

REFERENCE TITLE: professional education standards board.

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2800

Introduced by
Representatives Schapira, Burns J, Hershberger, Lujan, Pancrazi, Paton,
Thrasher: Campbell CL, Garcia M, Tobin

AN ACT

AMENDING SECTIONS 15-183, 15-203, 15-240, 15-350 AND 15-501, ARIZONA REVISED STATUTES; REPEALING SECTIONS 15-508 AND 15-509, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-512 AND 15-514, ARIZONA REVISED STATUTES; REPEALING SECTIONS 15-531, 15-532 AND 15-533, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-534, 15-534.01, 15-534.02 AND 15-534.03, ARIZONA REVISED STATUTES; REPEALING SECTION 15-535, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-539 AND 15-545, ARIZONA REVISED STATUTES; REPEALING SECTION 15-550, ARIZONA REVISED STATUTES; AMENDING SECTION 15-551, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; AMENDING SECTIONS 15-779.02, 15-914.01, 41-1092.02 AND 41-2831, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3018.01; RELATING TO THE PROFESSIONAL EDUCATION STANDARDS BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

20 C. The sponsor of a charter school may be either a school district
21 governing board, the state board of education or the state board for charter
22 schools, subject to the following requirements:

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

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

33 (b) In the first year that a school district is determined to be out
34 of compliance with the uniform system of financial records, within fifteen
35 days of the determination of noncompliance, the school district shall notify
36 by certified mail each charter school sponsored by the school district that
37 the school district is out of compliance with the uniform system of financial
38 records. The notification shall include a statement that if the school
39 district is determined to be out of compliance for a second consecutive year,
40 the charter school will be required to transfer sponsorship to another entity
41 pursuant to subdivision (c) of this paragraph.

42 (c) In the second consecutive year that a school district is
43 determined to be out of compliance with the uniform system of financial
44 records, within fifteen days of the determination of noncompliance, the
45 school district shall notify by certified mail each charter school sponsored

1 by the school district that the school district is out of compliance with the
 2 uniform system of financial records. A charter school that receives a
 3 notification of school district noncompliance pursuant to this subdivision
 4 shall file a written sponsorship transfer application within forty-five days
 5 with the state board of education, the state board for charter schools or the
 6 school district governing board if the charter school is located within the
 7 geographic boundaries of that school district. A charter school that
 8 receives a notification of school district noncompliance may request an
 9 extension of time to file a sponsorship transfer application and the state
 10 board of education, the state board for charter schools or a school district
 11 governing board may grant an extension of not more than an additional thirty
 12 days if good cause exists for the extension. The state board of education
 13 and the state board for charter schools shall approve a sponsorship transfer
 14 application pursuant to this paragraph.

15 (d) Beginning July 1, 2000, a school district governing board shall
 16 not grant a charter to a charter school that is located outside the
 17 geographic boundaries of that school district.

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

21 2. The applicant may submit the application to the state board of
 22 education or the state board for charter schools. The state board of
 23 education or the state board for charter schools may approve the application
 24 if the application meets the requirements of this article and may approve the
 25 charter if the proposed sponsor determines, within its sole discretion, that
 26 the applicant is sufficiently qualified to operate a charter school. The
 27 state board of education or the state board for charter schools may approve
 28 any charter schools transferring charters. The state board of education and
 29 the state board for charter schools shall approve any charter schools
 30 transferring charters from a school district that is determined to be out of
 31 compliance with the uniform system of financial records pursuant to this
 32 section, but may require the charter school to sign a new charter that is
 33 equivalent to the charter awarded by the former sponsor. If the state board
 34 of education or the state board for charter schools rejects the preliminary
 35 application, the state board of education or the state board for charter
 36 schools shall notify the applicant in writing of the reasons for the
 37 rejection and of suggestions for improving the application. An applicant may
 38 submit a revised application for reconsideration by the state board of
 39 education or the state board for charter schools. The applicant may request,
 40 and the state board of education or the state board for charter schools may
 41 provide, technical assistance to improve the application.

42 3. Each applicant seeking to establish a charter school shall submit a
 43 full set of fingerprints to the approving agency for the purpose of obtaining
 44 a state and federal criminal records check pursuant to section 41-1750 and
 45 Public Law 92-544. If an applicant will have direct contact with students,

1 the applicant shall possess a valid fingerprint clearance card that is issued
2 pursuant to title 41, chapter 12, article 3.1. The department of public
3 safety may exchange this fingerprint data with the federal bureau of
4 investigation. The criminal records check shall be completed before the
5 issuance of a charter.

6 4. All persons engaged in instructional work directly as a classroom,
7 laboratory or other teacher or indirectly as a supervisory teacher, speech
8 therapist or principal shall have a valid fingerprint clearance card that is
9 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a
10 volunteer or guest speaker who is accompanied in the classroom by a person
11 with a valid fingerprint clearance card. A charter school shall not employ a
12 teacher whose certificate has been revoked for a violation of section 15-507
13 ~~or 15-550~~ or for any offense that placed a pupil in danger. All other
14 personnel shall be fingerprint checked pursuant to section 15-512. Before
15 employment, the charter school shall make documented, good faith efforts to
16 contact previous employers of a person to obtain information and
17 recommendations that may be relevant to a person's fitness for employment as
18 prescribed in section 15-512, subsection F. The charter school shall notify
19 the department of public safety if the charter school or sponsor receives
20 credible evidence that a person who possesses a valid fingerprint clearance
21 card is arrested for or is charged with an offense listed in section
22 41-1758.03, subsection B. Charter schools may hire personnel that have not
23 yet received a fingerprint clearance card if proof is provided of the
24 submission of an application to the department of public safety for a
25 fingerprint clearance card and if the charter school that is seeking to hire
26 the applicant does all of the following:

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

29 (b) Ensures that the department of public safety completes a statewide
30 criminal history information check on the applicant. A statewide criminal
31 history information check shall be completed by the department of public
32 safety every one hundred twenty days until the date that the fingerprint
33 check is completed.

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

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

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

42 (f) Verifies the fingerprint status of the applicant with the
43 department of public safety.

44 5. If a charter school operator is not already subject to a public
45 meeting or hearing by the municipality in which the charter school is

1 located, the operator of a charter school shall conduct a public meeting at
2 least thirty days before the charter school operator opens a site or sites
3 for the charter school. The charter school operator shall post notices of
4 the public meeting in at least three different locations that are within
5 three hundred feet of the proposed charter school site.

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

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

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

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

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

24 4. That it designs a method to measure pupil progress, toward the
25 pupil outcomes adopted by the state board of education pursuant to section
26 15-741.01 including participation in the Arizona instrument to measure
27 standards test and the nationally standardized norm-referenced achievement
28 test as designated by the state board and the completion and distribution of
29 an annual report card as prescribed in chapter 7, article 3 of this title.

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

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

1 office of the auditor general may conduct financial, program or compliance
2 audits.

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

6 8. That it provides for a governing body for the charter school that
7 is responsible for the policy decisions of the charter school.

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

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

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

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

30 I. An approved plan to establish a charter school is effective for
31 fifteen years from the first day of operation. At the conclusion of the
32 first fourteen years of operation, the charter school may apply for renewal.
33 In addition to any other requirements, the application for renewal shall
34 include a detailed business plan for the charter school. The sponsor may
35 deny the request for renewal if, in its judgment, the charter school has
36 failed to complete the obligations of the contract or has failed to comply
37 with this article. A sponsor shall give written notice of its intent not to
38 renew the charter school's request for renewal to the charter school at least
39 twelve months before the expiration of the approved plan to allow the charter
40 school an opportunity to apply to another sponsor to transfer the operation
41 of the charter school. If the operation of the charter school is transferred
42 to another sponsor, the fifteen year period of the current charter shall be
43 maintained. A sponsor shall review a charter at five year intervals and may
44 revoke a charter at any time if the charter school breaches one or more
45 provisions of its charter. At least ninety days before the effective date of

1 the proposed revocation the sponsor shall give written notice to the operator
2 of the charter school of its intent to revoke the charter. Notice of the
3 sponsor's intent to revoke the charter shall be delivered personally to the
4 operator of the charter school or sent by certified mail, return receipt
5 requested, to the address of the charter school. The notice shall
6 incorporate a statement of reasons for the proposed revocation of the
7 charter. The sponsor shall allow the charter school at least ninety days to
8 correct the problems associated with the reasons for the proposed revocation
9 of the charter. The final determination of whether to revoke the charter
10 shall be made at a public hearing called for such purpose.

