Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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

CHAPTER 321

HOUSE BILL 2571

AN ACT

AMENDING SECTIONS 3-107, 3-1003, 3-1003.02, 3-1211, 4-111, 4-112, 5-101.01, 5-105, 5-112, 5-224, 5-556, 5-604, 6-111, 6-112, 15-182, 15-203 AND 15-543, ARIZONA REVISED STATUTES; REPEALING SECTION 15-1331, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-1626, 15-1852, 15-2002, 17-211, 17-231, 20-141, 20-148, 23-108, 23-108.02, 23-391, 23-406, 23-1501, 26-101, 26-102, 26-305, 27-122, 27-151, 28-363, 30-103, 30-108, 30-652, 31-401, 31-402, 32-106, 32-304, 32-503, 32-703, 32-802, 32-905, 32-1103, 32-1104, 32-1205, 32-1305, 32-1307, 32-1405, 32-1509, 32-1605.01, 32-1673, 32-1704, 32-1804, 32-1903, 32-1904, 32-2003, 32-2063, 32-2109, 32-2206, 32-2207, 32-2304, 32-2904, 32-2905, 32-3003, 32-3253, 32-3403, 32-3504, 32-3506, 32-3605, 32-3903, 32-3904, 35-196.01, 36-102, 36-103, 36-273, 36-446.03, 36-450.02, 36-1943, 36-2903.01, 36-2926, 37-132, 37-623.01, 37-1122, 38-401, 38-448, 38-532, 38-610.01, 38-610.02 AND 38-611, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 38-611.01 AND 38-611.02; AMENDING SECTIONS 38-612, 38-654, 38-715, 38-848, 40-105, 40-108, 40-464, 41-121.02, 41-151.04, 41-151.05, 41-172, 41-192, 41-511.02, 41-511.05, 41-531, 41-542, 41-619.53 AND 41-701, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-709, 41-710 AND 41-711; AMENDING TITLE 41, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; REPEALING TITLE 41, CHAPTER 4, ARTICLE 5, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 5; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, TO "STATE PERSONNEL BOARD"; AMENDING SECTIONS 41-781 AND 41-782, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-783 AND 41-784, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTION 41-785, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 41, CHAPTER 4, ARTICLE 6, AS SECTION 41-783; AMENDING SECTION 41-783,

ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; REPEALING SECTION 41-786, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-821, 41-832, 41-902, 41-903, 41-941, 41-982, 41-1009, 41-1051, 41-1092.01, 41-1604, 41-1711, 41-1830.11, 41-1830.12 AND 41-1830.13, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1830.14, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1830.15, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1830.16; AMENDING SECTIONS 41-1952, 41-1954, 41-2061, 41-2065, 41-2147, 41-2305, 41-2405, 41-2513, 41-2804, 41-2831, 41-3016.06, 41-3451, 41-3503, 41-3505, 41-3952, 41-4253, 41-4301, 41-4801, 42-1002, 42-1004, 42-1252, 42-16155, 45-104, 45-418, 49-103 AND 49-1203, ARIZONA REVISED STATUTES; RELATING TO THE STATE PERSONNEL SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 3-107, Arizona Revised Statutes, is amended to read:

3-107. Organizational and administrative powers and duties of the director

A. The director shall:

1. Formulate the program and policies of the department and adopt administrative rules to effect its program and policies.

2. Ensure coordination and cooperation in the department in order to achieve a unified policy of administering and executing its responsibilities.

3. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions of money or property from any public or private source, including the federal government. All contributions shall be included in the annual report under paragraph 6 of this subsection. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from THE PROVISIONS OF section 35-190 relating to lapsing of appropriations.

4. Contract and enter into interagency and intergovernmental agreements pursuant to title 11, chapter 7, article 3 with any private party or public agency.

5. Administer oaths to witnesses and issue and direct the service of subpoenas requiring witnesses to attend and testify at or requiring the production of evidence in hearings, investigations and other proceedings.

6. Not later than September 30 each year issue a report to the governor and the legislature of the department's activities during the preceding fiscal year. The report may recommend statutory changes to improve the department's ability to achieve the purposes and policies established by law. The director shall provide a copy of the report to the Arizona state library, archives and public records.

7. Establish, equip and maintain a central office in Phoenix and field offices as the director deems necessary.

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

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

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

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

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

B. The director may:

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

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

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

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

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

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

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

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

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

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

A. The Arizona exposition and state fair board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3-1003.02. Duties of the executive director and comptroller

A. The executive director shall be:

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

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

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

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

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

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

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

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

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

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

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

3-1211. State veterinarian; qualifications

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

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

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

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

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

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

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

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

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

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

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

~~1. Fraud in securing appointment.~~

~~2. Incompetency.~~

~~3. Inefficiency.~~

~~4. Inexcusable neglect of duty.~~
~~5. Insubordination.~~
~~6. Dishonesty.~~
~~7. Drunkenness on duty.~~
~~8. Addiction to the use of narcotics or habit-forming drugs.~~
~~9. Inexcusable absence without leave.~~
~~10. Final conviction of a felony or a misdemeanor involving moral turpitude.~~
~~11. Discourteous treatment of the public.~~
~~12. Improper political activity.~~
~~13. Wilful disobedience.~~
~~14. Misuse of state property.~~

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

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

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

A. The board shall:

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

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

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

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

1. Adopting rules:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

G. The director may:

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

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

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

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

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

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

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

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

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

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

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

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

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

5-101.01. <u>Arizona department of racing; director; qualifications; term; deputy director; conflict of interest</u>

A. There is established an Arizona department of racing.

B. The governor shall appoint a director of the department pursuant to section 38-211 ~~and in accordance with the provisions of subsection C of this section~~. The director serves at the pleasure of the governor ~~for a term of five years~~. To be eligible for appointment as director, a person must have a minimum of five years of experience in business and administration and shall

not have a financial interest in a racetrack or in the racing industry in this state during ~~the term of~~ his appointment. The governor may appoint an acting director if there is a vacancy in the office.

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

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

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

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

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

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

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

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

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

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

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

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

5-105. <u>Appointment of personnel; tests; reports; detention of animals; testing facilities</u>

A. For purposes of detecting violations of this article, the department shall appoint qualified veterinarians, biochemists and such other

personnel SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 as the department considers necessary or may contract with a duly qualified chemical laboratory located either within or outside this state. The testing personnel may, in accordance with such procedures as the commission by regulation prescribes:

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

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

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

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

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

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

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

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

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

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

E. Testing personnel may detain for a period of not to exceed twenty-four hours for examination, testing or the taking of evidence any

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

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

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

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

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

B. The department, upon request by a permittee, may grant permission for electronically televised simulcasts of horse, harness or dog races to be received by the permittee. In counties having a population of one million five hundred thousand persons or more according to the most recent United States decennial census, the simulcasts shall be received at the racetrack enclosure where a horse, harness or dog racing meeting is being conducted, provided that the simulcast may only be received during, immediately before or immediately after a minimum of nine posted races for that racing day. In counties having a population of five hundred thousand persons or more but less than one million five hundred thousand persons according to the most recent United States decennial census, the simulcasts shall be received at the racetrack enclosure where a horse, harness or dog racing meeting is being conducted provided that the simulcast may only be received during, immediately before or immediately after a minimum of four posted races for that racing day. In all other counties, the simulcasts shall be received at a racetrack enclosure at which authorized racing has been conducted whether or not posted races have been offered for the day the simulcast is received. The simulcasts shall be limited to horse, harness or dog races. The simulcasts shall be limited to the same type of racing as authorized in the permit for live racing conducted by the permittee. The department, upon request by a permittee, may grant permission for the permittee to transmit the live race from the racetrack enclosure where a horse, harness or dog racing meeting is being conducted to a facility or facilities in another state. All simulcasts of horse or harness races shall comply with the interstate ~~horse racing~~ HORSERACING act of 1978 (P.L. 95-515; 92 Stat. 1811; 15 United States Code chapter 57). All forms of pari-mutuel wagering shall

be allowed on horse, harness or dog races televised by simulcasting. All monies wagered by patrons on these horse, harness or dog races shall be computed in the amount of money wagered each racing day for purposes of section 5-111.

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

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

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

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

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

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

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

F. The minimum racing day requirements of subsections C and D of this section shall be computed by adding all racing days, including any county fair racing days operated in accordance with section 5-110, subsection F,

allotted to the permittee's racetrack enclosure in one or more racing permits and all racing days allotted to the permittee's racetrack enclosure pursuant to section 5-110, subsection H.

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

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

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

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

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

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

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

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

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

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

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

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

5-224. <u>Division of boxing and mixed martial arts regulation; powers and duties</u>

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

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

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

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

E. The commission shall:

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

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

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

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

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

Sec. 11. Section 5-556, Arizona Revised Statutes, is amended to read:

5-556. Powers and duties of director

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

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

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

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

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

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

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

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

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

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

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

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

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

A. The department of gaming is established.

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

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

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

Sec. 13. Section 6-111, Arizona Revised Statutes, is amended to read:

6-111. Superintendent; appointment; qualifications; salary

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

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

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

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

Sec. 14. Section 6-112, Arizona Revised Statutes, is amended to read:

6-112. Deputy superintendent; examiners; personnel

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

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

~~B. The superintendent~~

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

~~C. The superintendent~~

3. Shall appoint such examiners and other personnel necessary.

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

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

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

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

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

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

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

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

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

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

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

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

E. The state board for charter schools shall:

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

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

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

4. Keep a record of its proceedings.

5. Adopt rules for its own government.

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

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

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

F. The state board for charter schools may:

1. Contract.

2. Sue and be sued.

3. Use the services of the auditor general.

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

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

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

15-203. Powers and duties

A. The state board of education shall:

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

2. Keep a record of its proceedings.

3. Make rules for its own government.

4. Determine the policy and work undertaken by it.

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

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

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

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

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

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

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

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

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

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

(a) Allow a variety of alternative teacher and administrator preparation programs, with variations in program sequence and design, to apply for program approval. The state board shall adopt rules pursuant to this subdivision designed to allow for a variety of formats and shall not require a prescribed answer or design from the program provider in order to obtain approval from the state board. The state board shall evaluate each program provider based on the program's ability to prepare teachers and administrators and to recruit teachers and administrators with a variety of experiences and talents. The state board shall permit universities under the jurisdiction of the Arizona board of regents, community colleges in this state, private postsecondary institutions licensed by this state, school

1 districts, charter schools and professional organizations to apply for
2 program approval and shall create application procedures and certification
3 criteria that are less restrictive than those for traditional preparation
4 programs. Alternative preparation program graduates shall:
5 (i) Hold a bachelor's degree from an accredited postsecondary
6 education institution.
7 (ii) Demonstrate professional knowledge and subject knowledge
8 proficiency pursuant to section 15-533.
9 (iii) Obtain a fingerprint clearance card pursuant to section 15-534.
10 (iv) Complete training in structured English immersion as prescribed
11 by the state board.
12 (v) Complete training in research based systematic phonics instruction
13 as prescribed in subdivision (b) of this paragraph.
14 (vi) Demonstrate the required proficiency in the constitutions of the
15 United States and Arizona as prescribed in section 15-532.
16 (b) Require applicants for all certificates for common school
17 instruction to complete a minimum of forty-five classroom hours or three
18 college level credit hours, or the equivalent, of training in research based
19 systematic phonics instruction from a public or private provider.
20 (c) Not require a teacher to obtain a master's degree or to take any
21 additional graduate courses as a condition of certification or
22 recertification.
23 (d) Allow a general equivalency diploma to be substituted for a high
24 school diploma in the certification of emergency substitute teachers.
25 (e) Allow but shall not require the superintendent of a school
26 district to obtain certification from the state board of education.
27 15. Adopt a list of approved tests for determining special education
28 assistance to gifted pupils as defined in and as provided in chapter 7,
29 article 4.1 of this title. The adopted tests shall provide separate scores
30 for quantitative reasoning, verbal reasoning and nonverbal reasoning and
31 shall be capable of providing reliable and valid scores at the highest ranges
32 of the score distribution.
33 16. Adopt rules governing the methods for the administration of all
34 proficiency examinations.
35 17. Adopt proficiency examinations for its use. The state board of
36 education shall determine the passing score for the proficiency examination.
37 18. Include within its budget the cost of contracting for the purchase,
38 distribution and scoring of the examinations as provided in paragraphs 16 and
39 17 of this subsection.
40 19. Supervise and control the qualifications of professional
41 nonteaching school personnel and prescribe standards relating to
42 qualifications. The standards shall not require the business manager of a
43 school district to obtain certification from the state board of education.

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

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

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

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

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

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

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

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

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

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

(a) Currently resides in this state.

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

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

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

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

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

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

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

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

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

(f) Procedures for a faculty advisor, a guidance counselor or any other school employee who is designated as the community service program

coordinator to evaluate and certify the completion of community service performed by pupils.

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

(a) Address procedures for each of the following:

(i) The transfer of student records.

(ii) Awarding credit for completed course work.

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

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

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

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

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

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

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

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

B. The state board of education may:

1. Contract.

2. Sue and be sued.

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

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

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

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

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

15-543. <u>Appeal from decision of board</u>

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

B. The decision of the governing board may be reviewed by the court in the same manner as the decision made in accordance with ~~the provisions of~~ section ~~41-785~~ 41-783. The proceeding shall be set for hearing at the earliest possible date and shall take precedence over all other cases, except

older matters of the same character and matters to which special precedence is otherwise given by law.

Sec. 18. Repeal

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

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

15-1626. General administrative powers and duties of board

A. The board shall:

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

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

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

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

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

1 certificates, credits earned in the pursuit of teaching certification,
2 credits transferred from a private institution of higher education, credits
3 transferred from an institution of higher education in another state, credits
4 earned at another institution of higher education but that are not accepted
5 as transfer credits at the university where the student is currently enrolled
6 and credits earned by students who enroll at a university under the
7 jurisdiction of the board more than twenty-four months after the end of that
8 student's previous enrollment at a public institution of higher education in
9 this state. On or before October 15 of each year, the board shall report to
10 the joint legislative budget committee the number of students who were
11 enrolled at universities under the jurisdiction of the board during the
12 previous fiscal year who met or exceeded the undergraduate credit hour
13 threshold prescribed in this paragraph. The amount of tuition, registration
14 fees and other revenues included in the operating budget for the university
15 adopted by the board as prescribed in paragraph 13 of this subsection shall
16 be deposited, pursuant to sections 35-146 and 35-147. All other tuition and
17 fee revenue shall be retained by each university for expenditure as approved
18 by the board, except that the universities shall not use any tuition or fee
19 revenue to fund or support an alumni association.
20 6. Except as provided in subsection I of this section, adopt rules to
21 govern its tuition and fee setting process that provide for the following:
22 (a) At least one public hearing at each university as an opportunity
23 for students and members of the public to comment on any proposed increase in
24 tuition or fees.
25 (b) Publication of the notice of public hearing at least ten days
26 prior to the hearing in a newspaper of general circulation in Maricopa
27 county, Coconino county and Pima county. The notice shall include the date,
28 time and location of the public hearing.
29 (c) Public disclosure by each university of any proposed increases in
30 tuition or fees at least ten days prior to the public hearing.
31 (d) Final board action on changes in tuition or fees shall be taken by
32 roll call vote.
33 The procedural requirements of subdivisions (a), (b), (c) and (d) of this
34 paragraph apply only to those changes in tuition or fees that require board
35 approval.
36 7. Pursuant to section 35-115, submit a budget request for each
37 institution under its jurisdiction that includes the estimated tuition and
38 fee revenue available to support the programs of the institution as described
39 in the budget request. The estimated available tuition and fee revenue shall
40 be based on the tuition and registration fee rates in effect at the time the
41 budget request is submitted with adjustments for projected changes in
42 enrollment as provided by the board.
43 8. Establish curriculums and designate courses at the several
44 institutions that in its judgment will best serve the interests of this
45 state.

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

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

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

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

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

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

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

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

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

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

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

(a) Address procedures for each of the following:

(i) The transfer of student records.

(ii) Awarding credit for completed course work.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15-1852. <u>Additional powers and duties</u>

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

1. Meet at least four times each year.

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

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

4. Keep a record of its proceedings.

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

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

B. The commission may:

1. Adopt an official seal.

2. Contract.

3. Sue and be sued.

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

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

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

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

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

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

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

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

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

A. The school facilities board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

10. By December 1 of each year, report electronically to the joint committee on capital review the amounts necessary to fulfill the requirements of sections 15-2022, 15-2031 and 15-2041 for the following fiscal year and the estimated amounts necessary to fulfill the requirements of sections 15-2022, 15-2031 and 15-2041 for the fiscal year following the next fiscal

year. The board shall provide copies of the report to the president of the senate, the speaker of the house of representatives and the governor.

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

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

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

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

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

1. Private services.

2. Construction project management services.

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

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

C. The governor shall appoint an executive director of the school facilities board pursuant to section 38-211. The executive director is eligible to receive compensation as determined pursuant to section 38-611 and may hire and fire necessary staff SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND as approved by the legislature in the budget. The executive director shall have demonstrated competency in school finance, facilities design or

1 facilities management, either in private business or government service. The
2 executive director serves at the pleasure of the governor. The staff of the
3 school facilities board is exempt from title 41, chapter 4, articles 5 and 6.
4 The executive director:
5 1. Shall analyze applications for monies submitted to the board by
6 school districts.
7 2. Shall assist the board in developing forms and procedures for the
8 distribution and review of applications and the distribution of monies to
9 school districts.
10 3. May review or audit, or both, the expenditure of monies by a school
11 district for deficiencies corrections, building renewal and new school
12 facilities.
13 4. Shall assist the board in the preparation of the board's annual
14 report.
15 5. Shall research and provide reports on issues of general interest to
16 the board.
17 6. May aid school districts in the development of reasonable and
18 cost-effective school designs in order to avoid statewide duplicated efforts
19 and unwarranted expenditures in the area of school design.
20 7. May assist school districts in facilitating the development of
21 multijurisdictional facilities.
22 8. Shall assist the board in any other appropriate matter or method as
23 directed by the members of the board.
24 9. Shall establish procedures to ensure compliance with the notice and
25 hearing requirements prescribed in section 15-905. The notice and hearing
26 procedures adopted by the board shall include the requirement, with respect
27 to the board's consideration of any application filed after July 1, 2001 or
28 after December 31 of the year in which the property becomes territory in the
29 vicinity of a military airport or ancillary military facility as defined in
30 section 28-8461 for monies to fund the construction of new school facilities
31 proposed to be located in territory in the vicinity of a military airport or
32 ancillary military facility, that the military airport receive notification
33 of the application by first class mail at least thirty days before any
34 hearing concerning the application.
35 10. May expedite any request for monies in which the local match was
36 not obtained for a project that received preliminary approval by the state
37 board for school capital facilities.
38 11. Shall expedite any request for monies in which the school district
39 governing board submits an application that shows an immediate need for a new
40 school facility.
41 12. Shall make a determination as to administrative completion within
42 one month after the receipt of an application by a school district for monies
43 from the new school facilities fund.
44 13. Shall provide technical support to school districts as requested by
45 school districts in connection with the construction of new school facilities

1 and the maintenance of existing school facilities and may contract directly
2 with construction project managers pursuant to subsection B of this section.
3 This paragraph does not restrict a school district from contracting with a
4 construction project manager using district or state resources.
5 D. When appropriate, the school facilities board shall review and use
6 the statewide school facilities inventory and needs assessment conducted by
7 the joint committee on capital review and issued in July, 1995.
8 E. The school facilities board shall contract with one or more private
9 building inspectors to complete an initial assessment of school facilities
10 and equipment and shall inspect each school building in this state at least
11 once every five years to ensure compliance with section 15-2011. A copy of
12 the inspection report, together with any recommendations for building
13 maintenance, shall be provided to the school facilities board and the
14 governing board of the school district.
15 F. The school facilities board may consider appropriate combinations
16 of facilities or uses in making assessments of and curing deficiencies
17 pursuant to subsection A, paragraph 1 of this section and in certifying plans
18 for new school facilities pursuant to subsection A, paragraph 5 of this
19 section.
20 G. The board shall not award any monies to fund new facilities that
21 are financed by class A bonds that are issued by the school district.
22 H. The board shall not distribute monies to a school district for
23 replacement or repair of facilities if the costs associated with the
24 replacement or repair are covered by insurance or a performance or payment
25 bond.
26 I. The board may contract for construction services and materials that
27 are necessary to correct existing deficiencies in school district facilities.
28 The board may procure the construction services necessary pursuant to this
29 subsection by any method, including construction-manager-at-risk,
30 design-build, design-bid-build or job-order-contracting as provided by title
31 41, chapter 23. The construction planning and services performed pursuant to
32 this subsection are exempt from section 41-791.01.
33 J. The school facilities board may enter into agreements with school
34 districts to allow school facilities board staff and contractors access to
35 school property for the purposes of performing the construction services
36 necessary pursuant to subsection I of this section.
37 K. Each school district shall develop routine preventative maintenance
38 guidelines for its facilities. The guidelines shall include plumbing
39 systems, electrical systems, heating, ventilation and air conditioning
40 systems, special equipment and other systems and for roofing systems shall
41 recommend visual inspections performed by district staff for signs of
42 structural stress and weakness. The guidelines shall be submitted to the
43 school facilities board for review and approval. If on inspection by the
44 school facilities board it is determined that a school district facility was
45 inadequately maintained pursuant to the school district's routine

preventative maintenance guidelines, the school district shall use building renewal monies pursuant to section 15-2031, subsection L to return the building to compliance with the school district's routine preventative maintenance guidelines. Once the district is in compliance, it no longer is required to use building renewal monies for preventative maintenance.

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

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

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

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

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

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

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

17-211. <u>Director; selection; removal; powers and duties; employees</u>

A. The commission shall appoint a director of the Arizona game and fish department, who shall be the chief administrative officer of the game and fish department. The director shall receive compensation as determined pursuant to section 38-611. The director shall be selected on the basis of administrative ability and general knowledge of wildlife management. The director shall act as secretary to the commission, and shall serve ~~for a term of five years, but may be removed by the commission, after public hearing, for inefficiency, neglect of duty or misconduct in office. If the director~~

~~is removed, the commission shall make, in its minutes, a complete statement of the proceedings and all charges made against the director, and its findings~~ AT THE PLEASURE OF THE COMMISSION. The director shall not hold any other office, and shall devote the entire time to the duties of office.

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

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

D. The director shall:

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

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

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

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

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

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

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

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

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

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

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

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

17-231. General powers and duties of the commission

A. The commission shall:

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

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

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

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

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

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

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

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

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

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

B. The commission may:

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

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

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

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

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

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

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

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

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

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

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

12. Consider the adverse and beneficial short-term and long-term economic impacts on resource dependent communities, small businesses and the state of Arizona, of policies and programs for the management, preservation and harvest of wildlife by holding a public hearing to receive and consider written comments and public testimony from interested persons.

13. Adopt rules relating to range operations at public shooting ranges operated by and under the jurisdiction of the commission, including the hours of operation, the fees for the use of the range, the regulation of groups and events, the operation of related range facilities, the type of firearms and ammunition that may be used at the range, the safe handling of firearms at the range, THE required safety equipment for a person using the range, the sale of firearms, ammunition and shooting supplies at the range, and the

authority of range officers to enforce these rules, to remove violators from the premises and to refuse entry for repeat violations.

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

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

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

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

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

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

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

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

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

20-148. Deputies and other employees; special services

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

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

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

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

23-108. Director; employees; compensation and expenses

A. The commission shall employ a director WHO IS SUBJECT TO CONFIRMATION BY THE SENATE. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the

director may employ such personnel as deemed necessary by the provisions of chapters 1, 2 and 6 and article 2 of chapter 3 of this title.

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

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

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

23-108.02. Administrative law judges

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

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

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

23-391. Overtime pay; work week

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

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

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

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

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

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

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

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

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

C. The director shall be:

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

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

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

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

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

A. The public policy of this state is that:

1. The employment relationship is contractual in nature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. IF THE STATUTE PROVIDES A REMEDY TO AN EMPLOYEE FOR A VIOLATION OF THE STATUTE, THE REMEDIES PROVIDED TO AN EMPLOYEE FOR A VIOLATION OF THE STATUTE ARE THE EXCLUSIVE REMEDIES FOR THE VIOLATION OF THE STATUTE OR THE PUBLIC POLICY PRESCRIBED IN OR ARISING OUT OF THE STATUTE.

Sec. 31. Section 26-101, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

Sec. 32. Section 26-102, Arizona Revised Statutes, is amended to read:

26-102. Powers and duties of the adjutant general

A. The adjutant general shall serve as head of the department. The governor as commander in chief shall administer and control the national guard, and the adjutant general is responsible to the governor for execution of all orders relating to the militia, organization, activation, reactivation, inactivation and allocation of units, recruiting of personnel, public relations and discipline and training of the national guard and those members of the militia inducted into the service of this state as provided in this chapter. The adjutant general shall act as military chief of staff to the governor and chief of all branches of the militia. The adjutant general may belong to the national association and other organizations for the betterment of the national guard, subscribe to and obtain periodicals, literature and magazines of such other organizations and pay dues and charges

from monies of this state appropriated for that purpose. Except for the authority expressly reserved for the governor, the adjutant general is responsible for emergency management, and all emergency activities are subject to the approval of the adjutant general.

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

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

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

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

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

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

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

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

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

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

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

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

1. Be the administrator of the department.

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

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

4. Appoint an auditor for the department to conduct periodic financial and compliance audits of each division and office in the department and

1 perform such other duties as prescribed by law. At least annually the
2 auditor shall audit accounts that are open for more than twelve months. The
3 auditor shall determine within the department compliance with purchase and
4 bidding procedures prescribed by law.
5 5. Adopt, with the approval of the governor, rules necessary for the
6 operation of the department.
7 6. Establish and administer accounts for federal, state or other
8 monies made available to carry out the functions of the department.
9 7. As deemed necessary, appoint to peace officer status members of the
10 Arizona national guard who have been awarded a United States army military
11 occupational specialty as military policeman or a United States air force
12 specialty code as security policeman. Before appointment as peace officers,
13 such individuals must successfully complete a course of study to be
14 prescribed by the Arizona peace officer standards and training board.
15 Individuals appointed as peace officers pursuant to this section, when
16 performing duties at facilities or on land operated or controlled by or under
17 the jurisdiction of the adjutant general, have all the powers, privileges and
18 immunities of peace officers provided by law. Individuals appointed as peace
19 officers pursuant to this section are not eligible to participate in funding
20 provided by the peace officers' training fund established by section 41-1825
21 or in the public safety personnel retirement system.
22 8. Establish, abolish or reorganize the positions or organizational
23 structure within the department, subject to legislative appropriation, if, in
24 the adjutant general's judgment, the modification would make the operation of
25 the department more efficient, effective or economical.
26 9. Establish an educational program for persons who have previously
27 dropped out of high school and who are under twenty years of age but who are
28 not adjudicated delinquent. The educational program shall be designated
29 "project challenge", and the program shall be conducted by the national guard
30 of Arizona in a paramilitary environment. The goal of the educational
31 program is to provide persons enrolled in the program with the knowledge and
32 skills necessary to become productive citizens and to obtain a general
33 equivalency diploma. In addition to monies appropriated for the program, the
34 adjutant general may accept and spend monies from any other lawful public or
35 private source.
36 10. Submit to the governor, the president of the senate and the speaker
37 of the house of representatives annually by September 1 a report for the
38 department for the preceding fiscal year including:
39 (a) The strength and condition of the national guard.
40 (b) The business transactions of the department.
41 (c) A detailed statement of expenditures for all military and civilian
42 purposes.
43 (d) The disposition of all military and civilian property on hand or
44 issued.

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

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

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

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

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

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

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

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

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

7. Delegate the powers and duties in this section.

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

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

26-305. <u>Division of emergency management; duties; director; term; qualifications; compensation; emergency management training fund</u>

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

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

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

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

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

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

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

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

Sec. 34. Section 27-122, Arizona Revised Statutes, is amended to read:

27-122. Deputy inspectors

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

Sec. 35. Section 27-151, Arizona Revised Statutes, is amended to read:

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

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

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

C. The state geologist may:

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

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

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

4. EMPLOY VOLUNTEER STAFF AS NECESSARY.

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

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

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

28-363. Duties of the director; administration

A. The director shall:

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

2. Appoint assistant directors for each of the divisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30-103. <u>Administrative powers of authority; compensation of assistants</u>

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

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

C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the authority may employ engineering, accounting, skilled and other assistants, define their duties and provide the conditions of employment. All positions shall be filled by

persons selected and appointed on a nonpartisan, fitness and qualification basis.

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

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

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

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

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

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

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

Sec. 39. Section 30-652, Arizona Revised Statutes, is amended to read:

30-652. Radiation regulatory agency; director; duties

A. There is established a radiation regulatory agency.

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

C. The director shall:

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

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

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

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

Sec. 40. Section 31-401, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

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

J. If two members of the board constitute a quorum pursuant to subsection I of this section and the two members do not concur on the action under consideration, the chairman of the board, if the chairman is not one of

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

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

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

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

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

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

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

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

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

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

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

5. Shall receive petitions from the state department of corrections alleging that an offender has violated the offender's terms and conditions of community supervision and has lapsed or is probably about to lapse into

criminal ways or company. If the board determines that an offender on community supervision has violated the terms and conditions of community supervision the board may do any of the following:

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

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

(c) Impose additional terms and conditions on the offender while keeping the offender on community supervision. If there is reasonable cause to believe that an offender who has been kept on community supervision has violated any term or condition of community supervision, any member of the board may petition the board to revoke community supervision. After a petition to revoke has been submitted, the chairman may issue a summons directing the offender to appear on a specified date for a revocation hearing or may issue a warrant for the offender's arrest. Nothing in this subsection limits the state department of corrections' authority with respect to submitting revocation petitions or issuing revocation warrants.

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

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

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

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

Sec. 42. Section 32-106, Arizona Revised Statutes, is amended to read:

32-106. <u>Powers and duties</u>

A. The board shall:

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

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

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

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

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

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

7. Keep a record of its proceedings.

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

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

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

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

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

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

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

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

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

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

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

32-304. Powers and duties

A. The board shall:

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

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

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

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

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

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

7. Prescribe minimum school curriculum requirements.

B. The board may:

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

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

Sec. 44. Section 32-503, Arizona Revised Statutes, is amended to read:

32-503. Organization; meetings; personnel; compensation

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

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

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

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

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

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

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

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

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

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

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

B. The board may:

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

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

3. Establish reporting requirements that require registrants to report:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Administer oaths and take testimony.

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

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

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

32-802. <u>Board of podiatry examiners; compensation</u>

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

B. Three members of the board shall have practiced podiatry continuously in this state for not less than two years immediately preceding appointment and shall have valid licenses to practice podiatry. Two members

of the board shall be lay persons. All members of the board shall be citizens of the United States.

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

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

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

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

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

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

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

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

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

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

B. The executive director shall:

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

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

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

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

5. Administer oaths.

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

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

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

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

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

32-1103. Registrar of contractors; salary

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

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

32-1104. Powers and duties

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

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

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

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

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

5. Make rules the registrar deems necessary to effectually carry out the provisions and intent of this chapter. Such rules shall include the adoption of minimum standards for good and workmanlike construction. In the

adoption of such rules of minimum standards, the registrar shall be guided by established usage and procedure as found in the construction business in this state. If the rules of minimum standards adopted by the registrar are in any manner inconsistent with a building or other code of the state, a county, city or other political subdivision or local authority of the state, compliance with such code shall constitute good and workmanlike construction for the purposes of this chapter.

6. Apply the following to proposed rule changes:

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

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

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

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

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

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

2. Assist in the resolution of disputes in an informal process before a reportable written complaint is filed. The registrar shall notify the licensed contractor in an alleged dispute before a written complaint is filed and allow the contractor the opportunity to be present at any inspection regarding the alleged dispute. The registrar shall give the contractor at least five days' notice before the inspection. Issues in the alleged dispute under this section shall not be limited in number and shall not be considered formal written complaints. The homeowner reserves the right to deny access to the contractor under this informal complaint process. The registrar shall notify the contractor and the homeowner in writing of the registrar's findings within five days after the date of the inspection. The registrar

shall not post any information regarding the informal complaint process as part of a licensee's record on the registrar's web site.

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

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

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

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

32-1205. <u>Organization; meetings; quorum; staff</u>

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

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

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

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

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

32-1305. <u>Executive director; compensation; duties</u>

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

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

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

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

32-1307. Powers and duties of board

A. The board shall:

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

2. Adopt a seal.

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

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

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

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

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

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

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

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

(f) Administrative and investigative procedures.

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

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

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

B. The board may:

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

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

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

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

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

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

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

32-1405. <u>Executive director; compensation; duties; appeal to the board</u>

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

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

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

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

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

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

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

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

6. Manage the board's offices.

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

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

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

10. Prepare an annual budget.

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

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

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

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

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

16. Execute board directives.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32-1509. Executive director; compensation; duties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The person's name.

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

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

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

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

~~21.~~ 20. Conduct periodic inspection of the dispensing practices and the prescribing practices of doctors of naturopathic medicine and report

dispensing and prescribing restrictions imposed by the board against doctors of naturopathic medicine to other state and federal regulatory agencies.

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

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

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

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

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

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

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

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

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

Sec. 55. Section 32-1605.01, Arizona Revised Statutes, is amended to read:

32-1605.01. <u>Executive director; compensation; powers; duties</u>

A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint an executive director who is not a member of the board. The executive director is eligible to receive compensation set by the board within the range determined under section 38-611.

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

1. Perform the administrative duties of the board.

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

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

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

5. Perform other duties as directed by the board.

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

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

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

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

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

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

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

C. If the board adopts a substantive policy statement pursuant to section 41-1091 and the executive director or designee reports all actions taken pursuant to this subsection to the board at the next regular board meeting, the executive director or designee may:

1. Dismiss a complaint pursuant to section 32-1664 if the complainant does not wish to address the board and either there is no evidence substantiating the complaint or, after conducting an investigation, there is insufficient evidence that the regulated party violated this chapter or a rule adopted pursuant to this chapter.

2. Enter into a stipulated agreement with the licensee or certificate holder for the treatment, rehabilitation and monitoring of the licensee's or certificate holder's abuse or misuse of a chemical substance.

3. Close complaints resolved through settlement.

4. Issue letters of concern.

5. In lieu of a summary suspension hearing, enter into a consent agreement if there is sufficient evidence that the public health, safety or welfare imperatively requires emergency action.

D. The executive director may accept the voluntary surrender of a license, certificate or approval to resolve a pending complaint that is subject to disciplinary action. The voluntary surrender or revocation of a

license, certificate or approval is a disciplinary action, and the board shall report this action if required by federal law.

Sec. 56. Section 32-1673, Arizona Revised Statutes, is amended to read:

32-1673. Powers and duties of the board

A. The board shall adopt rules to administer and enforce this chapter. Rules adopted pursuant to this section shall include rules to specify the lawful scope of the practice of dispensing opticians and necessary evidence that may support a charge of substandard care rendered by a dispensing optician or an optical establishment.

B. The board may:

1. Hire INVESTIGATORS SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 or contract with investigators to assist in the investigation of violations of this chapter.

2. Hire employees SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 and contract with other state agencies as necessary to carry out this chapter.

3. In connection with board hearings and investigations, issue subpoenas for the attendance of witnesses and the production of books, records, documents and other necessary evidence.

Sec. 57. Section 32-1704, Arizona Revised Statutes, is amended to read:

32-1704. Powers and duties of the board

A. The board shall adopt, and may amend, rules consistent with this chapter governing the practice of the profession of optometry, for the performance of its duties under this chapter and for the examination of applicants for licenses. The board shall adopt and use a seal, administer oaths and take testimony concerning any matter within its jurisdiction.

B. The board may not adopt a rule that:

1. Regulates a licensee's fees or charges to a patient.

2. Regulates the place in which a licensee may practice.

3. Prescribes the manner or method of accounting, billing or collection of fees.

4. Prohibits advertising by a licensee unless the advertising is inconsistent with section 44-1481.

C. The board shall maintain its records in accordance with a retention schedule approved by the Arizona state library, archives and public records.

D. The board shall adopt rules for criteria it must use to approve continuing education programs for licensees. Programs shall be designed to assist licensees to maintain competency, to become aware of new developments in the practice of the profession of optometry and to increase management skills and administrative efficiency. The board shall approve programs that meet these criteria.

E. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may hire an executive director as an employee of the board. The executive director is responsible for the performance of the regular administrative functions of

the board and such other administrative duties as the board may direct. The executive director is eligible to receive compensation in an amount as determined pursuant to section 38-611.

F. The board may hire INVESTIGATORS SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 or contract with investigators to assist in the investigation of violations of this chapter, hire other employees SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 required to carry out this chapter and contract with other state agencies when required to carry out this chapter.

G. The board may:

1. Appoint advisory committees.

2. Issue subpoenas for the attendance of witnesses and the production of books, records, documents and other evidence it deems relevant to an investigation or hearing.

3. Charge reasonable fees for materials it has printed at its own expense.

4. Delegate to the executive director, board staff and persons with whom the board contracts the board's licensing and regulatory duties. The board shall adopt rules for each specific licensing and regulatory duty the board delegates pursuant to this paragraph.

H. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may hire consultants and professional and clerical personnel as required to perform its duties.

I. The board may contract with other state or federal agencies as required to carry out this chapter.

J. Subject to the limitations of section 41-2544, the executive director may enter into agreements to allow licensees to pay fees by alternative methods, including credit cards, charge cards, debit cards and electronic funds transfers.

K. A person who is aggrieved by an action taken by the executive director, board staff or person with whom the board contracts may request the board to review that action by filing with the board a written request within thirty days after that person is notified of the action by personal delivery or certified mail to that person's last known residence or place of business. At the next regular board meeting, the board shall review the action and approve, modify or reject the action.

Sec. 58. Section 32-1804, Arizona Revised Statutes, is amended to read:

32-1804. <u>Executive director; compensation; duties</u>

A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint an executive director who is not a member of the board. The executive director shall serve at the pleasure of the board and shall receive compensation as determined pursuant to section 38-611 to be paid from the board fund.

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

1. Serve as administrative assistant to the board and manage the board's offices.

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

3. Deposit, pursuant to sections 35-146 and 35-147, all monies received by the board in the appropriate fund.

4. Pay all bills for authorized board expenditures.

5. Administer oaths.

6. Act as custodian of the board's seal and books.

7. Employ special consultants or other agents SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 to make investigations, gather information, review complaints, review malpractice claims, suits and settlements, prepare reports and perform other duties the executive director determines are necessary to enforce this chapter.

8. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLES 5 AND 6, employ, evaluate, dismiss, discipline and direct professional, clerical, technical, investigative and administrative ~~permanent or temporary~~ personnel necessary to carry out the purposes of this chapter. The personnel are eligible to receive compensation pursuant to section 38-611.

9. Issue licenses, limited licenses, registrations, permits, license renewal extensions and waivers to applicants who meet the requirements of this chapter.

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

11. Prepare minutes, reports and records of all board transactions and orders.

12. Prepare a biannual budget.

13. As directed by the board, prepare and submit recommendations for changes to this chapter for consideration by the legislature.

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

15. Issue subpoenas to compel the attendance and testimony of a witness and the production of evidence.

16. As directed by the board, provide assistance to the attorney general in preparing and executing disciplinary orders, rehabilitation orders and notices of hearings.

17. Represent the board with the federal government, other states and jurisdictions of the United States, this state, political subdivisions of this state, the news media and the public.

18. If delegated by the board, dismiss complaints that, after an investigation, demonstrate insufficient evidence that the physician's conduct violated this chapter.

19. If delegated by the board, enter into a stipulated agreement with a licensee for the treatment, rehabilitation and monitoring of the licensee's abuse or misuse of a chemical substance.

20. Review all complaints filed pursuant to section 32-1855. If delegated by the board, the executive director may also dismiss a complaint if the complaint is without merit. The executive director shall not dismiss a complaint if a court has entered a medical malpractice judgment against a physician. The executive director shall submit to the board a report of each complaint the executive director dismisses for its review at its next regular board meeting. The report shall include the complaint number, the name of the physician and the investigation timeline for each dismissed complaint.

21. If delegated by the board, directly refer complaints for an investigative interview.

22. If delegated by the board, close complaints resolved through mediation.

23. If delegated by the board, issue letters of concern or orders for nondisciplinary education, or both.

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

25. If delegated by the board, grant uncontested requests for cancellation of a license pursuant to section 32-1827.

26. If delegated by the board, refer cases to the board for an investigative interview.

~~27. As directed by the board, provide assistance to the attorney general in preparing and executing disciplinary orders, rehabilitation orders and notices of hearings.~~

~~28.~~ 27. Perform any other duty required by the board.

Sec. 59. Section 32-1903, Arizona Revised Statutes, is amended to read:

32-1903. Organization; meetings; quorum; compensation of board; executive director; compensation; powers and duties

A. The board shall annually elect a president and a vice-president from among its membership and, SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, select an executive director who may or may not be a member of the board. The executive director shall serve at the pleasure of the board.

B. The president of the board shall preside at all of its meetings. The vice-president shall act if the president is absent. A majority of the membership of the board constitutes a quorum.

C. The executive director is the executive officer in charge of the board's office and shall administer this chapter under the direction of the board. The executive director shall make, keep and be in charge of all records and record books required to be kept by the board, including a register of all licensees and registered businesses under this chapter. The executive director shall attend to the correspondence of the board and

perform other duties the board requires. The executive director is eligible to receive compensation as determined pursuant to section 38-611.

D. Any member of the board or the executive director may administer oaths in connection with the duties of the board. The books, registers and records of the board as made and kept by the executive director or under the executive director's supervision are prima facie evidence of the matter therein recorded in any court of law. Members of the board are eligible to receive compensation in the amount of two hundred dollars for each day of actual service in the business of the board and reimbursement for all expenses necessarily and properly incurred in attending meetings of or for the board.

E. The executive director may designate the deputy director to sign claims and other documents in the executive director's absence. If the executive director dies, becomes incapacitated or resigns, the deputy director shall serve as the executive director until the board selects a new executive director.

F. The executive director may cause to be published reports summarizing judgments, decrees, court orders and board action that may have been rendered under this chapter, including the nature of charges and the disposition of the charges. The executive director may disseminate information regarding drugs, devices, poisons or hazardous substances in situations the executive director believes involve imminent danger to health or gross deception of the consumer and report the results of investigations carried out under this chapter.

Sec. 60. Section 32-1904, Arizona Revised Statutes, is amended to read:

32-1904. Powers and duties of board; immunity

A. The board shall:

1. Make bylaws and adopt rules that are necessary for the protection of the public and that pertain to the practice of pharmacy, the manufacturing, wholesaling or supplying of drugs, devices, poisons or hazardous substances, the use of pharmacy technicians and support personnel and the lawful performance of its duties.

2. Fix standards and requirements for the registration and reregistration of pharmacies, except as otherwise specified.

3. Investigate compliance as to the quality, label and labeling of all drugs, devices, poisons or hazardous substances and take action necessary to prevent the sale of these if they do not conform to the standards prescribed in this chapter, the official compendium or the federal act.

4. Enforce its rules. In so doing, the board or its agents have free access at all reasonable hours to any pharmacy, manufacturer, wholesaler, nonprescription drug permittee or other establishment in which drugs, devices, poisons or hazardous substances are manufactured, processed, packed or held, or to enter any vehicle being used to transport or hold such drugs, devices, poisons or hazardous substances for the purpose:

(a) Of inspecting the establishment or vehicle to determine if any provisions of this chapter or the federal act are being violated.

(b) Of securing samples or specimens of any drug, device, poison or hazardous substance after paying or offering to pay for such sample.

(c) Of detaining or embargoing a drug, device, poison or hazardous substance in accordance with section 32-1994.

5. Examine and license as pharmacists and pharmacy interns all qualified applicants as provided by this chapter.

6. Issue duplicates of lost or destroyed permits on the payment of a fee as prescribed by the board.

7. Adopt rules for the rehabilitation of pharmacists and pharmacy interns as provided by this chapter.

8. At least once every three months, notify pharmacies regulated pursuant to this chapter of any modifications on prescription writing privileges of podiatrists, dentists, doctors of medicine, registered nurse practitioners, osteopathic physicians, veterinarians, physician assistants, optometrists and homeopathic physicians of which it receives notification from the board of podiatry examiners, board of dental examiners, Arizona medical board, board of nursing, board of osteopathic examiners in medicine and surgery, veterinary medical examining board, Arizona regulatory board of physician assistants, board of optometry or board of homeopathic and integrated medicine examiners.

B. The board may:

1. Employ chemists, compliance officers, clerical help and other employees SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 and provide laboratory facilities for the proper conduct of its business.

2. Provide, by education of and information to the licensees and to the public, assistance in the curtailment of abuse in the use of drugs, devices, poisons and hazardous substances.

3. Approve or reject the manner of storage and security of drugs, devices, poisons and hazardous substances.

4. Accept monies and services to assist in the enforcement of this chapter from other than licensees:

(a) For performing inspections and other board functions.

(b) For the cost of copies of the pharmacy and controlled substances laws, the annual report of the board and other information from the board.

5. Adopt rules for professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession of pharmacy.

6. Grant permission to deviate from a state requirement for experimentation and technological advances.

7. Adopt rules for the training and practice of pharmacy interns, pharmacy technicians and support personnel.

8. Investigate alleged violations of this chapter, conduct hearings in respect to violations, subpoena witnesses and take such action as it deems

necessary to revoke or suspend a license or a permit, place a licensee or permittee on probation or warn a licensee or permittee under this chapter or to bring notice of violations to the county attorney of the county in which a violation took place or to the attorney general.

9. By rule, approve colleges or schools of pharmacy.

10. By rule, approve programs of practical experience, clinical programs, internship training programs, programs of remedial academic work and preliminary equivalency examinations as provided by this chapter.

