arizona exposition and state fair board; powers and
5 duties; compensation of employees

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

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

10 2. Direct and conduct state fairs, exhibits, contests and
11 entertainments for the purposes of promoting and advancing the pursuits and
12 interests of the several counties and of the state, and of producing
13 sufficient revenue to defray the expenses incurred by the board in conducting
14 such events.

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

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

19 5. Subject to title 41, chapter 4, article 4, employ an executive
20 director, coliseum manager and comptroller. EACH CONTRACT OF EMPLOYMENT, IF
21 ANY, SHALL STIPULATE THAT THE BOARD AT ITS OPTION MAY TERMINATE SUCH
22 EMPLOYMENT BY GIVING SUCH EMPLOYEE NINETY DAYS' NOTICE.

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

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

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

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

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

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

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

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

1 Sec. 2. Section 4-111, Arizona Revised Statutes, is amended to read:

2 4-111. State liquor board; department of liquor licenses and
3 control; members; director; appointment and removal

4 A. The department of liquor licenses and control is established
5 consisting of the state liquor board and the office of director of the
6 department.

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

20 C. The board shall annually elect from its membership a chairman and
21 vice-chairman. A majority of the board constitutes a quorum, and a
22 concurrence of a majority of a quorum is sufficient for taking any action.
23 If there are unfilled positions on the board, a majority of those persons
24 appointed and serving on the board constitutes a quorum.

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

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

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

44 G. The governor shall appoint the director, pursuant to section
45 38-211, who shall be a qualified elector of the state and experienced in

1 administrative matters and enforcement procedures. The director shall serve
2 ~~at the pleasure of the governor~~ CONCURRENTLY WITH THE GOVERNOR BUT MAY BE
3 REMOVED BY THE GOVERNOR FOR ANY OF THE FOLLOWING CAUSES:

- 4 1. FRAUD IN SECURING APPOINTMENT.
- 5 2. INCOMPETENCY.
- 6 3. INEFFICIENCY.
- 7 4. INEXCUSABLE NEGLECT OF DUTY.
- 8 5. INSUBORDINATION.
- 9 6. DISHONESTY.
- 10 7. DRUNKENNESS ON DUTY.
- 11 8. ADDICTION TO THE USE OF NARCOTICS OR HABIT FORMING DRUGS.
- 12 9. INEXCUSABLE ABSENCE WITHOUT LEAVE.
- 13 10. FINAL CONVICTION OF A FELONY OR A MISDEMEANOR INVOLVING MORAL
14 TURPITUDE.
- 15 11. DISCOURTEOUS TREATMENT OF THE PUBLIC.
- 16 12. IMPROPER POLITICAL ACTIVITY.
- 17 13. WILFUL DISOBEDIENCE.
- 18 14. MISUSE OF STATE PROPERTY.

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

21 Sec. 3. Section 5-101.01, Arizona Revised Statutes, is amended to
22 read:

23 5-101.01. Arizona department of racing; director;
24 qualifications; term; deputy director; conflict of
25 interest

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

27 B. The governor shall appoint a director of the department pursuant to
28 section 38-211 AND IN ACCORDANCE WITH SUBSECTION C OF THIS SECTION. The
29 director serves at the pleasure of the governor FOR A TERM OF FIVE YEARS. To
30 be eligible for appointment as director, a person must have a minimum of five
31 years of experience in business and administration and shall not have a
32 financial interest in a racetrack or in the racing industry in this state
33 during THE TERM OF his appointment. The governor may appoint an acting
34 director if there is a vacancy in the office.

35 C. WITHIN SIXTY DAYS AFTER A VACANCY OCCURS IN THE POSITION OF
36 DIRECTOR, THE COMMISSION SHALL FORWARD A LIST OF THREE CANDIDATES FOR
37 APPOINTMENT AS DIRECTOR TO THE GOVERNOR. THE GOVERNOR MAY REQUEST ONE
38 ADDITIONAL LIST TO BE SUBMITTED BY THE COMMISSION. IF THE GOVERNOR DOES NOT
39 APPOINT THE DIRECTOR WITHIN THIRTY DAYS FOLLOWING RECEIPT OF THE LIST
40 SUBMITTED BY THE COMMISSION, THE COMMISSION SHALL SELECT A DIRECTOR FOR THE
41 DEPARTMENT. IF THE COMMISSION FAILS TO SUBMIT THE LISTS REQUESTED BY THE
42 GOVERNOR, THE GOVERNOR MAY APPOINT ANY QUALIFIED PERSON TO THE POSITION OF
43 DIRECTOR.

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

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

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

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

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

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

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

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

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

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

27 Sec. 4. Section 5-112, Arizona Revised Statutes, is amended to read:

28 5-112. Wagering legalized; simulcasting of races; unauthorized
29 wagering prohibited; classification; report

30 A. Except as provided in subsection L of this section, section
31 5-101.01, subsection ~~F~~ G and title 13, chapter 33, any person within the
32 enclosure of a racing meeting held pursuant to this article may wager on the
33 results of a race held at the meeting or televised to the racetrack enclosure
34 by simulcasting pursuant to this section by contributing money to a
35 pari-mutuel pool operated by the permittee as provided by this article.

36 B. The department, upon request by a permittee, may grant permission
37 for electronically televised simulcasts of horse, harness or dog races to be
38 received by the permittee. In counties having a population of one million
39 five hundred thousand persons or more according to the most recent United
40 States decennial census, the simulcasts shall be received at the racetrack
41 enclosure where a horse, harness or dog racing meeting is being conducted,
42 provided that the simulcast may only be received during, immediately before
43 or immediately after a minimum of nine posted races for that racing day. In
44 counties having a population of five hundred thousand persons or more but
45 less than one million five hundred thousand persons according to the most

1 recent United States decennial census, the simulcasts shall be received at
2 the racetrack enclosure where a horse, harness or dog racing meeting is being
3 conducted provided that the simulcast may only be received during,
4 immediately before or immediately after a minimum of four posted races for
5 that racing day. In all other counties, the simulcasts shall be received at
6 a racetrack enclosure at which authorized racing has been conducted whether
7 or not posted races have been offered for the day the simulcast is received.
8 The simulcasts shall be limited to horse, harness or dog races. The
9 simulcasts shall be limited to the same type of racing as authorized in the
10 permit for live racing conducted by the permittee. The department, upon
11 request by a permittee, may grant permission for the permittee to transmit
12 the live race from the racetrack enclosure where a horse, harness or dog
13 racing meeting is being conducted to a facility or facilities in another
14 state. All simulcasts of horse or harness races shall comply with the
15 interstate horseracing act of 1978 (P.L. 95-515; 92 Stat. 1811; 15 United
16 States Code chapter 57). All forms of pari-mutuel wagering shall be allowed
17 on horse, harness or dog races televised by simulcasting. All monies wagered
18 by patrons on these horse, harness or dog races shall be computed in the
19 amount of money wagered each racing day for purposes of section 5-111.

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

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

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

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

1 1. For horse and harness racing, the permittee may conduct wagering on
2 dark day simulcasts for twenty days, provided the permittee conducts a
3 minimum of seven posted races on each of the racing days mandated in the
4 permittee's commercial racing permit. In order to conduct wagering on dark
5 day simulcasts for more than twenty days, the permittee is required to
6 conduct a minimum of seven posted races on one hundred forty racing days at
7 the permittee's racetrack enclosure.

8 2. For dog racing, the permittee is required to conduct a minimum of
9 nine posted races on each of one hundred days during a calendar year at the
10 permittee's racetrack enclosure, unless a lesser number is otherwise agreed
11 to by written contract entered into by February 1 of each year by a permittee
12 and a majority of licensed persons then participating in a greyhound racing
13 meeting as greyhound racing kennel owners.

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

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

23 G. Notwithstanding subsection B of this section and subject to
24 subsections C and D of this section, during the period of the permit for
25 horse racing, wagering on dark day simulcasts of horse races at a permittee's
26 additional wagering facilities shall only be allowed for a maximum number of
27 days equal to the number of days of live horse racing scheduled to be
28 conducted at that permittee's racetrack enclosure during the permittee's
29 racing meeting. During the period of a permit for dog racing, wagering on
30 dark day simulcasts of dog races at a permittee's additional wagering
31 facilities shall only be allowed for a maximum number of days equal to the
32 number of days of live dog racing scheduled to be conducted at that
33 permittee's racetrack enclosure during the permittee's racing meeting, unless
34 the permittee has offered live dog racing in a county that is subject to
35 subsection D of this section for eight of the last ten preceding calendar
36 years. The number of days allowed for dark day simulcasting under this
37 subsection shall be computed by adding all racing days, including any county
38 fair racing days operated in accordance with section 5-110, subsection F,
39 allotted to the permittee's racetrack enclosure in one or more racing permits
40 and all racing days allocated to the permittee's racetrack enclosure pursuant
41 to section 5-110, subsection H.

42 H. Simulcast signals or teletracking of simulcast signals does not
43 prohibit live racing or teletracking of that live racing in any county at any
44 time.

1 I. Except as provided in subsection L of this section, section
2 5-101.01, subsection ~~F~~ G and title 13, chapter 33, any person within a
3 racetrack enclosure or an additional facility authorized for wagering
4 pursuant to section 5-111, subsection A may wager on the results of a race
5 televised to the facility pursuant to section 5-111, subsection A by
6 contributing to a pari-mutuel pool operated as provided by this article.

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

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

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

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

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

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

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

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

41 Sec. 5. Section 6-111, Arizona Revised Statutes, is amended to read:
42 6-111. Superintendent; appointment; qualifications; salary

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

1 B. The superintendent ~~serves at the pleasure of the governor~~ IN OFFICE
2 ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION SHALL HOLD OFFICE
3 UNTIL THE EXPIRATION OF HIS TERM. THE TERM OF OFFICE OF THE SUPERINTENDENT
4 SHALL BE FOUR YEARS AND SHALL EXPIRE ON THE THIRD MONDAY IN JANUARY OF THE
5 APPROPRIATE YEAR. THE SUPERINTENDENT MAY BE REMOVED BY THE GOVERNOR FOR
6 CAUSE.

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

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

15 Sec. 6. 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 section ~~41-783~~
23 41-785. The proceeding shall be set for hearing at the earliest possible
24 date and shall take precedence over all other cases, except older matters of
25 the same character and matters to which special precedence is otherwise given
26 by law.

27 Sec. 7. Title 15, chapter 11, article 2, Arizona Revised Statutes, is
28 amended by adding section 15-1331, to read:

29 15-1331. Equity study for school personnel

30 A. THE DEPARTMENT OF ADMINISTRATION SHALL:

31 1. IN CONSULTATION WITH THE DEPARTMENT OF EDUCATION AND THE BOARD OF
32 DIRECTORS, CONDUCT SALARY EQUITY STUDIES FOR TEACHERS, CREDENTIALLED
33 SPECIALISTS AND OTHER PERSONNEL UNIQUE TO THE SCHOOL. FOR TEACHERS,
34 COMPENSATION FOR EXTRACURRICULAR ACTIVITIES SHALL BE INCLUDED. THE
35 DEPARTMENT OF ADMINISTRATION SHALL CONDUCT A FULL STUDY ONCE EVERY FIVE YEARS
36 BY ANALYZING SALARY STRUCTURES FOR SIMILAR PERSONNEL IN SCHOOL DISTRICTS IN
37 THIS STATE PROVIDING SIGNIFICANT PROGRAMS FOR SENSORY IMPAIRED CHILDREN. THE
38 AVERAGE SALARY INCREASE AWARDED TO SIMILAR POSITIONS IN THREE SCHOOL
39 DISTRICTS INCLUDED IN THE FULL STUDY AND SELECTED BY THE DEPARTMENT OF
40 ADMINISTRATION AND DEPARTMENT OF EDUCATION IN CONSULTATION WITH THE BOARD
41 SHALL BE REPORTED FOR CONSIDERATION BY THE JOINT LEGISLATIVE BUDGET
42 COMMITTEE.

43 2. CONDUCT RECLASSIFICATION STUDIES FOR ALL OTHER PERSONNEL WITH
44 FOLLOW-UP STUDIES AS NECESSARY.

1 B. THE BOARD SHALL USE THE RESULTS OF THE DEPARTMENT OF
2 ADMINISTRATION'S STUDIES IN DETERMINING SALARIES PURSUANT TO SECTION 15-1329
3 AND IN MAKING ITS BUDGET REQUEST. THE JOINT LEGISLATIVE BUDGET COMMITTEE MAY
4 CONSIDER THE RESULTS OF THE STUDIES IN MAKING ITS RECOMMENDATIONS FOR FUNDING
5 OF EXISTING PERSONNEL SERVICES.

6 Sec. 8. Section 15-1626, Arizona Revised Statutes, is amended to read:
7 15-1626. General administrative powers and duties of board

8 A. The board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (i) The transfer of student records.

11 (ii) Awarding credit for completed course work.

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

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

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

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

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

30 B. The board shall adopt personnel ~~policies for all employees of the~~
31 ~~board and the universities~~ RULES. ALL NONACADEMIC EMPLOYEES OF THE
32 UNIVERSITIES ARE SUBJECT TO THESE RULES EXCEPT FOR UNIVERSITY PRESIDENTS,
33 UNIVERSITY VICE-PRESIDENTS, UNIVERSITY DEANS, LEGAL COUNSEL AND
34 ADMINISTRATIVE OFFICERS. THE PERSONNEL RULES SHALL BE SIMILAR TO THE
35 PERSONNEL RULES UNDER SECTION 41-783. THE RULES SHALL INCLUDE PROVISIONS FOR
36 LISTING AVAILABLE POSITIONS WITH THE DEPARTMENT OF ECONOMIC SECURITY,
37 COMPETITIVE EMPLOYMENT PROCESSES FOR APPLICANTS, PROBATIONARY STATUS FOR NEW
38 NONACADEMIC EMPLOYEES, NONPROBATIONARY STATUS ON SUCCESSFUL COMPLETION OF
39 PROBATION AND DUE PROCESS PROTECTIONS OF NONPROBATIONARY EMPLOYEES AFTER
40 DISCHARGE. THE BOARD SHALL PROVIDE NOTICE OF PROPOSED RULE ADOPTION AND AN
41 OPPORTUNITY FOR PUBLIC COMMENT ON ALL PERSONNEL RULES PROPOSED FOR ADOPTION.

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

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

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

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

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

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

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

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

33 J. On or before July 1, 2012, the Arizona board of regents, in
34 collaboration with the universities under its jurisdiction, shall adopt a
35 performance funding model. The performance funding model shall use
36 performance metrics that include the increase in degrees awarded, the
37 increase in completed student credit hours and the increase in externally
38 generated research and public service funding. The funding formula may give
39 added weight to degrees related to science, technology, engineering and
40 mathematics and other high-value degrees that are in short supply or that are
41 essential to this state's long-term economic development strategy.

42 K. The Arizona board of regents shall use the performance funding
43 model adopted pursuant to subsection J of this section in developing and
44 submitting budget requests for the universities under its jurisdiction.

1 Sec. 9. Section 17-211, Arizona Revised Statutes, is amended to read:
2 17-211. Director; selection; removal; powers and duties

3 A. The commission shall appoint a director of the Arizona game and
4 fish department, who shall be the chief administrative officer of the game
5 and fish department. The director shall receive compensation as determined
6 pursuant to section 38-611. The director shall be selected on the basis of
7 administrative ability and general knowledge of wildlife management. The
8 director shall act as secretary to the commission, and shall serve ~~at the~~
9 ~~pleasure of the commission~~ FOR A TERM OF FIVE YEARS, BUT MAY BE REMOVED BY
10 THE COMMISSION, AFTER PUBLIC HEARING, FOR INEFFICIENCY, NEGLECT OF DUTY OR
11 MISCONDUCT IN OFFICE. IF THE DIRECTOR IS REMOVED, THE COMMISSION SHALL MAKE,
12 IN ITS MINUTES, A COMPLETE STATEMENT OF THE PROCEEDINGS AND ALL CHARGES MADE
13 AGAINST THE DIRECTOR, AND ITS' FINDINGS. The director shall not hold any
14 other office, and shall devote the entire time to the duties of office.

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

23 C. Subject to title 41, chapter 4, article 4, the director may appoint
24 employees necessary to carry out the purposes of this title, when funds for
25 the payment of their salaries are appropriated. Department employees shall
26 be located in different sections of the state where their services are most
27 needed. ALL APPOINTMENTS MUST BE MADE IN ACCORDANCE WITH PROCEDURES AND
28 QUALIFICATIONS ESTABLISHED BY THE COMMISSION. Compensation for persons
29 appointed shall be as determined pursuant to section 38-611. THE DIRECTOR
30 MAY DISMISS AN EMPLOYEE FOR INEFFICIENCY, NEGLECT OF DUTY OR MISCONDUCT. THE
31 EMPLOYEE SHALL BE ENTITLED TO AN APPEAL BEFORE THE COMMISSION AFTER FILING A
32 WRITTEN REQUEST FOR A HEARING WITHIN THIRTY DAYS AFTER THE DISCHARGE. THE
33 DIRECTOR SHALL FILE IN THE DEPARTMENT OFFICE A COMPLETE STATEMENT OF CHARGES
34 MADE AGAINST THE EMPLOYEE AND THE FINDINGS AFTER THE WRITTEN REQUEST IS
35 RECEIVED. IF THE EMPLOYEE FAILS TO FILE THE REQUEST WITHIN THE THIRTY-DAY
36 PERIOD, THE RIGHT OF APPEAL IS WAIVED AND THE ACTION OF THE DIRECTOR SHALL BE
37 FINAL.

38 D. The director shall:

39 1. Have general supervision and control of all activities, functions
40 and employees of the department.

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

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

1 E. Game rangers and wildlife managers may, in addition to other
2 duties:
3 1. Execute all warrants issued for a violation of this title.
4 2. Execute subpoenas issued in any matter arising under this title.
5 3. Search without warrant any aircraft, boat, vehicle, box, game bag
6 or other package where there is sufficient cause to believe that wildlife or
7 parts of wildlife are possessed in violation of law.
8 4. Inspect all wildlife taken or transported and seize all wildlife
9 taken or possessed in violation of law, or showing evidence of illegal
10 taking.
11 5. Seize as evidence devices used illegally in taking wildlife and
12 hold them subject to the provisions of section 17-240.
13 6. Generally exercise the powers of peace officers with primary duties
14 the enforcement of this title.
15 7. Seize devices that cannot be lawfully used for the taking of
16 wildlife and are being so used and hold and dispose of them pursuant to
17 section 17-240.
18 Sec. 10. Section 17-231, Arizona Revised Statutes, is amended to read:
19 17-231. General powers and duties of the commission
20 A. The commission shall:
21 1. Adopt rules and establish services it deems necessary to carry out
22 the provisions and purposes of this title.
23 2. Establish broad policies and long-range programs for the
24 management, preservation and harvest of wildlife.
25 3. Establish hunting, trapping and fishing rules and prescribe the
26 manner and methods that may be used in taking wildlife, but the commission
27 shall not limit or restrict the magazine capacity of any authorized firearm.
28 4. Be responsible for the enforcement of laws for the protection of
29 wildlife.
30 5. PRESCRIBE GRADES, QUALIFICATIONS AND SALARY SCHEDULES FOR
31 DEPARTMENT EMPLOYEES.
32 ~~5-~~ 6. Provide for the assembling and distribution of information to
33 the public relating to wildlife and activities of the department.
34 ~~6-~~ 7. Prescribe rules for the expenditure, by or under the control of
35 the director, of all funds arising from appropriation, licenses, gifts or
36 other sources.
37 ~~7-~~ 8. Exercise such powers and duties necessary to carry out fully
38 the provisions of this title and in general exercise powers and duties that
39 relate to adopting and carrying out policies of the department and control of
40 its financial affairs.
41 ~~8-~~ 9. Prescribe procedures for use of department personnel,
42 facilities, equipment, supplies and other resources in assisting search or
43 rescue operations on request of the director of the division of emergency
44 management.

1 ~~9.~~ 10. Cooperate with the Arizona-Mexico commission in the governor's
2 office and with researchers at universities in this state to collect data and
3 conduct projects in the United States and Mexico on issues that are within
4 the scope of the department's duties and that relate to quality of life,
5 trade and economic development in this state in a manner that will help the
6 Arizona-Mexico commission to assess and enhance the economic competitiveness
7 of this state and of the Arizona-Mexico region.

8 B. The commission may:

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

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

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

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

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

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

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

31 8. Prescribe rules for the sale, trade, importation, exportation or
32 possession of wildlife.

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

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

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

43 12. Consider the adverse and beneficial short-term and long-term
44 economic impacts on resource dependent communities, small businesses and the
45 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 14. Solicit and accept grants, gifts or donations of money or other
13 property from any source, which may be used for any purpose consistent with
14 this title.

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

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

31 Sec. 11. Section 20-141, Arizona Revised Statutes, is amended to read:
32 20-141. Director of insurance; appointment; qualifications;
33 compensation

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

36 B. The ~~TERM OF THE~~ director shall ~~serve at the pleasure of the~~
37 ~~governor~~ BE SIX YEARS AND SHALL EXPIRE ON THE THIRD MONDAY IN JANUARY OF THE
38 APPROPRIATE YEAR, BUT THE DIRECTOR MAY BE REMOVED BY THE GOVERNOR FOR CAUSE.

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

42 D. The director shall receive compensation as determined pursuant to
43 section 38-611.

1 Sec. 12. Section 23-108, Arizona Revised Statutes, is amended to read:

2 23-108. Director; employees; compensation and expenses

3 A. The commission shall employ a director who is subject to
4 confirmation by the senate. Subject to title 41, chapter 4, article 4, the
5 director may employ such personnel as deemed necessary by the provisions of
6 chapters 1, 2 and 6 and article 2 of chapter 3 of this title.