11 J. After renewal of the charter at the end of the fifteen year period
12 described in subsection I of this section, the charter may be renewed for
13 successive periods of fifteen years if the charter school and its sponsor
14 deem that the school is in compliance with its own charter and this article.

15 K. A charter school that is sponsored by the state board of education
16 or the state board for charter schools may not be located on the property of
17 a school district unless the district governing board grants this authority.

18 L. A governing board or a school district employee who has control
19 over personnel actions shall not take unlawful reprisal against another
20 employee of the school district because the employee is directly or
21 indirectly involved in an application to establish a charter school. A
22 governing board or a school district employee shall not take unlawful
23 reprisal against an educational program of the school or the school district
24 because an application to establish a charter school proposes the conversion
25 of all or a portion of the educational program to a charter school. ~~As used~~
26 ~~in~~ FOR THE PURPOSES OF this subsection, "unlawful reprisal" means an action
27 that is taken by a governing board or a school district employee as a direct
28 result of a lawful application to establish a charter school and that is
29 adverse to another employee or an education program and:

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

- 32 (a) Disciplinary or corrective action.
- 33 (b) Detail, transfer or reassignment.
- 34 (c) Suspension, demotion or dismissal.
- 35 (d) An unfavorable performance evaluation.
- 36 (e) A reduction in pay, benefits or awards.
- 37 (f) Elimination of the employee's position without a reduction in
38 force by reason of lack of monies or work.
- 39 (g) Other significant changes in duties or responsibilities that are
40 inconsistent with the employee's salary or employment classification.

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

- 43 (a) Suspension or termination of the program.
- 44 (b) Transfer or reassignment of the program to a less favorable
45 department.

1 (c) Relocation of the program to a less favorable site within the
2 school or school district.

3 (d) Significant reduction or termination of funding for the program.

4 M. Charter schools shall secure insurance for liability and property
5 loss. The governing body of a charter school that is sponsored by the state
6 board of education or the state board for charter schools may enter into an
7 intergovernmental agreement or otherwise contract to participate in an
8 insurance program offered by a risk retention pool established pursuant to
9 section 11-952.01 or 41-621.01 or the charter school may secure its own
10 insurance coverage. The pool may charge the requesting charter school
11 reasonable fees for any services it performs in connection with the insurance
12 program.

13 N. Charter schools do not have the authority to acquire property by
14 eminent domain.

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

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

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

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

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

33 T. All property accumulated by a charter school shall remain the
34 property of the charter school.

35 U. Charter schools may not locate a school on property that is less
36 than one-fourth mile from agricultural land regulated pursuant to section
37 3-365, except that the owner of the agricultural land may agree to comply
38 with the buffer zone requirements of section 3-365. If the owner agrees in
39 writing to comply with the buffer zone requirements and records the agreement
40 in the office of the county recorder as a restrictive covenant running with
41 the title to the land, the charter school may locate a school within the
42 affected buffer zone. The agreement may include any stipulations regarding
43 the charter school, including conditions for future expansion of the school
44 and changes in the operational status of the school that will result in a
45 breach of the agreement.

1 V. A transfer of a charter to another sponsor, a transfer of a charter
2 school site to another sponsor or a transfer of a charter school site to a
3 different charter shall be completed before the beginning of the fiscal year
4 that the transfer is scheduled to become effective. An entity that sponsors
5 charter schools may accept a transferring school after the beginning of the
6 fiscal year if the transfer is approved by the superintendent of public
7 instruction. The superintendent of public instruction shall have the
8 discretion to consider each transfer during the fiscal year on a case by case
9 basis. If a charter school is sponsored by a school district that is
10 determined to be out of compliance with this title, the uniform system of
11 financial records or any other state or federal law, the charter school may
12 transfer to another sponsoring entity at any time during the fiscal year.

13 W. The sponsoring entity may not charge any fees to a charter school
14 that it sponsors unless the sponsor has provided services to the charter
15 school and the fees represent the full value of those services provided by
16 the sponsor. On request, the value of the services provided by the sponsor
17 to the charter school shall be demonstrated to the department of education.

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

19 15-203. Powers and duties

20 A. The state board of education shall:

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

24 2. Keep a record of its proceedings.

25 3. Make rules for its own government.

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

27 5. Appoint its employees, on the recommendation of the superintendent
28 of public instruction.

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

30 7. Delegate to the superintendent of public instruction the execution
31 of board policies and rules.

32 8. Recommend to the legislature changes or additions to the statutes
33 pertaining to schools.

34 9. Prepare, publish and distribute reports concerning the educational
35 welfare of this state.

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

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

40 12. Prescribe a minimum course of study in the common schools, minimum
41 competency requirements for the promotion of pupils from the third grade and
42 minimum course of study and competency requirements for the promotion of
43 pupils from the eighth grade. The state board of education shall prepare a
44 fiscal impact statement of any proposed changes to the minimum course of
45 study or competency requirements and, on completion, shall send a copy to the

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

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

15 ~~14. Supervise and control the certification of persons engaged in~~
16 ~~instructional work directly as any classroom, laboratory or other teacher or~~
17 ~~indirectly as a supervisory teacher, speech therapist, principal or~~
18 ~~superintendent in a school district, including school district preschool~~
19 ~~programs, or any other educational institution below the community college,~~
20 ~~college or university level, and prescribe rules for certification, including~~
21 ~~rules for certification of teachers who have teaching experience and who are~~
22 ~~trained in other states, which are not unnecessarily restrictive and are~~
23 ~~substantially similar to the rules prescribed for the certification of~~
24 ~~teachers trained in this state. The rules shall require applicants for all~~
25 ~~certificates for common school instruction to complete a minimum of~~
26 ~~forty five classroom hours or three college level credit hours, or the~~
27 ~~equivalent, of training in research based systematic phonics instruction from~~
28 ~~a public or private provider. The rules shall not require a teacher to~~
29 ~~obtain a master's degree or to take any additional graduate courses as a~~
30 ~~condition of certification or recertification. The rules shall allow a~~
31 ~~general equivalency diploma to be substituted for a high school diploma in~~
32 ~~the certification of emergency substitute teachers.~~

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

39 ~~16. Adopt rules governing the methods for the administration of all~~
40 ~~proficiency examinations.~~

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

43 ~~18. Include within its budget the cost of contracting for the purchase,~~
44 ~~distribution and scoring of the examinations as provided in paragraphs 16 and~~
45 ~~17 of this subsection.~~

1 ~~19. Supervise and control the qualifications of professional~~
2 ~~nonteaching school personnel and prescribe standards relating to~~
3 ~~qualifications.~~

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

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

9 ~~22.~~ 16. Adopt a rule to promote braille literacy pursuant to section
10 15-214.

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

14 ~~24.~~ 17. For purposes of federal law, serve as the state board for
15 vocational and technological education and meet at least four times each year
16 solely to execute the powers and duties of the state board for vocational and
17 technological education.

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

25 ~~26.~~ 19. Require pupils to recite the following passage from the
26 declaration of independence for pupils in grades four through six at the
27 commencement of the first class of the day in the schools, except that a
28 pupil shall not be required to participate if the pupil or the pupil's parent
29 or guardian objects:

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

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

42 ~~28.~~ 20. Adopt rules that will be in effect until December 31, 2006 and
43 that provide for the presentation of an honorary high school diploma to a
44 person who has never obtained a high school diploma and who meets each of the
45 following requirements:

- 1 (a) Is at least sixty-five years of age.
- 2 (b) Currently resides in this state.
- 3 (c) Provides documented evidence from the Arizona department of
- 4 veterans' services that the person enlisted in the armed forces of the United
- 5 States before completing high school in a public or private school.
- 6 (d) Was honorably discharged from service with the armed forces of the
- 7 United States.