11. Assist in the continuing education of pharmacists and pharmacy interns.

12. Issue inactive status licenses as provided by this chapter.

13. Accept monies and services from the federal government or others for educational, research or other purposes pertaining to the enforcement of this chapter.

14. By rule, except from the application of all or any part of this chapter any material, compound, mixture or preparation containing any stimulant or depressant substance included in section 13-3401, paragraph 6, subdivision (b) or (c) from the definition of dangerous drug if the material, compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, provided that such admixtures are included in such combinations, quantity, proportion or concentration as to vitiate the potential for abuse of the substances that do have a stimulant or depressant effect on the central nervous system.

15. Adopt rules for the revocation, suspension or reinstatement of licenses or permits or the probation of licensees or permittees as provided by this chapter.

C. The executive director and other ~~permanent or temporary~~ personnel or agents of the board are not subject to civil liability for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of this chapter.

Sec. 61. Section 32-2003, Arizona Revised Statutes, is amended to read:

32-2003. Board; powers and duties

A. The board shall:

1. Evaluate the qualifications of applicants for licensure and certification.

2. Provide for national examinations for physical therapists and physical therapist assistants and adopt passing scores for these examinations.

3. Issue licenses, permits and certificates to persons who meet the requirements of this chapter.

4. Regulate the practice of physical therapy by interpreting and enforcing this chapter.

5. Adopt and revise rules to enforce this chapter.

6. Meet at least once each quarter in compliance with the open meeting requirements of title 38, chapter 3, article 3.1 and keep an official record of these meetings.

7. Establish the mechanisms for assessing continuing professional competence of physical therapists to engage in the practice of physical therapy and the competence of physical therapist assistants to work in the field of physical therapy.

8. At its first regular meeting after the start of each calendar year, elect officers from among its members and as necessary to accomplish board business.

9. Provide for the timely orientation and training of new professional and public appointees to the board regarding board licensing and disciplinary procedures, this chapter, board rules and board procedures.

10. Maintain a current list of all persons regulated under this chapter. This list shall include the person's name, current business and residential addresses, telephone numbers and license or certificate number.

11. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ necessary personnel to carry out the administrative work of the board. Board personnel are eligible to receive compensation pursuant to section 38-611.

12. Enter into contracts for services necessary for adequate enforcement of this chapter.

13. Report final disciplinary action taken against a licensee or a certificate holder to a national disciplinary database recognized by the board.

14. Publish, at least annually, final disciplinary actions taken against a licensee or a certificate holder.

15. Publish, at least annually, board rulings, opinions and interpretations of statutes or rules in order to guide persons regulated pursuant to this chapter.

16. Not later than December 31 of each year, submit a written report of its actions and proceedings to the governor.

17. Establish and collect fees.

18. Provide information to the public regarding the board, its processes and consumer rights.

B. The board may establish a committee or committees to assist it in carrying out its duties for a time prescribed by the board. The board may require a committee appointed pursuant to this subsection to make regular reports to the board.

Sec. 62. Section 32-2063, Arizona Revised Statutes, is amended to read:

32-2063. <u>Powers and duties</u>

A. The board shall:

1. Administer and enforce this chapter and board rules.

2. Regulate disciplinary actions, the granting, denial, revocation, renewal and suspension of licenses and the rehabilitation of licensees pursuant to this chapter and board rules.

3. Prescribe the forms, content and manner of application for licensure and renewal of licensure and set deadlines for the receipt of materials required by the board.

4. Keep a record of all licensees, board actions taken on all applicants and licensees and the receipt and disbursal of monies.

5. Adopt an official seal for attestation of licenses and other official papers and documents.

6. Investigate charges of violations of this chapter and board rules and orders.

7. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ an executive director who serves at the pleasure of the board.

8. Annually elect from among its membership a chairman, a vice-chairman and a secretary, who serve at the pleasure of the board.

9. Adopt rules pursuant to title 41, chapter 6 to carry out this chapter and to define unprofessional conduct.

10. Engage in a full exchange of information with other regulatory boards and psychological associations, national psychology organizations and the Arizona psychological association and its components.

11. By rule, adopt a code of ethics relating to the practice of psychology. The board shall base this code on the code of ethics adopted and published by the American psychological association. The board shall apply the code to all board enforcement policies and disciplinary case evaluations and development of licensing examinations.

B. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ ~~permanent or temporary~~ personnel it deems necessary to carry out this chapter. The board, in investigating violations of this chapter, may employ investigators who may be psychologists. The board or its executive director may take and hear evidence, administer oaths and affirmations and compel by subpoena the attendance of witnesses and the production of books, papers, records, documents and other information relating to the investigation or hearing.

C. Subject to section 35-149, the board may accept, expend and account for gifts, grants, devises and other contributions, money or property from any public or private source, including the federal government. The board shall deposit, pursuant to sections 35-146 and 35-147, monies received pursuant to this subsection in special funds for the purpose specified, and monies in these funds are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

D. Compensation for all personnel shall be determined pursuant to section 38-611.

Sec. 63. Section 32-2109, Arizona Revised Statutes, is amended to read:

32-2109. Employment; compensation

SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the commissioner shall appoint a secretary and such deputies, assistants, and clerks as are necessary. The compensation of all such employees shall be as determined pursuant to section 38-611.

Sec. 64. Section 32-2206, Arizona Revised Statutes, is amended to read:

32-2206. Board personnel

SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ personnel as it deems necessary to provide investigative, professional and clerical assistance as required to perform its duties under this article. Personnel are eligible to receive compensation in an amount as determined pursuant to section 38-611. The board may contract with other state or federal agencies as required to carry out this article.

Sec. 65. Section 32-2207, Arizona Revised Statutes, is amended to read:

32-2207. Veterinary board; powers and duties

The primary duty of the board is to protect the public from unlawful, incompetent, unqualified, impaired or unprofessional practitioners of veterinary medicine through licensure and regulation of the profession in this state. The powers and duties of the board include:

1. Administering and enforcing this chapter and board rules.

2. Regulating disciplinary actions, the granting, denial, revocation, renewal and suspension of licenses and certificates and the rehabilitation of licensees and certificate holders pursuant to this chapter and board rules.

3. Prescribing the forms, content and manner of application for licensure and certification and renewal of licensure and certification and setting deadlines for the receipt of materials required by the board.

4. Keeping a record of all licensees and certificate holders, board actions taken concerning all applicants, licensees and certificate holders and the receipt and disbursal of monies.

5. Adopting an official seal for attestation of licenses, certificates and other official papers and documents.

6. Investigating charges of violations of this chapter and board rules and orders.

7. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employing an executive director who serves at the pleasure of the board.

8. Adopting rules pursuant to title 41, chapter 6 that relate to the qualifications and regulation of doctors of veterinary medicine, certified veterinary technicians, veterinary premises, mobile veterinary clinics and crematories and other rules that the board deems necessary for the administration of this chapter. The rules may include continuing education requirements for licensees and certificate holders and shall include:

(a) Minimum standards of veterinary practice.

(b) Provisions to ensure that the public has reasonable access to nonconfidential information about the licensing or certification status of persons regulated under this chapter and about resolved complaints against licensees and certificate holders.

(c) Provisions to ensure that members of the public have an opportunity to evaluate the services that the board provides to the public.

9. Establishing by rule fees and penalties as provided in this chapter, including fees for the following:

(a) Reproduction of documents.

(b) Verification of information about a licensed veterinarian at the request of a veterinary licensing board in another jurisdiction.

(c) Return of checks due to insufficient funds, an order to stop payment or a closed account.

(d) Provision of a list of the names of veterinarians, certified veterinary technicians or veterinary premises licensed or certified by the board.

10. Adopting rules that require the board to inform members of the public about the existence of the office of the ombudsdman-citizens aide established by section 41-1375.

Sec. 66. Section 32-2304, Arizona Revised Statutes, is amended to read:

32-2304. Powers and duties

A. The acting director is responsible for administering this chapter and shall:

1. Adopt rules that are necessary or proper for the administration of this chapter, including administrative provisions, education requirements, health and safety provisions and provisions for the use, storage and application of pesticides and devices used in structural pest control.

2. Administer and enforce this chapter and rules adopted pursuant to this chapter.

3. Notify the business licensee, applicator and qualifying party in writing of any complaint against the business licensee, qualifying party or employee of the business licensee by the close of business on the tenth business day after the day on which the acting director initiated the complaint.

4. Issue subpoenas for the taking of depositions, the production of documents and things and the entry on land for inspection and measuring, surveying, photographing, testing or sampling the property or any designated object or operation on the property relevant to the complaint.

5. Conduct or contract to conduct applicator license and qualifying party license tests at locations throughout this state. If the acting director contracts for these tests, the contracts may provide for specific examination fees or a reasonable range of fees determined by the acting director to be paid directly to the contractor by the applicant. The acting

director shall make all efforts to contract with private parties to electronically administer the applicator and qualifying party license tests.

6. Maintain a computer system for the benefit and protection of the public that includes the following information on termite treatments that are done before or during construction, initial termite corrective projects, preventative termite treatments and wood-destroying insect inspection reports:

(a) The name of the individual who performed the work.

(b) The address or location of the work or project.

(c) The name of the pest management company.

(d) The name of the qualifying party.

(e) The applicator license numbers.

(f) The nature and date of the work performed.

(g) Any other information that is required by rule.

7. Establish offices ~~it~~ THE ACTING DIRECTOR deems necessary to carry out the purposes of this chapter.

8. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ ~~permanent or temporary~~ personnel ~~it~~ THE ACTING DIRECTOR deems necessary to carry out the purposes of this chapter and designate their duties.

9. Investigate violations of this chapter and rules adopted pursuant to this chapter.

10. Oversee the approval, content and method of delivery of continuing education courses.

11. Deny a license to any person who has had a license revoked for a period of five years from the time of revocation.

12. License applicators, qualifying parties and businesses in accordance with this chapter and rules adopted pursuant to this chapter.

13. Require the payment of a penalty for any late license renewal.

14. Require either completion of the continuing education requirement or successful completion of the license examination for failure to renew a license on time.

15. Suspend a license if a licensee fails to renew the license within thirty calendar days after the renewal date.

16. Refuse to issue a business license in a name that is not registered with the secretary of state or filed with the Arizona corporation commission.

17. Adopt a wood-destroying insect inspection report form for use by business licensees.

B. The acting director may charge to the holder of a business license the actual cost of providing mailed copies of rules, forms or policies that are proposed for adoption and for educational materials.

C. The acting director shall administer and enforce this chapter and the rules adopted pursuant to this chapter.

D. The acting director may:

1. Compel attendance of witnesses, administer oaths or affirmations and take testimony concerning all matters coming within the acting director's jurisdiction.

2. Require a person who seeks a license pursuant to this chapter to submit to the office a full set of fingerprints and the fees required by section 41-1750. The acting director shall submit the fingerprints and fees to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

3. Enter into intergovernmental agreements.

4. With at least twenty-four hours' notice, request specific records from a business licensee, qualifying party or applicator at the person's place of business during normal business hours.

5. Deny or revoke a license based on the information in the application or information that the acting director receives from the criminal background check.

6. On a showing of good cause by the business licensee, excuse a failure to timely comply with a records request.

7. Issue advisory notices for de minimis violations.

8. Require inspectors to be licensed applicators in all categories within their scope of work during their probationary period. Inspectors shall attend and complete an investigative training class that is prescribed by the acting director.

9. Investigate alleged violations of all applicable federal and state statutes, rules or orders or alleged violations of any condition imposed in connection with a license.

10. Pursuant to section 32-2329, summarily suspend a license issued under this chapter to protect the health, safety and welfare of the public.

11. Issue a corrective work order requiring a licensee to remedy deficiencies in treatment or to comply with this chapter or any rules adopted pursuant to this chapter before or after a formal hearing.

12. Do at least one of the following in relation to unlicensed pest management business operations:

(a) Issue a cease and desist order requiring an unlicensed pest management business to immediately cease operations.

(b) Except as provided in section 32-2311, subsection D, impose on an unlicensed pest management business a civil penalty of not more than one thousand dollars for the first occurrence and not more than two thousand dollars for the second or subsequent occurrence.

13. Refer all cases for formal hearing to the office of administrative hearings.

14. Refuse to issue a business license in a name that is likely to be misleading or to imply any distorted representation about the business.

15. Issue a renewable and revocable temporary qualifying party license to a licensed applicator who is a representative of a business licensee if the qualifying party becomes disassociated with the business licensee.

16. Provide and conduct classes to train applicators and qualifying parties in preparation for license tests. The acting director may assess a fee for each class. The acting director may contract with a commercial enterprise or an accredited institution to conduct the class.

17. Provide and conduct continuing education classes quarterly. The acting director may assess a fee for each credit hour. The acting director may contract with a commercial enterprise or an accredited institution to conduct the class under the supervision of office staff.

18. Appoint an employee of the office to conduct an informal settlement conference with a licensee against whom an inquiry is received or a complaint is filed.

19. Prepare a consent order only after either an informal settlement conference is conducted pursuant to section 32-2321 or a formal hearing is conducted pursuant to title 41, chapter 6, article 10.

20. Apply to the appropriate court, through the attorney general or county attorney, for an order enjoining any act or practice that constitutes a violation of this chapter or any rule adopted pursuant to this chapter.

21. Approve proposed consent orders.

E. Each completed form for a termite treatment that is done before or during construction, initial termite corrective treatment project or wood-destroying insect inspection report shall be accompanied by a fee. The initial fee is eight dollars. The acting director may:

1. Adjust the fee upward or downward to a level that is calculated to produce sufficient revenue to carry out the functions prescribed under this section.

2. Establish tiered fees according to the means of submission to encourage electronic submission of the termite action registration form.

3. Assess a penalty of not to exceed one hundred dollars per form for failing to submit the required form or fee, or both, within thirty calendar days.

F. Subject to the limitations of section 41-2544, the acting director may enter into agreements for the purpose of enabling the office to accept payment for fees imposed under this chapter by alternative payment methods, including credit cards, charge cards, debit cards and electronic funds transfers. Before the monies are transferred to the acting director pursuant to section 32-2305, the person collecting the fees shall deduct any amount charged or withheld by a company providing the alternative payment method under an agreement with the office.

G. In the enforcement of this article, the acting director or any duly authorized agents may enter with the authority of a warrant issued by a court of competent jurisdiction at reasonable times on any private or public property on which pesticides are located or are reasonably believed to be

located to be used for purposes related to pest management. The owner, managing agent or occupant of the property shall permit entry for the purpose of inspecting and investigating conditions relating to the use, storage, application and disposal of pesticides.

Sec. 67. Section 32-2904, Arizona Revised Statutes, is amended to read:

32-2904. Powers and duties

A. The board shall:

1. Conduct all examinations for applicants for a license under this chapter, issue licenses, conduct hearings, regulate the conduct of licensees and administer and enforce this chapter.

2. Enforce the standards of practice prescribed by this chapter and board rules.

3. Collect and account for all fees under this chapter and deposit, pursuant to sections 35-146 and 35-147, the monies in the appropriate fund.

4. Maintain a record of its acts and proceedings, including the issuance, refusal to issue, renewal, suspension or revocation of licenses to practice according to this chapter.

5. Maintain a roster of all persons who are licensed pursuant to this chapter that includes:

(a) The licensee's name.

(b) The current professional office address.

(c) The date and number of the license issued under this chapter.

(d) Whether the licensee is in good standing.

6. Adopt and use a seal, the imprint of which, together with the signatures of the president or vice-president of the board and the secretary-treasurer, shall evidence its official acts.

7. Contract with the department of administration for administrative and record keeping services.

8. Charge additional fees that do not exceed the cost of the services for services the board deems necessary to carry out its intent and purposes.

9. Adopt rules regarding the regulation and the qualifications of medical assistants.

10. Keep board records open to public inspection during normal business hours.

B. The board may:

1. Adopt rules necessary or proper for the administration of this chapter.

2. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, hire ~~permanent or temporary~~ personnel to carry out the purposes of this chapter.

3. Hire INVESTIGATORS SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 or contract with investigators to assist in the investigation of violations of this chapter and contract with other state agencies if required to carry out this chapter.

4. Appoint one of its members to the jurisdiction arbitration panel pursuant to section 32-2907, subsection B.

5. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ consultants to perform duties the board determines are necessary to implement this chapter.

6. Appoint from its membership a temporary secretary to perform the duties of the executive director if that office is vacant. The temporary secretary is eligible to receive compensation pursuant to section 38-611.

7. Compile and publish an annual directory.

8. Adopt rules to establish competency or professional review standards for any minor surgical procedure.

9. Appoint two or more board members to a subcommittee that reviews and approves applications and issues permits pertaining to homeopathic medical assistants and associated practical educational programs, pursuant to board rules.

10. Appoint two or more board members to a subcommittee that reviews and approves applications and issues permits pertaining to drugs and device dispensing practices, pursuant to board rules.

Sec. 68. Section 32-2905, Arizona Revised Statutes, is amended to read:

32-2905. Executive director; compensation; duties

A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint an executive director from outside its membership. The executive director serves at the pleasure of the board and is eligible to receive compensation determined pursuant to section 38-611.

B. The executive director shall:

1. Collect all monies due and payable to the board.

2. Deposit, pursuant to sections 35-146 and 35-147, all monies received by the board in the appropriate fund.

3. Prepare bills for authorized expenditures of the board and obtain warrants from the department of administration for payment of bills certified by the president or vice-president and secretary-treasurer of the board.

4. Act as custodian of the seal, books, records, minutes and proceedings.

5. Perform all duties prescribed by the board.

Sec. 69. Section 32-3003, Arizona Revised Statutes, is amended to read:

32-3003. Powers and duties

A. The board shall:

1. Annually select a chairman from among its members.

2. Meet at least four times a year.

3. Adopt rules which are necessary or proper for the administration of this chapter.

4. Administer and enforce this chapter and rules adopted pursuant to this chapter.

5. Establish minimum standards for private vocational program licensure requirements.

6. Adopt an official seal for attestation of licenses or other official papers and documents.

7. Consider and pass upon applications for private vocational program licenses and licenses to grant degrees.

8. Hear and pass upon complaints or charges.

9. Compel attendance of witnesses, administer oaths and take testimony concerning all matters coming within its jurisdiction.

10. Keep a record of its proceedings.

11. Keep a register which shows the date of each application for a private vocational program license, qualifications and place of business of the applicant and disposition of the application.

12. Keep a register which shows the date of each application for a license to grant degrees, qualifications and place of business of the applicant and disposition of the application.

13. Maintain a list of institutions licensed pursuant to this chapter which is open to public inspection at all reasonable times. The board shall give a copy of the list to any person who requests it.

14. Engage in a full exchange of information with other regulatory boards, governmental agencies, accrediting agencies and the United States department of education.

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

B. The board may:

1. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ ~~temporary or permanent~~ personnel it deems necessary to carry out the purposes of this chapter and designate their duties. These duties may include considering and passing on license applications, considering and passing on complaints or charges, making investigations, compelling attendance of witnesses and issuing official papers and documents.

2. Make investigations, hold hearings and make decisions to enforce this chapter.

3. Issue subpoenas to compel the attendance of witnesses and the production of documents and administer oaths, take testimony, hear proof and receive exhibits in evidence.

4. Accept and spend federal monies and private grants, gifts, contributions and devises to assist in carrying out the purposes of this chapter. These monies do not revert to the state general fund at the end of a fiscal year.

Sec. 70. Section 32-3253, Arizona Revised Statutes, is amended to read:

32-3253. <u>Powers and duties</u>

A. The board shall:

1. Adopt rules consistent with and necessary or proper to carry out the purposes of this chapter.

2. Administer and enforce this chapter, rules adopted pursuant to this chapter and orders of the board.

3. Issue a license by examination, reciprocity or temporary recognition to, and renew the license of, each person who is qualified to be licensed pursuant to this chapter. The board must issue or deny a license within one hundred eighty days after the applicant submits a completed application.

4. Establish a licensure fee schedule annually, by a formal vote at a regular board meeting.

5. Collect fees and spend monies.

6. Keep a record of all persons licensed pursuant to this chapter, actions taken on all applications for licensure, actions involving renewal, suspension, revocation or denial of a license or probation of licensees and the receipt and disbursal of monies.

7. Adopt an official seal for attestation of licensure and other official papers and documents.

8. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ ~~temporary or permanent~~ personnel as it deems necessary.

9. Conduct investigations and determine on its own motion if a licensee or an applicant has engaged in unprofessional conduct, is incompetent or is mentally or physically unable to engage in the practice of behavioral health.

10. Conduct disciplinary actions pursuant to this chapter and board rules.

11. Establish and enforce standards or criteria of programs or other mechanisms to ensure the continuing competence of licensees.

12. Establish and enforce compliance with professional standards and rules of conduct for licensees.

13. Engage in a full exchange of information with the licensing and disciplinary boards and professional associations for behavioral health professionals in this state and other jurisdictions.

14. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions, money or property from any public or private source, including the federal government. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from THE PROVISIONS OF section 35-190 relating to lapsing of appropriations.

B. The board may join professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of behavioral health, protect the health and welfare of the public or assist and facilitate the work of the board.

C. The board may establish a confidential program for the monitoring of licensees who are chemically dependent and who enroll in a rehabilitation

program that meets the criteria prescribed by the board. The board may take further action if a licensee refuses to enter into a stipulated agreement or fails to comply with the terms of a stipulated agreement. In order to protect the public health and safety, the confidentiality requirements of this subsection do not apply if a licensee does not comply with the stipulated agreement.

Sec. 71. Section 32-3403, Arizona Revised Statutes, is amended to read:

32-3403. Executive director; personnel; duties; compensation

A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ and discharge an executive director and other officers and employees as it deems necessary and designate their duties. Board personnel are eligible to receive compensation as determined pursuant to section 38-611.

B. The executive director shall:

1. Issue and document licenses approved by the board.

2. Keep a record of the status of licenses and licensees.

3. Keep a record of the status of applicants, including those whose applications are denied.

4. Perform tasks and duties assigned by the board.

5. Collect fees and maintain accounting records according to generally accepted accounting principles.

Sec. 72. Section 32-3504, Arizona Revised Statutes, is amended to read:

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

A. The board shall:

1. Enforce and administer the provisions of this chapter.

2. Adopt rules necessary to administer this chapter.

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

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

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

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

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

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

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

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

~~C. The board may employ an executive officer and other temporary and permanent personnel it deems necessary. The executive officer and other personnel are eligible to receive compensation pursuant to section 38-611.~~

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

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

Sec. 73. Section 32-3506, Arizona Revised Statutes, is amended to read:

32-3506. <u>Executive director; duties; compensation</u>

A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint an executive director who serves at the pleasure of the board. The executive director shall not be a board member.

B. The executive director ~~is~~ AND OTHER BOARD EMPLOYEES ARE eligible to receive compensation AS DETERMINED pursuant to section 38-611.

C. The executive director shall:

1. Perform the board's administrative duties.

2. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLES 5 AND 6, employ, evaluate, dismiss, discipline and direct personnel as necessary to carry out board functions.

~~3. Set compensation for board employees pursuant to section 38-611.~~

~~4.~~ 3. Issue temporary license certificates and temporary license renewal certificates pursuant to section 32-3521 and board rules.

~~5.~~ 4. Initiate an investigation if there is reason to believe that a licensee is incompetent, mentally or physically unable to safely practice respiratory care or engaged in unprofessional conduct.

~~6.~~ 5. Issue subpoenas if necessary to compel the attendance and testimony of witnesses and the production of books, records, documents and evidence.

~~7.~~ 6. As directed by the board, sign and execute disciplinary orders, rehabilitative orders and notices of hearings.

1 ~~8.~~ 7. On behalf of the board, enter into stipulated agreements with
2 licensees for the treatment, rehabilitation and monitoring of chemical
3 substance abuse or misuse.
4 ~~9.~~ 8. Perform all other duties required by the board.
5 Sec. 74. Section 32-3605, Arizona Revised Statutes, is amended to
6 read:
7 32-3605. State board of appraisal; duties
8 A. The board shall adopt rules in aid or in furtherance of this
9 chapter.
10 B. The state board of appraisal shall:
11 1. In prescribing standards of professional appraisal practice, adopt
12 standards that at a minimum are equal to the standards prescribed by the
13 appraisal standards board.
14 2. In prescribing criteria for certification, adopt criteria that at a
15 minimum are equal to the minimum criteria for certification adopted by the
16 appraiser qualifications board.
17 3. In prescribing criteria for licensing, adopt criteria that at a
18 minimum are equal to the minimum criteria for licensing adopted by the
19 appraiser qualifications board.
20 4. Further define by rule with respect to state licensed or state
21 certified appraisers appropriate and reasonable educational experience,
22 appraisal experience and equivalent experience that meets the statutory
23 requirement of this chapter.
24 5. Establish the examination specifications for state certified
25 appraisers, provide or procure appropriate examination questions and answers,
26 administer examinations and establish procedures for grading examinations
27 consistent with and equivalent to the criteria adopted by the appraiser
28 qualifications board.
29 6. Establish the examination specifications for state licensed
30 appraisers, provide or procure appropriate examination questions and answers,
31 administer examinations and establish procedures for grading examinations
32 consistent with and equivalent to the criteria adopted by the appraiser
33 qualifications board.
34 7. Establish administrative procedures for approving or disapproving
35 applications for licensure and certification and issuing licenses and
36 certificates.
37 8. Define by rule, with respect to state licensed and certified
38 appraisers, the continuing education requirements for the renewal of licenses
39 or certificates that satisfy the statutory requirements provided in this
40 chapter.
41 9. Periodically review the requirements for the development and
42 communication of appraisals provided in this chapter and adopt rules
43 explaining and interpreting the requirements.

10. Define and explain by rule each stage and step associated with the administrative procedures for the disciplinary process pursuant to this chapter including:

(a) Prescribing minimum criteria for accepting a complaint against a licensed or certified appraiser.

(b) Defining the process and procedures used in investigating the allegations of the complaint.

(c) Defining the process and procedures used in hearings on the complaint, including a description of the rights of the board and any person who is alleged to have committed the violation.

(d) Establishing criteria to be used in determining the appropriate actions for violations.

11. Communicate information that is useful to the public and appraisers relating to actions for violations.

12. Censure, suspend and revoke licenses and certificates pursuant to the disciplinary proceedings provided for in section 32-3631.

13. At least monthly transmit to the appraisal subcommittee a roster listing individuals who have received a state certificate or license in accordance with this chapter.

14. Report on the disposition of any matter referred by the appraisal subcommittee or any other federal agency or instrumentality or federally recognized entity reporting any action of a state licensed or state certified appraiser that is contrary to this chapter.

15. Make a determination and finding if there exists a scarcity of state certified or state licensed appraisers to perform appraisals in connection with federally related transactions in this state and issue resident temporary licenses and certificates pursuant to section 32-3626.

16. Transmit the national registry fee collected pursuant to section 32-3607 to the appraisal subcommittee.

17. Establish the fees in accordance with the limits established in section 32-3607.

18. Perform such other functions and duties as may be necessary to carry out this chapter.

C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ an executive director and other personnel and designate their duties. The executive director shall serve at the pleasure of the board.

D. The executive director shall not change or amend actions of the board.

Sec. 75. Section 32-3903, Arizona Revised Statutes, is amended to read:

32-3903. <u>Powers and duties of the board</u>

A. The board shall:

1. Adopt rules necessary to enforce this chapter.

2. Initiate investigations and take disciplinary actions to enforce this chapter.

3. Evaluate the qualifications of applicants and issue licenses to qualified applicants.

4. Adopt and use a seal to authenticate official board documents.

5. Establish fees pursuant to section 32-3927.

6. Adopt rules for establishing and approving preceptorships and clinical training.

B. The board may:

1. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ personnel needed to carry out board functions.

2. Purchase, lease, rent, sell or otherwise dispose of personal and real property for the operations of the board.

3. Approve examinations for licensure.

Sec. 76. Section 32-3904, Arizona Revised Statutes, is amended to read:

32-3904. Executive director; personnel; duties; compensation

A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may appoint an executive director who serves at the pleasure of the board. The executive director shall not be a board member.

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

C. The executive director shall:

1. Perform the administrative duties of the board.

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

3. Perform other duties as directed by the board.

Sec. 77. Section 35-196.01, Arizona Revised Statutes, is amended to read:

35-196.01. Expenditure of state monies for certain purposes; report

A. SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION, a budget unit ~~shall not~~ MAY spend any ~~appropriated~~ monies for either of the following ~~unless monies are appropriated for the specific purpose~~:

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

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

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

C. ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, A BUDGET UNIT SHALL REPORT TO THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING AND THE JOINT

LEGISLATIVE BUDGET COMMITTEE REGARDING ANY MONIES SPENT FOR THE PRIOR FISCAL YEAR FOR THE PURPOSES PRESCRIBED IN THIS SECTION.

Sec. 78. Section 36-102, Arizona Revised Statutes, is amended to read:

36-102. Department of health services; director; appointment; compensation

A. There is established a department of health services.

B. The direction, operation and control of the department ~~is~~ ARE the responsibility of the director.

C. The director shall be appointed by the governor ~~from a list of names submitted by the search committee~~ pursuant to section 38-211 and shall serve at the pleasure of the governor. The director shall be a person who has:

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

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

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

~~D. Qualifications of candidates for the position of director shall be reviewed by a search committee of seven persons selected by the governor. The names of all those candidates determined by the committee to be qualified for the position shall be submitted to the governor for his consideration. The governor may request additional names from the committee if he deems necessary. For each subsequent vacancy in the position of director, a new committee shall be appointed by the governor as provided herein.~~

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

Sec. 79. Section 36-103, Arizona Revised Statutes, is amended to read:

36-103. Department organization; deputy director; assistant directors

A. The director may establish, abolish or reorganize the positions or organizational units within the department to carry out the functions provided by this section and section 36-104, subject to legislative appropriation, if in his judgment such modification of organization would make the operation of the department more efficient, effective or economical. The director or his deputy shall enforce cooperation among the divisions in the provision and integration of all functions.

B. There shall be a deputy director of the department who is appointed by the director with the approval of the governor. The deputy director shall be ~~exempt from the state personnel system~~ SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, shall serve at the pleasure of the director and shall receive compensation as determined pursuant to section 38-611. The deputy director shall assist the director in administering the department and its services.

C. The director may appoint an assistant director to each organizational unit that ~~he may establish~~ THE DIRECTOR ESTABLISHES. Each

1 such assistant director shall be ~~exempt from the state personnel system~~
2 SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, shall serve at the pleasure of the
3 director and shall receive compensation as determined pursuant to section
4 38-611.
5 Sec. 80. Section 36-273, Arizona Revised Statutes, is amended to read:
6 36-273. Powers and duties
7 A. The department may:
8 1. Use monies in the disease control research fund established
9 pursuant to section 36-274 to contract with individuals, organizations,
10 corporations and institutions, public or private, in this state for any
11 projects or services that the department determines may advance research into
12 the causes, the epidemiology and diagnosis, the formulation of cures, the
13 medically accepted treatment or the prevention of diseases, including new
14 drug discovery and development. Public monies in the disease control
15 research fund shall not be used for capital construction projects.
16 2. Enter into research and development agreements, royalty agreements,
17 development agreements, licensing agreements and profit sharing agreements
18 concerning the research, development and production of new products developed
19 or to be developed through department funded research.
20 3. Accept or receive monies from any source, including restricted or
21 unrestricted gifts and contributions from individuals, foundations,
22 corporations and other organizations and institutions.
23 4. Obtain expert services to assist in the evaluation of requests and
24 proposals.
25 5. Request cooperation from any state agency for the purposes of this
26 article.
27 6. Provide information and technical assistance to other jurisdictions
28 and agencies.
29 7. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, EMPLOY PERSONNEL NEEDED
30 TO CARRY OUT THE DUTIES OF THIS ARTICLE.
31 B. The department shall:
32 1. Review and evaluate proposals or requests for projects or services.
33 2. Establish a mechanism to review the contracts awarded to ensure
34 that the monies are used in accordance with the proposals approved by the
35 department.
36 3. Prepare and submit a report on or before January 15 of each year to
37 the governor, the president of the senate and the speaker of the house of
38 representatives that describes the projects or services proposed to the
39 department pursuant to this article, the projects or services for which the
40 department has awarded a contract and the amount of monies necessary for each
41 proposal, the cost of each proposal for which a contract was awarded, the
42 names and addresses of the recipients of each contract and the purpose for
43 which each contract was made. The department shall provide a copy of this
44 report to the secretary of state.

1 Sec. 81. Section 36-446.03, Arizona Revised Statutes, is amended to
2 read:
3 36-446.03. Powers and duties of the board; fees
4 A. The board may adopt, amend or repeal reasonable and necessary rules
5 and standards for the administration of this article in compliance with title
6 XIX of the social security act, as amended.
7 B. The board by rule may adopt nonrefundable fees for the following:
8 1. Initial application for certification as an assisted living
9 facility manager.
10 2. Examination for certification as an assisted living facility
11 manager.
12 3. Issuance of a certificate as an assisted living facility manager,
13 prorated monthly.
14 4. Biennial renewal of a certificate as an assisted living facility
15 manager.
16 5. Issuance of a temporary certificate as an assisted living facility
17 manager.
18 6. Readministering an examination for certification as an assisted
19 living facility manager.
20 7. Issuance of a duplicate certificate as an assisted living facility
21 manager.
22 8. Reviewing the sponsorship of continuing education programs, for
23 each credit hour.
24 9. Late renewal of an assisted living facility manager certificate.
25 10. Reviewing an individual's request for continuing education credit
26 hours, for each credit hour.
27 11. Reviewing initial applications for assisted living facility
28 training programs.
29 12. Annual renewal of approved assisted living facility training
30 programs.
31 C. The board may elect officers it deems necessary.
32 D. The board shall apply appropriate techniques, including
33 examinations and investigations, to determine if a person meets the
34 qualifications prescribed in section 36-446.04.
35 E. On its own motion or in response to any complaint against or report
36 of a violation by an administrator of a nursing care institution, or a
37 manager of an assisted living facility, the board may conduct investigations,
38 hearings and other proceedings concerning any violation of this article or of
39 rules adopted by the board or by the department.
40 F. In connection with an investigation or administrative hearing, the
41 board may administer oaths and affirmations, subpoena witnesses, take
42 evidence and require by subpoena the production of documents, records or
43 other information in any form concerning matters the board deems relevant to
44 the investigation or hearing. If any subpoena issued by the board is
45 disobeyed, the board may invoke the aid of any court in this state in

requiring the attendance and testimony of witnesses and the production of evidence.

G. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board may employ persons to provide investigative, professional and clerical assistance as required to perform its powers and duties under this article. Compensation for board employees shall be as determined pursuant to section 38-611. The board may contract with other state or federal agencies as required to carry out this article.

H. The board may appoint review committees to make recommendations concerning enforcement matters and the administration of this article.

I. The board by rule may establish a program to monitor licensees and certificate holders who are chemically dependent and who enroll in rehabilitation programs that meet board requirements. The board may take disciplinary action if a licensee or a certificate holder refuses to enter into an agreement to enroll in and complete a board approved rehabilitation program or fails to abide by that agreement.

J. The board shall adopt and use an official seal.

K. The board shall adopt rules for the examination and licensure of nursing care institution administrators and the examination and certification of assisted living facility managers.

L. The board shall adopt rules governing payment to a person for the direct or indirect solicitation or procurement of assisted living facility patronage.

M. The board must provide the senate and the house of representatives health committee chairmen with copies of all board minutes and executive decisions.

N. The board by rule shall limit by percentage the amount it may increase a fee above the amount of a fee previously prescribed by the board pursuant to this section.

O. The board by rule shall prescribe standards for assisted living facility training programs.

P. The board may:

1. Grant, deny, suspend or revoke approval of, or place on probation, an assisted living facility training program.

2. Impose a civil penalty on an assisted living facility training program that violates this chapter or rules adopted pursuant to this chapter.

Sec. 82. Section 36-450.02, Arizona Revised Statutes, is amended to read:

36-450.02. <u>Nonretaliatory policy</u>

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

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

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

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

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

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

Sec. 83. Section 36-1943, Arizona Revised Statutes, is amended to read:

36-1943. Executive director; duties

A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the commission shall appoint an executive director who serves at the pleasure of the commission. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the commission may ~~appoint~~ EMPLOY other employees as necessary ~~and shall fix~~, DETERMINE their compensation PURSUANT TO SECTION 38-611 and prescribe their powers and duties. With the approval of the commission, the executive director may contract for professional, technical and clerical services necessary to carry out functions of the commission.

B. The executive director shall be a trained professional experienced in problems of the deaf and the hard of hearing and skilled in the use of manual communication, commonly referred to as sign language, and may be either a deaf person, a person who is hard of hearing or a person with normal hearing. The executive director shall assist the commission to implement its programs and activities and to implement this chapter. The executive director shall not be a commission member. The executive director is eligible to receive compensation set by the commission within the range determined pursuant to section 38-611.

Sec. 84. Section 36-2903.01, Arizona Revised Statutes, is amended to read:

36-2903.01. Additional powers and duties; report

A. The director of the Arizona health care cost containment system administration may adopt rules that provide that the system may withhold or forfeit payments to be made to a noncontracting provider by the system if the noncontracting provider fails to comply with this article, the provider agreement or rules that are adopted pursuant to this article and that relate to the specific services rendered for which a claim for payment is made.

B. The director shall:

1. Prescribe uniform forms to be used by all contractors. The rules shall require a written and signed application by the applicant or an applicant's authorized representative, or, if the person is incompetent or incapacitated, a family member or a person acting responsibly for the applicant may obtain a signature or a reasonable facsimile and file the application as prescribed by the administration.

2. Enter into an interagency agreement with the department to establish a streamlined eligibility process to determine the eligibility of all persons defined pursuant to section 36-2901, paragraph 6, subdivision (a). At the administration's option, the interagency agreement may allow the administration to determine the eligibility of certain persons, including those defined pursuant to section 36-2901, paragraph 6, subdivision (a).

3. Enter into an intergovernmental agreement with the department to:

(a) Establish an expedited eligibility and enrollment process for all persons who are hospitalized at the time of application.

(b) Establish performance measures and incentives for the department.

(c) Establish the process for management evaluation reviews that the administration shall perform to evaluate the eligibility determination functions performed by the department.

(d) Establish eligibility quality control reviews by the administration.

(e) Require the department to adopt rules, consistent with the rules adopted by the administration for a hearing process, that applicants or members may use for appeals of eligibility determinations or redeterminations.

(f) Establish the department's responsibility to place sufficient eligibility workers at federally qualified health centers to screen for eligibility and at hospital sites and level one trauma centers to ensure that persons seeking hospital services are screened on a timely basis for eligibility for the system, including a process to ensure that applications for the system can be accepted on a twenty-four hour basis, seven days a week.

(g) Withhold payments based on the allowable sanctions for errors in eligibility determinations or redeterminations or failure to meet performance measures required by the intergovernmental agreement.

(h) Recoup from the department all federal fiscal sanctions that result from the department's inaccurate eligibility determinations. The director may offset all or part of a sanction if the department submits a corrective action plan and a strategy to remedy the error.

4. By rule establish a procedure and time frames for the intake of grievances and requests for hearings, for the continuation of benefits and services during the appeal process and for a grievance process at the contractor level. Notwithstanding sections 41-1092.02, 41-1092.03 and

41-1092.05, the administration shall develop rules to establish the procedure and time frame for the informal resolution of grievances and appeals. A grievance that is not related to a claim for payment of system covered services shall be filed in writing with and received by the administration or the prepaid capitated provider or program contractor not later than sixty days after the date of the adverse action, decision or policy implementation being grieved. A grievance that is related to a claim for payment of system covered services must be filed in writing and received by the administration or the prepaid capitated provider or program contractor within twelve months after the date of service, within twelve months after the date that eligibility is posted or within sixty days after the date of the denial of a timely claim submission, whichever is later. A grievance for the denial of a claim for reimbursement of services may contest the validity of any adverse action, decision, policy implementation or rule that related to or resulted in the full or partial denial of the claim. A policy implementation may be subject to a grievance procedure, but it may not be appealed for a hearing. The administration is not required to participate in a mandatory settlement conference if it is not a real party in interest. In any proceeding before the administration, including a grievance or hearing, persons may represent themselves or be represented by a duly authorized agent who is not charging a fee. A legal entity may be represented by an officer, partner or employee who is specifically authorized by the legal entity to represent it in the particular proceeding.

5. Apply for and accept federal funds available under title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)) in support of the system. The application made by the director pursuant to this paragraph shall be designed to qualify for federal funding primarily on a prepaid capitated basis. Such funds may be used only for the support of persons defined as eligible pursuant to title XIX of the social security act or the approved section 1115 waiver.

6. At least thirty days before the implementation of a policy or a change to an existing policy relating to reimbursement, provide notice to interested parties. Parties interested in receiving notification of policy changes shall submit a written request for notification to the administration.

7. In addition to the cost sharing requirements specified in subsection D, paragraph 4 of this section:

(a) Charge monthly premiums up to the maximum amount allowed by federal law to all populations of eligible persons who may be charged.

(b) Implement this paragraph to the extent permitted under the federal deficit reduction act of 2005 and other federal laws, subject to the approval of federal waiver authority and to the extent that any changes in the cost sharing requirements under this paragraph would permit this state to receive any enhanced federal matching rate.

C. The director is authorized to apply for any federal funds available for the support of programs to investigate and prosecute violations arising from the administration and operation of the system. Available state funds appropriated for the administration and operation of the system may be used as matching funds to secure federal funds pursuant to this subsection.

D. The director may adopt rules or procedures to do the following:

1. Authorize advance payments based on estimated liability to a contractor or a noncontracting provider after the contractor or noncontracting provider has submitted a claim for services and before the claim is ultimately resolved. The rules shall specify that any advance payment shall be conditioned on the execution before payment of a contract with the contractor or noncontracting provider that requires the administration to retain a specified percentage, which shall be at least twenty per cent, of the claimed amount as security and that requires repayment to the administration if the administration makes any overpayment.

2. Defer liability, in whole or in part, of contractors for care provided to members who are hospitalized on the date of enrollment or under other circumstances. Payment shall be on a capped fee-for-service basis for services other than hospital services and at the rate established pursuant to subsection G or H of this section for hospital services or at the rate paid by the health plan, whichever is less.

3. Deputize, in writing, any qualified officer or employee in the administration to perform any act that the director by law is empowered to do or charged with the responsibility of doing, including the authority to issue final administrative decisions pursuant to section 41-1092.08.

4. Notwithstanding any other law, require persons eligible pursuant to section 36-2901, paragraph 6, subdivision (a), section 36-2931 and section 36-2981, paragraph 6 to be financially responsible for any cost sharing requirements established in a state plan or a section 1115 waiver and approved by the centers for medicare and medicaid services. Cost sharing requirements may include copayments, coinsurance, deductibles, enrollment fees and monthly premiums for enrolled members, including households with children enrolled in the Arizona long-term care system.

E. The director shall adopt rules that further specify the medical care and hospital services that are covered by the system pursuant to section 36-2907.

F. In addition to the rules otherwise specified in this article, the director may adopt necessary rules pursuant to title 41, chapter 6 to carry out this article. Rules adopted by the director pursuant to this subsection shall consider the differences between rural and urban conditions on the delivery of hospitalization and medical care.

G. For inpatient hospital admissions and all outpatient hospital services before March 1, 1993, the administration shall reimburse a hospital's adjusted billed charges according to the following procedures:

1 1. The director shall adopt rules that, for services rendered from and
2 after September 30, 1985 until October 1, 1986, define "adjusted billed
3 charges" as that reimbursement level that has the effect of holding constant
4 whichever of the following is applicable:
5 (a) The schedule of rates and charges for a hospital in effect on
6 April 1, 1984 as filed pursuant to chapter 4, article 3 of this title.
7 (b) The schedule of rates and charges for a hospital that became
8 effective after May 31, 1984 but before July 2, 1984, if the hospital's
9 previous rate schedule became effective before April 30, 1983.
10 (c) The schedule of rates and charges for a hospital that became
11 effective after May 31, 1984 but before July 2, 1984, limited to five per
12 cent over the hospital's previous rate schedule, and if the hospital's
13 previous rate schedule became effective on or after April 30, 1983 but before
14 October 1, 1983.
15 For the purposes of this paragraph, "constant" means equal to or lower than.
16 2. The director shall adopt rules that, for services rendered from and
17 after September 30, 1986, define "adjusted billed charges" as that
18 reimbursement level that has the effect of increasing by four per cent a
19 hospital's reimbursement level in effect on October 1, 1985 as prescribed in
20 paragraph 1 of this subsection. Beginning January 1, 1991, the Arizona
21 health care cost containment system administration shall define "adjusted
22 billed charges" as the reimbursement level determined pursuant to this
23 section, increased by two and one-half per cent.
24 3. In no event shall a hospital's adjusted billed charges exceed the
25 hospital's schedule of rates and charges filed with the department of health
26 services and in effect pursuant to chapter 4, article 3 of this title.
27 4. For services rendered the administration shall not pay a hospital's
28 adjusted billed charges in excess of the following:
29 (a) If the hospital's bill is paid within thirty days of the date the
30 bill was received, eighty-five per cent of the adjusted billed charges.
31 (b) If the hospital's bill is paid any time after thirty days but
32 within sixty days of the date the bill was received, ninety-five per cent of
33 the adjusted billed charges.
34 (c) If the hospital's bill is paid any time after sixty days of the
35 date the bill was received, one hundred per cent of the adjusted billed
36 charges.
37 5. The director shall define by rule the method of determining when a
38 hospital bill will be considered received and when a hospital's billed
39 charges will be considered paid. Payment received by a hospital from the
40 administration pursuant to this subsection or from a contractor either by
41 contract or pursuant to section 36-2904, subsection I shall be considered
42 payment of the hospital bill in full, except that a hospital may collect any
43 unpaid portion of its bill from other third party payors or in situations
44 covered by title 33, chapter 7, article 3.