7 B. The compensation of the director shall be as determined pursuant to
8 section 38-611. The director shall have such administrative ability,
9 education and training as the commission determines. ~~The director shall~~
10 ~~serve at the pleasure of the governor.~~ **THE DIRECTOR MAY BE REMOVED BY THE**
11 **COMMISSION FOR CAUSE.**

12 C. The compensation of the director and commission employees and
13 payment of subsistence and travel expenses allowed by law shall be paid from
14 the administrative fund.

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

17 23-108.02. Administrative law judges

18 A. The commission shall appoint administrative law judges of the
19 commission who shall be members of the Arizona state bar **AND WHO ARE SUBJECT**
20 **TO THE STATE PERSONNEL BOARD.**

21 B. The annual compensation of the chief administrative law judge and
22 of the administrative law judges shall be as determined pursuant to section
23 38-611.

24 Sec. 14. Section 23-391, Arizona Revised Statutes, is amended to read:

25 23-391. Overtime pay; work week

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

35 1. One and one-half times the regular rate at which the person is
36 employed or one and one-half hours of compensatory time off for each hour
37 worked if overtime compensation is mandated by federal law.

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

41 B. Notwithstanding subsection A of this section, the state or a
42 political subdivision may provide, by action of the law enforcement merit
43 system council, the Arizona board of regents, the board of directors for the
44 Arizona state schools for the deaf and the blind or the director of the
45 department of administration in the case of the state or of the governing

1 body of the political subdivision, for a work week of forty hours in less
2 than five days for certain classes of employees employed by the state or the
3 political subdivision.

4 ~~C. For state agencies of the state personnel system, unless otherwise
5 provided by law, the state work week is the period of seven consecutive days
6 starting Saturday at 12:00 a.m. and ending Friday at 11:59 p.m.
7 Notwithstanding any other law, the director of the department of
8 administration may authorize a workday, for the method and purpose of
9 recording time entries to be included in a workweek and a pay period for
10 employees of this state who are in the correctional officer class series of
11 the state department of corrections who are regularly scheduled to work a
12 shift that spans two calendar days, defined as the day a majority of the
13 hours are regularly scheduled to be worked. If the regularly scheduled hours
14 are equally split between two calendar days, the workday is defined as the
15 day the shift ends. Scheduled shift start and end times shall not be
16 adjusted to avoid the payment of overtime.~~

17 Sec. 15. Section 23-406, Arizona Revised Statutes, is amended to read:

18 23-406. Division of occupational safety and health; director;
19 appointment; qualifications; compensation

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

22 B. The director of the division of occupational safety and health
23 shall be the administrative head of the division under the control of the
24 commission. The director shall be appointed by the commission and shall
25 ~~serve at the pleasure of the commission~~ BE SUBJECT TO THE RULES OF THE
26 PERSONNEL BOARD PURSUANT TO TITLE 41, CHAPTER 4, ARTICLE 4.

27 C. The director shall be:

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

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

44 D. The salary of the director shall be determined pursuant to section
45 38-611.

1 Sec. 16. Section 23-1501, Arizona Revised Statutes, is amended to
2 read:

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

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

7 1. The employment relationship is contractual in nature.

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

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

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

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

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

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

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

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

43 ~~(v) The statutes governing disclosure of information by public~~
44 ~~employees prescribed in title 38, chapter 3, article 9.~~

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

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

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

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

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

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

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

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

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

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

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

34 (x) The exercise of a victim's right to leave work as provided in
35 sections 8-420 and 13-4439.

36 ~~B. If the statute provides a remedy to an employee for a violation of~~
37 ~~the statute, the remedies provided to an employee for a violation of the~~
38 ~~statute are the exclusive remedies for the violation of the statute or the~~
39 ~~public policy prescribed in or arising out of the statute.~~

40 (d) IN THE CASE OF A PUBLIC EMPLOYEE, IF THE EMPLOYEE HAS A RIGHT TO
41 CONTINUED EMPLOYMENT UNDER THE UNITED STATES CONSTITUTION, THE ARIZONA
42 CONSTITUTION, ARIZONA REVISED STATUTES, ANY APPLICABLE REGULATION, POLICY,
43 PRACTICE OR CONTRACT OF THE STATE, ANY SUBDIVISION OF THE STATE OR OTHER
44 PUBLIC ENTITY OR ANY ORDINANCE OF ANY POLITICAL SUBDIVISION OF THIS STATE.

1 Sec. 17. Section 26-101, Arizona Revised Statutes, is amended to read:

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

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

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

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

14 D. The adjutant general shall be appointed by the governor pursuant to
15 section 38-211 ~~and shall serve at the pleasure of the governor~~ FOR A TERM OF
16 OFFICE OF FIVE YEARS OR TO THE AGE PROVIDED BY FEDERAL LAW RELATING TO STATE
17 ADJUTANTS GENERAL, WHICHEVER OCCURS FIRST. The person appointed shall be a
18 citizen of the United States and a resident of the state of Arizona. At the
19 time of the appointment, the person appointed shall have qualifications
20 required by the United States department of defense for the adjutant general
21 and shall attain federal recognition in a grade not less than brigadier
22 general not later than one year after the appointment. The adjutant general
23 shall have served not less than five years in the national guard of Arizona
24 in the last ten years. Failure to meet these qualifications, ~~failure OR to~~
25 retain federal recognition ~~or attainment of the age provided by federal law~~
26 ~~relating to state adjutants general~~ shall terminate the appointment.

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

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

32 Sec. 18. Section 31-401, Arizona Revised Statutes, is amended to read:

33 31-401. Board of executive clemency; qualifications;
34 appointment; officers; quorum; meeting

35 A. The board of executive clemency is established consisting of five
36 members who are appointed by the governor pursuant to this subsection and
37 section 38-211. THE GOVERNOR SHALL APPOINT A SELECTION COMMITTEE CONSISTING
38 OF THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, THE DIRECTOR OF THE STATE
39 DEPARTMENT OF CORRECTIONS AND THREE OTHER PERSONS WHO SHALL SUBMIT A LIST OF
40 THREE QUALIFIED CANDIDATES TO THE GOVERNOR FOR EACH VACANCY ON THE BOARD.
41 THE GOVERNOR SHALL FILL THE VACANCY BY APPOINTING A MEMBER TO THE BOARD OF
42 EXECUTIVE CLEMENCY FROM THE LIST.

43 B. The members of the board shall serve on a full-time basis and the
44 compensation of members shall be as determined pursuant to section 38-611.
45 Each member shall be appointed on the basis of broad professional or

1 educational qualifications and experience and shall have demonstrated an
2 interest in the state's correctional program. No more than two members from
3 the same professional discipline shall be members of the board at the same
4 time.

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

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

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

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

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

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

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

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

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

40 Sec. 19. Section 32-1103, Arizona Revised Statutes, is amended to
41 read:

42 32-1103. Registrar of contractors; salary

43 The governor shall appoint a registrar of contractors pursuant to
44 section 38-211 **FOR A TERM COTERMINOUS WITH THAT OF THE GOVERNOR OR UNTIL THE**
45 **REGISTRAR'S SUCCESSOR IS APPOINTED AND QUALIFIES.** ~~The registrar shall serve~~

1 ~~at the pleasure of the governor.~~ The registrar is vested with all functions
2 and duties relating to administration of this chapter. The registrar shall
3 receive compensation as determined pursuant to section 38-611.

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

6 32-1509. Executive director; compensation; duties

7 A. Subject to title 41, chapter 4, article 4, the board shall appoint
8 an executive director who serves at the pleasure of the board. The executive
9 director shall not be a board member and shall not have any financial
10 interests in the practice of naturopathic medicine or the training of
11 naturopathic physicians. The board may authorize the executive director to
12 represent the board and to vote on behalf of the board at meetings of
13 national organizations of which the board is a dues paying member.

14 B. The executive director and other board staff are eligible to
15 receive compensation as determined pursuant to section 38-611.

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

17 1. Subject to title 41, chapter 4, article 4 and, as applicable,
18 articles 5 and 6, employ, evaluate, dismiss, discipline and direct
19 professional, clerical, technical, investigative and administrative personnel
20 necessary to carry on the work of the board.

21 2. SET COMPENSATION FOR BOARD EMPLOYEES WITHIN THE RANGE DETERMINED
22 UNDER SECTION 38-611.

23 ~~2.~~ 3. As directed by the board, prepare and submit recommendations to
24 the board for amendments to this chapter for consideration by the
25 legislature.

26 ~~3.~~ 4. Subject to title 41, chapter 4, article 4, employ medical
27 consultants and agents necessary to conduct investigations, gather
28 information and perform those duties the executive director determines are
29 necessary and appropriate to enforce this chapter.

30 ~~4.~~ 5. Issue licenses and certificates pursuant to section 32-1526 to
31 applicants who meet the requirements of this chapter.

32 ~~5.~~ 6. Maintain a record of board actions and proceedings, including
33 the issuance, denial, renewal, suspension or revocation of licenses and
34 certificates.

35 ~~6.~~ 7. Manage the board's offices.

36 ~~7.~~ 8. Prepare minutes, records, reports, registries, directories,
37 books and newsletters and record all board transactions and orders.

38 ~~8.~~ 9. Collect all monies due and payable to the board.

39 ~~9.~~ 10. Pay all bills for authorized expenditures of the board and its
40 staff.

41 ~~10.~~ 11. Prepare an annual budget.

42 ~~11.~~ 12. Submit a copy of the budget each year to the governor, the
43 speaker of the house of representatives and the president of the senate.

44 ~~12.~~ 13. Initiate an investigation if evidence appears to demonstrate
45 that a person licensed or certified by the board may be engaged in

1 unprofessional conduct or may be medically incompetent or mentally or
2 physically unable to safely practice medicine.

3 ~~13-~~ 14. Issue subpoenas if necessary to compel the attendance and
4 testimony of witnesses and the production of books, records, documents and
5 other evidence.

6 ~~14-~~ 15. Sign and execute and provide assistance to the attorney
7 general in preparing disciplinary orders, rehabilitative orders and notices
8 of hearings as directed by the board.

9 ~~15-~~ 16. Enter into contracts for goods and services pursuant to title
10 41, chapter 23 that are necessary to carry out board policies and directives.

11 ~~16-~~ 17. Execute board directives.

12 ~~17-~~ 18. Represent the board with the federal government, other states
13 or jurisdictions of the United States, this state, political subdivisions of
14 this state, the news media and the public.

15 ~~18-~~ 19. Maintain a roster of all persons who are licensed or certified
16 under this chapter that indicates:

17 (a) The person's name.

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

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

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

22 ~~19-~~ 20. Maintain an accurate account of all receipts, expenditures and
23 refunds granted pursuant to this chapter.

24 ~~20-~~ 21. Conduct periodic inspection of the dispensing practices and
25 the prescribing practices of doctors of naturopathic medicine and report
26 dispensing and prescribing restrictions imposed by the board against doctors
27 of naturopathic medicine to other state and federal regulatory agencies.

28 ~~21-~~ 22. Affix the seal of the board to necessary documents. The
29 imprint of the seal with the signature of the executive director is evidence
30 of official board action.

31 ~~22-~~ 23. On behalf of the board, enter into stipulated agreements with
32 persons who are under the jurisdiction of the board for the treatment,
33 rehabilitation and monitoring of chemical substance abuse or misuse.

34 ~~23-~~ 24. Review all complaints filed pursuant to section 32-1551. If
35 delegated by the board, the executive director may dismiss complaints.

36 ~~24-~~ 25. If delegated by the board, refer cases directly to a formal
37 interview or a formal hearing.

38 ~~25-~~ 26. If delegated by the board, enter into a consent agreement if
39 there is evidence of danger to the public health and safety.

40 ~~26-~~ 27. If delegated by the board, grant uncontested requests for
41 retired status or cancellation of a license.

42 ~~27-~~ 28. Perform all other duties required by the board.

43 D. Medical consultants and agents appointed pursuant to subsection C,
44 paragraph ~~3-~~ 4 of this section are eligible to receive compensation

1 determined by the executive director of not more than two hundred dollars for
2 each day of service.

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

10 Sec. 21. Section 32-3504, Arizona Revised Statutes, is amended to
11 read:

12 32-3504. Powers and duties; inspection of records; personnel
13 examinations; immunity

14 A. The board shall:

15 1. Enforce and administer the provisions of this chapter.

16 2. Adopt rules necessary to administer this chapter.

17 3. Examine applicants for licensure pursuant to this chapter at times
18 and places it designates.

19 4. Investigate each applicant for licensure, before a license is
20 issued, in order to determine if the applicant is qualified pursuant to this
21 chapter.

22 5. Keep a record of all its acts and proceedings pursuant to this
23 chapter, including the issuance, refusal, renewal, suspension or revocation
24 of licenses.

25 6. Beginning on January 1, 1999, require each applicant for initial
26 licensure to submit a full set of fingerprints to the board for a state and
27 federal criminal history records check pursuant to section 41-1750 and Public
28 Law 92-544.

29 7. Maintain a register which contains the name, the last known place
30 of residence and the date and number of the license of all persons licensed
31 pursuant to this chapter.

32 8. Compile, once every two years, a list of licensed respiratory care
33 practitioners who are authorized to practice in this state.

34 9. Establish minimum annual continuing education requirements for
35 persons licensed under this chapter.

36 B. The board, in approving training programs for respiratory
37 therapists and training programs for respiratory therapy technicians shall
38 consider the requirements and standards set by the American medical
39 association's committee on allied health education and accreditation in
40 collaboration with the joint review committee for respiratory therapy
41 education. The board may recognize examinations administered by a national
42 board for respiratory care approved by the board.

43 C. THE BOARD MAY EMPLOY AN EXECUTIVE DIRECTOR AND OTHER TEMPORARY AND
44 PERMANENT PERSONNEL IT DEEMS NECESSARY. THE EXECUTIVE OFFICER AND OTHER
45 PERSONNEL ARE ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611.

1 ~~C.~~ D. The board may conduct examinations under a uniform examination
2 system and may make arrangements with the national board of respiratory care
3 or other organizations regarding examination materials it determines
4 necessary and desirable.

5 ~~D.~~ E. The board and its members, personnel and board examiners are
6 personally immune from suit with respect to all acts done and actions taken
7 in good faith and in furtherance of the purposes of this chapter.

8 Sec. 22. Section 35-196.01, Arizona Revised Statutes, is amended to
9 read:

10 35-196.01. Expenditure of state monies for certain purposes

11 A. ~~Subject to the approval of the director of the department of~~
12 ~~administration,~~ A budget unit ~~may~~ SHALL NOT spend any APPROPRIATED monies for
13 either of the following UNLESS MONIES ARE APPROPRIATED FOR THE SPECIFIC
14 PURPOSE:

15 1. Transportation or other travel expenses necessary for bringing any
16 person into this state who is not a resident of this state for an interview
17 for prospective employment.

18 2. Transportation or moving expenses for any person newly employed or
19 retained.

20 B. A budget unit may spend monies to reimburse current employees for
21 reasonable relocation expenses related to management initiated geographical
22 reassignments of more than fifty miles from an employee's current work site
23 pursuant to rules adopted by the director of the department of
24 administration.

25 ~~C. On or before September 1 of each year, a budget unit shall report~~
26 ~~to the governor's office of strategic planning and budgeting and the joint~~
27 ~~legislative budget committee regarding any monies spent for the prior fiscal~~
28 ~~year for the purposes prescribed in this section.~~

29 Sec. 23. Section 36-102, Arizona Revised Statutes, is amended to read:

30 36-102. Department of health services; director; appointment;
31 search committee; compensation

32 A. There is established a department of health services.

33 B. The direction, operation and control of the department are the
34 responsibility of the director.

35 C. The director shall be appointed by the governor FROM A LIST OF
36 NAMES SUBMITTED BY THE SEARCH COMMITTEE pursuant to section 38-211 and shall
37 serve at the pleasure of the governor. The director shall be a person who
38 has:

39 1. Administrative experience in the private sector, with progressively
40 increasing responsibilities.

41 2. An educational background that prepares the director for the
42 administrative responsibilities assigned to the position.

43 3. Health related experience which insures familiarity with the
44 peculiarities of health problems.

1 D. QUALIFICATIONS OF CANDIDATES FOR THE POSITION OF DIRECTOR SHALL BE
2 REVIEWED BY A SEARCH COMMITTEE OF SEVEN PERSONS SELECTED BY THE GOVERNOR.
3 THE NAMES OF ALL THOSE CANDIDATES DETERMINED BY THE COMMITTEE TO BE QUALIFIED
4 FOR THE POSITION SHALL BE SUBMITTED TO THE GOVERNOR FOR THE GOVERNOR'S
5 CONSIDERATION. THE GOVERNOR MAY REQUEST ADDITIONAL NAMES FROM THE COMMITTEE
6 IF THE GOVERNOR DEEMS NECESSARY. FOR EACH SUBSEQUENT VACANCY IN THE POSITION
7 OF DIRECTOR, A NEW COMMITTEE SHALL BE APPOINTED BY THE GOVERNOR AS PROVIDED
8 IN THIS SECTION.

9 ~~D.~~ E. Compensation for the director shall be established pursuant to
10 section 38-611.

11 Sec. 24. Section 36-450.02, Arizona Revised Statutes, is amended to
12 read:

13 36-450.02. Nonretaliatory policy

14 A. Each health care institution licensed pursuant to this chapter
15 shall adopt a policy that prohibits retaliatory action against a health
16 professional who in good faith:

17 1. Makes a report to the health care institution pursuant to the
18 requirements of section 36-450.01.

19 2. Having provided the health care institution a reasonable
20 opportunity to address the report, provides information to a private health
21 care accreditation organization or governmental entity concerning the
22 activity, policy or practice that was the subject of the report.

23 B. This section does not prohibit a health care institution licensed
24 pursuant to this chapter from taking action against a health professional for
25 a purpose not related to a report filed pursuant to section 36-450.01.

26 C. Except as provided in section 23-1501, ~~subsection A~~, paragraph 3,
27 subdivisions (a), ~~and~~ (c) AND (d), this section shall only be enforced
28 through the provisions of this chapter.

29 D. There shall be a rebuttable presumption that any termination or
30 other adverse action that occurs more than one hundred eighty days after the
31 date of a report made pursuant to either subsection A, paragraph 1 or 2 of
32 this section is not a retaliatory action.

33 Sec. 25. Section 38-448, Arizona Revised Statutes, is amended to read:

34 38-448. State employees; access to internet pornography
35 prohibited; cause for dismissal; definitions

36 A. Except to the extent required in conjunction with a bona fide,
37 agency approved research project or other agency approved undertaking, an
38 employee of an agency shall not knowingly use agency owned or agency leased
39 computer equipment to access, download, print or store any information
40 infrastructure files or services that depict nudity, sexual activity, sexual
41 excitement or ultimate sexual acts as defined in section 13-3501. Agency
42 heads shall give, in writing, any agency approvals. Agency approvals are
43 available for public inspection pursuant to section 39-121.

44 B. An employee who violates this section ~~may be subject to~~ PERFORMS AN
45 ACT THAT IS CAUSE FOR discipline or dismissal OF THE EMPLOYEE AND FOR AN

1 EMPLOYEE IN STATE SERVICE IS CONSIDERED MISUSE OR UNAUTHORIZED USE OF STATE
2 PROPERTY PURSUANT TO SECTION 41-773.

3 C. All agencies shall immediately furnish their current employees with
4 copies of this section. All agencies shall furnish all new employees with
5 copies of this section at the time of authorizing an employee to use an
6 agency computer.

7 D. For the purposes of this section:

8 1. "Agency" means:

9 (a) All offices, agencies, departments, boards, councils or
10 commissions of this state.

11 (b) All state universities.

12 (c) All community college districts.

13 (d) All legislative agencies.

14 (e) All departments or agencies of the state supreme court or the
15 court of appeals.

16 2. "Information infrastructure" means telecommunications, cable and
17 computer networks and includes the internet, the world wide web, usenet,
18 bulletin board systems, on-line systems and telephone networks.

19 Sec. 26. Section 38-532, Arizona Revised Statutes, is amended to read:

20 38-532. Prohibited personnel practice; violation;
21 reinstatement; exceptions; civil penalty

22 A. It is a prohibited personnel practice for an employee who has
23 control over personnel actions to take reprisal against an employee for a
24 disclosure of information of a matter of public concern by the employee to a
25 public body that the employee reasonably believes evidences:

26 1. A violation of any law.

27 2. Mismanagement, a gross waste of monies or an abuse of authority.

28 B. The disclosure by an employee to a public body alleging a violation
29 of law, mismanagement, gross waste of monies or abuse of authority shall be
30 in writing and shall contain the following information:

31 1. The date of the disclosure.

32 2. The name of the employee making the disclosure.

33 3. The nature of the alleged violation of law, mismanagement, gross
34 waste of monies or abuse of authority.

35 4. If possible, the date or range of dates on which the alleged
36 violation of law, mismanagement, gross waste of monies or abuse of authority
37 occurred.

