

REFERENCE TITLE: ESAs; qualified schools; requirements; reporting.

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2705

Introduced by
Representative Contreras L

AN ACT

AMENDING SECTIONS 15-106, 15-2401, 15-2402, 15-2403 AND 15-2404, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 19, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-2407, 15-2408 AND 15-2409; AMENDING SECTIONS 23-1361, 41-619.51, 41-1279.03, 41-1750, 41-1758, 41-1758.01 AND 41-1758.08, ARIZONA REVISED STATUTES; RELATING TO ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-106, Arizona Revised Statutes, is amended to
3 read:

4 15-106. Identity verified fingerprints

5 An applicant who applies for a new teaching certificate in order to
6 teach in a school district, a participant in field experience or student
7 teaching in this state, an applicant who applies for a renewal of an
8 existing teaching certificate in order to continue teaching in a school
9 district, an applicant who is required for the first time to be
10 fingerprinted in order to teach in a charter school and an applicant who
11 is required to renew fingerprints in order to continue teaching in a
12 charter school pursuant to section 15-183, an applicant who is required to
13 be fingerprinted pursuant to section 15-512 OR 15-2407 and any person who
14 is contracted by this state, by a school district or by a charter school
15 to provide tutoring services shall submit for an identity verified
16 fingerprint card that will be used by the department of public safety to
17 process the fingerprint clearance card pursuant to title 41, chapter 12,
18 article 3.1 as follows:

19 1. The applicant shall submit a request for an application packet
20 from the department of public safety.

21 2. The application packet shall be contained in an envelope
22 specified by the department of public safety and shall include the
23 following:

24 (a) A blank applicant fingerprint card.

25 (b) An application for a fingerprint clearance card.

26 (c) Instructions for ~~the return of~~ RETURNING the application
27 packet.

28 3. A school district or charter school may contract for
29 fingerprinting services through an entity or entities and shall provide a
30 copy of the instructions to the entity or entities as provided by the
31 department of public safety regarding the submission of identity verified
32 fingerprints. If a school district or charter school elects to provide
33 fingerprinting services, the school district or charter school shall
34 authorize an individual employed by the school district or charter school
35 to administer the services.

36 4. The department of public safety shall provide instructions to
37 law enforcement agencies and public schools regarding the submission of
38 identity verified fingerprints. The department of public safety shall
39 reject the application for a fingerprint clearance card if the application
40 is not correct or is not submitted according to the instructions provided
41 by the department of public safety.

42 5. The applicant, at the time ~~that~~ identity verified fingerprints
43 are taken, shall provide the law enforcement agency, school district,
44 charter school or other entity with a completed application form for a
45 fingerprint clearance card, the fingerprint card with the requisite

1 demographic information and the required fee in the form of a money order
2 or cashier's check made out to the department of public safety. The law
3 enforcement agency, school district, charter school or other entity shall
4 verify the identity of the applicant through recognized means of
5 photographic identification and a comparison of the demographic
6 information on the photographic identification against the demographic
7 information on the application form and the fingerprint card. The
8 authorized person taking the fingerprints shall enter on the application
9 form a description of the photographic identification presented by the
10 applicant. The law enforcement agency, school district, charter school or
11 other entity shall place the completed fingerprint card, the completed
12 application form or any other form required by the department of public
13 safety and the fee provided by the applicant in the postage prepaid
14 envelope provided by the department of public safety and mail it to the
15 fingerprinting division in the department of public safety. A law
16 enforcement agency, school district, charter school or other entity may
17 charge the applicant a reasonable fee for services provided pursuant to
18 this section.

19 6. Fingerprints submitted electronically or through an
20 internet-based system pursuant to section 41-1758.01 shall include a
21 completed application for a fingerprint clearance card, the requisite
22 applicant demographic information and the required fee, and shall be
23 identity verified in accordance with instructions provided by the
24 department of public safety. The department shall reject the application
25 for a fingerprint clearance card if the application is not correct or is
26 not submitted according to the department's instructions. The entity or
27 entities contracted by the department shall comply with:

28 (a) All information privacy and security measures and submission
29 standards established by the department.

30 (b) The information technology security policy approved by the
31 department.

32 7. The department of public safety shall process the application
33 packet in the same manner prescribed for fingerprint clearance cards
34 issued pursuant to title 41, chapter 12, article 3.1.

35 8. The department of public safety shall provide for digital
36 storage and retrieval of identity verified fingerprints taken pursuant to
37 this section. The fingerprints taken pursuant to this section shall be
38 digitally designated in the fingerprint archive as identity verified
39 fingerprint records.

40 9. A person who has a set of identity verified fingerprints on file
41 with the department of public safety pursuant to this section ~~shall~~ IS not
42 ~~be~~ required to submit a new set of fingerprints to the department of
43 public safety to renew the person's fingerprint clearance card. On
44 receipt of the required application form and fee for a renewal fingerprint
45 clearance card from a person required to submit identity verified

1 fingerprints, the department of public safety shall attempt to use the
2 electronic copy of the applicant's identity verified fingerprints that are
3 retained pursuant to this section to conduct the state and national
4 criminal records checks. The department of public safety may require the
5 applicant to submit a new set of identity verified fingerprints if the
6 department of public safety determines that the original fingerprints
7 submitted have been lost or damaged or are found to be otherwise of
8 insufficient quality to conduct a valid technical fingerprint search
9 either by the department of public safety or the federal bureau of
10 investigation.

11 10. A person who participates in a teacher preparation program that
12 is approved by the state board of education and who does not participate
13 in field experience or student teaching in this state ~~shall~~ IS not ~~be~~
14 required to obtain a fingerprint clearance card pursuant to this section.

15 Sec. 2. Section 15-2401, Arizona Revised Statutes, is amended to
16 read:

17 15-2401. Definitions

18 In this chapter, unless the context otherwise requires:

19 1. "Annual education plan" means an initial individualized
20 evaluation and subsequent annual reviews that are developed for a
21 qualified student who meets the criteria specified in paragraph 7,
22 subdivision (a), item (i), (ii) or (iii) of this section to determine
23 ongoing annual eligibility through the school year in which the qualified
24 student reaches twenty-two years of age and whether the student may be
25 eligible pursuant to section 36-2981 and should be referred for
26 eligibility determination.

27 2. "Curriculum" means a course of study for content areas or grade
28 levels, including any supplemental materials required or recommended by
29 the curriculum, approved by the department.

30 3. "Department" means the department of education.

31 4. "Eligible postsecondary institution" means a community college
32 as defined in section 15-1401, a university under the jurisdiction of the
33 Arizona board of regents or an accredited private postsecondary
34 institution.

35 5. "Parent" means a resident of this state who is the parent,
36 stepparent or legal guardian of a qualified student.

37 6. "Qualified school" means a nongovernmental primary or secondary
38 school or a preschool for pupils with disabilities that MEETS ALL OF THE
39 FOLLOWING:

40 (a) Is located in this state or, for qualified students who reside
41 within the boundaries of an Indian reservation in this state, ~~that~~ is
42 located in an adjacent state and ~~that~~ is within two miles of the border of
43 the state in which the qualified student resides. ~~, and that~~

44 (b) Does not discriminate on the basis of RELIGION, GENDER, GENDER
45 EXPRESSION, SEXUAL ORIENTATION, ETHNICITY, race, color or national origin.

1 (c) ACCEPTS PAYMENT FROM A PARENT OF A QUALIFIED STUDENT PURSUANT
2 TO THIS CHAPTER.

3 7. "Qualified student" means a resident of this state who:

4 (a) Is any of the following:

5 (i) Identified as having a disability under section 504 of the
6 rehabilitation act of 1973 (29 United States Code section 794).

7 (ii) Identified by a school district or by an independent third
8 party pursuant to section 15-2403, subsection J as a child with a
9 disability as defined in section 15-731 or 15-761.

10 (iii) A child with a disability who is eligible to receive services
11 from a school district under section 15-763.

12 (iv) Attending a school or school district that was assigned a
13 letter grade of D or F pursuant to section 15-241 for the most recent year
14 in which letter grades were assigned or is currently eligible to attend
15 kindergarten and resides within the attendance boundary of a school that
16 was assigned a letter grade of D or F pursuant to section 15-241 for the
17 most recent year in which letter grades were assigned. A child who meets
18 the requirements of this item and who meets the income eligibility
19 requirements for free and reduced-price lunches under the national school
20 lunch and child nutrition acts (42 United States Code sections 1751
21 through 1793) is not subject to subdivision (b) of this paragraph.

22 (v) A previous recipient of a scholarship issued pursuant to this
23 section, unless the qualified student's parent has been removed from
24 eligibility in the program for failure to comply pursuant to section
25 15-2403, subsection C.

26 (vi) A child of a parent who is a member of the armed forces of the
27 United States and who is on active duty or was killed in the line of duty.
28 A child who meets the requirements of this item is not subject to
29 subdivision (b) of this paragraph.

30 (vii) A child who is a ward of the juvenile court and who is
31 residing with a prospective permanent placement pursuant to section 8-862
32 and the case plan is adoption or permanent guardianship.

33 (viii) A child who was a ward of the juvenile court and who
34 achieved permanency through adoption or permanent guardianship.

35 (ix) A child who is the sibling of a current or previous Arizona
36 empowerment scholarship account recipient or of an eligible qualified
37 student who accepts the terms of and enrolls in an Arizona empowerment
38 scholarship account.

39 (x) A child who resides within the boundaries of an Indian
40 reservation in this state as determined by the department of education or
41 a tribal government.

42 (xi) A child of a parent who is legally blind or deaf or hard of
43 hearing as defined in section 36-1941.

1 (b) And, except as provided in subdivision (a), items (iv) and (vi)
2 of this paragraph, who meets any of the following requirements:

3 (i) Attended a governmental primary or secondary school as a
4 full-time student as defined in section 15-901 for at least forty-five
5 days of the current or prior fiscal year and who transferred from a
6 governmental primary or secondary school under a contract to participate
7 in an Arizona empowerment scholarship account. Kindergarten students who
8 are enrolled in Arizona online instruction must receive one hundred hours
9 of logged instruction to be eligible pursuant to this item. First, second
10 and third grade students who are enrolled in Arizona online instruction
11 must receive two hundred hours of logged instruction to be eligible
12 pursuant to this item. Fourth, fifth and sixth grade students who are
13 enrolled in Arizona online instruction must receive two hundred fifty
14 hours of logged instruction to be eligible pursuant to this item. Seventh
15 and eighth grade students who are enrolled in Arizona online instruction
16 must receive two hundred seventy-five hours of logged instruction to be
17 eligible pursuant to this item. High school students who are enrolled in
18 Arizona online instruction must receive two hundred fifty hours of logged
19 instruction to be eligible pursuant to this item.

20 (ii) Previously participated in an Arizona empowerment scholarship
21 account.

22 (iii) Received a scholarship under section 43-1505 and who
23 continues to attend a qualified school if the student attended a
24 governmental primary or secondary school as a full-time student as defined
25 in section 15-901 for at least ninety days of the prior fiscal year or one
26 full semester before attending a qualified school.

27 (iv) Was eligible for an Arizona scholarship for pupils with
28 disabilities and received monies from a school tuition organization
29 pursuant to section 43-1505 or received an Arizona scholarship for pupils
30 with disabilities but did not receive monies from a school tuition
31 organization pursuant to section 43-1505 and who continues to attend a
32 qualified school if the student attended a governmental primary or
33 secondary school as a full-time student as defined in section 15-901 for
34 at least ninety days of the prior fiscal year or one full semester before
35 attending a qualified school.

36 (v) Attended a nonpublic school for pupils with disabilities in the
37 prior year if placement at the school was approved by the department of
38 education and contracted for by a public school district.

39 (vi) Has not previously attended a governmental primary or
40 secondary school but is currently eligible to enroll in a kindergarten
41 program in a school district or charter school in this state or attended a
42 program for preschool children with disabilities. For the purposes of
43 this item, a child is eligible to enroll in a kindergarten program if the
44 child is at least five years of age on January 1 of the current school
45 year, is under seven years of age, has not already completed a

1 kindergarten program and is not enrolled in grade one of a private or
2 governmental school in the current year.

3 (vii) Has not previously attended a governmental primary or
4 secondary school but is currently eligible to enroll in a program for
5 preschool children with disabilities in this state.

6 8. "Treasurer" means the office of the state treasurer.

7 Sec. 3. Section 15-2402, Arizona Revised Statutes, is amended to
8 read:

9 15-2402. Arizona empowerment scholarship accounts; funds

10 A. Arizona empowerment scholarship accounts are established to
11 provide options for the education of students in this state.

12 B. To enroll a qualified student for an Arizona empowerment
13 scholarship account, the parent of the qualified student must sign an
14 agreement to do all of the following:

15 1. Use a portion of the Arizona empowerment scholarship account
16 monies allocated annually to provide an education for the qualified
17 student in at least the subjects of reading, grammar, mathematics, social
18 studies and science, unless the Arizona empowerment scholarship account is
19 allocated monies according to a transfer schedule other than quarterly
20 transfers pursuant to section 15-2403, subsection G.

21 2. Not enroll the qualified student in a school district or charter
22 school and release the school district from all obligations to educate the
23 qualified student. This paragraph does not:

24 (a) Relieve the school district or charter school that the
25 qualified student previously attended from the obligation to conduct an
26 evaluation pursuant to section 15-766.

27 (b) Require ~~a~~ THE qualified student to withdraw from ~~a~~ THE school
28 district or charter school before enrolling for an Arizona empowerment
29 scholarship account if the qualified student withdraws from the school
30 district or charter school before receiving any monies in the qualified
31 student's Arizona empowerment scholarship account.

32 (c) Prevent ~~a~~ THE qualified student from applying in advance for
33 an Arizona empowerment scholarship account to be funded beginning the
34 following school year.

35 3. Not accept a scholarship from a school tuition organization
36 pursuant to title 43 concurrently with an Arizona empowerment scholarship
37 account for the qualified student in the same year a parent signs the
38 agreement pursuant to this section.

39 4. Use monies deposited in the qualified student's Arizona
40 empowerment scholarship account only for the following expenses of the
41 qualified student:

42 (a) Tuition or fees at a qualified school.

43 (b) Textbooks required by a qualified school.