1 H. For inpatient hospital admissions and outpatient hospital services
2 on and after March 1, 1993 the administration shall adopt rules for the
3 reimbursement of hospitals according to the following procedures:
4 1. For inpatient hospital stays, the administration shall use a
5 prospective tiered per diem methodology, using hospital peer groups if
6 analysis shows that cost differences can be attributed to independently
7 definable features that hospitals within a peer group share. In peer
8 grouping the administration may consider such factors as length of stay
9 differences and labor market variations. If there are no cost differences,
10 the administration shall implement a stop loss-stop gain or similar
11 mechanism. Any stop loss-stop gain or similar mechanism shall ensure that
12 the tiered per diem rates assigned to a hospital do not represent less than
13 ninety per cent of its 1990 base year costs or more than one hundred ten per
14 cent of its 1990 base year costs, adjusted by an audit factor, during the
15 period of March 1, 1993 through September 30, 1994. The tiered per diem
16 rates set for hospitals shall represent no less than eighty-seven and
17 one-half per cent or more than one hundred twelve and one-half per cent of
18 its 1990 base year costs, adjusted by an audit factor, from October 1, 1994
19 through September 30, 1995 and no less than eighty-five per cent or more than
20 one hundred fifteen per cent of its 1990 base year costs, adjusted by an
21 audit factor, from October 1, 1995 through September 30, 1996. For the
22 periods after September 30, 1996 no stop loss-stop gain or similar mechanisms
23 shall be in effect. An adjustment in the stop loss-stop gain percentage may
24 be made to ensure that total payments do not increase as a result of this
25 provision. If peer groups are used the administration shall establish
26 initial peer group designations for each hospital before implementation of
27 the per diem system. The administration may also use a negotiated rate
28 methodology. The tiered per diem methodology may include separate
29 consideration for specialty hospitals that limit their provision of services
30 to specific patient populations, such as rehabilitative patients or children.
31 The initial per diem rates shall be based on hospital claims and encounter
32 data for dates of service November 1, 1990 through October 31, 1991 and
33 processed through May of 1992.
34 2. For rates effective on October 1, 1994, and annually thereafter,
35 the administration shall adjust tiered per diem payments for inpatient
36 hospital care by the data resources incorporated market basket index for
37 prospective payment system hospitals. For rates effective beginning on
38 October 1, 1999, the administration shall adjust payments to reflect changes
39 in length of stay for the maternity and nursery tiers.
40 3. Through June 30, 2004, for outpatient hospital services, the
41 administration shall reimburse a hospital by applying a hospital specific
42 outpatient cost-to-charge ratio to the covered charges. Beginning on July 1,
43 2004 through June 30, 2005, the administration shall reimburse a hospital by
44 applying a hospital specific outpatient cost-to-charge ratio to covered
45 charges. If the hospital increases its charges for outpatient services filed

with the Arizona department of health services pursuant to chapter 4, article 3 of this title, by more than 4.7 per cent for dates of service effective on or after July 1, 2004, the hospital specific cost-to-charge ratio will be reduced by the amount that it exceeds 4.7 per cent. If charges exceed 4.7 per cent, the effective date of the increased charges will be the effective date of the adjusted Arizona health care cost containment system cost-to-charge ratio. The administration shall develop the methodology for a capped fee-for-service schedule and a statewide cost-to-charge ratio. Any covered outpatient service not included in the capped fee-for-service schedule shall be reimbursed by applying the statewide cost-to-charge ratio that is based on the services not included in the capped fee-for-service schedule. Beginning on July 1, 2005, the administration shall reimburse clean claims with dates of service on or after July 1, 2005, based on the capped fee-for-service schedule or the statewide cost-to-charge ratio established pursuant to this paragraph. The administration may make additional adjustments to the outpatient hospital rates established pursuant to this section based on other factors, including the number of beds in the hospital, specialty services available to patients and the geographic location of the hospital.

4. Except if submitted under an electronic claims submission system, a hospital bill is considered received for purposes of this paragraph on initial receipt of the legible, error-free claim form by the administration if the claim includes the following error-free documentation in legible form:

(a) An admission face sheet.

(b) An itemized statement.

(c) An admission history and physical.

(d) A discharge summary or an interim summary if the claim is split.

(e) An emergency record, if admission was through the emergency room.

(f) Operative reports, if applicable.

(g) A labor and delivery room report, if applicable.

Payment received by a hospital from the administration pursuant to this subsection or from a contractor either by contract or pursuant to section 36-2904, subsection I is considered payment by the administration or the contractor of the administration's or contractor's liability for the hospital bill. A hospital may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

5. For services rendered on and after October 1, 1997, the administration shall pay a hospital's rate established according to this section subject to the following:

(a) If the hospital's bill is paid within thirty days of the date the bill was received, the administration shall pay ninety-nine per cent of the rate.

(b) If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the administration shall pay one hundred per cent of the rate.

(c) If the hospital's bill is paid any time after sixty days of the date the bill was received, the administration shall pay one hundred per cent of the rate plus a fee of one per cent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.

6. In developing the reimbursement methodology, if a review of the reports filed by a hospital pursuant to section 36-125.04 indicates that further investigation is considered necessary to verify the accuracy of the information in the reports, the administration may examine the hospital's records and accounts related to the reporting requirements of section 36-125.04. The administration shall bear the cost incurred in connection with this examination unless the administration finds that the records examined are significantly deficient or incorrect, in which case the administration may charge the cost of the investigation to the hospital examined.

7. Except for privileged medical information, the administration shall make available for public inspection the cost and charge data and the calculations used by the administration to determine payments under the tiered per diem system, provided that individual hospitals are not identified by name. The administration shall make the data and calculations available for public inspection during regular business hours and shall provide copies of the data and calculations to individuals requesting such copies within thirty days of receipt of a written request. The administration may charge a reasonable fee for the provision of the data or information.

8. The prospective tiered per diem payment methodology for inpatient hospital services shall include a mechanism for the prospective payment of inpatient hospital capital related costs. The capital payment shall include hospital specific and statewide average amounts. For tiered per diem rates beginning on October 1, 1999, the capital related cost component is frozen at the blended rate of forty per cent of the hospital specific capital cost and sixty per cent of the statewide average capital cost in effect as of January 1, 1999 and as further adjusted by the calculation of tier rates for maternity and nursery as prescribed by law. The administration shall adjust the capital related cost component by the data resources incorporated market basket index for prospective payment system hospitals.

9. For graduate medical education programs:

(a) Beginning September 30, 1997, the administration shall establish a separate graduate medical education program to reimburse hospitals that had graduate medical education programs that were approved by the administration as of October 1, 1999. The administration shall separately account for monies for the graduate medical education program based on the total reimbursement for graduate medical education reimbursed to hospitals by the system in federal fiscal year 1995-1996 pursuant to the tiered per diem methodology specified in this section. The graduate medical education program reimbursement shall be adjusted annually by the increase or decrease

in the index published by the global insight hospital market basket index for prospective hospital reimbursement. Subject to legislative appropriation, on an annual basis, each qualified hospital shall receive a single payment from the graduate medical education program that is equal to the same percentage of graduate medical education reimbursement that was paid by the system in federal fiscal year 1995-1996. Any reimbursement for graduate medical education made by the administration shall not be subject to future settlements or appeals by the hospitals to the administration. The monies available under this subdivision shall not exceed the fiscal year 2005-2006 appropriation adjusted annually by the increase or decrease in the index published by the global insight hospital market basket index for prospective hospital reimbursement, except for monies distributed for expansions pursuant to subdivision (b) of this paragraph.

(b) The monies available for graduate medical education programs pursuant to this subdivision shall not exceed the fiscal year 2006-2007 appropriation adjusted annually by the increase or decrease in the index published by the global insight hospital market basket index for prospective hospital reimbursement. Graduate medical education programs eligible for such reimbursement are not precluded from receiving reimbursement for funding under subdivision (c) of this paragraph. Beginning July 1, 2006, the administration shall distribute any monies appropriated for graduate medical education above the amount prescribed in subdivision (a) of this paragraph in the following order or priority:

(i) For the direct costs to support the expansion of graduate medical education programs established before July 1, 2006 at hospitals that do not receive payments pursuant to subdivision (a) of this paragraph. These programs must be approved by the administration.

(ii) For the direct costs to support the expansion of graduate medical education programs established on or before October 1, 1999. These programs must be approved by the administration.

(c) The administration shall distribute to hospitals any monies appropriated for graduate medical education above the amount prescribed in subdivisions (a) and (b) of this paragraph for the following purposes:

(i) For the direct costs of graduate medical education programs established or expanded on or after July 1, 2006. These programs must be approved by the administration.

(ii) For a portion of additional indirect graduate medical education costs for programs that are located in a county with a population of less than five hundred thousand persons at the time the residency position was created or for a residency position that includes a rotation in a county with a population of less than five hundred thousand persons at the time the residency position was established. These programs must be approved by the administration.

(d) The administration shall develop, by rule, the formula by which the monies are distributed.

(e) Each graduate medical education program that receives funding pursuant to subdivision (b) or (c) of this paragraph shall identify and report to the administration the number of new residency positions created by the funding provided in this paragraph, including positions in rural areas. The program shall also report information related to the number of funded residency positions that resulted in physicians locating their practice in this state. The administration shall report to the joint legislative budget committee by February 1 of each year on the number of new residency positions as reported by the graduate medical education programs.

(f) Local, county and tribal governments and any university under the jurisdiction of the Arizona board of regents may provide monies in addition to any state general fund monies appropriated for graduate medical education in order to qualify for additional matching federal monies for providers, programs or positions in a specific locality and costs incurred pursuant to a specific contract between the administration and providers or other entities to provide graduate medical education services as an administrative activity. Payments by the administration pursuant to this subdivision may be limited to those providers designated by the funding entity and may be based on any methodology deemed appropriate by the administration, including replacing any payments that might otherwise have been paid pursuant to subdivision (a), (b) or (c) of this paragraph had sufficient state general fund monies or other monies been appropriated to fully fund those payments. These programs, positions, payment methodologies and administrative graduate medical education services must be approved by the administration and the centers for medicare and medicaid services. The administration shall report to the president of the senate, the speaker of the house of representatives and the director of the joint legislative budget committee on or before July 1 of each year on the amount of money contributed and number of residency positions funded by local, county and tribal governments, including the amount of federal matching monies used.

(g) Any funds appropriated but not allocated by the administration for subdivision (b) or (c) of this paragraph may be reallocated if funding for either subdivision is insufficient to cover appropriate graduate medical education costs.

10. Notwithstanding section 41-1005, subsection A, paragraph 9, the administration shall adopt rules pursuant to title 41, chapter 6 establishing the methodology for determining the prospective tiered per diem payments.

11. For inpatient hospital services rendered on or after October 1, 2011, the prospective tiered per diem payment rates are permanently reset to the amounts payable for those services as of September 30, 2011 pursuant to this subsection.

I. The director may adopt rules that specify enrollment procedures, including notice to contractors of enrollment. The rules may provide for varying time limits for enrollment in different situations. The administration shall specify in contract when a person who has been

1 determined eligible will be enrolled with that contractor and the date on
2 which the contractor will be financially responsible for health and medical
3 services to the person.
4 J. The administration may make direct payments to hospitals for
5 hospitalization and medical care provided to a member in accordance with this
6 article and rules. The director may adopt rules to establish the procedures
7 by which the administration shall pay hospitals pursuant to this subsection
8 if a contractor fails to make timely payment to a hospital. Such payment
9 shall be at a level determined pursuant to section 36-2904, subsection H
10 or I. The director may withhold payment due to a contractor in the amount of
11 any payment made directly to a hospital by the administration on behalf of a
12 contractor pursuant to this subsection.
13 K. The director shall establish a special unit within the
14 administration for the purpose of monitoring the third party payment
15 collections required by contractors and noncontracting providers pursuant to
16 section 36-2903, subsection B, paragraph 10 and subsection F and section
17 36-2915, subsection E. The director shall determine by rule:
18 1. The type of third party payments to be monitored pursuant to this
19 subsection.
20 2. The percentage of third party payments that is collected by a
21 contractor or noncontracting provider and that the contractor or
22 noncontracting provider may keep and the percentage of such payments that the
23 contractor or noncontracting provider may be required to pay to the
24 administration. Contractors and noncontracting providers must pay to the
25 administration one hundred per cent of all third party payments that are
26 collected and that duplicate administration fee-for-service payments. A
27 contractor that contracts with the administration pursuant to section
28 36-2904, subsection A may be entitled to retain a percentage of third party
29 payments if the payments collected and retained by a contractor are reflected
30 in reduced capitation rates. A contractor may be required to pay the
31 administration a percentage of third party payments that are collected by a
32 contractor and that are not reflected in reduced capitation rates.
33 L. The administration shall establish procedures to apply to the
34 following if a provider that has a contract with a contractor or
35 noncontracting provider seeks to collect from an individual or financially
36 responsible relative or representative a claim that exceeds the amount that
37 is reimbursed or should be reimbursed by the system:
38 1. On written notice from the administration or oral or written notice
39 from a member that a claim for covered services may be in violation of this
40 section, the provider that has a contract with a contractor or noncontracting
41 provider shall investigate the inquiry and verify whether the person was
42 eligible for services at the time that covered services were provided. If
43 the claim was paid or should have been paid by the system, the provider that
44 has a contract with a contractor or noncontracting provider shall not
45 continue billing the member.

2. If the claim was paid or should have been paid by the system and the disputed claim has been referred for collection to a collection agency or referred to a credit reporting bureau, the provider that has a contract with a contractor or noncontracting provider shall:

(a) Notify the collection agency and request that all attempts to collect this specific charge be terminated immediately.

(b) Advise all credit reporting bureaus that the reported delinquency was in error and request that the affected credit report be corrected to remove any notation about this specific delinquency.

(c) Notify the administration and the member that the request for payment was in error and that the collection agency and credit reporting bureaus have been notified.

3. If the administration determines that a provider that has a contract with a contractor or noncontracting provider has billed a member for charges that were paid or should have been paid by the administration, the administration shall send written notification by certified mail or other service with proof of delivery to the provider that has a contract with a contractor or noncontracting provider stating that this billing is in violation of federal and state law. If, twenty-one days or more after receiving the notification, a provider that has a contract with a contractor or noncontracting provider knowingly continues billing a member for charges that were paid or should have been paid by the system, the administration may assess a civil penalty in an amount equal to three times the amount of the billing and reduce payment to the provider that has a contract with a contractor or noncontracting provider accordingly. Receipt of delivery signed by the addressee or the addressee's employee is prima facie evidence of knowledge. Civil penalties collected pursuant to this subsection shall be deposited in the state general fund. Section 36-2918, subsections C, D and F, relating to the imposition, collection and enforcement of civil penalties, apply to civil penalties imposed pursuant to this paragraph.

M. The administration may conduct postpayment review of all claims paid by the administration and may recoup any monies erroneously paid. The director may adopt rules that specify procedures for conducting postpayment review. A contractor may conduct a postpayment review of all claims paid by the contractor and may recoup monies that are erroneously paid.

N. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the director or the director's designee may employ and supervise personnel necessary to assist the director in performing the functions of the administration.

O. The administration may contract with contractors for obstetrical care who are eligible to provide services under title XIX of the social security act.

P. Notwithstanding any other law, on federal approval the administration may make disproportionate share payments to private hospitals, county operated hospitals, including hospitals owned or leased by a special health care district, and state operated institutions for mental disease

1 beginning October 1, 1991 in accordance with federal law and subject to
2 legislative appropriation. If at any time the administration receives
3 written notification from federal authorities of any change or difference in
4 the actual or estimated amount of federal funds available for
5 disproportionate share payments from the amount reflected in the legislative
6 appropriation for such purposes, the administration shall provide written
7 notification of such change or difference to the president and the minority
8 leader of the senate, the speaker and the minority leader of the house of
9 representatives, the director of the joint legislative budget committee, the
10 legislative committee of reference and any hospital trade association within
11 this state, within three working days not including weekends after receipt of
12 the notice of the change or difference. In calculating disproportionate
13 share payments as prescribed in this section, the administration may use
14 either a methodology based on claims and encounter data that is submitted to
15 the administration from contractors or a methodology based on data that is
16 reported to the administration by private hospitals and state operated
17 institutions for mental disease. The selected methodology applies to all
18 private hospitals and state operated institutions for mental disease
19 qualifying for disproportionate share payments. For the purposes of this
20 subsection, "disproportionate share payment" means a payment to a hospital
21 that serves a disproportionate share of low-income patients as described by
22 42 United States Code section 1396r-4.
23 Q. Notwithstanding any law to the contrary, the administration may
24 receive confidential adoption information to determine whether an adopted
25 child should be terminated from the system.
26 R. The adoption agency or the adoption attorney shall notify the
27 administration within thirty days after an eligible person receiving services
28 has placed that person's child for adoption.
29 S. If the administration implements an electronic claims submission
30 system, it may adopt procedures pursuant to subsection H of this section
31 requiring documentation different than prescribed under subsection H,
32 paragraph 4 of this section.
33 T. In addition to any requirements adopted pursuant to subsection D,
34 paragraph 4 of this section, notwithstanding any other law, subject to
35 approval by the centers for medicare and medicaid services, beginning July 1,
36 2011, members eligible pursuant to section 36-2901, paragraph 6, subdivision
37 (a), section 36-2931 and section 36-2981, paragraph 6 shall pay the
38 following:
39 1. A monthly premium of fifteen dollars, except that the total monthly
40 premium for an entire household shall not exceed sixty dollars.
41 2. A copayment of five dollars for each physician office visit.
42 3. A copayment of ten dollars for each urgent care visit.
43 4. A copayment of thirty dollars for each emergency department visit.

Sec. 85. Section 36-2926, Arizona Revised Statutes, is amended to read:

36-2926. Use of cost savings; preparation of budget recommendations; cooperation of other agencies

A. The administration shall use the cost savings generated from agreements entered into pursuant to section 36-2925 to supplement monies that are appropriated by the legislature. The administration shall use the cost savings to:

1. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, develop and operate employee recruitment and retention programs that may include creating positions ~~not covered by state service~~, special salary plans and pay practices and performance compensation programs approved by the director AND THE DEPARTMENT OF ADMINISTRATION.

2. Implement technology projects to upgrade hardware or software used by the administration in the operation of the system.

B. The governor's office of strategic planning and budgeting and the joint legislative budget committee shall not recommend using the cost savings generated by section 36-2925 to supplant state or federal monies used for the operation or administration of the programs operated by the administration.

C. The department of administration shall assist the administration in developing and operating employee recruitment and retention programs specified in subsection A of this section.

Sec. 86. Section 37-132, Arizona Revised Statutes, is amended to read:

37-132. Powers and duties

A. The commissioner shall:

1. Exercise and perform all powers and duties vested in or imposed upon the department, and prescribe such rules as are necessary to discharge those duties.

2. Exercise the powers of surveyor-general except for the powers of the surveyor-general exercised by the treasurer as a member of the selection board pursuant to section 37-202.

3. Make long-range plans for the future use of state lands in cooperation with other state agencies, local planning authorities and political subdivisions.

4. Promote the infill and orderly development of state lands in areas beneficial to the trust and prevent urban sprawl or leapfrog development on state lands.

5. Classify and appraise all state lands, together with the improvements on state lands, for the purpose of sale, lease or grant of rights-of-way. The commissioner may impose such conditions and covenants and make such reservations in the sale of state lands as the commissioner deems to be in the best interest of the state trust. The provisions of this paragraph are subject to hearing procedures pursuant to title 41, chapter 6, article 10 and, except as provided in section 41-1092.08, subsection H, are subject to judicial review pursuant to title 12, chapter 7, article 6.

6. Have authority to lease for grazing, agricultural, homesite or other purposes, except commercial, all land owned or held in trust by the state.

7. Have authority to lease for commercial purposes and sell all land owned or held in trust by the state, but any such lease for commercial purposes or any such sale shall first be approved by the board of appeals.

8. Except as otherwise provided, determine all disputes, grievances or other questions pertaining to the administration of state lands.

9. Appoint deputies and other assistants and employees necessary to perform the duties of the department~~,~~ AND assign their duties SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 and require of them such surety bonds as the commissioner deems proper. The compensation of the deputy, assistants or employees shall be as determined pursuant to section 38-611.

10. Make a written report to the governor annually, not later than September 1, disclosing in detail the activities of the department for the preceding fiscal year, and publish it for distribution. The report shall include an evaluation of auctions of state land leases held during the preceding fiscal year considering the advantages and disadvantages to the state trust of the existence and exercise of preferred rights to lease reclassified state land.

11. Withdraw state land from surface or subsurface sales or lease applications if the commissioner deems it to be in the best interest of the trust. This closure of state lands to new applications for sale or lease does not affect the rights that existing lessees have under law for renewal of their leases and reimbursement for improvements.

B. The commissioner may:

1. Take evidence relating to, and may require of the various county officers information on, any matter that the commissioner has the power to investigate or determine.

2. Under such rules as the commissioner adopts, use private real estate brokers to assist in any sale or long-term lease of state land and pay, from fees collected under section 37-107, subsection B, paragraph 1, a commission to a broker that is licensed pursuant to title 32, chapter 20 and that provides the purchaser or lessee at auction. The purchaser or lessee at auction is not eligible to receive a commission pursuant to this subsection. A commission shall not be paid on a sale or a long-term lease if the purchaser or lessee is a political subdivision of this state.

3. Require a permittee, lessee or grantee to post a surety bond or any form of collateral deemed sufficient by the commissioner for performance or restoration purposes. The commissioner shall use the proceeds of a bond or collateral only for the purposes determined at the time the bond or collateral is posted. For agricultural lessees, the commissioner may require collateral as follows:

(a) As security for payment of the annual assessments levied by the irrigation district in which the state land is located if the lessee has a history of late payments or defaults. The amount of the collateral required shall not exceed the annual assessment levied by the irrigation district.

(b) As security for payment of rent, if an extension of time for payment is requested or if the lessee has a history of late payments of rent. The collateral shall be submitted at the time any extension of time for payment is requested. The amount of the collateral required shall not exceed the annual amount of rent for the land.

(c) A surety bond shall be required only if the commissioner determines that other forms of collateral are insufficient.

4. Withhold market and economic analyses, preliminary engineering, site and area studies and appraisals that are collected during the urban planning process from public viewing before they are submitted to local planning and zoning authorities.

5. Withhold from public inspection proprietary information received during lease negotiations. The proprietary information shall be released to public inspection unless the release may harm the competitive position of the applicant and the information could not have been obtained by other legitimate means.

6. Issue permits for short-term use of state land for specific purposes as prescribed by rule.

7. Contract with a third party to sell recreational permits. A third party under contract pursuant to this paragraph may assess a surcharge for its services as provided in the contract, in addition to the fees prescribed pursuant to section 37-107.

8. Close urban lands to specific uses as prescribed by rule if necessary for dust abatement, to reduce a risk from hazardous environmental conditions that pose a risk to human health or safety or for remediation purposes.

9. Notwithstanding subsection A, paragraph 4 of this section, authorize, in the best interest of the trust, the extension of public services and facilities either:

(a) That are necessary to implement plans of the local governing body, including plans adopted or amended pursuant to section 9-461.06 or 11-805.

(b) Across state lands that are either:

(i) Classified as suitable for conservation pursuant to section 37-312.

(ii) Sold or leased at auction for conservation purposes.

C. The commissioner or any deputy or employee of the department shall not have, own or acquire, directly or indirectly, any state lands or the products on any state lands, any interest in or to such lands or products, or improvements on leased state lands, or be interested in any state irrigation project affecting state lands.

Sec. 87. Section 37-623.01, Arizona Revised Statutes, is amended to read:

37-623.01. Forestry administrative districts; equipment and personnel

A. The state forester may establish state forestry administrative districts in all eligible areas of this state.

B. The state forester shall establish an equipment program in order to supply the forestry administrative districts. Equipment shall be supplied through both the federal excess property program and purchases of new equipment when warranted.

C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the state forester may hire ~~both permanent and part-time~~ personnel in each such district or other most practical area based upon need and workload.

D. The state forester may:

1. Hire personnel and rent equipment on a temporary basis in order to monitor and suppress wild land fires occurring on state and private lands within any of the forestry administrative districts.

2. Cooperate with other federal, state and local government agencies and any person to establish a reserve of personnel and equipment which may be utilized when needed to suppress wild land fires.

3. Adopt rules necessary to carry out the provisions of this subsection which shall be exempt from existing advertising and certification procedures.

Sec. 88. Section 37-1122, Arizona Revised Statutes, is amended to read:

37-1122. General powers and duties of the commission

A. The commission shall:

1. Adopt administrative rules that in its discretion it considers to be necessary and proper to carry out the provisions and purposes of this chapter.

2. Assemble and distribute information to the public relating to the commission's determination of navigability or nonnavigability of any watercourse and the commission's other activities.

3. Conduct inquiries or hearings in performing the commission's powers and duties. The commission shall conduct its proceedings informally without adherence to judicial rules of procedure or evidence. The commission shall facilitate participation by persons who are not represented by legal counsel and shall not require a person to file documents or notices in order to be heard and participate in proceedings before the commission.

4. Exercise such other powers as may be necessary to fully carry out its responsibilities imposed by this chapter.

B. The commission may employ SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 or contract for legal counsel, independent from the attorney general, and other professional and administrative services. Legal counsel retained by the commission may advise and represent the commission in connection with legal

matters before other departments and agencies of this state and represent the commission in litigation concerning the affairs of the commission. Contracts for legal and professional services are exempt from section 41-192 and title 41, chapter 23.

Sec. 89. Section 38-401, Arizona Revised Statutes, is amended to read:

38-401. Office hours for state offices

~~Unless otherwise provided by law, and except on holidays,~~ State offices shall be kept open for transaction of business from eight o'clock a.m. until five o'clock p.m. each day from Monday through Friday EXCEPT:

1. ON HOLIDAYS.

2. IN IMPLEMENTING AN AGENCY FURLOUGH IF THE DEPARTMENT OF ADMINISTRATION HAS AUTHORIZED THE STATE OFFICE TO BE CLOSED IN ORDER TO MEET THE FURLOUGH REQUIREMENTS. AN AGENCY THAT RECEIVES THIS AUTHORIZATION SHALL ENSURE THAT APPROPRIATE NOTICE IS GIVEN TO NOTIFY THE PUBLIC OF THE OFFICE CLOSURE.

3. AS OTHERWISE PROVIDED BY LAW.

Sec. 90. Section 38-448, Arizona Revised Statutes, is amended to read:

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

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

B. An employee who violates this section ~~performs an act that is cause for~~ MAY BE SUBJECT TO discipline or dismissal ~~of the employee and for an employee in state service is considered misuse or unauthorized use of state property pursuant to section 41-770~~.

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

D. For the purposes of this section:

1. "Agency" means:

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

(b) All state universities.

(c) All community college districts.

(d) All legislative agencies.

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

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

Sec. 91. Section 38-532, Arizona Revised Statutes, is amended to read:

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

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

1. A violation of any law.

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

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

1. The date of the disclosure.

2. The name of the employee making the disclosure.

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

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

C. An employee who knowingly commits a prohibited personnel practice shall be ordered by the state personnel board, a community college district governing board, a school district governing board, a city or town personnel board or any other appropriate independent personnel board established or authorized pursuant to section 38-534 to pay a civil penalty of up to five thousand dollars to the state general fund, a county general fund, a community college district unrestricted general fund, a school district maintenance and operation fund or a city or town general fund, whichever is appropriate. The employee who committed the prohibited personnel practice, not the governmental entity, shall pay the civil penalty. On a finding that an employee committed a prohibited personnel practice, the employer shall take appropriate disciplinary action including dismissal, EXCEPT THAT ON A FINDING THAT AN EMPLOYEE COMMITTED A PROHIBITED PERSONNEL PRACTICE AGAINST AN EMPLOYEE WHO DISCLOSED INFORMATION THAT THE EMPLOYEE REASONABLY BELIEVED EVIDENCED A VIOLATION OF ANY LAW, THE EMPLOYEE WHO KNOWINGLY COMMITTED THE PROHIBITED PERSONNEL PRACTICE IS SUBJECT TO A CIVIL PENALTY OF UP TO TEN THOUSAND DOLLARS, THE EMPLOYER SHALL DISMISS THE EMPLOYEE AND THE EMPLOYEE IS BARRED FROM ANY FUTURE EMPLOYMENT BY THE GOVERNMENT ENTITY.

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

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

F. This section may not be used as a defense in a disciplinary action where the employee is being disciplined for cause pursuant to section ~~41-770~~ 41-773, except in a hearing on a complaint brought pursuant to this section by an employee or former employee who believes he has been the subject of a prohibited personnel practice as prescribed in this section as the result of a disclosure of information.

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

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

1. The validity of the complaint.

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

I. If the state personnel board, a community college district governing board, a school district governing board, a city or town council or any other appropriate independent personnel board established or authorized pursuant to section 38-534 determines that a prohibited personnel practice was committed as a result of disclosure of information by the employee or former employee, it shall rescind the personnel action and order that all lost pay and benefits be returned to the employee or former employee. The employee, former employee, employee alleged to have committed a prohibited personnel practice pursuant to subsection A of this section or employer may appeal the decision of the state personnel board, a community college district governing board, a school district governing board, a city or town council or any other appropriate independent personnel board established or

authorized pursuant to section 38-534 to the superior court as provided in title 12, chapter 7, article 6. ~~Notwithstanding section 12-910, an appeal to the superior court under this subsection shall be tried de novo.~~

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

K. An employee or former employee may also seek injunctive relief as is otherwise available in civil actions. A COURT MAY AWARD REASONABLE ATTORNEY FEES TO AN EMPLOYEE OR FORMER EMPLOYEE WHO PREVAILS IN AN ACTION PURSUANT TO THIS SECTION, BUT THE AWARD OF ATTORNEY FEES SHALL NOT EXCEED TEN THOUSAND DOLLARS.

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

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

Sec. 92. Section 38-610.01, Arizona Revised Statutes, is amended to read:

38-610.01. <u>Leave of absence and compensation for officers and employees during active military service</u>

A. If the president of the United States or the governor of this state declares that a state of emergency exists, an officer or employee of this state who is ordered to active military service of the United States or this state as a member of the national guard, air national guard, army reserve, naval reserve, marine corps reserve, air force reserve or coast guard reserve and whose state employment is ~~covered by~~ SUBJECT TO title 41, chapter 4, ~~articles 5 and 6~~ ARTICLE 4 or who is exempt pursuant to section ~~41-771~~ 41-742, subsection ~~A~~ D, paragraph 1, 2, 3~~, 4,~~ OR 5~~, 7, 8, 9, 10, 11, 12 or 13 or subsection B, paragraph 1, 2, 3, 4, 5, 7 or 8~~ is eligible for an additional leave of absence until released from active duty by competent authority. During the additional leave of absence, the officer or employee shall continue to receive the officer's or employee's salary or compensation, less the amount of all pay and allowances for military activities while on active duty.

B. An officer or employee who receives salary or compensation pursuant to subsection A of this section is not entitled to accrue annual leave or sick leave during the period of active duty. Before qualifying for the compensation pursuant to subsection A of this section, the officer or employee must exhaust all military leave balances by the time of activation or at any time during the active duty period.

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

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

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

Sec. 93. Section 38-610.02, Arizona Revised Statutes, is amended to read:

38-610.02. <u>Leave of absence and compensation for national disaster medical system employment</u>

A. An officer or employee of this state who is called into employment to the national disaster medical system under the United States department of health and human services and whose state employment is ~~covered by~~ SUBJECT TO title 41, chapter 4, ~~articles 5 and 6~~ ARTICLE 4 or who is exempt pursuant to section ~~41-771~~ 41-742, subsection ~~A~~ D, paragraph 1, 2, 3~~, 4,~~ OR 5~~, 7, 8, 9, 10, 11, 12 or 13 or subsection B, paragraph 1, 2, 3, 4, 5, 7 or 8~~ is eligible for an additional leave of absence until released from active duty by competent authority. During the additional leave of absence, the officer or employee shall continue to receive the officer's or employee's salary or compensation, less the amount of all pay and allowances for activities while on active duty with the national disaster medical system.

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

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

D. Within sixty days after an officer or employee who receives pay differential pursuant to this section completes the period of active duty, the officer or employee shall provide proof that the officer or employee rendered honorable service while on active duty during any period for which the officer or employee received the pay differential pursuant to this

section. This state may seek recovery of the pay differential from any person who fails to provide proof of honorable service.

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

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

Sec. 94. Section 38-611, Arizona Revised Statutes, is amended to read:

38-611. Compensation of certain state officers and employees

A. Except as otherwise provided in subsections ~~C~~ B and ~~D~~ C OF THIS SECTION, any officer or employee of the state, or any of its agencies, ~~who is exempt from the state personnel system shall~~ IS ENTITLED TO receive a salary within the range as ~~recommended~~ DETERMINED by the department of administration ~~in its annual recommendation to the legislature and the joint legislative budget committee~~ unless modified by the legislature.

~~B. Any officer or employee of the state, or any of its agencies, who is subject to the provisions of the state personnel system shall receive a salary within the range of the department of administration salary plan as adopted or modified by the legislature.~~

~~C.~~ B. Elected state officers, employees of the supreme court, employees of the court of appeals, employees of the legislature, employees of the governor's office, employees of the Arizona state ~~school~~ SCHOOLS for the deaf and the blind except the superintendent and the medical officer and all employees of THE ARIZONA BOARD OF REGENTS AND the state universities are exempt from the provisions of this section.

~~D.~~ C. Except as otherwise provided by statute or specific legislative appropriation, members of boards, commissions, councils or advisory committees who are authorized by law to receive compensation may receive compensation at the rate of not to exceed thirty dollars for each day engaged in the service of such board, commission, council or advisory committee.

Sec. 95. Title 38, chapter 4, article 1, Arizona Revised Statutes, is amended by adding sections 38-611.01 and 38-611.02, to read:

38-611.01. Arizona state retirement system; special pay plan

THE ARIZONA STATE RETIREMENT SYSTEM ESTABLISHED BY CHAPTER 5, ARTICLE 2 OF THIS TITLE:

1. MAY ADMINISTER AN INCENTIVE COMPENSATION PLAN FOR INVESTMENT RELATED PERSONNEL ESTABLISHED IN CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION. THE ARIZONA STATE RETIREMENT SYSTEM SHALL FILE A COPY OF ANY INCENTIVE COMPENSATION PLAN FOR INVESTMENT RELATED PERSONNEL WITH THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE OFFICE OF STRATEGIC PLANNING AND BUDGETING, THE JOINT LEGISLATIVE BUDGET COMMITTEE AND THE DEPARTMENT OF ADMINISTRATION WITHIN TEN BUSINESS DAYS OF ITS ADOPTION OR READOPTION.

2. EXCEPT FOR THE INCENTIVE COMPENSATION PLAN FOR INVESTMENT RELATED PERSONNEL, SHALL NOT ESTABLISH ANY OTHER COMPENSATION PLANS WITHOUT THE APPROVAL OF THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION.

3. MAY REQUEST THAT THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION ESTABLISH A SPECIAL PAY PLAN FOR THE ARIZONA STATE RETIREMENT SYSTEM DIRECTOR, DEPUTY DIRECTOR, CHIEF INVESTMENT OFFICER, INVESTMENT RELATED PERSONNEL AND FIDUCIARY OR INVESTMENT COUNSEL. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION, PURSUANT TO SECTION 41-742, SUBSECTION C, PARAGRAPH 4, SHALL ESTABLISH THE SPECIAL PAY PLAN AFTER CONSIDERING THE RECOMMENDATIONS OF THE ARIZONA STATE RETIREMENT SYSTEM BOARD AND USING RELEVANT MARKET DATA. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION MAY ADOPT OTHER SPECIAL PAY PLANS DETERMINED NECESSARY FOR CERTAIN CLASSES OR GROUPS OF ARIZONA STATE RETIREMENT SYSTEM EMPLOYEES, TAKING INTO CONSIDERATION SUCH FACTORS AS OCCUPATIONAL PATTERNS, ECONOMIC CONDITIONS AND PAY RANGES COMMON TO GOVERNMENT, BUSINESS AND INDUSTRY, AND SHALL WORK WITH THE ARIZONA STATE RETIREMENT SYSTEM IN ESTABLISHING THE PLANS.

38-611.02. Public safety personnel retirement system; special pay practices

THE BOARD OF TRUSTEES OF THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ESTABLISHED BY CHAPTER 5, ARTICLE 4 OF THIS TITLE:

1. MAY ADMINISTER AN INCENTIVE COMPENSATION PLAN FOR INVESTMENT RELATED PERSONNEL ESTABLISHED IN CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION. THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM SHALL FILE A COPY OF ANY INCENTIVE COMPENSATION PLAN FOR INVESTMENT RELATED PERSONNEL WITH THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE OFFICE OF STRATEGIC PLANNING AND BUDGETING, THE JOINT LEGISLATIVE BUDGET COMMITTEE AND THE DEPARTMENT OF ADMINISTRATION WITHIN TEN BUSINESS DAYS OF ITS ADOPTION OR READOPTION.

2. EXCEPT FOR THE INCENTIVE COMPENSATION PLAN FOR INVESTMENT RELATED PERSONNEL, SHALL NOT ESTABLISH ANY OTHER COMPENSATION PLANS WITHOUT THE APPROVAL OF THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION.

3. MAY REQUEST THAT THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION ESTABLISH A SPECIAL PAY PLAN FOR THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ADMINISTRATOR, DEPUTY OR ASSISTANT ADMINISTRATOR, CHIEF INVESTMENT OFFICER, INVESTMENT RELATED PERSONNEL AND FIDUCIARY OR INVESTMENT COUNSEL. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION, PURSUANT TO SECTION 41-742, SUBSECTION C, PARAGRAPH 4, SHALL ESTABLISH THE SPECIAL PAY PLAN AFTER CONSIDERING THE RECOMMENDATIONS OF THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM BOARD OF TRUSTEES, INCLUDING CONSIDERATION OF THE SALARY RANGES RECOMMENDED BY AN INDEPENDENT COMPENSATION CONSULTANT AND USING RELEVANT MARKET DATA. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION MAY ADOPT OTHER SPECIAL PAY PLANS DETERMINED NECESSARY FOR CERTAIN CLASSES OR GROUPS OF PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM EMPLOYEES, TAKING INTO CONSIDERATION SUCH FACTORS AS OCCUPATIONAL PATTERNS, ECONOMIC CONDITIONS AND

PAY RANGES COMMON TO GOVERNMENT, BUSINESS AND INDUSTRY, AND SHALL WORK WITH THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM IN ESTABLISHING THE PLANS.

Sec. 96. Section 38-612, Arizona Revised Statutes, is amended to read:

38-612. Administration of payroll salary deductions

A. There shall be no payroll salary deductions from the compensation of state officers or employees except as specifically authorized by federal law or regulation or by a statute of this state. No administrative agency of this state may authorize any other deduction.

B. In addition to those payroll salary deductions required by federal law or regulation or by statute, state officers or employees may authorize deductions to be made from their salaries or wages for the payment of:

1. Premiums on any health benefits, disability plans or group life plans provided for by statute and any existing insurance programs already provided by payroll deduction.

2. Shares or obligations to any state or federally chartered credit union established primarily for the purpose of serving state officers and employees and their families.

3. Dues in a recognized association comprised principally of employees and former employees of agencies of this state, subject to the following criteria:

(a) When comprised of at least one thousand state employees other than employees of the state universities, the department of public safety and academic personnel of the Arizona state schools for the deaf and the blind.

(b) When comprised of at least twenty-five per cent of the academic personnel or of the nonacademic employees of any state university.

(c) When comprised of at least twenty-five per cent of the academic personnel of the Arizona state schools for the deaf and the blind.

(d) When comprised of at least five hundred state employees who are certified as peace officers by the Arizona peace officer standards and training board established by section 41-1821.

4. Deferred compensation or tax sheltered annuity salary reductions when made under approved plans.

5. Federal savings bond plans.

6. Recurrent fees, charges or other payments payable to a state agency under a collection plan approved by the director of the department of administration.

7. Contributions made to a charitable organization:

(a) Organized and operated exclusively for charitable purposes and selected by the presidents of the state universities. Employees of the state universities shall be advised by form of the charitable organizations to which they may contribute through payroll salary deductions. The advisory provided under this subdivision shall be substantially similar to the following and prominently printed:

"You may contribute to any charitable organization registered under internal revenue code section 501(c)(3), tax exempt status.

_____

Charitable organization name"

This subdivision applies only to academic personnel and nonacademic employees of the state universities.

(b) Organized and operated exclusively for charitable purposes, provided a fund drive by such an organization shall be applicable to all state agencies except the state universities covered under subdivision (a) of this paragraph and no state officer or employee of state agencies subject to this subdivision may authorize more than one deduction for charitable purposes to be in effect at the same time. This subdivision applies to all state agencies except the universities covered under subdivision (a) of this paragraph.

8. Contributions made for the purpose of contributing to a fund raising campaign for a university or a club for faculty or staff, or both, which is recognized by the university president and authorized by the Arizona board of regents. This paragraph applies only to academic personnel and nonacademic employees of the state universities.

9. Charges payable for transportation expenses pursuant to section ~~41-786~~ 41-711.

10. Payments ordered by courts of competent jurisdiction within this state.

11. Automobile or homeowner's insurance premiums.

12. Premiums for the following state sponsored group benefits that are established primarily for the purpose of serving state officers and employees and their families:

(a) Long-term care insurance.

(b) Critical care insurance.

(c) Prepaid legal services.

(d) Identity theft protection services.

13. A computer system as defined in section 13-2301 for personal use.

C. In order for the department of administration to establish and maintain a dues deduction pursuant to subsection B, paragraph 3 of this section, the department of administration may establish and maintain the deduction without the appropriation of any additional monies or technological improvements. The department of administration shall track all personnel hours dedicated to dues deduction. The department of administration may charge a fee to a recognized association that qualifies under subsection B, paragraph 3 of this section for establishing the automatic dues deduction and anytime changes are needed in the automatic dues deduction system as a result of an increase or decrease in association dues. If the membership criteria of a recognized association falls below the criteria set forth in subsection B, paragraph 3 of this section, the recognized association shall be on probation for one year. If the membership of a recognized association falls

below the criteria set forth in subsection B, paragraph 3 of this section for more than one year, or if the members of the association engage in a work slowdown or work stoppage, the dues deduction authorized by this section shall immediately be discontinued.

D. For those state officers and employees under payroll systems which are under the direction of the director of the department of administration, the director shall provide for the administration of payroll deductions for the purposes set forth in this section. For all other state officers and employees and for persons receiving allowances or benefits under other state payroll and retirement systems, the appropriate state officer shall provide for such administration of payroll deductions. Such administration shall operate without cost or contribution from the state other than the incidental expense of making the deductions and remittances to the payees. If any payee requests additional services, the director of the department of administration or any other appropriate state officer may require payment for the additional cost of providing such services.

E. As a means of readily identifying the employee from whom payroll deductions are to be made, the state officer administering payroll deductions may request an employee to enter such employee's social security identification number on the payroll deduction authorization. Such number shall not be used for any other purpose.

F. The state, the director of the department of administration or any other appropriate state officer shall be relieved of any liability to employees authorizing deductions or organizations receiving deductions that may result from authorizations pursuant to this section.

Sec. 97. Section 38-654, Arizona Revised Statutes, is amended to read:

38-654. <u>Special employee health insurance trust fund; purpose; investment of monies; use of monies; exemption from lapsing; annual report</u>

A. There is established a special employee health insurance trust fund for the purpose of administering the state employee health insurance benefit plans. The fund shall consist of legislative appropriations, monies collected from the employer and employees for the health insurance benefit plans and investment earnings on monies collected from employees. The fund shall be administered by the director of the department of administration. Monies in the fund that are determined by the legislature to be for administrative expenses of the department of administration, including monies authorized by subsection C, paragraph 4 of this section, are subject to legislative appropriation.

B. On notice from the department of administration, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund. There shall be a separate accounting of monies contributed by the employer, monies collected from state employees and investment earnings on monies collected from employees. Monies collected from state employees for health

insurance benefit plans shall be expended before expenditure of monies contributed by the employer.

C. Monies in the fund shall be used by the department of administration for the following purposes for the benefit of officers and employees who participate in a health insurance benefit plan pursuant to this article:

1. To administer a health insurance benefit program for state officers and employees.

2. To pay health insurance premiums, claims costs and related administrative expenses.

3. To apply against future premiums, claims costs and related administrative expenses.

4. To apply the equivalent of not more than one dollar fifty cents for each employee for each month to administer applicable federal and state laws relating to health insurance benefit programs and to design, implement and administer improvements to the employee health insurance or benefit program.

D. Subsection C of this section shall not be construed to require that all monies in the special employee health insurance trust fund shall be used within any one or more fiscal years. Any person who is no longer a state employee or an employee who is no longer a participant in a health insurance plan under contract with the department of administration shall have no claim on monies in the fund.

E. Monies deposited in or credited to the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

F. Claims for services rendered before July 1, 1989 shall not be paid from the special employee health insurance trust fund.

G. The department of administration shall submit an annual report on the financial status of the special employee insurance trust fund to the governor, the president of the senate, the speaker of the house of representatives, the chairpersons of the house and senate appropriations committees and the joint legislative budget committee staff by ~~March~~ JULY 1. The report shall include:

1. The actuarial assumptions and a description of the methodology used to set premiums and reserve balance targets for the health insurance benefit program for the current plan year.

2. An analysis of the actuarial soundness of the health insurance benefit program for the previous plan year.

3. An analysis of the actuarial soundness of the health insurance benefit program for the current plan year, based on both year-to-date experience and total expected experience.

4. A preliminary estimate of the premiums and reserve balance targets for the next plan year, including the actuarial assumptions and a description of the methodology used.