38 C. An employee who knowingly commits a prohibited personnel practice
39 shall be ordered by the state personnel board, a community college district
40 governing board, a school district governing board, a city or town personnel
41 board or any other appropriate independent personnel board established or
42 authorized pursuant to section 38-534 to pay a civil penalty of up to five
43 thousand dollars to the state general fund, a county general fund, a
44 community college district unrestricted general fund, a school district
45 maintenance and operation fund or a city or town general fund, whichever is

1 appropriate. The employee who committed the prohibited personnel practice,
2 not the governmental entity, shall pay the civil penalty. On a finding that
3 an employee committed a prohibited personnel practice, the employer shall
4 take appropriate disciplinary action including dismissal, ~~except that on a~~
5 ~~finding that an employee committed a prohibited personnel practice against an~~
6 ~~employee who disclosed information that the employee reasonably believed~~
7 ~~evidenced a violation of any law, the employee who knowingly committed the~~
8 ~~prohibited personnel practice is subject to a civil penalty of up to ten~~
9 ~~thousand dollars, the employer shall dismiss the employee and the employee is~~
10 ~~barred from any future employment by the government entity.~~

11 D. An employee or former employee against whom a prohibited personnel
12 practice is committed may recover attorney fees, costs, back pay, general and
13 special damages and full reinstatement for any reprisal resulting from the
14 prohibited personnel practice as determined by the court.

15 E. An employee does not commit a prohibited personnel practice if he
16 takes reprisal against an employee if that employee discloses information in
17 a manner prohibited by law or the materials or information are prescribed as
18 confidential by law.

19 F. This section may not be used as a defense in a disciplinary action
20 where the employee is being disciplined for cause pursuant to section 41-773,
21 except in a hearing on a complaint brought pursuant to this section by an
22 employee or former employee who believes he has been the subject of a
23 prohibited personnel practice as prescribed in this section as the result of
24 a disclosure of information.

25 G. On request or at any time an employee alleges reprisal, an employer
26 shall provide an employee who is subject to disciplinary or corrective
27 action, suspension, demotion or dismissal with a copy of this section.

28 H. If an employee or former employee believes that a personnel action
29 taken against him is the result of his disclosure of information under this
30 section, he may make a complaint to an appropriate independent personnel
31 board, if one is established or authorized pursuant to section 38-534, or to
32 a community college district governing board, school district governing board
33 or city or town council. If an independent personnel board has not been
34 established or authorized, or if a school district governing board, a
35 community college district governing board or a city or town council does not
36 hear and decide personnel matters brought pursuant to this section, the
37 employee or former employee may make a complaint to the state personnel
38 board. A complaint made pursuant to this subsection shall be made within ten
39 days of the effective date of the action taken against him. The state
40 personnel board, a school district governing board, a community college
41 district governing board, a city or town council or any other appropriate
42 independent personnel board shall, pursuant to the rules governing appeals
43 under section ~~41-783~~ 41-785, make a determination concerning:

1 1. The validity of the complaint.

2 2. Whether a prohibited personnel practice was committed against the
3 employee or former employee as a result of disclosure of information by the
4 employee or former employee.

5 I. If the state personnel board, a community college district
6 governing board, a school district governing board, a city or town council or
7 any other appropriate independent personnel board established or authorized
8 pursuant to section 38-534 determines that a prohibited personnel practice
9 was committed as a result of disclosure of information by the employee or
10 former employee, it shall rescind the personnel action and order that all
11 lost pay and benefits be returned to the employee or former employee. The
12 employee, former employee, employee alleged to have committed a prohibited
13 personnel practice pursuant to subsection A of this section or employer may
14 appeal the decision of the state personnel board, a community college
15 district governing board, a school district governing board, a city or town
16 council or any other appropriate independent personnel board established or
17 authorized pursuant to section 38-534 to the superior court as provided in
18 title 12, chapter 7, article 6.

19 J. For purposes of a hearing by the state personnel board, a school
20 district governing board, a community college district governing board, a
21 city or town council or any other appropriate independent personnel board
22 conducted under this section, the employee, former employee, employee alleged
23 to have committed the prohibited personnel practice pursuant to subsection A
24 of this section and employer may be represented by counsel. In addition,
25 representation by counsel in such hearings shall meet any other requirements
26 stipulated by the state personnel board, a school district governing board, a
27 community college district governing board, a city or town council or any
28 other appropriate independent personnel board or as required by law.

29 K. An employee or former employee may also seek injunctive relief as
30 is otherwise available in civil actions. ~~A court may award reasonable
31 attorney fees to an employee or former employee who prevails in an action
32 pursuant to this section, but the award of attorney fees shall not exceed ten
33 thousand dollars.~~

34 L. This section shall not be construed to limit or extend the civil or
35 criminal liability of an employee or former employee for any disclosure of
36 information or to limit an employee's right to a separate pretermination
37 hearing with the employee's employer, as provided by law.

38 M. An employee who knowingly makes a false accusation that a public
39 officer or employee who has control over personnel actions has engaged in a
40 violation of any law, mismanagement, a gross waste of monies or an abuse of
41 authority is personally subject to a civil penalty of up to twenty-five
42 thousand dollars and dismissal from employment by the employer.

1 SUBSECTION B, PARAGRAPH 1, 2, 3, 4, 5, 7 OR 8 is eligible for an additional
2 leave of absence until released from active duty by competent authority.
3 During the additional leave of absence, the officer or employee shall
4 continue to receive the officer's or employee's salary or compensation, less
5 the amount of all pay and allowances for activities while on active duty with
6 the national disaster medical system.

7 B. An officer or employee who receives salary or compensation pursuant
8 to subsection A of this section is not entitled to accrue annual leave or
9 sick leave during the period of active duty.

10 C. An officer or employee may receive compensation pursuant to
11 subsection A of this section for the continuous duration of the officer's or
12 employee's order.

13 D. Within sixty days after an officer or employee who receives pay
14 differential pursuant to this section completes the period of active duty,
15 the officer or employee shall provide proof that the officer or employee
16 rendered honorable service while on active duty during any period for which
17 the officer or employee received the pay differential pursuant to this
18 section. This state may seek recovery of the pay differential from any
19 person who fails to provide proof of honorable service.

20 E. The rights and duties of an officer or employee who is subject to
21 this section is subject to the uniformed services employment and reemployment
22 rights act (38 United States Code chapter 43).

23 F. The director of the department of administration shall establish
24 procedures to be used by an eligible officer or employee to receive
25 compensation pursuant to subsection A of this section.

26 Sec. 29. Section 38-611.01, Arizona Revised Statutes, is amended to
27 read:

28 38-611.01. Arizona state retirement system; incentive
29 compensation plan; special market adjustments

30 The Arizona state retirement system established by chapter 5, article 2
31 of this title:

32 1. May administer an incentive compensation plan for investment
33 related personnel established in consultation with the director of the
34 department of administration. The Arizona state retirement system shall file
35 a copy of any incentive compensation plan for investment related personnel
36 with the governor, the president of the senate, the speaker of the house of
37 representatives, the office of strategic planning and budgeting, the joint
38 legislative budget committee and the department of administration within ten
39 business days of its adoption or readoption.

40 2. Except for the incentive compensation plan for investment related
41 personnel, shall not establish any other compensation plans without the
42 approval of the director of the department of administration.

43 3. May request that the director of the department of administration
44 establish a special ~~pay plan~~ MARKET ADJUSTMENTS SYSTEM for the Arizona state
45 retirement system director, deputy director, chief investment officer,

1 investment related personnel and fiduciary or investment counsel. The
2 director of the department of administration, pursuant to section ~~41-742,~~
3 ~~subsection C, paragraph 4~~ 41-744, shall establish the special ~~pay plan~~ MARKET
4 ADJUSTMENTS SYSTEM after considering the recommendations of the Arizona state
5 retirement system board and using relevant market data. The director of the
6 department of administration may adopt other special ~~pay plans~~ MARKET
7 ADJUSTMENTS SYSTEMS determined necessary for certain classes or groups of
8 Arizona state retirement system employees, taking into consideration such
9 factors as occupational patterns, economic conditions and pay ranges common
10 to government, business and industry, and shall work with the Arizona state
11 retirement system in establishing the plans.

12 Sec. 30. Section 38-611.02, Arizona Revised Statutes, is amended to
13 read:

14 38-611.02. Public safety personnel retirement system; special
15 market adjustments

16 The board of trustees of the public safety personnel retirement system
17 established by chapter 5, article 4 of this title:

18 1. May administer an incentive compensation plan for investment
19 related personnel established in consultation with the director of the
20 department of administration. The public safety personnel retirement system
21 shall file a copy of any incentive compensation plan for investment related
22 personnel with the governor, the president of the senate, the speaker of the
23 house of representatives, the office of strategic planning and budgeting, the
24 joint legislative budget committee and the department of administration
25 within ten business days of its adoption or readoption.

26 2. Except for the incentive compensation plan for investment related
27 personnel, shall not establish any other compensation plans without the
28 approval of the director of the department of administration.

29 3. May request that the director of the department of administration
30 establish a special ~~pay plan~~ MARKET ADJUSTMENTS SYSTEM for the public safety
31 personnel retirement system administrator, deputy or assistant administrator,
32 chief investment officer, investment related personnel and fiduciary or
33 investment counsel. The director of the department of administration,
34 pursuant to section ~~41-742, subsection C, paragraph 4~~ 41-744, shall establish
35 the special ~~pay plan~~ MARKET ADJUSTMENTS SYSTEM after considering the
36 recommendations of the public safety personnel retirement system board of
37 trustees, including consideration of the salary ranges recommended by an
38 independent compensation consultant and using relevant market data. The
39 director of the department of administration may adopt other special ~~pay~~
40 ~~plans~~ MARKET ADJUSTMENTS SYSTEMS determined necessary for certain classes or
41 groups of public safety personnel retirement system employees, taking into
42 consideration such factors as occupational patterns, economic conditions and
43 pay ranges common to government, business and industry, and shall work with
44 the public safety personnel retirement system in establishing the plans.

1 Sec. 31. Section 38-715, Arizona Revised Statutes, is amended to read:
2 38-715. Director; powers and duties
3 A. The board shall appoint a director. The TERM OF THE director ~~shall~~
4 ~~serve at the pleasure of the board~~ IS ONE YEAR AND EXPIRES ON JUNE 30. ON
5 EXPIRATION OF A DIRECTOR'S TERM, THE BOARD MAY REAPPOINT THE DIRECTOR FOR
6 ANOTHER TERM. THE BOARD MAY REMOVE THE DIRECTOR AT ANY TIME FOR CAUSE.
7 B. The director shall appoint a deputy director and assistant
8 directors with the approval of the board.
9 C. The director, under the supervision of the board, shall:
10 1. Administer this article.
11 ~~2. Be responsible for the recruitment, hiring and day-to-day~~
12 ~~management of employees.~~
13 2. HIRE EMPLOYEES AND SERVICES THE DIRECTOR DEEMS NECESSARY AND
14 PRESCRIBE THEIR DUTIES.
15 3. Prescribe procedures to be followed by members and their
16 beneficiaries in filing applications for benefits.
17 4. Prescribe procedures to be followed by employers for remitting data
18 and monies to ASRS and for receiving data and monies from ASRS.
19 5. Be responsible for:
20 (a) Income and the collection of income and the accuracy of all
21 expenditures.
22 (b) Maintaining books and maintaining and processing records of ASRS.
23 (c) Providing continuing education programs for the board to keep the
24 board members informed of current issues and information needed to carry out
25 their duties.
26 6. Perform additional powers and duties as may be prescribed by the
27 board and delegated to the director.
28 D. The director, under the supervision and approval of the board, may:
29 1. Delegate duties and responsibilities to such state departments as
30 the director deems feasible and desirable to administer this article.
31 2. Appoint a custodian for the safekeeping of all investments owned by
32 ASRS and register stocks, bonds and other investments in the name of a
33 nominee.
34 3. Establish one or more reserve holding accounts, into which the
35 board shall close periodically the account balances of inactive accounts. If
36 any person files a claim and furnishes proof of ownership of any amounts in
37 any inactive account the claim shall be paid from the reserve holding account
38 on the same basis as if no action had been taken under this paragraph.
39 Interest and supplemental credits shall be allocated to each reserve holding
40 account on June 30 of each year, as determined by the board. For the
41 purposes of this paragraph, "inactive account" means an account to which
42 contributions have not been paid for six months or more.
43 4. Make retirement under this article effective retroactively to on or
44 after the day following the date employment is terminated if the member was

1 unable to apply before the retroactive effective date through no fault of the
2 member.

3 E. The director, under supervision of the governing committee for tax
4 deferred annuity and deferred compensation plans, may hire and supervise
5 employees and obtain services the director deems necessary to administer
6 article 5 of this chapter. The tax deferred annuity and deferred
7 compensation programs established pursuant to article 5 of this chapter shall
8 bear the costs for these employees and services.

9 F. The director and all persons employed by the director are subject
10 to section 38-611 and title 41, chapter 4, article 4.

11 ~~G. In consultation with the director of the department of~~
12 ~~administration, the board may enter into employment agreements and establish~~
13 ~~the terms of those agreements with persons holding any of the following asrs~~
14 ~~positions:~~

- 15 ~~1. Director.~~
- 16 ~~2. Deputy director.~~
- 17 ~~3. Chief investment officer.~~
- 18 ~~4. Fiduciary or investment counsel.~~

19 Sec. 32. Section 38-848, Arizona Revised Statutes, is amended to read:
20 38-848. Board of trustees; powers and duties; independent trust
21 fund; administrator; agents and employees

22 A. The board of trustees shall consist of seven members and shall have
23 the rights, powers and duties that are set forth in this section. The term
24 of office of members shall be five years to expire on the third Monday in
25 January of the appropriate year. Members are eligible to receive
26 compensation in an amount of fifty dollars a day, but not to exceed one
27 thousand dollars in any one fiscal year, and are eligible for reimbursement
28 of expenses pursuant to chapter 4, article 2 of this title. The board
29 consists of the following members appointed by the governor pursuant to
30 section 38-211:

- 31 1. Two elected members from a local board to represent the employees.
- 32 2. One member to represent this state as an employer of public safety
33 personnel. This member shall have the qualifications prescribed in
34 subsection ~~F~~ R of this section.
- 35 3. One member to represent the cities as employers of public safety
36 personnel.
- 37 4. An elected county or state official or a judge of the superior
38 court, court of appeals or supreme court.
- 39 5. Two public members. These members shall have the qualifications
40 prescribed in subsection ~~F~~ R of this section.

41 B. All monies in the fund shall be deposited and held in a public
42 safety personnel retirement system depository. Monies in the fund shall be
43 disbursed from the depository separate and apart from all monies or funds of
44 this state and the agencies, instrumentalities and subdivisions of this
45 state, except that the board may commingle the assets of the fund and the

1 assets of all other plans entrusted to its management in one or more group
2 trusts, subject to the crediting of receipts and earnings and charging of
3 payments to the appropriate employer, system or plan. The monies shall be
4 secured by the depository in which they are deposited and held to the same
5 extent and in the same manner as required by the general depository law of
6 this state. For purposes of making the decision to invest in securities
7 owned by the fund or any plan administered by the board, the fund and assets
8 of the plans are subject to the sole management of the board for the purpose
9 of this article except that, on the board's election to invest in a
10 particular security or make a particular investment, the assets comprising
11 the security or investment may be chosen and managed by third parties
12 approved by the board. The board may invest in portfolios of securities
13 chosen and managed by a third party. The board's decision to invest in
14 securities such as mutual funds, commingled investment funds, exchange traded
15 funds, private equity or venture capital limited partnerships, real estate
16 limited partnerships or limited liability companies and real estate
17 investment trusts whose assets are chosen and managed by third parties does
18 not constitute an improper delegation of the board's investment authority.

19 C. All contributions under this system and other retirement plans that
20 the board administers shall be forwarded to the board and shall be held,
21 invested and reinvested by the board as provided in this article. All
22 property and monies of the fund and other retirement plans that the board
23 administers, including income from investments and from all other sources,
24 shall be retained for the exclusive benefit of members, as provided in the
25 system and other retirement plans that the board administers, and shall be
26 used to pay benefits to members or their beneficiaries or to pay expenses of
27 operation and administration of the system and fund and other retirement
28 plans that the board administers.

29 D. The board shall have the full power in its sole discretion to
30 invest and reinvest, alter and change the monies accumulated under the system
31 and other retirement plans that the board administers as provided in this
32 article. In addition to its power to make investments managed by others, the
33 board may delegate the authority the board deems necessary and prudent to
34 investment management pursuant to section 38-848.03, as well as to the
35 administrator, employed by the board pursuant to subsection K, paragraph 6 of
36 this section, and any assistant administrators to invest the monies of the
37 system and other retirement plans that the board administers if the
38 administrator, investment management and any assistant administrators follow
39 the investment policies that are adopted by the board. The board may
40 commingle securities and monies of the fund, the elected officials'
41 retirement plan, the corrections officer retirement plan and other plans or
42 monies entrusted to its care, subject to the crediting of receipts and
43 earnings and charging of payments to the account of the appropriate employer,
44 system or plan. In making every investment, the board shall exercise the
45 judgment and care under the circumstances then prevailing that persons of

1 ordinary prudence, discretion and intelligence exercise in the management of
2 their own affairs, not in regard to speculation but in regard to the
3 permanent disposition of their funds, considering the probable income from
4 their funds as well as the probable safety of their capital, provided:

5 1. That not more than eighty per cent of the combined assets of the
6 system or other plans that the board manages shall be invested at any given
7 time in corporate stocks, based on cost value of such stocks irrespective of
8 capital appreciation.

9 2. That no more than five per cent of the combined assets of the
10 system or other plans that the board manages shall be invested in corporate
11 stock issued by any one corporation, other than corporate stock issued by
12 corporations chartered by the United States government or corporate stock
13 issued by a bank or insurance company.

14 3. That not more than five per cent of the voting stock of any one
15 corporation shall be owned by the system and other plans that the board
16 administers, except that this limitation does not apply to membership
17 interests in limited liability companies.

18 4. That corporate stocks and exchange traded funds eligible for
19 purchase shall be restricted to stocks and exchange traded funds that, except
20 for bank stocks, insurance stocks and membership interests in limited
21 liability companies, are either:

22 (a) Listed or approved on issuance for listing on an exchange
23 registered under the securities exchange act of 1934, as amended (15 United
24 States Code sections 78a through 7811).

25 (b) Designated or approved on notice of issuance for designation on
26 the national market system of a national securities association registered
27 under the securities exchange act of 1934, as amended (15 United States Code
28 sections 78a through 7811).

29 (c) Listed or approved on issuance for listing on an exchange
30 registered under the laws of this state or any other state.

31 (d) Listed or approved on issuance for listing on an exchange of a
32 foreign country with which the United States is maintaining diplomatic
33 relations at the time of purchase, except that no more than twenty per cent
34 of the combined assets of the system and other plans that the board manages
35 shall be invested in foreign securities, based on the cost value of the
36 stocks irrespective of capital appreciation.

37 (e) An exchange traded fund that is recommended by the chief
38 investment officer of the system, that is registered under the investment
39 company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and
40 that is both traded on a public exchange and based on a publicly recognized
41 index.

42 E. Notwithstanding any other law, the board shall not be required to
43 invest in any type of investment that is dictated or required by any entity
44 of the federal government and that is intended to fund economic development
45 projects, public works or social programs, but may consider such economically

1 targeted investments pursuant to its fiduciary responsibility. The board, on
 2 behalf of the system and all other plans or trusts the board administers, may
 3 invest in, lend monies to or guarantee the repayment of monies by a limited
 4 liability company, limited partnership, joint venture, partnership, limited
 5 liability partnership or trust in which the system and plans or trusts have a
 6 financial interest, whether the entity is closely held or publicly traded and
 7 that, in turn, may be engaged in any lawful activity, including venture
 8 capital, private equity, the ownership, development, management, improvement
 9 or operation of real property and any improvements or businesses on real
 10 property or the lending of monies.

11 F. Conference call meetings of the board that are held for investment
 12 purposes only are not subject to chapter 3, article 3.1 of this title, except
 13 that the board shall maintain minutes of these conference call meetings and
 14 make them available for public inspection within twenty-four hours after the
 15 meeting. The board shall review the minutes of each conference call meeting
 16 and shall ratify all legal actions taken during each conference call meeting
 17 at the next scheduled meeting of the board.

18 G. The board shall not be held liable for the exercise of more than
 19 ordinary care and prudence in the selection of investments and performance of
 20 its duties under the system and shall not be limited to so-called "legal
 21 investments for trustees", but all monies of the system and other plans that
 22 the board administers shall be invested subject to all of the conditions,
 23 limitations and restrictions imposed by law.

24 H. Except as provided in subsection D of this section, the board may:

25 1. Invest and reinvest the principal and income of all assets that the
 26 board manages without distinction between principal and income.

27 2. Sell, exchange, convey, transfer or otherwise dispose of any
 28 investments made on behalf of the system or other plans the board administers
 29 in the name of the system or plans by private contract or at public auction.

30 3. Also:

31 (a) Vote on any stocks, bonds or other securities.

32 (b) Give general or special proxies or powers of attorney with or
 33 without power of substitution.

34 (c) Exercise any conversion privileges, subscription rights or other
 35 options and make any payments incidental to the exercise of the conversion
 36 privileges, subscription rights or other options.

37 (d) Consent to or otherwise participate in corporate reorganizations
 38 or other changes affecting corporate securities, delegate discretionary
 39 powers and pay any assessments or charges in connection therewith.

40 (e) Generally exercise any of the powers of an owner with respect to
 41 stocks, bonds, securities or other investments held in or owned by the system
 42 or other plans whose assets the board administers.

43 4. Make, execute, acknowledge and deliver any other instruments that
 44 may be necessary or appropriate to carry out the powers granted in this
 45 section.

1 5. Register any investment held by the system or other plans whose
2 assets the board administers in the name of the system or plan or in the name
3 of a nominee or trust.

4 6. At the expense of the system or other plans that the board
5 administers, enter into an agreement with any bank or banks for the
6 safekeeping and handling of securities and other investments coming into the
7 possession of the board. The agreement shall be entered into under terms and
8 conditions that secure the proper safeguarding, inventory, withdrawal and
9 handling of the securities and other investments. No access to and no
10 deposit or withdrawal of the securities from any place of deposit selected by
11 the board shall be permitted or made except as the terms of the agreement may
12 provide.