1 (c) If the qualified student meets any of the criteria specified in
2 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) as
3 determined by a school district or by an independent third party pursuant
4 to section 15-2403, subsection J, the qualified student may use **ONE OR**
5 **MORE OF** the following additional services **ONLY IF THE SERVICE IS ESSENTIAL**
6 **FOR EDUCATING THE QUALIFIED STUDENT PURSUANT TO PARAGRAPH 1 OF THIS**
7 **SUBSECTION AND A LESS EXPENSIVE ALTERNATIVE GOOD OR SERVICE IS NOT**
8 **AVAILABLE:**

9 (i) Educational therapies from a licensed or accredited
10 practitioner or provider, including and up to any amount not covered by
11 insurance if the expense is partially paid by a health insurance policy
12 for the qualified student.

13 (ii) A licensed or accredited paraprofessional or educational aide.

14 (iii) Tuition for vocational and life skills education approved by
15 the department.

16 (iv) Associated goods and services that include educational and
17 psychological evaluations, assistive technology rentals and braille
18 translation goods and services approved by the department.

19 (d) Tutoring or teaching services provided by an individual or
20 facility accredited by a state, regional or national accrediting
21 organization.

22 (e) Curricula and supplementary materials.

23 (f) Tuition or fees for a nonpublic online learning program.

24 (g) Fees for a nationally standardized norm-referenced achievement
25 test, an advanced placement examination or any exams related to college or
26 university admission.

27 (h) Tuition or fees at an eligible postsecondary institution.

28 (i) Textbooks required by an eligible postsecondary institution.

29 (j) Fees to manage the Arizona empowerment scholarship account.

30 (k) Services provided by a public school, including individual
31 classes and extracurricular programs.

32 (l) Insurance or surety bond payments.

33 (m) Uniforms purchased from or through a qualified school.

34 (n) If the qualified student meets the criteria specified in
35 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) and
36 if the qualified student is in the second year prior to the final year of
37 a contract executed pursuant to this article, costs associated with an
38 annual education plan conducted by an independent evaluation team. The
39 department shall prescribe minimum qualifications for independent
40 evaluation teams pursuant to this subdivision and factors that teams must
41 use to determine whether the qualified student shall be eligible to
42 continue to receive monies pursuant to this article through the school
43 year in which the qualified student reaches twenty-two years of age. An
44 independent evaluation team that provides an annual education plan
45 pursuant to this subdivision shall submit a written report that summarizes

1 the results of the evaluation to the parent of the qualified student and
2 to the department on or before July 31. The written report submitted by
3 the independent evaluation team is valid for one year. If the department
4 determines that the qualified student meets the eligibility criteria
5 prescribed in the annual education plan, the qualified student is eligible
6 to continue to receive monies pursuant to this article until the qualified
7 student reaches twenty-two years of age, subject to annual review. A
8 parent may appeal the department's decision pursuant to title 41, chapter
9 6, article 10. As an addendum to a qualified student's final-year
10 contract, the department shall provide the following written information
11 to the parent of the qualified student:

12 (i) That the qualified student will not be eligible to continue to
13 receive monies pursuant to this article unless the results of an annual
14 education plan conducted pursuant to this subdivision demonstrate that the
15 qualified student meets the eligibility criteria prescribed in the annual
16 education plan.

17 (ii) That the parent is entitled to obtain an annual education plan
18 pursuant to this subdivision to determine whether the qualified student
19 meets the eligibility criteria prescribed in the annual education plan.

20 (iii) A list of independent evaluation teams that meet the minimum
21 qualifications prescribed by the department pursuant to this subdivision.

22 (o) Public transportation services in this state, including a
23 commuter pass for the qualified student, or transportation network
24 services as defined in section 28-9551 between the qualified student's
25 residence and a qualified school in which the qualified student is
26 enrolled.

27 (p) Computer hardware and technological devices primarily used for
28 an educational purpose. For the purposes of this subdivision, "computer
29 hardware and technological devices":

30 (i) Includes calculators, personal computers, laptops, tablet
31 devices, microscopes, telescopes and printers.

32 (ii) Does not include entertainment and other primarily
33 noneducational devices, including televisions, telephones, video game
34 consoles and accessories, and home theatre and audio equipment.

35 5. Not file an affidavit of intent to homeschool pursuant to
36 section 15-802, subsection B, paragraph 2 or 3.

37 6. Not use monies deposited in the qualified student's account for
38 any of the following:

39 (a) Computer hardware or other technological devices, except as
40 otherwise allowed under paragraph 4, subdivision (c) or (p) of this
41 subsection.

42 (b) Transportation of the pupil, except for transportation services
43 described in paragraph 4, subdivision (o) of this subsection.

1 7. NOT SELL ANY ITEM THAT WAS PURCHASED WITH MONIES FROM AN ARIZONA
2 EMPOWERMENT SCHOLARSHIP ACCOUNT WHILE THE QUALIFIED STUDENT FOR WHOM THE
3 ITEM WAS PURCHASED IS ENROLLED IN THE ARIZONA EMPOWERMENT SCHOLARSHIP
4 ACCOUNTS PROGRAM.

5 8. FOR ANY TRANSACTION THAT IS AT LEAST \$500, OBTAIN APPROVAL FROM
6 THE DEPARTMENT BEFORE COMPLETING THE TRANSACTION. THE DEPARTMENT SHALL
7 REVIEW EACH TRANSACTION THAT IS SUBMITTED FOR APPROVAL PURSUANT TO THIS
8 PARAGRAPH TO DETERMINE WHETHER THE EXPENSE IS ALLOWED UNDER THIS CHAPTER.

9 9. REPORT TO THE DEPARTMENT THE PARENT'S HOUSEHOLD INCOME EACH YEAR
10 THAT THE QUALIFIED STUDENT IS ENROLLED IN THE ARIZONA EMPOWERMENT
11 SCHOLARSHIP ACCOUNT PROGRAM.

12 C. In exchange for the parent's agreement pursuant to subsection B
13 of this section, the department shall transfer from the monies that would
14 otherwise be allocated to a recipient's prior school district, or if the
15 child is currently eligible to attend a preschool program for children
16 with disabilities, a kindergarten program or any of grades one through
17 twelve, the monies that the department determines would otherwise be
18 allocated to a recipient's expected school district of attendance, to the
19 treasurer for deposit into an Arizona empowerment scholarship account an
20 amount that is equivalent to ninety percent of the sum of the base support
21 level and additional assistance prescribed in sections 15-185 and 15-943
22 for that particular student if that student were attending a charter
23 school.

24 D. The department of education empowerment scholarship account fund
25 is established consisting of monies appropriated by the legislature. The
26 department shall administer the fund. Monies in the fund are subject to
27 legislative appropriation. Monies in the fund shall be used for the
28 department's costs in administering Arizona empowerment scholarship
29 accounts under this chapter. Monies in the fund are exempt from the
30 provisions of section 35-190 relating to lapsing of appropriations. If
31 the number of Arizona empowerment scholarship accounts significantly
32 increases after fiscal year 2020-2021, the department may request an
33 increase in the amount appropriated to the fund in any subsequent fiscal
34 year in the budget estimate submitted pursuant to section 35-113. The
35 department shall list monies in the fund as a separate line item in its
36 budget estimate.

37 E. The state treasurer empowerment scholarship account fund is
38 established consisting of monies appropriated by the legislature. The
39 state treasurer shall administer the fund. Monies in the fund shall be
40 used for the state treasurer's costs in administering the Arizona
41 empowerment scholarship accounts under this chapter. If the number of
42 Arizona empowerment scholarship accounts significantly increases after
43 fiscal year 2020-2021, the state treasurer may request an increase in the
44 amount appropriated to the fund in any subsequent fiscal year in the
45 budget estimate submitted pursuant to section 35-113. Monies in the fund

1 are subject to legislative appropriation. Monies in the fund are exempt
2 from the provisions of section 35-190 relating to lapsing of
3 appropriations. The state treasurer shall list monies in the fund as a
4 separate line item in its budget estimate.

5 F. A parent must renew the qualified student's Arizona empowerment
6 scholarship account on an annual basis.

7 G. Notwithstanding any changes to the student's multidisciplinary
8 evaluation team plan, a student who has previously qualified for an
9 Arizona empowerment scholarship account remains eligible to apply for
10 renewal until the student finishes high school.

11 H. If a parent does not renew the qualified student's Arizona
12 empowerment scholarship account for a period of three academic years, the
13 department shall notify the parent that the qualified student's account
14 will be closed in sixty calendar days. The notification must be sent
15 through certified mail, email and telephone, if applicable. The parent
16 has sixty calendar days to renew the qualified student's Arizona
17 empowerment scholarship account. If the parent chooses not to renew or
18 does not respond in sixty calendar days, the department shall close the
19 account and any remaining monies shall be returned to the state.

20 I. A signed agreement under this section constitutes school
21 attendance required by section 15-802.

22 J. A qualified school or a provider of services purchased pursuant
23 to subsection B, paragraph 4 of this section may not share, refund or
24 rebate any Arizona empowerment scholarship account monies with the parent
25 or qualified student in any manner.

26 K. Notwithstanding subsection H of this section, on the qualified
27 student's graduation from a postsecondary institution or after any period
28 of four consecutive years after high school graduation in which the
29 student is not enrolled in an eligible postsecondary institution, but not
30 before this time as long as the account holder continues using a portion
31 of account monies for eligible expenses each year and is in good standing,
32 the qualified student's Arizona empowerment scholarship account shall be
33 closed and any remaining monies shall be returned to the state.

34 L. Monies received pursuant to this article do not constitute
35 taxable income to the parent of the qualified student.

36 Sec. 4. Section 15-2403, Arizona Revised Statutes, is amended to
37 read:

38 15-2403. Arizona empowerment scholarship accounts;
39 administration; appeals; audit; rules; policy
40 handbook

41 A. The treasurer may contract with private financial management
42 firms to manage Arizona empowerment scholarship accounts.

43 B. The department shall conduct or contract for annual audits of
44 Arizona empowerment scholarship accounts to ensure compliance with section
45 15-2402, subsection B, paragraph 4. The department shall also conduct or

1 contract for random, quarterly and annual audits of Arizona empowerment
2 scholarship accounts as needed to ensure compliance with section 15-2402,
3 subsection B, paragraph 4.

4 C. The department may remove any parent or qualified student from
5 eligibility for an Arizona empowerment scholarship account if the parent
6 or qualified student fails to comply with the terms of the contract or
7 applicable laws, rules or orders or knowingly misuses monies or knowingly
8 fails to comply with the terms of the contract with intent to defraud and
9 shall notify the treasurer. The department shall notify the treasurer to
10 suspend the account of a parent or qualified student and shall notify the
11 parent or qualified student in writing that the account has been suspended
12 and that no further transactions will be allowed or disbursements made.
13 The notification shall specify the reason for the suspension and state
14 that the parent or qualified student has fifteen days, not including
15 weekends, to respond and take corrective action. If the parent or
16 qualified student refuses or fails to contact the department, furnish any
17 information or make any report that may be required for reinstatement
18 within the fifteen-day period, the department may remove the parent or
19 qualified student pursuant to this subsection.

20 D. A parent may appeal to the state board of education any
21 administrative decision the department makes pursuant to this article,
22 including determinations of allowable expenses, removal from the program
23 or enrollment eligibility. The department shall notify the parent in
24 writing that the parent may appeal any administrative decision under this
25 article and the process by which the parent may appeal at the same time
26 the department notifies the parent of an administrative decision under
27 this article. The state board of education shall establish an appeals
28 process, and the department shall post this information on the
29 department's website in the same location as the policy handbook developed
30 pursuant to subsection K of this section.

31 E. A parent may represent himself or herself or designate a
32 representative, not necessarily an attorney, before any appeals hearing
33 held pursuant to this section. Any such designated representative who is
34 not an attorney admitted to practice may not charge for any services
35 rendered in connection with such a hearing. The fact that a
36 representative participated in the hearing or assisted the account holder
37 is not grounds for reversing any administrative decision or order if the
38 evidence supporting the decision or order is substantial, reliable and
39 probative.

40 F. The state board of education may refer cases of substantial
41 misuse of monies to the attorney general for the purpose of collection or
42 for the purpose of a criminal investigation if the state board of
43 education obtains evidence of fraudulent use of an account.

1 G. The department shall make ~~quarterly~~ MONTHLY transfers of the
2 amount calculated pursuant to section 15-2402, subsection C to the
3 treasurer for deposit in the Arizona empowerment scholarship account of
4 each qualified student, except the department may make transfers according
5 to another transfer schedule if the department determines a transfer
6 schedule other than ~~quarterly~~ MONTHLY transfers is necessary to operate
7 the Arizona empowerment scholarship account. THE DEPARTMENT MAY NOT
8 TRANSFER MONIES TO THE TREASURER PURSUANT TO THIS SUBSECTION UNTIL AFTER
9 ALL SCHOOL DISTRICTS AND CHARTER SCHOOLS HAVE RECEIVED THE APPORTIONMENTS
10 FOR THE MONTH PURSUANT TO SECTION 15-185 OR 15-973.

11 H. The department shall accept applications between July 1 and June
12 30 of each year. THE DEPARTMENT SHALL POST ON THE DEPARTMENT'S WEBSITE
13 AND INCLUDE IN EACH APPLICATION PACKET A NOTICE OUTLINING EACH LEGAL RIGHT
14 THAT A QUALIFIED STUDENT AND PARENT WAIVE BY ENROLLING IN THE ARIZONA
15 EMPOWERMENT SCHOLARSHIP ACCOUNTS PROGRAM. The department shall enroll and
16 issue an award letter to eligible applicants within thirty days after
17 receipt of a completed application and all required documentation. On or
18 before ~~May 30~~ SEPTEMBER 1 of each year, the department shall furnish to
19 the joint legislative budget committee an estimate of the amount required
20 to fund Arizona empowerment scholarship accounts AND THE COSTS OF
21 ADMINISTERING THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS PROGRAM THAT
22 ARE FUNDED PURSUANT TO SECTION 15-2402, SUBSECTIONS D AND E for the
23 following fiscal year. The department shall include in its budget request
24 for the following fiscal year the amount estimated pursuant to section
25 15-2402, subsection C for each qualified student.

26 I. The state board of education may adopt rules and policies
27 necessary to administer Arizona empowerment scholarship accounts,
28 including rules and policies:

29 1. For establishing an appeals process pursuant to subsection D of
30 this section.