H. The department shall submit a report to the joint legislative budget committee detailing any changes to the type of benefits offered under

the plan and associated costs at least forty-five days before making the change. The report shall include:

1. An estimate of the cost or saving associated with the change.

2. An explanation of why the change was implemented before the next plan year.

Sec. 98. Section 38-715, Arizona Revised Statutes, is amended to read:

38-715. Director; powers and duties

A. The board shall appoint a director. The ~~term of the~~ director ~~is one year and expires on June 30. On expiration of a director's term, the board may reappoint the director for another term. The board may remove the director at any time for cause~~ SHALL SERVE AT THE PLEASURE OF THE BOARD.

B. The director shall appoint a deputy director and assistant directors with the approval of the board.

C. The director, under the supervision of the board, shall:

1. Administer this article, except the investment powers and duties of investment management.

~~2. Hire employees and services the director deems necessary and prescribe their duties.~~

2. BE RESPONSIBLE FOR THE RECRUITMENT, HIRING AND DAY-TO-DAY MANAGEMENT OF EMPLOYEES.

3. Prescribe procedures to be followed by members and their beneficiaries in filing applications for benefits.

4. Be responsible for:

(a) Income and the collection of income and the accuracy of all expenditures.

(b) Maintaining books and maintaining and processing records of ASRS.

(c) The investment of temporary surplus monies only in obligations of the United States government or agencies whose obligations are guaranteed by the United States government, commercial paper or banker's acceptances for a term of not more than fifteen days.

(d) Providing continuing education programs for the board to keep the board members informed of current issues and information needed to carry out their duties.

5. Perform additional powers and duties as may be prescribed by the board and delegated to the director.

D. The director, under the supervision and approval of the board, may:

1. Delegate duties and responsibilities to such state departments as the director deems feasible and desirable to administer this article.

2. Appoint a custodian for the safekeeping of all investments owned by ASRS and register stocks, bonds and other investments in the name of a nominee.

3. Invest marketable securities owned by ASRS by entering into security loan agreements with one or more security lending entities. For the purpose of this paragraph:

(a) "Marketable securities" means securities that are freely and regularly traded on recognized exchanges or marketplaces.

(b) "Security loan agreement" means a written contract under which ASRS, as lender, agrees to lend specific marketable securities for a period of not more than one year. ASRS, under a security loan agreement, shall retain the right to collect from the borrower all dividends, interest, premiums and rights and any other distributions to which ASRS otherwise would have been entitled. During the term of a security loan agreement ASRS shall waive the right to vote the securities that are the subject of the agreement. A security loan agreement shall provide for termination by either party on terms mutually acceptable to the parties. The borrower shall deliver collateral to ASRS or its designated representative. At all times during the term of any security loan agreement the collateral shall be in an amount equal to at least one hundred per cent of the market value of the loaned securities. A security loan agreement shall provide for payment of additional collateral on a daily basis, or at such other less frequent intervals as the value of the loaned securities increases. A security loan agreement with a security lending entity shall contain the terms and conditions of the fees to be paid to a security lending entity for servicing the security loan agreement. ASRS shall pay the fees approved by the board to the security lending entity for servicing a security loan agreement from the revenues of the security lending program.

4. Establish one or more reserve holding accounts, into which the board shall close periodically the account balances of inactive accounts. If any person files a claim and furnishes proof of ownership of any amounts in any inactive account the claim shall be paid from the reserve holding account on the same basis as if no action had been taken under this paragraph. Interest and supplemental credits shall be allocated to each reserve holding account on June 30 of each year, as determined by the board. For the purposes of this paragraph, "inactive account" means an account to which contributions have not been paid for six months or more.

5. Make retirement under this article effective retroactively to on or after the day following the date employment is terminated if the member was unable to apply before the retroactive effective date through no fault of the member.

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

F. The director and all persons employed by the director are ~~not~~ subject to section 38-611 ~~or~~ AND title 41, chapter 4, article ~~5 or 6~~ 4.

G. IN CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION, THE BOARD MAY ENTER INTO EMPLOYMENT AGREEMENTS AND ESTABLISH

THE TERMS OF THOSE AGREEMENTS WITH PERSONS HOLDING ANY OF THE FOLLOWING ASRS POSITIONS:

1. DIRECTOR.
2. DEPUTY DIRECTOR.
3. CHIEF INVESTMENT OFFICER.
4. FIDUCIARY OR INVESTMENT COUNSEL.

Sec. 99. Section 38-848, Arizona Revised Statutes, is amended to read:

38-848. Board of trustees; powers and duties; independent trust fund; administrator; agents and employees

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

1. Two elected members from a local board to represent the employees.
2. One member to represent this state as an employer of public safety personnel. This member shall have the qualifications prescribed in subsection ~~R~~ T of this section.
3. One member to represent the cities as employers of public safety personnel.
4. An elected county or state official or a judge of the superior court, court of appeals or supreme court.
5. Two public members. These members shall have the qualifications prescribed in subsection ~~R~~ T of this section.

B. All monies in the fund shall be deposited and held in a public safety personnel retirement system depository. Monies in the fund shall be disbursed from the depository separate and apart from all monies or funds of this state and the agencies, instrumentalities and subdivisions of this state, except that the board may commingle the assets of the fund and the assets of all other plans entrusted to its management in one or more group trusts, subject to the crediting of receipts and earnings and charging of payments to the appropriate employer, system or plan. The monies shall be secured by the depository in which they are deposited and held to the same extent and in the same manner as required by the general depository law of this state. For purposes of making the decision to invest in securities owned by the fund or any plan administered by the board, the fund and assets of the plans are subject to the sole management of the board for the purpose of this article except that, on the board's election to invest in a particular security or make a particular investment, the assets comprising the security or investment may be chosen and managed by third parties approved by the board. The board may invest in portfolios of securities

chosen and managed by a third party. The board's decision to invest in securities such as mutual funds, commingled investment funds, exchange traded funds, private equity or venture capital limited partnerships, real estate limited partnerships or limited liability companies and real estate investment trusts whose assets are chosen and managed by third parties does not constitute an improper delegation of the board's investment authority.

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

D. The board shall have the full power in its sole discretion to invest and reinvest, alter and change the monies accumulated under the system and other retirement plans that the board administers as provided in this article. In addition to its power to make investments managed by others, the board may delegate the authority the board deems necessary and prudent to investment management pursuant to section 38-848.03, as well as to the administrator, employed by the board pursuant to subsection K, paragraph 6 of this section, and any assistant administrators to invest the monies of the system and other retirement plans that the board administers if the administrator, investment management and any assistant administrators follow the investment policies that are promulgated by the board. The board may commingle securities and monies of the fund, the elected officials' retirement plan, the corrections officer retirement plan and other plans or monies entrusted to its care, subject to the crediting of receipts and earnings and charging of payments to the account of the appropriate employer, system or plan. In making every investment, the board shall exercise the judgment and care under the circumstances then prevailing which persons of ordinary prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income from their funds as well as the probable safety of their capital, provided:

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

2. That no more than five per cent of the combined assets of the system or other plans that the board manages shall be invested in corporate stock issued by any one corporation, other than corporate stock issued by

corporations chartered by the United States government or corporate stock issued by a bank or insurance company.

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

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

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

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

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

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

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

E. Notwithstanding any other law, the board shall not be required to invest in any type of investment that is dictated or required by any entity of the federal government and that is intended to fund economic development projects, public works or social programs, but may consider such economically targeted investments pursuant to its fiduciary responsibility. The board, on behalf of the system and all other plans or trusts the ~~fund manager~~ BOARD administers, may invest in, lend monies to or guarantee the repayment of monies by a limited liability company, limited partnership, joint venture, partnership, limited liability partnership or trust in which the system and plans or trusts have a financial interest, whether the entity is closely held or publicly traded and that, in turn, may be engaged in any lawful activity, including venture capital, private equity, the ownership, development, management, improvement or operation of real property and any improvements or businesses on real property or the lending of monies.

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

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

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

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

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

3. Also:

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

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

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

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

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

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

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

6. At the expense of the system or other plans that the board administers, enter into an agreement with any bank or banks for the safekeeping and handling of securities and other investments coming into the possession of the board. The agreement shall be entered into under terms and conditions that secure the proper safeguarding, inventory, withdrawal and handling of the securities and other investments. No access to and no deposit or withdrawal of the securities from any place of deposit selected by

the board shall be permitted or made except as the terms of the agreement may provide.

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

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

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

10. Settle threatened or actual litigation against any system or plan that the ~~fund manager~~ BOARD administers.

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

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

1. A balance sheet.

2. A statement of income and expenditures for the year.

3. A report on an actuarial valuation of its assets and liabilities.

4. A list of investments owned.

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

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

K. The board shall:

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

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

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

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

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

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

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

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

1. Administer this article.

2. BE RESPONSIBLE FOR THE RECRUITMENT, HIRING AND DAY-TO-DAY MANAGEMENT OF EMPLOYEES.

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

~~3.~~ 4. Establish and maintain an adequate system of accounts and records for the system and other plans that the board administers, which shall be integrated with the accounts, records and procedures of the employers so that the system and other plans that the board administers operates most effectively and at minimum expense and that duplication of records and accounts is avoided.

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

~~5.~~ 6. Be responsible for income, the collection of the income and the accuracy of all expenditures.

~~6.~~ 7. Recommend to the board annual contracts for the system's actuary, auditor, investment counsel, legal counsel and safeguarding of securities.

~~7.~~ 8. Perform additional duties and powers prescribed by the board and delegated to the administrator.

M. The system is an independent trust fund and the board~~, the administrator, the assistant administrators and all persons employed by them are not under the jurisdiction of the department of administration or any other agency, department or instrumentality of this state or subject to section 38-611 or title 41, chapter 4 or 6. The salaries of the administrator, assistant administrators and other employees of the board are the sole determination of the board~~ IS NOT SUBJECT TO TITLE 41, CHAPTER 6. Contracts for goods and services approved by the board are not subject to title 41, chapter 23. As an independent trust fund whose assets are separate and apart from all other funds of this state, the system and the board are not subject to the restrictions prescribed in section 35-154 or article IX, sections 5 and 8, Constitution of Arizona.

N. THE BOARD, THE ADMINISTRATOR, THE ASSISTANT ADMINISTRATORS AND ALL PERSONS EMPLOYED BY THEM ARE SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4. THE ADMINISTRATOR, ASSISTANT ADMINISTRATORS AND OTHER EMPLOYEES OF THE BOARD ARE ENTITLED TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611.

O. IN CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION, THE BOARD MAY ENTER INTO EMPLOYMENT AGREEMENTS AND ESTABLISH THE TERMS OF THOSE AGREEMENTS WITH PERSONS HOLDING ANY OF THE FOLLOWING SYSTEM POSITIONS:

1. ADMINISTRATOR.
2. DEPUTY OR ASSISTANT ADMINISTRATOR.
3. CHIEF INVESTMENT OFFICER.
4. DEPUTY CHIEF INVESTMENT OFFICER.
5. FIDUCIARY OR INVESTMENT COUNSEL.

~~N.~~ P. The attorney general or an attorney approved by the attorney general and paid by the fund shall be the attorney for the board and shall represent the board in any legal proceeding or forum that the board deems appropriate. The board, administrator, assistant administrators and employees of the board are not personally liable for any acts done in their official capacity in good faith reliance on the written opinions of the board's attorney.

~~O.~~ Q. At least once in each five-year period after the effective date, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the system and other plans that the board administers and shall make a special valuation of the assets and liabilities of the monies of the system and plans. Taking into account the results of the investigation and special

valuation, the board shall adopt for the system and other plans that the board administers those mortality, service and other tables deemed necessary.

~~P.~~ R. On the basis of the tables the board adopts, the actuary shall make a valuation of the assets and liabilities of the funds of the system and other plans that the board administers not less frequently than every year. By November 1 of each year the board shall provide a preliminary report and by December 15 of each year provide a final report to the governor, the speaker of the house of representatives and the president of the senate on the contribution rate for the ensuing fiscal year.

~~Q.~~ S. Neither the board nor any member or employee of the board shall directly or indirectly, for himself or as an agent, in any manner use the monies or deposits of the fund except to make current and necessary payments, nor shall the board or any member or employee become an endorser or surety or in any manner an obligor for monies loaned by or borrowed from the fund or the assets of any other plans that the board administers.

~~R.~~ T. The members of the board who are appointed pursuant to subsection A, paragraphs 2 and 5 of this section shall have at least ten years' substantial experience as any one or a combination of the following:

1. A portfolio manager acting in a fiduciary capacity.

2. A securities analyst.

3. An employee or principal of a trust institution, investment organization or endowment fund acting either in a management or an investment related capacity.

4. A chartered financial analyst in good standing as determined by the association for investment management and research.

5. A professor at the university level teaching economics or investment related subjects.

6. An economist.

7. Any other professional engaged in the field of public or private finances.

~~S.~~ U. Financial or commercial information that is provided to the board, employees of the board and attorneys of the board in connection with investments in which the board has invested or investments the board has considered for investment is confidential, proprietary and not a public record if the information is information that would customarily not be released to the public by the person or entity from whom the information was obtained.

Sec. 100. Section 40-105, Arizona Revised Statutes, is amended to read:

40-105. <u>Executive director; appointment; powers and duties</u>

A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the corporation commission shall appoint an executive director, who shall have the power to serve warrants and other process in any county of the state.

B. The executive director shall if directed by the commission:

1. Keep a record of all proceedings of the commission, issue necessary writs, warrants and notices, and perform other duties the commission prescribes.

2. Supervise and administer the overall activities of the commission divisions and employees.

3. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, employ experts, engineers, statisticians, accountants, inspectors and employees necessary to perform the duties and exercise the powers of the commission.

4. Make and submit to the governor and legislature an annual report containing a complete account of the commission's transactions and proceedings for the preceding fiscal year, together with other facts, suggestions and recommendations of value to the people of this state.

C. The executive director may if directed by the commission:

1. Act as the authorized officer of the commission when performing duties necessary for processing rules adopted by the commission.

2. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the commission to adequately perform its duties.

3. Contract and incur obligations reasonably necessary or desirable within the scope of commission activities and operations to enable the commission to adequately perform its duties.

4. Use monies, facilities or services to provide matching contributions for other governmental programs which further the objectives and programs of the commission.

5. Employ attorneys to represent the commission and each commissioner as provided in section 40-106.

6. Establish accounts for the purpose of receiving and expending monies for educational and safety programs within the scope of the duties of the commission.

Sec. 101. Section 40-108, Arizona Revised Statutes, is amended to read:

40-108. <u>Compensation of appointees and employees</u>

A. The compensation of corporation commission appointees and employees except as provided in section 40-408 shall be determined pursuant to section 38-611 and shall be paid from the state general fund and the appropriation made to the commission in the general appropriations act.

B. ~~Notwithstanding subsection A of this section, if the commission is unable to employ utilities division professional staff under the provisions of section 38-611, the commission may request an exemption from the provisions of section 38-611 from the joint legislative budget committee for each such employee.~~ Employee compensation of the utilities division and a part of the administration, hearing and legal divisions SHALL BE DETERMINED PURSUANT TO SECTION 38-611 AND is payable from the utility regulation revolving fund established pursuant to section 40-408.

Sec. 102. Section 40-464, Arizona Revised Statutes, is amended to read:

40-464. Powers and duties

A. The director may:

1. Research, study and analyze residential utility consumer interests.

2. Prepare and present briefs, arguments, proposed rates or orders and intervene or appear on behalf of residential utility consumers before hearing officers and the corporation commission as a party in interest and also participate as a party in interest pursuant to sections 40-254 and 40-254.01 in proceedings relating to rate making or rate design and involving public service corporations, except that the director shall not participate in any proceedings pursuant to this paragraph involving a member-owned nonprofit cooperative corporation.

3. Make and execute contracts and other instruments as necessary to perform his duties.

4. Hire employees SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 as necessary to carry out this article and contract for special services as needed.

5. Employ such attorneys as are required to represent the interests of residential utility consumers.

B. The director shall adopt administrative rules necessary to carry out the purposes of this article.

C. All contacts by residential utility consumers with regard to quality or quantity of service provided by a public service corporation shall be recorded by the office for the purpose of determining general concerns of consumers. The office may advise the consumer of other agencies that may be of further assistance and shall refer the consumer to the corporation commission utilities division consumer services section established in section 40-110.

Sec. 103. Section 41-121.02, Arizona Revised Statutes, is amended to read:

41-121.02. Department of state

A. There is established the department of state, which shall be composed of the office of the secretary of state.

B. The secretary of state shall have charge of and direct the department of state.

C. Except as otherwise provided by law, employees of the department are ~~exempt from~~ SUBJECT TO chapter 4, ARTICLE 4 AND, AS APPLICABLE, articles 5 and 6 of this title.

D. Purchases and contracts for goods and services entered into by the Arizona state library, archives and public records are exempt from chapter 23 of this title.

E. The Arizona state library, archives and public records is exempt from chapter 6 of this title.

1 Sec. 104. Section 41-151.04, Arizona Revised Statutes, is amended to
2 read:
3 41-151.04. Compensation of director
4 The compensation of the director shall be as determined by the
5 secretary of state PURSUANT TO SECTION 38-611.
6 Sec. 105. Section 41-151.05, Arizona Revised Statutes, is amended to
7 read:
8 41-151.05. Powers and duties of director
9 A. The director shall:
10 1. Adopt rules for the use of books or other materials in the custody
11 of the state library and for the removal of books from the library, including
12 assessment of reasonable penalties for failure to return books or other
13 materials when due. The proceeds from the assessment of reasonable penalties
14 shall be deposited, pursuant to sections 35-146 and 35-147, in the state
15 library fund established by section 41-151.06. The monies shall be used only
16 for the purchase of other books or materials.
17 2. Sell or exchange undesired duplicate copies of books or other
18 materials, or books or other materials not of value for the purposes of the
19 library, or photographic reproductions of state library holdings, and
20 deposit, pursuant to sections 35-146 and 35-147, the proceeds in the state
21 library fund established by section 41-151.06. The monies shall be used for
22 the purchase of other books or materials.
23 3. Bring actions for the recovery of books or other materials, or for
24 three times the value of the books or other materials, against any person who
25 has them in the person's possession or who is responsible for the books or
26 other materials, and who has failed or refused to return them on demand. If
27 a book or other material is one of a set the value of the book or other
28 material may be deemed the value of the entire set. Monies recovered
29 pursuant to this paragraph shall be transmitted to the state treasurer for
30 credit to the state library fund established by section 41-151.06.
31 4. Certify copies from books, documents or other archival or public
32 records which have been deposited in the custody of the state library. The
33 fee for certification shall be the same as prescribed for the certification
34 of records by the secretary of state. These fees shall be transmitted to the
35 state treasurer for credit to the state library fund established by section
36 41-151.06. These certificates have the same force and effect as if made by
37 the officer originally in charge of the record.
38 5. As the director deems necessary:
39 (a) Arrange with the federal government, other states and foreign
40 countries for a system of exchange of official state reports and
41 publications, session laws, statutes, legislative journals and supreme court
42 reports.
43 (b) Enter into agreements to establish a depository system and an
44 exchange program with any municipal, county or regional public library, state
45 college or state university library and out-of-state research libraries.

(c) Enter into agreements with libraries in this state for the state documents program described in section 41-151.08, subsection A, paragraph 2. Any library that enters into an agreement pursuant to this subdivision shall continue to contribute at least the same level of support to the state documents program and shall not use any monies received pursuant to the agreement to supplant other monies available to the library.

6. Adopt rules for the acquisition, maintenance, access and preservation of state publications.

7. After consultation with other agencies, adopt rules as provided by statute, including rules for the:

(a) Description of state publications in all formats.

(b) Supervision of county free libraries pursuant to section 11-910.

(c) Certification of signs, plaques and markings pursuant to sections 28-7051 and 41-151.10.

(d) Enforcement of section 34-502.

8. Provide access to an official compilation or revision of the laws of this state to each public or court library in this state that applies for access. The director may provide the access electronically. On request, the director may provide a certified copy of a law pursuant to paragraph 4 of this subsection.

9. As part of the secretary of state's annual report to the governor, report on the condition of the state library, its activities and the disposition of monies spent for its maintenance.

10. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, appoint personnel, including security personnel, necessary to perform the duties of the state library and assign their duties.

11. Cooperate with the legislative council in carrying out section 41-1304, subsection B.

B. The governor, the secretary of state, the president of the senate, the speaker of the house of representatives, the heads of departments and all officers and agents of this state shall supply at no cost the number of copies of official reports, public documents and publications required for the state library or its agents to satisfy the requirements of the state documents program or arrangements or agreements entered into pursuant to subsection A, paragraph 5 of this section.

C. The governmental units described in subsection B of this section shall:

1. Notify the state library if the reports, documents and publications subject to this section are posted on an internet website.

2. Pay the state library the fee charged pursuant to section 41-151.12 if the governmental unit refuses the state library's request to supply, and the state library incurs any expenses in obtaining, the copies that are required to be supplied pursuant to this section.

Sec. 106. Section 41-172, Arizona Revised Statutes, is amended to read:

41-172. Powers and duties; administering oaths; appointment of deputy state treasurer

A. The state treasurer shall:

1. Authenticate writings and documents certified by him with the seal of his office.

2. Receive and keep in secure custody all monies that belong to the state and that are not required to be received and kept by some other person.

3. File and keep the documentation delivered to the treasurer when monies are deposited into the treasury.

4. Deliver to each person depositing money into the treasury a confirmation showing the date, amount and depositing agency and shall provide a unique identifying number for each confirmation.

5. Pay warrants drawn by the department of administration in the order in which they are presented.

6. Keep an account of all monies received and disbursed, and keep separate accounts of the different funds and appropriations of money.

7. Give information in writing as to the condition of the state treasury, or on any subject relating to the duties of the treasurer, at the request of a member of the legislature.

8. Deliver to the governor and the department of administration, monthly, an accurate statement of receipts and expenditures of public monies for the preceding month, containing a complete exhibit of all the public monies received and paid from the state treasury, showing, under separate heads, on what accounts and from what sources received, and for what particular object or service the monies have been paid. The treasurer shall deliver to the governor a similar statement on or before November 1 each year for the preceding fiscal year. The statement shall also include an estimate of the invested balance including the general fund share of that balance as of June 30 of the preceding fiscal year. The statements are public records available for inspection at the office of the state treasurer.

9. On or before February 1 of each year, in coordination with the director of the department of administration, submit to the joint legislative budget committee a report explaining any differences between the department of administration's estimate of the previous fiscal year's state general fund ending balance submitted pursuant to section 35-131 and the state treasurer's estimate of the invested balance including the general fund share of that balance as of June 30 of the previous fiscal year submitted pursuant to paragraph 8.

10. Exercise those specific powers of the surveyor-general as a member of the selection board established under section 37-202.

B. The state treasurer may administer all oaths prescribed by law in matters touching the duties of the office of the state treasurer, SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, may appoint a deputy state treasurer, may qualify and select investment managers or advisors pursuant to section 35-318 and shall perform other duties required by other laws of this state.

C. EMPLOYEES OF THE STATE TREASURER'S OFFICE ARE SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE. For prospective or current employees of the state treasurer's office, the state treasurer may:

1. Require the submission of a full set of fingerprints for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

2. Conduct a periodic review of credit standing.

Sec. 107. Section 41-192, Arizona Revised Statutes, is amended to read:

41-192. <u>Powers and duties of attorney general; restrictions on state agencies as to legal counsel; exceptions</u>

A. The attorney general shall have charge of and direct the department of law and shall serve as chief legal officer of the state. The attorney general shall:

1. Be the legal advisor of the departments of this state and render such legal services as the departments require.

2. Establish administrative and operational policies and procedures within his department.

3. Approve long-range plans for developing departmental programs therein, and coordinate the legal services required by other departments of this state or other state agencies.

4. Represent school districts and governing boards of school districts in any lawsuit involving a conflict of interest with other county offices.

5. Represent political subdivisions, school districts and municipalities in suits to enforce state or federal statutes pertaining to antitrust, restraint of trade or price-fixing activities or conspiracies, if the attorney general notifies in writing the political subdivisions, school districts and municipalities of the attorney general's intention to bring any such action on its behalf. At any time within thirty days after the notification, the political subdivisions, school districts and municipalities, by formal resolution of its governing body, may withdraw the authority of the attorney general to bring the intended action on its behalf.

6. In any action brought by the attorney general pursuant to state or federal statutes pertaining to antitrust, restraint of trade, or price-fixing activities or conspiracies for the recovery of damages by this state or any of its political subdivisions, school districts or municipalities, in addition to the attorney general's other powers and authority, the attorney general on behalf of this state may enter into contracts relating to the investigation and prosecution of such action with any other party plaintiff

who has brought a similar action for the recovery of damages and with whom the attorney general finds it advantageous to act jointly or to share common expenses or to cooperate in any manner relative to such action. In any such action, notwithstanding any other laws to the contrary, the attorney general may undertake, among other things, to render legal services as special counsel or to obtain the legal services of special counsel from any department or agency of the United States, of this state or any other state or any department or agency thereof or any county, city, public corporation or public district in this state or in any other state that has brought or intends to bring a similar action for the recovery of damages or their duly authorized legal representatives in such action.

7. Organize the civil rights division within the department of law and administer such division pursuant to the powers and duties provided in chapter 9 of this title.

8. Compile, publish and distribute to all state agencies, departments, boards, commissions and councils, and to other persons and government entities on request, at least every ten years, the Arizona agency handbook that sets forth and explains the major state laws that govern state agencies, including information on the laws relating to bribery, conflicts of interest, contracting with the government, disclosure of public information, discrimination, nepotism, financial disclosure, gifts and extra compensation, incompatible employment, political activity by employees, public access and misuse of public resources for personal gain. A supplement to the handbook reflecting revisions to the information contained in the handbook shall be compiled and distributed by the attorney general as deemed necessary.

B. Except as otherwise provided by law, the attorney general may:

1. Organize the department into such bureaus, subdivisions or units as he deems most efficient and economical, and consolidate or abolish them.

2. Adopt rules for the orderly conduct of the business of the department.

3. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, employ and assign assistant attorneys general and other employees necessary to perform the functions of the department.

4. Compromise or settle any action or claim by or against this state or any department, board or agency of this state. If the compromise or settlement involves a particular department, board or agency of this state, the compromise or settlement shall be first approved by the department, board or agency. If no department or agency is named or otherwise materially involved, the approval of the governor shall be first obtained.

5. Charge reasonable fees for distributing official publications, including attorney general legal opinions and the Arizona agency handbook. The fees received shall be transmitted to the state treasurer for deposit in the state general fund.

~~C. Assistants and employees in any legal division subject to a merit system prior to March 6, 1953 shall remain subject thereto.~~

~~D.~~ C. The powers and duties of a bureau, subdivision or unit shall be limited to those assigned by law to the department.

~~E.~~ D. Notwithstanding any law to the contrary, except as provided in subsections ~~F~~ E and ~~G~~ F of this section, no state agency other than the attorney general shall employ legal counsel or make an expenditure or incur an indebtedness for legal services, but the following are exempt from this section:

1. The director of water resources.
2. The residential utility consumer office.
3. The industrial commission.
4. The Arizona board of regents.
5. The auditor general.
6. The corporation commissioners and the corporation commission other than the securities division.
7. The office of the governor.
8. The constitutional defense council.
9. The office of the state treasurer.
10. The Arizona commerce authority.

~~F.~~ E. If the attorney general determines that he is disqualified from providing judicial or quasi-judicial legal representation or legal services on behalf of any state agency in relation to any matter, the attorney general shall give written notification to the state agency affected. If the agency has received written notification from the attorney general that the attorney general is disqualified from providing judicial or quasi-judicial legal representation or legal services in relation to any particular matter, the state agency is authorized to make expenditures and incur indebtedness to employ attorneys to provide the representation or services.

~~G.~~ F. If the attorney general and the director of the department of agriculture cannot agree on the final disposition of a pesticide complaint under section 3-368, if the attorney general and the director determine that a conflict of interest exists as to any matter or if the attorney general and the director determine that the attorney general does not have the expertise or attorneys available to handle a matter, the director is authorized to make expenditures and incur indebtedness to employ attorneys to provide representation or services to the department with regard to that matter.

~~H.~~ G. Any department or agency of this state authorized by law to maintain a legal division or incur expenses for legal services from funds derived from sources other than the general revenue of the state, or from any special or trust fund, shall pay from such source of revenue or special or trust fund into the general fund of the state, to the extent such funds are available and upon a reimbursable basis for warrants drawn, the amount actually expended by the department of law within legislative appropriations for such legal division or legal services.

~~I.~~ H. Appropriations made pursuant to subsection ~~H~~ G of this section shall not be subject to lapsing provisions otherwise provided by law.

Services for departments or agencies to which this subsection and subsection ~~G~~ F of this section are applicable shall be performed by special or regular assistants to the attorney general.

~~J.~~ I. Notwithstanding section 35-148, monies received by the attorney general from charges to state agencies and political subdivisions for legal services relating to interagency service agreements shall be deposited, pursuant to sections 35-146 and 35-147, in an attorney general agency services fund. Monies in the fund are subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

Sec. 108. Section 41-511.02, Arizona Revised Statutes, is amended to read:

41-511.02. Director; qualifications; state historic preservation officer

A. The ~~board~~ GOVERNOR shall ~~employ~~ APPOINT a full-time director PURSUANT TO SECTION 38-211 who shall:

1. Not be ~~one of its members~~ A MEMBER OF THE ARIZONA STATE PARKS BOARD.

2. Serve at the pleasure of the ~~board~~ GOVERNOR.

3. Be qualified by successful experience in administration in business or in government.

4. Have a knowledge of or training in the multiple use of lands and the conservation of natural resources.

B. The governor shall designate a full-time employee of the board with professional competence and expertise in the field of historic preservation as the "state historic preservation officer" to administer the state historic preservation program.

Sec. 109. Section 41-511.05, Arizona Revised Statutes, is amended to read:

41-511.05. Powers; compensation

The board may, subject to legislative budgetary control within the limitations of this article:

1. SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF THIS TITLE, employ, determine conditions of employment and specify the duties of such administrative, secretarial and clerical workers and technical employees such as naturalists, archaeologists, landscape architects, rangers, park supervisors, caretakers, guides, skilled tradesmen, laborers, historians and engineers, and contract to have the services of such advisors or consultants as are reasonably necessary or desirable to enable it to perform adequately its duties. The compensation of the director and of all workers and employees shall be as determined pursuant to section 38-611.

2. Make such contracts, leases and agreements and incur such obligations as are reasonably necessary or desirable within the general scope of its activities and operations to enable it to perform adequately its duties.

3. Acquire through purchase, lease, agreement, donation, grant, bequest or otherwise real and personal property and acquire real property through eminent domain for state park or monument purposes. No property may be acquired in the manner provided in this paragraph which will require an expenditure in excess of funds budgeted or received for such purposes. No state park or monument, or additions to a state park or monument, shall be created containing in excess of one hundred sixty acres of land unless created by an act of the legislature. This acreage limitation shall not apply in the case of lands given or donated for state park or monument purposes nor to state owned lands that are selected by the board and that are not subject to outstanding leases, permits or other rights for the use of the lands including preferential rights to renew such leases and permits.

4. Sell, lease, exchange or otherwise dispose of real and personal property. Any disposition of real property shall be submitted for approval of the joint committee on capital review. The disposition of office equipment, furnishings, vehicles and other materials is subject to chapter 23, article 8 of this title. The disposition of artifacts and other property of scientific, archaeological, historical or sociological interest is exempt from chapter 23, article 8 of this title, but the board shall consult with the Arizona historical society in disposing of property of historical interest.

5. Construct at state parks and monuments necessary sanitary and other facilities including picnic tables, fireplaces, campsites, service buildings and maintenance shops, and contract with private persons for the construction and operation of cabins, hotels and restaurants, and like establishments.

6. Erect suitable signs and markers at parks and monuments and write, prepare and publish written material describing the historical significance of monuments and other places of historical or other significance.

7. Solicit and work in cooperation with the department of transportation and the highway departments of various counties and the United States federal highway administration for necessary roads and trails within the state parks and monuments and access roads to state parks and monuments. For the purposes of this paragraph, the board may designate roads, spurs and other traffic related appurtenances within state park boundaries as public highways. Designation of roads, spurs or other traffic related appurtenances as public highways shall not prohibit the board from closing such public highways when the park is closed, charging for admission to the park to persons using the public highway within the park or otherwise managing such public highways in the same manner as other lands within the park.

8. Levy and collect reasonable fees or other charges for the use of such privileges and conveniences as may be provided under the jurisdiction of the board. The board may enter into agreements for the purpose of accepting payment for fees or other charges imposed pursuant to this article by alternative payment methods, including credit cards, charge cards, debit cards and electronic funds transfers. The collecting officer shall deduct any fee charged or withheld by a company providing the alternative payment method under an agreement with the board before the revenues are transferred to the board.

9. Make reasonable rules for the protection of, and maintain and keep the peace in, state parks and monuments. Such rules adopted by the parks board are subject to review and approval by the legislature. After a board rule has been finally adopted pursuant to chapter 6 of this title, the board shall immediately forward a certified copy of the rule to the legislature. The legislature may review and, by concurrent resolution, approve, disapprove or modify such rule. However, such rule shall be given full force and effect pending legislative review. If no concurrent resolution is passed by the legislature with respect to the rule within one year following receipt of a certified copy of the rule, the rule shall be deemed to have been approved by the legislature. If the legislature disapproves a rule or a section of a rule, the board shall immediately discontinue the use of any procedure, action or proceeding authorized or required by the rule or section of the rule. If the legislature modifies a rule or section of a rule, the board shall immediately suspend the use of any procedure, action or proceeding authorized or required by the rule or section of the rule until the modified rule has been adopted in accordance with chapter 6 of this title, after which all proceedings pursuant to the rule shall be conducted in accordance with the modified version of the rule.

10. Furnish advisory services to city and county park or recreation boards and organizations.

11. Delegate to the director, the deputy director or the director's designee any of its powers and duties, whether ministerial or discretionary, which are prescribed by law, except that the board may not delegate its power or duty to make rules.

12. Reimburse board volunteers for travel and lodging expenses and per diem subsistence allowances incurred while on public business for the board. Reimbursement amounts shall not exceed those allowed under title 38, chapter 4, article 2.

13. In consultation with the conservation acquisition board, develop a grant program and adopt guidelines for allocating and obligating monies in the land conservation fund pursuant to section 41-511.23. The guidelines shall include consideration of both qualification issues relating to applicants for grants and issues relating to the proposed use of the grant money in a manner consistent with existing municipal, county and regional land use plans.

Sec. 110. Section 41-531, Arizona Revised Statutes, is amended to read:

41-531. Arizona commission of African-American affairs

A. The Arizona commission of African-American affairs is established and consists of the governor, the superintendent of public instruction, the director of the department of health services, the director of the department of transportation, the attorney general, the director of the department of economic security, the director of the office of tourism and the director of the department of commerce, or their representatives, who shall be ex officio members, and nine members who are appointed by the governor, seven of whom are African-American and two of whom are not African-American.

B. The term of office of each appointed member is three years. Each member shall hold office until the member's successor is appointed and qualifies. Appointment to fill a vacancy caused other than by expiration of a term shall be for the unexpired portion of the term.

C. Members of the commission shall serve without compensation.

D. The commission shall elect a chairperson and a vice-chairperson from among its appointed members and adopt rules for the conduct of meetings. A record shall be kept of all proceedings and transactions.

E. Section 41-2955, subsection D does not apply to the commission.

F. The commission shall meet at least quarterly on the second Thursday of the first month of each quarter and may hold additional meetings on the call of the chairperson. A majority of the appointed members of the commission constitute a quorum for the transaction of business, but ex officio members may vote. Members who fail to attend three consecutive meetings are deemed to have resigned.

G. The appointed members of the commission shall ~~appoint~~ EMPLOY, SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, an executive director of the commission who shall not be a member of the commission. The director is eligible to receive compensation as determined by the commission from monies available in the Arizona commission of African-American affairs fund established by section 41-533. The commission may employ clerical, professional and technical personnel subject to CHAPTER 4, ARTICLE 4 OF THIS TITLE AND monies available in the Arizona commission of African-American affairs fund and shall prescribe their duties and determine their compensation.

Sec. 111. Section 41-542, Arizona Revised Statutes, is amended to read:

41-542. Powers and duties; information; report; director; appointment; personnel; limitation; fees; directory

A. The commission shall assist and support state and federal agencies in assisting Indians and tribal councils in this state to develop mutual goals, to design projects for achieving goals and to implement their plans. The commission shall also:

1 1. Assemble and make available facts needed by tribal, state and
2 federal agencies to work together effectively.
3 2. Assist this state in its responsibilities to Indians and tribes of
4 this state by making recommendations to the governor and the legislature.
5 3. Confer and coordinate with officials and agencies of other
6 governmental units and legislative committees regarding Indian needs and
7 goals.
8 4. Work for greater understanding and improved relationships between
9 Indians and non-Indians by creating an awareness of the legal, social and
10 economic needs of Indians in this state.
11 5. Promote increased participation by Indians in local and state
12 affairs.
13 6. Assist tribal groups in developing increasingly effective methods
14 of self-government.
15 7. Assist urban Indians. For the purposes of this paragraph, "urban
16 Indian" means an Indian who:
17 (a) Is a resident of this state.
18 (b) Resides in a county of this state with a population of more than
19 two hundred thousand persons.
20 (c) Does not reside on an Indian reservation in such a county.
21 B. State and local public officers and employees, on request, shall
22 furnish the commission with information that it may require for its purposes
23 except information which is not subject to disclosure pursuant to a provision
24 of law.
25 C. The commission shall make a written annual report, giving an
26 account of its proceedings, transactions, findings and recommendations, to
27 the governor and the legislature and may submit such recommendations to the
28 legislature in the form of proposed legislation.
29 D. The governor shall appoint an executive director of the commission
30 pursuant to section 38-211 who shall not be a member of the commission. The
31 director is eligible to receive compensation pursuant to section 38-611. The
32 commission may employ clerical, professional and technical personnel subject
33 to CHAPTER 4, ARTICLE 4 OF THIS TITLE AND appropriated funds and shall
34 prescribe their duties and determine their compensation PURSUANT TO SECTION
35 38-611.
36 E. The commission may initiate or assist programs on a reservation
37 only upon the request or with the approval of the tribal council for such
38 reservation.
39 F. The commission may publish an annual directory of tribal
40 governments in this state and other tribal and Indian related organizations
41 and entities. The commission shall charge a fee for nongovernmental
42 distribution of the directory and other commission publications based on the
43 costs of compiling, publishing and distributing the directory and other
44 commission publications.

Sec. 112. Section 41-619.53, Arizona Revised Statutes, is amended to read:

41-619.53. Board of fingerprinting; powers and duties; personnel; liability

A. The board of fingerprinting shall:

1. Determine good cause exceptions pursuant to section 41-619.55. The board may appoint a hearing officer to recommend that an applicant be granted or denied a good cause exception after the hearing officer conducts an expedited review or a good cause exception hearing.

2. Adopt rules to implement this article, including rules to establish good cause exceptions for the issuance of fingerprint clearance cards pursuant to sections 41-1758.03 and 41-1758.07. This rule making is exempt from the requirements of chapter 6 of this title.

3. Administer and enforce this article and rules adopted pursuant to this article.

4. Furnish a copy of its rules, on request, to all applicants who petition the board for a good cause exception pursuant to sections 41-1758.03 and 41-1758.07 and, on request, to licensees, contract providers and state agencies.

5. Establish fees.

B. In order to grant a good cause exception, a majority plus an additional member, of the members present, must vote to approve the application. If the board grants a good cause exception, the board shall request in writing that the department of public safety issue a card to the applicant.

C. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the board may employ clerical, professional and technical personnel subject to fee monies that are collected and to the budget that is approved by the board members and shall prescribe personnel duties and determine personnel compensation. Personnel employed by the board must have a valid fingerprint clearance card issued pursuant to section 41-1758.07. If the applicant is denied a fingerprint clearance card, in order to be employed by the board, the board must grant a good cause exception pursuant to this article by a unanimous vote.

D. In making any recommendation to the board to grant or deny a good cause exception, the hearing officer shall consider all of the reasons and criteria prescribed in section 41-619.55, subsection E.

E. Members and employees of the board are not liable for acts done or actions taken by any board member or employee if the members or employees act in good faith following the requirements of this article.

Sec. 113. Section 41-701, Arizona Revised Statutes, is amended to read:

41-701. Department of administration; director; appointment

A. A department of administration is established.

B. The direction, operation and control of the department is the responsibility of the director.

C. The director shall be appointed by the governor~~, from a list of qualified candidates submitted by the committee as provided in subsection D,~~ with the advice and consent of the senate and shall serve at the pleasure of the governor.

~~D. The department's human resources division shall assist the governor in preparing a job description for the position of director and recruiting candidates for the position. The qualifications of the candidates shall be reviewed by a committee of seven persons selected by the governor. The names of all those candidates determined by the committee to be qualified for the position shall be submitted to the governor for the governor's consideration. The governor may request additional names from the committee if the governor deems necessary. For each subsequent vacancy in the position of director, a new committee shall be appointed by the governor.~~

Sec. 114. Title 41, chapter 4, article 1, Arizona Revised Statutes, is amended by adding sections 41-709, 41-710 and 41-711, to read:

41-709. Gifts and donations for employee recognition

A STATE DEPARTMENT OR AGENCY MAY ACCEPT GIFTS AND DONATIONS FROM A PUBLIC ENTITY, A PRIVATE ENTITY OR ANY PERSON FOR THE CONDUCT OF EMPLOYEE RECOGNITION PROGRAMS. GIFTS AND DONATIONS FOR EMPLOYEE RECOGNITION PROGRAMS ARE SUBJECT TO THE REQUIREMENTS OF TITLE 35, CHAPTER 1, ARTICLE 3 AND CHAPTER 23 OF THIS TITLE.

41-710. Information technology personnel; criminal history records; definitions

A. BEFORE ACCEPTING AN OFFER OF EMPLOYMENT, AN APPLICANT FOR AN INFORMATION TECHNOLOGY POSITION IN THE DEPARTMENT OF ADMINISTRATION SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE DEPARTMENT OF ADMINISTRATION FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION SHALL REQUEST PERSONNEL WHO WERE EMPLOYED IN INFORMATION TECHNOLOGY POSITIONS ON OR BEFORE JULY 18, 2000 TO SUBMIT A FULL SET OF FINGERPRINTS IF THE DIRECTOR DETERMINES THAT IT IS NECESSARY TO ENSURE THE PRIVACY, CONFIDENTIALITY OR INTEGRITY OF DATA WITHIN THE DEPARTMENT'S CONTROL. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

B. THE DEPARTMENT OF ADMINISTRATION SHALL NOT DISCLOSE INFORMATION OBTAINED PURSUANT TO SUBSECTION A OF THIS SECTION EXCEPT TO MEMBERS OF THE DEPARTMENT'S STAFF SOLELY FOR THE PURPOSE OF EMPLOYMENT OF INFORMATION TECHNOLOGY PERSONNEL BY THE DEPARTMENT.

C. FOR THE PURPOSES OF THIS SECTION:

1. "APPLICANT" MEANS ANY PERSON WHO SEEKS EMPLOYMENT AS A NEW HIRE OR ANY EMPLOYEE OF THE DEPARTMENT OF ADMINISTRATION WHO SEEKS A TRANSFER, A RECLASSIFICATION OR A REASSIGNMENT TO AN INFORMATION TECHNOLOGY POSITION.

2. "INFORMATION TECHNOLOGY POSITION" MEANS ANY POSITION THAT IS IN THE DEPARTMENT OF ADMINISTRATION, THAT REQUIRES THE OPERATION OF COMPUTER SYSTEMS THAT CONTAIN OR TRANSMIT DATA TO WHICH ACCESS IS RESTRICTED BY VIRTUE OF

APPLICABLE FEDERAL OR STATE LAWS, RULES OR REGULATIONS AND THAT REQUIRES ACCESS TO THE RESTRICTED DATA IN ORDER TO FULFILL THE REQUIREMENTS OF THE POSITION.

41-711. Reimbursement of transportation and telecommuting costs; definition

A. THE DIRECTOR SHALL ADOPT RULES TO PROVIDE FOR THE REIMBURSEMENT OF UP TO ONE HUNDRED PER CENT OF THE COST TO STATE EMPLOYEES OF EITHER:

1. PUBLIC TRANSPORTATION, VANPOOL OR PRIVATE BUS SERVICE TO AND FROM THEIR PLACE OF EMPLOYMENT.

2. TELECOMMUTING CONNECTIVITY.

B. FOR THE PURPOSES OF THIS SECTION, "PUBLIC TRANSPORTATION" MEANS LOCAL TRANSPORTATION OF PASSENGERS BY MEANS OF A PUBLIC CONVEYANCE OPERATED OR LICENSED BY AN INCORPORATED CITY OR TOWN OR A REGIONAL PUBLIC TRANSPORTATION AUTHORITY.

Sec. 115. Title 41, chapter 4, Arizona Revised Statutes, is amended by adding article 4, to read:

ARTICLE 4. STATE PERSONNEL SYSTEM

41-741. Definitions

IN THIS ARTICLE AND ARTICLES 5 AND 6, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "APPOINTING AUTHORITY" MEANS THE PERSON OR GROUP OF PERSONS AUTHORIZED BY LAW OR DELEGATED AUTHORITY TO MAKE APPOINTMENTS TO FILL POSITIONS.

2. "AT WILL" MEANS AN EMPLOYMENT RELATIONSHIP WHERE EITHER PARTY TO THE RELATIONSHIP MAY SEVER THE RELATIONSHIP AT ANY TIME FOR ANY REASON OTHER THAN AN UNLAWFUL REASON.

3. "BREAK IN SERVICE" MEANS A SEPARATION FROM STATE EMPLOYMENT, REGARDLESS OF THE REASON FOR SEPARATION.