8 ~~29.~~ 21. Cooperate with the Arizona-Mexico commission in the governor's
9 office and with researchers at universities in this state to collect data and
10 conduct projects in the United States and Mexico on issues that are within
11 the scope of the duties of the department of education and that relate to
12 quality of life, trade and economic development in this state in a manner
13 that will help the Arizona-Mexico commission to assess and enhance the
14 economic competitiveness of this state and of the Arizona-Mexico region.

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

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

- 27 (a) A list of the general categories in which community service may be
- 28 performed.
- 29 (b) A description of the methods by which community service will be
- 30 monitored.
- 31 (c) A consideration of risk assessment for community service projects.
- 32 (d) Orientation and notification procedures of community service
- 33 opportunities for pupils entering grade nine, including the development of a
- 34 notification form. The notification form shall be signed by the pupil and
- 35 the pupil's parent or guardian, except that a pupil shall not be required to
- 36 participate in community service if the parent or guardian notifies the
- 37 principal of the pupil's school in writing that the parent or guardian does
- 38 not wish the pupil to participate in community service.
- 39 (e) Procedures for a pupil in grade nine to prepare a written proposal
- 40 that outlines the type of community service that the pupil would like to
- 41 perform and the goals that the pupil hopes to achieve as a result of
- 42 community service. The pupil's written proposal shall be reviewed by a
- 43 faculty advisor, a guidance counselor or any other school employee who is
- 44 designated as the community service program coordinator for that school. The

1 pupil may alter the written proposal at any time before performing community
2 service.

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

7 ~~32.~~ 23. To facilitate the transfer of military personnel and their
8 dependents to and from the public schools of this state, pursue, in
9 cooperation with the Arizona board of regents, reciprocity agreements with
10 other states concerning the transfer credits for military personnel and their
11 dependents. A reciprocity agreement entered into pursuant to this paragraph
12 shall:

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

14 (i) The transfer of student records.

15 (ii) Awarding credit for completed course work.

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

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

21 ~~33.~~ 24. Adopt guidelines that school district governing boards shall
22 use in identifying pupils who are eligible for gifted programs and in
23 providing gifted education programs and services. The state board of
24 education shall adopt any other guidelines and rules that it deems necessary
25 in order to carry out the purposes of chapter 7, article 4.1 of this title.

26 B. The state board of education may:

27 1. Contract.

28 2. Sue and be sued.

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

31 ~~4. Provide for an advisory committee to conduct hearings and
32 screenings to determine whether grounds exist to impose disciplinary action
33 against a certificated person, whether grounds exist to reinstate a revoked
34 or surrendered certificate and whether grounds exist to approve or deny an
35 initial application for certification or a request for renewal of a
36 certificate. The board may delegate its responsibility to conduct hearings
37 and screenings to its advisory committee. Hearings shall be conducted
38 pursuant to title 41, chapter 6, article 6.~~

39 ~~5. Proceed with the disposal of any complaint requesting disciplinary
40 action or with any disciplinary action against a person holding a certificate
41 as prescribed in subsection A, paragraph 14 of this section after the
42 suspension or expiration of the certificate or surrender of the certificate
43 by the holder.~~

44 ~~6. Assess costs and reasonable attorney fees against a person who
45 files a frivolous complaint or who files a complaint in bad faith. Costs~~

1 ~~assessed pursuant to this paragraph shall not exceed the expenses incurred by~~
2 ~~the state board in the investigation of the complaint.~~

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

4 15-240. Issuance of subpoenas

5 A. On the request of any person who is investigating, on behalf of the
6 ~~department of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD, a complaint
7 alleging that a certificated person has engaged in immoral or unprofessional
8 conduct, the ~~department of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD
9 may issue subpoenas compelling the attendance and testimony of witnesses or
10 demanding the production for examination or copying of documents or any
11 physical evidence.

12 B. The superior court, on application by the ~~department of education~~
13 PROFESSIONAL EDUCATION STANDARDS BOARD or by the person subpoenaed, has
14 jurisdiction to issue an order either:

15 1. Requiring the person to appear before the ~~department of education~~
16 PROFESSIONAL EDUCATION STANDARDS BOARD or the duly authorized agent to
17 produce evidence relating to the matter under investigation.

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

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

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

26 15-350. Investigation of immoral or unprofessional conduct;
27 confidentiality

28 A. On request of the ~~state board of education~~ PROFESSIONAL EDUCATION
29 STANDARDS BOARD, any school or school district that has employed a
30 certificated person during the time in which the person is alleged to have
31 engaged in conduct constituting grounds for disciplinary action shall make
32 available the attendance and testimony of witnesses, documents and any
33 physical evidence within the school district's control for examination or
34 copying. All information received and records or reports kept by the ~~state~~
35 ~~board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD during an
36 investigation of immoral or unprofessional conduct are confidential and are
37 not a public record.

38 B. Notwithstanding subsection A of this section, the ~~state board of~~
39 ~~education~~ PROFESSIONAL EDUCATION STANDARDS BOARD may provide information,
40 records or reports relating to the investigation of a certificate holder to
41 any school or school district that currently employs OR IS CONSIDERING THE
42 EMPLOYMENT OF the certificate holder. All information, records or reports
43 received by any school or school district pursuant to this subsection shall
44 be used for employment purposes only, are confidential and are not a public
45 record.

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

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

6 15-501. Definitions

7 In this chapter, unless the context otherwise requires:

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

11 2. "Certificated teacher" means a person who holds a certificate from
12 the state board of education OR THE PROFESSIONAL EDUCATION STANDARDS BOARD to
13 work in the schools of this state and who is employed under contract in a
14 school district in a position which requires certification except a
15 psychologist or an administrator devoting less than fifty per cent of his
16 time to classroom teaching.

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

20 4. "Governing board" means the governing board of a school district or
21 a county school superintendent in the case of accommodation schools located
22 in such county.

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

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

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

32 Sec. 6. Repeal

33 Sections 15-508 and 15-509, Arizona Revised Statutes, are repealed.

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

35 15-512. Noncertificated personnel; fingerprinting personnel;
36 background investigations; affidavit; civil immunity;
37 violation; classification; definition

38 A. Noncertificated personnel and personnel who are not paid employees
39 of the school district and who are not either the parent or the guardian of a
40 pupil who attends school in the school district but who are required or
41 allowed to provide services directly to pupils without the supervision of a
42 certificated employee and who are initially hired by a school district after
43 January 1, 1990 shall be fingerprinted as a condition of employment except
44 for personnel who are required as a condition of licensing to be
45 fingerprinted if the license is required for employment or for personnel who

1 were previously employed by a school district and who reestablished
2 employment with that district within one year after the date that the
3 employee terminated employment with the district. A school district may
4 release the results of a background check to another school district for
5 employment purposes. The employee's fingerprints and the form prescribed in
6 subsection D of this section shall be submitted to the school district within
7 twenty days after the date an employee begins work. A school district may
8 terminate an employee if the information on the form provided under
9 subsection D of this section is inconsistent with the information received
10 from the fingerprint check. The school district shall develop procedures for
11 fingerprinting employees. For the purposes of this subsection, "supervision"
12 means under the direction of and, except for brief periods of time during a
13 school day or a school activity, within sight of a certificated employee when
14 providing direct services to pupils.

15 B. Fingerprint checks shall be conducted pursuant to section 41-1750,
16 subsection G.

17 C. The school district shall assume the costs of fingerprint checks
18 and may charge these costs to its fingerprinted employee, except that the
19 school district may not charge the costs of the fingerprint check to
20 personnel of the school district who are not paid employees. The fees charged
21 for fingerprinting shall be deposited with the county treasurer who shall
22 credit the deposit to the fingerprint fund of the school district. The costs
23 charged to a fingerprinted employee are limited to and the proceeds in the
24 fund may only be applied to the actual costs, including personnel costs,
25 incurred as a result of the fingerprint checks. The fingerprint fund is a
26 continuing fund which is not subject to reversion.