31 2. For conducting or contracting for examinations of the use of
32 account monies.

33 3. For conducting or contracting for random, quarterly and annual
34 reviews of accounts.

35 4. For establishing or contracting for the establishment of an
36 online anonymous fraud reporting service.

37 5. For establishing an anonymous telephone hotline for fraud
38 reporting.

39 6. That require a surety bond or insurance for account holders.

40 7. FOR DETERMINING WHETHER AN EXPENSE IS ALLOWED, INCLUDING, IF
41 APPLICABLE, FOR THE DEPARTMENT'S REVIEW OF PROPOSED EXPENSES PURSUANT TO
42 SECTION 15-2402, SUBSECTION B, PARAGRAPH 4, SUBDIVISION (c) TO DETERMINE
43 WHETHER THE EXPENSE IS ESSENTIAL FOR EDUCATING THE QUALIFIED STUDENT AND
44 WHETHER A LESS EXPENSIVE ALTERNATIVE GOOD OR SERVICE IS AVAILABLE.

1 J. The department shall contract with an independent third party
2 for the purposes of determining whether a qualified student is eligible to
3 receive educational therapies or services pursuant to section 15-2402,
4 subsection B, paragraph 4, subdivision (c). If during any period on or
5 after January 1, 2023 the department fails to ensure that a contract with
6 an independent third party is in effect, during that period:

7 1. The county school superintendent of each county may approve a
8 list of independent third parties within the county whose evaluation may
9 be used to determine whether a student who resides within the county is
10 eligible to receive educational therapies or services pursuant to section
11 15-2402, subsection B, paragraph 4, subdivision (c).

12 2. If the county school superintendent of a county does not provide
13 a list of approved independent third parties within ninety days after the
14 beginning of any period during which the department does not have a
15 contract with an independent third party in effect as described in this
16 subsection, the parent of a student who resides within the county has the
17 right to obtain an independent educational evaluation from a qualified
18 examiner to determine whether the student is eligible to receive
19 educational therapies or services pursuant to section 15-2402,
20 subsection B, paragraph 4, subdivision (c). The expense for an
21 educational evaluation undertaken pursuant to this paragraph shall be
22 provided by the school district within which the student resides and that
23 serves the grade level of the student. For the purposes of this
24 paragraph, "qualified examiner" means a licensed physician, psychiatrist
25 or psychologist.

26 K. On or before July 1 of each year, the department shall develop
27 an applicant and participant handbook that includes information relating
28 to policies and processes of Arizona empowerment scholarship accounts.
29 The policy handbook shall comply with the rules adopted by the state board
30 of education pursuant to this section. The department shall post the
31 handbook on its website.

32 L. Except for cases in which the attorney general determines that a
33 parent or account holder has committed fraud, any expenditure from an
34 Arizona empowerment scholarship account for a purchase that is deemed
35 ineligible pursuant to section 15-2402 and that is subsequently repaid by
36 the parent or account holder shall be credited back to the Arizona
37 empowerment scholarship account balance within thirty days after the
38 receipt of payment.

39 M. If, in response to an appeal of an administrative decision made
40 by the department, the state board of education issues a stay of an
41 Arizona empowerment scholarship account suspension pursuant to rules
42 adopted by the board, the department may not withhold funding or contract
43 renewal for the account holder on account of the appealed administrative
44 decision during the stay unless directed by the board to do so.

1 Sec. 5. Section 15-2404, Arizona Revised Statutes, is amended to
2 read:

3 15-2404. State control over nonpublic schools; prohibition;
4 application; reporting requirements; services for
5 children with disabilities; transparency portal

6 A. EXCEPT AS PROVIDED IN SECTION 15-2402, SUBSECTION J AND THIS
7 SECTION, this chapter does not ~~permit~~ ALLOW any government agency to
8 exercise control or supervision over any nonpublic school or homeschool.

9 B. A qualified school that accepts a payment from a parent pursuant
10 to this chapter is not an agent of the state or federal government.

11 C. A qualified school shall not be required to alter its creed,
12 practices, admissions policy or curriculum in order to accept students
13 whose parents pay tuition or fees from an ARIZONA empowerment scholarship
14 account pursuant to this chapter in order to participate as a qualified
15 school, EXCEPT THAT A QUALIFIED SCHOOL MAY NOT DISCRIMINATE OR PROHIBIT
16 ENROLLMENT ON THE BASIS OF RELIGION, GENDER, GENDER EXPRESSION, SEXUAL
17 ORIENTATION, ETHNICITY, RACE, COLOR OR NATIONAL ORIGIN.

18 D. In any legal proceeding challenging the application of this
19 chapter to a qualified school, the state bears the burden of establishing
20 that the law is necessary and does not impose any undue burden on
21 qualified schools.

22 E. NOTWITHSTANDING SUBSECTIONS C AND D OF THIS SECTION, A QUALIFIED
23 SCHOOL THAT ACCEPTS A PAYMENT FROM A PARENT OR QUALIFIED STUDENT PURSUANT
24 TO THIS CHAPTER SHALL DO ALL OF THE FOLLOWING, CONSISTENT WITH THE FAMILY
25 EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974 (20 UNITED STATES CODE SECTION
26 1232g):

27 1. COMPLY WITH THE REPORTING, FOLLOW-UP AND HEARING PARTICIPATION
28 REQUIREMENTS PRESCRIBED BY SECTION 41-1279.03.

29 2. COMPLY WITH THE FINANCIAL REPORTING REQUIRED PURSUANT TO
30 SUBSECTION G OF THIS SECTION.

31 3. COMPLY WITH ANY REQUESTS FOR INFORMATION FROM THE DEPARTMENT OR
32 THE STATE BOARD OF EDUCATION FOR THE PURPOSE OF THE FINANCIAL TRANSPARENCY
33 PORTAL DEVELOPED PURSUANT TO SUBSECTION H OF THIS SECTION.

34 4. ANNUALLY POST AND REPORT TO THE DEPARTMENT THE QUALIFIED
35 SCHOOL'S GRADUATION RATE USING A METHODOLOGY PRESCRIBED BY THE DEPARTMENT.
36 THE DEPARTMENT SHALL PRESCRIBE A METHODOLOGY FOR THIS PARAGRAPH THAT IS
37 CONSISTENT WITH THE GRADUATION RATES USED PURSUANT TO SECTION 15-241,
38 SUBSECTION D, PARAGRAPH 6.

39 5. NOTIFY IN WRITING THE PARENT OF A PROSPECTIVE STUDENT WHO MEETS
40 THE CRITERIA OF QUALIFIED STUDENT PRESCRIBED IN SECTION 15-2401, PARAGRAPH
41 7, SUBDIVISION (a), ITEM (i), (ii) OR (iii) OF THE INDIVIDUAL SPECIAL
42 EDUCATION SERVICES AND EDUCATIONAL THERAPIES THAT THE QUALIFIED SCHOOL
43 WILL PROVIDE TO THE STUDENT BEFORE THE PARENT PAYS TUITION OR FEES FROM AN
44 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT TO THE QUALIFIED SCHOOL. THE

1 NOTIFICATION PRESCRIBED IN THIS PARAGRAPH IS NOT REQUIRED IN SUBSEQUENT
2 YEARS OF ENROLLMENT AT THE SAME QUALIFIED SCHOOL.

3 6. PROVIDE ALL ACCOMMODATIONS AND SERVICES THAT ARE REQUIRED UNDER
4 A QUALIFIED STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM OR SECTION 504
5 PLAN, UNLESS A PARENT OR THE QUALIFIED STUDENT WAIVES THE ACCOMMODATIONS
6 OR SERVICES. IF THE QUALIFIED SCHOOL FAILS TO EITHER PROVIDE THE
7 ACCOMMODATIONS AND SERVICES OR OBTAIN A WAIVER PURSUANT TO THIS PARAGRAPH,
8 THE QUALIFIED STUDENT MAY TRANSFER OUT OF THE QUALIFIED SCHOOL AND IS
9 ENTITLED TO A REFUND FOR THE PORTION OF THE SCHOOL YEAR FOR WHICH THE
10 STUDENT PAID TUITION AND FEES BUT DID NOT ATTEND THE QUALIFIED SCHOOL.

11 F. A QUALIFIED SCHOOL MAY NOT INCREASE TUITION AND RELATED FEES FOR
12 QUALIFIED STUDENTS AT A RATE THAT EXCEEDS THE PERCENTAGE CHANGE IN THE
13 CONSUMER PRICE INDEX FOR THE PREVIOUS YEAR.

14 G. THE STATE BOARD OF EDUCATION SHALL DEVELOP AND ADOPT MINIMUM
15 FINANCIAL PERFORMANCE REQUIREMENTS FOR QUALIFIED SCHOOLS THAT ACCEPT
16 PAYMENT FROM A PARENT OR QUALIFIED STUDENT PURSUANT TO THIS CHAPTER AND
17 PRESCRIBE FINANCIAL REPORTING REQUIREMENTS FOR EACH QUALIFIED SCHOOL THAT
18 DO ALL OF THE FOLLOWING:

19 1. REQUIRE THE SAME DATA POINTS THAT ARE COLLECTED FROM SCHOOL
20 DISTRICTS AND CHARTER SCHOOLS PURSUANT TO ANNUAL FINANCIAL AND COMPLIANCE
21 AUDITS AND FINANCIAL STATEMENT AUDITS REQUIRED UNDER SECTION 15-914.

22 2. REQUIRE ANY DATA OR INFORMATION NECESSARY TO EVALUATE ALL OF THE
23 FOLLOWING:

24 (a) THE QUALIFIED SCHOOL'S FINANCIAL ABILITY TO CONTINUE OPERATING.

25 (b) WHETHER THE QUALIFIED SCHOOL IS IN FINANCIAL DEFAULT.

26 (c) WHETHER THE QUALIFIED SCHOOL'S OPERATING COSTS EXCEED ITS
27 AVAILABLE RESOURCES.

28 (d) WHETHER THE QUALIFIED SCHOOL IS ABLE TO PAY DEBT PRINCIPAL,
29 INTEREST PAYMENTS AND FACILITY COSTS THAT BECOME DUE.

30 (e) THE PERCENTAGE CHANGE OF THE QUALIFIED SCHOOL'S STUDENT COUNT
31 EACH YEAR.

32 3. SUMMARIZE THE QUALIFIED SCHOOL'S FINANCIAL PERFORMANCE,
33 INCLUDING WHETHER THE QUALIFIED SCHOOL MEETS THE MINIMUM FINANCIAL
34 PERFORMANCE REQUIREMENTS ADOPTED PURSUANT TO THIS SUBSECTION.

35 H. THE DEPARTMENT SHALL DEVELOP A FINANCIAL TRANSPARENCY PORTAL
36 THAT INCLUDES ALL INFORMATION REPORTED PURSUANT TO SUBSECTION G OF THIS
37 SECTION. THE DEPARTMENT MAY CONTRACT WITH A THIRD PARTY TO DEVELOP AND
38 MAINTAIN THE PORTAL.

39 Sec. 6. Title 15, chapter 19, article 1, Arizona Revised Statutes,
40 is amended by adding sections 15-2407, 15-2408 and 15-2409, to read:

41 15-2407. Qualified schools; personnel; fingerprinting
42 requirements; qualifications; annual audits;
43 penalties; definition

44 A. NOTWITHSTANDING SECTIONS 15-161 AND 15-2404, A QUALIFIED SCHOOL
45 THAT ACCEPTS PAYMENT FROM A PARENT OR QUALIFIED STUDENT SHALL REQUIRE ALL

1 SCHOOL PERSONNEL TO HAVE A VALID FINGERPRINT CLEARANCE CARD ISSUED
2 PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1 OR TO APPLY FOR A
3 FINGERPRINT CLEARANCE CARD WITHIN TWENTY DAYS AFTER THE INDIVIDUAL BEGINS
4 WORK.

5 B. A QUALIFIED SCHOOL THAT ACCEPTS PAYMENT FROM A PARENT OR
6 QUALIFIED STUDENT MAY COMMUNICATE TO A SCHOOL DISTRICT, CHARTER SCHOOL OR
7 OTHER QUALIFIED SCHOOL FOR EMPLOYMENT PURPOSES WHETHER ANY SCHOOL
8 PERSONNEL HAS BEEN ISSUED OR DENIED A FINGERPRINT CLEARANCE CARD.

9 C. NOTWITHSTANDING SECTIONS 15-161 AND 15-2404, A QUALIFIED SCHOOL
10 THAT ACCEPTS PAYMENT FROM A PARENT OR QUALIFIED STUDENT SHALL REQUIRE ALL
11 SCHOOL PERSONNEL WHO PROVIDE INSTRUCTION TO STUDENTS IN THE SUBJECT OF
12 READING, GRAMMAR, MATHEMATICS, SOCIAL STUDIES OR SCIENCE MUST HAVE AT
13 LEAST ONE OF THE FOLLOWING:

14 1. A BACCALAUREATE OR HIGHER DEGREE FROM AN ACCREDITED
15 POSTSECONDARY INSTITUTION.

16 2. AT LEAST THREE YEARS OF TEACHING EXPERIENCE, INCLUDING TEACHING
17 IN PUBLIC OR PRIVATE SCHOOLS.

18 3. SPECIALIZED SKILLS, KNOWLEDGE OR EXPERTISE RELATED TO THE
19 CONTENT AREA OR SUBJECT MATTER FOR WHICH THE INDIVIDUAL PROVIDES
20 INSTRUCTION.

21 D. THE AUDITOR GENERAL SHALL ANNUALLY AUDIT QUALIFIED SCHOOLS FOR
22 COMPLIANCE WITH THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION. IF THE
23 AUDITOR GENERAL FINDS THAT A QUALIFIED SCHOOL HAS FAILED TO COMPLY WITH
24 THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION, THE AUDITOR GENERAL
25 SHALL:

26 1. NOTIFY BOTH THE QUALIFIED SCHOOL AND THE STATE BOARD OF
27 EDUCATION OF THE VIOLATION.

28 2. INSTRUCT THE QUALIFIED SCHOOL HOW TO CURE THE VIOLATION.