13 7. Appear before local boards and the courts of this state and
14 political subdivisions of this state through counsel or appointed
15 representative to protect the fund or the assets of other plans that the
16 board administers. The board is not responsible for the actions or omissions
17 of the local boards under this system but may seek review or rehearing of
18 actions or omissions of local boards. The board does not have a duty to
19 review actions of the local boards but may do so in its discretion in order
20 to protect the fund. No limitations period precludes the board or
21 administrator from contesting, or requires the board or administrator to
22 implement or comply with, a local board decision that violates the internal
23 revenue code or that threatens to impair the tax qualified status of the
24 system or any plan administered by the board or administrator.

25 8. Empower the fund administrator to take actions on behalf of the
26 board that are necessary for the protection and administration of the fund or
27 the assets of other plans that the board administers pursuant to the
28 guidelines of the board.

29 9. Do all acts, whether or not expressly authorized, that may be
30 deemed necessary or proper for the protection of the investments held in the
31 fund or owned by other plans or trusts that the board administers.

32 10. Settle threatened or actual litigation against any system or plan
33 that the board administers.

34 I. Investment expenses and operation and administrative expenses of
35 the board shall be accounted for separately and allocated against investment
36 income.

37 J. The board, as soon as possible within a period of six months
38 following the close of any fiscal year, shall transmit to the governor and
39 the legislature a comprehensive annual financial report on the operation of
40 the system and other plans that the board administers containing, among other
41 things:

- 42 1. A balance sheet.
- 43 2. A statement of income and expenditures for the year.
- 44 3. A report on an actuarial valuation of its assets and liabilities.
- 45 4. A list of investments owned.

1 5. The total rate of return, yield on cost, and per cent of cost to
2 market value of the fund and the assets of other plans that the board
3 administers.

4 6. Any other statistical and financial data that may be necessary for
5 the proper understanding of the financial condition of the system and other
6 plans that the board administers and the results of their operations. A
7 synopsis of the annual report shall be published for the information of
8 members of the system, the elected officials' retirement plan or the
9 corrections officer retirement plan.

10 K. The board shall:

11 1. Maintain the accounts of the system and other plans that the board
12 administers and issue statements to each employer annually and to each member
13 who may request it.

14 2. Report the results of the actuarial valuations to the local boards
15 and employers.

16 3. Contract on a fee basis with an independent investment counsel to
17 advise the board in the investment management of the fund and assets of other
18 plans that the board administers and with an independent auditing firm to
19 audit the board's accounting.

20 4. Permit the auditor general to make an annual audit and the results
21 shall be transmitted to the governor and the legislature.

22 5. Contract on a fee basis with an actuary who shall make actuarial
23 valuations of the system and other plans that the board administers, be the
24 technical adviser of the board on matters regarding the operation of the
25 funds created by the provisions of the system, the elected officials'
26 retirement plan, the corrections officer retirement plan and the fire fighter
27 and peace officer cancer insurance policy program and perform other duties
28 required in connection therewith. The actuary must be a member of a
29 nationally recognized association or society of actuaries.

30 6. Employ, as administrator, a person, state department or other body
31 to serve at the pleasure of the board.

32 7. Establish procedures and guidelines for contracts with actuaries,
33 auditors, investment counsel and legal counsel and for safeguarding of
34 securities.

35 L. The administrator, under the direction of the board, shall:

36 1. Administer this article.

37 ~~2. Be responsible for the recruitment, hiring and day-to-day~~
38 ~~management of employees.~~

39 ~~3.~~ 2. Invest the funds of the system and other plans that the board
40 administers as the board deems necessary and prudent as provided in
41 subsections D and H of this section and subject to the investment policies
42 and fund objectives adopted by the board.

43 ~~4.~~ 3. Establish and maintain an adequate system of accounts and
44 records for the system and other plans that the board administers, which
45 shall be integrated with the accounts, records and procedures of the

1 employers so that the system and other plans that the board administers
2 operates most effectively and at minimum expense and that duplication of
3 records and accounts is avoided.

4 ~~5-~~ 4. In accordance with the board's governance policy and procedures
5 and the budget adopted by the board, hire such employees and services the
6 administrator deems necessary and prescribe their duties, including the
7 hiring of one or more assistant administrators to manage the system's
8 operations, investments and legal affairs.

9 ~~6-~~ 5. Be responsible for income, the collection of the income and the
10 accuracy of all expenditures.

11 ~~7-~~ 6. Recommend to the board annual contracts for the system's
12 actuary, auditor, investment counsel, legal counsel and safeguarding of
13 securities.

14 ~~8-~~ 7. Perform additional duties and powers prescribed by the board
15 and delegated to the administrator.

16 M. The system is an independent trust fund and the board, ~~is not~~
17 ~~subject to title 41, chapter 6~~ THE ADMINISTRATOR, THE ASSISTANT
18 ADMINISTRATORS AND ALL PERSONS EMPLOYED BY THEM ARE NOT UNDER THE
19 JURISDICTION OF THE DEPARTMENT OF ADMINISTRATION OR ANY OTHER AGENCY,
20 DEPARTMENT OR INSTRUMENTALITY OF THIS STATE OR SUBJECT TO SECTION 38-611 OR
21 TITLE 41, CHAPTER 4 OR 6. THE SALARIES OF THE ADMINISTRATOR, ASSISTANT
22 ADMINISTRATORS AND OTHER EMPLOYEES OF THE BOARD ARE THE SOLE DETERMINATION OF
23 THE BOARD. Contracts for goods and services approved by the board are not
24 subject to title 41, chapter 23. As an independent trust fund whose assets
25 are separate and apart from all other funds of this state, the system and the
26 board are not subject to the restrictions prescribed in section 35-154 or
27 article IX, sections 5 and 8, Constitution of Arizona. Loans, guarantees,
28 investment management agreements and investment contracts that are entered
29 into by the board are contracts memorializing obligations or interests in
30 securities that the board has concluded, after thorough due diligence, do not
31 involve investments in Sudan or Iran or otherwise provide support to
32 terrorists or in any way facilitate illegal immigration into the United
33 States. These contracts do not involve the procurement, supply or provision
34 of goods, equipment, labor, materials or services that would require the
35 certifications or warranties required by sections 35-391.06, 35-393.06 and
36 41-4401.

37 ~~N. The board, the administrator, the assistant administrators and all~~
38 ~~persons employed by them are subject to title 41, chapter 4, article 4. The~~
39 ~~administrator, assistant administrators and other employees of the board are~~
40 ~~entitled to receive compensation pursuant to section 38-611.~~

41 ~~O. In consultation with the director of the department of~~
42 ~~administration, the board may enter into employment agreements and establish~~
43 ~~the terms of those agreements with persons holding any of the following~~
44 ~~system positions:~~

45 ~~1. Administrator.~~

1 ~~2. Deputy or assistant administrator.~~

2 ~~3. Chief investment officer.~~

3 ~~4. Deputy chief investment officer.~~

4 ~~5. Fiduciary or investment counsel.~~

5 ~~P.~~ N. The attorney general or an attorney approved by the attorney
6 general and paid by the fund shall be the attorney for the board and shall
7 represent the board in any legal proceeding or forum that the board deems
8 appropriate. The board, administrator, assistant administrators and
9 employees of the board are not personally liable for any acts done in their
10 official capacity in good faith reliance on the written opinions of the
11 board's attorney.

12 ~~O.~~ O. At least once in each five-year period after the effective
13 date, the actuary shall make an actuarial investigation into the mortality,
14 service and compensation experience of the members and beneficiaries of the
15 system and other plans that the board administers and shall make a special
16 valuation of the assets and liabilities of the monies of the system and
17 plans. Taking into account the results of the investigation and special
18 valuation, the board shall adopt for the system and other plans that the
19 board administers those mortality, service and other tables deemed necessary.

20 ~~R.~~ P. On the basis of the tables the board adopts, the actuary shall
21 make a valuation of the assets and liabilities of the funds of the system and
22 other plans that the board administers not less frequently than every year.
23 By November 1 of each year the board shall provide a preliminary report and
24 by December 15 of each year provide a final report to the governor, the
25 speaker of the house of representatives and the president of the senate on
26 the contribution rate for the ensuing fiscal year.

27 ~~S.~~ Q. Neither the board nor any member or employee of the board shall
28 directly or indirectly, for himself or as an agent, in any manner use the
29 monies or deposits of the fund except to make current and necessary payments,
30 nor shall the board or any member or employee become an endorser or surety or
31 in any manner an obligor for monies loaned by or borrowed from the fund or
32 the assets of any other plans that the board administers.

33 ~~T.~~ R. The members of the board who are appointed pursuant to
34 subsection A, paragraphs 2 and 5 of this section shall have at least ten
35 years' substantial experience as any one or a combination of the following:

- 36 1. A portfolio manager acting in a fiduciary capacity.
- 37 2. A securities analyst.
- 38 3. An employee or principal of a trust institution, investment
39 organization or endowment fund acting either in a management or an investment
40 related capacity.
- 41 4. A chartered financial analyst in good standing as determined by the
42 association for investment management and research.
- 43 5. A professor at the university level teaching economics or
44 investment related subjects.
- 45 6. An economist.

1 7. Any other professional engaged in the field of public or private
2 finances.

3 ~~U.~~ S. Financial or commercial information that is provided to the
4 board, employees of the board and attorneys of the board in connection with
5 investments in which the board has invested or investments the board has
6 considered for investment is confidential, proprietary and not a public
7 record if the information is information that would customarily not be
8 released to the public by the person or entity from whom the information was
9 obtained.

10 Sec. 33. Section 40-108, Arizona Revised Statutes, is amended to read:

11 40-108. Compensation of appointees and employees

12 A. The compensation of corporation commission appointees and employees
13 except as provided in section 40-408 shall be determined pursuant to section
14 38-611 and shall be paid from the state general fund and the appropriation
15 made to the commission in the general appropriations act.

16 B. ~~NOTWITHSTANDING SUBSECTION A OF THIS SECTION, IF THE COMMISSION IS~~
17 ~~UNABLE TO EMPLOY UTILITIES DIVISION PROFESSIONAL STAFF UNDER SECTION 38-611,~~
18 ~~THE COMMISSION MAY REQUEST AN EXEMPTION FROM SECTION 38-611 FROM THE JOINT~~
19 ~~LEGISLATIVE BUDGET COMMITTEE FOR EACH SUCH EMPLOYEE.~~ Employee compensation
20 of the utilities division and a part of the administration, hearing and legal
21 divisions ~~shall be determined pursuant to section 38-611 and~~ is payable from
22 the utility regulation revolving fund established pursuant to section 40-408.

23 Sec. 34. Section 41-511.02, Arizona Revised Statutes, is amended to
24 read:

25 41-511.02. Director; qualifications; state historic
26 preservation officer

27 A. The ~~governor~~ BOARD shall ~~appoint~~ EMPLOY a full-time director
28 ~~pursuant to section 38-211~~ who shall:

- 29 1. Not be a member of the Arizona state parks board.
- 30 2. Serve at the pleasure of the ~~governor~~ BOARD.
- 31 3. Be qualified by successful experience in administration in business
32 or in government.
- 33 4. Have a knowledge of or training in the multiple use of lands and
34 the conservation of natural resources.

35 B. The governor shall designate a full-time employee of the board with
36 professional competence and expertise in the field of historic preservation
37 as the "state historic preservation officer" to administer the state historic
38 preservation program.

39 Sec. 35. Section 41-701, Arizona Revised Statutes, is amended to read:

40 41-701. Department of administration; director; appointment;
41 committee

42 A. A department of administration is established.

43 B. The direction, operation and control of the department is the
44 responsibility of the director.

1 C. The director shall be appointed by the governor, FROM A LIST OF
2 QUALIFIED CANDIDATES SUBMITTED BY THE COMMITTEE AS PROVIDED IN SUBSECTION D
3 OF THIS SECTION, with the advice and consent of the senate and shall serve at
4 the pleasure of the governor.

5 D. THE DEPARTMENT'S HUMAN RESOURCES DIVISION SHALL ASSIST THE GOVERNOR
6 IN PREPARING A JOB DESCRIPTION FOR THE POSITION OF DIRECTOR AND RECRUITING
7 CANDIDATES FOR THE POSITION. THE QUALIFICATIONS OF THE CANDIDATES SHALL BE
8 REVIEWED BY A COMMITTEE OF SEVEN PERSONS SELECTED BY THE GOVERNOR. THE NAMES
9 OF ALL THOSE CANDIDATES DETERMINED BY THE COMMITTEE TO BE QUALIFIED FOR THE
10 POSITION SHALL BE SUBMITTED TO THE GOVERNOR FOR THE GOVERNOR'S CONSIDERATION.
11 THE GOVERNOR MAY REQUEST ADDITIONAL NAMES FROM THE COMMITTEE IF THE GOVERNOR
12 DEEMS NECESSARY. FOR EACH SUBSEQUENT VACANCY IN THE POSITION OF DIRECTOR, A
13 NEW COMMITTEE SHALL BE APPOINTED BY THE GOVERNOR.

14 Sec. 36. Repeal

15 Title 41, chapter 4, articles 4 and 5, Arizona Revised Statutes, are
16 repealed.

17 Sec. 37. Title 41, chapter 4, Arizona Revised Statutes, is amended by
18 adding new articles 4 and 5, to read:

19 ARTICLE 4. STATE PERSONNEL SYSTEM

20 41-741. Definitions

21 IN THIS ARTICLE AND ARTICLES 5 AND 6, UNLESS THE CONTEXT OTHERWISE
22 REQUIRES:

23 1. "EMPLOYEE" MEANS A PERSON HOLDING A POSITION IN STATE SERVICE.

24 2. "STATE SERVICE" MEANS ALL OFFICES AND POSITIONS OF EMPLOYMENT IN
25 STATE GOVERNMENT EXCEPT OFFICES AND POSITIONS EXEMPTED BY THIS ARTICLE.

26 41-742. Powers and duties of the director

27 A. THE DIRECTOR IS RESPONSIBLE FOR DIRECTION AND CONTROL OF PERSONNEL
28 ADMINISTRATION.

29 B. THE DIRECTOR SHALL:

30 1. APPOINT EMPLOYEES NECESSARY TO PERFORM THE DUTIES PRESCRIBED BY
31 THIS ARTICLE.

32 2. HAVE AUTHORITY FOR DEVELOPING AND ADMINISTERING A PROGRAM OF
33 PERSONNEL ADMINISTRATION FOR THE STATE SERVICE IN CONFORMANCE WITH THE
34 PERSONNEL RULES.

35 3. HAVE AUTHORITY TO ESTABLISH SUCH OFFICES AS MAY BE NECESSARY TO
36 MAINTAIN AN EFFECTIVE AND ECONOMICAL PROGRAM OF PERSONNEL ADMINISTRATION.

37 4. HAVE THE POWER TO DEPUTIZE EMPLOYEES IN VARIOUS STATE AGENCIES
38 WHERE CERTAIN OF THE FUNCTIONS OF PERSONNEL ADMINISTRATION CAN BE PERFORMED
39 BY SUCH DEPUTIES.

40 5. MAKE AN ANNUAL REPORT AND RECOMMENDATION TO THE LEGISLATURE AND THE
41 JOINT LEGISLATIVE BUDGET COMMITTEE AS PROVIDED IN SECTION 41-743.

42 6. ADOPT RULES RELATING TO PERSONNEL AND PERSONNEL ADMINISTRATION.

43 7. SUBJECT TO LEGISLATIVE APPROPRIATION, HAVE THE AUTHORITY TO
44 CONTRACT FOR THE SERVICES OF CONSULTANTS NECESSARY TO PERFORM THE ANNUAL
45 SALARY PLAN AND SALARY PLAN ADJUSTMENT RECOMMENDATIONS.

1 8. ESTABLISH A MANDATORY PROGRAM OF ANNUAL PERSONNEL MANAGEMENT
2 TRAINING FOR ALL STATE EMPLOYEES WITH SUPERVISORY OR MANAGERIAL
3 RESPONSIBILITY THAT IS APPROPRIATE TO THE NATURE AND SCOPE OF THE EMPLOYEES'
4 SUPERVISORIAL RESPONSIBILITIES. THE DIRECTOR MAY WAIVE THE ANNUAL MANDATORY
5 TRAINING ON A CASE BY CASE BASIS. THE TRAINING SHALL INCLUDE AT LEAST THE
6 FOLLOWING SUBJECTS:

7 (a) BASIC EMPLOYEE SUPERVISORY OR MANAGERIAL SKILLS.

8 (b) ESTABLISHING EMPLOYEE OBJECTIVES AND PERFORMANCE MEASURES.

9 (c) MEASURING EMPLOYEE PERFORMANCE AND THE USE OF PERFORMANCE
10 EVALUATION METHODS.

11 (d) EMPLOYEE DISCIPLINE TRAINING AND DISCIPLINE PROCEDURES.

12 (e) OTHER SUBJECTS AS DETERMINED BY THE DIRECTOR.

13 41-743. Annual report and recommendations

14 A. THE DIRECTOR SHALL PREPARE A REPORT ON STATE PERSONNEL AND THE
15 OPERATION OF THE STATE PERSONNEL SYSTEM.

16 B. THE REPORT SHALL INCLUDE:

17 1. INFORMATION CONCERNING ALL STATE EMPLOYEES, INCLUDING EMPLOYEES OF
18 ALL EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCH AGENCIES. ALL AGENCIES SHALL
19 PROVIDE ANY INFORMATION REQUESTED BY THE DIRECTOR TO PREPARE THE ANNUAL
20 REPORT.

21 2. INFORMATION CONCERNING THE NUMBER OF EMPLOYEES AFFECTED BY AND
22 REASONS FOR TURNOVER WITHIN STATE SERVICE.

23 3. INFORMATION CONCERNING THE COMPENSATION DURING THE PRECEDING YEAR
24 AND THE COMING YEAR OF STATE EMPLOYEES AND THE COMPENSATION OF OTHER PUBLIC
25 EMPLOYEES AND PRIVATE EMPLOYEES.

26 4. AN ADVISORY RECOMMENDATION ON THE SALARY PLAN AND ADJUSTMENTS TO
27 THE PLAN FOR EMPLOYEES IN STATE SERVICE. IN ESTABLISHING THE SALARY PLAN THE
28 DIRECTOR SHALL CONSIDER THE RELATIVE LEVELS OF DUTIES AND RESPONSIBILITIES OF
29 THE VARIOUS CLASSES OF POSITIONS, RATES PAID FOR COMPARABLE POSITIONS
30 ELSEWHERE AND OTHER RELEVANT FACTORS.

31 5. AN ADVISORY RECOMMENDATION FOR ALL POSITIONS THAT HAVE BEEN
32 EXEMPTED FROM COVERED SERVICE PURSUANT TO SECTION 41-771. SALARY
33 RECOMMENDATIONS SHALL NOT BE REQUIRED FOR ELECTED OFFICIALS. THE DIRECTOR
34 SHALL MAKE ADVISORY SALARY RECOMMENDATIONS FOR SPECIFIC POSITIONS IN THE
35 GOVERNOR'S OFFICE, THE LEGISLATURE AND THE COURTS IF REQUESTED BY THE
36 RESPECTIVE ADMINISTRATIVE HEADS OF THESE UNITS OF STATE GOVERNMENT.

37 6. THE OVERTIME PAY REQUIREMENTS OF ALL STATE AGENCIES EXCEPT THOSE
38 AGENCIES EXCLUDED BY SECTION 41-771.

39 7. OTHER INFORMATION AS DETERMINED BY THE DIRECTOR.

40 C. THE ANNUAL REPORT AND RECOMMENDATIONS SHALL BE PRESENTED TO THE
41 GOVERNOR AND THE LEGISLATURE ON OR BEFORE SEPTEMBER 1 OF EACH YEAR.

42 D. NOTWITHSTANDING SECTION 41-771, THE ARIZONA BOARD OF REGENTS, THE
43 DEPARTMENT OF PUBLIC SAFETY, THE JUDICIAL DEPARTMENT AND THE ARIZONA STATE
44 SCHOOLS FOR THE DEAF AND THE BLIND SHALL PREPARE AND SUBMIT AN ANNUAL REPORT
45 ON THEIR PERSONNEL AS PRESCRIBED IN THIS SECTION. THE REPORT SHALL INCLUDE:

1 1. INFORMATION CONCERNING THE NUMBER OF EMPLOYEES AFFECTED BY AND
2 REASONS FOR TURNOVER OF THEIR EMPLOYEES.

3 2. INFORMATION CONCERNING THE COMPENSATION DURING THE PRECEDING YEAR
4 AND THE COMING YEAR OF THEIR EMPLOYEES AND THE COMPENSATION OF OTHER PUBLIC
5 EMPLOYEES AND PRIVATE EMPLOYEES.

6 3. AN ADVISORY RECOMMENDATION ON THE SALARY PLAN AND ADJUSTMENTS FOR
7 THEIR EMPLOYEES. IN ESTABLISHING THE SALARY PLAN, THEY SHALL CONSIDER THE
8 RELATIVE LEVELS OF DUTIES AND RESPONSIBILITIES OF THE VARIOUS CLASSES OF
9 POSITIONS, RATES PAID FOR COMPARABLE POSITIONS ELSEWHERE AND OTHER RELEVANT
10 FACTORS.

11 4. THEIR OVERTIME PAY REQUIREMENTS.

12 41-744. Special market adjustments; committee

13 A. THE DIRECTOR SHALL ESTABLISH A SYSTEM OF SPECIAL MARKET ADJUSTMENTS
14 TO MODIFY SALARIES OF STATE EMPLOYEES WITHIN CERTAIN IDENTIFIED JOB
15 CLASSIFICATIONS.