4. "CHANGE IN ASSIGNMENT" MEANS MOVEMENT OF AN EMPLOYEE TO A DIFFERENT POSITION IN THE SAME STATE AGENCY OR ANOTHER STATE AGENCY.

5. "COVERED EMPLOYEE" MEANS AN EMPLOYEE WHO:

(a) BEFORE SEPTEMBER 29, 2012, IS IN THE STATE SERVICE, IS NOT UNCOVERED PURSUANT TO SECTION 41-742, SUBSECTION A AND HAS REMAINED IN COVERED STATUS WITHOUT A BREAK IN SERVICE SINCE THAT DATE.

(b) BEFORE SEPTEMBER 29, 2012, IS IN THE STATE SERVICE, IS EMPLOYED AS A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER III OR COMMUNITY CORRECTIONS OFFICER AND HAS REMAINED IN COVERED STATUS WITHOUT A BREAK IN SERVICE SINCE THAT DATE.

(c) BEFORE SEPTEMBER 29, 2012, IS IN THE STATE SERVICE, IS A FULL AUTHORITY PEACE OFFICER AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD AND HAS REMAINED IN THAT STATUS WITHOUT A BREAK IN SERVICE SINCE THAT DATE.

(d) ON OR AFTER SEPTEMBER 29, 2012, IS A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER III OR COMMUNITY CORRECTIONS OFFICER AND IS APPOINTED TO A POSITION IN THE COVERED SERVICE, BUT DOES NOT

1 INCLUDE A POSITION IN ANY OTHER CLASS IN THE CORRECTIONAL OFFICER CLASS
2 SERIES OR THE COMMUNITY CORRECTIONAL OFFICER CLASS SERIES OR IN ANY OTHER
3 CORRECTIONAL CLASS SERIES.
4 (e) ON OR AFTER SEPTEMBER 29, 2012, IS A FULL AUTHORITY PEACE OFFICER
5 AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD AND IS
6 APPOINTED TO A POSITION THAT REQUIRES SUCH A CERTIFICATION IN THE COVERED
7 SERVICE.
8 6. "COVERED SERVICE" MEANS THAT EMPLOYMENT STATUS CONFERRING RIGHTS OF
9 APPEAL AS PRESCRIBED IN SECTIONS 41-782 AND 41-783 OR 41-1830.16, AS
10 APPLICABLE.
11 7. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION,
12 OR THE DIRECTOR'S DESIGNEE, WHO IS RESPONSIBLE FOR ADMINISTERING THE STATE
13 PERSONNEL SYSTEM PURSUANT TO APPLICABLE STATE AND FEDERAL LAWS.
14 8. "EMPLOYEE" MEANS ALL OFFICERS AND EMPLOYEES OF THIS STATE, WHETHER
15 IN COVERED SERVICE OR UNCOVERED SERVICE, UNLESS OTHERWISE PRESCRIBED.
16 9. "FULL AUTHORITY PEACE OFFICER" MEANS A PEACE OFFICER WHOSE
17 AUTHORITY TO ENFORCE THE LAWS OF THIS STATE IS NOT LIMITED BY THE RULES
18 ADOPTED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD.
19 10. "ORIGINAL PROBATIONARY PERIOD" MEANS THE SPECIFIED PERIOD FOLLOWING
20 INITIAL APPOINTMENT TO COVERED SERVICE.
21 11. "PROBATIONARY PERIOD" MEANS A WORKING TEST PERIOD OF EMPLOYMENT IN
22 A COVERED SERVICE POSITION FOR EVALUATION OF THE EMPLOYEE'S WORK.
23 12. "PROMOTIONAL PROBATION" MEANS THE SPECIFIED PERIOD OF EMPLOYMENT
24 FOLLOWING PROMOTION OF A PERMANENT STATUS EMPLOYEE TO ANOTHER COVERED SERVICE
25 POSITION THAT HAS A HIGHER PAY GRADE.
26 13. "RULES" MEANS RULES ADOPTED BY THE DEPARTMENT OF ADMINISTRATION,
27 HUMAN RESOURCES DIVISION.
28 14. "STATE AGENCY" MEANS A DEPARTMENT, BOARD, OFFICE, AUTHORITY,
29 COMMISSION OR OTHER GOVERNMENTAL BUDGET UNIT OF THIS STATE AND INCLUDES AN
30 AGENCY ASSIGNED TO A DEPARTMENT FOR ADMINISTRATIVE PURPOSES. STATE AGENCY
31 DOES NOT INCLUDE THE LEGISLATIVE AND JUDICIAL BRANCHES, THE ARIZONA BOARD OF
32 REGENTS, STATE UNIVERSITIES, THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE
33 BLIND, THE DEPARTMENT OF PUBLIC SAFETY, THE ARIZONA PEACE OFFICER STANDARDS
34 AND TRAINING BOARD, THE COTTON RESEARCH AND PROTECTION COUNCIL OR PUBLIC
35 CORPORATIONS.
36 15. "STATE PERSONNEL BOARD" MEANS THE BOARD ESTABLISHED BY SECTION
37 41-781.
38 16. "STATE PERSONNEL SYSTEM" MEANS ALL STATE AGENCIES AND EMPLOYEES OF
39 THOSE AGENCIES THAT ARE NOT EXEMPTED BY THIS ARTICLE.
40 17. "STATE SERVICE" MEANS ALL OFFICES AND POSITIONS OF EMPLOYMENT IN
41 STATE GOVERNMENT THAT, BEFORE SEPTEMBER 29, 2012, WERE SUBJECT TO THE
42 PROVISIONS OF ARTICLES 5 AND 6 OF THIS CHAPTER THAT WERE IN EFFECT BEFORE
43 SEPTEMBER 29, 2012.

18. "SUPERVISOR" MEANS A STATE EMPLOYEE WHO HAS ONE OR MORE OTHER STATE EMPLOYEES REPORTING DIRECTLY TO THE PERSON AND, FOR THOSE STATE EMPLOYEES, TYPICALLY HAS THE AUTHORITY TO:

(a) APPROVE SICK OR ANNUAL LEAVE.

(b) RECOMMEND HIRING, DISCIPLINE OR DISMISSAL.

(c) ASSIGN OR SCHEDULE DAILY WORK.

(d) COMPLETE A PERFORMANCE EVALUATION.

19. "UNCOVERED EMPLOYEE" MEANS AN EMPLOYEE IN UNCOVERED SERVICE.

20. "UNCOVERED SERVICE" MEANS EMPLOYMENT AT WILL AND INCLUDES ALL STATE EMPLOYEES EXCEPT THOSE IN COVERED SERVICE.

41-742. State personnel system; covered and uncovered employees; application; exemptions

A. BEGINNING SEPTEMBER 29, 2012, UNLESS OTHERWISE PRESCRIBED IN THIS ARTICLE:

1. ALL NEW HIRES ARE AT WILL UNCOVERED EMPLOYEES.

2. ANY EMPLOYEE WHO MEETS ANY OF THE FOLLOWING CRITERIA IS AN AT WILL UNCOVERED EMPLOYEE:

(a) IS EMPLOYED AS AN ATTORNEY IN A POSITION ASSIGNED TO THE ATTORNEY SALARY SCHEDULE.

(b) A SUPERVISOR.

(c) IS AT A PAY GRADE OF NINETEEN OR ABOVE OR, IF A SUCCESSOR COMPENSATION SYSTEM IS ESTABLISHED, IN AN EQUIVALENT PAY RANGE AS DETERMINED BY THE DIRECTOR.

(d) IS IN A POSITION ASSIGNED TO THE INFORMATION TECHNOLOGY SALARY SCHEDULE, IN A POSITION ASSIGNED TO AN INFORMATION TECHNOLOGY CLASSIFICATION OR, IF A SUCCESSOR COMPENSATION SYSTEM IS ESTABLISHED, IN AN EQUIVALENT PAY RANGE AS DETERMINED BY THE DIRECTOR.

3. ANY COVERED EMPLOYEE WHO VOLUNTARILY ACCEPTS A CHANGE IN ASSIGNMENT TO A POSITION IN THE UNCOVERED SERVICE, REGARDLESS OF WHETHER THE VOLUNTARY CHANGE IN ASSIGNMENT IS A PROMOTION, DEMOTION OR LATERAL TRANSFER, IS AN AT WILL UNCOVERED EMPLOYEE ON THE START DATE OF THE VOLUNTARY CHANGE IN ASSIGNMENT.

4. A COVERED EMPLOYEE MAY VOLUNTARILY ELECT TO BECOME AN AT WILL UNCOVERED EMPLOYEE WITHOUT A CHANGE IN ASSIGNMENT ON APPROVAL BY THE STATE AGENCY HEAD AND THE DIRECTOR. IF APPROVED, THE CHANGE FROM COVERED TO UNCOVERED STATUS IS IMMEDIATE.

5. ONCE A COVERED EMPLOYEE BECOMES AN AT WILL UNCOVERED EMPLOYEE, THE CHANGE IS IRREVOCABLE.

B. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, THE PURPOSE OF THIS ARTICLE IS FOR ALL STATE AGENCIES IN THE STATE PERSONNEL SYSTEM TO TREAT EMPLOYEES PURSUANT TO THE FOLLOWING PRINCIPLES:

1. RECRUITING, SELECTING AND ADVANCING EMPLOYEES ON THE BASIS OF THE EMPLOYEE'S RELATIVE ABILITY, KNOWLEDGE AND SKILLS AFTER OPEN COMPETITION.

2. PROVIDING COMPENSATION BASED ON MERIT, PERFORMANCE, JOB VALUE AND COMPETITIVENESS WITHIN APPLICABLE LABOR MARKETS.

1 3. TRAINING EMPLOYEES IF THE TRAINING WILL RESULT IN BETTER
2 ORGANIZATIONAL AND INDIVIDUAL PERFORMANCE.
3 4. RETAINING EMPLOYEES ON THE BASIS OF THE ADEQUACY OF THEIR
4 PERFORMANCE, CORRECT INADEQUATE PERFORMANCE WHERE POSSIBLE AND APPROPRIATE
5 AND SEPARATE EMPLOYEES WHOSE PERFORMANCE IS INADEQUATE.
6 5. MANAGING APPLICANTS AND EMPLOYEES IN ALL ASPECTS OF PERSONNEL
7 ADMINISTRATION WITHOUT REGARD TO POLITICAL AFFILIATION, RACE, COLOR, NATIONAL
8 ORIGIN, SEX, AGE, DISABILITY OR RELIGIOUS CREED AND WITH PROPER REGARD FOR
9 THEIR PRIVACY AND CONSTITUTIONAL RIGHTS AS CITIZENS.
10 6. ENSURING THAT EMPLOYEES ARE PROTECTED AGAINST COERCION FOR PARTISAN
11 POLITICAL PURPOSES AND ARE PROHIBITED FROM USING THEIR OFFICIAL AUTHORITY FOR
12 THE PURPOSE OF INTERFERING WITH OR AFFECTING THE RESULT OF AN ELECTION OR
13 NOMINATION FOR OFFICE.
14 C. THE DIRECTOR SHALL ESTABLISH AND ADMINISTER THE STATE PERSONNEL
15 SYSTEM, INCLUDING:
16 1. A CLASSIFICATION SYSTEM AND JOB CLASSES AND ASSOCIATED KNOWLEDGE,
17 SKILLS AND ABILITIES FOR THOSE CLASSES.
18 2. A CENTRALIZED JOB ANNOUNCEMENT SYSTEM TO STREAMLINE STATEWIDE
19 RECRUITING FOR APPLICANTS.
20 3. A CENTRALIZED EMPLOYMENT SYSTEM TO BE USED BY ALL SUCCESSFUL
21 APPLICANTS, INCLUDING A COMMON APPLICATION FORM TO BE USED BY ALL STATE
22 AGENCIES.
23 4. A COMPENSATION SYSTEM, INCLUDING ASSIGNING PAY RANGES FOR ALL JOB
24 CLASSES AND SPECIAL PAY PLANS FOR CERTAIN CLASSES OR GROUPS OF EMPLOYEES
25 CONSIDERING SUCH FACTORS AS OCCUPATIONAL PATTERNS, ECONOMIC CONDITIONS AND
26 PAY PLANS COMMON TO GOVERNMENT, BUSINESS AND INDUSTRY.
27 5. A STATEWIDE TRAINING PROGRAM.
28 6. A STATEWIDE PERFORMANCE MANAGEMENT SYSTEM.
29 7. AN AUDIT FUNCTION TO REVIEW STATE AGENCIES' PROCESSES AND
30 COMPLIANCE WITH APPLICABLE STATUTES, PERSONNEL RULES AND POLICIES.
31 8. AN INTEGRATED SYSTEM TO PROCESS PERSONNEL, PAYROLL AND BENEFITS
32 TRANSACTIONS AND SERVE AS THE SYSTEM OF RECORD FOR STATE EMPLOYEES.
33 D. THIS ARTICLE AND ARTICLES 5 AND 6 DO NOT APPLY TO:
34 1. AN ELECTED STATE OFFICER. AN ELECTED STATE OFFICER MEANS ONLY
35 ELECTED OFFICIALS AND DOES NOT INCLUDE THE EMPLOYEES OF ELECTED STATE
36 OFFICERS UNLESS EXPRESSLY PROVIDED.
37 2. MEMBERS OF BOARDS AND COMMISSIONS WHO ARE APPOINTED BY THE
38 LEGISLATURE OR THE GOVERNOR, BOARD MEMBERS APPOINTED PURSUANT TO SECTION
39 41-619.52 UNLESS OTHERWISE PRESCRIBED BY LAW, EMPLOYEES OF THE ARIZONA
40 LEGISLATIVE COUNCIL, EMPLOYEES APPOINTED OR EMPLOYED BY THE LEGISLATURE, ANY
41 LEGISLATIVE AGENCY OR EITHER HOUSE OF THE LEGISLATURE AND EMPLOYEES OF THE
42 SUPREME COURT AND THE COURT OF APPEALS.
43 3. THE ARIZONA BOARD OF REGENTS, OFFICERS OR EMPLOYEES OF STATE
44 UNIVERSITIES AND PERSONNEL OF THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE
45 BLIND.

1 4. PATIENTS OR INMATES EMPLOYED IN STATE INSTITUTIONS.
2 5. OFFICERS AND ENLISTED PERSONNEL OF THE NATIONAL GUARD OF ARIZONA
3 AND EMPLOYEES OF THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS WHO OCCUPY
4 ARIZONA NATIONAL GUARD POSITIONS IDENTIFIED AS MOBILIZATION ASSETS.
5 6. THE COTTON RESEARCH AND PROTECTION COUNCIL.
6 7. THE DEPARTMENT OF PUBLIC SAFETY.
7 8. THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD.
8 E. UNLESS OTHERWISE PRESCRIBED IN THIS ARTICLE, SUBSECTION A,
9 PARAGRAPHS 1, 2 AND 3 OF THIS SECTION DO NOT APPLY TO EITHER AN INITIAL
10 APPOINTMENT TO OR CHANGES IN ASSIGNMENT TO:
11 1. AN EMPLOYEE OF ANY STATE AGENCY WHO IS A FULL AUTHORITY PEACE
12 OFFICER AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING
13 BOARD.
14 2. AN EMPLOYEE OF THE STATE DEPARTMENT OF CORRECTIONS WHO IS EMPLOYED
15 AS A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER
16 III, COMMUNITY CORRECTIONS OFFICER OR, IF A SUCCESSOR CLASSIFICATION SYSTEM
17 IS ESTABLISHED, IN AN EQUIVALENT JOB CLASS AS DETERMINED BY THE DIRECTOR.
18 F. SUBSECTION B, PARAGRAPH 1 OF THIS SECTION, RELATING TO OPEN
19 COMPETITION AND SUBSECTION B, PARAGRAPH 4 OF THIS SECTION AND SUBSECTION B,
20 PARAGRAPH 5 OF THIS SECTION, RELATING TO POLITICAL AFFILIATION, DO NOT APPLY
21 TO:
22 1. EMPLOYEES OF THE GOVERNOR'S OFFICE.
23 2. EMPLOYEES OF OFFICES OF ELECTED OFFICIALS WHO EITHER:
24 (a) REPORT DIRECTLY TO THE ELECTED OFFICIAL.
25 (b) HEAD A PRIMARY COMPONENT OR REPORT DIRECTLY TO THE HEAD OF A
26 PRIMARY COMPONENT OF THE OFFICE OF THE ELECTED OFFICIAL.
27 (c) AS A PRIMARY DUTY, DETERMINE OR PUBLICLY ADVOCATE SUBSTANTIVE
28 PROGRAM POLICY FOR THE OFFICE OF THE ELECTED OFFICIAL.
29 3. THE STATE AGENCY HEAD AND EACH DEPUTY DIRECTOR, OR EQUIVALENT, OF
30 EACH STATE AGENCY AND EMPLOYEES OF THE STATE AGENCY WHO REPORT DIRECTLY TO
31 EITHER THE STATE AGENCY HEAD OR DEPUTY DIRECTOR.
32 4. EACH ASSISTANT DIRECTOR, OR EQUIVALENT, OF EACH STATE AGENCY AND
33 EMPLOYEES IN THE STATE AGENCY WHO REPORT DIRECTLY TO AN ASSISTANT DIRECTOR.
34 5. ATTORNEYS IN THE OFFICE OF THE ATTORNEY GENERAL.
35 6. EMPLOYEES IN INVESTMENT RELATED POSITIONS IN THE STATE RETIREMENT
36 SYSTEM OR PLANS ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 2, 3, 4 OR 6.
37 G. THIS ARTICLE AND ARTICLES 5 AND 6 OF THIS CHAPTER DO NOT CONFER ANY
38 RIGHTS IN EXCESS OF, OR IN ADDITION TO, THOSE PREVIOUSLY AUTHORIZED TO ANY
39 STATE EMPLOYEE.
40 H. THIS ARTICLE DOES NOT CREATE OR CONFER ANY CONTRACTUAL EMPLOYMENT
41 RIGHT FOR ANY EMPLOYEE AND, UNLESS OTHERWISE PROVIDED BY LAW, STATE AGENCIES
42 ARE PROHIBITED FROM EXECUTING EMPLOYMENT CONTRACTS WITH ANY STATE EMPLOYEE.
43 I. ANY COMMUNICATIONS, INCLUDING POLICY MANUALS, EMPLOYEE HANDBOOKS,
44 JOB OFFERS AND PERFORMANCE APPRAISALS AND OTHER COMMUNICATIONS AS DETERMINED
45 BY THE DIRECTOR, WHETHER IN WRITING OR ORAL, THAT CONFLICT WITH ARTICLE 1, 5

1 OR 6 OF THIS CHAPTER OR THIS ARTICLE ARE VOID AND DO NOT ALTER OR SUPERSEDE
2 ARTICLE 1, 5 OR 6 OF THIS CHAPTER OR THIS ARTICLE.
3 41-743. Powers and duties of the director
4 A. THE DIRECTOR IS RESPONSIBLE FOR THE DIRECTION AND CONTROL OF
5 PERSONNEL ADMINISTRATION.
6 B. THE DIRECTOR SHALL:
7 1. EMPLOY STAFF AS NECESSARY TO PERFORM THE DUTIES PRESCRIBED BY THIS
8 ARTICLE.
9 2. ESTABLISH THOSE OFFICES AS THE DIRECTOR DETERMINES NECESSARY TO
10 MAINTAIN AN EFFECTIVE AND EFFICIENT PROGRAM OF PERSONNEL ADMINISTRATION.
11 3. ADOPT RULES AND PROCEDURES RELATING TO PERSONNEL AND PERSONNEL
12 ADMINISTRATION FOR BOTH COVERED AND UNCOVERED EMPLOYEES. THE RULES SHALL
13 INCLUDE:
14 (a) THE ESTABLISHMENT AND MAINTENANCE OF CLASSIFICATION AND
15 COMPENSATION PLANS.
16 (b) THE RECRUITMENT, SELECTION AND APPOINTMENT PROCESS OF ELIGIBLE
17 APPLICANTS.
18 (c) LEAVE BENEFITS AND ADMINISTRATION.
19 (d) PROCEDURES FOR THE PERIODIC AND REGULAR REVIEW AND EVALUATION OF
20 THE QUALITY AND QUANTITY OF WORK PERFORMED BY EMPLOYEES.
21 (e) CHANGES TO EMPLOYMENT STATUS.
22 (f) PROCEDURES FOR THE REVIEW OF COMPLAINTS IF THE COMPLAINT CONTAINS
23 AN ALLEGATION OF DISCRIMINATION OR HARASSMENT.
24 (g) PROCEDURES REQUIRING REVIEW BY THE DIRECTOR OF DISMISSALS,
25 SUSPENSIONS FOR MORE THAN EIGHTY WORKING HOURS OR INVOLUNTARY DEMOTIONS
26 BEFORE ADMINISTERING THE ACTION.
27 (h) GRIEVANCE RIGHTS SPECIFIC TO COVERED EMPLOYEES.
28 (i) APPEAL RIGHTS AND OTHER RULES SPECIFIC TO COVERED EMPLOYEES.
29 (j) ANY OTHER ASPECTS OF PERSONNEL ADMINISTRATION AS DETERMINED BY THE
30 DIRECTOR.
31 4. PROVIDE AN ANNUAL REPORT AND RECOMMENDATION TO THE LEGISLATURE AND
32 THE JOINT LEGISLATIVE BUDGET COMMITTEE AS PROVIDED IN SECTION 41-751.
33 5. ESTABLISH A MANDATORY PROGRAM OF PERSONNEL MANAGEMENT TRAINING FOR
34 ALL EMPLOYEES WITH SUPERVISORY RESPONSIBILITY THAT IS APPROPRIATE TO THE
35 NATURE AND SCOPE OF THE EMPLOYEES' RESPONSIBILITIES. THE DIRECTOR MAY WAIVE
36 THE MANDATORY TRAINING ON A CASE BY CASE BASIS. THE TRAINING SHALL INCLUDE
37 AT LEAST THE FOLLOWING SUBJECTS:
38 (a) BASIC EMPLOYEE SUPERVISION.
39 (b) EMPLOYEE PERFORMANCE EVALUATIONS.
40 (c) EMPLOYEE DISCIPLINE.
41 (d) OTHER SUBJECTS AS THE DIRECTOR DETERMINES.
42 6. PROVIDE CONSULTATION TO STATE AGENCY MANAGEMENT IN ALL ASPECTS OF
43 PERSONNEL MANAGEMENT TO INCREASE EFFICIENCY AND ECONOMY IN STATE AGENCIES BY
44 IMPROVING THE METHODS OF PERSONNEL ADMINISTRATION WITH FULL RECOGNITION OF
45 THE REQUIREMENTS AND NEEDS OF MANAGEMENT.

C. THE DIRECTOR MAY:

1. DELEGATE SPECIFIC PERSONNEL FUNCTIONS TO A STATE AGENCY HEAD CONSISTENT WITH LEGAL REQUIREMENTS.

2. ENTER INTO AGREEMENTS WITH ANY STATE AGENCY OR POLITICAL SUBDIVISION OF THIS STATE OR ANY AGENCY OF A POLITICAL SUBDIVISION OF THIS STATE TO FURNISH PERSONNEL ADMINISTRATION SERVICES AND FACILITIES OF THE DEPARTMENT. UNLESS MONIES HAVE BEEN APPROPRIATED BY THE LEGISLATURE FOR THIS PURPOSE, ANY AGREEMENT SHALL PROVIDE FOR REIMBURSEMENT TO THIS STATE OF THE ACTUAL COST OF THE SERVICES AND FACILITIES FURNISHED, AS DETERMINED BY THE DEPARTMENT.

3. SUBJECT TO LEGISLATIVE APPROPRIATION, CONTRACT FOR THE SERVICES OF CONSULTANTS NECESSARY TO PERFORM THE ANNUAL SALARY PLAN AND SALARY PLAN ADJUSTMENT RECOMMENDATIONS.

D. SUBSECTION B, PARAGRAPH 3, SUBDIVISION (g) OF THIS SECTION RELATING TO REVIEW BY THE DIRECTOR FOR CERTAIN DISCIPLINARY ACTIONS DOES NOT APPLY TO THOSE EMPLOYEES LISTED IN SECTION 41-742, SUBSECTION F.

41-744. Nonconformity with federal regulations granting federal monies

ANY PROVISION OF THIS ARTICLE THAT CONFLICTS OR IS INCONSISTENT WITH FEDERAL RULES, REGULATIONS OR STANDARDS GOVERNING THE GRANT OF FEDERAL MONIES TO ANY AGENCY OR DEPARTMENT OF THIS STATE DOES NOT APPLY TO THE AGENCY OR DEPARTMENT. THE DIRECTOR MAY VARY OR WAIVE THE TERMS OF THE RULES AND PROCEDURES AS APPLICABLE TO THESE AGENCIES AND DEPARTMENTS TO COMPLY WITH THE CONDITIONS FOR FEDERAL GRANTS.

41-745. Covered and uncovered service

A. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION OR SECTION 41-742, SUBSECTION A, AN EMPLOYEE UNDER COVERED SERVICE IS ENTITLED TO CONTINUE TO BE A COVERED EMPLOYEE AS LONG AS THE EMPLOYEE REMAINS IN COVERED STATUS WITHOUT A BREAK IN SERVICE OR AS OTHERWISE PROVIDED BY LAW. PROBATIONARY STATUS EMPLOYEES ARE REQUIRED TO COMPLETE THEIR PROBATIONARY PERIOD BEFORE OBTAINING RIGHTS OF APPEAL. ON SUCCESSFULLY COMPLETING A PROBATIONARY PERIOD, AN EMPLOYEE IN COVERED SERVICE IS ENTITLED TO HAVE APPEAL RIGHTS AS PROVIDED IN ARTICLE 6 OF THIS CHAPTER OR SECTION 41-1830.16, AS APPLICABLE.

B. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, UNCOVERED SERVICE CONSISTS OF ALL EMPLOYEES IN THE STATE AGENCIES NOT INCLUDED IN THE COVERED SERVICE. EMPLOYEES IN UNCOVERED SERVICE ARE EMPLOYEES AT WILL AND ARE NOT ENTITLED TO APPEAL RIGHTS.

C. A POSITION THAT REQUIRES CERTIFICATION AS A FULL AUTHORITY PEACE OFFICER BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD OR A POSITION DESIGNATED AS A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER III OR COMMUNITY CORRECTIONS OFFICER SHALL BE IN THE COVERED AND UNCOVERED SERVICE AS FOLLOWS:

1 1. IF, ON SEPTEMBER 29, 2012, THE POSITION IS FILLED WITH AN UNCOVERED
2 EMPLOYEE, THE POSITION SHALL REMAIN IN THE UNCOVERED SERVICE FOR ALL FUTURE
3 APPOINTMENTS TO THAT POSITION.
4 2. IF, ON SEPTEMBER 29, 2012, THE POSITION IS FILLED WITH A COVERED
5 EMPLOYEE WHO WAS IN THE STATE SERVICE AND THE EMPLOYEE DOES NOT VOLUNTARILY
6 ELECT TO BECOME AN AT WILL UNCOVERED EMPLOYEE, THE POSITION SHALL REMAIN IN
7 THE COVERED SERVICE FOR THE CURRENT INCUMBENT AND FOR ALL FUTURE APPOINTMENTS
8 TO THAT POSITION.
9 3. IF, ON OR AFTER SEPTEMBER 29, 2012, AN EMPLOYEE IN THE COVERED
10 SERVICE VOLUNTARILY ELECTS TO BECOME AN AT WILL UNCOVERED EMPLOYEE, THE
11 POSITION SHALL REMAIN IN THE UNCOVERED SERVICE FOR ALL FUTURE APPOINTMENTS TO
12 THAT POSITION.
13 41-746. Refusal of consideration for employment; verification
14 of education and work history
15 A. THE DIRECTOR MAY REFUSE TO CONSIDER FOR EMPLOYMENT OR REMOVE FROM
16 CONSIDERATION FOR EMPLOYMENT ANY APPLICANT WHO:
17 1. HAS PRACTICED ANY DECEPTION OR FRAUD IN THE APPLICANT'S
18 APPLICATION.
19 2. HAS FAILED TO REPLY WITHIN A REASONABLE TIME TO COMMUNICATIONS
20 CONCERNING THE APPLICANT'S AVAILABILITY FOR EMPLOYMENT.
21 3. IS FOUND TO BE UNSUITED OR NOT QUALIFIED FOR EMPLOYMENT.
22 4. LACKS ANY OF THE REQUIREMENTS ESTABLISHED BY THE DIRECTOR FOR THE
23 POSITION FOR WHICH THE APPLICANT APPLIES.
24 B. THE DIRECTOR SHALL DEVELOP PROCEDURES AND STANDARD FORMS TO BE USED
25 BY ALL STATE AGENCIES TO VERIFY A CANDIDATE'S EDUCATION AND WORK HISTORY.
26 THE PROCEDURES SHALL INCLUDE A REQUIREMENT THAT A STATE AGENCY HEAD SHALL
27 MAKE DOCUMENTED, GOOD FAITH EFFORTS TO CONTACT CURRENT AND PREVIOUS EMPLOYERS
28 OF A CANDIDATE TO OBTAIN INFORMATION AND RECOMMENDATIONS THAT MAY BE RELEVANT
29 TO THE CANDIDATE'S FITNESS FOR EMPLOYMENT.
30 41-747. Employment procedures; violation; classification
31 A. AN APPOINTING AUTHORITY SHALL COMPLY WITH THE PROCEDURES PRESCRIBED
32 IN THIS ARTICLE AND THE RULES ADOPTED BY THE DIRECTOR FOR THE RECRUITMENT,
33 SELECTION, HIRING AND SEPARATION OF EMPLOYEES IN THE STATE PERSONNEL SYSTEM.
34 THE APPOINTING AUTHORITY SHALL PRESCRIBE THE COMPENSATION OF AN EMPLOYEE AT
35 ALL TIMES PURSUANT TO SECTION 38-611.
36 B. AN APPOINTING AUTHORITY THAT VIOLATES SUBSECTION A OF THIS SECTION
37 AND INCURS AN OBLIGATION IS SUBJECT TO THE CIVIL AND CRIMINAL PENALTIES
38 PRESCRIBED IN TITLE 35, CHAPTER 1.
39 41-748. Transfer of accumulated annual leave; definitions
40 A. THE DIRECTOR SHALL ADOPT PROCEDURES FOR THE TRANSFER OF ACCUMULATED
41 ANNUAL LEAVE FROM ONE EMPLOYEE TO ANOTHER EMPLOYEE IN THE SAME STATE AGENCY
42 AND FOR TRANSFER OF ACCUMULATED ANNUAL LEAVE FROM ONE EMPLOYEE TO ANOTHER
43 STATE EMPLOYEE IN ANOTHER STATE AGENCY IF THE EMPLOYEES ARE MEMBERS OF THE
44 SAME FAMILY. THE TRANSFERS MAY OCCUR IF THE EMPLOYEE TO WHOM THE LEAVE IS
45 TRANSFERRED HAS A SERIOUSLY INCAPACITATING AND EXTENDED ILLNESS OR INJURY OR

A SERIOUSLY INCAPACITATING AND EXTENDED DISABILITY THAT IS CAUSED BY PREGNANCY OR CHILDBIRTH OR A MEMBER OF THE EMPLOYEE'S IMMEDIATE FAMILY HAS A SERIOUSLY INCAPACITATING AND EXTENDED ILLNESS OR INJURY OR A SERIOUSLY INCAPACITATING AND EXTENDED DISABILITY THAT IS CAUSED BY PREGNANCY OR CHILDBIRTH AND THE EMPLOYEE HAS EXHAUSTED ALL AVAILABLE LEAVE BALANCES. TRANSFERRED ANNUAL LEAVE SHALL BE INCREASED OR REDUCED PROPORTIONALLY BY THE DIFFERENCE IN THE SALARIES OF THE EMPLOYEES AS DETERMINED BY DEPARTMENT RULE. AN EMPLOYEE WHO RECEIVES TRANSFERRED ANNUAL LEAVE IS LIMITED TO USING SIX CONSECUTIVE MONTHS OF LEAVE PER OCCURRENCE UNLESS THE EMPLOYEE HAS APPLIED FOR LONG-TERM DISABILITY INSURANCE AS PROVIDED BY RULE.

B. FOR THE PURPOSES OF THIS SECTION:

1. "IMMEDIATE FAMILY" MEANS AN EMPLOYEE'S PARENT, SPOUSE, OR CHILD, WHETHER NATURAL, ADOPTED, FOSTER OR STEP.

2. "SAME FAMILY" MEANS AN EMPLOYEE'S SPOUSE, NATURAL CHILD, ADOPTED CHILD, FOSTER CHILD, STEPCHILD, NATURAL PARENT, STEPPARENT, ADOPTIVE PARENT, GRANDPARENT, GRANDCHILD, BROTHER, SISTER, SISTER-IN-LAW, BROTHER-IN-LAW, SON-IN-LAW, DAUGHTER-IN-LAW, MOTHER-IN-LAW, FATHER-IN-LAW, AUNT, UNCLE, NEPHEW OR NIECE.

41-749. Administrative leave; reporting

A. A STATE AGENCY HEAD SHALL REPORT TO THE DIRECTOR IF AN EMPLOYEE IS PLACED ON ADMINISTRATIVE LEAVE WITH PAY DURING THE INVESTIGATION OF ALLEGED WRONGDOING BY THE EMPLOYEE WHEN THE EMPLOYEE'S ADMINISTRATIVE LEAVE TOTALS EIGHTY CONSECUTIVE HOURS AND, THEREAFTER, SHALL REPORT TO THE DIRECTOR ON A WEEKLY BASIS UNTIL THE ADMINISTRATIVE LEAVE IS TERMINATED.

B. A STATE AGENCY HEAD SHALL OBTAIN APPROVAL FROM THE DIRECTOR IF AN EMPLOYEE'S ADMINISTRATIVE LEAVE WITH PAY EXCEEDS THIRTY WORKING DAYS.

41-750. Contribution of pro rata share for personnel division fund

A. ALL STATE AGENCIES SHALL CONTRIBUTE A PRO RATA SHARE OF THE OVERALL COST OF PERSONNEL ADMINISTRATION SERVICES PROVIDED BY THE DEPARTMENT. THE PRO RATA SHARE SHALL BE PAYABLE BY PAYROLL FUND SOURCE, AND THE RESULTANT AMOUNT SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN A PERSONNEL DIVISION FUND FOR APPROPRIATION BY THE LEGISLATURE FOR THE STATE PERSONNEL BOARD AND THE PERSONNEL DIVISION OF THE DEPARTMENT. THE PRO RATA SHARE SHALL BE 1.10 PER CENT OF THE TOTAL PAYROLL OF THE STATE AGENCY. OF THE 1.10 PER CENT PRO RATA SHARE, 0.03 PER CENT OF TOTAL PAYROLL SHALL BE DEPOSITED IN A SEPARATE SUBACCOUNT OF THE PERSONNEL DIVISION FUND FOR USE BY THE STATE PERSONNEL BOARD AND SHALL BE SUBJECT TO LEGISLATIVE APPROPRIATION. TOTAL PAYROLL SHALL INCLUDE ALL FUND SOURCES, INCLUDING THE STATE GENERAL FUND, FEDERAL MONIES, SPECIAL REVENUE FUNDS, INTERGOVERNMENTAL REVENUE MONIES, TRUST FUNDS AND OTHER PAYROLL FUND SOURCES.

B. A CLAIM FOR THE PRO RATA SHARE PERCENTAGE PAYMENT SHALL BE SUBMITTED ACCORDING TO THE FUND SOURCE, WITH THE ACCOMPANYING PAYROLL TO THE DEPARTMENT FOR DEPOSIT IN THE PERSONNEL DIVISION FUND.

1 C. NOTWITHSTANDING SECTION 35-190, ONLY MONIES IN EXCESS OF FIVE
2 HUNDRED THOUSAND DOLLARS REVERT TO THE STATE GENERAL FUND AT THE END OF EACH
3 FISCAL YEAR. THE STATE COMPTROLLER SHALL PAY ANY MONIES DETERMINED TO BE
4 OWED TO THE FEDERAL GOVERNMENT FROM THE PERSONNEL DIVISION FUND BEFORE
5 CALCULATING THE REVERSION.
6 D. MONIES CONTRIBUTED BASED ON THE PERSONNEL SERVICES FOR INDIVIDUALS
7 EMPLOYED BY THE ARIZONA STATE RETIREMENT SYSTEM AND MONIES CONTRIBUTED BASED
8 ON THE PERSONNEL SERVICES FOR INDIVIDUALS EMPLOYED BY THE PUBLIC SAFETY
9 PERSONNEL RETIREMENT SYSTEM AS THE PRO RATA SHARE SHALL NOT REVERT TO THE
10 STATE GENERAL FUND AND SHALL BE SEPARATELY ACCOUNTED FOR AND REVERTED TO THE
11 ARIZONA STATE RETIREMENT SYSTEM, THE PUBLIC SAFETY PERSONNEL RETIREMENT
12 SYSTEM, THE ELECTED OFFICIALS RETIREMENT PLAN OR THE CORRECTIONS OFFICER
13 RETIREMENT PLAN, AS APPLICABLE.
14 41-751. Annual report and recommendations
15 A. THE DIRECTOR SHALL PREPARE A REPORT ON STATE PERSONNEL AND THE
16 OPERATION OF THE STATE PERSONNEL SYSTEM.
17 B. THE REPORT SHALL INCLUDE:
18 1. INFORMATION CONCERNING ALL STATE EMPLOYEES, INCLUDING EMPLOYEES OF
19 ALL EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCH AGENCIES. ALL STATE AGENCIES
20 SHALL PROVIDE ANY INFORMATION REQUESTED BY THE DIRECTOR TO PREPARE THE ANNUAL
21 REPORT.
22 2. INFORMATION CONCERNING TURNOVER, INCLUDING THE NUMBER OF EMPLOYEES
23 SEPARATING FROM STATE EMPLOYMENT AND THE REASONS FOR SEPARATION.
24 3. INFORMATION CONCERNING THE COMPENSATION DURING THE PRECEDING YEAR
25 AND THE COMING YEAR OF STATE EMPLOYEES AND THE COMPENSATION OF OTHER PUBLIC
26 EMPLOYEES AND PRIVATE EMPLOYEES.
27 4. AN ADVISORY RECOMMENDATION ON STATE EMPLOYEES' SALARIES. IN
28 ESTABLISHING THE RECOMMENDATION, THE DIRECTOR SHALL CONSIDER THE RELATIVE
29 LEVELS OF DUTIES AND RESPONSIBILITIES OF THE VARIOUS CLASSES OF POSITIONS,
30 RATES PAID FOR COMPARABLE POSITIONS ELSEWHERE AND OTHER RELEVANT FACTORS.
31 SALARY RECOMMENDATIONS ARE NOT REQUIRED FOR ELECTED OFFICIALS. THE DIRECTOR
32 SHALL MAKE ADVISORY SALARY RECOMMENDATIONS FOR SPECIFIC POSITIONS IN THE
33 GOVERNOR'S OFFICE, THE LEGISLATURE AND THE COURTS IF REQUESTED BY THE
34 RESPECTIVE ADMINISTRATIVE HEADS OF THESE UNITS OF STATE GOVERNMENT.
35 5. THE OVERTIME PAY OF ALL STATE AGENCIES.
36 6. OTHER INFORMATION AS DETERMINED BY THE DIRECTOR.
37 C. THE ANNUAL REPORT AND RECOMMENDATIONS SHALL BE PRESENTED TO THE
38 GOVERNOR AND THE LEGISLATURE ON OR BEFORE SEPTEMBER 1 OF EACH YEAR. THE
39 DIRECTOR SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE.
40 D. THE ARIZONA BOARD OF REGENTS, THE DEPARTMENT OF PUBLIC SAFETY, THE
41 JUDICIAL DEPARTMENT AND THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND
42 SHALL EACH PREPARE AND SUBMIT AN ANNUAL REPORT ON THEIR PERSONNEL AS
43 PRESCRIBED IN THIS SECTION. THE REPORT SHALL INCLUDE:
44 1. INFORMATION CONCERNING THE NUMBER OF EMPLOYEES AFFECTED BY AND
45 REASONS FOR TURNOVER OF THEIR EMPLOYEES.

2. INFORMATION CONCERNING THE COMPENSATION DURING THE PRECEDING YEAR AND THE COMING YEAR OF THEIR EMPLOYEES AND THE COMPENSATION OF OTHER PUBLIC EMPLOYEES AND PRIVATE EMPLOYEES.

3. AN ADVISORY RECOMMENDATION ON THE SALARY PLAN AND ADJUSTMENTS FOR THEIR EMPLOYEES. IN ESTABLISHING THE SALARY PLAN, THEY SHALL CONSIDER THE RELATIVE LEVELS OF DUTIES AND RESPONSIBILITIES OF THE VARIOUS CLASSES OF POSITIONS, RATES PAID FOR COMPARABLE POSITIONS ELSEWHERE AND OTHER RELEVANT FACTORS.

4. THE OVERTIME PAY FOR THEIR EMPLOYEES.

41-752. Protections of civil or political liberties; prohibitions; civil penalty; violation; classification

A. EXCEPT FOR EXPRESSING AN OPINION OR PURSUANT TO SECTION 16-402, AN EMPLOYEE SHALL NOT ENGAGE IN ANY ACTIVITIES PERMITTED BY THIS SECTION WHILE ON DUTY, WHILE IN UNIFORM OR AT PUBLIC EXPENSE.

B. AN EMPLOYEE SHALL NOT:

1. USE ANY POLITICAL ENDORSEMENT IN CONNECTION WITH ANY APPOINTMENT TO A POSITION IN THE STATE PERSONNEL SYSTEM.

2. USE OR PROMISE TO USE ANY OFFICIAL AUTHORITY OR INFLUENCE FOR THE PURPOSE OF INFLUENCING THE VOTE OR POLITICAL ACTION OF ANY PERSON OR FOR ANY CONSIDERATION.

C. AN EMPLOYEE, A MEMBER OF THE STATE PERSONNEL BOARD OR A MEMBER OF THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL SHALL NOT BE A MEMBER OF ANY NATIONAL, STATE OR LOCAL COMMITTEE OF A POLITICAL PARTY, AN OFFICER OR CHAIRPERSON OF A COMMITTEE OF A PARTISAN POLITICAL CLUB OR A CANDIDATE FOR NOMINATION OR ELECTION TO ANY PAID PUBLIC OFFICE, SHALL NOT HOLD ANY PAID, ELECTIVE PUBLIC OFFICE OR SHALL NOT TAKE ANY PART IN THE MANAGEMENT OR AFFAIRS OF ANY POLITICAL PARTY OR IN THE MANAGEMENT OF ANY PARTISAN OR NONPARTISAN CAMPAIGN OR RECALL EFFORT, EXCEPT THAT ANY EMPLOYEE MAY:

1. EXPRESS AN OPINION.

2. ATTEND MEETINGS FOR THE PURPOSE OF BECOMING INFORMED CONCERNING THE CANDIDATES FOR PUBLIC OFFICE AND THE POLITICAL ISSUES.

3. CAST A VOTE AND SIGN NOMINATION OR RECALL PETITIONS.

4. MAKE CONTRIBUTIONS TO CANDIDATES, POLITICAL PARTIES OR CAMPAIGN COMMITTEES CONTRIBUTING TO CANDIDATES OR ADVOCATING THE ELECTION OR DEFEAT OF CANDIDATES.

5. CIRCULATE CANDIDATE NOMINATION PETITIONS OR RECALL PETITIONS.

6. ENGAGE IN ACTIVITIES TO ADVOCATE THE ELECTION OR DEFEAT OF ANY CANDIDATE.

7. SOLICIT OR ENCOURAGE CONTRIBUTIONS TO BE MADE DIRECTLY TO CANDIDATES OR CAMPAIGN COMMITTEES CONTRIBUTING TO CANDIDATES OR ADVOCATING THE ELECTION OR DEFEAT OF CANDIDATES.