29 E. IF THE STATE BOARD OF EDUCATION DETERMINES THAT THE QUALIFIED
30 SCHOOL HAS FAILED TO CORRECT THE VIOLATION WITHIN SIXTY DAYS AFTER THE
31 AUDITOR GENERAL ISSUES A NOTICE PURSUANT TO SUBSECTION D OF THIS SECTION,
32 THE STATE BOARD OF EDUCATION SHALL NOTIFY THE QUALIFIED SCHOOL AND THE
33 DEPARTMENT THAT THE QUALIFIED SCHOOL IS NOT IN COMPLIANCE. A QUALIFIED
34 SCHOOL THAT IS DETERMINED TO BE IN NONCOMPLIANCE PURSUANT TO THIS
35 SUBSECTION SHALL REIMBURSE THE DEPARTMENT FOR ALL ARIZONA EMPOWERMENT
36 SCHOLARSHIP ACCOUNT MONIES THAT THE QUALIFIED SCHOOL RECEIVED PURSUANT TO
37 THIS ARTICLE DURING THE PREVIOUS SCHOOL YEAR.

38 F. FOR THE PURPOSES OF THIS SECTION, "SCHOOL PERSONNEL":

39 1. INCLUDES ANY INDIVIDUAL WHO IS INITIALLY HIRED BY THE QUALIFIED
40 SCHOOL AFTER JANUARY 1, 1990 AND WHO IS ANY OF THE FOLLOWING:

41 (a) A PAID EMPLOYEE OF THE QUALIFIED SCHOOL.

42 (b) AN INDIVIDUAL WHO PROVIDES SERVICES DIRECTLY TO STUDENTS OF THE
43 QUALIFIED SCHOOL AND WHO IS ALL OF THE FOLLOWING:

44 (i) NOT A PAID EMPLOYEE OF THE QUALIFIED SCHOOL.

1 (ii) NOT A PARENT OR GUARDIAN OF A STUDENT WHO ATTENDS THE
2 QUALIFIED SCHOOL.

3 (iii) NOT UNDER THE DIRECTION OF OR, EXCEPT FOR BRIEF PERIODS OF
4 TIME DURING A SCHOOL DAY OR SCHOOL ACTIVITY, WITHIN SIGHT OF A PAID
5 EMPLOYEE OF THE QUALIFIED SCHOOL WHILE PROVIDING SERVICES TO STUDENTS.

6 (iv) REQUIRED OR ALLOWED TO PROVIDE SERVICES DIRECTLY TO STUDENTS.

7 2. DOES NOT INCLUDE AN INDIVIDUAL WHO IS EITHER:

8 (a) REQUIRED AS A CONDITION OF LICENSURE TO BE FINGERPRINTED IF THE
9 LICENSE IS REQUIRED FOR EMPLOYMENT.

10 (b) REESTABLISHING EMPLOYMENT WITH A QUALIFIED SCHOOL WITHIN ONE
11 YEAR AFTER TERMINATING EMPLOYMENT WITH THE SAME QUALIFIED SCHOOL.

12 15-2408. Joint legislative audit committee; auditor general;
13 program review; reports; committees of reference;
14 continuation; definitions

15 A. THE JOINT LEGISLATIVE AUDIT COMMITTEE SHALL DIRECT THE
16 APPROPRIATE LEGISLATIVE COMMITTEES OF REFERENCE ESTABLISHED PURSUANT TO
17 SECTION 41-2954 TO WHICH THE DEPARTMENT IS ASSIGNED TO COMPLETE A PROGRAM
18 REVIEW OF THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS PROGRAM AT LEAST
19 SEVENTEEN MONTHS BEFORE THE TERMINATION DATE FOR THE PROGRAM PRESCRIBED BY
20 SECTION 15-2409.

21 B. THE COMMITTEES OF REFERENCE SHALL UNDERTAKE THE PROGRAM REVIEW
22 IN THE SCOPE AND DETAIL IN WHICH THE COMMITTEES OF REFERENCE DEEM
23 APPROPRIATE AND SHALL ADDRESS WHETHER THERE IS A NEED FOR THE PROGRAM IN
24 THIS STATE AND, IF SO, ASSESS THE DEGREE TO WHICH THE ORIGINAL OBJECTIVES
25 OF THE PROGRAM HAVE BEEN ACHIEVED EXPRESSED IN TERMS OF THE PERFORMANCE,
26 IMPACT OR ACCOMPLISHMENTS OF THE PROGRAM AND OF THE SITUATION IT WAS
27 INTENDED TO ADDRESS.

28 C. THE COMMITTEES OF REFERENCE SHALL COMPLETE THE DRAFT PROGRAM
29 REVIEW REPORT NOT LATER THAN ELEVEN MONTHS BEFORE THE TERMINATION DATE FOR
30 THE PROGRAM PRESCRIBED BY SECTION 15-2409. BEFORE THE DRAFT PROGRAM
31 REVIEW REPORT IS SUBMITTED, THE DEPARTMENT SHALL BE GIVEN AN OPPORTUNITY
32 TO REVIEW, WITHIN FORTY CALENDAR DAYS, THE DRAFT PROGRAM REVIEW REPORT AND
33 SUBMIT WRITTEN COMMENTS OR A REBUTTAL TO BE INCLUDED IN THE PRELIMINARY
34 PROGRAM REVIEW REPORT.

35 D. THE COMMITTEES OF REFERENCE SHALL SUBMIT THE PRELIMINARY PROGRAM
36 REVIEW REPORT TO THE GOVERNOR, TO EACH MEMBER OF THE JOINT LEGISLATIVE
37 AUDIT COMMITTEE, TO EACH MEMBER OF THE COMMITTEES OF REFERENCE TO WHICH
38 THE DEPARTMENT OF EDUCATION IS ASSIGNED AND TO THE DEPARTMENT ON OR BEFORE
39 OCTOBER 1 OF THE YEAR BEFORE THE SCHEDULED TERMINATION DATE FOR THE
40 PROGRAM PRESCRIBED BY SECTION 15-2409.

41 E. THE JOINT LEGISLATIVE AUDIT COMMITTEE SHALL DIRECT THE AUDITOR
42 GENERAL TO CONDUCT A PROGRAM PERFORMANCE AUDIT TO DETERMINE ONE OR MORE OF
43 THE FOLLOWING:

44 1. WHETHER THE DEPARTMENT IS MANAGING THE PROGRAM IN AN ECONOMICAL
45 AND EFFICIENT MANNER.

1 2. CAUSES OF INEFFICIENCIES OR UNECONOMICAL PRACTICES IN THE
2 PROGRAM, INCLUDING INADEQUACIES IN MANAGEMENT INFORMATION SYSTEMS,
3 INTERNAL AND ADMINISTRATIVE PROCEDURES, ORGANIZATIONAL STRUCTURE, USE OF
4 RESOURCES, ALLOCATION OF PERSONNEL, PURCHASING POLICIES AND EQUIPMENT.

5 3. WHETHER THE DESIRED RESULTS OF THE PROGRAM ARE BEING ACHIEVED.

6 4. WHETHER THE OBJECTIVES OF THE PROGRAM AS ESTABLISHED BY THE
7 LEGISLATURE ARE BEING MET.

8 F. THE AUDITOR GENERAL SHALL CONDUCT THE PROGRAM PERFORMANCE AUDIT
9 IN A MANNER THAT IS CONSISTENT WITH THE PERFORMANCE AUDIT PROCEDURES
10 PRESCRIBED IN TITLE 41, CHAPTER 7, ARTICLE 10.1 AND SHALL SUBMIT TO THE
11 GOVERNOR, TO EACH MEMBER OF THE JOINT LEGISLATIVE AUDIT COMMITTEE, TO THE
12 COMMITTEES OF REFERENCE TO WHICH THE DEPARTMENT OF EDUCATION IS ASSIGNED
13 AND TO THE DEPARTMENT ON OR BEFORE OCTOBER 1 OF THE YEAR BEFORE THE
14 SCHEDULED TERMINATION DATE FOR THE PROGRAM PRESCRIBED BY SECTION 15-2409.

15 G. AFTER RECEIPT OF THE PRELIMINARY PROGRAM REVIEW REPORT AND THE
16 PROGRAM PERFORMANCE AUDIT, THE COMMITTEES OF REFERENCE SHALL HOLD AT LEAST
17 ONE PUBLIC HEARING TO RECEIVE TESTIMONY FROM THE PUBLIC AND FROM THE
18 OFFICIALS OF THE DEPARTMENT. THE COMMITTEES OF REFERENCE MAY HOLD
19 ADDITIONAL PUBLIC HEARINGS FOR THE PURPOSES PROVIDED IN SECTION 41-2954,
20 SUBSECTION C AS APPLICABLE TO THE PROGRAM.

21 H. IN DETERMINING WHETHER TO CONTINUE OR TERMINATE THE PROGRAM,
22 EACH COMMITTEE OF REFERENCE SHALL CONSIDER THE INFORMATION PROVIDED IN THE
23 PRELIMINARY PROGRAM REVIEW REPORT, THE PROGRAM PERFORMANCE AUDIT AND THE
24 FACTORS PROVIDED IN SECTION 41-2954, SUBSECTION D AS APPLICABLE TO THE
25 PROGRAM.

26 I. IF THE PROGRAM IS CONTINUED, THE JOINT LEGISLATIVE AUDIT
27 COMMITTEE MAY DIRECT THE AUDITOR GENERAL OR THE COMMITTEES OF REFERENCE TO
28 CONDUCT A FOLLOW-UP REVIEW OF THE PROGRAM TO DETERMINE HOW THE DEPARTMENT
29 HAS PERFORMED ITS STATUTORY FUNCTIONS OR CORRECTED DEFICIENCIES RELATING
30 TO THE PROGRAM BEFORE PROGRAM REVIEW, OR BOTH.

31 J. THE PROGRAM IS CONTINUED PURSUANT TO THIS SECTION IF LEGISLATION
32 TO CONTINUE THE PROGRAM IS PASSED BY THE LEGISLATURE AND SIGNED BY THE
33 GOVERNOR BEFORE THE TERMINATION DATE FOR THE PROGRAM PURSUANT TO SECTION
34 15-2409 EVEN IF THE LEGISLATION TO CONTINUE THE PROGRAM HAS NOT BECOME
35 EFFECTIVE ON THE DATE OF SCHEDULED TERMINATION.

36 K. FOR THE PURPOSES OF THIS SECTION:

37 1. "PROGRAM" MEANS THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS
38 PROGRAM.

39 2. "PROGRAM REVIEW" MEANS A SYSTEMATIC EVALUATION BY THE COMMITTEES
40 OF REFERENCE UNDER THE SUPERVISION OF THE JOINT LEGISLATIVE AUDIT
41 COMMITTEE, WITH THE ASSISTANCE OF THE DEPARTMENT, JOINT LEGISLATIVE BUDGET
42 COMMITTEE, AUDITOR GENERAL AND SUPPORT STAFF, TO DETERMINE IF THE MERITS
43 OF THE PROGRAM JUSTIFY ITS CONTINUATION RATHER THAN TERMINATION, OR ITS
44 CONTINUATION AT A LEVEL LESS THAN OR GREATER THAN THE EXISTING LEVEL.

1 15-2409. Arizona empowerment scholarship accounts program:
2 termination July 1, 2032; delayed repeal

3 A. THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS PROGRAM TERMINATES
4 ON JULY 1, 2032.

5 B. THIS CHAPTER IS REPEALED FROM AND AFTER DECEMBER 31, 2032.

6 Sec. 7. Section 23-1361, Arizona Revised Statutes, is amended to
7 read:

8 23-1361. Blacklist; definition; exceptions; privileged
9 communications; immunity

10 A. "Blacklist" means any understanding or agreement whereby the
11 names of any person or persons, list of names, descriptions or other means
12 of identification shall be spoken, written, printed or implied for the
13 purpose of being communicated or transmitted between two or more employers
14 of labor, or their bosses, foremen, superintendents, managers, officers or
15 other agents, whereby the laborer is prevented or prohibited from engaging
16 in a useful occupation. Any understanding or agreement between employers,
17 or their bosses, foremen, superintendents, managers, officers or other
18 agents, whether written or verbal, comes within the meaning of this
19 section and it makes no difference whether the employers, or their bosses,
20 foremen, superintendents, managers, officers or other agents, act
21 individually or for some company, corporation, syndicate, partnership or
22 society and it makes no difference whether they are employed or acting as
23 agents for the same or different companies, corporations, syndicates,
24 partnerships or societies.

25 B. It is not unlawful for a former employer to provide to a
26 requesting employer, or agents acting in the employer's behalf,
27 information concerning a person's education, training, experience,
28 qualifications and job performance to be used for the purpose of
29 evaluating the person for employment. It is not unlawful for a school
30 district OR A QUALIFIED SCHOOL AS DEFINED IN SECTION 15-2401 to provide
31 information received as a result of a fingerprint check required by
32 section 15-512 OR 15-2407 to any other school district, CHARTER SCHOOL OR
33 QUALIFIED SCHOOL AS DEFINED IN SECTION 15-2401 if requested to do so by
34 the person who was the subject of the fingerprint check or communicate to
35 any school district, CHARTER SCHOOL OR QUALIFIED SCHOOL AS DEFINED IN
36 SECTION 15-2401 if requested to do so by the person who applied for a
37 fingerprint clearance card whether the person has been issued or denied a
38 fingerprint clearance card. A copy of any written communication regarding
39 employment must be sent by the employer providing the information to the
40 former employee's last known address.

41 C. An employer who in good faith provides information requested by
42 a prospective employer about the reason for termination of a former
43 employee or about the job performance, professional conduct or evaluation
44 of a current or former employee is immune from civil liability for the

1 disclosure or the consequences of providing the information. There is a
2 presumption of good faith if either:

3 1. The employer employs less than one hundred employees and
4 provides only the information authorized by this subsection.

5 2. The employer employs at least one hundred employees and has a
6 regular practice in this state of providing information requested by a
7 prospective employer about the reason for termination of a former employee
8 or about the job performance, professional conduct or evaluation of a
9 current or former employee.

10 D. The presumption of good faith under subsection C of this section
11 is rebuttable by showing that the employer disclosed the information with
12 actual malice or with intent to mislead. This subsection and subsection C
13 of this section do not alter any privileges that exist under common law.
14 For the purposes of this subsection, "actual malice" means knowledge that
15 the information was false or was provided with reckless disregard of its
16 truth or falsity.