16 B. THE SYSTEM SHALL PROVIDE FOR SALARY ADJUSTMENTS, SUBJECT TO
17 LEGISLATIVE APPROPRIATION, FOR STATE POSITIONS AND FOR POSITIONS IN JOB
18 CLASSIFICATIONS THAT, IN THE OPINION OF THE DIRECTOR, ARE CRITICAL TO THE
19 ORDERLY CONDUCT OF THE AGENCIES IN WHICH THE POSITIONS ARE LOCATED AND THAT
20 MEET SPECIFIC COMPARATIVE CRITERIA. THESE CRITERIA INCLUDE WHETHER THE
21 POSITIONS ARE EXPERIENCING SUBSTANTIALLY ABOVE AVERAGE TURNOVER OR HAVE
22 SALARIES THAT ARE SUBSTANTIALLY BELOW COMPARABLE POSITIONS OUTSIDE STATE
23 SERVICE.

24 C. THE DIRECTOR SHALL ESTABLISH PROCEDURES TO DETERMINE THE JOB
25 CLASSIFICATIONS ELIGIBLE FOR SPECIAL MARKET ADJUSTMENTS. THE PROCEDURES
26 SHALL INCLUDE:

27 1. THE SYSTEMATIC IDENTIFICATION OF JOB CLASSIFICATIONS BASED ON
28 SPECIFIC COMPARATIVE CRITERIA INCLUDING TURNOVER AND SALARY INFORMATION.

29 2. THE CONSIDERATION OF JOB CLASSIFICATIONS IDENTIFIED BY AGENCY
30 DIRECTORS.

31 3. IN CASES IN WHICH SIGNIFICANT INCREASES ARE RECOMMENDED,
32 RECOMMENDED INCREASES MAY BE SCHEDULED OVER TWO OR MORE YEARS. IF MULTIPLE
33 YEAR INCREASES ARE RECOMMENDED, THE COST OF FUNDING THE PROPOSED ADJUSTMENTS
34 IN EACH YEAR SHALL BE INCLUDED.

35 D. A SPECIAL MARKET ADJUSTMENT COMMITTEE IS ESTABLISHED CONSISTING OF
36 THE FOLLOWING MEMBERS:

37 1. THE DIRECTOR OF THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND
38 BUDGETING OR THE DIRECTOR'S DESIGNEE.

39 2. THE ADMINISTRATIVE DIRECTOR OF THE COURTS OR THE ADMINISTRATIVE
40 DIRECTOR'S DESIGNEE.

41 3. TWO MEMBERS WHO HAVE AT LEAST TEN YEARS OF EXPERIENCE IN HUMAN
42 RESOURCES ADMINISTRATION AND WHO ARE APPOINTED BY THE DIRECTOR OF THE
43 DEPARTMENT OF ADMINISTRATION. ONE OF THESE MEMBERS SHALL BE EMPLOYED IN THE
44 PRIVATE SECTOR.

1 4. ONE MEMBER WHO IS A MEMBER OF AN EMPLOYEE ORGANIZATION THAT HAS AT
2 LEAST ONE THOUSAND MEMBERS AND WHO IS APPOINTED BY THE DIRECTOR OF THE
3 DEPARTMENT OF ADMINISTRATION.

4 5. TWO MEMBERS WHO ARE STATE AGENCY DIRECTORS, DEPUTY DIRECTORS OR
5 ASSISTANT DIRECTORS AND WHO ARE APPOINTED BY THE DIRECTOR OF THE DEPARTMENT
6 OF ADMINISTRATION.

7 E. MEMBERS OF THE SPECIAL MARKET ADJUSTMENT COMMITTEE WHO ARE
8 APPOINTED BY THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION SHALL NOT SERVE
9 MORE THAN TWO CONSECUTIVE THREE YEAR TERMS. THE DEPARTMENT SHALL PROVIDE
10 STAFF FOR THE SPECIAL MARKET ADJUSTMENT COMMITTEE.

11 F. THE SPECIAL MARKET ADJUSTMENT COMMITTEE MAY ASSIST THE DIRECTOR IN
12 DETERMINING RECOMMENDATIONS FOR THE COST OF FUNDING THE PROPOSED ADJUSTMENTS.

13 41-745. Reduction in force procedures

14 A. THE DIRECTOR SHALL ESTABLISH REDUCTION IN FORCE PROCEDURES TO BE
15 USED BY ALL STATE AGENCIES IF REDUCTIONS ARE REQUIRED BY REASON OF LACK OF
16 MONIES OR WORK, ABOLITION OF A POSITION, A MATERIAL CHANGE IN DUTIES OR
17 ORGANIZATION OR THE INTRODUCTION OF OTHER COST REDUCTION INITIATIVES AND FOR
18 REEMPLOYMENT OF EMPLOYEES SEPARATED BY REDUCTION IN FORCE.

19 B. THE PROCEDURES SHALL GIVE SUBSTANTIALLY EQUAL CONSIDERATION IN BOTH
20 REDUCTION IN FORCE AND REEMPLOYMENT TO THE PERSON'S PERFORMANCE RECORD AND
21 SENIORITY IN SERVICE. CONSIDERATION OF THE PERSON'S PERFORMANCE IS LIMITED TO
22 PERFORMANCE, AS MEASURED BY UP TO THE THREE MOST RECENT PERFORMANCE
23 EVALUATIONS CONDUCTED USING A PERFORMANCE MEASUREMENT SYSTEM APPROVED BY THE
24 DIRECTOR, DURING A PERIOD OF NOT MORE THAN THE TWO YEARS IMMEDIATELY
25 PRECEDING THE REDUCTION IN FORCE. CONSIDERATION OF THE PERSON'S SENIORITY IS
26 LIMITED TO TENURE IN THE CURRENT JOB CLASS SERIES AS DEFINED IN THE PERSONNEL
27 RULES DURING THE FIVE YEARS IMMEDIATELY PRECEDING THE REDUCTION IN FORCE.

28 C. THE PROCEDURES SHALL PROVIDE FOR A REDUCTION IN FORCE TO BE LIMITED
29 TO A SINGLE AGENCY OR ORGANIZATIONAL UNIT OF AN AGENCY OR AGENCY OPERATIONS
30 WITHIN A GEOGRAPHIC AREA.

31 D. THE PROCEDURES SHALL PROVIDE FOR AN EXPEDITED REVIEW OF ANY
32 DETERMINATIONS MADE DURING A REDUCTION IN FORCE.

33 E. THE PROCEDURES SHALL PROVIDE THAT IF, BY LEGISLATIVE ACTION OR
34 OTHERWISE, PART OR ALL OF THE FUNCTIONS OF ONE DEPARTMENT OR AGENCY ARE
35 TRANSFERRED TO ANOTHER DEPARTMENT OR AGENCY, THE AFFECTED EMPLOYEES SHALL BE
36 ACCEPTED AS TRANSFERS BY THE RECEIVING DEPARTMENT OR AGENCY AT THE SAME PAY
37 GRADE UNLESS THE RECEIVING DEPARTMENT OR AGENCY HAS NO NEED FOR THE
38 PARTICULAR POSITION OR POSITIONS. IF THIS IS TRUE THE RULES CONCERNING
39 REDUCTION IN FORCE APPLY, AND THE EMPLOYEES SHALL NOT BE TRANSFERRED TO THE
40 RECEIVING DEPARTMENT OR AGENCY WITH THE TRANSFER OF THE FUNCTION AND THESE
41 EMPLOYEES HAVE REDUCTION IN FORCE RIGHTS IN THE DEPARTMENT OR AGENCY FROM
42 WHICH THE FUNCTION HAS BEEN ABOLISHED OR TRANSFERRED.

43 41-746. Required reduction in hours

44 AN AGENCY DIRECTOR MAY REQUIRE AGENCY COVERED EMPLOYEES TO WORK REDUCED
45 HOURS IN ORDER TO COMPLY WITH ANY REDUCTION IN APPROPRIATIONS. THE DIRECTOR

1 OF THE DEPARTMENT OF ADMINISTRATION SHALL PRESCRIBE PROCEDURES TO IMPLEMENT
2 THESE REDUCTIONS.

3 41-747. Contribution of pro rata share for personnel division
4 fund

5 A. STATE SERVICE AGENCIES WITHIN THE COVERED SERVICE SHALL CONTRIBUTE
6 A PRO RATA SHARE OF THE OVERALL COST OF PERSONNEL ADMINISTRATION SERVICES
7 PROVIDED BY THE DEPARTMENT. THE PRO RATA SHARE SHALL BE PAYABLE BY PAYROLL
8 FUND SOURCE AND THE RESULTANT AMOUNT SHALL BE DEPOSITED, PURSUANT TO SECTIONS
9 35-146 AND 35-147, IN A PERSONNEL DIVISION FUND FOR APPROPRIATION BY THE
10 LEGISLATURE FOR THE PERSONNEL BOARD AND THE PERSONNEL DIVISION OF THE
11 DEPARTMENT. THE PRO RATA SHARE SHALL BE 1.10 PER CENT OF THE TOTAL PAYROLL
12 OF THE AGENCY. OF THE 1.10 PER CENT PRO RATA SHARE, 0.03 PER CENT OF TOTAL
13 PAYROLL SHALL BE DEPOSITED IN A SEPARATE SUBACCOUNT OF THE PERSONNEL DIVISION
14 FUND FOR USE BY THE PERSONNEL BOARD AND SHALL BE SUBJECT TO LEGISLATIVE
15 APPROPRIATION. TOTAL PAYROLL SHALL INCLUDE ALL FUND SOURCES, INCLUDING THE
16 STATE GENERAL FUND, FEDERAL MONIES, SPECIAL REVENUE FUNDS, INTERGOVERNMENTAL
17 REVENUE MONIES, TRUST FUNDS AND OTHER PAYROLL FUND SOURCES.

18 B. A CLAIM FOR THE PRO RATA SHARE PERCENTAGE PAYMENT SHALL BE
19 SUBMITTED ACCORDING TO THE FUND SOURCE, WITH THE ACCOMPANYING PAYROLL TO THE
20 DEPARTMENT FOR DEPOSIT IN THE PERSONNEL DIVISION FUND.

21 C. NOTWITHSTANDING SECTION 35-190, ONLY MONIES IN EXCESS OF FIVE
22 HUNDRED THOUSAND DOLLARS REVERT TO THE STATE GENERAL FUND AT THE END OF EACH
23 FISCAL YEAR. THE STATE COMPTROLLER SHALL PAY ANY MONIES DETERMINED TO BE
24 OWED TO THE FEDERAL GOVERNMENT FROM THE PERSONNEL DIVISION FUND BEFORE
25 CALCULATING THE REVERSION.

26 41-748. Agreements for services and facilities

27 THE DEPARTMENT OF ADMINISTRATION MAY ENTER INTO AGREEMENTS WITH ANY
28 MUNICIPALITY OR OTHER POLITICAL SUBDIVISION OR ANY AGENCY THEREOF TO FURNISH
29 PERSONNEL ADMINISTRATION SERVICES AND FACILITIES OF THE DEPARTMENT. UNLESS
30 FUNDS HAVE BEEN APPROPRIATED BY THE LEGISLATURE FOR SUCH PURPOSE, ANY SUCH
31 AGREEMENT SHALL PROVIDE FOR REIMBURSEMENT TO THE STATE OF THE ACTUAL COST OF
32 THE SERVICES AND FACILITIES FURNISHED, AS DETERMINED BY THE DEPARTMENT.

33 41-749. Coordination with department of economic security

34 THE DEPARTMENT OF ADMINISTRATION AND THE DEPARTMENT OF ECONOMIC
35 SECURITY MAY DEVELOP A COMPREHENSIVE AGREEMENT WHEREBY THE PERSONNEL AND
36 FACILITIES OF THE DEPARTMENT OF ECONOMIC SECURITY ARE USED TO ASSIST THE
37 DEPARTMENT IN THE PERFORMANCE OF ITS PERSONNEL ADMINISTRATION DUTIES, IF THE
38 AGREEMENT WILL:

39 1. RESULT IN MORE ECONOMICAL PERFORMANCE OF THE DUTIES OF THE
40 DEPARTMENT.

41 2. PROVIDE FOR REIMBURSEMENT TO THE DEPARTMENT OF ECONOMIC SECURITY
42 WHEREVER FEDERAL REGULATIONS SO REQUIRE.

43 41-750. Refusal of examination or certification

44 THE DIRECTOR MAY REFUSE TO EXAMINE OR, AFTER EXAMINATION, MAY REFUSE TO
45 CERTIFY AS AN ELIGIBLE OR MAY WITHDRAW FROM CERTIFICATION ANYONE WHO:

1 1. HAS PRACTICED ANY DECEPTION OR FRAUD IN HIS APPLICATION, IN HIS
2 EXAMINATION OR IN SECURING HIS ELIGIBILITY.

3 2. HAS FAILED TO REPLY WITHIN A REASONABLE TIME TO COMMUNICATIONS
4 CONCERNING HIS AVAILABILITY FOR EMPLOYMENT.

5 3. IS FOUND TO BE UNSUITED OR NOT QUALIFIED FOR EMPLOYMENT.

6 4. LACKS ANY OF THE REQUIREMENTS ESTABLISHED BY THE DIRECTOR FOR THE
7 EXAMINATION OR POSITION FOR WHICH HE APPLIES.

8 5. IS PHYSICALLY OR MENTALLY SO DISABLED AS TO BE RENDERED UNFIT TO
9 PERFORM THE DUTIES OF THE POSITION TO WHICH HE SEEKS APPOINTMENT.

10 41-751. Causes for dismissal or discipline

11 A. EACH OF THE FOLLOWING CONSTITUTES CAUSE FOR DISCIPLINE OR DISMISSAL
12 OF AN EMPLOYEE IN THE STATE SERVICE:

13 1. FRAUD IN SECURING APPOINTMENT.

14 2. INCOMPETENCY.

15 3. INEFFICIENCY.

16 4. NEGLIGENCE OF DUTY.

17 5. INSUBORDINATION.

18 6. DISHONESTY.

19 7. DRUNKENNESS ON DUTY.

20 8. ADDICTION TO THE USE OF NARCOTICS OR HABIT-FORMING DRUGS.

21 9. ABSENCE WITHOUT LEAVE.

22 10. FINAL CONVICTION OF A FELONY OR A MISDEMEANOR INVOLVING MORAL
23 TURPITUDE.

24 11. DISCOURTEOUS TREATMENT OF THE PUBLIC.

25 12. IMPROPER POLITICAL ACTIVITY.

26 13. WILFUL DISOBEDIENCE.

27 14. MISUSE OR UNAUTHORIZED USE OF STATE PROPERTY.

28 B. IN ADDITION TO THE CAUSES PRESCRIBED BY THE TERMS OF SUBSECTION A
29 OF THIS SECTION, THE DIRECTOR MAY ESTABLISH SUCH OTHER CAUSES DEEMED
30 NECESSARY.

31 C. THE DIRECTOR SHALL PRESCRIBE DEFINITIONS FOR EACH OF THE CAUSES FOR
32 DISMISSAL OR DISCIPLINE PRESCRIBED OR ESTABLISHED UNDER THIS SECTION THAT
33 SHALL BE USED BY ALL EMPLOYEES AND THE PERSONNEL BOARD IN EVALUATING
34 DISMISSALS AND DISCIPLINARY ACTIONS.

35 ARTICLE 5. PERSONNEL ADMINISTRATION

36 41-771. Exemptions

37 A. THIS ARTICLE AND ARTICLE 6 OF THIS CHAPTER DO NOT APPLY TO:

38 1. ELECTED STATE OFFICERS.

39 2. STATE OFFICERS AND MEMBERS OF BOARDS AND COMMISSIONS WHO ARE
40 APPOINTED BY THE LEGISLATURE OR THE GOVERNOR, THE EMPLOYEES OF THE GOVERNOR'S
41 OFFICE, THE EMPLOYEES OF THE ARIZONA LEGISLATIVE COUNCIL AND THE EMPLOYEES OF
42 THE SUPREME COURT AND THE COURT OF APPEALS.

43 3. STATE OFFICERS AND EMPLOYEES WHO ARE APPOINTED OR EMPLOYED BY THE
44 LEGISLATURE OR EITHER HOUSE OF THE LEGISLATURE.

1 4. THE CURATOR, CURATORIAL AIDES AND TOUR GUIDES AND ANY OTHER PERSON
2 WHO IS EMPLOYED TO WORK IN THE STATE CAPITOL MUSEUM.

3 5. OFFICERS OR EMPLOYEES OF STATE UNIVERSITIES AND PERSONNEL OF THE
4 ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND.

5 6. PATIENTS OR INMATES WHO ARE EMPLOYED IN STATE INSTITUTIONS.

6 7. OFFICERS AND ENLISTED PERSONNEL OF THE NATIONAL GUARD OF ARIZONA.

7 8. THE SINGLE ADMINISTRATIVE OR EXECUTIVE DIRECTOR AND ONE DEPUTY
8 DIRECTOR OF EACH STATE DEPARTMENT OR AGENCY.

9 9. NOT MORE THAN TWO ASSISTANTS WHO SERVE IN THE OFFICE OF AN ELECTED
10 STATE OFFICER, IF THAT ELECTED STATE OFFICER IS THE SOLE ELECTED HEAD OF THE
11 DEPARTMENT.

12 10. ONE ADMINISTRATIVE ASSISTANT WHO SERVES A BOARD OR COMMISSION
13 ELECTED TO HEAD A STATE AGENCY, DEPARTMENT OR DIVISION, AND ONE ASSISTANT FOR
14 EACH ELECTED MEMBER OF SUCH A BOARD OR COMMISSION.

15 11. PERSONS WHO REPORT DIRECTLY TO THE GOVERNOR.

16 12. EMPLOYEES OF THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS WHO
17 OCCUPY ARIZONA NATIONAL GUARD POSITIONS IDENTIFIED AS MOBILIZATION ASSETS.

18 13. EXCEPT AS OTHERWISE REQUIRED BY FEDERAL LAW AND EXCEPT FOR
19 CERTIFIED PEACE OFFICERS AS DEFINED IN SECTION 38-842, CORRECTIONAL OFFICERS
20 AND JUVENILE CORRECTIONAL OFFICERS, STATE OFFICERS AND EMPLOYEES WHO ARE
21 APPOINTED OR EMPLOYED AFTER DECEMBER 31, 2006 AND WHO ARE AT A PAY GRADE OF
22 TWENTY-FOUR OR ABOVE.

23 14. ANY OTHER POSITION EXEMPTED BY LAW.

24 B. EXCEPT FOR SECTION 41-772, SUBSECTIONS D, E AND F, THIS ARTICLE AND
25 ARTICLE 6 OF THIS CHAPTER DO NOT APPLY TO THOSE POSITIONS DETERMINED BY THE
26 DIRECTOR TO MEET ANY OF THE FOLLOWING CRITERIA:

27 1. TOP LEVEL POSITIONS IN A DEPARTMENT OR AGENCY THAT DETERMINE AND
28 PUBLICLY ADVOCATE SUBSTANTIVE PROGRAM POLICY. THIS INCLUDES THOSE PERSONS
29 WHO ARE ENGAGED IN THE DIRECTION OF LINE OPERATIONS IF THEY REPORT DIRECTLY
30 TO THE DIRECTOR OR DEPUTY DIRECTOR OF THE AGENCY AND IN LARGE MULTIPROGRAM
31 AGENCIES THOSE PERSONS WHO REPORT DIRECTLY TO THE HEAD OF A PRIMARY COMPONENT
32 OF THE DEPARTMENT OR AGENCY.

33 2. THOSE PERSONS WHO ARE REQUIRED TO MAINTAIN A DIRECT CONFIDENTIAL
34 WORKING RELATIONSHIP WITH AN EXEMPT OFFICIAL.

35 3. PERSONS WHO PROVIDE LEGAL COUNSEL.

36 4. POSITIONS THAT ARE PART TIME.

37 5. POSITIONS THAT ARE TEMPORARY AND THAT ARE ESTABLISHED FOR THE
38 PURPOSE OF CONDUCTING A SPECIAL PROJECT, STUDY OR INVESTIGATION.

39 6. POSITIONS THAT ARE ESSENTIALLY FOR REHABILITATION PURPOSES.

40 7. POSITIONS THAT ARE DETERMINED BY THE DIRECTOR TO BE DIRECTLY OR
41 INDIRECTLY ENGAGED IN ESTABLISHING POLICY OR ENFORCEMENT STANDARDS.

42 8. DIRECTORS OF ALL INSTITUTIONS THAT MAINTAIN SUPERVISION OR CARE ON
43 A TWENTY-FOUR HOUR PER DAY BASIS OTHER THAN HALFWAY HOUSES OR GROUP HOMES.

1 41-772. Prohibitions: violation: classification: civil penalty:
2 protection of civil or political liberties

3 A. AN EMPLOYEE SHALL NOT:

4 1. USE ANY POLITICAL ENDORSEMENT IN CONNECTION WITH ANY APPOINTMENT TO
5 A POSITION IN THE STATE SERVICE.

6 2. USE OR PROMISE TO USE ANY OFFICIAL AUTHORITY OR INFLUENCE FOR THE
7 PURPOSE OF INFLUENCING THE VOTE OR POLITICAL ACTION OF ANY PERSON OR FOR ANY
8 CONSIDERATION.