1 D. A PERSON SHALL NOT:
2 1. SOLICIT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
3 OF THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL TO ENGAGE OR NOT ENGAGE IN
4 ACTIVITIES PERMITTED BY THIS SECTION WITH THE DIRECT OR INDIRECT USE OF ANY
5 THREAT, INTIMIDATION OR COERCION, INCLUDING THREATS OF DISCRIMINATION,
6 REPRISAL, FORCE OR ANY OTHER ADVERSE CONSEQUENCE, INCLUDING THE LOSS OF ANY
7 BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR COMPENSATION.
8 2. SUBJECT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
9 OF THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL ENGAGING IN ACTIVITY PERMITTED BY
10 THIS SECTION TO ANY DIRECT OR INDIRECT DISCRIMINATION, REPRISAL, FORCE,
11 COERCION OR INTIMIDATION OR ANY OTHER ADVERSE CONSEQUENCE, INCLUDING THE LOSS
12 OF ANY BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR COMPENSATION.
13 3. SUBJECT ANY EMPLOYEE, MEMBER OF THE STATE PERSONNEL BOARD OR MEMBER
14 OF THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL WHO CHOOSES NOT TO ENGAGE IN ANY
15 ACTIVITY PERMITTED BY THIS SECTION TO ANY DIRECT OR INDIRECT DISCRIMINATION,
16 REPRISAL, FORCE, COERCION OR INTIMIDATION OR ANY OTHER ADVERSE CONSEQUENCE,
17 INCLUDING THE LOSS OF ANY BENEFIT, REWARD, PROMOTION, ADVANCEMENT OR
18 COMPENSATION.
19 E. SUBSECTIONS B AND C OF THIS SECTION DO NOT APPLY TO THOSE EMPLOYEES
20 LISTED IN SECTION 41-742, SUBSECTION F.
21 F. THIS SECTION DOES NOT APPLY TO SCHOOL BOARD ELECTIONS OR COMMUNITY
22 COLLEGE DISTRICT GOVERNING BOARD ELECTIONS, AND AN EMPLOYEE MAY SERVE AS A
23 MEMBER OF THE GOVERNING BOARD OF A COMMON OR HIGH SCHOOL DISTRICT OR AS A
24 MEMBER OF A COMMUNITY COLLEGE DISTRICT GOVERNING BOARD.
25 G. AN EMPLOYEE WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION IS
26 SUBJECT TO SUSPENSION OF NOT LESS THAN THIRTY DAYS OR DISMISSAL.
27 H. A PERSON WHO VIOLATES:
28 1. SUBSECTION D OF THIS SECTION IS GUILTY OF A CLASS 6 FELONY.
29 2. ANY OTHER PROVISION OF THIS SECTION IS GUILTY OF A CLASS 1
30 MISDEMEANOR.
31 I. IN ADDITION TO ANY OTHER PENALTY, ANY PERSON SOLICITING OR
32 ENCOURAGING A CONTRIBUTION IN A MANNER PROHIBITED BY THIS SECTION IS SUBJECT
33 TO A CIVIL PENALTY OF UP TO THREE TIMES THE AMOUNT OF THE CONTRIBUTION
34 SOLICITED OR ENCOURAGED PLUS COSTS, EXPENSES AND REASONABLE ATTORNEY FEES.
35 J. THIS SECTION DOES NOT DENY ANY EMPLOYEE OR BOARD MEMBER ANY CIVIL
36 OR POLITICAL LIBERTIES AS GUARANTEED BY THE UNITED STATES AND ARIZONA
37 CONSTITUTIONS.
38 K. IT IS THE PUBLIC POLICY OF THIS STATE, REFLECTED IN THIS SECTION,
39 THAT GOVERNMENT PROGRAMS BE ADMINISTERED IN AN UNBIASED MANNER AND WITHOUT
40 FAVORITISM FOR OR AGAINST ANY POLITICAL PARTY OR GROUP OR ANY MEMBER IN ORDER
41 TO PROMOTE PUBLIC CONFIDENCE IN GOVERNMENT, GOVERNMENTAL INTEGRITY AND THE
42 EFFICIENT DELIVERY OF GOVERNMENTAL SERVICES AND TO ENSURE THAT ALL EMPLOYEES
43 ARE FREE FROM ANY EXPRESS OR IMPLIED REQUIREMENT OR ANY POLITICAL OR OTHER
44 PRESSURE OF ANY KIND TO ENGAGE OR NOT ENGAGE IN ANY ACTIVITY PERMITTED BY
45 THIS SECTION. TOWARD THIS END, ANY PERSON OR ENTITY CHARGED WITH THE

1 INTERPRETATION OF THIS SECTION SHALL TAKE INTO ACCOUNT THE POLICY OF THIS
2 SECTION AND SHALL CONSTRUE ANY OF ITS PROVISIONS ACCORDINGLY.
3 41-753. Unlawful acts; violation; classification
4 A. A PERSON SHALL NOT MAKE ANY FALSE STATEMENT, CERTIFICATE, MARK,
5 RATING OR REPORT WITH REGARD TO ANY TEST, CERTIFICATION OR APPOINTMENT MADE
6 UNDER THIS ARTICLE OR IN ANY MANNER COMMIT ANY FRAUD PREVENTING THE IMPARTIAL
7 EXECUTION OF THIS ARTICLE OR RULES ADOPTED UNDER THIS ARTICLE.
8 B. A PERSON SHALL NOT, DIRECTLY OR INDIRECTLY, GIVE, RENDER, PAY,
9 OFFER, SOLICIT OR ACCEPT ANY MONEY, SERVICE OR OTHER VALUABLE CONSIDERATION
10 FOR OR ON ACCOUNT OF ANY APPOINTMENT, PROPOSED APPOINTMENT, PROMOTION OR
11 PROPOSED PROMOTION TO, OR ANY ADVANTAGE IN, A POSITION IN THE STATE PERSONNEL
12 SYSTEM.
13 C. AN EMPLOYEE OF ANY STATE AGENCY, EXAMINER OR OTHER PERSON SHALL NOT
14 OBSTRUCT ANY PERSON IN THE PERSON'S RIGHT TO EXAMINATION, ELIGIBILITY,
15 CERTIFICATION OR APPOINTMENT UNDER THIS ARTICLE, OR FURNISH TO ANY PERSON ANY
16 SPECIAL OR SECRET INFORMATION FOR THE PURPOSE OF AFFECTING THE RIGHTS OR
17 PROSPECTS OF ANY PERSON WITH RESPECT TO EMPLOYMENT IN THE STATE PERSONNEL
18 SYSTEM.
19 D. ANY PERSON WHO KNOWINGLY VIOLATES SUBSECTION A, B, OR C OF THIS
20 SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.
21 E. AN ELECTED OR APPOINTED OFFICIAL SHALL NOT WITH CORRUPT INTENT USE
22 THE OFFICIAL'S POLITICAL INFLUENCE OR POSITION TO CAUSE THE FIRING, PROMOTION
23 OR DEMOTION OF ANY PUBLIC EMPLOYEE OR THE HIRING OF OR FAILURE TO HIRE ANY
24 APPLICANT FOR PUBLIC EMPLOYMENT.
25 F. AN ELECTED OR APPOINTED OFFICIAL WHO KNOWINGLY AND WITH CORRUPT
26 INTENT VIOLATES SUBSECTION E OF THIS SECTION IS GUILTY OF A CLASS 2
27 MISDEMEANOR.
28 G. ANY PERSON WHO IS CONVICTED OF A CLASS 2 MISDEMEANOR UNDER THIS
29 ARTICLE, FOR A PERIOD OF FIVE YEARS, IS INELIGIBLE FOR APPOINTMENT TO OR
30 EMPLOYMENT IN A POSITION IN THE STATE PERSONNEL SYSTEM AND, IF THE PERSON IS
31 AN EMPLOYEE OF THIS STATE AT THE TIME OF CONVICTION, IS SUBJECT TO SUSPENSION
32 FOR NOT LESS THAN NINETY DAYS OR DISMISSAL.
33 H. A CONTACT BY AN ELECTED OR APPOINTED OFFICIAL WITH A PUBLIC AGENCY
34 REGARDING THE QUALIFICATIONS OF AN APPLICANT SHALL NOT BE CONSTRUED AS
35 ILLEGALLY USING POLITICAL INFLUENCE OR POSITION.
36 41-754. Required reduction in hours
37 AN AGENCY DIRECTOR MAY REQUIRE AN AGENCY EMPLOYEE TO WORK REDUCED HOURS
38 IN ORDER TO COMPLY WITH ANY REDUCTION IN APPROPRIATIONS. THE DIRECTOR SHALL
39 PRESCRIBE PROCEDURES TO IMPLEMENT THESE REDUCTIONS.
40 Sec. 116. Repeal
41 Title 41, chapter 4, article 5, Arizona Revised Statutes, is repealed.

1 Sec. 117. Title 41, chapter 4, Arizona Revised Statutes, is amended by
2 adding a new article 5, to read:
3 ARTICLE 5. COVERED SERVICE
4 41-771. Powers and duties of director relating to employees in
5 covered service
6 THE DIRECTOR SHALL ADOPT RULES AND PROCEDURES THAT ARE APPLICABLE ONLY
7 TO EMPLOYEES IN COVERED SERVICE. THE RULES AND PROCEDURES SHALL PROVIDE FOR:
8 1. THE CONTINUATION OF A PROBATIONARY PERIOD FOR PROBATIONARY
9 EMPLOYEES.
10 2. A MINIMUM PERIOD OF ORIGINAL PROBATIONARY SERVICE FOLLOWING THE
11 INITIAL APPOINTMENT OF A FULL AUTHORITY PEACE OFFICER AS CERTIFIED BY THE
12 ARIZONA PEACE OFFICERS STANDARDS AND TRAINING BOARD OR THE INITIAL
13 APPOINTMENT OF A CORRECTIONAL OFFICER I, CORRECTIONAL OFFICER II,
14 CORRECTIONAL OFFICER III OR COMMUNITY CORRECTIONS OFFICER. DURING AN
15 ORIGINAL PROBATIONARY PERIOD, THE PROBATIONARY EMPLOYEE SHALL PERFORM THE
16 ACTUAL DUTIES OF THE POSITION AND MAY BE DISCHARGED WITHOUT CAUSE. THE
17 DIRECTOR SHALL ESTABLISH A PERIOD OF PROMOTIONAL PROBATION SERVICE.
18 3. DISCIPLINARY ACTION TO BE TAKEN AGAINST AN EMPLOYEE ONLY IF CAUSE
19 EXISTS.
20 4. REDUCTION IN FORCE BY REASON OF LACK OF MONIES OR WORK, ABOLITION
21 OF A POSITION OR A MATERIAL CHANGE IN DUTIES OR ORGANIZATION AS PROVIDED IN
22 SECTION 41-772.
23 41-772. Reduction in force procedure in covered service
24 A. THE DIRECTOR SHALL ESTABLISH REDUCTION IN FORCE PROCEDURES TO BE
25 USED BY ALL STATE AGENCIES IF REDUCTIONS ARE REQUIRED IN COVERED SERVICE BY
26 REASON OF LACK OF MONIES OR WORK, ABOLITION OF A POSITION, A MATERIAL CHANGE
27 IN DUTY OR ORGANIZATION OR THE INTRODUCTION OF OTHER COST REDUCTION
28 INITIATIVES.
29 B. THE PROCEDURES SHALL USE THE PERSON'S PERFORMANCE RECORD AS THE
30 SOLE BASIS FOR DETERMINING RETENTION. CONSIDERATION OF THE PERSON'S
31 PERFORMANCE IS LIMITED TO PERFORMANCE, AS MEASURED BY UP TO THE THREE MOST
32 RECENT PERFORMANCE EVALUATIONS CONDUCTED USING A PERFORMANCE MEASUREMENT
33 SYSTEM APPROVED BY THE DIRECTOR, DURING A PERIOD OF NOT MORE THAN THE TWO
34 YEARS IMMEDIATELY PRECEDING THE REDUCTION IN FORCE. NOTWITHSTANDING ANY
35 OTHER STATUTE, A STATE AGENCY SHALL NOT ADOPT POLICIES THAT PROVIDE
36 EMPLOYMENT RETENTION PRIORITY FOR EMPLOYEES BASED ON TENURE OR SENIORITY.
37 C. THE PROCEDURES SHALL PROVIDE FOR A REDUCTION IN FORCE TO BE LIMITED
38 TO A SINGLE AGENCY OR ORGANIZATIONAL UNIT OF AN AGENCY OR AN ORGANIZATIONAL
39 UNIT OF AGENCY OPERATIONS WITHIN A GEOGRAPHIC AREA.
40 D. THE PROCEDURES SHALL PROVIDE FOR AN EXPEDITED REVIEW OF ANY
41 DETERMINATIONS MADE DURING A REDUCTION IN FORCE.
42 41-773. Causes for dismissal or discipline for employee in
43 covered service
44 A. EACH OF THE FOLLOWING CONSTITUTES CAUSE FOR DISCIPLINE OR DISMISSAL
45 OF AN EMPLOYEE IN COVERED SERVICE:

1. FRAUD OR MISREPRESENTATION IN SECURING APPOINTMENT.
2. INCOMPETENCY.
3. INEFFICIENCY.
4. NEGLECT OF DUTY.
5. INSUBORDINATION.
6. DISHONESTY.
7. BEING IMPAIRED BY ALCOHOL OR DRUGS WHILE ON DUTY.
8. ILLEGAL USE OR ILLEGAL POSSESSION OF A NARCOTIC OR HABIT-FORMING DRUG.
9. UNAUTHORIZED ABSENCE OR ABSENCE WITHOUT LEAVE.
10. COMMISSION OF ANY CRIME CLASSIFIED AS A FELONY OR INVOLVING MORAL TURPITUDE.
11. DISCOURTEOUS TREATMENT OF THE PUBLIC OR OTHER EMPLOYEES.
12. IMPROPER POLITICAL ACTIVITY.
13. WILFUL DISOBEDIENCE.
14. MISUSE OR UNAUTHORIZED USE OF STATE PROPERTY.

B. IN ADDITION TO THE CAUSES PRESCRIBED BY SUBSECTION A OF THIS SECTION, THE DIRECTOR MAY ESTABLISH OTHER CAUSES DEEMED NECESSARY.

C. THE DIRECTOR SHALL PRESCRIBE DEFINITIONS FOR EACH OF THE CAUSES FOR DISMISSAL OR DISCIPLINE PRESCRIBED OR ESTABLISHED UNDER THIS SECTION THAT SHALL BE USED BY COVERED EMPLOYEES AND, AS APPLICABLE, THE STATE PERSONNEL BOARD OR THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL IN EVALUATING DISMISSALS AND DISCIPLINARY ACTIONS.

Sec. 118. Heading change

The article heading of title 41, chapter 4, article 6, Arizona Revised Statutes, is changed from "PERSONNEL BOARD" to "STATE PERSONNEL BOARD".

Sec. 119. Section 41-781, Arizona Revised Statutes, is amended to read:

41-781. State personnel board; members; appointment; term; meetings; compensation

A. The state personnel board ~~shall consist~~ CONSISTS of five members appointed by the governor pursuant to section 38-211. No more than three members shall belong to the same political party. Persons eligible for appointment shall have had a continuous recorded registration pursuant to title 16, chapter 1 with either the same political party or as an independent for at least two years immediately preceding appointment. Of the members appointed one shall be a person who for more than five years has managed a component or unit of government or industry with more than twenty employees, one shall be a professional personnel administrator, one a state employee, one a person active in business management and one a member of the public. Members may be removed by the governor for cause. The chairperson of the STATE personnel board shall serve as an ex officio member of the law enforcement merit system council established by section 41-1830.11 without voting privileges.

B. The term of office for each member is three years, each term to expire three years from the date of appointment. ~~Upon~~ ON the expiration of the term of a member a successor shall be appointed for a full term of three years.

C. The STATE personnel board may hold regular monthly meetings and, in addition, may hold special meetings the board deems necessary. A chairperson and vice chairperson shall be elected by the members at the first meeting of each year and the chairperson shall not serve successive terms as chairperson. Meetings of the STATE personnel board shall be open to the public, and executive sessions may be held as provided by law.

D. Any one of the following ~~shall constitute~~ CONSTITUTES the resignation of a board member and ~~authorize~~ AUTHORIZES the governor to appoint a new member to fill the unexpired term so vacated:

1. Becoming a candidate for any elective public office.

2. Accepting any appointive office or employment in the state ~~service~~ PERSONNEL SYSTEM, except the state employee who is designated to serve on the board.

E. Members of the STATE personnel board, except the person designated as the state employee, are eligible to receive compensation ~~as determined pursuant to section 38-611 for each day actually spent for meetings of the personnel board~~ OF ONE HUNDRED DOLLARS FOR EACH MEETING ATTENDED, PRORATED FOR PARTIAL DAYS FOR EACH MEETING ATTENDED. The member of the STATE personnel board designated as the state employee shall be paid the state employee's regular compensation for meetings of the board.

Sec. 120. Section 41-782, Arizona Revised Statutes, is amended to read:

41-782. Powers and duties of the state personnel board

A. EXCEPT AS PROVIDED BY SECTION 41-1830.16, the STATE personnel board shall hear and review appeals as provided in this article relating to dismissal OF A COVERED EMPLOYEE from ~~state~~ COVERED service, suspension for more than ~~forty~~ EIGHTY working hours or INVOLUNTARY demotion resulting from disciplinary action as defined in the personnel rules FOR AN EMPLOYEE IN COVERED SERVICE.

B. THE STATE personnel board shall hear and review complaints as provided in title 38, chapter 3, article 9, relating to any personnel action taken against an employee or former employee of this state, except an employee or former employee of a state university or the board of regents, which the employee or former employee believes was taken in reprisal for the employee's or former employee's disclosure of information to a public body. The state personnel board shall recommend the dismissal of a supervisor or other responsible person, other than an elected official, who it determines committed a prohibited personnel practice.

C. The STATE personnel board may adopt rules it deems necessary for the administration of hearings and the review of appeals and complaints as prescribed in this section.

D. THE STATE PERSONNEL BOARD SHALL ONLY EXERCISE AUTHORITY THAT IS SPECIFICALLY GRANTED TO THE BOARD PURSUANT TO THIS ARTICLE.

Sec. 121. Repeal

Sections 41-783 and 41-784, Arizona Revised Statutes, are repealed.

Sec. 122. Section 41-785, Arizona Revised Statutes, is transferred and renumbered for placement in title 41, chapter 4, article 6, Arizona Revised Statutes, as section 41-783 and, as so renumbered, is amended to read:

41-783. Appeals to the state personnel board for covered employees; notice of charges; hearings

A. ~~Any~~ EXCEPT AS PROVIDED BY SECTION 41-1830.16, A COVERED employee who has completed the COVERED employee's original probationary period of service as provided by the personnel rules may appeal to the STATE personnel board ~~seeking relief from~~ THE COVERED EMPLOYEE'S dismissal from ~~state~~ COVERED service, suspension for more than ~~forty~~ EIGHTY working hours or INVOLUNTARY demotion resulting from disciplinary action. The appeal shall be filed not later than ten working days after the effective date of such action. The COVERED employee shall be furnished with specified charges in writing when the action is taken. Such appeal shall be in writing and must state specific facts relating directly to the charges on which the appeal is based and shall be heard by the STATE personnel board within thirty days after its receipt. The STATE personnel board shall provide the employing agency with a copy of the appeal not less than twenty days in advance of the hearing.

B. Hearings on such appeals shall be open to the public, except in cases where the COVERED employee requests a confidential hearing, and shall be informal with technical rules of evidence not applying to the proceedings except the rule of privilege recognized by law. Both the COVERED employee and the employing agency shall be notified of any hearing or meeting date not less than twenty days in advance of the hearing or not less than ten days in advance of a meeting and may select representatives of their choosing, present and cross-examine witnesses and give evidence before the STATE personnel board. The STATE personnel board may appoint a hearing officer to conduct the hearing and take evidence on behalf of the board and exercise the rights prescribed by section 12-2212. The STATE personnel board shall prepare an official record of the hearing, including all testimony recorded manually or by mechanical device, and exhibits. Either party may request that the record be transcribed. If a party requests that the record be transcribed, an entity, other than the STATE personnel board, selected by the requesting party shall transcribe the record at the cost of the requesting party. If the disciplinary hearing would involve evidence the state is prevented by law from disclosing, then a confidential hearing upon the state's request shall be granted.

C. The STATE PERSONNEL board: ~~may reverse an agency's action on appeal only if the board finds the action to be arbitrary, capricious or otherwise contrary to law.~~

~~D. The board may modify the disciplinary penalty chosen by an agency only if the board finds the penalty to be disproportionate to the proven offense in light of mitigating circumstances or made for reasons that are arbitrary, capricious or otherwise contrary to law.~~

1. SHALL DETERMINE WHETHER THE STATE AGENCY HAS PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED. ON SUCH A FINDING, THE BOARD SHALL AFFIRM THE DECISION OF THE STATE AGENCY HEAD, UNLESS THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS.

2. MAY RECOMMEND MODIFICATION OF A DISCIPLINARY ACTION IF THE AGENCY HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED OR IF A DISCIPLINARY DECISION IS FOUND TO BE ARBITRARY AND CAPRICIOUS.

3. SHALL REVERSE THE DECISION OF THE STATE AGENCY HEAD IF THE BOARD FINDS THAT CAUSE DID NOT EXIST FOR ANY DISCIPLINE TO BE IMPOSED AND, IN THE CASE OF DISMISSAL OR DEMOTION, RETURN THE COVERED EMPLOYEE TO THE SAME POSITION THE EMPLOYEE HELD BEFORE THE DISMISSAL OR DEMOTION WITH OR WITHOUT BACK PAY.

D. ON A FINDING THAT THE AGENCY HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED, THE BOARD SHALL IDENTIFY THE MATERIAL FACTS THAT THE BOARD FOUND WERE NOT SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE AND MAY RECOMMEND A PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN. ON A FINDING THAT THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS, THE BOARD SHALL INCLUDE THE BOARD'S REASONS FOR THE BOARD'S FINDING AND MAY RECOMMEND A PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN.

E. Within forty-five days after the conclusion of the hearing, the STATE PERSONNEL board shall enter its decision OR RECOMMENDATION and shall at the same time send a copy of the decision OR RECOMMENDATION by certified mail to the employing agency and to the COVERED employee at the employee's address as given at the hearing or to a representative designated by the COVERED employee to receive a copy of the decision OR RECOMMENDATION. THE AGENCY DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL ACCEPT, MODIFY OR REVERSE THE BOARD'S DECISION OR ACCEPT, MODIFY OR REJECT THE BOARD'S RECOMMENDATION WITHIN FOURTEEN DAYS OF RECEIPT OF THE FINDINGS OR RECOMMENDATION FROM THE STATE PERSONNEL BOARD. THE DECISION OF THE AGENCY DIRECTOR OR DIRECTOR'S DESIGNEE IS FINAL AND BINDING. THE AGENCY DIRECTOR SHALL SEND A COPY OF THE AGENCY'S FINAL DETERMINATION TO THE COVERED EMPLOYEE PURSUANT TO THIS SECTION.

F. Any party may appeal the decision of the STATE PERSONNEL board OR THE FINAL DECISION OF THE AGENCY pursuant to title 12, chapter 7, article 6 to the superior court in the COVERED employee's county of residence on one or more of the following grounds that the order was:

1. Founded on or contained error of law ~~which~~ THAT shall specifically include error of construction or application of any pertinent rules.

2. Unsupported by any evidence as disclosed by the entire record.

3. Materially affected by unlawful procedure.
4. Based on a violation of any constitutional provision.
5. Arbitrary or capricious.

G. An appeal shall be available to the court of appeals from the order of the superior court pursuant to title 12, chapter 7, article 6 as in other civil cases.

H. ~~An~~ A COVERED employee may represent himself or designate a representative, not necessarily an attorney, before any board hearing or any quasi-judicial hearing held pursuant to this section providing that no fee may be charged for any services rendered in connection with such hearing by any such designated representative who is not an attorney admitted to practice.

Sec. 123. Repeal

Section 41-786, Arizona Revised Statutes, is repealed.

Sec. 124. Section 41-821, Arizona Revised Statutes, is amended to read:

41-821. Arizona historical society; powers; officers; duties of board of directors

A. An Arizona historical society is established.

B. Subject to limitations imposed by law, the society may purchase, receive, hold, lease and sell property, real and personal, for the benefit of this state and use of the society. The society may solicit private monetary donations for program activities.

C. The society shall have a president, a treasurer, a board of directors and other officers who shall be elected by the members of the society at times and by methods the bylaws of the society prescribe. The board of directors may designate from among its members an executive committee with authority to act in place of the board of directors and in accordance with directions the board of directors may give when the board of directors is not in session.

D. The president shall preside at meetings of the society and of the board of directors.

E. The treasurer shall have custody of the monies of the society, other than legislative appropriations. The treasurer shall hold the monies of the society deposited in trust for the society's use and for the benefit of this state and shall disburse them only as prescribed by law and the bylaws of the society.

F. The board of directors shall hold in trust for this state and administer for the benefit of this state and use of the society all property acquired by the society.

G. All expenditures of legislative appropriations to the society shall be made on claims duly itemized, verified and approved by the executive director. The executive director shall present and file claims for payment with the director of the department of administration. The director of the department of administration shall draw the warrant on the state treasurer.

The society may expend nonappropriated private funds related to program activities.

H. The board of directors shall annually designate one or more historical organizations within each county of this state that are incorporated as nonprofit organizations and that are deemed to have a functioning program of historical value based on criteria established by the board of directors. The board of directors may organize chapters made up of groups of its members who have a common interest in a geographical area of this state or a common interest in a field of history, may provide for the governance of these chapters and may grant to any chapter the power to exercise authority of the society as the board of directors may determine.

I. The board of directors, subject to legislative appropriation, may contract with certified historical organizations for services to be performed for the benefit of this state. The contracts shall be prepared by the Arizona historical society. The board of directors shall annually review the contracts to ensure fulfillment of their provisions.

J. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the board of directors may employ an executive director and may employ or authorize the employment of other employees it considers appropriate to carry out the functions of the society. The executive director and all other employees shall have duties and exercise authority as may be prescribed by the board of directors or by the executive director acting under the direction of the board of directors.

K. The board may operate a program for the establishment and maintenance of historical markers at various locations in this state.

L. In cooperation with the advisory council established by section 41-827.01, the board shall operate and maintain the centennial museum that houses the mining and mineral museum and may engage in other activities related to the museum as determined by the board or the executive director. Monies received pursuant to this subsection shall be credited to an account to be used for the maintenance and operations of the centennial museum that houses the mining and mineral museum.

Sec. 125. Section 41-832, Arizona Revised Statutes, is amended to read:

41-832. <u>Meetings of society; nominations; bylaws of society; election of officers; meetings; rules and regulations; employment of director and other personnel</u>

A. The society shall meet annually on the first Monday of June at the call of the president for the purpose of nominating new members of the board of trustees and to conduct such other business as may properly come before it. The nominations shall be made by a nominating committee chosen by the members of the society. Members of the board of trustees shall serve for a term of three years.

B. The society may adopt bylaws for its government.

C. The board of trustees shall elect annually from its membership a president, vice president, secretary and a treasurer.

D. Regular meetings of the board of trustees shall be held at least once during each calendar quarter. Special meetings may be held at the call of the president or upon petition of any three of its members. Members of the board of trustees shall receive no compensation but shall be reimbursed for subsistence and travel expenses incurred in the performance of their duties as provided for other state officers.

E. The board of trustees shall adopt rules and regulations for the administration of the work of the society and for carrying out the provisions of this article. The rules and regulations may divide membership of the society in four classes named life, one year, associate and honorary and may define each class. The fees for each class shall be fixed by the board of trustees, provided that the fee for any class may not exceed twenty-five dollars per annum.

F. The board of trustees may employ, SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, a director, assistant director, custodians, archivists, librarians, researchers, maintenance personnel, gardeners or other necessary personnel, define their duties and fix their compensation PURSUANT TO SECTION 38-611 AND within the limits of legislative appropriation ~~therefor~~. The board may also employ the services of professional consultants on a fee basis within the limits of legislative appropriation ~~therefor~~.

Sec. 126. Section 41-902, Arizona Revised Statutes, is amended to read:

41-902. Fiscal controls on institutions

A. ~~Salary schedules~~ COMPENSATION FOR OFFICERS AND EMPLOYEES of state institutions under the control of the governor shall be fixed by the governor PURSUANT TO SECTION 38-611 unless otherwise provided by law. ~~Salary schedules~~ EMPLOYEE COMPENSATION shall be included in the estimate of expenses submitted by the chief executive officer of the institution.

B. Each chief executive officer shall furnish a semi-monthly payroll for the institution under his charge, showing the name, monthly salary and length of service of each officer and employee. The payroll shall be audited by the governor and a statement of the amount found due each employee shall be filed with the director of the department of administration who shall issue a separate warrant to each employee.

C. A bond in an amount to be fixed by the governor shall be required from each official and employee having custody of funds or property belonging to the state.

D. The remittance of money and other things of value received by the institution shall be governed by ~~the provisions of~~ TITLE 35, chapter 1~~, title 35~~ so far as applicable, and the proper executive officer of each institution shall in addition make a detailed statement showing the sources of such receipts to the governor.

Sec. 127. Section 41-903, Arizona Revised Statutes, is amended to read:

41-903. Officers and employees; employment

SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the chief executive officer of each institution under the control of the governor shall appoint assistants, clerks, guards and employees required to operate the institution, the number to be determined by the governor, except as otherwise provided by law. ~~The chief executive officer of the institution may discharge an employee for cause. An officer or employee may be removed by the governor for misconduct, incompetency or neglect of duty.~~

Sec. 128. Section 41-941, Arizona Revised Statutes, is amended to read:

41-941. Location; superintendent; claims

A. There shall be a state hospital for disabled miners as a separate facility for the benefit of disabled miners at the Arizona pioneers' home at Prescott which shall be managed by the governor.

B. The superintendent of the Arizona pioneers' home shall serve as superintendent of the miner's hospital and, SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, may appoint assistants and employees and prescribe their duties, subject to approval of the governor.

C. Claims for salaries and expenses authorized by this article shall be presented and paid as other state claims.

Sec. 129. Section 41-982, Arizona Revised Statutes, is amended to read:

41-982. Powers and duties

A. The commission may:

1. With the consent of a majority of the commission, employ, SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, such personnel as may be required within the limits of funds available in the arts fund. The compensation for such personnel shall be as determined pursuant to section 38-611.

2. Hold hearings.

3. Enter into contracts, within the limits of funds available, with local and regional associations, individuals, organizations and institutions for any services which further the broad objectives of the commission's program.

4. Accept gifts, contributions and bequests of unrestricted funds for deposit in the arts fund or the arts trust fund from individuals, foundations, corporations, and other organizations or institutions for the purpose of furthering the broad objectives of the commission's program.

5. Make agreements to carry out the purposes of this article.

6. Request cooperation from any state agency for the purposes of this article.

B. The commission shall:

1. Stimulate and encourage throughout the state the study and presentation of the performing arts, fine arts, and public interest and participation therein.

2. Make such surveys of public and private institutions engaged within the state in artistic and cultural activities, as may be deemed advisable, and make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state.

3. Take such steps as may be necessary and appropriate to encourage public interest in the cultural heritage of our state and to expand the state's cultural resources.

4. Encourage and assist freedom of artistic and scholarly expression essential for the well-being of the arts.

5. Formulate policies and adopt rules and regulations which are consistent with the purposes of this article.

Sec. 130. Section 41-1009, Arizona Revised Statutes, is amended to read:

41-1009. Inspections; applicability

A. An agency inspector or regulator who enters any premises of a regulated person for the purpose of conducting an inspection shall:

1. Present photo identification on entry of the premises.

2. On initiation of the inspection, state the purpose of the inspection and the legal authority for conducting the inspection.

3. Disclose any applicable inspection fees.

4. Afford an opportunity to have an authorized on-site representative of the regulated person accompany the agency inspector or regulator on the premises, except during confidential interviews.

5. Provide notice of the right to have on request:

(a) Copies of any original documents taken by the agency during the inspection if the agency is permitted by law to take original documents.

(b) A split of any samples taken during the inspection if the split of any samples would not prohibit an analysis from being conducted or render an analysis inconclusive.

(c) Copies of any analysis performed on samples taken during the inspection.

(d) Copies of any documents to be relied on to determine compliance with licensure or regulatory requirements if the agency is otherwise permitted by law to do so.

6. Inform each person whose conversation with the agency inspector or regulator during the inspection is tape recorded that the conversation is being tape recorded.

7. Inform each person interviewed during the inspection that statements made by the person may be included in the inspection report.

B. On initiation of an inspection of any premises of a regulated person, an agency inspector or regulator shall provide the following in writing:

1. The rights described in subsection A of this section.

2. The name and telephone number of a contact person available to answer questions regarding the inspection.

3. The due process rights relating to an appeal of a final decision of an agency based on the results of the inspection, including the name and telephone number of a person to contact within the agency and any appropriate state government ombudsman.

C. An agency inspector or regulator shall obtain the signature of the regulated person or on-site representative of the regulated person on the writing prescribed in subsection B of this section indicating that the regulated person or on-site representative of the regulated person has read the writing prescribed in subsection B of this section and is notified of the regulated person's or on-site representative of the regulated person's inspection and due process rights. The agency shall maintain a copy of this signature with the inspection report and shall leave a copy with the regulated person or on-site representative of the regulated person. If a regulated person or on-site representative of the regulated person is not at the site or refuses to sign the writing prescribed in subsection B of this section, the agency inspector or regulator shall note that fact on the writing prescribed in subsection B of this section.

D. An agency that conducts an inspection shall give a copy of the inspection report to the regulated person or on-site representative of the regulated person either:

1. At the time of the inspection.

2. Notwithstanding any other state law, within thirty working days after the inspection.

3. As otherwise required by federal law.

E. The inspection report shall contain deficiencies identified during an inspection. Unless otherwise provided by law, the agency may provide the regulated person an opportunity to correct the deficiencies unless the agency determines that the deficiencies are:

1. Committed intentionally.

2. Not correctable within a reasonable period of time as determined by the agency.

3. Evidence of a pattern of noncompliance.

4. A risk to any person, the public health, safety or welfare or the environment.

F. If the agency allows the regulated person an opportunity to correct the deficiencies pursuant to subsection E of this section, the regulated person shall notify the agency when the deficiencies have been corrected. Within thirty days of receipt of notification from the regulated person that the deficiencies have been corrected, the agency shall determine if the

regulated person is in substantial compliance and notify the regulated person whether or not the regulated person is in substantial compliance. If the regulated person fails to correct the deficiencies or the agency determines the deficiencies have not been corrected within a reasonable period of time, the agency may take any enforcement action authorized by law for the deficiencies.

G. For agencies with authority under title 49, if the agency does not allow the regulated person an opportunity to correct deficiencies pursuant to subsection E of this section, on the request of the regulated person, the agency shall provide a written explanation of the reason that an opportunity to correct was not allowed.

H. An agency decision pursuant to subsection E or F of this section is not an appealable agency action.

I. At least once every month after the commencement of the inspection an agency shall provide a regulated person with an update on the status of any agency action resulting from an inspection of the regulated person. An agency is not required to provide an update after the regulated person is notified that no agency action will result from the agency inspection or after the completion of agency action resulting from the agency inspection.

J. For agencies with authority under title 49, if, as a result of an inspection or any other investigation, an agency alleges that a regulated person is not in compliance with licensure or other applicable regulatory requirements, the agency shall provide written notice of that allegation to the regulated person. The notice shall contain the following information:

1. A citation to the statute, regulation, license or permit condition on which the allegation of noncompliance is based, including the specific provisions in the statute, regulation, license or permit condition that are alleged to be violated.

2. Identification of any documents relied on as a basis for the allegation of noncompliance.

3. An explanation stated with reasonable specificity of the regulatory and factual basis for the allegation of noncompliance.

4. Instructions for obtaining a timely opportunity to discuss the alleged violation with the agency.

K. Subsection J of this section applies only to inspections necessary for the issuance of a license or to determine compliance with licensure or other regulatory requirements. Subsection J of this section does not apply to an action taken pursuant to section 11-871, 11-876, 11-877, 49-457.01, 49-457.03 or 49-474.01. Issuance of a notice under subsection J of this section is not a prerequisite to otherwise lawful agency actions seeking an injunction or issuing an order if the agency determines that the action is necessary on an expedited basis to abate an imminent and substantial endangerment to public health or the environment and documents the basis for that determination in the documents initiating the action.

L. This section does not authorize an inspection or any other act that is not otherwise authorized by law.

M. Except as otherwise provided in subsection K of this section, this section applies only to inspections necessary for the issuance of a license or to determine compliance with licensure or other regulatory requirements applicable to a licensee. This section does not apply:

1. To criminal investigations, investigations under tribal state gaming compacts and undercover investigations that are generally or specifically authorized by law.

2. If the inspector or regulator has reasonable suspicion to believe that the regulated person may be engaged in criminal activity.

3. To the Arizona peace officer standards and training board established by section 41-1821.

N. If an inspector or regulator gathers evidence in violation of this section, the violation may be a basis to exclude the evidence in a civil or administrative proceeding.

O. Failure of an agency, board or commission employee to comply with this section:

1. ~~Constitutes cause for~~ MAY SUBJECT THE EMPLOYEE TO disciplinary action or dismissal ~~of an employee~~.

2. Shall be considered by the judge and administrative law judge as grounds for reduction of any fine or civil penalty.

P. An agency may make rules to implement subsection A, paragraph 5 of this section.

Q. Nothing in this section shall be used to exclude evidence in a criminal proceeding.

Sec. 131. Section 41-1051, Arizona Revised Statutes, is amended to read:

41-1051. <u>Governor's regulatory review council; membership; terms; compensation; powers</u>

A. A governor's regulatory review council is established that consists of six members who are appointed by the governor pursuant to section 38-211, and the director of the department of administration or the assistant director of the department of administration who is responsible for administering the council. The director or assistant director is an ex officio member and chairperson of the council. The council shall elect a vice-chairperson to serve as chairperson in the chairperson's absence. The governor shall appoint at least one member who represents the public interest, at least one member who represents the business community, one member from a list of three persons who are not legislators submitted by the president of the senate and one member from a list of three persons who are not legislators submitted by the speaker of the house of representatives. At least one member of the council shall be an attorney licensed to practice law in this state. The governor shall appoint the members of the council for staggered terms of three years. A vacancy occurring during the term of

office of any member shall be filled by appointment by the governor for the unexpired portion of the term in the same manner as provided in this section.

B. The council shall meet at least once a month at a time and place set by the chairperson and at other times and places as the chairperson deems necessary.

C. Members of the council are eligible to receive compensation in an amount of two hundred dollars for each day on which the council meets and reimbursement of expenses pursuant to title 38, chapter 4, article 2.

D. The chairperson, subject to chapter 4, ARTICLE 4 AND, AS APPLICABLE, articles 5 and 6 of this title, shall employ, determine the conditions of employment of and specify the duties of administrative, secretarial and clerical employees as the chairperson deems necessary.

E. The council may make rules pursuant to this chapter to carry out the purposes of this chapter.

F. The council shall make the following information available to the public on request and on the council's website:

1. A list of agency rules approved or returned pursuant to section 41-1052.

2. A list of agencies not certifying compliance as provided in section 41-1091.

3. A list of agencies that report a lack of progress pursuant to section 41-1056, subsection H.

Sec. 132. Section 41-1092.01, Arizona Revised Statutes, is amended to read:

41-1092.01. <u>Office of administrative hearings; director; powers and duties; fund</u>

A. An office of administrative hearings is established.

B. The governor shall appoint the director pursuant to section 38-211. At a minimum, the director shall have the experience necessary for appointment as an administrative law judge. The director also shall possess supervisory, management and administrative skills, as well as knowledge and experience relating to administrative law.

C. The director shall:

1. Serve as the chief administrative law judge of the office.

2. Make and execute the contracts and other instruments that are necessary to perform the director's duties.

3. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, hire employees, including full-time administrative law judges, and contract for special services, including temporary administrative law judges, that are necessary to carry out this article. An administrative law judge employed or contracted by the office shall have graduated from an accredited college of law or shall have at least two years of administrative or managerial experience in the subject matter or agency section the administrative law judge is assigned to in the office.

4. Make rules that are necessary to carry out this article, including rules governing ex parte communications in contested cases.

5. Submit a report to the governor, speaker of the house of representatives and president of the senate by November 1 of each year describing the activities and accomplishments of the office. The director's annual report shall include a summary of the extent and effect of agencies' utilization of administrative law judges, court reporters and other personnel in proceedings under this article and recommendations for changes or improvements in the administrative procedure act or any agency's practice or policy with respect to the administrative procedure act.

6. Secure, compile and maintain all decisions, opinions or reports of administrative law judges issued pursuant to this article and the reference materials and supporting information that may be appropriate.

7. Develop, implement and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this article. The program shall require that an administrative law judge receive training in the technical and subject matter areas of the sections to which the administrative law judge is assigned.

8. Develop, implement and maintain a program of evaluation to aid the director in the evaluation of administrative law judges appointed pursuant to this article that includes comments received from the public.

9. Annually report the following to the governor, the president of the senate and the speaker of the house of representatives by December 1 for the prior fiscal year:

(a) The number of administrative law judge decisions rejected or modified by agency heads.

(b) By category, the number and disposition of motions filed pursuant to section 41-1092.07, subsection A to disqualify office administrative law judges for bias, prejudice, personal interest or lack of expertise.

(c) By agency, the number and type of violations of section 41-1009.

10. Schedule hearings pursuant to section 41-1092.05 upon the request of an agency or the filing of a notice of appeal pursuant to section 41-1092.03.

D. The director shall not require legal representation to appear before an administrative law judge.

E. Except as provided in subsection F of this section, all state agencies supported by state general fund sources, unless exempted by this article, and the registrar of contractors shall use the services and personnel of the office to conduct administrative hearings. All other agencies shall contract for services and personnel of the office to conduct administrative hearings.

F. An agency head, board or commission that directly conducts an administrative hearing as an administrative law judge is not required to use the services and personnel of the office for that hearing.

G. Each state agency, and each political subdivision contracting for office services pursuant to subsection I of this section, shall make its facilities available, as necessary, for use by the office in conducting proceedings pursuant to this article.

H. The office shall employ full-time administrative law judges to conduct hearings required by this article or other laws as follows:

1. The director shall assign administrative law judges from the office to an agency, on either a temporary or a permanent basis, at supervisory or other levels, to preside over contested cases and appealable agency actions in accordance with the special expertise of the administrative law judge in the subject matter of the agency.

2. The director shall establish the subject matter and agency sections within the office that are necessary to carry out this article. Each subject matter and agency section shall provide training in the technical and subject matter areas of the section as prescribed in subsection C, paragraph 7 of this section.

I. If the office cannot furnish an office administrative law judge promptly in response to an agency request, the director may contract with qualified individuals to serve as temporary administrative law judges. These temporary administrative law judges are not employees of this state.

J. The office may provide administrative law judges on a contract basis to any governmental entity to conduct any hearing not covered by this article. The director may enter into contracts with political subdivisions of this state, and these political subdivisions may contract with the director for the purpose of providing administrative law judges and reporters for administrative proceedings or informal dispute resolution. The contract may define the scope of the administrative law judge's duties. Those duties may include the preparation of findings, conclusions, decisions or recommended decisions or a recommendation for action by the political subdivision. For these services, the director shall request payment for services directly from the political subdivision for which the services are performed, and the director may accept payment on either an advance or reimbursable basis.

K. The office shall apply monies received pursuant to subsections E and J of this section to offset its actual costs for providing personnel and services.

Sec. 133. Section 41-1604, Arizona Revised Statutes, is amended to read:

41-1604. <u>Duties and powers of director</u>

A. The director shall:

1. Be responsible for the overall operations and policies of the department.

2. Maintain and administer all institutions and programs within the department, including prisons, reception and diagnostic centers, conservation camps, community correctional centers and such other facilities and programs

as may be required and established for the custody, control, correction, treatment and rehabilitation of all adult offenders who are committed to the department.

3. Be responsible for the administration and execution of all community supervision services, including those for adult offenders who are released in accordance with law.

4. Develop a program to provide uniform statewide community supervision field services in this state and employ parole or community supervision officers based on qualifications prescribed by the director, including physical, psychological and educational qualifications and practical experience.

5. Be responsible for the development of policies and programs that shall be recommended to the governor and the legislature for the purpose of improving the various adult correctional programs of this state.

6. Develop and establish a uniform statewide method of reporting statistics as related to this chapter.

7. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, employ deputy directors and other key personnel based on qualifications prescribed by the director that require education and practical experience.

8. Adopt rules pursuant to chapter 6 of this title for the development of incentives to encourage good behavior and the faithful performance of work by prisoners.

9. Adopt rules pursuant to chapter 6 of this title to limit inmate access to the internet through the use of a computer, computer system, network, computer service provider or remote computing service.

10. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

B. The director may:

1. Adopt rules to implement the purposes of the department and the duties and powers of the director.

2. Take any administrative action to improve the efficiency of the department, including the following:

(a) Create new divisions or units or consolidate divisions or units.

(b) SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, transfer employees between the various divisions and units of the department.

(c) Shift duties between divisions or units.

(d) Delegate to appropriate personnel the administrative functions, powers or duties that the director believes can be competently, efficiently and properly performed. The director shall not delegate the responsibilities in subsection A, paragraphs 1 and 5 of this section.

(e) Transfer adult inmates between adult institutions or adult facilities.

(f) Authorize work crews to perform acceptable tasks in any part of the state.

(g) Accept unconvicted persons pursuant to a court order for purposes of examination and treatment regarding competency to understand any stage of a criminal proceeding after indictment or information or their ability to assist in their own defense.

(h) Accept convicted yet unsentenced persons pursuant to a court order for purposes of conducting a mental health examination or a diagnostic evaluation.

(i) SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF THIS TITLE, appoint certain employees of the department to peace officer status for purposes of guarding, transporting or pursuing persons who are under the jurisdiction of the department and appoint certain employees of the department to peace officer status for purposes of investigating or arresting persons who commit or attempt to commit offenses directly relating to the operations of the department. Peace officers of the department shall not preempt the authority and jurisdiction of established agencies of this state and political subdivisions of this state. Such officers shall notify agencies of this state and political subdivisions of this state before conducting an investigation within the jurisdiction of the agency and before making an arrest within the jurisdiction of the agency and shall ask, except in an emergency, if the agency wishes to participate, perform the investigation or arrest the person to be arrested before proceeding. Personnel who are appointed as peace officers by the director shall have the minimum qualifications established for peace officers pursuant to section 41-1822. Personnel who are appointed by the director pursuant to this subdivision are not eligible to participate in the public safety personnel retirement system except as otherwise provided in title 38, chapter 5, article 4.

(j) Operate travel reduction programs that are subsidized by the department for employees who commute between work and home by vanpools, carpools and buses or in vehicles that are purchased or leased by the department.

3. Establish by rule a one-time fee for conducting background checks on any person who enters a department facility to visit a prisoner. A fee shall not be charged for a person who is under eighteen years of age. The director may adopt rules that waive all or part of the fee. The director shall deposit, pursuant to sections 35-146 and 35-147, any monies collected pursuant to this paragraph in the department of corrections building renewal fund established by section 41-797.

Sec. 134. Section 41-1711, Arizona Revised Statutes, is amended to read:

41-1711. Department of public safety; purpose; location; qualifications of director; responsibilities

A. There shall be a department of public safety which is responsible for creating and coordinating services for use by local law enforcement agencies in protecting the public safety. The principal office and headquarters of the department shall be in Phoenix.