17 E. Communications concerning employees or prospective employees
18 that are made by an employer or prospective employer, or by a labor
19 organization, to a government body or agency and that are required by law
20 or that are furnished pursuant to written rules or policies of the
21 government body or agency are privileged.

22 F. An employer, including this state and its agencies, a labor
23 organization or an individual is not civilly liable for privileged
24 communications made pursuant to subsection E of this section.

25 G. In response to a request by another bank, savings and loan
26 association, credit union, escrow agent, commercial mortgage banker,
27 mortgage banker or mortgage broker it is not unlawful for a bank, a
28 savings and loan association, a credit union, an escrow agent, a
29 commercial mortgage banker, a mortgage banker or a mortgage broker to
30 provide a written employment reference that advises of the applicant's
31 involvement in any theft, embezzlement, misappropriation or other
32 defalcation that has been reported to federal authorities pursuant to
33 federal banking guidelines or reported to the department of insurance and
34 financial institutions. In order for the immunity provided in subsection
35 H of this section to apply, a copy of the written employment reference
36 must be sent by the institution providing the reference to the last known
37 address of the applicant in question.

38 H. A bank, savings and loan association, credit union, escrow
39 agent, commercial mortgage banker, mortgage banker or mortgage broker is
40 not civilly liable for providing an employment reference unless the
41 information provided is false and the bank, savings and loan association,
42 credit union, escrow agent, commercial mortgage banker, mortgage banker or
43 mortgage broker providing the false information does so with knowledge and
44 malice.

1 I. A court shall award court costs, attorney fees and other related
2 expenses to any party that prevails in any civil proceeding in which a
3 violation of this section is alleged.

4 Sec. 8. Section 41-619.51, Arizona Revised Statutes, is amended to
5 read:

6 41-619.51. Definitions

7 In this article, unless the context otherwise requires:

8 1. "Agency" means the supreme court, the department of economic
9 security, the department of child safety, the department of education, the
10 department of health services, the department of juvenile corrections, the
11 department of emergency and military affairs, the department of public
12 safety, the department of transportation, the state real estate
13 department, the department of insurance and financial institutions, the
14 Arizona game and fish department, the Arizona department of agriculture,
15 the board of examiners of nursing care institution administrators and
16 assisted living facility managers, the state board of dental examiners,
17 the Arizona state board of pharmacy, the board of physical therapy, the
18 state board of psychologist examiners, the board of athletic training, the
19 board of occupational therapy examiners, the state board of podiatry
20 examiners, the acupuncture board of examiners, the state board of
21 technical registration, ~~or~~ the board of massage therapy or the Arizona
22 department of housing.

23 2. "Board" means the board of fingerprinting.

24 3. "Central registry exception" means notification to the
25 department of economic security, the department of child safety or the
26 department of health services, as appropriate, pursuant to section
27 41-619.57 that the person is not disqualified because of a central
28 registry check conducted pursuant to section 8-804.

29 4. "Expedited review" means an examination, in accordance with
30 board rule, of the documents an applicant submits by the board or its
31 hearing officer without the applicant being present.

32 5. "Good cause exception" means the issuance of a fingerprint
33 clearance card to an employee pursuant to section 41-619.55.

34 6. "Person" means a person who is required to be fingerprinted
35 pursuant to this article or who is subject to a central registry check and
36 any of the following:

- 37 (a) Section 3-314.
- 38 (b) Section 8-105.
- 39 (c) Section 8-322.
- 40 (d) Section 8-463.
- 41 (e) Section 8-509.
- 42 (f) Section 8-802.
- 43 (g) Section 8-804.
- 44 (h) Section 15-183.
- 45 (i) Section 15-503.

- 1 (j) Section 15-512.
- 2 (k) Section 15-534.
- 3 (l) Section 15-763.01.
- 4 (m) Section 15-782.02.
- 5 (n) Section 15-1330.
- 6 (o) Section 15-1881.
- 7 (p) SECTION 15-2407.
- 8 ~~(p)~~ (q) Section 17-215.
- 9 ~~(q)~~ (r) Section 28-3228.
- 10 ~~(r)~~ (s) Section 28-3413.
- 11 ~~(s)~~ (t) Section 32-122.02.
- 12 ~~(t)~~ (u) Section 32-122.05.
- 13 ~~(u)~~ (v) Section 32-122.06.
- 14 ~~(v)~~ (w) Section 32-823.
- 15 ~~(w)~~ (x) Section 32-1232.
- 16 ~~(x)~~ (y) Section 32-1276.01.
- 17 ~~(y)~~ (z) Section 32-1284.
- 18 ~~(z)~~ (aa) Section 32-1297.01.
- 19 ~~(aa)~~ (bb) Section 32-1904.
- 20 ~~(bb)~~ (cc) Section 32-1941.
- 21 ~~(cc)~~ (dd) Section 32-1982.
- 22 ~~(dd)~~ (ee) Section 32-2022.
- 23 ~~(ee)~~ (ff) Section 32-2063.
- 24 ~~(ff)~~ (gg) Section 32-2108.01.
- 25 ~~(gg)~~ (hh) Section 32-2123.
- 26 ~~(hh)~~ (ii) Section 32-2371.
- 27 ~~(ii)~~ (jj) Section 32-3430.
- 28 ~~(jj)~~ (kk) Section 32-3620.
- 29 ~~(kk)~~ (ll) Section 32-3668.
- 30 ~~(ll)~~ (mm) Section 32-3669.
- 31 ~~(mm)~~ (nn) Section 32-3922.
- 32 ~~(nn)~~ (oo) Section 32-3924.
- 33 ~~(oo)~~ (pp) Section 32-4222.
- 34 ~~(pp)~~ (qq) Section 32-4128.
- 35 ~~(qq)~~ (rr) Section 36-113.
- 36 ~~(rr)~~ (ss) Section 36-207.
- 37 ~~(ss)~~ (tt) Section 36-411.
- 38 ~~(tt)~~ (uu) Section 36-425.03.
- 39 ~~(uu)~~ (vv) Section 36-446.04.
- 40 ~~(vv)~~ (ww) Section 36-594.01.
- 41 ~~(ww)~~ (xx) Section 36-594.02.
- 42 ~~(xx)~~ (yy) Section 36-766.01.
- 43 ~~(yy)~~ (zz) Section 36-882.
- 44 ~~(zz)~~ (aaa) Section 36-883.02.
- 45 ~~(aaa)~~ (bbb) Section 36-897.01.

- 1 ~~(bbb)~~ (ccc) Section 36-897.03.
- 2 ~~(ccc)~~ (ddd) Section 36-3008.
- 3 ~~(ddd)~~ (eee) Section 41-619.53.
- 4 ~~(eee)~~ (fff) Section 41-1964.
- 5 ~~(fff)~~ (ggg) Section 41-1967.01.
- 6 ~~(ggg)~~ (hhh) Section 41-1968.
- 7 ~~(hhh)~~ (iii) Section 41-1969.
- 8 ~~(iii)~~ (jjj) Section 41-2814.
- 9 ~~(jjj)~~ (kkk) Section 41-4025.
- 10 ~~(kkk)~~ (lll) Section 46-141, subsection A or B.
- 11 ~~(lll)~~ (mmm) Section 46-321.

12 Sec. 9. Section 41-1279.03, Arizona Revised Statutes, is amended to
13 read:

14 41-1279.03. Powers and duties

15 A. The auditor general shall:

16 1. Prepare an audit plan for approval by the committee and report
17 to the committee the results of each audit and investigation and other
18 reviews conducted by the auditor general.

19 2. Conduct or cause to be conducted annual financial and compliance
20 audits of financial transactions and accounts kept by or for all state
21 agencies subject to the federal single audit requirements. The audits
22 shall be conducted in accordance with generally accepted governmental
23 auditing standards and accordingly shall include tests of the accounting
24 records and other auditing procedures as may be considered necessary in
25 the circumstances. The audits shall include the issuance of suitable
26 reports as required by the federal single audit requirements so that the
27 legislature, the federal government and others will be informed as to the
28 adequacy of financial statements of this state in compliance with
29 generally accepted accounting principles and to determine whether this
30 state has complied with laws and regulations that may have a material
31 effect on the financial statements and on major federal assistance
32 programs.

33 3. Perform procedural reviews for all state agencies at times
34 determined by the auditor general. These reviews may include evaluation
35 of administrative and accounting internal controls and reports on these
36 reviews.

37 4. Perform special research requests, special audits and related
38 assignments as designated by the committee and conduct performance audits,
39 special audits, special research requests and investigations of any state
40 agency, whether created by the constitution or otherwise, as may be
41 requested by the committee.

42 5. Annually on or before the fourth Monday of December, prepare a
43 written report to the governor and to the committee that contains a
44 summary of activities for the previous fiscal year.

1 6. In the fifth year and in each fifth year thereafter in which a
2 transportation excise tax is in effect in a county as provided in section
3 42-6106 or 42-6107, conduct a performance audit that:

4 (a) Reviews past expenditures and future planned expenditures of
5 the transportation excise revenues and determines the impact of the
6 expenditures in solving transportation problems within the county and, for
7 a transportation excise tax in effect in a county as provided in section
8 42-6107, determines whether the expenditures of the transportation excise
9 revenues comply with section 28-6392, subsection B.

10 (b) Reviews projects completed to date and projects to be completed
11 during the remaining years in which a transportation excise tax is in
12 effect. Within six months after each review period, the auditor general
13 shall present a report to the speaker of the house of representatives and
14 the president of the senate detailing findings and making recommendations.

15 (c) Reviews, determines, reports and makes recommendations to the
16 speaker of the house of representatives and the president of the senate
17 whether the distribution of Arizona highway user revenues complies with
18 title 28, chapter 18, article 2.

19 7. If requested by the committee, conduct performance audits of
20 counties and incorporated cities and towns receiving Arizona highway user
21 revenue fund monies pursuant to title 28, chapter 18, article 2 to
22 determine whether the monies are being spent as provided in section
23 28-6533, subsection B.

24 8. Perform special audits designated pursuant to law if the auditor
25 general determines that there are adequate monies appropriated for the
26 auditor general to complete the audit. If the auditor general determines
27 the appropriated monies are inadequate, the auditor general shall notify
28 the [JOINT LEGISLATIVE AUDIT](#) committee. Based on information provided by
29 the auditor general, for any legislative measure that requires the auditor
30 general to perform a special audit, the joint legislative budget committee
31 staff shall notify all the members of the legislature as soon as
32 practicable of the cost to conduct the special audit.

33 9. Establish a schoolwide audit team in the office of the auditor
34 general to conduct performance audits and monitor school districts to
35 determine the percentage of every dollar spent in the classroom by the
36 school district. Each school district shall prominently post on its
37 website home page a copy of its profile pages that displays the percentage
38 of every dollar spent in the classroom by that school district from the
39 most recent status report issued by the auditor general pursuant to this
40 paragraph. The auditor general shall determine, through random selection,
41 the school districts to be audited each year, subject to review by the
42 joint legislative audit committee. A school district that is subject to
43 an audit pursuant to this paragraph shall notify the auditor general in
44 writing whether the school district agrees or disagrees with the findings
45 of the audit and whether the school district will implement the

1 recommendations, implement modifications to the recommendations or refuse
2 to implement the recommendations. The school district shall submit to the
3 auditor general a written status report on the implementation of the audit
4 recommendations at the request of the auditor general, within the two-year
5 period following the issuance of an audit conducted pursuant to this
6 paragraph. The auditor general shall review the school district's
7 progress toward implementing the recommendations of the audit and provide
8 status reports of the reviews to the joint legislative audit committee
9 during this two-year period. The auditor general may review a school
10 district's progress beyond this two-year period for recommendations that
11 have not yet been implemented by the school district. The school district
12 shall participate in any hearing scheduled during this review period by
13 the joint legislative audit committee or by any other legislative
14 committee designated by the joint legislative audit committee.

15 10. Annually review per diem compensation and reimbursement of
16 expenses for employees of this state and members of a state board,
17 commission, council or advisory committee by judgmentally selecting
18 samples and evaluating the propriety of per diem compensation and expense
19 reimbursements.

20 11. ESTABLISH AN AUDIT TEAM IN THE OFFICE OF THE AUDITOR GENERAL TO
21 CONDUCT AUDITS AND MONITOR QUALIFIED SCHOOLS TO DETERMINE THE PERCENTAGE
22 OF ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT MONIES THAT ARE SPENT IN THE
23 CLASSROOM BY THE QUALIFIED SCHOOL. NOTWITHSTANDING ANY OTHER LAW, A
24 QUALIFIED SCHOOL THAT ACCEPTS A PAYMENT FROM A PARENT OR QUALIFIED STUDENT
25 PURSUANT TO TITLE 15, CHAPTER 19 SHALL PROMINENTLY POST ON ITS WEBSITE
26 HOME PAGE A COPY OF ITS PROFILE PAGES THAT DISPLAYS THE PERCENTAGE OF
27 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT MONIES SPENT IN THE CLASSROOM BY
28 THAT QUALIFIED SCHOOL FROM THE MOST RECENT STATUS REPORT ISSUED BY THE
29 AUDITOR GENERAL PURSUANT TO THIS PARAGRAPH. THE AUDITOR GENERAL SHALL
30 DETERMINE, THROUGH RANDOM SELECTION, THE QUALIFIED SCHOOLS TO BE AUDITED
31 EACH YEAR, SUBJECT TO REVIEW BY THE JOINT LEGISLATIVE AUDIT COMMITTEE. A
32 QUALIFIED SCHOOL THAT IS SUBJECT TO AN AUDIT PURSUANT TO THIS PARAGRAPH
33 SHALL NOTIFY THE AUDITOR GENERAL IN WRITING WHETHER THE QUALIFIED SCHOOL
34 AGREES OR DISAGREES WITH THE FINDINGS AND RECOMMENDATIONS OF THE AUDIT AND
35 WHETHER THE QUALIFIED SCHOOL WILL IMPLEMENT THE FINDINGS AND
36 RECOMMENDATIONS, IMPLEMENT MODIFICATIONS TO THE FINDINGS AND
37 RECOMMENDATIONS OR REFUSE TO IMPLEMENT THE FINDINGS AND RECOMMENDATIONS.
38 THE QUALIFIED SCHOOL SHALL SUBMIT TO THE AUDITOR GENERAL A WRITTEN STATUS
39 REPORT ON THE IMPLEMENTATION OF THE AUDIT FINDINGS AND RECOMMENDATIONS
40 EVERY SIX MONTHS FOR TWO YEARS AFTER THE COMPLETION OF AN AUDIT CONDUCTED
41 PURSUANT TO THIS PARAGRAPH. THE AUDITOR GENERAL SHALL REVIEW THE
42 QUALIFIED SCHOOL'S PROGRESS TOWARD IMPLEMENTING THE FINDINGS AND
43 RECOMMENDATIONS OF THE AUDIT EVERY SIX MONTHS AFTER RECEIVING THE
44 QUALIFIED SCHOOL'S STATUS REPORT FOR TWO YEARS. THE AUDITOR GENERAL MAY
45 REVIEW A QUALIFIED SCHOOL'S PROGRESS BEYOND THIS TWO-YEAR PERIOD FOR

1 RECOMMENDATIONS THAT HAVE NOT YET BEEN IMPLEMENTED BY THE QUALIFIED
2 SCHOOL. THE AUDITOR GENERAL SHALL PROVIDE A STATUS REPORT OF THESE
3 REVIEWS TO THE JOINT LEGISLATIVE AUDIT COMMITTEE. THE QUALIFIED SCHOOL
4 SHALL PARTICIPATE IN ANY HEARING SCHEDULED DURING THIS REVIEW PERIOD BY
5 THE JOINT LEGISLATIVE AUDIT COMMITTEE OR BY ANY OTHER LEGISLATIVE
6 COMMITTEE DESIGNATED BY THE JOINT LEGISLATIVE AUDIT COMMITTEE. FOR THE
7 PURPOSES OF THIS PARAGRAPH, "QUALIFIED SCHOOL" HAS THE SAME MEANING
8 PRESCRIBED IN SECTION 15-2401.