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

- 33 1. Sexual abuse of a minor.
- 34 2. Incest.
- 35 3. First or second degree murder.
- 36 4. Kidnapping.
- 37 5. Arson.
- 38 6. Sexual assault.
- 39 7. Sexual exploitation of a minor.
- 40 8. Felony offenses involving contributing to the delinquency of a
41 minor.
- 42 9. Commercial sexual exploitation of a minor.
- 43 10. Felony offenses involving sale, distribution or transportation of,
44 offer to sell, transport, ~~or~~ distribute or conspiracy to sell, transport or
45 distribute marijuana or dangerous or narcotic drugs.

- 1 11. Felony offenses involving the possession or use of marijuana,
2 dangerous drugs or narcotic drugs.
- 3 12. Misdemeanor offenses involving the possession or use of marijuana
4 or dangerous drugs.
- 5 13. Burglary in the first degree.
- 6 14. Burglary in the second or third degree.
- 7 15. Aggravated or armed robbery.
- 8 16. Robbery.
- 9 17. A dangerous crime against children as defined in section 13-604.01.
- 10 18. Child abuse.
- 11 19. Sexual conduct with a minor.
- 12 20. Molestation of a child.
- 13 21. Manslaughter.
- 14 22. Aggravated assault.
- 15 23. Assault.
- 16 24. Exploitation of minors involving drug offenses.
- 17 E. A school district may refuse to hire or may review or terminate
18 personnel who have been convicted of or admitted committing any of the
19 criminal offenses prescribed in subsection D of this section or of a similar
20 offense in another jurisdiction. A school district which is considering
21 terminating an employee pursuant to ~~the provisions of~~ this subsection shall
22 hold a hearing to determine whether a person already employed shall be
23 terminated. In conducting a review, the governing board shall utilize the
24 guidelines, including the list of offenses that are not subject to review, ~~as~~
25 ~~prescribed by the state board of education pursuant to section 15-534,~~
26 ~~subsection C.~~ In considering whether to hire or terminate the employment of
27 a person the governing board shall take into account the following factors:
28 1. The nature of the crime and the potential for crimes against
29 children.
30 2. Offenses committed as a minor for which proceedings were held under
31 the jurisdiction of a juvenile or an adult court.
32 3. Offenses that have been expunged by a court of competent
33 jurisdiction, if the person has been pardoned or if the person's sentence has
34 been commuted.
35 4. The employment record of the person since the commission of the
36 crime if the crime was committed more than ten years before the governing
37 board's consideration of whether to hire or terminate the person.
38 5. The reliability of the evidence of an admission of a crime unless
39 made under oath in a court of competent jurisdiction.
- 40 F. Before employment with the school district, the district shall make
41 documented, good faith efforts to contact previous employers of a person to
42 obtain information and recommendations which may be relevant to a person's
43 fitness for employment. A governing board shall adopt procedures for
44 conducting background investigations required by this subsection, including
45 one or more standard forms for use by school district officials to document

1 their efforts to obtain information from previous employers. A school
2 district may provide information received as a result of a background
3 investigation required by this section to any other school district, to any
4 other public school and to any public entity that agrees pursuant to a
5 contract or intergovernmental agreement to perform background investigations
6 for school districts or other public schools. School districts and other
7 public schools may enter into intergovernmental agreements pursuant to
8 section 11-952 and cooperative purchasing agreements pursuant to rules
9 adopted in accordance with section 15-213 for the purposes of performing or
10 contracting for the performance of background investigations and for sharing
11 the results of background investigations required by this subsection.
12 Information obtained about an employee or applicant for employment by any
13 school district or other public school in the performance of a background
14 investigation may be retained by that school district or the other public
15 school or by any public entity that agrees pursuant to contract to perform
16 background investigations for school districts or other public schools and
17 may be provided to any school district or other public school that is
18 performing a background investigation required by this subsection.

19 G. A school district may fingerprint any other employee of the
20 district, whether paid or not, or any other applicant for employment with the
21 school district not otherwise required by this section to be fingerprinted on
22 the condition that the school district may not charge the costs of the
23 fingerprint check to the fingerprinted applicant or nonpaid employee.

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

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

42 J. The superintendent of a school district or chief administrator of a
43 charter school or the person's designee who is responsible for implementing
44 the governing board's policy regarding background investigations required by
45 subsection F of this section and who fails to carry out that responsibility

1 is guilty of unprofessional conduct and shall be subject to disciplinary
2 action by the state board.

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

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

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

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

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

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

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

32 L. Notwithstanding any other law, this section does not apply to
33 pupils who attend school in a school district and who are also employed by a
34 school district.

35 M. A person who makes a false statement, representation or
36 certification in any application for employment with the school district is
37 guilty of a class 3 misdemeanor.

38 N. For the ~~purpose~~ PURPOSES of this section, "background
39 investigation" means any communication with an employee's or applicant's
40 former employer that concerns the education, training, experience,
41 qualifications and job performance of the employee or applicant and that is
42 used for the purpose of evaluating the employee or applicant for employment.
43 Background investigation does not include the results of any state or federal
44 criminal history records check.

1 Sec. 8. Section 15-514, Arizona Revised Statutes, is amended to read:
2 15-514. Reports of immoral or unprofessional conduct: immunity

3 A. Any certificated person or governing board member who reasonably
4 suspects or receives a reasonable allegation that a person certificated by
5 the state board of education OR THE PROFESSIONAL EDUCATION STANDARDS BOARD
6 has engaged in conduct involving minors that would be subject to the
7 reporting requirements of section 13-3620 shall report or cause reports to be
8 made to the ~~department of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD in
9 writing as soon as is reasonably practicable but not later than three
10 business days after the person first suspects or receives an allegation of
11 the conduct.

12 B. The superintendent of a school district or the chief administrator
13 of a charter school who reasonably suspects or receives a reasonable
14 allegation that an act of immoral or unprofessional conduct that would
15 constitute grounds for dismissal or criminal charges by a certificated person
16 has occurred shall report the conduct to the ~~department of education~~
17 PROFESSIONAL EDUCATION STANDARDS BOARD.

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

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

- 29 1. Disciplinary action.
- 30 2. Transfer or reassignment.
- 31 3. Suspension, demotion or dismissal.
- 32 4. An unfavorable performance evaluation.
- 33 5. Other significant changes in duties or responsibilities that are
34 inconsistent with the employee's salary or employment classification.

35 E. Failure to report information as required by this section by a
36 certificated person constitutes grounds for disciplinary action by the ~~state~~
37 ~~board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD.