B. The department shall formulate plans with a view to establishing modern services for prevention of crime, apprehension of violators, training of law enforcement personnel, and the promotion of public safety. The department shall in no way preempt the authority and jurisdiction of established agencies of political subdivisions of the state.

C. The director shall be selected on the basis of training and experience with a minimum of five years' experience in the administration of law enforcement.

D. The director shall be appointed by the governor pursuant to section 38-211 to serve ~~for a term of five years~~ CONCURRENTLY WITH THE APPOINTING GOVERNOR and shall be subject to removal for cause, including but not limited to malfeasance, misfeasance and nonfeasance in office. ~~The term shall expire on the third Monday in January of the appropriate year.~~ The director shall receive annual compensation as determined pursuant to section 38-611.

E. The director shall be directly responsible to the governor for the conduct and the administration of the department. If the director is unable to act, the deputy director shall direct the activities of the department during the period in which the director is unable to act. If the director and deputy director are unable to act, the governor shall direct the activities of the department during the period in which the director and deputy director are unable to act.

F. The director shall prescribe procedures for use of department personnel, facilities, equipment, supplies and other resources in assisting search or rescue operations.

G. The director shall be responsible for the establishment, operation and maintenance of the statewide emergency medical services communication system prescribed by section 41-1835.

H. The director may purchase, lease, equip, staff and operate air ambulances, including ambulance helicopters, pursuant to section 41-1834.

I. To limit the expenditures of monies derived from the state highway fund established pursuant to article IX, section 14, Constitution of Arizona, to traffic safety and traffic law enforcement purposes, the department of public safety shall:

1. Maintain a strict account of all costs incurred by each function of the department. Such costs shall be determined and allocated between traffic safety or traffic law enforcement functions and all other

departmental functions and shall include such costs as wages or salaries, materials or supplies and equipment or facility use.

2. Immediately following the determination of all such costs certify to the office of strategic planning and budgeting the full amount of all such costs relating to the various functions within the department.

J. The office of strategic planning and budgeting shall annually submit a separate report to the legislature compiled from the department's functional costs certification indicating the complete breakdown between those costs which are related to traffic safety or traffic law enforcement functions and the various other functions within the department. The director of the department of administration shall include within the director's annual report to the legislature a recommendation for a separate appropriation to reimburse the state highway fund from the state general fund for any expenditures from the state highway fund during the prior fiscal year in excess of the total of all costs related to traffic safety or traffic law enforcement functions of the department.

K. The director shall establish a special hazardous materials emergency response organizational unit within the department to function as the initial response element of the hazardous materials emergency management program pursuant to section 26-305.02.

L. The department is designated as this state's recipient of federal victims of crime act grants.

Sec. 135. Section 41-1830.11, Arizona Revised Statutes, is amended to read:

41-1830.11. Law enforcement merit system council; composition

A. The governor shall appoint a law enforcement merit system council PURSUANT TO SECTION 38-211. The council consists of ~~three~~ FIVE persons ~~chosen on the basis of experience in and sympathy with merit principles of public employment~~. NO MORE THAN THREE MEMBERS SHALL BELONG TO THE SAME POLITICAL PARTY. PERSONS ELIGIBLE FOR APPOINTMENT SHALL HAVE HAD A CONTINUOUS RECORDED REGISTRATION PURSUANT TO TITLE 16, CHAPTER 1 WITH EITHER THE SAME POLITICAL PARTY OR AS AN INDEPENDENT FOR AT LEAST TWO YEARS IMMEDIATELY PRECEDING APPOINTMENT. MEMBERS APPOINTED SHALL BE PERSONS WHO ARE COMMITTED TO ENFORCING THIS ARTICLE IN AN HONEST, INDEPENDENT AND IMPARTIAL FASHION AND TO SEEKING TO UPHOLD PUBLIC CONFIDENCE IN THE INTEGRITY OF PUBLIC SAFETY PEACE OFFICERS. The members of the council shall not have held elective public office within one year before appointment and shall not hold any other political office while serving on the council.

B. The governor shall fill a vacancy on the same basis as the original appointment.

C. Members of the council are ~~not~~ eligible to receive compensation for their services ~~but are eligible to receive reimbursement of expenses pursuant to title 38, chapter 4, article 2~~ IN THE AMOUNT OF ONE HUNDRED DOLLARS FOR EACH MEETING ATTENDED, PRORATED FOR PARTIAL DAYS FOR EACH MEETING ATTENDED.

D. A member serves for a term of ~~six~~ THREE years. The governor may remove a member only for cause.

E. The chairman of the council serves as an ex officio member of the state personnel board without voting privileges.

Sec. 136. Section 41-1830.12, Arizona Revised Statutes, is amended to read:

41-1830.12. Law enforcement merit system council; duties; authority; rules; business manager; definition

A. The law enforcement merit system council shall:

1. Select a chairman and vice-chairman.

2. Hold meetings that are necessary to perform its duties on the call of the chairman.

3. ADOPT RULES pursuant to recognized merit principles of public employment ~~adopt rules~~ it deems necessary for establishing the following for department of public safety and Arizona peace officer standards and training board personnel:

(a) A classification and compensation plan for all covered positions and for establishing standards and qualifications for all classified positions from a list of necessary employees that is prepared by the director of the employing agency.

(b) A plan for fair and impartial selection, appointment, probation, promotion, retention and separation or removal from service by resignation, retirement, reduction in force or dismissal of all classified employees.

(c) A performance appraisal system for evaluating the work performance of employees of the agencies.

(d) Procedures for the conduct of hearings of employee grievances that are brought before the council relating to classification, compensation and the employee appraisal system.

(e) Procedures for the conduct of hearings on appeals from an order of the director of the employing agency in connection with suspension, demotion, reduction in pay, loss of accrued leave time or dismissal of a classified employee.

~~4.~~ (f) ~~Adopt rules~~ For hours of employment, annual and sick leave and special leaves of absence, with or without pay or with reduced pay.

~~5.~~ 4. Pursuant to recognized merit principles, hear and review appeals from any order of the director of the employing agency in connection with suspension, demotion, reduction in pay, loss of accrued leave time or dismissal of a classified employee. The council's determination is ~~final, except on~~ SUBJECT TO REVIEW BY THE DIRECTOR AND appeal as provided in section 41-1830.13.

B. The council may meet with the state personnel board to discuss matters of mutual concern.

C. The rules under subsection A, paragraph ~~4~~ 3, SUBDIVISION (f) of this section shall provide for the transfer of accumulated annual leave from one employee to another employee in the same agency and for the transfer of

accumulated annual leave from one employee to another employee of another agency, department, board or commission if the employees are members of the same family. The transfers may occur if the employee to whom the leave is transferred has a seriously incapacitating and extended illness or injury or a member of the employee's immediate family has a seriously incapacitating and extended illness or injury and the employee has exhausted all available leave balances. Transferred annual leave shall be increased or reduced proportionally by the difference in the salaries of the employees as determined by council rule. For the purposes of this subsection, "family" means spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law or father-in-law.

D. IN HEARING AND REVIEWING AN APPEAL FROM ANY ORDER OF THE DIRECTOR OF THE EMPLOYING AGENCY, THE COUNCIL:

1. SHALL DETERMINE WHETHER THE EMPLOYING AGENCY HAS PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED. ON SUCH A FINDING, THE COUNCIL SHALL AFFIRM THE DECISION OF THE DIRECTOR OF THE EMPLOYING AGENCY, UNLESS THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS.

2. MAY RECOMMEND MODIFICATION OF A DISCIPLINARY ACTION IF THE DIRECTOR OF THE EMPLOYING AGENCY HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED OR IF A DISCIPLINARY DECISION IS FOUND TO BE ARBITRARY AND CAPRICIOUS.

3. SHALL REVERSE THE DECISION OF THE DIRECTOR OF THE EMPLOYING AGENCY IF THE COUNCIL FINDS THAT CAUSE DID NOT EXIST FOR ANY DISCIPLINE TO BE IMPOSED AND, IN THE CASE OF DISMISSAL OR DEMOTION, RETURN THE EMPLOYEE TO THE SAME POSITION THE EMPLOYEE HELD BEFORE THE DISMISSAL OR DEMOTION WITH OR WITHOUT BACK PAY.

E. ON A FINDING THAT THE DIRECTOR OF THE EMPLOYING AGENCY HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED, THE COUNCIL SHALL IDENTIFY THE MATERIAL FACTS THAT THE COUNCIL FOUND WERE NOT SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE AND MAY RECOMMEND A PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN. ON A FINDING THAT THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS, THE COUNCIL SHALL INCLUDE THE COUNCIL'S REASONS FOR THE COUNCIL'S FINDING AND MAY RECOMMEND A PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN.

F. WITHIN FORTY-FIVE DAYS AFTER THE CONCLUSION OF THE HEARING, THE COUNCIL SHALL ENTER ITS DECISION OR RECOMMENDATION AND SHALL AT THE SAME TIME SEND A COPY OF THE DECISION OR RECOMMENDATION BY CERTIFIED MAIL TO THE EMPLOYING AGENCY AND TO THE EMPLOYEE AT THE EMPLOYEE'S ADDRESS AS GIVEN AT THE HEARING OR TO A REPRESENTATIVE DESIGNATED BY THE EMPLOYEE TO RECEIVE A COPY OF THE DECISION OR RECOMMENDATION.

~~D.~~ G. The council shall select and the director of the department of public safety shall appoint a business manager who is a certified peace

officer and an employee of the department of public safety but who is not a member of the council. The business manager shall perform and discharge all of the powers and duties that are vested in the council, except that adoption of rules, creation and adjustment of classifications and grades, compensation and hearing appeals for dismissal, demotion, reduction in pay, suspensions or other punitive action remain the duty of the council. Any power or duty that the council may lawfully delegate to the business manager is conclusively presumed to have been delegated to the business manager unless it is shown that the council by an affirmative vote recorded in its minutes has specifically reserved the power or duty to itself. At the request of the council, the business manager may make inquiries regarding or investigate infractions of council rules within the department of public safety. The business manager shall report the result of the inquiry or investigation to the council for appropriate action. The business manager may delegate the business manager's powers and duties to the business manager's subordinates unless by council rule or express provision of law the business manager is specifically required to act personally.

~~E.~~ H. For the purposes of this section AND SECTION 41-1830.13, "director of the employing agency" means the director of the department of public safety with respect to employees of the department and the executive director of the Arizona peace officer standards and training board with respect to employees of the board.

Sec. 137. Section 41-1830.13, Arizona Revised Statutes, is amended to read:

41-1830.13. <u>Review of council decision by agency director; appeal; reinstatement</u>

A. WITHIN FOURTEEN DAYS OF RECEIPT OF THE FINDING OR RECOMMENDATION BY THE COUNCIL PURSUANT TO SECTION 41-1830.12, THE DIRECTOR OF THE EMPLOYING AGENCY SHALL ACCEPT, MODIFY OR REVERSE THE COUNCIL'S DECISION OR ACCEPT, MODIFY OR REJECT THE COUNCIL'S RECOMMENDATION. THE DIRECTOR SHALL ACCEPT THE COUNCIL'S RECOMMENDATION UNLESS THE RECOMMENDATION IS ARBITRARY OR WITHOUT REASONABLE JUSTIFICATION. IF THE DIRECTOR DOES NOT ACCEPT THE COUNCIL'S RECOMMENDATION, THE DIRECTOR SHALL STATE THE REASON OR REASONS FOR REJECTING THE RECOMMENDATION. THE DECISION OF THE DIRECTOR OF THE EMPLOYING AGENCY IS FINAL AND BINDING. THE DIRECTOR OF THE EMPLOYING AGENCY SHALL SEND A COPY OF THE AGENCY'S FINAL DETERMINATION TO THE EMPLOYEE PURSUANT TO SECTION 41-1830.12.

~~A.~~ B. Except as provided in section 41-1092.08, subsection H, a classified employee who is suspended, is demoted, has pay reduced, loses accrued leave time or is dismissed pursuant to this article, after a fair hearing and review before the law enforcement merit system council and ~~confirmation~~ REVIEW of the suspension, demotion, reduction in pay, loss of accrued leave time or dismissal by the director of the ~~department of public safety~~ EMPLOYING AGENCY, may appeal the ~~final~~ determination of the council AND THE FINAL DETERMINATION OF THE DIRECTOR OF THE EMPLOYING AGENCY pursuant

to title 12, chapter 7, article 6 ON ONE OR MORE OF THE FOLLOWING GROUNDS THAT THE ORDER WAS:

1. FOUNDED ON OR CONTAINED ERROR OF LAW THAT SHALL SPECIFICALLY INCLUDE ERROR OF CONSTRUCTION OR APPLICATION OF ANY PERTINENT RULES.

2. UNSUPPORTED BY ANY EVIDENCE AS DISCLOSED BY THE ENTIRE RECORD.

3. MATERIALLY AFFECTED BY UNLAWFUL PROCEDURE.

4. BASED ON A VIOLATION OF ANY CONSTITUTIONAL PROVISION.

5. ARBITRARY OR CAPRICIOUS.

~~B.~~ C. In addition to the trial court's powers as prescribed in section 12-911, if the court overrules the determination of the council OR THE DIRECTOR OF THE EMPLOYING AGENCY, the employee shall be reinstated in the employee's position and the employee shall receive full compensation for any salary withheld pending the determination by the council, THE DIRECTOR OF THE EMPLOYING AGENCY and court.

Sec. 138. Repeal

Section 41-1830.14, Arizona Revised Statutes, is repealed.

Sec. 139. Section 41-1830.15, Arizona Revised Statutes, is amended to read:

41-1830.15. Causes for dismissal or discipline; definitions

A. The director of the department of public safety may dismiss or discipline any classified employee based on any of the following causes:

1. Fraud or misrepresentation in securing employment.

2. Incompetency.

3. Inefficiency.

4. Inexcusable neglect of duty or unauthorized absence.

5. Insubordination.

6. Dishonesty.

7. Physical or mental disability subject to the provisions of the Americans with disabilities act of 1990 (42 United States Code sections 12101 through 12213).

8. Unauthorized drinking on duty or drunkenness on duty.

9. Being impaired by alcohol or drugs, as provided in title 13, chapter 34, while on duty.

10. Commission of any crime classified as a felony.

11. Discourteous treatment of the public or other employees.

12. Commission of any crime involving moral turpitude.

13. Improper political activity as proscribed in section ~~41-772~~ 41-752.

14. Misuse or unauthorized use of state property.

15. Addiction to the illegal use of a narcotic or dangerous drug.

16. Any other failure of good behavior or acts either during or outside of duty hours that are incompatible with or inimical to the interest of the department of public safety.

B. For the purposes of this section:

1. "Incompetency" means the lack of ability or judgment, legal qualifications or fitness to discharge required duties.

2. "Inefficiency" means the failure to produce as required for reasons other than incompetency.

Sec. 140. Title 41, chapter 12, article 10, Arizona Revised Statutes, is amended by adding section 41-1830.16, to read:

41-1830.16. Law enforcement merit system council duties; authority; appeals of covered full authority peace officers employed by agencies in the state personnel system; definitions

A. THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL SHALL ADOPT RULES THE COUNCIL DEEMS NECESSARY FOR THE ADMINISTRATION OF HEARINGS AND THE REVIEW OF APPEALS AS PRESCRIBED IN THIS SECTION.

B. A COVERED EMPLOYEE IN THE STATE PERSONNEL SYSTEM WHO IS A FULL AUTHORITY PEACE OFFICER AS CERTIFIED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD, IS APPOINTED TO A POSITION THAT REQUIRES SUCH A CERTIFICATION IN THE COVERED SERVICE AND WHO HAS COMPLETED THE EMPLOYEE'S ORIGINAL PROBATIONARY PERIOD OF SERVICE AS PROVIDED BY THE PERSONNEL RULES MAY APPEAL TO THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL THE COVERED EMPLOYEE'S DISMISSAL FROM COVERED SERVICE, SUSPENSION FOR MORE THAN FORTY WORKING HOURS OR INVOLUNTARY DEMOTION RESULTING FROM DISCIPLINARY ACTION. THE COVERED EMPLOYEE SHALL FILE THE APPEAL NO LATER THAN TEN WORKING DAYS AFTER THE EFFECTIVE DATE OF THE ACTION. THE COVERED EMPLOYEE SHALL BE FURNISHED WITH SPECIFIED CHARGES IN WRITING WHEN THE ACTION IS TAKEN. THE APPEAL SHALL BE IN WRITING AND MUST STATE SPECIFIC FACTS RELATING DIRECTLY TO THE CHARGES ON WHICH THE APPEAL IS BASED. THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL SHALL HEAR THE APPEAL WITHIN THIRTY DAYS AFTER THE COUNCIL'S RECEIPT. THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL SHALL PROVIDE THE EMPLOYING AGENCY WITH A COPY OF THE APPEAL NOT LESS THAN TWENTY DAYS IN ADVANCE OF THE HEARING.

C. IN HEARING AND REVIEWING AN APPEAL, THE COUNCIL:

1. SHALL DETERMINE WHETHER THE EMPLOYING AGENCY HAS PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED. ON SUCH A FINDING THE COUNCIL SHALL AFFIRM THE DECISION OF THE STATE AGENCY HEAD UNLESS THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS.

2. MAY RECOMMEND MODIFICATION OF A DISCIPLINARY ACTION IF THE STATE AGENCY HEAD HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED OR IF A DISCIPLINARY DECISION IS FOUND TO BE ARBITRARY AND CAPRICIOUS.

3. SHALL REVERSE THE DECISION OF THE STATE AGENCY HEAD IF THE COUNCIL FINDS THAT CAUSE DID NOT EXIST FOR ANY DISCIPLINE TO BE IMPOSED AND, IN THE CASE OF DISMISSAL OR DEMOTION, RETURN THE EMPLOYEE TO THE SAME POSITION THE EMPLOYEE HELD BEFORE THE DISMISSAL OR DEMOTION WITH OR WITHOUT BACK PAY.

D. ON A FINDING THAT THE STATE AGENCY HEAD HAS NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THE MATERIAL FACTS ON WHICH THE DISCIPLINE WAS BASED, THE COUNCIL SHALL IDENTIFY THE MATERIAL FACTS THAT THE COUNCIL FOUND WERE NOT SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE AND MAY RECOMMEND A PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN. ON A FINDING THAT

1 THE DISCIPLINARY DECISION WAS ARBITRARY AND CAPRICIOUS, THE COUNCIL SHALL
2 INCLUDE THE COUNCIL'S REASONS FOR THE COUNCIL'S FINDING AND MAY RECOMMEND A
3 PROPOSED DISCIPLINARY ACTION IN LIGHT OF THE FACTS PROVEN.
4 E. WITHIN FORTY-FIVE DAYS AFTER THE CONCLUSION OF THE HEARING, THE
5 COUNCIL SHALL ENTER ITS DECISION OR RECOMMENDATION AND SHALL AT THE SAME TIME
6 SEND A COPY OF THE DECISION OR RECOMMENDATION BY CERTIFIED MAIL TO THE
7 EMPLOYING AGENCY AND TO THE EMPLOYEE AT THE EMPLOYEE'S ADDRESS AS GIVEN AT
8 THE HEARING OR TO A REPRESENTATIVE DESIGNATED BY THE EMPLOYEE TO RECEIVE A
9 COPY OF THE DECISION OR RECOMMENDATION. THE STATE AGENCY HEAD OR THE AGENCY
10 HEAD'S DESIGNEE SHALL ACCEPT, MODIFY OR REVERSE THE COUNCIL'S DECISION OR
11 ACCEPT, MODIFY OR REJECT THE COUNCIL'S RECOMMENDATION WITHIN FOURTEEN DAYS OF
12 RECEIPT OF THE FINDINGS OR RECOMMENDATION FROM THE LAW ENFORCEMENT MERIT
13 SYSTEM COUNCIL. THE DECISION OF THE AGENCY HEAD OR AGENCY HEAD'S DESIGNEE IS
14 FINAL AND BINDING. THE AGENCY HEAD SHALL SEND A COPY OF THE AGENCY'S FINAL
15 DETERMINATION TO THE COVERED EMPLOYEE PURSUANT TO THIS SECTION.
16 F. ANY PARTY MAY APPEAL THE DECISION OF THE LAW ENFORCEMENT MERIT
17 SYSTEM COUNCIL OR THE FINAL DECISION OF THE AGENCY PURSUANT TO TITLE 12,
18 CHAPTER 7, ARTICLE 6 TO THE SUPERIOR COURT IN THE COVERED EMPLOYEE'S COUNTY
19 OF RESIDENCE ON ONE OR MORE OF THE FOLLOWING GROUNDS THAT THE ORDER WAS:
20 1. FOUNDED ON OR CONTAINED ERROR OF LAW THAT SHALL SPECIFICALLY
21 INCLUDE ERROR OF CONSTRUCTION OR APPLICATION OF ANY PERTINENT RULES.
22 2. UNSUPPORTED BY ANY EVIDENCE AS DISCLOSED BY THE ENTIRE RECORD.
23 3. MATERIALLY AFFECTED BY UNLAWFUL PROCEDURE.
24 4. BASED ON A VIOLATION OF ANY CONSTITUTIONAL PROVISION.
25 5. ARBITRARY OR CAPRICIOUS.
26 G. AN APPEAL SHALL BE AVAILABLE TO THE COURT OF APPEALS FROM THE ORDER
27 OF THE SUPERIOR COURT PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6 AS IN OTHER
28 CIVIL CASES.
29 H. FOR THE PURPOSES OF THIS SECTION:
30 1. "COVERED EMPLOYEE" HAS THE SAME MEANING PRESCRIBED IN SECTION
31 41-741.
32 2. "COVERED SERVICE" HAS THE SAME MEANING PRESCRIBED IN SECTION
33 41-741.
34 3. "EMPLOYING AGENCY" MEANS THE AGENCY IN THE STATE PERSONNEL SYSTEM
35 WHERE THE COVERED EMPLOYEE IS OR, IN THE CASE OF DISMISSAL, WAS EMPLOYED.
36 4. "FULL AUTHORITY PEACE OFFICER" MEANS A PEACE OFFICER WHOSE
37 AUTHORITY TO ENFORCE THE LAWS OF THIS STATE IS NOT LIMITED BY THE RULES
38 ADOPTED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD.
39 5. "ORIGINAL PROBATIONARY PERIOD" HAS THE SAME MEANING PRESCRIBED IN
40 SECTION 41-741.
41 6. "PERSONNEL RULES" MEANS THE RULES ADOPTED BY THE DEPARTMENT OF
42 ADMINISTRATION, HUMAN RESOURCES DIVISION.
43 7. "STATE AGENCY HEAD" MEANS THE CHIEF EXECUTIVE OFFICER OF THE
44 EMPLOYING AGENCY.

8. "STATE PERSONNEL SYSTEM" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-741.

Sec. 141. Section 41-1952, Arizona Revised Statutes, is amended to read:

41-1952. Department of economic security; director; appointment; compensation

A. A department of economic security is established.

B. The direction, operation and control of the department are the responsibility of the director.

C. The director shall be appointed by the governor ~~with the advice and consent of the senate~~ PURSUANT TO SECTION 38-211 and shall serve at the pleasure of the governor.

~~D. The department of administration shall assist the governor in preparing a job description for the position of director and recruiting candidates for the position. The qualifications of the candidates shall be reviewed by a committee of seven persons selected by the governor. The names of all those candidates determined by the committee to be qualified for the position shall be submitted to the governor for the governor's consideration. The governor may request additional names from the committee if the governor deems necessary. For each subsequent vacancy in the position of director, a new committee shall be appointed by the governor.~~

~~E.~~ D. Compensation for the director shall be established pursuant to section 38-611.

Sec. 142. Section 41-1954, Arizona Revised Statutes, is amended to read:

41-1954. Powers and duties

A. In addition to the powers and duties of the agencies listed in section 41-1953, subsection E, the department shall:

1. Administer the following services:

(a) Employment services, which shall include manpower programs and work training, field operations, technical services, unemployment compensation, community work and training and other related functions in furtherance of programs under the social security act, as amended, the Wagner-Peyser act, as amended, the federal unemployment tax act, as amended, 33 United States Code, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.

(b) Individual and family services, which shall include a section on aging, services to children, youth and adults and other related functions in furtherance of social service programs under the social security act, as amended, title IV, grants to states for aid and services to needy families with children and for child-welfare services, title XX, grants to states for services, the older Americans act, as amended, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.

(c) Income maintenance services, which shall include categorical assistance programs, special services unit, child support collection

services, establishment of paternity services, maintenance and operation of a state case registry of child support orders, a state directory of new hires, a support payment clearinghouse and other related functions in furtherance of programs under the social security act, title IV, grants to states for aid and services to needy families with children and for child-welfare services, title XX, grants to states for services, as amended, and other related federal acts and titles.

(d) Rehabilitation services, which shall include vocational rehabilitation services and sections for the blind and visually impaired, communication disorders, correctional rehabilitation and other related functions in furtherance of programs under the vocational rehabilitation act, as amended, the Randolph-Sheppard act, as amended, and other related federal acts and titles.

(e) Administrative services, which shall include the coordination of program evaluation and research, interagency program coordination and in-service training, planning, grants, development and management, information, legislative liaison, budget, licensing and other related functions.

(f) Manpower planning, which shall include a state manpower planning council for the purposes of the federal-state-local cooperative manpower planning system and other related functions in furtherance of programs under the comprehensive employment and training act of 1973, as amended, and other related federal acts and titles.

(g) Economic opportunity services, which shall include the furtherance of programs prescribed under the economic opportunity act of 1967, as amended, and other related federal acts and titles.

(h) Intellectual disability and other developmental disability programs, with emphasis on referral and purchase of services. The program shall include educational, rehabilitation, treatment and training services and other related functions in furtherance of programs under the developmental disabilities services and facilities construction act, Public Law 91-517, and other related federal acts and titles.

(i) Nonmedical home and community based services and functions, including department designated case management, housekeeping services, chore services, home health aid, personal care, visiting nurse services, adult day care or adult day health, respite sitter care, attendant care, home delivered meals and other related services and functions.

2. Provide a coordinated system of initial intake, screening, evaluation and referral of persons served by the department.

3. Adopt rules it deems necessary or desirable to further the objectives and programs of the department.

4. Formulate policies, plans and programs to effectuate the missions and purposes of the department.

5. Employ, determine the conditions of employment and prescribe the duties and powers of administrative, professional, technical, secretarial,

clerical and other persons SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF THIS TITLE as may be necessary in the performance of its duties, contract for the services of outside advisors, consultants and aides as may be reasonably necessary and reimburse department volunteers, designated by the director, for expenses in transporting clients of the department on official business.

6. Make contracts and incur obligations within the general scope of its activities and operations subject to the availability of funds.

7. Contract with or assist other departments, agencies and institutions of the state, local and federal governments in the furtherance of its purposes, objectives and programs.

8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.

9. Accept and disburse grants, matching funds and direct payments from public or private agencies for the conduct of programs that are consistent with the overall purposes and objectives of the department.

10. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of its duties subject to the departmental rules on the confidentiality of information.

11. Establish and maintain separate financial accounts as required by federal law or regulations.

12. Advise and make recommendations to the governor and the legislature on all matters concerning its objectives.

13. Have an official seal that shall be judicially noticed.

14. Annually estimate the current year's population of each county, city and town in this state, using the periodic census conducted by the United States department of commerce, or its successor agency, as the basis for such estimates and deliver such estimates to the economic estimates commission before December 15.

15. Estimate the population of any newly annexed areas of a political subdivision as of July 1 of the fiscal year in which the annexation occurs and deliver such estimates as promptly as is feasible after the annexation occurs to the economic estimates commission.

16. Establish and maintain a statewide program of services for persons who are both hearing impaired and visually impaired and coordinate appropriate services with other agencies and organizations to avoid duplication of these services and to increase efficiency. The department of economic security shall enter into agreements for the utilization of the personnel and facilities of the department of economic security, the department of health services and other appropriate agencies and organizations in providing these services.

17. Establish and charge fees for deposit in the department of economic security prelayoff assistance services fund to employers who voluntarily participate in the services of the department that provide job service and

1 retraining for persons who have been or are about to be laid off from
2 employment. The department shall charge only those fees necessary to cover
3 the costs of administering the job service and retraining services.
4 18. Establish a focal point for addressing the issue of hunger in
5 Arizona and provide coordination and assistance to public and private
6 nonprofit organizations that aid hungry persons and families throughout this
7 state. Specifically such activities shall include:
8 (a) Collecting and disseminating information regarding the location
9 and availability of surplus food for distribution to needy persons, the
10 availability of surplus food for donation to charity food bank organizations,
11 and the needs of charity food bank organizations for surplus food.
12 (b) Coordinating the activities of federal, state, local and private
13 nonprofit organizations that provide food assistance to the hungry.
14 (c) Accepting and disbursing federal monies, and any state monies
15 appropriated by the legislature, to private nonprofit organizations in
16 support of the collection, receipt, handling, storage and distribution of
17 donated or surplus food items.
18 (d) Providing technical assistance to private nonprofit organizations
19 that provide or intend to provide services to the hungry.
20 (e) Developing a state plan on hunger that, at a minimum, identifies
21 the magnitude of the hunger problem in this state, the characteristics of the
22 population in need, the availability and location of charity food banks and
23 the potential sources of surplus food, assesses the effectiveness of the
24 donated food collection and distribution network and other efforts to
25 alleviate the hunger problem, and recommends goals and strategies to improve
26 the status of the hungry. The state plan on hunger shall be incorporated
27 into the department's state comprehensive plan prepared pursuant to section
28 41-1956.
29 (f) Establishing a special purpose advisory council on hunger pursuant
30 to section 41-1981.
31 19. Establish an office to address the issue of homelessness and to
32 provide coordination and assistance to public and private nonprofit
33 organizations that prevent homelessness or aid homeless individuals and
34 families throughout this state. These activities shall include:
35 (a) Promoting and participating in planning for the prevention of
36 homelessness and the development of services to homeless persons.
37 (b) Identifying and developing strategies for resolving barriers in
38 state agency service delivery systems that inhibit the provision and
39 coordination of appropriate services to homeless persons and persons in
40 danger of being homeless.
41 (c) Assisting in the coordination of the activities of federal, state
42 and local governments and the private sector that prevent homelessness or
43 provide assistance to homeless people.
44 (d) Assisting in obtaining and increasing funding from all appropriate
45 sources to prevent homelessness or assist in alleviating homelessness.

(e) Serving as a clearinghouse on information regarding funding and services available to assist homeless persons and persons in danger of being homeless.

(f) Developing an annual state comprehensive homeless assistance plan to prevent and alleviate homelessness.

(g) Submitting an annual report to the governor, the president of the senate and the speaker of the house of representatives on the status of homelessness and efforts to prevent and alleviate homelessness.

20. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

B. If the department OF ECONOMIC SECURITY has responsibility for the care, custody or control of a child or is paying the cost of care for a child, it may serve as representative payee to receive and administer social security and ~~veterans administration~~ UNITED STATES DEPARTMENT OF VETERANS AFFAIRS benefits and other benefits payable to such child. Notwithstanding any law to the contrary, the department OF ECONOMIC SECURITY:

1. Shall deposit, pursuant to sections 35-146 and 35-147, such monies as it receives to be retained separate and apart from the state general fund on the books of the department of administration.

2. May use such monies to defray the cost of care and services expended by the department OF ECONOMIC SECURITY for the benefit, welfare and best interests of the child and invest any of the monies that the director determines are not necessary for immediate use.

3. Shall maintain separate records to account for the receipt, investment and disposition of funds received for each child.

4. On termination of the ~~department's~~ DEPARTMENT OF ECONOMIC SECURITY'S responsibility for the child, shall release any funds remaining to the child's credit in accordance with the requirements of the funding source or in the absence of such requirements shall release the remaining funds to:

(a) The child, if the child is at least eighteen years of age or is emancipated.

(b) The person responsible for the child if the child is a minor and not emancipated.

C. Subsection B of this section does not pertain to benefits payable to or for the benefit of a child receiving services under title 36.

D. Volunteers reimbursed for expenses pursuant to subsection A, paragraph 5 of this section are not eligible for workers' compensation under title 23, chapter 6.

E. In implementing the temporary assistance for needy families program pursuant to Public Law 104-193, the department shall provide for cash

assistance to two parent families if both parents are able to work only on documented participation by both parents in work activities described in title 46, chapter 2, article 5, except that payments may be made to families who do not meet the participation requirements if:

1. It is determined on an individual case basis that they have emergency needs.

2. The family is determined to be eligible for diversion from long-term cash assistance pursuant to title 46, chapter 2, article 5.

F. The department shall provide for cash assistance under temporary assistance for needy families pursuant to Public Law 104-193 to two parent families for no longer than six months if both parents are able to work, except that additional assistance may be provided on an individual case basis to families with extraordinary circumstances. The department shall establish by rule the criteria to be used to determine eligibility for additional cash assistance.

G. The department shall adopt the following discount medical payment system for persons who the department determines are eligible and who are receiving rehabilitation services pursuant to subsection A, paragraph 1, subdivision (d) of this section:

1. For inpatient hospital admissions and outpatient hospital services the department shall reimburse a hospital according to the tiered per diem rates and outpatient cost-to-charge ratios established by the Arizona health care cost containment system administration pursuant to section 36-2903.01, subsection H.

2. The department's liability for a hospital claim under this subsection is subject to availability of funds.

3. A hospital bill is considered received for purposes of paragraph 5 of this subsection on initial receipt of the legible, error-free claim form by the department if the claim includes the following error-free documentation in legible form:

(a) An admission face sheet.

(b) An itemized statement.

(c) An admission history and physical.

(d) A discharge summary or an interim summary if the claim is split.

(e) An emergency record, if admission was through the emergency room.

(f) Operative reports, if applicable.

(g) A labor and delivery room report, if applicable.

4. The department shall require that the hospital pursue other third-party payors before submitting a claim to the department. Payment received by a hospital from the department pursuant to this subsection is considered payment by the department of the department's liability for the hospital bill. A hospital may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

5. For inpatient hospital admissions and outpatient hospital services rendered on and after October 1, 1997, if the department receives the claim directly from the hospital, the department shall pay a hospital's rate established according to this section subject to the following:

(a) If the hospital's bill is paid within thirty days of the date the bill was received, the department shall pay ninety-nine per cent of the rate.

(b) If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate.

(c) If the hospital's bill is paid any time after sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate plus a fee of one per cent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.

6. For medical services other than those for which a rate has been established pursuant to section 36-2903.01, subsection H, the department shall pay according to the Arizona health care cost containment system capped fee-for-service schedule adopted pursuant to section 36-2904, subsection K or any other established fee schedule the department determines reasonable.

H. The department shall not pay claims for services pursuant to this section that are submitted more than nine months after the date of service for which the payment is claimed.

I. To assist in the location of persons or assets for the purpose of establishing paternity, establishing, modifying or enforcing child support obligations and other related functions, the department has access, including automated access if the records are maintained in an automated database, to records of state and local government agencies, including:

1. Vital statistics, including records of marriage, birth and divorce.

2. State and local tax and revenue records, including information on residence address, employer, income and assets.

3. Records concerning real and titled personal property.

4. Records of occupational and professional licenses.

5. Records concerning the ownership and control of corporations, partnerships and other business entities.

6. Employment security records.

7. Records of agencies administering public assistance programs.

8. Records of the motor vehicle division of the department of transportation.

9. Records of the state department of corrections.

10. Any system used by a state agency to locate a person for motor vehicle or law enforcement purposes, including access to information contained in the Arizona criminal justice information system.

J. Notwithstanding subsection I of this section, the department or its agents shall not seek or obtain information on the assets of an individual unless paternity is presumed pursuant to section 25-814 or established.

K. Access to records of the department of revenue pursuant to subsection I of this section shall be provided in accordance with section 42-2003.

L. The department also has access to certain records held by private entities with respect to child support obligors or obligees, or individuals against whom such an obligation is sought. The information shall be obtained as follows:

1. In response to a child support subpoena issued by the department pursuant to section 25-520, the names and addresses of these persons and the names and addresses of the employers of these persons, as appearing in customer records of public utilities and cable television companies.

2. Information on these persons held by financial institutions.

M. Pursuant to department rules, the department may compromise or settle any support debt owed to the department if the director or an authorized agent determines that it is in the best interest of the state and after considering each of the following factors:

1. The obligor's financial resources.

2. The cost of further enforcement action.

3. The likelihood of recovering the full amount of the debt.

N. Notwithstanding any law to the contrary, a state or local governmental agency or private entity is not subject to civil liability for the disclosure of information made in good faith to the department pursuant to this section.

Sec. 143. Section 41-2061, Arizona Revised Statutes, is amended to read:

41-2061. <u>Administration of chapter; director; appointment; compensation; advisory committee</u>

A. The director shall administer the provisions of this chapter.

B. The director shall be appointed by the governor pursuant to section 38-211 ~~from the names submitted by the search committee in accordance with subsection C of this section~~ and is eligible to receive compensation pursuant to section 38-611.

~~C. A search committee is established for the purpose of soliciting and screening applicants and submitting up to three names to the governor for the position of director of the department when a vacancy in the office of director exists. The governor may reject the names submitted by the search committee and direct the search committee to submit additional names for consideration. The committee shall consist of nine members appointed by the governor from the following groups:~~

~~1. One member representing retail trade.~~

~~2. One member representing wholesale trade.~~

~~3. One member representing the liquid petroleum industry.~~

~~4. One member representing agriculture.~~

~~5. One member representing the weight and measure manufacturing industry.~~

~~6. Four members representing consumers.~~

~~D. The names for director shall be chosen based on practical experience, training and knowledge in weights and measures practices, procedures, laws and administrative functions. Members of the search committee shall select a chairman from the membership, and members of the search committee are not eligible to receive compensation or reimbursement of expenses.~~

~~E.~~ C. The director may appoint an advisory committee consisting of five members to review, advise and make recommendations to the director in the administration of the provisions of this chapter and regarding proposed rules provided for in this chapter.

Sec. 144. Section 41-2065, Arizona Revised Statutes, is amended to read:

41-2065. Powers and duties; definition

A. The department shall:

1. Maintain custody of the state reference standards of weights and measures that are traceable to the United States prototype standards and that are supplied to the states by the federal government or that are otherwise approved as being satisfactory by the national institute of standards and technology.

2. Keep the state reference standards in a safe and suitable place in the metrology laboratory of the department and ensure that they shall not be removed from the laboratory except for repairs or for calibration as may be prescribed by the national institute of standards and technology.

3. Keep accurate records of all standards and equipment.

4. Adopt any rules necessary to carry out this chapter and adopt reasonable rules for the enforcement of this chapter. These rules have the force and effect of law and shall be adopted pursuant to chapter 6 of this title. In adopting these rules, the director shall consider, as far as is practicable, the requirements established by other states and by authority of the United States, except that rules shall not be made in conflict with this chapter.

5. Publish rules adopted pursuant to this chapter and issue appropriate copies at no cost to all new applicants for licensure and certification. Updated copies of the rules shall be distributed, on request, at no cost to the public.

6. Investigate complaints made to the department concerning violations of this chapter and, on its own initiative, conduct investigations it deems appropriate to develop information relating to prevailing procedures in commercial quantity determination and relating to possible violations of this chapter, and in order to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

7. Establish labeling standards, establish standards of weight, measure or count and establish reasonable standards of fill for any packaged commodity, and may establish standards for open dating information.

8. Grant, pursuant to this chapter, exemptions from the licensing provisions of this chapter for weighing and measuring instruments, standards or devices when the ownership or use of the instrument or device is limited to federal, state or local government agencies in the performance of official functions. On request, the department may conduct inspections of the instruments, standards or devices and shall charge a fee pursuant to section 41-2092, subsection B.

9. Delegate to appropriate personnel any of the responsibilities of the director for the proper administration of this chapter.

10. Inspect and test weights and measures kept, offered or exposed for sale.

11. Inspect and test, to ascertain if they are correct, weights and measures commercially used either:

(a) In determining the weight, measure or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure or count.

(b) In computing the basic charge or payment for services rendered on the basis of weight, measure or count.

12. Test, at random, commodities, weights and measures used in public institutions for which monies are appropriated by the legislature. The testing of commodities, weights and measures in public institutions shall include, but not be limited to, items:

(a) That have historically been of short weight, measure or count.

(b) Found to be of short weight, measure or count by other jurisdictions.

(c) To be tested as part of a regional or national survey.

13. Test, approve for use and affix a seal of approval for use of all weights, measures and commercial devices manufactured in or brought into this state as it finds to be correct and shall reject and mark as rejected weights, measures and devices it finds to be incorrect. Weights, measures and devices that have been rejected may be seized by the department if not corrected within the time specified or if used or disposed of in a manner not specifically authorized. The department shall condemn and may seize weights, measures and devices that are found to be incorrect and that are not capable of being made correct.

14. Sample and test motor fuel that is stored, sold or exposed or offered for sale or that is stored for use by a fleet owner to determine whether the motor fuel meets the standards for motor fuel set forth in section 41-2083 and article 6 of this chapter and in any rule adopted by the director pursuant to this chapter. For the purposes of this paragraph, "fleet owner" has the same meaning prescribed in section 41-2121.

15. Randomly witness tests on all mandated stage I and stage II vapor recovery systems that are installed or operated in this state not less than annually and if the systems are determined to be in compliance with the law

approve those systems for use and reject, mark as rejected and stop the use of those systems determined not to be in compliance with the law.

16. Inspect facilities at which motor fuel is stored, sold or exposed or offered for sale to determine whether dispensing devices are properly labeled.

17. Publish and distribute to consumers weighing and measuring information.

18. Weigh, measure or inspect commodities kept, offered or exposed for sale, sold or in the process of delivery to determine whether they contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this chapter or rules adopted pursuant to this chapter. In carrying out the provisions of this section, the director shall employ recognized sampling procedures, such as are designated in appropriate national institute of standards and technology handbooks and supplements to those handbooks, except as modified or rejected by rule.

19. Allow reasonable variations from the stated quantity of contents only after a commodity has entered intrastate commerce. These variations shall include those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice.

20. Prescribe the standards of weight and measure and additional equipment methods of test and inspection to be employed in the enforcement of this chapter. The director may prescribe or provide the official test and inspection forms to be used in the enforcement of this chapter.

21. Apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

22. Report to the governor on August 1 each year and at such other times as may be required on the work accomplished under this chapter.

23. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, employ such personnel as needed to assist in administering this chapter.

24. Ensure that any information that is required to be filed with the department, that relates to the contents of motor fuels that are sold in this state and that is a trade secret as defined in section 49-201 is not disclosed.

25. Establish by rule labeling standards for tanks and containers of motor fuels.

B. The director may provide for the periodic examination and inspection of metering devices, including but not limited to devices utilized to measure usage of electricity, natural gas or water by a consumer. Examination and inspection authority shall not apply to metering devices owned by federal, state or local government agencies unless requested by the government agency that owns the metering devices.

C. The director may establish standards for the presentation of cost-per-unit information. Nothing in this subsection shall be construed to mandate the use of cost-per-unit information in connection with the sale of any standard packed commodity.

D. The director, when necessary to carry out this chapter, may adopt and enforce rules relating to quality standards for motor fuel, kerosene, oil, except used oil fuel, and hazardous waste fuel, lubricating oils, lubricants, antifreeze and other liquid or gaseous fuels. The director shall adopt rules to assure that oxygenated fuels, as described in article 6 of this chapter, stored, used, sold or exposed or offered for use or sale are blended and stored, sold, exposed or offered in such a manner as to assure that the oxygenated fuels are properly blended, that they meet the standards set forth in section 41-2083 and article 6 of this chapter, and in rules adopted pursuant to this chapter, and that dispensers at which the oxygenated fuels are dispensed are labeled as defined by rule of the department in such a manner as to notify persons of the type of oxygenated fuel being dispensed and the maximum percentage of oxygenate by volume contained in the oxygenated fuel. The director of the department of weights and measures shall consult with the director of the department of environmental quality in adopting rules pursuant to this subsection.

E. Testing and inspection conducted pursuant to this chapter shall be done, to the extent practicable, without prior notice, by a random systematic method determined by the director or in response to a complaint by the public. The testing and inspection may be done by private persons and firms pursuant to contracts entered into by the director in accordance with chapter 23 of this title or by a registered service agency or registered service representative licensed pursuant to section 41-2094. The director shall establish qualifications of persons and firms for selection for purposes of this subsection. The persons or firms conducting the testing and inspection shall immediately report to the department any violations of this chapter and incorrect weights, measures, devices, vapor recovery systems or vapor recovery components for investigation and enforcement by the department. A person or firm that tests or inspects a weight, measure, device, vapor recovery system or vapor recovery component that is rejected shall not correct the defect causing the rejection without the permission of the department.

F. During the course of an investigation or an enforcement action by the department, information regarding the complainant is confidential and is exempt from title 39, chapter 1, unless the complainant authorizes the information to be public.

G. For the purposes of the labeling requirements prescribed in this section, "oxygenated fuel" means a motor fuel blend containing 1.5 per cent or more by weight of oxygen.

Sec. 145. Section 41-2147, Arizona Revised Statutes, is amended to read:

41-2147. Director; qualifications; appointment; salary; powers and duties

A. The governor shall appoint a director of the department pursuant to section 38-211. The director shall serve at the pleasure of the governor.

B. The director shall be experienced in administration and the technical knowledge necessary to administer this chapter.

C. The compensation of the director shall be as determined pursuant to section 38-611.

D. The director with the approval of the governor shall appoint a deputy director, a deputy director of the office of manufactured housing, the state fire marshal of the office of fire marshal, the state fire training officer and the fire resource coordinator, all of whom serve at the pleasure of the director and are ~~exempt from~~ SUBJECT TO chapter 4, article ~~5~~ 4 of this title. Compensation for the deputy directors and the fire marshal shall be as determined pursuant to section 38-611.