9 B. The auditor general may:

10 1. Subject to approval by the committee, adopt rules necessary to
11 administer the duties of the office.

12 2. Hire consultants to conduct the studies required by subsection
13 A, paragraphs 6 and 7 of this section.

14 C. If approved by the committee, the auditor general may charge a
15 reasonable fee for the cost of performing audits or providing accounting
16 services for auditing federal funds, special audits or special services
17 requested by political subdivisions of this state. Monies collected
18 pursuant to this subsection shall be deposited in the audit services
19 revolving fund.

20 D. The department of transportation, the county treasurer, the
21 county transportation excise tax recipients, ~~and~~ the board of supervisors
22 of a county that has approved a county transportation excise tax as
23 provided in section 42-6106 or 42-6107 and the governing bodies of
24 counties, cities and towns receiving Arizona highway user revenue fund
25 monies shall cooperate with and provide necessary information to the
26 auditor general or the auditor general's consultant.

27 E. The department of transportation or the county transportation
28 excise tax recipients shall reimburse the auditor general as follows, and
29 the auditor general shall deposit the reimbursed monies in the audit
30 services revolving fund:

31 1. For the cost of conducting the studies or hiring a consultant to
32 conduct the studies required by subsection A, paragraph 6, subdivisions
33 (a) and (b) of this section, from monies collected pursuant to a county
34 transportation excise tax levied pursuant to section 42-6106 or 42-6107.

35 2. For the cost of conducting the studies or hiring a consultant
36 pursuant to subsection A, paragraph 6, subdivision (c) and paragraph 7 of
37 this section, from the Arizona highway user revenue fund.

38 Sec. 10. Section 41-1750, Arizona Revised Statutes, is amended to
39 read:

40 41-1750. Central state repository; department of public
41 safety; duties; funds; accounts; definitions

42 A. The department is responsible for the effective operation of the
43 central state repository in order to collect, store and disseminate
44 complete and accurate Arizona criminal history records and related
45 criminal justice information. The department may procure criminal history

1 records and related criminal justice information for violations that are
2 not listed in this section. The department shall:

3 1. Procure from all criminal justice agencies in this state
4 accurate and complete personal identification data, fingerprints, charges,
5 process control numbers and dispositions and such other information as may
6 be pertinent to all persons who have been charged with, arrested for,
7 convicted of or summoned to court as a criminal defendant for any of the
8 following:

9 (a) A felony offense or an offense involving domestic violence as
10 defined in section 13-3601.

11 (b) A violation of title 13, chapter 14 or title 28, chapter 4.

12 (c) An offense listed in:

13 (i) Section 32-2422, subsection A, paragraph 4.

14 (ii) Section 32-2441, paragraph 4.

15 (iii) Section 32-2612, subsection A, paragraph 4.

16 (iv) Section 32-2622, subsection A, paragraph 4.

17 (v) Section 41-1758.03, subsections B and C.

18 (vi) Section 41-1758.07, subsections B and C.

19 2. Collect information concerning the number and nature of offenses
20 known to have been committed in this state and of the legal steps taken in
21 connection with these offenses, such other information that is useful in
22 the study of crime and in the administration of criminal justice and all
23 other information deemed necessary to operate the statewide uniform crime
24 reporting program and to cooperate with the federal government uniform
25 crime reporting program.

26 3. Collect information concerning criminal offenses that manifest
27 evidence of prejudice based on race, color, religion, national origin,
28 sexual orientation, gender, antisemitism or disability.

29 4. Cooperate with the central state repositories in other states
30 and with the appropriate agency of the federal government in the exchange
31 of information pertinent to violators of the law.

32 5. Ensure the rapid exchange of information concerning the
33 commission of crime and the detection of violators of the law among the
34 criminal justice agencies of other states and of the federal government.

35 6. Furnish assistance to peace officers throughout this state in
36 crime scene investigation for the detection of latent fingerprints and in
37 the comparison of latent fingerprints.

38 7. Conduct periodic operational audits of the central state
39 repository and of a representative sample of other agencies that
40 contribute records to or receive criminal justice information from the
41 central state repository or through the Arizona criminal justice
42 information system.

43 8. Establish and enforce the necessary physical and system
44 safeguards to ensure that the criminal justice information maintained and
45 disseminated by the central state repository or through the Arizona

1 criminal justice information system is appropriately protected from
2 unauthorized inquiry, modification, destruction or dissemination as
3 required by this section.

4 9. Aid and encourage coordination and cooperation among criminal
5 justice agencies through the statewide and interstate exchange of criminal
6 justice information.

7 10. Provide training and proficiency testing on the use of criminal
8 justice information to agencies receiving information from the central
9 state repository or through the Arizona criminal justice information
10 system.

11 11. Operate and maintain the Arizona automated fingerprint
12 identification system established by section 41-2411.

13 12. Provide criminal history record information to the
14 fingerprinting division for the purpose of screening applicants for
15 fingerprint clearance cards.

16 B. The director may establish guidelines for the submission and
17 retention of criminal justice information as deemed useful for the study
18 or prevention of crime and for the administration of criminal justice.

19 C. Criminal justice agencies may provide criminal history records
20 and related criminal justice information for violations that are not
21 listed in this section. The chief officers of criminal justice agencies
22 of this state or its political subdivisions shall provide to the central
23 state repository fingerprints and information concerning personal
24 identification data, descriptions, crimes for which persons are arrested,
25 process control numbers and dispositions and such other information as may
26 be pertinent to all persons who have been charged with, arrested for,
27 convicted of or summoned to court as criminal defendants for any of the
28 following:

29 1. Felony offenses or offenses involving domestic violence as
30 defined in section 13-3601.

31 2. Violations of title 13, chapter 14 or title 28, chapter 4 that
32 have occurred in this state.

33 3. An offense listed in:

34 (a) Section 32-2422, subsection A, paragraph 4.

35 (b) Section 32-2441, paragraph 4.

36 (c) Section 32-2612, subsection A, paragraph 4.

37 (d) Section 32-2622, subsection A, paragraph 4.

38 (e) Section 41-1758.03, subsections B and C.

39 (f) Section 41-1758.07, subsections B and C.

40 D. The chief officers of law enforcement agencies of this state or
41 its political subdivisions shall provide to the department such
42 information as necessary to operate the statewide uniform crime reporting
43 program and to cooperate with the federal government uniform crime
44 reporting program.

1 E. The chief officers of criminal justice agencies of this state or
2 its political subdivisions shall comply with the training and proficiency
3 testing guidelines as required by the department to comply with the
4 federal national crime information center mandates.

5 F. The chief officers of criminal justice agencies of this state or
6 its political subdivisions also shall provide to the department
7 information concerning crimes that manifest evidence of prejudice based on
8 race, color, religion, national origin, sexual orientation, gender,
9 antisemitism or disability.

10 G. The director shall authorize the exchange of criminal justice
11 information between the central state repository, or through the Arizona
12 criminal justice information system, whether directly or through any
13 intermediary, only as follows:

14 1. With criminal justice agencies of the federal government, Indian
15 tribes, this state or its political subdivisions and other states, on
16 request by the chief officers of such agencies or their designated
17 representatives, specifically for the purposes of the administration of
18 criminal justice and for evaluating the fitness of current and prospective
19 criminal justice employees. The department may conduct periodic state and
20 federal criminal history records checks for the purpose of updating the
21 status of current criminal justice employees or volunteers and may notify
22 the criminal justice agency of the results of the records check. The
23 department is authorized to submit fingerprints to the federal bureau of
24 investigation to be retained for the purpose of being searched by future
25 submissions to the federal bureau of investigation including latent
26 fingerprint searches.

27 2. With any noncriminal justice agency pursuant to a statute,
28 ordinance or executive order that specifically authorizes the noncriminal
29 justice agency to receive criminal history record information for the
30 purpose of evaluating the fitness of current or prospective licensees,
31 employees, contract employees or volunteers, on submission of the
32 subject's fingerprints and the prescribed fee. Each statute, ordinance,
33 or executive order that authorizes noncriminal justice agencies to receive
34 criminal history record information for these purposes shall identify the
35 specific categories of licensees, employees, contract employees or
36 volunteers, and shall require that fingerprints of the specified
37 individuals be submitted in conjunction with such requests for criminal
38 history record information. The department may conduct periodic state and
39 federal criminal history records checks for the purpose of updating the
40 status of current licensees, employees, contract employees or volunteers
41 and may notify the noncriminal justice agency of the results of the
42 records check. The department is authorized to submit fingerprints to the
43 federal bureau of investigation to be retained for the purpose of being
44 searched by future submissions to the federal bureau of investigation
45 including latent fingerprint searches.

1 3. With the board of fingerprinting for the purpose of conducting
2 good cause exceptions pursuant to section 41-619.55 and central registry
3 exceptions pursuant to section 41-619.57.

4 4. With any individual for any lawful purpose on submission of the
5 subject of record's fingerprints and the prescribed fee.

6 5. With the governor, if the governor elects to become actively
7 involved in the investigation of criminal activity or the administration
8 of criminal justice in accordance with the governor's constitutional duty
9 to ensure that the laws are faithfully executed or as needed to carry out
10 the other responsibilities of the governor's office.

11 6. With regional computer centers that maintain authorized
12 computer-to-computer interfaces with the department, that are criminal
13 justice agencies or under the management control of a criminal justice
14 agency and that are established by a statute, ordinance or executive order
15 to provide automated data processing services to criminal justice agencies
16 specifically for the purposes of the administration of criminal justice or
17 evaluating the fitness of regional computer center employees who have
18 access to the Arizona criminal justice information system and the national
19 crime information center system.

20 7. With an individual who asserts a belief that criminal history
21 record information relating to the individual is maintained by an agency
22 or in an information system in this state that is subject to this section.
23 On submission of fingerprints, the individual may review this information
24 for the purpose of determining its accuracy and completeness by making
25 application to the agency operating the system. Rules adopted under this
26 section shall include provisions for administrative review and necessary
27 correction of any inaccurate or incomplete information. The review and
28 challenge process authorized by this paragraph is limited to criminal
29 history record information.

30 8. With individuals and agencies pursuant to a specific agreement
31 with a criminal justice agency to provide services required for the
32 administration of criminal justice pursuant to that agreement if the
33 agreement specifically authorizes access to data, limits the use of data
34 to purposes for which given and ensures the security and confidentiality
35 of the data consistent with this section.

36 9. With individuals and agencies for the express purpose of
37 research, evaluative or statistical activities pursuant to an agreement
38 with a criminal justice agency if the agreement specifically authorizes
39 access to data, limits the use of data to research, evaluative or
40 statistical purposes and ensures the confidentiality and security of the
41 data consistent with this section.

42 10. With the auditor general for audit purposes.

43 11. With central state repositories of other states for noncriminal
44 justice purposes for dissemination in accordance with the laws of those
45 states.

1 12. On submission of the fingerprint card, with the department of
2 child safety and a tribal social services agency to provide criminal
3 history record information on prospective adoptive parents for the purpose
4 of conducting the preadoption certification investigation under title 8,
5 chapter 1, article 1 if the department of economic security is conducting
6 the investigation, or with an agency or a person appointed by the court,
7 if the agency or person is conducting the investigation. Information
8 received under this paragraph shall only be used for the purposes of the
9 preadoption certification investigation.

10 13. With the department of child safety, a tribal social services
11 agency and the superior court for the purpose of evaluating the fitness of
12 custodians or prospective custodians of juveniles, including parents,
13 relatives and prospective guardians. Information received under this
14 paragraph shall only be used for the purposes of that evaluation. The
15 information shall be provided on submission of either:

- 16 (a) The fingerprint card.
- 17 (b) The name, date of birth and social security number of the
18 person.

19 14. On submission of a fingerprint card, provide criminal history
20 record information to the superior court for the purpose of evaluating the
21 fitness of investigators appointed under section 14-5303 or 14-5407,
22 guardians appointed under section 14-5206 or 14-5304 or conservators
23 appointed under section 14-5401.

24 15. With the supreme court to provide criminal history record
25 information on prospective fiduciaries pursuant to section 14-5651.

26 16. With the department of juvenile corrections to provide criminal
27 history record information pursuant to section 41-2814.

28 17. On submission of the fingerprint card, provide criminal history
29 record information to the Arizona peace officer standards and training
30 board or a board certified law enforcement academy to evaluate the fitness
31 of prospective cadets.

32 18. With the internet sex offender website database established
33 pursuant to section 13-3827.

34 19. With licensees of the United States nuclear regulatory
35 commission for the purpose of determining whether an individual should be
36 granted unescorted access to the protected area of a commercial nuclear
37 generating station on submission of the subject of record's fingerprints
38 and the prescribed fee.