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

1 Sec. 9. Repeal
2 Sections 15-531, 15-532 and 15-533, Arizona Revised Statutes, are
3 repealed.
4 Sec. 10. Section 15-534, Arizona Revised Statutes, is amended to read:
5 15-534. Fingerprinting: review and disciplinary action:
6 violation: classification
7 A. A person who applies for a certificate as prescribed in section
8 ~~15-203~~ 15-562 shall have a valid fingerprint clearance card that is issued
9 pursuant to title 41, chapter 12, article 3.1. Applicants who possess a
10 certificate pursuant to section ~~15-203~~ 15-562 and who apply for additional
11 certificates or who apply for renewal of any certificate shall meet one of
12 the following requirements:
13 1. Have a valid fingerprint clearance card issued pursuant to title
14 41, chapter 12, article 3.1.
15 2. Provide proof of the submission of an application for a fingerprint
16 clearance card. Applicants who have been denied a fingerprint clearance card
17 shall also provide proof that the applicant qualifies for a good cause
18 exception hearing pursuant to section 41-619.55.
19 B. A person who is certified pursuant to section ~~15-203~~ 15-562 shall
20 maintain a valid fingerprint clearance card during the valid period of the
21 person's certificate or certificates.
22 ~~C. The state board of education may review and determine whether to~~
23 ~~renew or not issue a certificate to an applicant for certification on a~~
24 ~~finding that the applicant engaged in conduct that is immoral or~~
25 ~~unprofessional or engaged in conduct that would warrant disciplinary action~~
26 ~~if the person had been certified at the time that the alleged conduct~~
27 ~~occurred. The board shall prescribe guidelines for this process.~~
28 ~~D. The state board of education may take disciplinary action against~~
29 ~~or not renew the certificate of a person on a finding that the certificated~~
30 ~~person engaged in conduct that is immoral or unprofessional or engaged in~~
31 ~~conduct that would warrant disciplinary action if the person had been~~
32 ~~certified at the time that the alleged conduct occurred. The board shall~~
33 ~~prescribe guidelines for this process.~~
34 ~~E. C.~~ C. The department of education may issue conditional certification
35 before an applicant has obtained a valid fingerprint clearance card. A
36 conditional certificate may be used only for employment in the school
37 district that submits an application to the department of education for
38 conditional certification pursuant to this subsection. The ~~state board of~~
39 ~~education~~ PROFESSIONAL EDUCATION STANDARDS BOARD may revoke conditional
40 certification if the information on the application for a conditional
41 certificate is false or incomplete, the applicant is denied a fingerprint
42 clearance card or the conditional certificate is used for employment in a
43 school district other than the school district that is indicated on the
44 application for conditional certification. In addition to any other
45 conditions or requirements deemed necessary by the superintendent of public

1 instruction to protect the health and safety of pupils, conditional
2 certification shall be issued before the applicant obtains a fingerprint
3 clearance card if all of the following conditions are met:

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

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

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

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

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

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

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

25 ~~G.~~ E. The ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS
26 BOARD shall notify the department of public safety if the ~~state board of~~
27 ~~education~~ PROFESSIONAL EDUCATION STANDARDS BOARD receives credible evidence
28 that a person who possesses a valid fingerprint clearance card either:

29 1. Is arrested for or charged with an offense listed in section
30 41-1758.03, subsection B.

31 2. Falsified information on the form required by subsection A of this
32 section.

33 ~~H.~~ F. A person who makes a false statement, representation or
34 certification in any application for certification is guilty of a class 3
35 misdemeanor.

36 Sec. 11. Section 15-534.01, Arizona Revised Statutes, is amended to
37 read:

38 15-534.01. Withdrawal of applications for administrative
39 deficiencies; denial of applications for
40 substantive deficiencies; certification timeframes

41 A. If an application for certification is administratively incomplete,
42 as prescribed in title 41, chapter 6, article 7.1, the department of
43 education or the ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS
44 BOARD shall issue a written notice requesting the applicant to supply missing
45 documents or other information. The department of education shall consider

1 an application for certification withdrawn if, within sixty days after the
2 date of the notice, the applicant does not supply the documentation or
3 information requested or does not provide reasonable documented justification
4 for the delay. On receipt of documented justification, the department of
5 education shall provide an additional thirty days for the requested
6 documentation or information to be provided before considering an application
7 withdrawn.

8 B. If an application for certification is substantively incomplete, as
9 prescribed in title 41, chapter 6, article 7.1, the department of education
10 or the ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD may
11 issue a written notice requesting the applicant to supply additional
12 documents or other information. The ~~state board of education~~ PROFESSIONAL
13 EDUCATION STANDARDS BOARD shall deny an application for certification if,
14 within sixty days after the date of the notice, the applicant does not supply
15 the documentation or information requested.

16 C. If the final day of a deadline imposed by this section falls on a
17 Saturday, Sunday or other legal holiday, the next business day is the final
18 day of the deadline.

19 D. A notice of denial of an application for certification issued by
20 the ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD pursuant
21 to subsection B of this section shall comply with section 41-1076.

22 E. A person who has had an application for certification denied by the
23 ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD pursuant to
24 subsection B of this section may file a written request for a hearing with
25 the ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD within
26 fifteen days after receiving the notice of denial. The appeal shall be
27 conducted in accordance with title 41, chapter 6, article 6.

28 Sec. 12. Section 15-534.02, Arizona Revised Statutes, is amended to
29 read:

30 15-534.02. Restrictions on applications for certification after
31 the surrender, revocation or denial of certificate

32 A. A person shall not submit an application for certification with the
33 ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS BOARD for a period
34 of five years if any of the following occurs:

35 1. The person surrenders a certificate issued by the ~~state board of~~
36 ~~education~~ PROFESSIONAL EDUCATION STANDARDS BOARD.

37 2. The person's certificate is revoked by the ~~state board of education~~
38 PROFESSIONAL EDUCATION STANDARDS BOARD on grounds of immoral or
39 unprofessional conduct pursuant to rules adopted by the state board of
40 education ~~pursuant to section 15-203~~ OR BY THE PROFESSIONAL EDUCATION
41 STANDARDS BOARD.

42 3. The person's application for certification is denied by the state
43 board of education OR THE PROFESSIONAL EDUCATION STANDARDS BOARD on grounds
44 of immoral or unprofessional conduct pursuant to rules adopted by the state
45 board of education ~~pursuant to section 15-203~~ OR BY THE PROFESSIONAL

1 EDUCATION STANDARDS BOARD. This paragraph does not apply to a person who,
2 after denial of an application for certification, provides additional
3 information that was not previously considered by the state board of
4 education OR THE PROFESSIONAL EDUCATION STANDARDS BOARD and that addresses
5 the grounds on which the state board of education OR THE PROFESSIONAL
6 EDUCATION STANDARDS BOARD denied the application for certification.

7 B. The five year period prescribed in subsection A begins on the date
8 that the state board of education OR THE PROFESSIONAL EDUCATION STANDARDS
9 BOARD accepts a surrendered certificate, makes a final decision to revoke a
10 certificate or makes a final determination to deny an application for
11 certification.

12 C. A person who has had a certificate revoked ~~pursuant to section~~
13 ~~15-550~~ is not eligible to apply for certification with the ~~state board of~~
14 ~~education~~ PROFESSIONAL EDUCATION STANDARDS BOARD.

15 D. The department of education shall not process an application for
16 certification submitted by a person who is prohibited from submitting an
17 application pursuant to subsections A and C ~~of this section~~.

18 Sec. 13. Section 15-534.03, Arizona Revised Statutes, is amended to
19 read:

20 15-534.03. Service of documents; change of address notice
21 requirement

22 A. Every notice or decision issued by the ~~state board of education~~
23 PROFESSIONAL EDUCATION STANDARDS BOARD pertaining to the denial of an
24 application for initial certification or renewal of a certificate or
25 pertaining to disciplinary action against a certificated person shall be
26 served by personal delivery or certified mail, return receipt requested, to
27 the applicant or certificated person's last address of record with the
28 department of education or by any other method that is reasonably calculated
29 to give actual notice to the applicant or the certificated person.

30 B. Each applicant or certificated person shall inform the department
31 of education of any change of address within thirty days of the change of
32 address.

33 Sec. 14. Repeal

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

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

36 15-539. Dismissal of certificated teacher; due process; written
37 charges; notice; hearing on request

38 A. Upon a written statement of charges presented by the
39 superintendent, charging that there exists cause for the suspension without
40 pay for a period of time greater than ten school days or dismissal of a
41 certificated teacher of the district, the governing board ~~shall~~, except as
42 otherwise provided in this article, SHALL give notice to the teacher of its
43 intention to suspend without pay or dismiss the teacher at the expiration of
44 thirty days from the date of the service of the notice.

1 B. Whenever the superintendent presents a statement of charges wherein
 2 the alleged cause for dismissal constitutes immoral or unprofessional
 3 conduct, the governing board may adopt a resolution that a complaint be filed
 4 with the department of education OR THE PROFESSIONAL EDUCATION STANDARDS
 5 BOARD. Pending disciplinary action by the ~~state board of education~~
 6 PROFESSIONAL EDUCATION STANDARDS BOARD, the certificated teacher may be
 7 reassigned by the superintendent or placed on administrative leave by the
 8 GOVERNING board pursuant to section 15-540.