9 B. AN EMPLOYEE OR MEMBER OF THE PERSONNEL BOARD SHALL NOT BE A MEMBER
10 OF ANY NATIONAL, STATE OR LOCAL COMMITTEE OF A POLITICAL PARTY, AN OFFICER OR
11 CHAIRMAN OF A COMMITTEE OF A PARTISAN POLITICAL CLUB, OR A CANDIDATE FOR
12 NOMINATION OR ELECTION TO ANY PAID PUBLIC OFFICE, SHALL NOT HOLD ANY PAID,
13 ELECTIVE PUBLIC OFFICE OR SHALL NOT TAKE ANY PART IN THE MANAGEMENT OR
14 AFFAIRS OF ANY POLITICAL PARTY OR IN THE MANAGEMENT OF ANY PARTISAN OR
15 NONPARTISAN CAMPAIGN OR RECALL EFFORT, EXCEPT THAT ANY EMPLOYEE MAY:

16 1. EXPRESS HIS OPINION.

17 2. ATTEND MEETINGS FOR THE PURPOSE OF BECOMING INFORMED CONCERNING THE
18 CANDIDATES FOR PUBLIC OFFICE AND THE POLITICAL ISSUES.

19 3. CAST HIS VOTE AND SIGN NOMINATION OR RECALL PETITIONS.

20 4. MAKE CONTRIBUTIONS TO CANDIDATES, POLITICAL PARTIES OR CAMPAIGN
21 COMMITTEES CONTRIBUTING TO CANDIDATES OR ADVOCATING THE ELECTION OR DEFEAT OF
22 CANDIDATES.

23 5. CIRCULATE CANDIDATE NOMINATION PETITIONS OR RECALL PETITIONS.

24 6. ENGAGE IN ACTIVITIES TO ADVOCATE THE ELECTION OR DEFEAT OF ANY
25 CANDIDATE.

26 7. SOLICIT OR ENCOURAGE CONTRIBUTIONS TO BE MADE DIRECTLY TO
27 CANDIDATES OR CAMPAIGN COMMITTEES CONTRIBUTING TO CANDIDATES OR ADVOCATING
28 THE ELECTION OR DEFEAT OF CANDIDATES.

29 C. EXCEPT FOR EXPRESSING HIS OPINION OR PURSUANT TO SECTION 16-402, AN
30 EMPLOYEE SHALL NOT ENGAGE IN ANY ACTIVITY PERMITTED BY THIS SECTION WHILE ON
31 DUTY, WHILE IN UNIFORM OR AT PUBLIC EXPENSE.

32 D. A PERSON SHALL NOT SOLICIT ANY EMPLOYEE OR A MEMBER OF THE
33 PERSONNEL BOARD TO ENGAGE OR NOT ENGAGE IN ACTIVITIES PERMITTED BY THIS
34 SECTION WITH THE DIRECT OR INDIRECT USE OF ANY THREAT, INTIMIDATION OR
35 COERCION INCLUDING THREATS OF DISCRIMINATION, REPRISAL, FORCE OR ANY OTHER
36 ADVERSE CONSEQUENCE INCLUDING THE LOSS OF ANY BENEFIT, REWARD, PROMOTION,
37 ADVANCEMENT OR COMPENSATION.

38 E. A PERSON SHALL NOT SUBJECT ANY EMPLOYEE OR A MEMBER OF THE
39 PERSONNEL BOARD ENGAGING IN ACTIVITY PERMITTED BY THIS SECTION TO ANY DIRECT
40 OR INDIRECT DISCRIMINATION, REPRISAL, FORCE, COERCION OR INTIMIDATION OR ANY
41 OTHER ADVERSE CONSEQUENCE INCLUDING THE LOSS OF ANY BENEFIT, REWARD,
42 PROMOTION, ADVANCEMENT OR COMPENSATION.

43 F. A PERSON SHALL NOT SUBJECT ANY EMPLOYEE OR MEMBER OF THE PERSONNEL
44 BOARD WHO CHOOSES NOT TO ENGAGE IN ANY ACTIVITY PERMITTED BY THIS SECTION TO
45 ANY DIRECT OR INDIRECT DISCRIMINATION, REPRISAL, FORCE, COERCION OR

1 INTIMIDATION OR ANY OTHER ADVERSE CONSEQUENCE INCLUDING THE LOSS OF ANY
2 BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR COMPENSATION.

3 G. THIS SECTION DOES NOT APPLY TO SCHOOL BOARD ELECTIONS OR COMMUNITY
4 COLLEGE DISTRICT GOVERNING BOARD ELECTIONS, AND AN EMPLOYEE MAY SERVE AS A
5 MEMBER OF THE GOVERNING BOARD OF A COMMON OR HIGH SCHOOL DISTRICT OR AS A
6 MEMBER OF A COMMUNITY COLLEGE DISTRICT GOVERNING BOARD.

7 H. AN EMPLOYEE WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION
8 SHALL BE SUBJECT TO SUSPENSION OF NOT LESS THAN THIRTY DAYS OR DISMISSAL.

9 I. A PERSON WHO VIOLATES:

10 1. SUBSECTION D, E OR F OF THIS SECTION IS GUILTY OF A CLASS 6 FELONY.

11 2. ANY OTHER PROVISION OF THIS SECTION IS GUILTY OF A CLASS 1
12 MISDEMEANOR.

13 J. IN ADDITION TO ANY OTHER PENALTY, ANY PERSON SOLICITING OR
14 ENCOURAGING A CONTRIBUTION IN A MANNER PROHIBITED BY THIS SECTION IS SUBJECT
15 TO A CIVIL PENALTY OF UP TO THREE TIMES THE AMOUNT OF THE CONTRIBUTION
16 SOLICITED OR ENCOURAGED PLUS COSTS, EXPENSES AND REASONABLE ATTORNEY FEES.

17 K. THIS SECTION SHALL NOT BE CONSTRUED AS DENYING ANY EMPLOYEE OR
18 BOARD MEMBER HIS CIVIL OR POLITICAL LIBERTIES AS GUARANTEED BY THE UNITED
19 STATES AND ARIZONA CONSTITUTIONS.

20 L. IT IS THE PUBLIC POLICY OF THIS STATE, REFLECTED IN THIS SECTION,
21 THAT GOVERNMENT PROGRAMS BE ADMINISTERED IN AN UNBIASED MANNER AND WITHOUT
22 FAVORITISM FOR OR AGAINST ANY POLITICAL PARTY OR GROUP OR ANY MEMBER IN ORDER
23 TO PROMOTE PUBLIC CONFIDENCE IN GOVERNMENT, GOVERNMENTAL INTEGRITY AND THE
24 EFFICIENT DELIVERY OF GOVERNMENTAL SERVICES AND TO ENSURE THAT ALL EMPLOYEES
25 ARE FREE FROM ANY EXPRESS OR IMPLIED REQUIREMENT OR ANY POLITICAL OR OTHER
26 PRESSURE OF ANY KIND TO ENGAGE OR NOT ENGAGE IN ANY ACTIVITY PERMITTED BY
27 THIS SECTION. TOWARD THIS END, ANY PERSON OR ENTITY CHARGED WITH THE
28 INTERPRETATION OF THIS SECTION SHALL TAKE INTO ACCOUNT THE POLICY OF THIS
29 SECTION AND SHALL CONSTRUE ANY OF ITS PROVISIONS ACCORDINGLY.

30 41-773. Unlawful acts; violation; classification

31 A. NO PERSON MAY MAKE ANY FALSE STATEMENT, CERTIFICATE, MARK, RATING
32 OR REPORT WITH REGARD TO ANY TEST, CERTIFICATION OR APPOINTMENT MADE UNDER
33 ANY PROVISION OF THIS CHAPTER OR IN ANY MANNER COMMIT ANY FRAUD PREVENTING
34 THE IMPARTIAL EXECUTION OF THIS CHAPTER AND THE RULES.

35 B. NO PERSON MAY, DIRECTLY OR INDIRECTLY, GIVE, RENDER, PAY, OFFER,
36 SOLICIT OR ACCEPT ANY MONEY, SERVICE OR OTHER VALUABLE CONSIDERATION FOR OR
37 ON ACCOUNT OF ANY APPOINTMENT, PROPOSED APPOINTMENT, PROMOTION OR PROPOSED
38 PROMOTION TO, OR ANY ADVANTAGE IN, A POSITION IN THE STATE SERVICE.

39 C. NO EMPLOYEE OF THE DEPARTMENT, EXAMINER OR OTHER PERSON SHALL
40 OBSTRUCT ANY PERSON IN HIS RIGHT TO EXAMINATION, ELIGIBILITY, CERTIFICATION
41 OR APPOINTMENT UNDER THIS CHAPTER, OR FURNISH TO ANY PERSON ANY SPECIAL OR
42 SECRET INFORMATION FOR THE PURPOSE OF AFFECTING THE RIGHTS OR PROSPECTS OF
43 ANY PERSON WITH RESPECT TO EMPLOYMENT IN THE STATE SERVICE.

44 D. NO ELECTED OR APPOINTED OFFICIAL MAY WITH CORRUPT INTENT USE HIS
45 POLITICAL INFLUENCE OR POSITION TO CAUSE THE FIRING, PROMOTION OR DEMOTION OF

1 ANY PUBLIC EMPLOYEE OR THE HIRING OF OR FAILURE TO HIRE ANY APPLICANT FOR
2 PUBLIC EMPLOYMENT.

3 E. AN ELECTED OR APPOINTED OFFICIAL WHO KNOWINGLY AND WITH CORRUPT
4 INTENT VIOLATES SUBSECTION D OF THIS SECTION IS GUILTY OF A CLASS 2
5 MISDEMEANOR.

6 F. A CONTACT BY AN ELECTED OR APPOINTED OFFICIAL WITH A PUBLIC AGENCY
7 REGARDING THE QUALIFICATIONS OF AN APPLICANT SHALL NOT BE CONSTRUED AS
8 ILLEGALLY USING POLITICAL INFLUENCE OR POSITION.

9 41-774. Certification by division

10 A SALARY SHALL NOT BE PAID TO ANY EMPLOYEE IN THE STATE SERVICE UNLESS
11 THE DIRECTOR OR THE DIRECTOR'S DESIGNEE HAS CERTIFIED THAT THE EMPLOYMENT IS
12 IN ACCORDANCE WITH THIS ARTICLE.

13 41-775. Violation; classification

14 A. EXCEPT AS PROVIDED IN SECTION 41-772, ANY PERSON WHO KNOWINGLY
15 COMMITS ANY ACT THAT IS UNLAWFUL UNDER THIS ARTICLE OR WHO VIOLATES ANY
16 PROVISION OF THIS ARTICLE IS GUILTY OF A CLASS 2 MISDEMEANOR UNLESS ANOTHER
17 CLASSIFICATION IS SPECIFICALLY PRESCRIBED IN THIS ARTICLE.

18 B. ANY PERSON WHO IS CONVICTED OF A CLASS 2 MISDEMEANOR UNDER THIS
19 ARTICLE SHALL BE INELIGIBLE FOR APPOINTMENT TO OR EMPLOYMENT IN A POSITION IN
20 THE STATE SERVICE FOR A PERIOD OF FIVE YEARS AND, IF THE PERSON IS AN
21 EMPLOYEE OF THE STATE AT THE TIME OF CONVICTION, IS SUBJECT TO SUSPENSION FOR
22 NOT LESS THAN NINETY DAYS OR DISMISSAL.

23 41-776. State employees; mentoring

24 A. THE DIRECTOR SHALL PROVIDE IN THE PERSONNEL RULES A PROCEDURE THAT
25 ALLOWS STATE EMPLOYEES TO VOLUNTARILY ENGAGE IN ACTIVITIES THAT SUPPORT
26 MENTORING, EDUCATION AND YOUTH DEVELOPMENT OF SCHOOL AGE YOUTHS IN THIS
27 STATE.

28 B. THE RULES SHALL:

29 1. ENCOURAGE STATE EMPLOYEES TO VOLUNTEER AS MENTORS TO SCHOOL AGE
30 YOUTHS AT PUBLIC SCHOOLS, PRIVATE SCHOOLS OR HOME SCHOOLS OR THROUGH
31 FAITH-BASED ORGANIZATIONS.

32 2. INCLUDE:

33 (a) UP TO ONE HOUR OF FLEX TIME PER WEEK, NOT TO EXCEED FIVE HOURS PER
34 CALENDAR MONTH.

35 (b) PROVISIONS THAT THE FLEX TIME MUST BE MADE UP WITHIN THE SAME WORK
36 WEEK THAT IT IS TAKEN AND THAT FLEX TIME IS UNPAID, CANNOT BE ACCRUED AND
37 DOES NOT COUNT TOWARD OVERTIME HOURS.

38 Sec. 38. Section 41-781, Arizona Revised Statutes, is amended to read:

39 41-781. State personnel board; members; appointment; term;
40 meetings; compensation

41 A. The state personnel board consists of five members appointed by the
42 governor pursuant to section 38-211. No more than three members shall belong
43 to the same political party. Persons eligible for appointment shall have had
44 a continuous recorded registration pursuant to title 16, chapter 1 with
45 either the same political party or as an independent for at least two years

1 immediately preceding appointment. Of the members appointed one shall be a
 2 person who for more than five years has managed a component or unit of
 3 government or industry with more than twenty employees, one shall be a
 4 professional personnel administrator, one a state employee, one a person
 5 active in business management and one a member of the public. Members may be
 6 removed by the governor for cause. The chairperson of the state personnel
 7 board shall serve as an ex officio member of the law enforcement merit system
 8 council established by section 41-1830.11 without voting privileges.

9 B. The term of office for each member is three years, each term to
 10 expire three years from the date of appointment. On the expiration of the
 11 term of a member a successor shall be appointed for a full term of three
 12 years.

13 C. The state personnel board may hold regular monthly meetings and, in
 14 addition, may hold special meetings the board deems necessary. A chairperson
 15 and vice chairperson shall be elected by the members at the first meeting of
 16 each year and the chairperson shall not serve successive terms as
 17 chairperson. Meetings of the state personnel board shall be open to the
 18 public, and executive sessions may be held as provided by law.

19 D. Any one of the following constitutes the resignation of a board
 20 member and authorizes the governor to appoint a new member to fill the
 21 unexpired term so vacated:

- 22 1. Becoming a candidate for any elective public office.
- 23 2. Accepting any appointive office or employment in the state
 24 personnel system, except the state employee who is designated to serve on the
 25 board.

26 E. Members of the state personnel board, except the person designated
 27 as the state employee, are eligible to receive compensation ~~of one hundred~~
 28 ~~dollars for each meeting attended, prorated for partial days for each meeting~~
 29 ~~attended~~ AS DETERMINED PURSUANT TO SECTION 38-611 FOR EACH DAY ACTUALLY SPENT
 30 FOR MEETINGS OF THE STATE PERSONNEL BOARD. The member of the state personnel
 31 board designated as the state employee shall be paid the state employee's
 32 regular compensation for meetings of the board.

33 Sec. 39. Section 41-782, Arizona Revised Statutes, is amended to read:

34 41-782. Powers and duties of the state personnel board

35 A. ~~Except as provided by section 41-1830.16,~~ The state personnel board
 36 shall hear and review appeals as provided in this article relating to
 37 dismissal ~~of a covered employee~~ from ~~covered~~ STATE service, suspension for
 38 more than ~~eighty~~ FORTY working hours or ~~involuntary~~ demotion resulting from
 39 disciplinary action as defined in the personnel rules ~~for an employee in~~
 40 ~~covered service~~.

41 B. The state personnel board shall hear and review complaints as
 42 provided in title 38, chapter 3, article 9, relating to any personnel action
 43 taken against an employee or former employee of this state, except an
 44 employee or former employee of a state university or the board of regents,
 45 which the employee or former employee believes was taken in reprisal for the

1 employee's or former employee's disclosure of information to a public body.
2 The state personnel board shall recommend the dismissal of a supervisor or
3 other responsible person, other than an elected official, who it determines
4 committed a prohibited personnel practice.

5 C. The state personnel board may adopt rules it deems necessary for
6 the administration of hearings and the review of appeals and complaints as
7 prescribed in this section.

8 ~~D. The state personnel board shall only exercise authority that is~~
9 ~~specifically granted to the board pursuant to this article.~~

10 Sec. 40. Renumber

11 Section 41-783, Arizona Revised Statutes, is renumbered as section
12 41-785.

13 Sec. 41. Title 41, chapter 4, article 6, Arizona Revised Statutes, is
14 amended by adding a new section 41-783, to read:

15 41-783. Personnel rules

16 THE PERSONNEL RULES SHALL PROVIDE FOR:

17 1. A POSITION CLASSIFICATION PLAN FOR ALL POSITIONS IN THE STATE
18 SERVICE.

19 2. COMPETITIVE EXAMINATIONS TO TEST THE RELATIVE QUALIFICATIONS OF
20 APPLICANTS FOR POSITIONS IN STATE SERVICE. ALL COMPETITIVE EXAMINATIONS
21 SHALL BE GIVEN STATEWIDE. FOR THE PURPOSES OF THIS PARAGRAPH, "STATEWIDE"
22 MEANS THAT A COMPETITIVE EXAMINATION SHALL BE GIVEN IN AN OFFICE OF THE
23 DEPARTMENT OF ECONOMIC SECURITY IN EACH CITY OR TOWN OF THE STATE IN WHICH
24 THE OFFICE IS LOCATED, UNLESS THE DIRECTOR DESIGNATES ANOTHER LOCATION WITHIN
25 SUCH CITY OR TOWN.

26 3. EVALUATION OF PERFORMANCE OF EMPLOYEES FOR THE PURPOSE OF IMPROVING
27 STAFF EFFECTIVENESS.

28 4. PROMOTIONS OR TRANSFERS BETWEEN CLASSES THAT GIVE APPROPRIATE
29 CONSIDERATION TO THE APPLICANT'S QUALIFICATIONS, RECORD OF PERFORMANCE AND
30 CONDUCT.

31 5. ESTABLISHMENT OF ELIGIBILITY LISTS FOR APPOINTMENT AND PROMOTION.
32 THE NAMES OF SUCCESSFUL CANDIDATES SHALL BE PLACED ON THE LISTS IN THE ORDER
33 OF THEIR RELATIVE EXCELLENCE IN THEIR RESPECTIVE EXAMINATIONS.

34 6. REJECTION OF CANDIDATES FOR APPOINTMENT OR PROMOTION WHO FAIL TO
35 FULFILL REASONABLE REQUIREMENTS.

36 7. DELIVERY OF A LIST OF QUALIFIED APPLICANTS TO ANY STATE AGENCY
37 REQUIRING IT. THE STATE AGENCY MAY SELECT AND HIRE AN EMPLOYEE FROM THIS
38 LIST.

39 8. A MINIMUM PERIOD OF ORIGINAL PROBATIONARY SERVICE FOLLOWING INITIAL
40 APPOINTMENT. DURING A PERIOD OF ORIGINAL PROBATIONARY SERVICE, THE
41 PROBATIONARY EMPLOYEE SHALL PERFORM THE ACTUAL DUTIES OF THE POSITION AND MAY
42 BE DISCHARGED WITHOUT CAUSE. A PERIOD OF PROMOTIONAL PROBATION SERVICE SHALL
43 BE ESTABLISHED BY THE DIRECTOR.

44 9. A REASONABLE PERIOD OF PROVISIONAL EMPLOYMENT WITHOUT COMPETITIVE
45 EXAMINATION IF THERE IS NO ELIGIBILITY LIST AVAILABLE FOR THE POSITION.

1 10. EMERGENCY APPOINTMENTS FOR NOT MORE THAN THIRTY DAYS WITH OR
2 WITHOUT EXAMINATION AS PROVIDED BY THE RULES.

3 11. TEMPORARY APPOINTMENTS TO POSITIONS THAT OCCUR, TERMINATE AND RECUR
4 PERIODICALLY REGARDLESS OF THE DURATION OF THE POSITION.

5 12. TRANSFER FROM A POSITION IN ONE DEPARTMENT TO A SIMILAR POSITION IN
6 ANOTHER DEPARTMENT INVOLVING SIMILAR QUALIFICATIONS, DUTIES, RESPONSIBILITIES
7 AND SALARY RANGES.

8 13. REINSTATEMENT TO AN ELIGIBILITY LIST OF PREVIOUS EMPLOYEES WHO HAVE
9 RESIGNED IN GOOD STANDING OR WHO WERE SEPARATED FROM THEIR POSITIONS WITHOUT
10 FAULT ON THEIR PART.

11 14. REDUCTION IN FORCE BY REASON OF LACK OF FUNDS OR WORK, ABOLITION OF
12 A POSITION OR MATERIAL CHANGE IN DUTIES OR ORGANIZATION, AND FOR REEMPLOYMENT
13 OF EMPLOYEES SEPARATED BY REDUCTION IN FORCE AS PROVIDED IN SECTION 41-745.

14 15. THE CIRCUMSTANCES UNDER WHICH AN EMPLOYEE MAY BE SUSPENDED WITHOUT
15 PAY.

16 16. ESTABLISHMENT OF A PLAN FOR RESOLVING EMPLOYEE GRIEVANCES AND
17 COMPLAINTS AND IN CASES OF ALLEGED DISCRIMINATION FOR REFERRAL TO THE
18 APPROPRIATE AGENCY IF AN EMPLOYEE IS NOT OTHERWISE SATISFIED WITH THE FINAL
19 GRIEVANCE RESOLUTION.