39 20. With the state board of education for the purpose of evaluating
40 the fitness of a certificated educator, an applicant for a teaching or
41 administrative certificate or a noncertificated person as defined in
42 section 15-505 if the state board of education or its employees or agents
43 have reasonable suspicion that the educator or person engaged in conduct
44 that would be a criminal violation of the laws of this state or was
45 involved in immoral or unprofessional conduct or that the applicant

1 engaged in conduct that would warrant disciplinary action if the applicant
2 were certificated at the time of the alleged conduct. The information
3 shall be provided on the submission of either:

4 (a) The fingerprint card.

5 (b) The name, date of birth and social security number of the
6 person.

7 21. With each school district and charter school in this state **AND**
8 **WITH EACH QUALIFIED SCHOOL THAT ACCEPTS PAYMENT FROM THE PARENT OF ONE OR**
9 **MORE QUALIFIED STUDENTS PURSUANT TO TITLE 15, CHAPTER 19.** The department
10 of education and the state board for charter schools shall provide the
11 department of public safety with a current list of email addresses for
12 each school district, ~~and~~ charter school ~~in this state~~ **AND QUALIFIED**
13 **SCHOOL** and shall periodically provide the department of public safety with
14 updated email addresses. If the department of public safety is notified
15 that a person who is required to have a fingerprint clearance card to be
16 employed by or to engage in volunteer activities at a school district, ~~or~~
17 charter school **OR QUALIFIED SCHOOL** has been arrested for or convicted of
18 an offense listed in section 41-1758.03, subsection B or has been arrested
19 for or convicted of an offense that amounts to unprofessional conduct
20 under section 15-550, the department of public safety shall notify each
21 school district, ~~and~~ charter school **AND QUALIFIED SCHOOL** in this state
22 that the person's fingerprint clearance card has been suspended or
23 revoked.

24 22. With a tribal social services agency and the department of
25 child safety as provided by law, which currently is the Adam Walsh child
26 protection and safety act of 2006 (42 United States Code section 16961),
27 for the purposes of investigating or responding to reports of child abuse,
28 neglect or exploitation. Information received pursuant to this paragraph
29 from the national crime information center, the interstate identification
30 index and the Arizona criminal justice information system network shall
31 only be used for the purposes of investigating or responding as prescribed
32 in this paragraph. The information shall be provided on submission to the
33 department of public safety of either:

34 (a) The fingerprints of the person being investigated.

35 (b) The name, date of birth and social security number of the
36 person.

37 23. With a nonprofit organization that interacts with children or
38 vulnerable adults for the lawful purpose of evaluating the fitness of all
39 current and prospective employees, contractors and volunteers of the
40 organization. The criminal history record information shall be provided
41 on submission of the applicant fingerprint card and the prescribed fee.

42 24. With the superior court for the purpose of determining an
43 individual's eligibility for substance abuse and treatment courts in a
44 family or juvenile case.

1 25. With the governor to provide criminal history record
2 information on prospective gubernatorial nominees, appointees and
3 employees as provided by law.

4 H. The director shall adopt rules necessary to execute this
5 section.

6 I. The director, in the manner prescribed by law, shall remove and
7 destroy records that the director determines are no longer of value in the
8 detection or prevention of crime.

9 J. The director shall establish a fee in an amount necessary to
10 cover the cost of federal noncriminal justice fingerprint processing for
11 criminal history record information checks that are authorized by law for
12 noncriminal justice employment, licensing or other lawful purposes. An
13 additional fee may be charged by the department for state noncriminal
14 justice fingerprint processing. Fees submitted to the department for
15 state noncriminal justice fingerprint processing are not refundable.

16 K. The director shall establish a fee in an amount necessary to
17 cover the cost of processing copies of department reports, eight by ten
18 inch black and white photographs or eight by ten inch color photographs of
19 traffic accident scenes.

20 L. Except as provided in subsection O of this section, each agency
21 authorized by this section may charge a fee, in addition to any other fees
22 prescribed by law, in an amount necessary to cover the cost of state and
23 federal noncriminal justice fingerprint processing for criminal history
24 record information checks that are authorized by law for noncriminal
25 justice employment, licensing or other lawful purposes.

26 M. A fingerprint account within the records processing fund is
27 established for the purpose of separately accounting for the collection
28 and payment of fees for noncriminal justice fingerprint processing by the
29 department. Monies collected for this purpose shall be credited to the
30 account, and payments by the department to the United States for federal
31 noncriminal justice fingerprint processing shall be charged against the
32 account. Monies in the account not required for payment to the United
33 States shall be used by the department in support of the department's
34 noncriminal justice fingerprint processing duties. At the end of each
35 fiscal year, any balance in the account not required for payment to the
36 United States or to support the department's noncriminal justice
37 fingerprint processing duties reverts to the state general fund.

38 N. A records processing fund is established for the purpose of
39 separately accounting for the collection and payment of fees for
40 department reports and photographs of traffic accident scenes processed by
41 the department. Monies collected for this purpose shall be credited to
42 the fund and shall be used by the department in support of functions
43 related to providing copies of department reports and photographs. At the
44 end of each fiscal year, any balance in the fund not required for support

1 of the functions related to providing copies of department reports and
2 photographs reverts to the state general fund.

3 O. The department of child safety may pay from appropriated monies
4 the cost of federal fingerprint processing or federal criminal history
5 record information checks that are authorized by law for employees and
6 volunteers of the department, guardians pursuant to section 8-453,
7 subsection A, paragraph 6, the licensing of foster parents or the
8 certification of adoptive parents.

9 P. The director shall adopt rules that provide for:

10 1. The collection and disposition of fees pursuant to this section.

11 2. The refusal of service to those agencies that are delinquent in
12 paying these fees.

13 Q. The director shall ensure that the following limitations are
14 observed regarding dissemination of criminal justice information obtained
15 from the central state repository or through the Arizona criminal justice
16 information system:

17 1. Any criminal justice agency that obtains criminal justice
18 information from the central state repository or through the Arizona
19 criminal justice information system assumes responsibility for the
20 security of the information and shall not secondarily disseminate this
21 information to any individual or agency not authorized to receive this
22 information directly from the central state repository or originating
23 agency.

24 2. Dissemination to an authorized agency or individual may be
25 accomplished by a criminal justice agency only if the dissemination is for
26 criminal justice purposes in connection with the prescribed duties of the
27 agency and not in violation of this section.

28 3. Criminal history record information disseminated to noncriminal
29 justice agencies or to individuals shall be used only for the purposes for
30 which it was given. Secondary dissemination is prohibited unless
31 otherwise authorized by law.

32 4. The existence or nonexistence of criminal history record
33 information shall not be confirmed to any individual or agency not
34 authorized to receive the information itself.

35 5. Criminal history record information to be released for
36 noncriminal justice purposes to agencies of other states shall only be
37 released to the central state repositories of those states for
38 dissemination in accordance with the laws of those states.

39 6. Criminal history record information shall be released to
40 noncriminal justice agencies of the federal government pursuant to the
41 terms of the federal security clearance information act (P.L. 99-169).

42 R. This section and the rules adopted under this section apply to
43 all agencies and individuals collecting, storing or disseminating criminal
44 justice information processed by manual or automated operations if the
45 collection, storage or dissemination is funded in whole or in part with

1 monies made available by the law enforcement assistance administration
2 after July 1, 1973, pursuant to title I of the crime control act of 1973,
3 and to all agencies that interact with or receive criminal justice
4 information from or through the central state repository and through the
5 Arizona criminal justice information system.

6 S. This section does not apply to criminal history record
7 information contained in:

8 1. Posters, arrest warrants, announcements or lists for identifying
9 or apprehending fugitives or wanted persons.

10 2. Original records of entry such as police blotters maintained by
11 criminal justice agencies, compiled chronologically and required by law or
12 long-standing custom to be made public if these records are organized on a
13 chronological basis.

14 3. Transcripts or records of judicial proceedings if released by a
15 court or legislative or administrative proceedings.

16 4. Announcements of executive clemency or pardon.

17 5. Computer databases, other than the Arizona criminal justice
18 information system, that are specifically designed for community
19 notification of an offender's presence in the community pursuant to
20 section 13-3825 or for public informational purposes authorized by section
21 13-3827.

22 T. Nothing in this section prevents a criminal justice agency from
23 disclosing to the public criminal history record information that is
24 reasonably contemporaneous to the event for which an individual is
25 currently within the criminal justice system, including information noted
26 on traffic accident reports concerning citations, blood alcohol tests or
27 arrests made in connection with the traffic accident being investigated.

28 U. In order to ensure that complete and accurate criminal history
29 record information is maintained and disseminated by the central state
30 repository:

31 1. The booking agency shall take legible ten-print fingerprints of
32 all persons who are arrested for offenses listed in subsection C of this
33 section. The booking agency shall obtain a process control number and
34 provide to the person fingerprinted a document that indicates proof of the
35 fingerprinting and that informs the person that the document must be
36 presented to the court.

37 2. Except as provided in paragraph 3 of this subsection, if a
38 person is summoned to court as a result of an indictment or complaint for
39 an offense listed in subsection C of this section, the court shall order
40 the person to appear before the county sheriff and provide legible
41 ten-print fingerprints. The county sheriff shall obtain a process control
42 number and provide a document to the person fingerprinted that indicates
43 proof of the fingerprinting and that informs the person that the document
44 must be presented to the court. For the purposes of this paragraph,

1 "summoned" includes a written promise to appear by the defendant on a
2 uniform traffic ticket and complaint.

3 3. If a person is arrested for a misdemeanor offense listed in
4 subsection C of this section by a city or town law enforcement agency, the
5 person shall appear before the law enforcement agency that arrested the
6 defendant and provide legible ten-print fingerprints. The law enforcement
7 agency shall obtain a process control number and provide a document to the
8 person fingerprinted that indicates proof of the fingerprinting and that
9 informs the person that the document must be presented to the court.

10 4. The mandatory fingerprint compliance form shall contain the
11 following information:

12 (a) Whether ten-print fingerprints have been obtained from the
13 person.

14 (b) Whether a process control number was obtained.

15 (c) The offense or offenses for which the process control number
16 was obtained.

17 (d) Any report number of the arresting authority.

18 (e) Instructions on reporting for ten-print fingerprinting,
19 including available times and locations for reporting for ten-print
20 fingerprinting.

21 (f) Instructions that direct the person to provide the form to the
22 court at the person's next court appearance.

23 5. Within ten days after a person is fingerprinted, the arresting
24 authority or agency that took the fingerprints shall forward the
25 fingerprints to the department in the manner or form required by the
26 department.

27 6. On the issuance of a summons for a defendant who is charged with
28 an offense listed in subsection C of this section, the summons shall
29 direct the defendant to provide ten-print fingerprints to the appropriate
30 law enforcement agency.

31 7. At the initial appearance or on the arraignment of a summoned
32 defendant who is charged with an offense listed in subsection C of this
33 section, if the person does not present a completed mandatory fingerprint
34 compliance form to the court or if the court has not received the process
35 control number, the court shall order that within twenty calendar days the
36 defendant be ten-print fingerprinted at a designated time and place by the
37 appropriate law enforcement agency.

38 8. If the defendant fails to present a completed mandatory
39 fingerprint compliance form or if the court has not received the process
40 control number, the court, on its own motion, may remand the defendant
41 into custody for ten-print fingerprinting. If otherwise eligible for
42 release, the defendant shall be released from custody after being
43 ten-print fingerprinted.

44 9. In every criminal case in which the defendant is incarcerated or
45 fingerprinted as a result of the charge, an originating law enforcement

1 agency or prosecutor, within forty days of the disposition, shall advise
2 the central state repository of all dispositions concerning the
3 termination of criminal proceedings against an individual arrested for an
4 offense specified in subsection C of this section. This information shall
5 be submitted on a form or in a manner required by the department.

6 10. Dispositions resulting from formal proceedings in a court
7 having jurisdiction in a criminal action against an individual who is
8 arrested for an offense specified in subsection C of this section or
9 section 8-341, subsection Q, paragraph 3 shall be reported to the central
10 state repository within forty days of the date of the disposition. This
11 information shall be submitted on a form or in a manner specified by rules
12 approved by the supreme court.

13 11. The state department of corrections or the department of
14 juvenile corrections, within forty days, shall advise the central state
15 repository that it has assumed supervision of a person convicted of an
16 offense specified in subsection C of this section or section 8-341,
17 subsection Q, paragraph 3. The state department of corrections or the
18 department of juvenile corrections shall also report dispositions that
19 occur thereafter to the central state repository within forty days of the
20 date of the dispositions. This information shall be submitted on a form
21 or in a manner required by the department of public safety.

22 12. Each criminal justice agency shall query the central state
23 repository before dissemination of any criminal history record information
24 to ensure the completeness of the information. Inquiries shall be made
25 before any dissemination except in those cases in which time is of the
26 essence and the repository is technically incapable of responding within
27 the necessary time period. If time is of the essence, the inquiry shall
28 still be made and the response shall be provided as soon as possible.

29 V. The director shall adopt rules specifying that any agency that
30 collects, stores or disseminates criminal justice information that is
31 subject to this section shall establish effective security measures to
32 protect the information from unauthorized access, disclosure, modification
33 or dissemination. The rules shall include reasonable safeguards to
34 protect the affected information systems from fire, flood, wind, theft,
35 sabotage or other natural or man-made hazards or disasters.

36 W. The department shall make available to agencies that contribute
37 to, or receive criminal justice information from, the central state
38 repository or through the Arizona criminal justice information system a
39 continuing training program in the proper methods for collecting, storing
40 and disseminating information in compliance with this section.

41 X. Nothing in this section creates a cause of action or a right to
42 bring an action including an action based on discrimination due to sexual
43 orientation.

44 Y. The definition prescribed in subsection Z, paragraph 3 of this
45 section does not diminish or infringe on any rights protected under the

1 first amendment to the United States constitution or the Arizona
2 constitution.

3 Z. For the purposes of this section:

4 1. "Administration of criminal justice" means performance of the
5 detection, apprehension, detention, pretrial release, posttrial release,
6 prosecution, adjudication, correctional supervision or rehabilitation of
7 criminal offenders. Administration of criminal justice includes
8 enforcement of criminal traffic offenses and civil traffic violations,
9 including parking violations, when performed by a criminal justice agency.
10 Administration of criminal justice also includes criminal identification
11 activities and the collection, storage and dissemination of criminal
12 history record information.