9 C. The governing board shall give a certificated teacher who has been
 10 employed by the school district for more than the major portion of three
 11 consecutive school years notice of intention to dismiss if its intention to
 12 dismiss is based on charges of inadequacy of classroom performance as defined
 13 by the governing board pursuant to subsection D of this section. The
 14 governing board or its authorized representative shall give the teacher a
 15 written preliminary notice of inadequacy of classroom performance at least
 16 ten instructional days prior to the start of the period of time within which
 17 to correct the inadequacy and overcome the grounds for the charge. The
 18 governing board may delegate to employees of the governing board the general
 19 authority to issue preliminary notices of inadequacy of classroom performance
 20 to teachers pursuant to this section without the need for prior approval of
 21 each notice by the governing board. In all cases in which an employee of the
 22 governing board issues a preliminary notice of inadequacy of classroom
 23 performance without prior approval by the governing board, the employee shall
 24 report its issuance to the governing board within five school days. The
 25 written preliminary notice of inadequacy of classroom performance shall
 26 specify the nature of the inadequacy of classroom performance with such
 27 particularity as to furnish the teacher an opportunity to correct the
 28 teacher's inadequacies and overcome the grounds for the charge. The written
 29 preliminary notice of inadequacy of classroom performance shall be based on a
 30 valid evaluation according to school district procedure, shall include a copy
 31 of any evaluation pertinent to the charges made and shall state the date by
 32 which the teacher has to correct the inadequacy and overcome the grounds for
 33 the charge. That evaluation shall not be conducted within two instructional
 34 days of any school break of one week or more. The written preliminary notice
 35 of inadequacy of classroom performance shall allow the teacher not less than
 36 eighty-five instructional days within which to correct the inadequacy and
 37 overcome the grounds for the charge. If within the time specified in the
 38 written preliminary notice of inadequacy of classroom performance the teacher
 39 does not demonstrate adequate classroom performance, the governing board
 40 shall dismiss the teacher either within thirty days of the service of a
 41 subsequent notice of intention to dismiss or by the end of the contract year
 42 in which the subsequent notice of intention to dismiss is served unless the
 43 teacher has requested a hearing as provided in subsection G of this section.
 44 If the teacher demonstrates adequate classroom performance during the period
 45 allowed to correct such deficiencies as specified in the written preliminary

1 notice of inadequacy of classroom performance, the governing board may not
2 dismiss the teacher for the reasons specified in the written preliminary
3 notice of inadequacy of classroom performance. If the governing board of a
4 school district has received approval to budget for a career ladder program,
5 the governing board may define inadequacy of classroom performance by
6 establishing a single level of performance which is required of all teachers
7 or by establishing more than one required level of performance. If more than
8 one level is established, the same level of performance for minimum adequacy
9 shall be required of all teachers who have completed the same number of years
10 of teaching in the district.

11 D. The governing board shall develop a definition of inadequacy of
12 classroom performance that applies to notices issued pursuant to section
13 15-536, section 15-538 and this section. The governing board shall develop
14 its definition of inadequacy of classroom performance in consultation with
15 its certificated teachers. The consultation may be accomplished by holding a
16 public hearing, forming an advisory committee, providing teachers the
17 opportunity to respond to a proposed definition or obtaining teacher approval
18 of a career ladder program which defines inadequacy of classroom performance.

19 E. Any written statement of charges alleging unprofessional conduct,
20 conduct in violation of the rules or policies of the governing board or
21 inadequacy of classroom performance shall specify instances of behavior and
22 the acts or omissions constituting the charge so that the certificated
23 teacher will be able to prepare a defense. If applicable, it shall state the
24 statutes, rules or written objectives of the governing board which the
25 certificated teacher is alleged to have violated and set forth the facts
26 relevant to each occasion of alleged unprofessional conduct, conduct in
27 violation of the rules or policies of the governing board or inadequacy of
28 classroom performance.

29 F. The notice shall be in writing and shall be served upon the
30 certificated teacher personally or by United States registered or certified
31 mail addressed to the teacher's last known address. A copy of the charges,
32 together with a copy of this section and sections 15-501, 15-538.01, 15-540,
33 15-541, 15-542 and 15-544 through 15-547, shall be attached to the notice.

34 G. The certificated teacher who receives notice that there exists
35 cause for dismissal or suspension without pay shall have the right to a
36 hearing if the teacher files a written request with the governing board
37 within thirty days of service of notice. The filing of a timely request
38 shall suspend the imposition of a suspension without pay or a dismissal
39 pending completion of the hearing.

40 Sec. 16. Section 15-545, Arizona Revised Statutes, is amended to read:

41 15-545. Resignation restrictions; unprofessional act; penalty

42 A certificated teacher shall not resign after signing and returning his
43 contract, unless the resignation is first approved by the governing board. A
44 teacher who resigns contrary to this section shall be deemed to commit an
45 unprofessional act and, upon request of the governing board, ~~shall~~ MAY be

1 subject to such disciplinary action, including suspension or revocation of
2 certificate, as the ~~state board of education~~ PROFESSIONAL EDUCATION STANDARDS
3 BOARD deems appropriate.

4 Sec. 17. Repeal

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

6 Sec. 18. Section 15-551, Arizona Revised Statutes, is amended to read:

7 15-551. Confidentiality of pupil's name; disciplinary hearing;
8 civil penalty

9 A. The governing board and the ~~state board of education~~ PROFESSIONAL
10 EDUCATION STANDARDS BOARD shall keep confidential the name of a pupil
11 involved in a hearing before either board regarding the dismissal or
12 discipline of a school district employee or an action on a certificate. The
13 GOVERNING board AND THE PROFESSIONAL EDUCATION STANDARDS BOARD shall not
14 disclose the pupil's name without the consent of the pupil's parent or
15 guardian except by order of the superior court. This section does not
16 prevent either board from disclosing the pupil's name to any party to the
17 hearing.

18 B. The GOVERNING board AND THE PROFESSIONAL EDUCATION STANDARDS BOARD
19 shall take a pupil's testimony in executive session. The pupil shall be
20 referred to by a fictitious name during any public portions of the hearing.
21 The pupil's name and testimony are not subject to inspection pursuant to
22 title 39, chapter 1, article 2.

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

27 D. The ~~state board~~ PROFESSIONAL EDUCATION STANDARDS BOARD shall adopt
28 rules for the implementation of this section.

29 Sec. 19. Title 15, chapter 5, Arizona Revised Statutes, is amended by
30 adding article 4, to read:

31 ARTICLE 4. PROFESSIONAL EDUCATION STANDARDS BOARD

32 15-561. Professional education standards board; membership;
33 terms; quorum; travel expenses; immunity

34 A. THE PROFESSIONAL EDUCATION STANDARDS BOARD IS ESTABLISHED
35 CONSISTING OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE GOVERNOR
36 PURSUANT TO SECTION 38-211 FOR A TERM OF FOUR YEARS BEGINNING ON THE THIRD
37 MONDAY IN JANUARY:

38 1. EIGHT TEACHERS WHO ARE CERTIFICATED BY THIS STATE AND WHO ARE
39 ACTIVELY TEACHING IN A PUBLIC SCHOOL IN THIS STATE. THREE OF THE MEMBERS
40 APPOINTED PURSUANT TO THIS PARAGRAPH SHALL PROVIDE INSTRUCTION IN
41 KINDERGARTEN PROGRAMS OR IN ANY OF GRADES ONE THROUGH SIX IN A SCHOOL
42 DISTRICT. ONE OF THE MEMBERS APPOINTED PURSUANT TO THIS PARAGRAPH SHALL
43 PROVIDE INSTRUCTION IN GRADE SEVEN OR EIGHT IN A SCHOOL DISTRICT. TWO OF THE
44 MEMBERS APPOINTED PURSUANT TO THIS PARAGRAPH SHALL PROVIDE INSTRUCTION IN
45 GRADES NINE THROUGH TWELVE IN A SCHOOL DISTRICT. ONE OF THE MEMBERS

1 APPOINTED PURSUANT TO THIS PARAGRAPH SHALL BE A TEACHER CURRENTLY TEACHING IN
2 A SPECIALIZED INSTRUCTIONAL AREA IN A SCHOOL DISTRICT. ONE OF THE MEMBERS
3 APPOINTED PURSUANT TO THIS PARAGRAPH SHALL BE A TEACHER CURRENTLY TEACHING IN
4 A CHARTER SCHOOL.