E. The director shall establish and have authority over the functions of the office of manufactured housing, the office of state fire marshal and the office of administration and, SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, shall appoint employees necessary to perform the duties of articles 2, 3 and 4 of this chapter.

F. The director shall employ any deputies, investigators and assistants SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE and shall procure all equipment and records that are necessary to enforce this chapter. With respect to the enforcement of section 41-2194, the director or the director's designees are vested with the authority to issue a citation in accordance with section 13-3903 or to issue a cease and desist order to any violators of this chapter. When the director or the director's designees conduct investigations they may receive criminal history record information from the department of public safety and other law enforcement entities.

G. In order to protect public health, safety and welfare, the director may revoke or suspend a license.

H. The director may issue citations to licensees for alleged violations of this chapter or rules adopted pursuant to this chapter.

I. The director, on the director's motion or on the written request of the licensee, may reduce, at the director's discretion, the amount of any administrative penalty imposed.

Sec. 146. Section 41-2305, Arizona Revised Statutes, is amended to read:

41-2305. Powers and duties

A. In addition to other duties prescribed by law, the office of tourism shall:

1. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises to participate

1 and cooperate in the promotion of tourism and tourism development in this
2 state.
3 2. Undertake a comprehensive research program designed to establish
4 the office as the central repository and clearinghouse for all data which
5 relates to tourism.
6 3. Perform research necessary to determine a long-range tourism
7 development plan for this state.
8 4. Conduct research at the request of the governor, the legislature or
9 state or local agencies, pertaining to any of its objectives.
10 5. Formulate policies, plans and programs designed to promote tourism
11 in this state.
12 6. Provide information and advice on request by local, state and
13 federal agencies and by private citizens and business enterprises on all
14 matters concerning its objectives. The office may provide information and
15 literature in the same manner as described in section 11-259, subsection A.
16 7. Advise with and make recommendations to the governor and the
17 legislature on all matters concerning tourism.
18 8. Make an annual report to the governor and the legislature on its
19 activities, finances and the scope of its operations.
20 9. Conduct an annual statewide tourism symposium to discuss tourism
21 promotion efforts, problems and matters of interest to the tourism industry.
22 10. Cooperate with the Arizona-Mexico commission in the governor's
23 office and with researchers at universities in this state to collect data and
24 conduct projects in the United States and Mexico on issues that are within
25 the scope of the office's duties and that relate to quality of life, trade
26 and economic development in this state in a manner that will help the
27 Arizona-Mexico commission to assess and enhance the economic competitiveness
28 of this state and of the Arizona-Mexico region.
29 B. The office may:
30 1. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, employ, determine
31 the conditions of employment and specify the duties of administrative,
32 secretarial and clerical assistants and contract for the services of outside
33 advisors, consultants and aides reasonably necessary or desirable to enable
34 it adequately to perform its duties. The compensation of such assistants
35 shall be as determined pursuant to section 38-611. The positions of the
36 director, the assistant director and all employees of the office of tourism
37 shall be exempt positions of chapter 4, articles 5 and 6 of this title.
38 2. Make contracts and incur obligations reasonably necessary or
39 desirable within the general scope of its activities and operations to enable
40 it adequately to perform its duties.
41 3. Utilize any and all media of communication, publication and
42 exhibition in the dissemination of information, advertising and publicity in
43 any field relating to its purposes, objectives or duties.

4. Use its funds, facilities and services to provide matching contributions under federal or other programs which further the objectives and programs of the office.

5. Adopt rules ~~and regulations~~ it deems necessary or desirable to ~~govern its procedures and business~~ IMPLEMENT THE PURPOSES OF THE DEPARTMENT AND THE DUTIES AND POWERS OF THE DIRECTOR.

6. Accept gifts, grants, matching funds and direct payments from public or private agencies or persons for the conduct of programs which are consistent with the general purposes and objectives of this chapter.

7. Conduct tourism education and discussion seminars and workshops to discuss tourism promotion efforts, problems and matters of interest to the tourism industry.

8. Designate, establish and operate state visitor or tourist information centers in the state which furnish tourist information and literature, subject to legislative appropriation.

9. Conduct research pertaining to any of its objectives.

10. Establish a reporting system for public agencies and private persons or enterprises in order to monitor state tourism.

11. Charge reasonable fees for services and publications. The director shall establish the fees.

12. Exercise its statutory powers and duties by engaging in joint venture activities with private corporations which are specifically designed to further the goals of the office of tourism. Joint ventures entered into by the office of tourism shall conform to the constitution and the laws of this state.

Sec. 147. Section 41-2405, Arizona Revised Statutes, is amended to read:

41-2405. Arizona criminal justice commission; powers and duties; staff

A. The Arizona criminal justice commission shall:

1. Monitor the progress and implementation of new and continuing criminal justice legislation.

2. Facilitate research among criminal justice agencies and maintain criminal justice system information.

3. Facilitate coordinated statewide efforts to improve criminal justice information and data sharing.

4. Prepare for the governor a biennial criminal justice system review report. The report shall contain:

(a) An analysis of all criminal justice programs created by the legislature in the preceding two years.

(b) An analysis of the effectiveness of the criminal code, with a discussion of any problems and recommendations for revisions if deemed necessary.

(c) A study of the level of activity in the several areas of the criminal justice system, with recommendations for redistribution of criminal justice revenues if deemed necessary.

(d) An overall review of the entire criminal justice system including crime prevention, criminal apprehension, prosecution, court administration and incarceration at the state and local levels as well as funding needs for the system.

(e) Recommendations for constitutional, statutory and administrative revisions that are necessary to develop and maintain a cohesive and effective criminal justice system.

5. Provide supplemental reports on criminal justice issues of special timeliness.

6. In coordination with other governmental agencies, gather information on programs that are designed to effectuate community crime prevention and education using citizen participation and on programs for alcohol and drug abuse prevention, education and treatment and disseminate that information to the public, political subdivisions, law enforcement agencies and the legislature.

7. Make recommendations to the legislature and the governor regarding the purposes and formula for allocation of fund monies as provided in section 41-2401, subsection D and section 41-2402 through the biennial agency budget request.

8. Adopt rules for the purpose of allocating fund monies as provided in sections 41-2401, 41-2402 and 41-2407 that are consistent with the purposes set forth in those sections and that promote effective and efficient use of the monies.

9. Make reports to the governor and the legislature as they require.

10. Oversee the research, analysis, studies, reports and publication of crime and criminal justice statistics prepared by the Arizona statistical analysis center, which is an operating section of the Arizona criminal justice commission.

11. Prepare an annual report on law enforcement activities in this state funded by the drug enforcement account or the criminal justice enhancement fund and relating to illicit drugs and drug related gang activity. The report shall be submitted by October 31 of each year to the governor, the president of the senate and the speaker of the house of representatives. The report shall include:

(a) The name and a description of each law enforcement program dealing with illegal drug activity or street gang activity, or both.

(b) The objective and goals of each program.

(c) The source and amount of monies received by each program.

(d) The name of the agency or entity that administers each program.

(e) The effectiveness of each program.

12. Compile and disseminate information on best practices for cold case investigations, including effective victim communication procedures. For the

purposes of this paragraph, "cold case" means a homicide or a felony sexual offense that remains unsolved for one year or more after being reported to a law enforcement agency and that has no viable and unexplored investigatory leads.

B. The Arizona criminal justice commission may, as necessary to perform its functions:

1. Request any state or local criminal justice agency to submit any necessary information.

2. Form subcommittees, make studies, conduct inquiries and hold hearings.

3. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, employ consultants for special projects and such staff as deemed necessary or advisable to carry out this section.

4. Delegate its duties to carry out this section, including:

(a) The authority to enter into contracts and agreements on behalf of the commission.

(b) SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLES 5 AND 6 OF THIS TITLE, the authority to appoint, hire, terminate and discipline all personnel of the commission including consultants.

5. Establish joint research and information facilities with governmental and private agencies.

6. Accept and expend public and private grants of monies, gifts and contributions and expend, distribute or allocate monies appropriated to it for the purpose of enhancing efforts to investigate or prosecute and adjudicate any crime and to implement this chapter.

Sec. 148. Section 41-2513, Arizona Revised Statutes, is amended to read:

41-2513. Authority to contract for certain services

A. For the purpose of procuring the services of clergy, certified public accountants, legal counsel pursuant to section 41-192, subsection ~~E~~ D, physicians or dentists as defined by the laws of this state, any state governmental unit may act as a purchasing agency and contract on its own behalf for such services, subject to this chapter and rules adopted by the director.

B. In accordance with the provisions of section 41-192, subsection ~~E~~ D and notwithstanding any contrary statute, no contract for the services of legal counsel may be awarded without the approval of the attorney general.

C. The auditor general shall approve state agency contracting for financial and compliance auditing services except if specific statutory authority is otherwise provided. The auditor general shall ensure that such contract audits are conducted in accordance with generally accepted governmental auditing standards. An audit shall not be accepted until it has been approved by the auditor general.

D. The department may approve all information technology purchases exceeding twenty-five thousand dollars for a budget unit as defined in section 41-3501. Purchases shall not be artificially divided to avoid review.

E. Payment for any services, including those services described in subsections A, B and C of this section, procured under this chapter shall not be made unless pursuant to a fully approved written contract.

Sec. 149. Section 41-2804, Arizona Revised Statutes, is amended to read:

41-2804. Duties and powers of director

A. The director shall:

1. Be responsible for the overall operations and policies of the department.

2. Maintain and administer all secure care facilities and programs within the department required and established for the custody, control, treatment, education and rehabilitation of all youths committed to the department.

3. Be responsible for the administration and execution of all conditional liberty services for youths released pursuant to rules adopted by the director in accordance with law.

4. Be responsible for the development of policies and programs which shall be recommended to the governor and the legislature for the purpose of improving the youth rehabilitative and treatment programs of this state.

5. Develop and establish a uniform statewide method of reporting statistics as related to this chapter.

6. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, employ deputy directors and other key personnel based on qualifications prescribed by the director which require education and practical experience.

B. The director may:

1. Adopt rules to implement the purposes of the department and the duties and powers of the director.

2. Take any administrative action to improve the efficiency of the department, including the following:

(a) Create new divisions or units or consolidate divisions or units.

(b) SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, transfer employees between the various divisions and units of the department.

(c) Shift duties between divisions or units.

(d) Delegate authority to appoint, hire, terminate and discipline all personnel of the department, including specialists and consultants SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF THIS TITLE.

(e) Transfer committed youths between secure care facilities.

(f) Transfer youths who have been committed to the department or to any facility under its jurisdiction between the various secure care facilities for youths, foster homes and public and private agencies on notification to the committing court.

(g) SUBJECT TO CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLE 5 OF THIS TITLE, appoint certain employees of the department to peace officer status for purposes of guarding, transporting or pursuing persons under the jurisdiction of the department and appoint certain employees of the department to peace officer status for purposes of investigating or arresting persons who commit or attempt to commit offenses directly relating to the operations of the department.

3. Contract with other agencies or institutions in furtherance of any department program.

4. Authorize the temporary escort of a youth for compassionate leave or for the purposes of treatment, education or rehabilitation. The director shall consider the public safety and any other relevant factors before approving the temporary escort of a youth. Department staff shall escort and maintain custody of a youth authorized for temporary escort.

5. Adopt guidelines to dispose of property that is no longer needed or necessary for use in a department educational, vocational, treatment, training or work program. The disposition of property is exempt from chapter 23, article 8 of this title. Any monies derived from the disposition of the property shall be deposited, pursuant to sections 35-146 and 35-147, in the department of juvenile corrections career technical education fund established by section 41-2828.

6. Accept and spend private grants of monies to effectuate the purposes of section 41-2827. Monies collected pursuant to this paragraph shall be deposited and administered pursuant to section 41-2828.

C. Peace officers of the department shall not preempt the authority and jurisdiction of established agencies of this state and political subdivisions of this state. Such officers shall notify agencies of this state and political subdivisions of this state before conducting an investigation within the jurisdiction of the agency and before making an arrest within the jurisdiction of the agency and shall ask, except in an emergency, if the agency wishes to participate, perform the investigation or arrest the person to be arrested before proceeding. Personnel appointed as peace officers by the director shall have the minimum qualifications established for peace officers pursuant to section 41-1822. Personnel appointed by the director pursuant to subsection B, paragraph 2, subdivision (g) of this section are not eligible to participate in the public safety personnel retirement system except as otherwise provided in title 38, chapter 5, article 4.

Sec. 150. Section 41-2831, Arizona Revised Statutes, is amended to read:

41-2831. <u>State educational system for committed youth; report</u>

A. The director shall establish a state educational system for committed youth for the common and high school education of committed youth.

B. The director shall identify three persons who are qualified to serve as superintendent of the state educational system for committed youth.

The director and the superintendent of public instruction shall agree on one of the three persons whom the director shall employ as superintendent to manage the educational system. The superintendent of the educational system shall employ teachers and other personnel as needed in accordance with chapter 4, article ~~5~~ 4 of this title, subject to the approval of the director. All persons who are employed to work in the educational system including the superintendent shall hold the appropriate certificate prescribed by the state board of education in section 15-203, subsection A, paragraph 14.

C. The director shall cause to be implemented the course of study for youth who are enrolled in the state educational system for committed youth.

D. The director shall consider the inclusion of factors related to a pupil's academic progress and standards of behavior as part of the length of stay guidelines adopted as prescribed in section 41-2816.

E. The state educational system for committed youth shall provide appropriate education to all committed youth as required by state and federal law. If not otherwise required by law, the educational system shall provide an appropriate education to all committed youth who have not received a high school diploma or a high school certificate of equivalency.

F. On entrance of a youth to the state educational system for committed youth, the educational system shall administer a basic skills examination to the youth to determine the educational needs of the youth. A similar examination shall be administered on the youth's exit from the educational system to assess the youth's progress while enrolled in the educational system.

G. The department is entitled to receive equalization assistance for the costs of the state educational system for committed youth as provided in title 15, chapter 11.1.

H. The superintendent shall:

1. Keep records and provide information as the department of education requires to determine the appropriate amount of equalization assistance.

2. Prepare an annual financial report containing information similar to that provided by school districts in the report prescribed in section 15-904 in a format prescribed by the department of administration in consultation with the auditor general and submit the report to the governor, the speaker of the house of representatives, the president of the senate and the department of education by November 1. When submitting the report to the speaker and president, the superintendent shall send a copy of the report to the chairmen of the house and senate education committees and shall send a notice to all other legislators that the report is available on request.

3. Establish a system for communicating with each youth's school district of residence in order to facilitate the transfer of records, the determination of the most appropriate educational program and the transfer of educational credit.

I. The department of administration shall develop and maintain a special pay plan for teachers and other professional educational personnel within the state educational system for committed youth. The pay plan shall attempt to keep salaries at a comparable level to that of public school district personnel. ~~Recommendations for this pay plan shall be included within the department of administration's annual recommendation to the legislature pursuant to section 41-763.01.~~

Sec. 151. Section 41-3016.06, Arizona Revised Statutes, is amended to read:

41-3016.06. Department of administration; termination July 1, 2016

A. The department of administration terminates on July 1, 2016.

B. Title 41, chapter 4, articles 1, 2, 3, 4, 5 and 7 and chapter 32 are repealed on January 1, 2017.

Sec. 152. Section 41-3451, Arizona Revised Statutes, is amended to read:

41-3451. Automobile theft authority; powers and duties; fund; audit

A. An automobile theft authority is established consisting of the following members:

1. Two police chiefs who are appointed by the Arizona chiefs' of police association, one of whom represents a city or town with a population of one hundred thousand or more persons and one of whom represents a city or town with a population of less than one hundred thousand persons, or their designees.

2. Two sheriffs who are appointed by the Arizona sheriffs' association, one of whom represents a county with a population of five hundred thousand or more persons and one of whom represents a county with a population of less than five hundred thousand persons, or their designees.

3. Two county attorneys who are appointed by the governor, one of whom represents a county with a population of two million or more persons and one of whom represents a county with a population of less than two million persons, or their designees.

4. Two employees of insurers who are licensed to write motor vehicle liability insurance in this state and who are appointed by the governor.

5. Two members of the general public who are appointed by the governor.

6. The assistant director for the motor vehicle division in the department of transportation or the assistant director's designee.

7. The director of the department of public safety or the director's designee.

B. Members serve staggered four year terms beginning and ending on the third Monday in January. At the first meeting each year, the members shall select a chairman from among the members. The authority shall meet at the call of the chairman or seven members.

C. The authority may:

1. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, hire staff members as necessary, including an executive director. The executive director's annual compensation shall not be more than seventy-five thousand dollars.

2. Provide work facilities and equipment as necessary.

3. Determine the scope of the problem of motor vehicle theft, including particular areas of the state where the problem is greatest.

4. Analyze the various methods of combating the problem of motor vehicle theft.

5. Develop and implement a plan of operation.

6. Develop and implement a financial plan.

7. Solicit and accept gifts and grants.

8. Report by December 31 of each year to the governor, the president of the senate, the speaker of the house of representatives, the secretary of state and the director of the Arizona state library, archives and public records on its activities during the preceding fiscal year.

D. If the chairman of the authority knows that a potential ground for the removal of a member of the authority exists under this subsection, the chairman shall notify the governor. The governor shall remove the member if the governor finds that any of the following applies:

1. The member was not qualified to serve at the time the member was appointed.

2. The member does not maintain the member's qualifications to serve.

3. The member cannot discharge the member's duties for a substantial part of the term due to illness or other disability.

4. The member is absent from more than one-half of the regularly scheduled meetings during a calendar year unless the member's absence is excused by a majority vote of the authority.

E. The automobile theft authority fund is established consisting of any public or private monies that the authority may receive. The automobile theft authority shall administer the fund. Subject to legislative appropriation, monies in the fund shall only be used to pay the expenses of the authority and to carry out the purposes of this section. Monies in the fund are exempt from the provisions of sections 35-143.01 and 35-190 relating to lapsing of appropriations. On notice from the authority, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

F. The authority may accept nonmonetary contributions, including the services of individuals, office and secretarial assistance, mailings, printing, office equipment, facilities and supplies, that are necessary to carry out its functions. The nonmonetary contributions shall not be included in the costs of administration limitation prescribed by subsection H of this section.

G. The automobile theft authority shall allocate monies in the fund to public agencies for the purpose of establishing, maintaining and supporting programs that are designed to prevent motor vehicle theft, including:

1. Financial support to law enforcement and prosecution agencies for programs that are designed to increase the effectiveness of motor vehicle theft prosecution.

2. Financial support for programs that are designed to educate and assist the public in the prevention of motor vehicle theft.

H. The costs of administration shall not exceed ten per cent of the monies in the fund in any one year so that the greatest possible portion of the monies available to the authority is expended on combating motor vehicle theft.

I. Monies expended from the automobile theft authority fund shall be used to supplement, not supplant, other monies that are available for motor vehicle theft prevention.

J. Each insurer issuing motor vehicle liability insurance policies in this state shall pay a semiannual fee of fifty cents per vehicle insured under a motor vehicle liability insurance policy issued by the insurer. The fee shall be fully earned and nonrefundable at the time the insurer collects the premium for the motor vehicle liability insurance policy. Each insurer shall transmit the fee on or before January 31 and on or before July 31 of each year to the automobile theft authority for deposit in the automobile theft authority fund. The payment due on or before January 31 shall cover vehicles insured under policies that are issued during the period from July 1 through December 31 of the previous year. The payment due on or before July 31 shall cover vehicles insured under policies that are issued during the period from January 1 through June 30 of the same year.

K. The authority shall cause an audit to be made of the automobile theft authority fund. The audit shall be conducted by a certified public accountant every two years. The authority shall file a certified copy of the audit with the auditor general immediately. The auditor general may make further audits and examinations as the auditor general deems necessary and may take appropriate action relating to the audit pursuant to chapter 7, article 10.1 of this title.

L. Authority members are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

M. This section does not apply to vehicles or vehicle combinations with a declared gross weight of more than twenty-six thousand pounds. Motor vehicle liability insurance policies issued in this state for vehicles or vehicle combinations with a declared gross weight of more than twenty-six thousand pounds are exempt from subsection J of this section.

Sec. 153. Section 41-3503, Arizona Revised Statutes, is amended to read:

41-3503. Powers and duties of director

In regard to government information technology, the director shall:

1. Appoint a chief information officer for information technology.

2. Establish minimum qualifications for each position authorized for the department for government information technology. The qualifications shall be subject to the review of the information technology authorization committee.

3. Employ, determine the conditions of employment and prescribe the duties and powers of administrative, professional, technical, secretarial, clerical and other persons SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE as may be necessary in the performance of the department's duties and contract for the services of outside advisors, consultants and aides as may be reasonably necessary. Employees of the department ~~are exempt from chapter 4, article 5 of this title but~~ shall meet the minimum qualifications established pursuant to this section.

Sec. 154. Section 41-3505, Arizona Revised Statutes, is amended to read:

41-3505. Information technology fund

A. The information technology fund is established for use by the department and the committee. Monies in the fund are subject to legislative appropriation.

B. State ~~service~~ agencies subject to section ~~41-764~~ 41-750, all budget units and the legislative and judicial branches of state government~~,~~ shall contribute a pro rata share of the overall cost of information technology services provided by the department or committee. The pro rata share is payable by payroll fund source, and the resultant amount shall be deposited in the information technology fund. For all budget units and the legislative and judicial branches of state government, the pro rata share shall be .20 per cent of the total payroll. Total payroll includes all fund sources including the state general fund, federal monies, special revenue funds, intergovernmental revenue monies, trust funds and other payroll fund sources.

C. A claim for the pro rata share percentage payment shall be submitted according to the fund source, with the accompanying payroll, to the department of administration for deposit in the information technology fund.

D. Notwithstanding section 35-190, monies in the information technology fund do not revert to the state general fund at the end of each fiscal year.

Sec. 155. Section 41-3952, Arizona Revised Statutes, is amended to read:

41-3952. Arizona department of housing; director

A. The Arizona department of housing is established.

B. The governor shall appoint the director pursuant to section 38-211. The ~~term of the~~ director ~~is five years and expires on the third Monday in~~

~~January of the appropriate year, except that~~ SERVES AT THE PLEASURE OF the governor. ~~may remove the director for cause. On expiration of the director's term, the governor may reappoint the director for another term.~~

C. The director shall administer the department.

D. The director and such other employees as the director determines are entitled to receive compensation as determined under section 38-611.

E. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the director shall appoint a deputy director and, subject to legislative appropriation, may appoint assistant directors as the director deems appropriate.

F. SUBJECT TO CHAPTER 4, ARTICLE 4 OF THIS TITLE, the director shall employ, determine the conditions of employment and specify the duties of administrative, secretarial and clerical employees the director deems necessary.

G. The director may organize the department into divisions the director deems appropriate.

Sec. 156. Section 41-4253, Arizona Revised Statutes, is amended to read:

41-4253. Department employees

Subject to chapter 4, ARTICLE 4 AND, AS APPLICABLE, articles 5 and 6 of this title, the director shall employ, determine the conditions of employment of and specify the duties of administrative, secretarial and clerical employees the director deems necessary.

Sec. 157. Section 41-4301, Arizona Revised Statutes, is amended to read:

41-4301. State capital postconviction public defender; office; appointment; qualifications; powers and duties

A. The state capital postconviction public defender office is established.

B. The state is responsible for funding the state capital postconviction public defender office, including start-up costs.

C. The governor shall appoint the state capital postconviction public defender and fill any vacancy in the office on the basis of merit alone without regard to political affiliation from the list of names that are submitted pursuant to sections 41-4302 and 38-211. The state capital postconviction public defender serves ~~a four year term and serves until the appointment and qualification of a successor in office. After appointment, the state capital postconviction public defender is subject to removal from office only for good cause as determined by a majority vote of the nomination, retention and standards commission on indigent defense. A vacancy shall be filled for the balance of the unexpired term~~ AT THE PLEASURE OF THE GOVERNOR.

D. The state capital postconviction public defender shall meet all of the following criteria:

1. Be a member in good standing of the state bar of Arizona or become a member of the state bar of Arizona within one year after appointment.

2. Have been a member of the state bar of Arizona or admitted to practice in any other state for the five years immediately preceding the appointment.

3. Have had substantial experience in the representation of accused or convicted persons in criminal or juvenile proceedings.

4. Meet or exceed the standards for appointment of counsel in capital cases under rule 6.8, Arizona rules of criminal procedure, as determined by the nomination, retention and standards commission on indigent defense.

E. The salary of the state capital postconviction public defender shall equal the annual salary of the chief counsel of the capital litigation section in the office of the attorney general.

F. The state capital postconviction public defender shall:

1. Represent any person who is not financially able to employ counsel in postconviction relief proceedings in state court after a judgment of death has been rendered. Notwithstanding section 11-584, subsection A, paragraph 7, after a judgment of death has been rendered, a county employed indigent defense counsel shall not handle postconviction relief proceedings in state court unless a conflict exists with the state capital postconviction public defender and a county employed indigent defense counsel is appointed.

2. Supervise the operation, activities, policies and procedures of the state capital postconviction public defender office.

3. Beginning in fiscal year 2007-2008, submit an annual budget for the operation of the office to the legislature.

4. Not engage in the private practice of law or represent a person who is not assigned by the supreme court.

5. Not provide trial or direct appeal assistance to attorneys outside of the state capital postconviction public defender office. For the purposes of this paragraph, trial or direct appeal assistance does not include general training.

6. Not lobby, during working hours, the state legislature or the Congress of the United States, except as provided by paragraph 3 of this subsection.

7. Allocate personnel and resources to postconviction relief proceedings so long as there are no conflicts of interest in representation and all state capital postconviction public defender attorneys are appointed to postconviction relief cases that are eligible for appointment of counsel under section 13-4041.

G. The state capital postconviction public defender may:

1. Accept and spend public and private gifts and grants for use in improving and enhancing the ability to perform the responsibilities of the state capital postconviction public defender office pursuant to this chapter.

2. Employ not more than three deputies and not more than four other employees and establish and operate any offices as needed for the proper performance of the duties of the office.

H. For each person represented, the state capital postconviction public defender office shall request reimbursement from the county in which the person was convicted for fees it incurs pursuant to this section arising out of its representation of that person. The county shall pay fifty per cent of the fees incurred by the state capital postconviction public defender office. The state treasurer shall deposit the reimbursement fees from the county in the capital postconviction public defender office fund established by section 41-4303.

Sec. 158. Section 41-4801, Arizona Revised Statutes, is amended to read:

41-4801. Definitions

In this chapter, unless the context otherwise requires:

1. "Government attorney" means an attorney employed by this state as a staff attorney in the attorney general's office.

2. "Private attorney" means any private attorney or law firm.

3. "State" means this state, including state officers, agencies, departments, boards and commissions and units of organization, however designated, of the executive branch of this state, and any of its agents, but does not include those agencies as provided in section 41-192, subsection ~~E~~ D.

Sec. 159. Section 42-1002, Arizona Revised Statutes, is amended to read:

42-1002. Department of revenue; director; appointments; compensation

A. There is established a department of revenue.

B. The direction, operation and control of the department ~~is~~ ARE the responsibility of the director.

C. The director shall be appointed by the governor ~~from a list of names submitted by the search committee~~ pursuant to section 38-211 and shall serve at the pleasure of the governor.

~~D. The department of administration shall assist the governor in preparing a job description for the position of director and recruiting candidates for the position. The qualifications of the candidates shall be reviewed by a committee of five persons selected by the governor. The names of all those candidates determined by the committee to be qualified for the position shall be submitted to the governor for his consideration. The governor may request additional names from the committee if he deems necessary. For each subsequent vacancy in the position of director, a new committee shall be appointed by the governor pursuant to this section.~~

~~E.~~ D. Compensation for the director and the personnel required by the department shall be established pursuant to section 38-611 AND TITLE 41, CHAPTER 4, ARTICLE 4.

1 Sec. 160. Section 42-1004, Arizona Revised Statutes, is amended to
2 read:
3 42-1004. General powers and duties of the department; res
4 judicata; remedies; enforcement; special collections
5 account
6 A. The department shall administer and enforce this title, title 43
7 and other laws assigned to it and has all the powers and duties prescribed by
8 law for such purposes. In all proceedings prescribed by law the department
9 may act on behalf of this state. In addition, the department shall:
10 1. Formulate policies, plans and programs to effectuate the missions
11 and purposes of the department.
12 2. Employ and remove personnel subject to title 41, chapter 4, ARTICLE
13 4 AND, AS APPLICABLE, articles 5 and 6, determine the conditions of
14 employment and prescribe the duties and powers of administrative,
15 professional, technical, secretarial, clerical and other personnel as may be
16 necessary in the performance of its duties, and contract for the services of
17 outside advisors, consultants and aides as may be reasonably necessary.
18 3. Make contracts and incur obligations within the general scope of
19 its activities and operations subject to the availability of its funds.
20 4. Contract with or assist other departments, agencies or institutions
21 of the state, local, Indian tribal and federal governments in the furtherance
22 of its purposes, objectives and programs.
23 5. Accept grants, matching funds and direct payments from public or
24 private agencies for the conduct of programs which are consistent with the
25 overall purposes and objectives of the department.
26 6. Provide information and advice within the scope of its duties
27 subject to the laws on confidentiality of information and departmental rules
28 adopted pursuant to such laws.
29 7. Advise with and make recommendations to the governor and the
30 legislature on all matters concerning its objectives.
31 8. Have an official seal which shall be judicially noticed.
32 9. Provide an integrated, coordinated and uniform system of tax
33 administration and revenue collection for the state.
34 B. The department may:
35 1. With the approval of the attorney general:
36 (a) Abate any balance owed by a taxpayer if the balance is
37 uncollectible. Related liens, if any, are extinguished on abatement.
38 (b) Abate all or part of the unpaid portion of any tax if the director
39 determines that the administration and collection costs involved would exceed
40 the amount of the tax.
41 2. Offer publications relating to the administration of state taxes
42 for sale at a price equal to the pro rata cost of publication and
43 distribution. Monies received from the sale of publications shall be placed
44 in a revenue publications revolving fund. Monies in the fund:

(a) Shall be used to meet publication and distribution expenses.

(b) Are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

3. Enter into contingent fee contracts to collect delinquent state taxes, penalties, interest and other amounts owed to the department under title 43 and chapter 5, article 1 of this title, consistent with the requirements of chapter 2, article 1 of this title. No contract may be entered into for the hiring of auditors on a contingent fee basis except auditors that are hired to enforce title 44, chapter 3.

C. In the determination of any issue of law or fact under this title or title 43, neither the department, nor any officer or agency having any administrative duties under this title or title 43, nor any court is bound by the determination of any other executive officer or administrative agency of this state. In the determination of any case arising under this title or title 43, the rule of res judicata is applicable only if the liability involved is for the same year or period as was involved in another case previously determined under this title or title 43.

D. The remedies of this state provided for in this title and title 43 are cumulative, and no action taken by the department constitutes an election by this state to pursue any remedy to the exclusion of any other remedy provided by law.

E. The attorney general shall prosecute in the name of this state all actions necessary to enforce this title and title 43. The attorney general may defend all actions brought against this state or an officer or agency of this state arising under this title and title 43. The attorney general may delegate the prosecuting authority to any county attorney for prosecution in that county.

F. A special collections account is established in the state general fund. All monies collected pursuant to contracts authorized by subsection B, paragraph 3 of this section shall be deposited in the special collections account. The department shall pay from the account all fees and court costs provided for in the contracts authorized under subsection B, paragraph 3 of this section. The department shall allocate the remainder of the amounts collected under subsection B, paragraph 3 of this section to the state or the political subdivision in the proportion that the monies would have been distributed pursuant to chapter 5 of this title or section 43-206, respectively.

Sec. 161. Section 42-1252, Arizona Revised Statutes, is amended to read:

42-1252. <u>State board of tax appeals</u>

A. The state board of tax appeals is established as an independent agency which shall not in any way be subject to the supervision or control of the department of revenue. The board shall have full power to hear and decide all appeals from decisions of the department of revenue.

B. The state board shall consist of three members appointed by the governor pursuant to section 38-211. Members shall be residents of this state.

C. Members shall be selected on the basis of their knowledge of and experience in taxation. Not more than two members may be primarily engaged in the same occupation or profession. The board shall handle all matters entrusted by law to it dealing with income taxation, estate taxation, transaction privilege, use and luxury taxation and any other taxation assigned to it by law and shall hear and decide appeals from the department of revenue on such matters.

D. Not more than two members of the board shall be members of the same political party. No member of the board shall hold any other public office under the laws of this state or any of its political subdivisions. No member shall be a candidate for an elective office under the laws of this state, nor of any other state. No member of the board shall hold any position of trust nor provide or engage in any occupation or business which would corruptly conflict with the duties of a member of the board, nor take part directly or indirectly in any election campaign in the interest of any political party or other organization or any candidate or measure to be voted on by the people. This subsection does not prohibit a person from properly and lawfully engaging in a business or profession.

E. The term of board members is six years. The member of the board having the shortest term remaining shall act as chairperson if that member has served on the board at least two years. If the member having the shortest term remaining does not qualify to act as chairperson or if two or more members have an equal right by virtue of their remaining terms to serve as chairperson, the board shall elect a chairperson. A member may not be appointed for more than two terms.

F. Each member of the board shall receive:

1. One hundred fifty dollars per day for time spent in the performance of official duties.

2. Such travel and other expenses as provided by law for other state officers.

G. The governor may remove any member for cause.

H. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the board shall appoint a clerk, hearing officers and such other employees as it deems necessary to carry out its duties. The hearing officer qualifications shall be the same as the selection criteria for the members as prescribed by this section. Notwithstanding section 41-192, subsection ~~E~~ D, upon request of the board, the attorney general shall designate, for such time and purposes as the board requires, an attorney, acceptable to the board, whose compensation shall be fixed and paid by the board.

I. The board shall hold hearings and meetings at the call of the chairperson or a majority of the board and otherwise as may be prescribed by the rules of the board as required to carry out its duties. The principal

office of the board shall be at the capitol, but the board may sit or hold hearings at any other place within the state. A majority of the board constitutes a quorum for making orders and decisions or transacting other official business, and the board may act even though one position on the board is vacant. The board shall keep a record of its proceedings.

J. In conducting the business of the board:

1. The board may not act if more than one position is vacant.

2. One or more members or a hearing officer of the board may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board.

Sec. 162. Section 42-16155, Arizona Revised Statutes, is amended to read:

42-16155. Hearing officers and employees

A. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the state board of equalization may employ one or more hearing officers who must meet the same qualifications prescribed for the members of the board by section 42-16153.

B. Any training activity for hearing officers shall be held in public with notice as prescribed by title 38, chapter 3, article 3.1.

C. A hearing officer is eligible to receive up to three hundred dollars per day for time spent in performing official duties.

D. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the state board may appoint a chief clerk and any other employees that it considers to be necessary to carry out its duties.

Sec. 163. Section 45-104, Arizona Revised Statutes, is amended to read:

45-104. Department organization; deputy directors; employees; legal counsel; branch offices; consultants

A. The director may establish and organize divisions within the department and otherwise organize the department in the manner the director deems necessary to make the operation of the department efficient and effective.

B. The director may appoint a deputy director to each division or organizational unit that the director may establish. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, deputy directors ~~are exempt from the state personnel system,~~ shall serve at the pleasure of the director and are entitled to receive compensation pursuant to section 38-611.

C. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 AND, AS APPLICABLE, ARTICLES 5 AND 6, the director~~, within the classification and pay scales adopted by the state personnel board,~~ may employ, define the duties of and prescribe the terms and conditions of employment of such clerical, technical, professional and administrative personnel as necessary to efficiently perform the responsibilities of the department. Compensation for all employees shall be pursuant to section 38-611.

D. The director may employ on a contract basis geologists, hydrologists, consulting engineers, other expert consultants and engineering

and other assistants as the director deems advisable, who are not subject to the classification provided for in title 41, chapter 4, article 5.

E. The director may utilize the services of accounting, legal or engineering personnel made available by any department or agency of this state, who shall serve without additional compensation.

F. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, the director may employ legal counsel to advise and represent the department in connection with legal matters before other departments and agencies of this state, and represent the department and this state in litigation concerning affairs of the department. Legal counsel is not subject to the classification provided for in title 41, chapter 4, article 5.

G. The director shall maintain the director's office in Phoenix and may establish a branch office of the department in each active management area established pursuant to chapter 2, article 2 of this title.

H. The director on behalf of the department may contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this subsection, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this subsection are appropriated to the department for use in paying consultants for services.

Sec. 164. Section 45-418, Arizona Revised Statutes, is amended to read:

45-418. Area director; appointment; qualifications; compensation

A. The director shall appoint an area director for each active management area. For reasons of economy and efficiency in administration, one person may be the area director for more than one active management area. The area director shall serve at the pleasure of the director.

B. The area director is ~~exempt from the state personnel system~~ SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4 and is entitled to receive compensation as determined pursuant to section 38-611.

Sec. 165. Section 49-103, Arizona Revised Statutes, is amended to read:

49-103. Department employees; legal counsel

A. The director, subject to title 41, chapter 4, ARTICLE 4 AND, AS APPLICABLE, articles 5 and 6, shall employ, determine the conditions of employment and specify the duties of administrative, secretarial and clerical employees as he deems necessary.

B. The attorney general shall be the legal advisor of the department and shall give legal services as the department requires. Compensation for

personnel assigned by the attorney general to perform such services shall be a charge against appropriations to the department. The attorney general shall prosecute and defend in the name of this state all actions necessary to carry out the provisions of this title.

Sec. 166. Section 49-1203, Arizona Revised Statutes, is amended to read:

49-1203. Powers and duties of authority; definition

A. The authority is a corporate and politic body and shall have an official seal that shall be judicially noticed. The authority may sue and be sued, contract and acquire, hold, operate and dispose of property.

B. The authority, through its board, may:

1. Issue negotiable water quality bonds pursuant to section 49-1261 for the following purposes:

(a) To generate the state match required by the clean water act for the clean water revolving fund and to generate the match required by the safe drinking water act for the drinking water revolving fund.

(b) To provide financial assistance to political subdivisions, Indian tribes and eligible drinking water facilities for constructing, acquiring or improving wastewater treatment facilities, drinking water facilities, nonpoint source projects and other related water quality facilities and projects.

2. Issue water supply development bonds for the purpose of providing financial assistance to water providers for water supply development purposes pursuant to sections 49-1274 and 49-1275.

3. Provide financial assistance to political subdivisions and Indian tribes from monies in the clean water revolving fund to finance wastewater treatment projects.

4. Provide financial assistance to drinking water facilities from monies in the drinking water revolving fund to finance these facilities.

5. Provide financial assistance to water providers from monies in the water supply development revolving fund to finance water supply development.

6. Guarantee debt obligations of, and provide linked deposit guarantees through third party lenders to:

(a) Political subdivisions that are issued to finance wastewater treatment projects.

(b) Drinking water facilities that are issued to finance these facilities.

(c) Water providers that are issued to finance water supply development projects.

7. Provide linked deposit guarantees through third party lenders to political subdivisions, drinking water facilities and water providers.

8. Apply for, accept and administer grants and other financial assistance from the United States government and from other public and private sources.

9. Enter into capitalization grant agreements with the United States environmental protection agency.

10. Adopt rules pursuant to title 41, chapter 6 governing the application for and awarding of wastewater treatment facility, drinking water facility and nonpoint source project financial assistance under this chapter, the administration of the clean water revolving fund and the drinking water revolving fund and the issuance of water quality bonds.

11. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, hire a director and staff for the authority.

12. Contract for the services of outside advisors, attorneys, consultants and aides reasonably necessary or desirable to allow the authority to adequately perform its duties.

13. Contract and incur obligations as reasonably necessary or desirable within the general scope of authority activities and operations to allow the authority to adequately perform its duties.

14. Assess financial assistance origination fees and annual fees to cover the reasonable costs of administering the authority and the monies administered by the authority. Any fees collected pursuant to this paragraph constitute governmental revenue and may be used for any purpose consistent with the mission and objectives of the authority.

15. Perform any function of a fund manager under the CERCLA Brownfields cleanup revolving loan fund program as requested by the department. The board shall perform any action authorized under this article on behalf of the Brownfields cleanup revolving loan fund program established pursuant to chapter 2, article 1.1 of this title at the request of the department. In order to perform these functions, the board shall enter into a written agreement with the department.

16. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to political subdivisions, any county with a population of less than five hundred thousand persons, Indian tribes and community water systems in connection with the development or financing of wastewater, drinking water, water reclamation or related water infrastructure. Assistance provided under a technical assistance loan repayment agreement shall be in a form and under terms determined by the authority and shall be repaid not more than three years after the date that the monies are advanced to the applicant. The provision of technical assistance by the authority does not create any liability for the authority or this state regarding the design, construction or operation of any infrastructure project.

17. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to water providers in connection with the planning or design of water supply development projects as determined by the committee pursuant to section 49-1274. A single grant shall not exceed one hundred thousand dollars. Assistance provided under a technical assistance loan repayment agreement

shall be in a form and under terms determined by the committee and shall be repaid not more than three years after the date that the monies are advanced to the applicant. The provision of technical assistance by the authority or the committee does not create any liability for the authority, the committee or this state regarding the design, construction or operation of any water supply development project.

C. The authority, in consultation with the committee, may:

1. Adopt rules pursuant to title 41, chapter 6 governing the application for and awarding of water supply development fund project financial assistance under this chapter and the administration of the water supply development revolving fund.

2. Appoint a technical advisory subcommittee of not more than five persons with expertise in water resource planning and development to advise the committee regarding the technical feasibility of water supply development projects.

D. The board shall deposit, pursuant to sections 35-146 and 35-147, any monies received pursuant to subsection B, paragraph 8 of this section in the appropriate fund as prescribed by the grant or other financial assistance agreement.

E. Disbursements of monies by the water infrastructure finance authority pursuant to a financial assistance agreement are not subject to title 41, chapter 23.

F. For the purposes of the safe drinking water act, the department of environmental quality is the state agency with primary responsibility for administration of this state's public water system supervision program and, in consultation with other appropriate state agencies, is the lead agency in establishing assistance priorities as prescribed by section 49-1243, subsection A, paragraph 6 and section 49-1244, subsection B, paragraph 3.

G. For the purposes of this section, "CERCLA" has the same meaning prescribed in section 49-201.

Sec. 167. <u>Initial terms of additional members of the law enforcement merit system council</u>

A. Notwithstanding section 41-1830.11, Arizona Revised Statutes, as amended by this act, the initial terms of additional members of the law enforcement merit system council are:

1. One term ending July 1, 2016.

2. One term ending July 1, 2014.

B. Notwithstanding section 41-1830.11, Arizona Revised Statutes, as amended by this act, members of the law enforcement merit system council who are serving on the effective date of this act may continue to serve the remainder of their terms.

C. The governor shall make all subsequent appointments as prescribed by statute.

Sec. 168. Retention of agency heads appointed for term of office

Notwithstanding sections 4-111, 5-101.01, 6-111, 17-211, 20-141, 26-101, 38-715, 41-1711, 41-3952 and 41-4301, Arizona Revised Statutes, as amended by this act, all persons serving as agency heads for a specified term of office on January 1, 2014 may continue to serve until the expiration of their normal terms. The governor, board or commission shall make all subsequent appointments as prescribed by statute.

Sec. 169. Purpose

In order to promote public confidence in government, governmental integrity, increased accountability and the efficient delivery of services to its citizens, this act intends to reform this state's outdated personnel system. The current system consists of rules and regulations adopted many years ago that served a valuable purpose at the time, but now actually makes it difficult to manage the workforce effectively. The current emphasis on job security rewards longevity over performance that often results in the retention of lower performers and the separation of our best talent. The new personnel system pursuant to this act is intended to support this state's ability to attract, hire and retain high-performing employees.

Sec. 170. Exemption from rule making; department of administration; state personnel board; law enforcement merit system council; retroactivity

A. For the purpose of implementing the provisions of this act, until April 30, 2013, the department of administration is exempt from the rule making requirements of title 41, chapter 6, Arizona Revised Statutes, except that the department shall provide, as appropriate under the circumstances, for notice of and opportunity for comment on the rules proposed for adoption. In order to implement or change any rule during the exemption period, the department of administration shall provide at least two opportunities for public comment.

B. For the purpose of amending rules pertaining to the administration of hearings and the review of appeals pursuant to section 41-782, Arizona Revised Statutes, as amended by this act, until October 31, 2012 the state personnel board is exempt from the rule making requirements of title 41, chapter 6, Arizona Revised Statutes. The board shall provide public notice and an opportunity for public comment on proposed rules at least thirty days before rules are adopted or amended pursuant to this section.

C. For the purpose of adopting rules pertaining to the administration of hearings and the review of appeals pursuant to section 41-1830.12, Arizona Revised Statutes, as amended by this act, and section 41-1830.16, Arizona Revised Statutes, as added by this act, until October 31, 2012 the law enforcement merit system council is exempt from the rule making requirements of title 41, chapter 6, Arizona Revised Statutes. The council shall provide public notice and an opportunity for public comment on proposed rules at least thirty days before rules are adopted pursuant to this section.

D. This section is effective retroactively to from and after April 30, 2012.

Sec. 171. Severability

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 172. Effective date

This act becomes effective from and after September 28, 2012.

APPROVED BY THE GOVERNOR MAY 10, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2012.

Passed the House March 14, 2012

by the following vote: 39 Ayes,

19 Nays, 2 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate May 2, 2012

by the following vote: 21 Ayes,

9 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____ day of

_____

at _____ o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2571

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

May 3, 2012

by the following vote: 38 Ayes,

18 Nays, 4 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

3rd day of May, 2012,

at 8:38 o'clock P M.

Secretary to the Governor

Approved this 10th day of

May, 2012

at 1:20 o'clock P. M.

Janice K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10th day of May, 2012,

at 2:43 o'clock P M.

Secretary of State

H.B. 2571