13 2. "Administrative records" means records that contain adequate and
14 proper documentation of the organization, functions, policies, decisions,
15 procedures and essential transactions of the agency and that are designed
16 to furnish information to protect the rights of this state and of persons
17 directly affected by the agency's activities.

18 3. "Antisemitism" includes the definition of antisemitism that was
19 adopted by the international holocaust remembrance alliance on May 26,
20 2016 and that has been adopted by the United States department of state,
21 including the contemporary examples of antisemitism identified in the
22 adopted definition.

23 4. "Arizona criminal justice information system" or "system" means
24 the statewide information system managed by the director for the
25 collection, processing, preservation, dissemination and exchange of
26 criminal justice information and includes the electronic equipment,
27 facilities, procedures and agreements necessary to exchange this
28 information.

29 5. "Booking agency" means the county sheriff or, if a person is
30 booked into a municipal jail, the municipal law enforcement agency.

31 6. "Central state repository" means the central location within the
32 department for the collection, storage and dissemination of Arizona
33 criminal history records and related criminal justice information.

34 7. "Criminal history record information" and "criminal history
35 record" means information that is collected by criminal justice agencies
36 on individuals and that consists of identifiable descriptions and
37 notations of arrests, detentions, indictments and other formal criminal
38 charges, and any disposition arising from those actions, sentencing,
39 formal correctional supervisory action and release. Criminal history
40 record information and criminal history record do not include
41 identification information to the extent that the information does not
42 indicate involvement of the individual in the criminal justice system or
43 information relating to juveniles unless they have been adjudicated as
44 adults.

45 8. "Criminal justice agency" means either:

1 (a) A court at any governmental level with criminal or equivalent
2 jurisdiction, including courts of any foreign sovereignty duly recognized
3 by the federal government.

4 (b) A government agency or subunit of a government agency that is
5 specifically authorized to perform as its principal function the
6 administration of criminal justice pursuant to a statute, ordinance or
7 executive order and that allocates more than fifty percent of its annual
8 budget to the administration of criminal justice. This subdivision
9 includes agencies of any foreign sovereignty duly recognized by the
10 federal government.

11 9. "Criminal justice information" means information that is
12 collected by criminal justice agencies and that is needed for the
13 performance of their legally authorized and required functions, such as
14 criminal history record information, citation information, stolen property
15 information, traffic accident reports, wanted persons information and
16 system network log searches. Criminal justice information does not
17 include the administrative records of a criminal justice agency.

18 10. "Disposition" means information disclosing that a decision has
19 been made not to bring criminal charges or that criminal proceedings have
20 been concluded or information relating to sentencing, correctional
21 supervision, release from correctional supervision, the outcome of an
22 appellate review of criminal proceedings or executive clemency.

23 11. "Dissemination" means the written, oral or electronic
24 communication or transfer of criminal justice information to individuals
25 and agencies other than the criminal justice agency that maintains the
26 information. Dissemination includes the act of confirming the existence
27 or nonexistence of criminal justice information.

28 12. "Management control":

29 (a) Means the authority to set and enforce:

30 (i) Priorities regarding development and operation of criminal
31 justice information systems and programs.

32 (ii) Standards for the selection, supervision and termination of
33 personnel involved in the development of criminal justice information
34 systems and programs and in the collection, maintenance, analysis and
35 dissemination of criminal justice information.

36 (iii) Policies governing the operation of computers, circuits and
37 telecommunications terminals used to process criminal justice information
38 to the extent that the equipment is used to process, store or transmit
39 criminal justice information.

40 (b) Includes the supervision of equipment, systems design,
41 programming and operating procedures necessary for the development and
42 implementation of automated criminal justice information systems.

43 13. "Process control number" means the Arizona automated
44 fingerprint identification system number that attaches to each arrest

1 event at the time of fingerprinting and that is assigned to the arrest
2 fingerprint card, disposition form and other pertinent documents.

3 14. "Secondary dissemination" means the dissemination of criminal
4 justice information from an individual or agency that originally obtained
5 the information from the central state repository or through the Arizona
6 criminal justice information system to another individual or agency.

7 15. "Sexual orientation" means consensual homosexuality or
8 heterosexuality.

9 16. "Subject of record" means the person who is the primary subject
10 of a criminal justice record.

11 Sec. 11. Section 41-1758, Arizona Revised Statutes, is amended to
12 read:

13 41-1758. Definitions

14 In this article, unless the context otherwise requires:

15 1. "Agency" means the supreme court, the department of economic
16 security, the department of child safety, the department of education, the
17 department of health services, the department of juvenile corrections, the
18 department of emergency and military affairs, the department of public
19 safety, the department of transportation, the state real estate
20 department, the department of insurance and financial institutions, the
21 board of fingerprinting, the Arizona game and fish department, the Arizona
22 department of agriculture, the board of examiners of nursing care
23 institution administrators and assisted living facility managers, the
24 state board of dental examiners, the Arizona state board of pharmacy, the
25 board of physical therapy, the state board of psychologist examiners, the
26 board of athletic training, the board of occupational therapy examiners,
27 the state board of podiatry examiners, the acupuncture board of examiners,
28 the state board of technical registration, ~~or~~ the board of massage therapy
29 or the Arizona department of housing.

30 2. "Division" means the fingerprinting division in the department
31 of public safety.

32 3. "Electronic or internet-based fingerprinting services" means a
33 secure system for digitizing applicant fingerprints and transmitting the
34 applicant data and fingerprints of a person or entity submitting
35 fingerprints to the department of public safety for any authorized purpose
36 under this title. For the purposes of this paragraph, "secure system"
37 means a system that complies with the information technology security
38 policy approved by the department of public safety.

39 4. "Good cause exception" means the issuance of a fingerprint
40 clearance card to an applicant pursuant to section 41-619.55.

41 5. "Person" means a person who is required to be fingerprinted
42 pursuant to any of the following:

- 43 (a) Section 3-314.
- 44 (b) Section 8-105.
- 45 (c) Section 8-322.

- 1 (d) Section 8-463.
- 2 (e) Section 8-509.
- 3 (f) Section 8-802.
- 4 (g) Section 15-183.
- 5 (h) Section 15-503.
- 6 (i) Section 15-512.
- 7 (j) Section 15-534.
- 8 (k) Section 15-763.01.
- 9 (l) Section 15-782.02.
- 10 (m) Section 15-1330.
- 11 (n) Section 15-1881.
- 12 (o) SECTION 15-2407.
- 13 ~~(p)~~ (p) Section 17-215.
- 14 ~~(q)~~ (q) Section 28-3228.
- 15 ~~(r)~~ (r) Section 28-3413.
- 16 ~~(s)~~ (s) Section 32-122.02.
- 17 ~~(t)~~ (t) Section 32-122.05.
- 18 ~~(u)~~ (u) Section 32-122.06.
- 19 ~~(v)~~ (v) Section 32-823.
- 20 ~~(w)~~ (w) Section 32-1232.
- 21 ~~(x)~~ (x) Section 32-1276.01.
- 22 ~~(y)~~ (y) Section 32-1284.
- 23 ~~(z)~~ (z) Section 32-1297.01.
- 24 ~~(aa)~~ (aa) Section 32-1904.
- 25 ~~(bb)~~ (bb) Section 32-1941.
- 26 ~~(cc)~~ (cc) Section 32-1982.
- 27 ~~(dd)~~ (dd) Section 32-2022.
- 28 ~~(ee)~~ (ee) Section 32-2063.
- 29 ~~(ff)~~ (ff) Section 32-2108.01.
- 30 ~~(gg)~~ (gg) Section 32-2123.
- 31 ~~(hh)~~ (hh) Section 32-2371.
- 32 ~~(ii)~~ (ii) Section 32-3430.
- 33 ~~(jj)~~ (jj) Section 32-3620.
- 34 ~~(kk)~~ (kk) Section 32-3668.
- 35 ~~(ll)~~ (ll) Section 32-3669.
- 36 ~~(mm)~~ (mm) Section 32-3922.
- 37 ~~(nn)~~ (nn) Section 32-3924.
- 38 ~~(oo)~~ (oo) Section 32-4128.
- 39 ~~(pp)~~ (pp) Section 32-4222.
- 40 ~~(qq)~~ (qq) Section 36-113.
- 41 ~~(rr)~~ (rr) Section 36-207.
- 42 ~~(ss)~~ (ss) Section 36-411.
- 43 ~~(tt)~~ (tt) Section 36-425.03.
- 44 ~~(uu)~~ (uu) Section 36-446.04.
- 45 ~~(vv)~~ (vv) Section 36-594.01.

- 1 ~~(vv)~~ (ww) Section 36-594.02.
- 2 ~~(ww)~~ (xx) Section 36-766.01.
- 3 ~~(xx)~~ (yy) Section 36-882.
- 4 ~~(yy)~~ (zz) Section 36-883.02.
- 5 ~~(zz)~~ (aaa) Section 36-897.01.
- 6 ~~(aaa)~~ (bbb) Section 36-897.03.
- 7 ~~(bbb)~~ (ccc) Section 36-3008.
- 8 ~~(ccc)~~ (ddd) Section 41-619.52.
- 9 ~~(ddd)~~ (eee) Section 41-619.53.
- 10 ~~(eee)~~ (fff) Section 41-1964.
- 11 ~~(fff)~~ (ggg) Section 41-1967.01.
- 12 ~~(ggg)~~ (hhh) Section 41-1968.
- 13 ~~(hhh)~~ (iii) Section 41-1969.
- 14 ~~(iii)~~ (jjj) Section 41-2814.
- 15 ~~(jjj)~~ (kkk) Section 41-4025.
- 16 ~~(kkk)~~ (lll) Section 46-141, subsection A or B.
- 17 ~~(lll)~~ (mmm) Section 46-321.

18 6. "Vulnerable adult" has the same meaning prescribed in section
19 13-3623.

20 Sec. 12. Section 41-1758.01, Arizona Revised Statutes, is amended
21 to read:

22 41-1758.01. Fingerprinting division; powers and duties

23 A. The fingerprinting division is established in the department of
24 public safety and shall:

25 1. Conduct fingerprint background checks for persons and applicants
26 who are seeking licenses from state agencies, employment with licensees,
27 contract providers and state agencies or employment or educational
28 opportunities with agencies that require fingerprint background checks
29 pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183,
30 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 15-2407,
31 17-215, 28-3228, 28-3413, 32-122.02, 32-122.05, 32-122.06, 32-823,
32 32-1232, 32-1276.01, 32-1284, 32-1297.01, 32-1904, 32-1941, 32-1982,
33 32-2022, 32-2063, 32-2108.01, 32-2123, 32-2371, 32-3430, 32-3620, 32-3668,
34 32-3669, 32-3922, 32-3924, 32-4128, 32-4222, 36-113, 36-207, 36-411,
35 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-766.01, 36-882, 36-883.02,
36 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01,
37 41-1968, 41-1969, 41-2814, ~~AND~~ 41-4025, section 46-141, subsection A or B
38 and section 46-321.

39 2. Issue fingerprint clearance cards. On issuance, a fingerprint
40 clearance card becomes the personal property of the cardholder and the
41 cardholder shall retain possession of the fingerprint clearance card.

42 3. On submission of an application for a fingerprint clearance
43 card, collect the fees established by the board of fingerprinting pursuant
44 to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147,
45 the monies collected in the board of fingerprinting fund.

1 4. Inform in writing each person who submits fingerprints for a
2 fingerprint background check of the right to petition the board of
3 fingerprinting for a good cause exception pursuant to section 41-1758.03,
4 41-1758.04 or 41-1758.07.

5 5. If after conducting a state and federal criminal history records
6 check the division determines that it is not authorized to issue a
7 fingerprint clearance card to a person, inform the person in writing that
8 the division is not authorized to issue a fingerprint clearance card. The
9 notice shall include the criminal history information on which the denial
10 was based. This criminal history information is subject to dissemination
11 restrictions pursuant to section 41-1750 and Public Law 92-544.

12 6. Notify the person in writing if the division suspends, revokes
13 or places a driving restriction notation on a fingerprint clearance card
14 pursuant to section 41-1758.04. The notice shall include the criminal
15 history information on which the suspension, revocation or placement of
16 the driving restriction notation was based. This criminal history
17 information is subject to dissemination restrictions pursuant to section
18 41-1750 and Public Law 92-544.

19 7. Administer and enforce this article.

20 B. The fingerprinting division may contract for electronic or
21 internet-based fingerprinting services through an entity or entities for
22 the acquisition and transmission of applicant fingerprint and data
23 submissions to the department, including identity verified fingerprints
24 pursuant to section 15-106. The entity or entities contracted by the
25 department of public safety may charge the applicant a fee for services
26 provided pursuant to this article. The entity or entities contracted by
27 the department of public safety shall comply with:

28 1. All information privacy and security measures and submission
29 standards established by the department of public safety.

30 2. The information technology security policy approved by the
31 department of public safety.

32 Sec. 13. Section 41-1758.08, Arizona Revised Statutes, is amended
33 to read:

34 41-1758.08. Fingerprint clearance card; use of expired card

35 A. Notwithstanding any other law, an expired fingerprint clearance
36 card may be used to satisfy the fingerprint requirements of section
37 15-183, 15-503, 15-512, 15-534, 15-782.02, 15-1330, ~~OR~~ 15-1881 OR 15-2407
38 if the person signs an affidavit stating both of the following:

39 1. The person submitted a completed application to the division for
40 a new fingerprint clearance card within ninety days before the expiration
41 date on the person's current fingerprint clearance card.

42 2. The person is not awaiting trial on and has not been convicted
43 of a criminal offense that would make the person ineligible for a
44 fingerprint clearance card.

1 B. This section does not apply to a fingerprint clearance card that
2 has been denied, suspended or revoked or to a person who has requested a
3 good cause exception hearing.

4 Sec. 14. Fingerprinting requirement; current school personnel

5 Notwithstanding section 15-2407, subsection A, Arizona Revised
6 Statutes, as added by this act, current school personnel, as defined in
7 section 15-2407, Arizona Revised Statutes, as added by this act, must
8 comply with the fingerprint clearance card requirements prescribed in
9 section 15-2407, Arizona Revised Statutes, as added by this act, within
10 six months after the effective date of this act.