5 2. THREE ADMINISTRATORS WHO ARE CERTIFICATED BY THIS STATE AND WHO ARE
6 ACTIVELY WORKING IN AN ADMINISTRATIVE POSITION IN A PUBLIC SCHOOL DISTRICT IN
7 THIS STATE. ONE MEMBER APPOINTED PURSUANT TO THIS PARAGRAPH SHALL BE A
8 SCHOOL DISTRICT SUPERINTENDENT. ONE MEMBER APPOINTED PURSUANT TO THIS
9 PARAGRAPH SHALL BE THE PRINCIPAL OF AN ELEMENTARY SCHOOL, A MIDDLE SCHOOL OR
10 A JUNIOR HIGH SCHOOL. ONE MEMBER APPOINTED PURSUANT TO THIS PARAGRAPH SHALL
11 BE THE PRINCIPAL OF A HIGH SCHOOL.

12 3. ONE MEMBER OF A SCHOOL DISTRICT GOVERNING BOARD.

13 4. ONE NONCERTIFICATED EMPLOYEE WHO IS ACTIVELY WORKING IN A PUBLIC
14 SCHOOL DISTRICT IN THIS STATE.

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

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

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

21 8. THE SUPERINTENDENT OF PUBLIC INSTRUCTION OR THE SUPERINTENDENT'S
22 DESIGNEE.

23 B. NOT MORE THAN ONE MEMBER OF THE BOARD MAY BE APPOINTED FROM THE
24 SAME SCHOOL DISTRICT.

25 C. THE GOVERNOR SHALL FILL VACANCIES THAT OCCUR FROM ANY CAUSE BY
26 APPOINTING A REPLACEMENT MEMBER FOR THE UNEXPIRED TERM PURSUANT TO SECTION
27 38-211.

28 D. THE BOARD SHALL ANNUALLY ELECT FROM ITS MEMBERSHIP A CHAIRPERSON
29 AND A VICE-CHAIRPERSON.

30 E. A MAJORITY OF THE BOARD CONSTITUTES A QUORUM FOR THE TRANSACTION OF
31 BUSINESS. CONCURRENCE BY A MAJORITY OF A QUORUM IS NECESSARY FOR THE BOARD TO
32 TAKE OFFICIAL ACTION.

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

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

38 15-562. Powers and duties

39 A. THE PROFESSIONAL EDUCATION STANDARDS BOARD SHALL ADOPT RULES THAT
40 PROVIDE FOR THE FOLLOWING:

41 1. THE ESTABLISHMENT OF PROFESSIONAL STANDARDS FOR EDUCATION
42 EMPLOYEES.

43 2. THE SUBSTANCE, ADMINISTRATION AND PASSING SCORES FOR ALL
44 PROFICIENCY EXAMINATIONS THAT ARE ALIGNED WITH THE PROFESSIONAL STANDARDS.

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

- 1 4. THE ESTABLISHMENT OF STANDARDS FOR INDUCTION AND PROFESSIONAL
2 DEVELOPMENT.
- 3 5. THE CERTIFICATION AND LICENSURE OF SCHOOL EMPLOYEES.
- 4 6. TEACHER CERTIFICATION RECIPROCITY.
- 5 7. GUIDELINES FOR SCHOOLS CONCERNING THE ACTIVITIES THAT CONSTITUTE
6 IMMORAL OR UNPROFESSIONAL CONDUCT OF CERTIFICATED PERSONS.
- 7 8. PROCEDURES FOR THE INVESTIGATION AND ADJUDICATION OF EVERY WRITTEN
8 COMPLAINT ALLEGING THAT A CERTIFICATED PERSON HAS ENGAGED IN IMMORAL OR
9 UNPROFESSIONAL CONDUCT.
- 10 B. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY REVIEW AND DETERMINE
11 WHETHER TO RENEW OR NOT ISSUE A CERTIFICATE TO AN APPLICANT FOR CERTIFICATION
12 OR A CERTIFICATE HOLDER OR TO TAKE ACTION AGAINST A CERTIFICATE HOLDER ON A
13 FINDING THAT THE APPLICANT OR CERTIFICATE HOLDER ENGAGED IN IMMORAL OR
14 UNPROFESSIONAL CONDUCT OR CONDUCT THAT WOULD WARRANT DISCIPLINARY ACTION IF
15 THE PERSON HAD BEEN CERTIFIED AT THE TIME THAT THE ALLEGED CONDUCT OCCURRED.
- 16 C. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY INITIATE A COMPLAINT
17 THAT SEEKS DISCIPLINARY ACTION AGAINST A CERTIFICATE HOLDER.
- 18 D. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY IMPOSE DISCIPLINARY
19 ACTION, INCLUDING THE ISSUANCE OF A LETTER OF CENSURE, SUSPENSION, SUSPENSION
20 WITH CONDITIONS OR REVOCATION OF A CERTIFICATE, ON A FINDING OF IMMORAL OR
21 UNPROFESSIONAL CONDUCT.
- 22 E. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY PROCEED WITH THE
23 DISPOSAL OF ANY COMPLAINT THAT REQUESTS DISCIPLINARY ACTION OR WITH ANY
24 DISCIPLINARY ACTION AGAINST A CERTIFICATE HOLDER AFTER THE SUSPENSION OR
25 EXPIRATION OF THE CERTIFICATE OR SURRENDER OF THE CERTIFICATE BY THE HOLDER.
- 26 F. THE PROFESSIONAL EDUCATION STANDARDS BOARD OR A SUBCOMMITTEE OF THE
27 BOARD SHALL CONDUCT HEARINGS AND SCREENINGS TO DETERMINE WHETHER GROUNDS
28 EXIST TO APPROVE OR DENY AN INITIAL APPLICATION FOR CERTIFICATION OR AN
29 APPLICATION FOR RENEWAL OF A CERTIFICATE, WHETHER GROUNDS EXIST TO IMPOSE
30 DISCIPLINARY ACTION AGAINST A CERTIFICATED PERSON AND WHETHER GROUNDS EXIST
31 TO REINSTATE A REVOKED OR SURRENDERED CERTIFICATE. HEARINGS SHALL BE
32 CONDUCTED PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 6. A DECISION OF THE BOARD
33 TO IMPOSE DISCIPLINARY ACTION, REINSTATE A REVOKED OR SURRENDERED CERTIFICATE
34 OR APPROVE OR DENY AN INITIAL APPLICATION FOR CERTIFICATION OR AN APPLICATION
35 FOR RENEWAL OF A CERTIFICATE SHALL COMPLY WITH SECTION 41-1063 AND SHALL
36 CONSTITUTE A FINAL DECISION UNDER SECTION 41-1063. A PARTY MAY APPEAL A
37 DECISION PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.
- 38 G. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY ENTER INTO
39 INTERGOVERNMENTAL AGREEMENTS OR CONTRACTS PURSUANT TO TITLE 11, CHAPTER 7,
40 ARTICLE 3 FOR THE ADMINISTRATION AND EVALUATION OF PROFICIENCY EXAMINATIONS,
41 INCLUDING EXAMINATIONS ON THE CONSTITUTION OF THE UNITED STATES AND ON THE
42 CONSTITUTION OF ARIZONA.
- 43 H. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY FIX AND COLLECT FEES
44 FOR CERTIFICATION OF PERSONS PURSUANT TO THIS ARTICLE.

1 I. THE PROFESSIONAL EDUCATION STANDARDS BOARD MAY HIRE AN EXECUTIVE
2 DIRECTOR TO ADMINISTER THE POLICIES OF THE PROFESSIONAL EDUCATION STANDARDS
3 BOARD.