20 17. ATTENDANCE, INCLUDING HOURS OF EMPLOYMENT, ANNUAL LEAVE, SICK LEAVE
21 AND SPECIAL LEAVES OF ABSENCE, WITH OR WITHOUT PAY OR WITH REDUCED PAY.
22 RULES ON HOURS OF EMPLOYMENT SHALL PROVIDE FOR THE IMPLEMENTATION OF FLEXIBLE
23 HOURS OF EMPLOYMENT AS AN OPTION FOR EMPLOYEES IF THE DIRECTOR OF AN
24 EMPLOYING AGENCY DECIDES, IN THE DIRECTOR'S DISCRETION, THAT EXISTING
25 SERVICES CAN BE MAINTAINED. THE RULES SHALL PROVIDE:

26 (a) FOR THE TRANSFER OF ACCUMULATED ANNUAL LEAVE FROM ONE EMPLOYEE TO
27 ANOTHER EMPLOYEE IN THE SAME AGENCY AND FOR TRANSFER OF ACCUMULATED ANNUAL
28 LEAVE FROM ONE EMPLOYEE TO ANOTHER EMPLOYEE IN ANOTHER AGENCY IF THE
29 EMPLOYEES ARE MEMBERS OF THE SAME FAMILY. SUCH TRANSFERS MAY OCCUR IF THE
30 EMPLOYEE TO WHOM THE LEAVE IS TRANSFERRED HAS A SERIOUSLY INCAPACITATING AND
31 EXTENDED ILLNESS OR INJURY OR A SERIOUSLY INCAPACITATING AND EXTENDED
32 DISABILITY THAT IS CAUSED BY PREGNANCY OR CHILDBIRTH OR A MEMBER OF THE
33 EMPLOYEE'S IMMEDIATE FAMILY HAS A SERIOUSLY INCAPACITATING AND EXTENDED
34 ILLNESS OR INJURY OR A SERIOUSLY INCAPACITATING AND EXTENDED DISABILITY THAT
35 IS CAUSED BY PREGNANCY OR CHILDBIRTH AND THE EMPLOYEE HAS EXHAUSTED ALL
36 AVAILABLE LEAVE BALANCES. TRANSFERRED ANNUAL LEAVE SHALL BE INCREASED OR
37 REDUCED PROPORTIONALLY BY THE DIFFERENCE IN THE SALARIES OF THE EMPLOYEES AS
38 DETERMINED BY DEPARTMENT RULE. FOR THE PURPOSES OF THIS SUBDIVISION,
39 "FAMILY" MEANS SPOUSE, NATURAL CHILD, ADOPTED CHILD, FOSTER CHILD, STEPCHILD,
40 NATURAL PARENT, STEPPARENT, ADOPTIVE PARENT, GRANDPARENT, GRANDCHILD,
41 BROTHER, SISTER, SISTER-IN-LAW, BROTHER-IN-LAW, SON-IN-LAW, DAUGHTER-IN-LAW,
42 MOTHER-IN-LAW, FATHER-IN-LAW, AUNT, UNCLE, NEPHEW OR NIECE.

43 (b) THAT AN EMPLOYEE WHO RECEIVES TRANSFERRED ANNUAL LEAVE AS PROVIDED
44 IN SUBDIVISION (a) OF THIS PARAGRAPH IS LIMITED TO USING SIX CONSECUTIVE

1 MONTHS OF TRANSFERRED LEAVE PER OCCURRENCE UNLESS THE EMPLOYEE HAS APPLIED
2 FOR LONG-TERM DISABILITY INSURANCE AS PROVIDED BY RULE.

3 (c) THAT IF A PERMANENT STATUS EMPLOYEE IS UNABLE TO WORK DUE TO A
4 NON-JOB RELATED, SERIOUSLY INCAPACITATING AND EXTENDED ILLNESS OR INJURY, AS
5 CERTIFIED BY A PHYSICIAN OF THE EMPLOYEE SUBJECT TO CONFIRMATION BY A
6 PHYSICIAN CHOSEN BY THE AGENCY, AND THE EMPLOYEE HAS EXHAUSTED ALL LEAVE
7 BALANCES AND ANY LEAVE TRANSFERRED PURSUANT TO SUBDIVISION (a) OF THIS
8 PARAGRAPH, THE EMPLOYEE SHALL BE PLACED ON LEAVE WITHOUT PAY STATUS FOR UP TO
9 ONE HUNDRED EIGHTY DAYS OR UNTIL ABLE TO RETURN TO WORK, WHICHEVER IS SOONER.

10 18. DEVELOPMENT OF POLICIES AND PROCEDURES FOR THE EMPLOYMENT OF
11 QUALIFIED DISABLED JOB APPLICANTS.

12 19. ESTABLISHMENT OF A CLERICAL POOL IN ANY LOCALITY WHERE THE DEMAND
13 FOR TEMPORARY CLERICAL HELP WARRANTS.

14 20. LEAVES OF ABSENCE TO ALLOW EMPLOYEES IN STATE SERVICE TO ACCEPT
15 APPOINTMENT TO NONELECTIVE POSITIONS IN STATE EMPLOYMENT THAT ARE EXEMPT FROM
16 THE TERMS OF THIS ARTICLE AND ARTICLE 5 OF THIS CHAPTER.

17 21. THE ADOPTION OF SPECIAL RULES APPLICABLE SOLELY TO SPECIAL CLASSES
18 OF EMPLOYEES WHOSE DUTIES, AS DETERMINED BY THE DIRECTOR, JUSTIFY THE
19 ADOPTION OF RULES APPLICABLE ONLY TO A SPECIFIC CLASS OF EMPLOYEES.

20 22. THE ESTABLISHMENT OF STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES.

21 23. REASONABLE PUBLIC NOTICE TO BE GIVEN OF THE EXAMINATIONS FOR A
22 POSITION AND THE EXAMINATION DATES.

23 24. AUTHORIZATION TO PUBLISH AND MAKE AVAILABLE TO ALL EMPLOYEES A
24 HANDBOOK OUTLINING PERTINENT RULES.

25 25. A DETERMINATION AS TO WHICH POSITIONS IN STATE EMPLOYMENT SHALL
26 QUALIFY THE EMPLOYEE TO RECEIVE OVERTIME PAY. IN MAKING THIS DETERMINATION
27 THE DIRECTOR SHALL CONSIDER ALL EMPLOYEES WHO ARE COVERED UNDER THE FAIR
28 LABOR STANDARDS ACT OF 1938 (52 STAT. 1060; 29 UNITED STATES CODE SECTIONS
29 201 THROUGH 219), AS AMENDED AND INTERPRETED, AND SHALL EXCLUDE ALL EMPLOYEES
30 WHO MEET EXEMPTION REQUIREMENTS AS DEFINED IN THAT ACT, AS AMENDED AND
31 INTERPRETED. NO OVERTIME OR COMPENSATORY TIME MAY BE GRANTED TO THE
32 FOLLOWING POSITIONS AND PERSONS:

33 (a) ALL ELECTED POSITIONS.

34 (b) ALL POSITIONS THAT ARE APPOINTED PURSUANT TO SECTION 38-211.

35 (c) ALL PROFESSIONAL POSITIONS AS DEFINED BY THE DIRECTOR.

36 (d) PERSONS WHOSE PRIMARY DUTY IS TO MANAGE THE STATE AGENCY OR STATE
37 AGENCY SUBDIVISIONS AND:

38 (i) WHO USE DISCRETIONARY POWERS.

39 (ii) WHO DIRECT THE WORK OF AT LEAST TWO OTHER EMPLOYEES.

40 (iii) WHO HAVE THE AUTHORITY TO HIRE AND FIRE.

41 26. COMPENSATORY TIME OFF FOR EMPLOYEES, EXCEPT THOSE EMPLOYEES IN
42 POSITIONS PRESCRIBED IN PARAGRAPH 25 OF THIS SECTION.

43 27. APPROVING OVERTIME PAY FOR POSITIONS ELIGIBLE FOR COMPENSATORY TIME
44 OFF PURSUANT TO PARAGRAPH 26 OF THIS SECTION BECAUSE THEIR PRIMARY DUTY IS
45 MANAGEMENT WHEN EITHER OF THE FOLLOWING CRITERIA IS MET:

1 (a) THE PRACTICE IS DETERMINED BY THE DIRECTOR TO BE A PREVAILING
2 CONDITION IN THE ARIZONA LABOR MARKET AND WHEN PAY DIFFERENTIALS BETWEEN
3 SUBORDINATES AND SUPERVISORS ARE REDUCED BY OVERTIME PAY RECEIVED BY THE
4 NONEXEMPT SUBORDINATES TO THE EXTENT THAT IT IS NO LONGER AN INCENTIVE TO
5 REMAIN IN THE SUPERVISORY POSITION.

6 (b) WHEN TEMPORARY EMERGENCY CONDITIONS ARISE THAT MAKE IT MORE
7 PRACTICAL TO PAY OVERTIME THAN TO GRANT COMPENSATORY LEAVE.

8 28. ESTABLISHMENT OF A PLAN FOR THE IMPARTIAL REVIEW OF COMPLAINTS.

9 Sec. 42. Title 41, chapter 4, article 6, Arizona Revised Statutes, is
10 amended by adding section 41-784, to read:

11 41-784. Nonconformity with federal regulations granting federal
12 funds

13 ANY PROVISION OF THIS ARTICLE OR ARTICLE 5 OF THIS CHAPTER THAT
14 CONFLICTS OR IS INCONSISTENT WITH FEDERAL RULES, REGULATIONS OR STANDARDS
15 GOVERNING THE GRANT OF FEDERAL FUNDS TO ANY AGENCY OR DEPARTMENT OF THE STATE
16 IS NOT APPLICABLE TO SUCH AGENCY OR DEPARTMENT. THE DIRECTOR IS AUTHORIZED TO
17 VARY THE TERMS OF THE PERSONNEL RULES AS APPLICABLE TO SUCH AGENCIES AND
18 DEPARTMENTS TO COMPLY WITH THE CONDITIONS FOR FEDERAL GRANTS.

19 Sec. 43. Section 41-785, Arizona Revised Statutes, as renumbered by
20 this act, is amended to read:

21 41-785. Appeals to the state personnel board; notice of
22 charges; hearings

23 A. ~~Except as provided by section 41-1830.16, a covered~~ ANY employee
24 who has completed the ~~covered~~ employee's original probationary period of
25 service as provided by the personnel rules may appeal to the state personnel
26 board ~~the covered employee's~~ SEEKING RELIEF FROM dismissal from ~~covered~~ STATE
27 service, suspension for more than ~~eighty~~ FORTY working hours or ~~involuntary~~
28 demotion resulting from disciplinary action. The appeal shall be filed not
29 later than ten working days after the effective date of such action. The
30 ~~covered~~ employee shall be furnished with specified charges in writing when
31 the action is taken. Such appeal shall be in writing and must state specific
32 facts relating directly to the charges on which the appeal is based and shall
33 be heard by the state personnel board within thirty days after its
34 receipt. The state personnel board shall provide the employing agency with a
35 copy of the appeal not less than twenty days in advance of the hearing.

36 B. Hearings on such appeals shall be open to the public, except in
37 cases where the ~~covered~~ employee requests a confidential hearing, and shall
38 be informal with technical rules of evidence not applying to the proceedings
39 except the rule of privilege recognized by law. Both the ~~covered~~ employee
40 and the employing agency shall be notified of any hearing or meeting date not
41 less than twenty days in advance of the hearing or not less than ten days in
42 advance of a meeting and may select representatives of their choosing,
43 present and cross-examine witnesses and give evidence before the state
44 personnel board. The state personnel board may appoint a hearing officer to
45 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:~~

11 ~~1. Shall determine whether the state agency has proven by a~~
12 ~~preponderance of the evidence the material facts on which the discipline was~~
13 ~~based. On such a finding, the board shall affirm the decision of the state~~
14 ~~agency head, unless the disciplinary decision was arbitrary and capricious.~~

15 ~~2. May recommend modification of a disciplinary action if the agency~~
16 ~~has not proven by a preponderance of the evidence the material facts on which~~
17 ~~the discipline was based or if a disciplinary decision is found to be~~
18 ~~arbitrary and capricious.~~

19 ~~3. Shall reverse the decision of the state agency head if the board~~
20 ~~finds that cause did not exist for any discipline to be imposed and, in the~~
21 ~~case of dismissal or demotion, return the covered employee to the same~~
22 ~~position the employee held before the dismissal or demotion with or without~~
23 ~~back pay.~~

24 ~~D. On a finding that the agency has not proven by a preponderance of~~
25 ~~the evidence the material facts on which the discipline was based, the board~~
26 ~~shall identify the material facts that the board found were not supported by~~
27 ~~a preponderance of the evidence and may recommend a proposed disciplinary~~
28 ~~action in light of the facts proven. On a finding that the disciplinary~~
29 ~~decision was arbitrary and capricious, the board shall include the board's~~
30 ~~reasons for the board's finding and may recommend a proposed disciplinary~~
31 ~~action in light of the facts proven.~~

32 C. THE STATE PERSONNEL BOARD MAY REVERSE AN AGENCY'S ACTION ON APPEAL
33 ONLY IF THE BOARD FINDS THE ACTION TO BE ARBITRARY, CAPRICIOUS OR OTHERWISE
34 CONTRARY TO LAW.

35 D. THE STATE PERSONNEL BOARD MAY MODIFY THE DISCIPLINARY PENALTY
36 CHOSEN BY AN AGENCY ONLY IF THE BOARD FINDS THE PENALTY TO BE
37 DISPROPORTIONATE TO THE PROVEN OFFENSE IN LIGHT OF MITIGATING CIRCUMSTANCES
38 OR MADE FOR REASONS THAT ARE ARBITRARY, CAPRICIOUS OR OTHERWISE CONTRARY TO
39 LAW.

40 E. Within forty-five days after the conclusion of the hearing, the
41 state personnel board shall enter its decision ~~or recommendation~~ and shall at
42 the same time send a copy of the decision ~~or recommendation~~ by certified mail
43 to the employing agency and to the ~~covered~~ employee at the employee's address
44 as given at the hearing or to a representative designated by the ~~covered~~
45 employee to receive a copy of the decision ~~or recommendation.~~ ~~The agency~~

1 ~~director or the director's designee shall accept, modify or reverse the~~
2 ~~board's decision or accept, modify or reject the board's recommendation~~
3 ~~within fourteen days of receipt of the findings or recommendation from the~~
4 ~~state personnel board. The decision of the agency director or director's~~
5 ~~designee is final and binding. The agency director shall send a copy of the~~
6 ~~agency's final determination to the covered employee pursuant to this~~
7 ~~section.~~

8 F. Any party may appeal the decision of the state personnel board ~~or~~
9 ~~the final decision of the agency~~ pursuant to title 12, chapter 7, article 6
10 to the superior court in the ~~covered~~ employee's county of residence on one or
11 more of the following grounds that the order was:

- 12 1. Founded on or contained error of law that shall specifically
- 13 include error of construction or application of any pertinent rules.
- 14 2. Unsupported by any evidence as disclosed by the entire record.
- 15 3. Materially affected by unlawful procedure.
- 16 4. Based on a violation of any constitutional provision.
- 17 5. Arbitrary or capricious.

18 G. An appeal shall be available to the court of appeals from the order
19 of the superior court pursuant to title 12, chapter 7, article 6 as in other
20 civil cases.

21 H. ~~A covered~~ AN employee may represent himself or designate a
22 representative, not necessarily an attorney, before any board hearing or any
23 quasi-judicial hearing held pursuant to this section providing that no fee
24 may be charged for any services rendered in connection with such hearing by
25 any such designated representative who is not an attorney admitted to
26 practice.

27 Sec. 44. Section 41-903, Arizona Revised Statutes, is amended to read:
28 41-903. Officers and employees; employment

29 Subject to chapter 4, article 4 of this title, the chief executive
30 officer of each institution under the control of the governor shall appoint
31 assistants, clerks, guards and employees required to operate the institution,
32 the number to be determined by the governor, except as otherwise provided by
33 law. **THE CHIEF EXECUTIVE OFFICER OF THE INSTITUTION MAY DISCHARGE AN**
34 **EMPLOYEE FOR CAUSE. AN OFFICER OR EMPLOYEE MAY BE REMOVED BY THE GOVERNOR**
35 **FOR MISCONDUCT, INCOMPETENCY OR NEGLIGENCE OF DUTY.**

36 Sec. 45. Section 41-1711, Arizona Revised Statutes, is amended to
37 read:

38 41-1711. Department of public safety; purpose; location;
39 qualifications of director; responsibilities

40 A. There shall be a department of public safety which is responsible
41 for creating and coordinating services for use by local law enforcement
42 agencies in protecting the public safety. The principal office and
43 headquarters of the department shall be in Phoenix.

44 B. The department shall formulate plans with a view to establishing
45 modern services for prevention of crime, apprehension of violators, training

1 of law enforcement personnel, and the promotion of public safety. The
2 department shall in no way preempt the authority and jurisdiction of
3 established agencies of political subdivisions of the state.

4 C. The director shall be selected on the basis of training and
5 experience with a minimum of five years' experience in the administration of
6 law enforcement.

7 D. The director shall be appointed by the governor pursuant to
8 section 38-211 to serve ~~concurrently with the appointing governor~~ FOR A TERM
9 OF FIVE YEARS and shall be subject to removal for cause, including but not
10 limited to malfeasance, misfeasance and nonfeasance in office. THE TERM
11 SHALL EXPIRE ON THE THIRD MONDAY IN JANUARY OF THE APPROPRIATE YEAR. The
12 director shall receive annual compensation as determined pursuant to section
13 38-611.

14 E. The director shall be directly responsible to the governor for the
15 conduct and the administration of the department. If the director is unable
16 to act, the deputy director shall direct the activities of the department
17 during the period in which the director is unable to act. If the director
18 and deputy director are unable to act, the governor shall direct the
19 activities of the department during the period in which the director and
20 deputy director are unable to act.

21 F. The director shall prescribe procedures for use of department
22 personnel, facilities, equipment, supplies and other resources in assisting
23 search or rescue operations.

24 G. The director shall be responsible for the establishment, operation
25 and maintenance of the statewide emergency medical services communication
26 system prescribed by section 41-1835.

27 H. The director may purchase, lease, equip, staff and operate air
28 ambulances, including ambulance helicopters, pursuant to section 41-1834.

29 I. To limit the expenditures of monies derived from the state highway
30 fund established pursuant to article IX, section 14, Constitution of
31 Arizona, to traffic safety and traffic law enforcement purposes, the
32 department of public safety shall:

33 1. Maintain a strict account of all costs incurred by each function
34 of the department. Such costs shall be determined and allocated between
35 traffic safety or traffic law enforcement functions and all other
36 departmental functions and shall include such costs as wages or salaries,
37 materials or supplies and equipment or facility use.

38 2. Immediately following the determination of all such costs certify
39 to the office of strategic planning and budgeting the full amount of all
40 such costs relating to the various functions within the department.

41 J. The office of strategic planning and budgeting shall annually
42 submit a separate report to the legislature compiled from the department's
43 functional costs certification indicating the complete breakdown between
44 those costs which are related to traffic safety or traffic law enforcement
45 functions and the various other functions within the department. The

1 director of the department of administration shall include within the
2 director's annual report to the legislature a recommendation for a separate
3 appropriation to reimburse the state highway fund from the state general
4 fund for any expenditures from the state highway fund during the prior
5 fiscal year in excess of the total of all costs related to traffic safety or
6 traffic law enforcement functions of the department.

7 K. The director shall establish a special hazardous materials
8 emergency response organizational unit within the department to function as
9 the initial response element of the hazardous materials emergency management
10 program pursuant to section 26-305.02.

11 L. The department is designated as this state's recipient of federal
12 victims of crime act grants.

13 Sec. 46. Section 41-1830.11, Arizona Revised Statutes, is amended to
14 read:

15 41-1830.11. Law enforcement merit system council; composition

16 A. The governor shall appoint a law enforcement merit system council
17 ~~pursuant to section 38-211~~. The council consists of ~~five~~ THREE persons
18 CHOSEN ON THE BASIS OF EXPERIENCE IN AND SYMPATHY WITH MERIT PRINCIPLES OF
19 PUBLIC EMPLOYMENT. ~~No more than three members shall belong to the same~~
20 ~~political party. Persons eligible for appointment shall have had a~~
21 ~~continuous recorded registration pursuant to title 16, chapter 1 with either~~
22 ~~the same political party or as an independent for at least two years~~
23 ~~immediately preceding appointment. Members appointed shall be persons who~~
24 ~~are committed to enforcing this article in an honest, independent and~~
25 ~~impartial fashion and to seeking to uphold public confidence in the integrity~~
26 ~~of public safety peace officers.~~ The members of the council shall not have
27 held elective public office within one year before appointment and shall not
28 hold any other political office while serving on the council.

29 B. The governor shall fill a vacancy on the same basis as the original
30 appointment.

31 C. Members of the council are eligible to receive compensation for
32 their services ~~in the amount of one hundred dollars for each meeting~~
33 ~~attended, prorated for partial days for each meeting attended~~ BUT ARE
34 ELIGIBLE TO RECEIVE REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER
35 4, ARTICLE 2.

36 D. A member serves for a term of ~~three~~ SIX years. The governor may
37 remove a member only for cause.

38 E. The chairman of the council serves as an ex officio member of the
39 state personnel board without voting privileges.

40 Sec. 47. Section 41-1830.12, Arizona Revised Statutes, is amended to
41 read:

42 41-1830.12. Law enforcement merit system council; duties;
43 authority; rules; business manager; definition

44 A. The law enforcement merit system council shall:

- 45 1. Select a chairman and vice-chairman.

1 2. Hold meetings that are necessary to perform its duties on the call
2 of the chairman.

3 3. Adopt rules pursuant to recognized merit principles of public
4 employment it deems necessary for establishing the following for department
5 of public safety and Arizona peace officer standards and training board
6 personnel:

7 (a) A classification and compensation plan for all covered positions
8 and for establishing standards and qualifications for all classified
9 positions from a list of necessary employees that is prepared by the director
10 of the employing agency.

11 (b) A plan for fair and impartial selection, appointment, probation,
12 promotion, retention and separation or removal from service by resignation,
13 retirement, reduction in force or dismissal of all classified employees.