4 15-563. Professional education standards board fund

5 A. THE PROFESSIONAL EDUCATION STANDARDS BOARD FUND IS ESTABLISHED.
6 ALL MONIES COLLECTED UNDER THIS CHAPTER SHALL BE DEPOSITED WITH THE STATE
7 TREASURER. THE MONIES IN THE PROFESSIONAL EDUCATION STANDARDS BOARD FUND,
8 SUBJECT TO ANNUAL LEGISLATIVE APPROPRIATION, SHALL BE USED TO FUND THE
9 OPERATIONAL COSTS OF THE PROFESSIONAL EDUCATION STANDARDS BOARD ESTABLISHED
10 IN SECTION 15-561.

11 B. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION
12 35-190, RELATING TO LAPSING OF APPROPRIATIONS.

13 Sec. 20. Section 15-779.02, Arizona Revised Statutes, is amended to
14 read:

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

17 A. The governing board of each school district shall develop a scope
18 and sequence for the identification process of and curriculum modifications
19 for gifted pupils to ensure that gifted pupils receive gifted education
20 commensurate with their academic abilities and potentials. Programs and
21 services for gifted pupils shall be provided as an integrated, differentiated
22 learning experience during the regular school day. The scope and the
23 sequence shall:

24 1. Provide for routine screening for gifted pupils using one or more
25 tests adopted by the state board as prescribed in section 15-203, subsection
26 A, paragraph ~~15~~ 14 and section 15-779.01. School districts may identify any
27 number of pupils as gifted but shall identify as gifted at least those pupils
28 who score at or above the ninety-seventh percentile, based on national norms,
29 on a test adopted by the state board of education.

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

- 32 (a) Content, including a broad based interdisciplinary curriculum.
- 33 (b) Process, including higher level thinking skills.
- 34 (c) Product, including variety and complexity.
- 35 (d) Learning environment, including flexibility.

36 3. Include criteria, which shall be reviewed by the state board of
37 education and the department of education at least once every four years,
38 that address the elements of program design, identification, curriculum,
39 instruction, social development, emotional development, professional
40 development of administrators, teachers, school psychologists and counselors,
41 parent involvement, community involvement, program assessment and budgeting.
42 The budget information shall include separate data on identification and
43 program costs and any other data required by the superintendent of public
44 instruction to administer and evaluate the program effectively.

1 B. The governing board shall submit the scope and the sequence to the
2 department of education for approval on or before July 1 if any changes were
3 made during the previous fiscal year. The governing board shall submit the
4 scope and the sequence to the department of education for approval on or
5 before July 1 every five years if no changes were made during the previous
6 five years. All school districts shall provide to gifted pupils gifted
7 education commensurate with their academic abilities and potentials.

8 C. If the governing board fails to submit the scope and sequence for
9 gifted pupils as prescribed in subsection B of this section or if the scope
10 and sequence submitted by the governing board fails to receive full approval
11 by the superintendent of public instruction, the school district is not
12 eligible to receive state aid for the group A weight for seven per cent of
13 the student count and shall compute the weighted student count for pupils in
14 group A as provided in section 15-943 by adjustment of the student count
15 accordingly. On or before December 1 of each year, the department of
16 education shall notify those school districts that appear to be in
17 noncompliance and note the specific areas of deficiencies that must be
18 corrected on or before April 1 of the following year to be eligible to use
19 the actual student count rather than an adjusted student count. On or before
20 April 15 of each year, the department shall notify those districts that must
21 use an adjusted student count for the next fiscal year's state aid as
22 provided in chapter 9 of this title.

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

27 Sec. 21. Section 15-914.01, Arizona Revised Statutes, is amended to
28 read:

29 15-914.01. Accounting responsibility; definition

30 A. School districts with a student count of at least four thousand may
31 apply to the state board of education to assume accounting responsibility.

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

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

38 (a) Procedures for approving, preparing and signing vouchers and
39 warrants.

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

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

3 (d) Procedures for reconciling the accounting records monthly to the
4 county treasurer.

5 2. A compilation of resources required to implement accounting
6 responsibility, including, at a minimum, personnel, training and equipment,
7 and A comprehensive analysis of the budgetary implications of accounting
8 responsibility for the school district and the county treasurer.

9 C. Prior to January 1 of the fiscal year preceding the fiscal year of
10 implementation and before submitting an application to assume accounting
11 responsibility, a school district shall apply for evaluation by the auditor
12 general. On completion of the evaluation the auditor general may recommend
13 approval or denial of accounting responsibility to the state board of
14 education. The evaluation by the auditor general shall be performed
15 contingent on staff availability and may be billed to the school district at
16 cost. Evaluation at a minimum shall include the following:

17 1. The most recent financial statements audited by an independent
18 certified public accountant.

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

23 3. The working papers of the independent certified public accountant
24 responsible for auditing the school district, if deemed appropriate by the
25 auditor general.

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

27 D. School districts that are approved by the state board of education
28 to assume accounting responsibility shall contract with an independent
29 certified public accountant for an annual financial and compliance audit.
30 The auditor general may reevaluate the school district annually based on the
31 audit to determine compliance with the uniform system of financial records.

32 E. To assume accounting responsibility a school district shall notify
33 the county treasurer and the county school superintendent of its intention
34 before March 1 of the fiscal year preceding the fiscal year of
35 implementation. On notification, the county treasurer shall establish
36 acceptable standards for interface by school districts with the county
37 treasurer, including specifications for computer hardware and software
38 compatibility and procedures to ensure the capacity of each school district
39 for reconciliation of accounts with those of the county treasurer.

40 F. Any school district that fails to maintain accounting standards as
41 provided by the uniform system of financial records and THAT is found to be
42 in noncompliance with the uniform system of financial records by the state
43 board of education as provided in section 15-272 is not eligible to
44 participate in the program provided by this section.

1 G. Any school district that has assumed accounting responsibility
2 pursuant to this section, that fails to maintain accounting standards as
3 provided by the uniform system of financial records and THAT is found to be
4 in noncompliance with the uniform system of financial records by the state
5 board of education as provided in section 15-272 is no longer eligible to
6 participate in the program provided by this section.

7 H. For the purposes of this section, "accounting responsibility" means
8 authority for a school district to operate with full independence from the
9 county school superintendent with respect to revenues and expenditures,
10 including allocating revenues, monitoring vouchers, authorizing and issuing
11 warrants and maintaining and verifying staff records for certification and
12 payroll purposes.

13 Sec. 22. Section 41-1092.02, Arizona Revised Statutes, is amended to
14 read:

15 41-1092.02. Appealable agency actions; application of
16 procedural rules; exemption from article

17 A. This article applies to all contested cases as defined in section
18 41-1001 and all appealable agency actions, except contested cases with or
19 appealable agency actions of:

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

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

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

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

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

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

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

19 F. The board of appeals established by section 37-213 is exempt from:

20 1. The time frames for hearings and decisions provided in section
21 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

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

26 G. Auction protest procedures pursuant to title 37, chapter 2, article
27 4.1 are exempt from this article.

28 Sec. 23. Section 41-2831, Arizona Revised Statutes, is amended to
29 read:

30 ~~41-2831.~~ 41-2831. State educational system for committed youth; report

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

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

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

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

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

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

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

20 H. The superintendent shall:

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

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

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

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

1 H. All monies appropriated to or remaining in the teacher
2 certification fund and investigative unit are transferred to the professional
3 education standards board fund established in section 15-563, Arizona Revised
4 Statutes, as added by this act.

5 Sec. 26. Professional education standards board: initial
6 appointments

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

- 10 1. Four terms selected by the governor ending January 1, 2010.
11 2. Six terms selected by the governor ending January 1, 2011.
12 3. Six terms selected by the governor ending January 1, 2012.

13 B. The governor shall make the initial appointment of the professional
14 education standards board as prescribed in section 15-561, Arizona Revised
15 Statutes, as added by this act, no later than January 13, 2009.

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

18 Sec. 27. Purpose

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

23 Sec. 28. Effective date

24 This act is effective from and after January 12, 2009.