14 (c) A performance appraisal system for evaluating the work performance
15 of employees of the agencies.

16 (d) Procedures for the conduct of hearings of employee grievances that
17 are brought before the council relating to classification, compensation and
18 the employee appraisal system.

19 (e) Procedures for the conduct of hearings on appeals from an order of
20 the director of the employing agency in connection with suspension, demotion,
21 reduction in pay, loss of accrued leave time or dismissal of a classified
22 employee.

23 (f) For hours of employment, annual and sick leave and special leaves
24 of absence, with or without pay or with reduced pay.

25 4. Pursuant to recognized merit principles, hear and review appeals
26 from any order of the director of the employing agency in connection with
27 suspension, demotion, reduction in pay, loss of accrued leave time or
28 dismissal of a classified employee. The council's determination is ~~subject~~
29 ~~to review by the director and~~ FINAL, EXCEPT ON appeal as provided in section
30 41-1830.13.

31 B. The council may meet with the state personnel board to discuss
32 matters of mutual concern.

33 C. The rules under subsection A, paragraph 3, subdivision (f) of this
34 section shall provide for the transfer of accumulated annual leave from one
35 employee to another employee in the same agency and for the transfer of
36 accumulated annual leave from one employee to another employee of another
37 agency, department, board or commission if the employees are members of the
38 same family. The transfers may occur if the employee to whom the leave is
39 transferred has a seriously incapacitating and extended illness or injury or
40 a member of the employee's immediate family has a seriously incapacitating
41 and extended illness or injury and the employee has exhausted all available
42 leave balances. Transferred annual leave shall be increased or reduced
43 proportionally by the difference in the salaries of the employees as
44 determined by council rule. For the purposes of this subsection, "family"
45 means spouse, natural child, adopted child, foster child, stepchild, natural

1 parent, stepparent, adoptive parent, grandparent, grandchild, brother,
2 sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law,
3 mother-in-law or father-in-law.

4 ~~D. In hearing and reviewing an appeal from any order of the director
5 of the employing agency, the council:~~

6 ~~1. Shall determine whether the employing agency has proven by a
7 preponderance of the evidence the material facts on which the discipline was
8 based. On such a finding, the council shall affirm the decision of the
9 director of the employing agency, unless the disciplinary decision was
10 arbitrary and capricious.~~

11 ~~2. May recommend modification of a disciplinary action if the director
12 of the employing agency has not proven by a preponderance of the evidence the
13 material facts on which the discipline was based or if a disciplinary
14 decision is found to be arbitrary and capricious.~~

15 ~~3. Shall reverse the decision of the director of the employing agency
16 if the council finds that cause did not exist for any discipline to be
17 imposed and, in the case of dismissal or demotion, return the employee to the
18 same position the employee held before the dismissal or demotion with or
19 without back pay.~~

20 ~~E. On a finding that the director of the employing agency has not
21 proven by a preponderance of the evidence the material facts on which the
22 discipline was based, the council shall identify the material facts that the
23 council found were not supported by a preponderance of the evidence and may
24 recommend a proposed disciplinary action in light of the facts proven. On a
25 finding that the disciplinary decision was arbitrary and capricious, the
26 council shall include the council's reasons for the council's finding and may
27 recommend a proposed disciplinary action in light of the facts proven.~~

28 ~~F. Within forty five days after the conclusion of the hearing, the
29 council shall enter its decision or recommendation and at the same time shall
30 send a copy of the decision or recommendation by certified mail to the
31 employing agency and to the employee at the employee's address as given at
32 the hearing or to a representative designated by the employee to receive a
33 copy of the decision or recommendation.~~

34 ~~G.~~ D. The council shall select and the director of the department of
35 public safety shall appoint a business manager who is a certified peace
36 officer and an employee of the department of public safety but who is not a
37 member of the council. The business manager shall perform and discharge all
38 of the powers and duties that are vested in the council, except that adoption
39 of rules, creation and adjustment of classifications and grades, compensation
40 and hearing appeals for dismissal, demotion, reduction in pay, suspensions or
41 other punitive action remain the duty of the council. Any power or duty that
42 the council may lawfully delegate to the business manager is conclusively
43 presumed to have been delegated to the business manager unless it is shown
44 that the council by an affirmative vote recorded in its minutes has
45 specifically reserved the power or duty to itself. At the request of the

1 council, the business manager may make inquiries regarding or investigate
2 infractions of council rules within the department of public safety. The
3 business manager shall report the result of the inquiry or investigation to
4 the council for appropriate action. The business manager may delegate the
5 business manager's powers and duties to the business manager's subordinates
6 unless by council rule or express provision of law the business manager is
7 specifically required to act personally.

8 ~~H.~~ E. For the purposes of this section ~~and section 41-1830.13,~~
9 "director of the employing agency" means the director of the department of
10 public safety with respect to employees of the department and the executive
11 director of the Arizona peace officer standards and training board with
12 respect to employees of the board.

13 Sec. 48. Section 41-1830.13, Arizona Revised Statutes, is amended to
14 read:

15 41-1830.13. Appeal; reinstatement

16 ~~A. Within fourteen days of receipt of the finding or recommendation by~~
17 ~~the council pursuant to section 41-1830.12, the director of the employing~~
18 ~~agency shall accept, modify or reverse the council's decision or accept,~~
19 ~~modify or reject the council's recommendation. The director shall accept the~~
20 ~~council's recommendation unless the recommendation is arbitrary or without~~
21 ~~reasonable justification. If the director does not accept the council's~~
22 ~~recommendation, the director shall state the reason or reasons for rejecting~~
23 ~~the recommendation. The decision of the director of the employing agency is~~
24 ~~final and binding. The director of the employing agency shall send a copy of~~
25 ~~the agency's final determination to the employee pursuant to section~~
26 ~~41-1830.12.~~

27 ~~B.~~ A. Except as provided in section 41-1092.08, subsection H, a
28 classified employee who is suspended, is demoted, has pay reduced, loses
29 accrued leave time or is dismissed pursuant to this article, after a fair
30 hearing and review before the law enforcement merit system council and ~~review~~
31 ~~CONFIRMATION~~ of the suspension, demotion, reduction in pay, loss of accrued
32 leave time or dismissal by the director of the ~~employing agency~~ DEPARTMENT OF
33 PUBLIC SAFETY, may appeal the FINAL determination of the council ~~and the~~
34 ~~final determination of the director of the employing agency~~ pursuant to title
35 12, chapter 7, article 6. ~~on one or more of the following grounds that the~~
36 ~~order was:~~

- 37 ~~1. Founded on or contained error of law that shall specifically~~
38 ~~include error of construction or application of any pertinent rules.~~
- 39 ~~2. Unsupported by any evidence as disclosed by the entire record.~~
- 40 ~~3. Materially affected by unlawful procedure.~~
- 41 ~~4. Based on a violation of any constitutional provision.~~
- 42 ~~5. Arbitrary or capricious.~~

43 ~~C.~~ B. In addition to the trial court's powers as prescribed in
44 section 12-911, if the court overrules the determination of the council ~~or~~
45 ~~the director of the employing agency~~, the employee shall be reinstated in the

1 employee's position and the employee shall receive full compensation for any
2 salary withheld pending the determination by the council, ~~the director of the~~
3 ~~employing agency~~ and court.

4 Sec. 49. Title 41, chapter 12, article 10, Arizona Revised Statutes,
5 is amended by adding section 41-1830.14, to read:

6 41-1830.14. Status of persons employed before merit system
7 institution

8 ALL EMPLOYEES OF THE DEPARTMENT ON NOVEMBER 22, 1948 SHALL CONTINUE IN
9 THEIR RESPECTIVE POSITIONS WITHOUT EXAMINATION, UNTIL REMOVED FROM THE
10 POSITIONS UNDER THE PROVISIONS OF THE MERIT SYSTEM ESTABLISHED PURSUANT TO
11 THIS ARTICLE.

12 Sec. 50. Section 41-1830.15, Arizona Revised Statutes, is amended to
13 read:

14 41-1830.15. Causes for dismissal or discipline; definitions

15 A. The director of the department of public safety may dismiss or
16 discipline any classified employee based on any of the following causes:

- 17 1. Fraud or misrepresentation in securing employment.
- 18 2. Incompetency.
- 19 3. Inefficiency.
- 20 4. Inexcusable neglect of duty or unauthorized absence.

21 5. Insubordination.

22 6. Dishonesty.

23 7. Physical or mental disability subject to the provisions of the
24 Americans with disabilities act of 1990 (42 United States Code sections 12101
25 through 12213).

26 8. Unauthorized drinking on duty or drunkenness on duty.

27 9. Being impaired by alcohol or drugs, as provided in title 13,
28 chapter 34, while on duty.

29 10. Commission of any crime classified as a felony.

30 11. Discourteous treatment of the public or other employees.

31 12. Commission of any crime involving moral turpitude.

32 13. Improper political activity as proscribed in section ~~41-752~~ 41-772.

33 14. Misuse or unauthorized use of state property.

34 15. Addiction to the illegal use of a narcotic or dangerous drug.

35 16. Any other failure of good behavior or acts either during or outside
36 of duty hours that are incompatible with or inimical to the interest of the
37 department of public safety.

38 B. For the purposes of this section:

39 1. "Incompetency" means the lack of ability or judgment, legal
40 qualifications or fitness to discharge required duties.

41 2. "Inefficiency" means the failure to produce as required for reasons
42 other than incompetency.

43 Sec. 51. Repeal

44 Section 41-1830.16, Arizona Revised Statutes, is repealed.

1 Sec. 52. Section 41-1952, Arizona Revised Statutes, is amended to
2 read:

3 41-1952. Department of economic security; director;
4 appointment; selection committee; compensation

5 A. A department of economic security is established.

6 B. The direction, operation and control of the department are the
7 responsibility of the director.

8 C. The director shall be appointed by the governor ~~pursuant to section~~
9 ~~38-211~~ WITH THE ADVICE AND CONSENT OF THE SENATE and shall serve at the
10 pleasure of the governor.

11 D. THE DEPARTMENT OF ADMINISTRATION SHALL ASSIST THE GOVERNOR IN
12 PREPARING A JOB DESCRIPTION FOR THE POSITION OF DIRECTOR AND RECRUITING
13 CANDIDATES FOR THE POSITION. THE QUALIFICATIONS OF THE CANDIDATES SHALL BE
14 REVIEWED BY A COMMITTEE OF SEVEN PERSONS SELECTED BY THE GOVERNOR. THE NAMES
15 OF ALL THOSE CANDIDATES DETERMINED BY THE COMMITTEE TO BE QUALIFIED FOR THE
16 POSITION SHALL BE SUBMITTED TO THE GOVERNOR FOR THE GOVERNOR'S CONSIDERATION.
17 THE GOVERNOR MAY REQUEST ADDITIONAL NAMES FROM THE COMMITTEE IF THE GOVERNOR
18 DEEMS NECESSARY. FOR EACH SUBSEQUENT VACANCY IN THE POSITION OF DIRECTOR, A
19 NEW COMMITTEE SHALL BE APPOINTED BY THE GOVERNOR.

20 ~~D.~~ E. Compensation for the director shall be established pursuant to
21 section 38-611.

22 Sec. 53. Section 41-2061, Arizona Revised Statutes, is amended to
23 read:

24 41-2061. Administration of chapter; director; appointment;
25 compensation; search committee; advisory committee

26 A. The director shall administer the provisions of this chapter.

27 B. The director shall be appointed by the governor pursuant to section
28 38-211 FROM THE NAMES SUBMITTED BY THE SEARCH COMMITTEE UNDER SUBSECTION C OF
29 THIS SECTION and is eligible to receive compensation pursuant to section
30 38-611.

31 C. A SEARCH COMMITTEE IS ESTABLISHED FOR THE PURPOSE OF SOLICITING AND
32 SCREENING APPLICANTS AND SUBMITTING UP TO THREE NAMES TO THE GOVERNOR FOR THE
33 POSITION OF DIRECTOR OF THE DEPARTMENT WHEN A VACANCY IN THE OFFICE OF
34 DIRECTOR EXISTS. THE GOVERNOR MAY REJECT THE NAMES SUBMITTED BY THE SEARCH
35 COMMITTEE AND DIRECT THE SEARCH COMMITTEE TO SUBMIT ADDITIONAL NAMES FOR
36 CONSIDERATION. THE COMMITTEE SHALL CONSIST OF NINE MEMBERS APPOINTED BY THE
37 GOVERNOR FROM THE FOLLOWING GROUPS:

- 38 1. ONE MEMBER REPRESENTING RETAIL TRADE.
- 39 2. ONE MEMBER REPRESENTING WHOLESALE TRADE.
- 40 3. ONE MEMBER REPRESENTING THE LIQUID PETROLEUM INDUSTRY.
- 41 4. ONE MEMBER REPRESENTING AGRICULTURE.
- 42 5. ONE MEMBER REPRESENTING THE WEIGHT AND MEASURE MANUFACTURING
43 INDUSTRY.
- 44 6. FOUR MEMBERS REPRESENTING CONSUMERS.

1 D. THE NAMES FOR DIRECTOR SHALL BE CHOSEN BASED ON PRACTICAL
2 EXPERIENCE, TRAINING AND KNOWLEDGE IN WEIGHTS AND MEASURES PRACTICES,
3 PROCEDURES, LAWS AND ADMINISTRATIVE FUNCTIONS. MEMBERS OF THE SEARCH
4 COMMITTEE SHALL SELECT A CHAIRMAN FROM THE MEMBERSHIP, AND MEMBERS OF THE
5 SEARCH COMMITTEE ARE NOT ELIGIBLE TO RECEIVE COMPENSATION OR REIMBURSEMENT OF
6 EXPENSES.

7 ~~C.~~ E. The director may appoint an advisory committee consisting of
8 five members to review, advise and make recommendations to the director in
9 the administration of the provisions of this chapter and regarding proposed
10 rules provided for in this chapter.

11 Sec. 54. Section 41-2831, Arizona Revised Statutes, is amended to
12 read:

13 41-2831. State educational system for committed youth; report

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

16 B. The director shall identify three persons who are qualified to
17 serve as superintendent of the state educational system for committed youth.
18 The director and the superintendent of public instruction shall agree on one
19 of the three persons whom the director shall employ as superintendent to
20 manage the educational system. The superintendent of the educational system
21 shall employ teachers and other personnel as needed in accordance with
22 chapter 4, article 4 of this title, subject to the approval of the director.
23 All persons who are employed to work in the educational system including the
24 superintendent shall hold the appropriate certificate prescribed by the state
25 board of education in section 15-203, subsection A, paragraph 14.

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

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

31 E. The state educational system for committed youth shall provide
32 appropriate education to all committed youth as required by state and federal
33 law. If not otherwise required by law, the educational system shall provide
34 an appropriate education to all committed youth who have not received a high
35 school diploma or a high school certificate of equivalency.

36 F. On entrance of a youth to the state educational system for
37 committed youth, the educational system shall administer a basic skills
38 examination to the youth to determine the educational needs of the youth. A
39 similar examination shall be administered on the youth's exit from the
40 educational system to assess the youth's progress while enrolled in the
41 educational system.

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

1 H. The superintendent shall:

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

4 2. Prepare an annual financial report containing information similar
5 to that provided by school districts in the report prescribed in section
6 15-904 in a format prescribed by the department of administration in
7 consultation with the auditor general and submit the report to the governor,
8 the speaker of the house of representatives, the president of the senate and
9 the department of education by November 1. When submitting the report to the
10 speaker and president, the superintendent shall send a copy of the report to
11 the chairmen of the house and senate education committees and shall send a
12 notice to all other legislators that the report is available on request.

13 3. Establish a system for communicating with each youth's school
14 district of residence in order to facilitate the transfer of records, the
15 determination of the most appropriate educational program and the transfer of
16 educational credit.

17 I. The department of administration shall develop and maintain a
18 special pay plan for teachers and other professional educational personnel
19 within the state educational system for committed youth. The pay plan shall
20 attempt to keep salaries at a comparable level to that of public school
21 district personnel. **RECOMMENDATIONS FOR THIS PAY PLAN SHALL BE INCLUDED**
22 **WITHIN THE DEPARTMENT OF ADMINISTRATION'S ANNUAL RECOMMENDATION TO THE**
23 **LEGISLATURE PURSUANT TO SECTION 41-743.**

24 J. Notwithstanding any law to the contrary, the director shall
25 designate an educational program for youth on conditional liberty and, if it
26 is in the best interests of the youth and the community, may assign a youth
27 to a specific public or private educational program.

28 Sec. 55. Section 41-3505, Arizona Revised Statutes, is amended to
29 read:

30 41-3505. Information technology fund

31 A. The information technology fund is established for use by the
32 department and the committee. Monies in the fund are subject to legislative
33 appropriation.

34 B. State agencies subject to section ~~41-750~~ 41-747, all budget units
35 and the legislative and judicial branches of state government shall
36 contribute a pro rata share of the overall cost of information technology
37 services provided by the department or committee. The pro rata share is
38 payable by payroll fund source, and the resultant amount shall be deposited
39 in the information technology fund. For all budget units and the legislative
40 and judicial branches of state government, the pro rata share shall be .20
41 per cent of the total payroll. Total payroll includes all fund sources
42 including the state general fund, federal monies, special revenue funds,
43 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. 56. 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 serves at the pleasure of the governor~~ IS FIVE YEARS
13 AND EXPIRES ON THE THIRD MONDAY IN JANUARY OF THE APPROPRIATE YEAR, EXCEPT
14 THAT THE 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. 57. Section 42-1002, Arizona Revised Statutes, is amended to
29 read:

30 42-1002. Department of revenue; director; appointments; search
31 committee; compensation

32 A. There is established a department of revenue.

33 B. The direction, operation and control of the department are the
34 responsibility of the director.

35 C. The director shall be appointed by the governor FROM A LIST OF
36 NAMES SUBMITTED BY THE SEARCH COMMITTEE pursuant to section 38-211 and shall
37 serve at the pleasure of the governor.

38 D. THE DEPARTMENT OF ADMINISTRATION SHALL ASSIST THE GOVERNOR IN
39 PREPARING A JOB DESCRIPTION FOR THE POSITION OF DIRECTOR AND RECRUITING
40 CANDIDATES FOR THE POSITION. THE QUALIFICATIONS OF THE CANDIDATES SHALL BE
41 REVIEWED BY A COMMITTEE OF FIVE PERSONS SELECTED BY THE GOVERNOR. THE NAMES
42 OF ALL THOSE CANDIDATES DETERMINED BY THE COMMITTEE TO BE QUALIFIED FOR THE
43 POSITION SHALL BE SUBMITTED TO THE GOVERNOR FOR THE GOVERNOR'S CONSIDERATION.
44 THE GOVERNOR MAY REQUEST ADDITIONAL NAMES FROM THE COMMITTEE IF THE GOVERNOR

1 DEEMS NECESSARY. FOR EACH SUBSEQUENT VACANCY IN THE POSITION OF DIRECTOR, A
2 NEW COMMITTEE SHALL BE APPOINTED BY THE GOVERNOR PURSUANT TO THIS SECTION.

3 ~~D.~~ E. Compensation for the director and the personnel required by the
4 department shall be established pursuant to section 38-611 and title 41,
5 chapter 4, article 4.

6 Sec. 58. Terms of law enforcement merit system council members

7 A. Notwithstanding section 41-1830.11, Arizona Revised Statutes, as
8 amended by this act, members of the law enforcement merit system council who
9 are serving on the effective date of this act may continue to serve the
10 remainder of their terms.

11 B. On the expiration of the term in January, 2014 of two members of
12 the law enforcement merit system council, the governor shall appoint one
13 member pursuant to section 38-211, Arizona Revised Statutes, for a term
14 beginning January 17, 2014 and ending January 20, 2020.

15 C. On the expiration of the term in January, 2015 of two members of
16 the law enforcement merit system council, the governor shall appoint one
17 member pursuant to section 38-211, Arizona Revised Statutes, for a term
18 beginning January 19, 2015 and ending January 18, 2021. Thereafter, the
19 governor shall appoint one member pursuant to section 38-211, Arizona Revised
20 Statutes, for a term beginning on the third Monday of January of the year of
21 the expiration of the term and ending on the third Monday of January six
22 years later.

23 Sec. 59. Retention payments; appropriation; fiscal year
24 2013-2014

25 A. From and after September 28, 2013, the sums of \$_____ from the
26 state general fund and \$_____ from other appropriated funds are
27 appropriated in fiscal year 2013-2014 to state agency units for personal
28 services and employee-related expenditures related to the one-time critical
29 retention payments authorized in subsection B of this section. The joint
30 legislative budget committee staff shall determine and the department of
31 administration shall allocate to each agency or department an amount
32 available for the payments. The joint legislative budget committee staff
33 shall also determine and the department of administration shall allocate
34 adjustments, as necessary, in expenditure authority to allow implementation
35 of the payments.

36 B. Subject to available monies, the director of each state agency unit
37 shall award a one-time critical retention payment to an employee who is not
38 uncovered as of September 29, 2013. The payment shall be equal to five per
39 cent of the employee's annual salary level, prorated for the remainder of the
40 fiscal year. The amount shall be distributed evenly throughout each
41 remaining pay period in fiscal year 2013-2014.

42 C. On or before October 15, 2013, the department of administration
43 shall report to the joint legislative budget committee, for each budget unit,
44 the following information:

- 1 1. The number of employees awarded a retention payment by fund source.
- 2 2. The total amount of retention payments awarded by fund source.
- 3 D. Any monies appropriated to state agency units pursuant to this
- 4 section that are not awarded as retention payments shall revert to the fund
- 5 of origin at the close of fiscal year 2013-2014.